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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

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July 6, 1982

The Honorable John C. Danforth
Chairman, Subcommittee on Federal
Expenditures, Research & Rules
Committee on Governmental Affairs
United States Senate

Dear Mr. Chairman:

Subject: Impact of the Paperwork Reduction
Act on the Internal Revenue Service's
Ability to Administer the Tax Laws
(GAO/GGD-82-90)

Your letter of June 9, 1982, expressed concern that Section 202 of the proposed Taxpayer Compliance Improvement Act of 1982 (S. 2198) would exempt the Internal Revenue Service (IRS) from key provisions of the Paperwork Reduction Act (Public Law 96-511). You requested that we analyze the impact of the Paperwork Act on IRS' ability to administer the tax laws, particularly the Taxpayer Compliance Improvement Act. You also asked that we direct our attention to any problems created for IRS either by the Paperwork Act itself or by the Office of Management and Budget's (OMB) implementation of the act.

Due to time constraints our analysis was necessarily limited in scope. We reviewed relevant provisions of the Paperwork Reduction Act, the proposed Taxpayer Compliance Improvement Act, and related materials. We interviewed OMB officials and analyzed OMB records and summary reports concerning its reviews of IRS' reporting and recordkeeping requirements under the Paperwork Act since the act became effective on April 1, 1981. We analyzed relevant IRS and Treasury Department records and interviewed key IRS and Treasury Department officials who are knowledgeable about, and involved with, the Paperwork Act and its implementation. The review was performed in accordance with GAO's current "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions."

In our opinion, the Paperwork Reduction Act has not adversely affected IRS' ability to administer the tax laws. OMB's reviews of the reporting and recordkeeping requirements submitted by IRS have been completed within the statutory timeframes set by the act. IRS and OMB officials agree that OMB does not need

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full-time tax experts to review IRS' requirements. In addition, OMB officials told us that the burden reduction goals cannot be applied to new reporting and recordkeeping requirements in legislation, such as S. 2198. Furthermore, IRS officials advised us that no tax revenues had been lost because of the Paperwork Act. We therefore do not believe the Paperwork Act would impede IRS' ability to effectively implement the Taxpayer Compliance Improvement Act.

We believe IRS should not be exempted from any provisions of the Paperwork Act. The act is intended to benefit both the public and the Federal Government by reducing paperwork burdens and by improving agencies' effectiveness through better management of their information resources. Significantly, both IRS and Treasury officials advised us that they do not support exempting IRS from the Paperwork Reduction Act.

If such an exemption were enacted, the Congress, OMB, and the public would lose accountability and oversight for about 50 percent of the paperwork burden imposed by the Federal Government. The Paperwork Act imposes no more stringent requirements on IRS than on any other Federal agency. The act provides ample flexibility for dealing with time exigent situations and does not prevent IRS from obtaining information needed for carrying out its responsibilities for collecting taxes, either under existing laws or under future tax legislation.

During our discussions with IRS, Treasury, and OMB officials, it became apparent that differing interpretations of the Paperwork Reduction Act by OMB and Treasury have led to implementation problems. These problems resulted in a recent Department of Justice opinion regarding the act's coverage of reporting and recordkeeping requirements in existence prior to the act. This opinion appears to sharply limit OMB's review authority. We plan to address the implementation problems and the implications of Justice's opinion in a separate study, which is presently underway.

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Three broad issues surfaced during our analysis which we believe may have contributed to the perception that IRS' efforts to administer the tax laws have been --or will be--hampered by the Paperwork Reduction Act. These issues include

- the timeliness of OMB's reviews of IRS' reporting and recordkeeping requirements,
- the need for tax experts at OMB to review IRS' reporting and recordkeeping requirements, and

--the applicability of the Paperwork Act's burden reduction goals to IRS' reporting and recordkeeping requirements.

Each of these issues is discussed below.

OMB HAS PERFORMED TIMELY REVIEWS
OF IRS' REPORTING AND RECORDKEEPING
REQUIREMENTS

OMB has completed its reviews of the reporting and record-keeping requirements submitted by IRS within the time limits prescribed by the Paperwork Act. IRS officials advised us that no tax revenues had been lost because of delays in obtaining OMB approvals.

The Paperwork Act provides for a review period by OMB of up to 60 days. This period can be extended for an additional 30 days, if the OMB Director provides proper notice to the requesting agency. If no action is taken by OMB within the 60 days--or 90 days with appropriate notice--automatic approval occurs, and the agency is allowed to collect the information for up to 1 year.

