

mit a report on such investigation to Congress before Apr. 1, 1979, together with any legislative recommendations.

STUDY OF TAXATION OF NONRESIDENT ALIEN REAL ESTATE TRANSACTIONS IN THE UNITED STATES

Pub. L. 95-600, title V, §553, Nov. 6, 1978, 92 Stat. 2891, authorized the Secretary of the Treasury to make a study of the appropriate tax treatment to be given to income derived from, or gain realized on, the sale of interests in United States property held by nonresident aliens or foreign corporations and to submit a report on such study to Congress no later than six months from Nov. 6, 1978, together with any recommendations.

STUDY AND INVESTIGATION OF INTERNAL REVENUE CODE PROVISIONS WHICH IMPEDE OR DISCOURAGE RECYCLING OF SOLID WASTE MATERIALS; PRESIDENTIAL AND CONGRESSIONAL REPORT

Pub. L. 94-568, §4, Oct. 20, 1976, 90 Stat. 2698, provided that the Secretary of the Treasury, in cooperation with the Administrator of the Environmental Protection Agency, make a complete study of all provisions of the Internal Revenue Code of 1954 which impeded or discouraged the recycling of solid waste materials and to report to the President and Congress, not later than Apr. 20, 1977, his findings, together with specific legislative proposals designed to increase and encourage the recycling of solid waste materials and detailed revenue cost estimates.

EX. ORD. NO. 13051. INTERNAL REVENUE SERVICE MANAGEMENT BOARD

Ex. Ord. No. 13051, June 24, 1997, 62 F.R. 34609, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including 31 U.S.C. 301 and 26 U.S.C. 7801(a), and in order to establish a permanent oversight board to assist the Secretary of the Treasury ("Secretary") in ensuring effective management of the Internal Revenue Service, it is hereby ordered as follows:

SECTION 1. *Establishment.* (a) There is hereby established within the Department of the Treasury the Internal Revenue Service Management Board ("Board").

(b) The Board shall consist of:

(1) the Deputy Secretary of the Treasury, who shall serve as Chair of the Board;

(2) the Assistant Secretary of the Treasury (Management) and the Chief Financial Officer, who shall serve as Vice Chairs;

(3) the Assistant Secretary of the Treasury (Tax Policy);

(4) the Under Secretary of the Treasury (Enforcement);

(5) the Deputy Assistant Secretary of the Treasury (Departmental Finance and Management);

(6) the Deputy Assistant Secretary of the Treasury (Information Systems)/Chief Information Officer;

(7) the Assistant Secretary of the Treasury (Legislative Affairs and Public Liaison);

(8) the General Counsel for the Department of the Treasury;

(9) the Director, Office of Security, Department of the Treasury;

(10) the Senior Procurement Executive for the Department of the Treasury;

(11) the Commissioner of Internal Revenue;

(12) the Deputy Commissioner of Internal Revenue;

(13) the Associate Commissioner of Internal Revenue for Modernization/Chief Information Officer of the Internal Revenue Service;

(14) the Deputy Director for Management, Office of Management and Budget;

(15) the Administrator for Federal Procurement Policy, Office of Management and Budget;

(16) a representative of the Office of the Vice President designated by the Vice President;

(17) a representative of the Office of Management and Budget designated by the Director of such office;

(18) a representative of the Office of Personnel Management designated by the Director of such office;

(19) representatives of such other Government agencies as may be determined from time to time by the Secretary of the Treasury, designated by the head of such agency; and

(20) such other officers or employees of the Department of the Treasury as may be designated by the Secretary.

(c) A member of the Board described in paragraphs (16) through (20) of subsection (b) may be removed by the official who designated such member.

(d) The Board may seek the views, consistent with 18 U.S.C. 205, of Internal Revenue Service employee representatives on matters considered by the Board under section 3 of this order.

SEC. 2. *Structure.* There shall be an Executive Committee of the full Board, the members of which shall be appointed by the Secretary.

SEC. 3. *Functions.* (a) The Board shall directly support the Secretary's oversight of the management and operation of the Internal Revenue Service. This includes:

(1) working through the Deputy Secretary, assisting the Secretary on the full range of high-level management issues and concerns affecting the Internal Revenue Service, particularly those that have a significant impact on operations, modernization, and customer service.

(2) acting through the Executive Committee, serving as the primary review for strategic decisions concerning modernization of the Internal Revenue Service, including modernization direction, strategy, significant reorganization plans, performance metrics, budgetary issues, major capital investments, and compensation of personnel.