If the agency head determines that an OMB decision is needed prior to the 60-day limit because it is essential to the mission of the agency and if the agency cannot comply with the clearance requirements, the agency head can request that the OMB Director approve the request in a shorter time. OMB must complete the review and approve or disapprove the proposed reporting or record-keeping requirement within the time specified by the agency head. If OMB approves, the agency may collect information for a period of 90 days. During this period, OMB can complete its normal review and, if the requirement is needed beyond 90 days, the agency can make any necessary changes to its reporting or recordkeeping requirement and continue with subsequent collections. This is the so-called "emergency clearance procedure."

IRS officials told us that they have not used the emergency clearance procedure. They said it is not practical for IRS because tax forms generally must be available for use for at least 1 year and it would be too costly to reprint forms if a form was changed at the expiration of the 90-day approval period.

During the period April 1, 1981, through June 25, 1982, OMB records show that it had taken 651 review actions ^{1/} on IRS' reporting and recordkeeping requirements. These actions had resulted in the approval of 509 IRS requirements with an estimated

^{1/}In a number of cases, OMB has taken more than one action on an individual reporting and recordkeeping requirement.

burden of over 610 million hours. The average time to complete the 651 review actions was 34 days. At the extremes, 10 actions were completed within 1 day and 3 actions took 87 days.

Basically, OMB has not denied any substantive IRS tax reporting or recordkeeping requirements. OMB disapproved 24 IRS submissions. Eleven were mandatory tax-related forms and 13 were general administrative or voluntary forms. Ten of the tax forms were subsequently approved. The remaining tax form--a regional office form--was disapproved because it duplicated a similar approved national form.

In one case--the Generation Skipping Transfer Tax return form--OMB disapproved the form and returned it to IRS for revision. After making changes, IRS resubmitted the reporting requirement to OMB 4-1/2 months later. It was approved within 34 days. According to IRS officials, no tax revenues were lost because this was IRS' first attempt to collect taxes under a 1976 law and taxes will be collected for the intervening years.

Significantly, the Generation Skipping Transfer Tax return form and related regulations had been under development within IRS since 1976. Therefore, the delay in obtaining OMB approval of the form was minimal when compared to the overall time elapsed since passage of the 1976 tax law.

FULL-TIME TAX EXPERTS NOT
NEEDED FOR REVIEWING IRS'
REPORTING AND RECORDKEEPING
REQUIREMENTS

The view has been expressed that OMB needs full-time tax experts to perform competent reviews of IRS' reporting and recordkeeping requirements imposed on taxpayers. IRS officials stated they believed OMB's reviewers needed an understanding of the revenue collection process and IRS' procedures but that the OMB staff did not have to be tax experts. While some expertise may be necessary in certain situations, we do not believe tax experts are required full time because of the nature of OMB's review under the Paperwork Reduction Act.

Under the Paperwork Act, Federal agencies are responsible for designing reporting and recordkeeping requirements which will permit them to efficiently and effectively carry out their assigned responsibilities. At the same time, the agencies are responsible for (1) eliminating duplicative information collections, (2) minimizing the reporting and recordkeeping burden imposed on the public, and (3) tabulating information collected in such a manner to enhance its usefulness not only to agency personnel but also to other agencies and to the public. Therefore, the first line of responsibility is the agency's--not OMB's. Specific program expertise is thus available during

the development of information requirements. OMB reviews such agency actions to assure that the act's mandates are carried out.

OMB's review of IRS'--or any agencies'--reporting and recordkeeping requirements is focused on paperwork burden issues--not on substantive questions of law or regulation. These paperwork burden issues include assessing (1) the basis for the information requirement; (2) the potential duplication of other existing information; (3) the nature of the instrument used to collect or record information in terms of clarity, readability, simplicity, etc.; (4) the frequency of collection or recording of the information in relationship to the intended uses to be made of the information; (5) the availability of agency resources to process, disseminate, and actually use the information after it is collected; and (6) the ways to limit the burden--or costs--on those who must provide the information.

While an appreciation of what a given statute or regulation requires in the way of information collection is necessary, expertise in tax law--or energy law or education law, or any particular field--is not required to carry out effective clearance reviews. To the contrary, an OMB reviewer with specific expertise in a given field could be more likely to accept unneeded complexity in the forms, instructions, or procedures associated with reporting and recordkeeping requirements.