(b) The Board shall meet at least monthly and shall prescribe such bylaws or procedures as the Board deems appropriate.

(c) The Board shall prepare semiannual reports to the President and to the Congress, which shall be transmitted by the Secretary of the Treasury.

SEC. 4. *Administration.* To the extent permitted by law and subject to the availability of appropriations, the Secretary shall provide the Board administrative services, facilities, staff, and such other financial support services as may be necessary for the performance of its functions under this order.

SEC. 5. *Judicial Review.* This order is intended only to improve the internal management of the Internal Revenue Service and is not intended, and shall not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or its employees.

WILLIAM J. CLINTON.

§ 7802. Internal Revenue Service Oversight Board

(a) Establishment

There is established within the Department of the Treasury the Internal Revenue Service Oversight Board (hereafter in this subchapter referred to as the "Oversight Board").

(b) Membership

(1) Composition

The Oversight Board shall be composed of nine members, as follows:

(A) six members shall be individuals who are not otherwise Federal officers or employees and who are appointed by the President, by and with the advice and consent of the Senate.

(B) one member shall be the Secretary of the Treasury or, if the Secretary so designates, the Deputy Secretary of the Treasury.

(C) one member shall be the Commissioner of Internal Revenue.

(D) one member shall be an individual who is a full-time Federal employee or a representative of employees and who is appointed by the President, by and with the advice and consent of the Senate.

**(2) Qualifications and terms**

**(A) Qualifications**

Members of the Oversight Board described in paragraph (1)(A) shall be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in one or more of the following areas:

- (i) Management of large service organizations.
- (ii) Customer service.
- (iii) Federal tax laws, including tax administration and compliance.
- (iv) Information technology.
- (v) Organization development.
- (vi) The needs and concerns of taxpayers.
- (vii) The needs and concerns of small businesses.

In the aggregate, the members of the Oversight Board described in paragraph (1)(A) should collectively bring to bear expertise in all of the areas described in the preceding sentence.

**(B) Terms**

Each member who is described in subparagraph (A) or (D) of paragraph (1) shall be appointed for a term of 5 years, except that of the members first appointed under paragraph (1)(A)—

- (i) two members shall be appointed for a term of 3 years,
- (ii) two members shall be appointed for a term of 4 years, and
- (iii) two members shall be appointed for a term of 5 years.

**(C) Reappointment**

An individual who is described in subparagraph (A) or (D) of paragraph (1) may be appointed to no more than two 5-year terms on the Oversight Board.

**(D) Vacancy**

Any vacancy on the Oversight Board shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

**(3) Ethical considerations**

**(A) Financial disclosure**

During the entire period that an individual appointed under subparagraph (A) or (D) of paragraph (1) is a member of the Oversight Board, such individual shall be treated as serving as an officer or employee referred to in section 101(f) of the Ethics in Government Act of 1978 for purposes of title I of such Act, except that section 101(d) of such Act shall apply without regard to the number of days of service in the position.

**(B) Restrictions on post-employment**

For purposes of section 207(c) of title 18, United States Code, an individual appointed under subparagraph (A) or (D) of paragraph (1) shall be treated as an employee referred to in section 207(c)(2)(A)(i) of such title during the entire period the individual is a member of the Board, except that subsections (c)(2)(B) and (f) of section 207 of such title shall not apply.

**(C) Members who are special Government employees**

If an individual appointed under subparagraph (A) or (D) of paragraph (1) is a special Government employee, the following additional rules apply for purposes of chapter 11 of title 18, United States Code:

**(i) Restriction on representation**

In addition to any restriction under section 205(c) of title 18, United States Code, except as provided in subsections (d) through (i) of section 205 of such title, such individual (except in the proper discharge of official duties) shall not, with or without compensation, represent anyone to or before any officer or employee of—

- (I) the Oversight Board or the Internal Revenue Service on any matter;
- (II) the Department of the Treasury on any matter involving the internal revenue laws or involving the management or operations of the Internal Revenue Service; or
- (III) the Department of Justice with respect to litigation involving a matter described in subclause (I) or (II).

**(ii) Compensation for services provided by another**

For purposes of section 203 of such title—

- (I) such individual shall not be subject to the restrictions of subsection (a)(1) thereof for sharing in compensation earned by another for representations on matters covered by such section, and
- (II) a person shall not be subject to the restrictions of subsection (a)(2) thereof for sharing such compensation with such individual.