OMB officials told us that they disagreed with the view that OMB should have full-time tax experts. They believed to do so could cause OMB to lose its objectivity. The OMB officials pointed out that they were able to obtain expert advice both from other OMB offices and from the public. Furthermore, the OMB officials said their function is basically a managerial one, not a technical one, and they do not need substantial technical expertise to perform their managerial function. They said the basic responsibility, clearly spelled out in the Paperwork Act, fell on the agency senior official to evaluate and ensure that the reporting and recordkeeping requirements developed by agency staff make sense.

OMB can--and hopefully does--provide constructive reviews of the manner in which reporting and recordkeeping requirements are implemented in terms of the structure of the form, clarity and readability of instructions, and other techniques for lessening burdens on respondents.

BURDEN REDUCTION GOALS DO NOT
HAMPER NEEDED INFORMATION
COLLECTIONS

The Paperwork Reduction Act required OMB to establish goals for reducing the reporting and recordkeeping burden imposed on

the public. The goals are incorporated in the act to focus attention on the need to reduce that burden. They were not intended, and cannot be used, to restrict an agency from collecting information needed to fulfill an assigned responsibility.

The Paperwork Act contains goals for reducing the paperwork burden 15 percent by October 1, 1982, and an additional 10 percent reduction by October 1, 1983. The act clearly states that the percentage reductions are goals and does not mandate that the reduction objectives be achieved. In support of this position, the Senate Report 96-930 states that

"The burden reduction goal will be a useful way of focusing attention by the public and the Congress on the Office of Information and Regulatory Affairs and the activities mandated by the bill. While the goals are not binding, they are reasonable and obtainable. Continued public support and confidence in this reform effort will depend on progress made toward meeting them." (Emphasis supplied.)

OMB officials assured us that the burden reduction goals had not been--and could not be--applied to attempt to prevent any agency from using reporting or recordkeeping requirements mandated by law. They emphasized that the burden reduction goals apply only to the burden baseline in effect in December 1980, when the Paperwork Act was signed by the President. The OMB officials also emphasized that OMB has established a policy of vigorously pursuing achievement of these goals. We believe the policy is entirely consistent with the act's objectives to minimize the reporting burden on the public and the Government's costs to collect and use the information.

OMB officials said they were in the process of reevaluating the agencies' progress in achieving the proposed burden reductions. If it is not possible to achieve the goals, the officials said they would achieve as much of a reduction as possible and explain the shortfall.

Any new reporting or recordkeeping requirements expressly mandated by statute, such as the requirements contained in S. 2198, are not subject to the goals. The reductions associated with the goals are to be made on a base of burden existing in December 1980, when the act was signed. Furthermore, even if OMB attempted to apply the goals to the new requirements of S. 2198--in effect telling IRS that it had to give up some other reporting requirements--OMB cannot prohibit IRS, or any other agency, from collecting information needed to carry out statutory responsibilities. Thus, the burden reduction goals contained in the Paperwork Act cannot be used to hamper IRS' efforts to collect revenues.

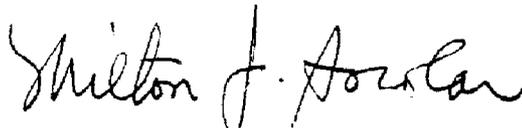
In this regard, IRS has already claimed substantial paperwork burden reductions--and projects further reductions in the coming months. Consequently, there seems no reason for an exemption from the Paperwork Act.

In summary, we found no evidence that the Paperwork Reduction Act has hampered IRS' administration of the tax laws. As noted earlier, both IRS and OMB officials agree that there have been problems in implementing the act. We are undertaking a review to assess the implications of these problems and the related Justice Department opinion on the effective implementation of the Paperwork Reduction Act.

As requested by your representative, we did not follow our normal practice of getting agency comments on this report. Also, as requested, we are providing copies of this report to the Senate Committees on Governmental Affairs, Finance, and Small Business; the House Committees on Government Operations, Ways and Means, and Small Business; and to the Joint Committee on Taxation. Copies are also being provided to the Director, Office of Management and Budget, the Secretary of the Treasury, the Commissioner of Internal Revenue, and the Attorney General.

We hope this information is useful and we will be happy to discuss it with you or your staff, if you wish.

Sincerely yours,

A handwritten signature in cursive script that reads "Milton J. Fowler".

Acting Comptroller General
of the United States