**(D) Waiver**

The President may, only at the time the President nominates the member of the Oversight Board described in paragraph (1)(D), waive for the term of the member any appropriate provision of chapter 11 of title 18, United States Code, to the extent such waiver is necessary to allow such member to participate in the decisions of the Board while continuing to serve as a full-time Federal employee or a representative of employees. Any such waiver shall not be effective unless a written intent of waiver to exempt such member (and actual waiver language) is submitted to the Senate with the nomination of such member.

**(4) Quorum**

Five members of the Oversight Board shall constitute a quorum. A majority of members

present and voting shall be required for the Oversight Board to take action.

**(5) Removal**

**(A) In general**

Any member of the Oversight Board appointed under subparagraph (A) or (D) of paragraph (1) may be removed at the will of the President.

**(B) Secretary and Commissioner**

An individual described in subparagraph (B) or (C) of paragraph (1) shall be removed upon termination of service in the office described in such subparagraph.

**(6) Claims**

**(A) In general**

Members of the Oversight Board who are described in subparagraph (A) or (D) of paragraph (1) shall have no personal liability under Federal law with respect to any claim arising out of or resulting from an act or omission by such member within the scope of service as a member.

**(B) Effect on other law**

This paragraph shall not be construed—

(i) to affect any other immunities and protections that may be available to such member under applicable law with respect to such transactions;

(ii) to affect any other right or remedy against the United States under applicable law; or

(iii) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees.

**(c) General responsibilities**

**(1) Oversight**

**(A) In general**

The Oversight Board shall oversee the Internal Revenue Service in its administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party.

**(B) Mission of IRS**

As part of its oversight functions described in subparagraph (A), the Oversight Board shall ensure that the organization and operation of the Internal Revenue Service allows it to carry out its mission.

**(C) Confidentiality**

The Oversight Board shall ensure that appropriate confidentiality is maintained in the exercise of its duties.

**(2) Exceptions**

The Oversight Board shall have no responsibilities or authority with respect to—

(A) the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions,

(B) specific law enforcement activities of the Internal Revenue Service, including specific compliance activities such as examina-

tions, collection activities, and criminal investigations,

(C) specific procurement activities of the Internal Revenue Service, or

(D) except as provided in subsection (d)(3), specific personnel actions.

**(d) Specific responsibilities**

The Oversight Board shall have the following specific responsibilities:

**(1) Strategic plans**

To review and approve strategic plans of the Internal Revenue Service, including the establishment of—

(A) mission and objectives, and standards of performance relative to either, and

(B) annual and long-range strategic plans.

**(2) Operational plans**

To review the operational functions of the Internal Revenue Service, including—

(A) plans for modernization of the tax system,

(B) plans for outsourcing or managed competition, and

(C) plans for training and education.

**(3) Management**

To—

(A) recommend to the President candidates for appointment as the Commissioner of Internal Revenue and recommend to the President the removal of the Commissioner;

(B) review the Commissioner's selection, evaluation, and compensation of Internal Revenue Service senior executives who have program management responsibility over significant functions of the Internal Revenue Service; and

(C) review and approve the Commissioner's plans for any major reorganization of the Internal Revenue Service.

**(4) Budget**

To—

(A) review and approve the budget request of the Internal Revenue Service prepared by the Commissioner;

(B) submit such budget request to the Secretary of the Treasury; and

(C) ensure that the budget request supports the annual and long-range strategic plans.

**(5) Taxpayer protection**

To ensure the proper treatment of taxpayers by the employees of the Internal Revenue Service.

The Secretary shall submit the budget request referred to in paragraph (4)(B) for any fiscal year to the President who shall submit such request, without revision, to Congress together with the President's annual budget request for the Internal Revenue Service for such fiscal year.

**(e) Board personnel matters**

**(1) Compensation of members**

**(A) In general**

Each member of the Oversight Board who—

(i) is described in subsection (b)(1)(A); or  
 (ii) is described in subsection (b)(1)(D)  
 and is not otherwise a Federal officer or  
 employee,

shall be compensated at a rate of \$30,000 per  
 year. All other members shall serve without  
 compensation for such service.

**(B) Chairperson**

In lieu of the amount specified in subpara-  
 graph (A), the Chairperson of the Oversight  
 Board shall be compensated at a rate of  
 \$50,000 per year.

**(2) Travel expenses**

**(A) In general**

The members of the Oversight Board shall  
 be allowed travel expenses, including per  
 diem in lieu of subsistence, at rates author-  
 ized for employees of agencies under sub-  
 chapter I of chapter 57 of title 5, United  
 States Code, to attend meetings of the Over-  
 sight Board and, with the advance approval  
 of the Chairperson of the Oversight Board,  
 while otherwise away from their homes or  
 regular places of business for purposes of du-  
 ties as a member of the Oversight Board.

**(B) Report**

The Oversight Board shall include in its  
 annual report under subsection (f)(3)(A) in-  
 formation with respect to the travel expen-  
 ses allowed for members of the Oversight  
 Board under this paragraph.

**(3) Staff**

**(A) In general**

The Chairperson of the Oversight Board  
 may appoint and terminate any personnel  
 that may be necessary to enable the Board  
 to perform its duties.

**(B) Detail of Government employees**

Upon request of the Chairperson of the  
 Oversight Board, a Federal agency shall de-  
 tail a Federal Government employee to the  
 Oversight Board without reimbursement.  
 Such detail shall be without interruption or  
 loss of civil service status or privilege.

**(4) Procurement of temporary and intermittent  
 services**

The Chairperson of the Oversight Board may  
 procure temporary and intermittent services  
 under section 3109(b) of title 5, United States  
 Code.

**(f) Administrative matters**

**(1) Chair**

**(A) Term**

The members of the Oversight Board shall  
 elect for a 2-year term a chairperson from  
 among the members appointed under sub-  
 section (b)(1)(A).

**(B) Powers**

Except as otherwise provided by a major-  
 ity vote of the Oversight Board, the powers  
 of the Chairperson shall include—

- (i) establishing committees;
- (ii) setting meeting places and times;
- (iii) establishing meeting agendas; and

(iv) developing rules for the conduct of  
 business.

**(2) Meetings**

The Oversight Board shall meet at least  
 quarterly and at such other times as the  
 Chairperson determines appropriate.

**(3) Reports**

**(A) Annual**

The Oversight Board shall each year report  
 with respect to the conduct of its respon-  
 sibilities under this title to the President,  
 the Committees on Ways and Means, Gov-  
 ernment Reform and Oversight, and Appro-  
 priations of the House of Representatives  
 and the Committees on Finance, Govern-  
 mental Affairs, and Appropriations of the  
 Senate.

**(B) Additional report**

Upon a determination by the Oversight  
 Board under subsection (c)(1)(B) that the or-  
 ganization and operation of the Internal  
 Revenue Service are not allowing it to carry  
 out its mission, the Oversight Board shall  
 report such determination to the Committee  
 on Ways and Means of the House of Rep-  
 resentatives and the Committee on Finance  
 of the Senate.

(Aug. 16, 1954, ch. 736, 68A Stat. 915; Pub. L.  
 93-406, title II, §1051(a), Sept. 2, 1974, 88 Stat. 951;  
 Pub. L. 94-455, title XIX, §1906(b)(13)(A), (B), Oct.  
 4, 1976, 90 Stat. 1834; Pub. L. 97-258, §2(f)(2), Sept.  
 13, 1982, 96 Stat. 1059; Pub. L. 100-647, title VI,  
 §6235(a), Nov. 10, 1988, 102 Stat. 3737; Pub. L.  
 104-168, title I, §101(a), (b)(2), July 30, 1996, 110  
 Stat. 1453, 1455; Pub. L. 105-206, title I, §1101(a),  
 July 22, 1998, 112 Stat. 691; Pub. L. 106-554,  
 §1(a)(7) [title III, §319(27)], Dec. 21, 2000, 114 Stat.  
 2763, 2763A-648.)

REFERENCES IN TEXT

The Ethics in Government Act of 1978, referred to in  
 subsec. (b)(3)(A), is Pub. L. 95-521, Oct. 26, 1978, 92 Stat.  
 1824, as amended. Title I of the Act is set out in the Ap-  
 pendix to Title 5, Government Organization and Em-  
 ployees. For complete classification of this Act to the  
 Code, see Short Title note set out under section 101 of  
 Pub. L. 95-521 in the Appendix to Title 5 and Tables.

AMENDMENTS

2000—Subsec. (b)(2)(B)(ii). Pub. L. 106-554 substituted  
 a comma for semicolon before “and”.

1998—Pub. L. 105-206 amended section catchline and  
 text of section generally, substituting present provi-  
 sions for provisions which: in subsec. (a), declared that  
 there shall be in the Department of the Treasury a  
 Commissioner of Internal Revenue, appointed by the  
 President, with such duties and powers as prescribed by  
 Secretary of the Treasury; in subsec. (b), established  
 Office of Employee Plans and Exempt Organizations to  
 carry out functions with respect to organizations ex-  
 empt from tax and with respect to plans to which part  
 I of subchapter D of chapter 1 applied; in subsec. (c), es-  
 tablished Office for Taxpayer Services such as tele-  
 phone, walk-in, and taxpayer educational services, and  
 design and production of forms; and in subsec. (d), es-  
 tablished Office of Taxpayer Advocate and set forth  
 functions of Office and responsibilities of Commissioner  
 regarding response to recommendations of Office. See  
 section 7803 of this title.

1996—Pub. L. 104-168, §101(b)(2), substituted “Commis-  
 sioners; Taxpayer Advocate.” for “Commissioner (Em-

ployee Plans and Exempt Organizations)” in section catchline.

Subsec. (d). Pub. L. 104-168, §101(a), added subsec. (d). 1988—Subsec. (c). Pub. L. 100-647 added subsec. (c).

1982—Subsec. (b). Pub. L. 97-258 redesignated existing provisions as par. (1), added par. (1) heading, and added par. (2). Par. (2) is based on provisions that appeared in section 1037 of former Title 31, Money and Finance, prior to enactment of Title 31 by Pub. L. 97-258.

1976—Subsec. (a). Pub. L. 94-455, §1906(b)(13)(B), substituted “Secretary of the Treasury” for “Secretary” after “prescribed by the”.

Subsec. (b). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

1974—Pub. L. 93-406 designated existing provisions as subsec. (a) and added subsec. (b).

#### CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title I, §1101(d), July 22, 1998, 112 Stat. 697, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and sections 4946 and 6103 of this title] shall take effect on the date of the enactment of this Act [July 22, 1998].

“(2) INITIAL NOMINATIONS TO INTERNAL REVENUE SERVICE OVERSIGHT BOARD.—The President shall submit the initial nominations under section 7802 of the Internal Revenue Code of 1986, as added by this section, to the Senate not later than 6 months after the date of the enactment of this Act [July 22, 1998].

“(3) EFFECT ON ACTIONS PRIOR TO APPOINTMENT OF OVERSIGHT BOARD.—Nothing in this section shall be construed to invalidate the actions and authority of the Internal Revenue Service prior to the appointment of the members of the Internal Revenue Service Oversight Board.”

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-168, title I, §101(c), July 30, 1996, 110 Stat. 1456, provided that: “The amendments made by this section [amending this section and section 7811 of this title] shall take effect on the date of the enactment of this Act [July 30, 1996].”

#### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title VI, §6235(c), Nov. 10, 1988, 102 Stat. 3737, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date 180 days after the date of the enactment of this Act [Nov. 10, 1988].”

#### EFFECTIVE DATE OF 1974 AMENDMENT

Pub. L. 93-406, title II, §1051(d), Sept. 2, 1974, 88 Stat. 951, provided that: “The amendments made by this section [amending this section and sections 5108 and 5109 of Title 5, Government Organization and Employees] shall take effect on the 90th day after the date of the enactment of this Act [Sept. 2, 1974].”

## § 7803. Commissioner of Internal Revenue; other officials

### (a) Commissioner of Internal Revenue

#### (1) Appointment

##### (A) In general

There shall be in the Department of the Treasury a Commissioner of Internal Revenue who shall be appointed by the President, by and with the advice and consent of the Senate. Such appointment shall be made from individuals who, among other qualifications, have a demonstrated ability in management.

##### (B) Term

The term of the Commissioner of Internal Revenue shall be a 5-year term, beginning with a term to commence on November 13, 1997. Each subsequent term shall begin on the day after the date on which the previous term expires.

##### (C) Vacancy

Any individual appointed as Commissioner of Internal Revenue during a term as defined in subparagraph (B) shall be appointed for the remainder of that term.

##### (D) Removal

The Commissioner may be removed at the will of the President.

##### (E) Reappointment

The Commissioner may be appointed to serve more than one term.

#### (2) Duties

The Commissioner shall have such duties and powers as the Secretary may prescribe, including the power to—

(A) administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party; and

(B) recommend to the President a candidate for appointment as Chief Counsel for the Internal Revenue Service when a vacancy occurs, and recommend to the President the removal of such Chief Counsel.

If the Secretary determines not to delegate a power specified in subparagraph (A) or (B), such determination may not take effect until 30 days after the Secretary notifies the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

#### (3) Consultation with Board

The Commissioner shall consult with the Oversight Board on all matters set forth in paragraphs (2) and (3) (other than paragraph (3)(A)) of section 7802(d).

### (b) Chief Counsel for the Internal Revenue Service

#### (1) Appointment

There shall be in the Department of the Treasury a Chief Counsel for the Internal Rev-