

112TH CONGRESS
1ST SESSION

H. RES. 89

Expressing the sense of the House of Representatives that the Internal Revenue Service should immediately update its collection policies and procedures in order to more adequately protect and assist taxpayers suffering an economic hardship.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 2011

Ms. WATERS (for herself and Ms. FUDGE) submitted the following resolution;
which was referred to the Committee on Ways and Means

RESOLUTION

Expressing the sense of the House of Representatives that the Internal Revenue Service should immediately update its collection policies and procedures in order to more adequately protect and assist taxpayers suffering an economic hardship.

Whereas in *Vinatieri v. Commissioner*, the tax court held that the Internal Revenue Service (IRS) abused its discretion by proposing to levy on a taxpayer who had shown that she was in economic hardship;

Whereas the *Vinatieri* error arose because the IRS interpreted the Internal Revenue Manual as preventing it from placing the taxpayer's account into currently not collectible status due to the unfiled returns;

Whereas, since *Vinatieri v. Commissioner*, the IRS has failed to adequately explain procedures for placing an account with unfiled returns into currently-not-collectible status rather than proceeding with levy;

Whereas errors in the *Vinatieri* case also occurred because: (1) The Internal Revenue Manual did not simply state that the IRS cannot levy or propose to levy on a taxpayer known to be in economic hardship; and (2) the Internal Revenue Manual that permits currently-not-collectible status for taxpayers in economic hardship was contradictory and incomplete in explaining the availability of currently-not-collectible status where there were unfiled returns;

Whereas as long as the IRS does not levy or propose to levy on a taxpayer it knows is in economic hardship, it operates consistently with the holding of *Vinatieri*;

Whereas as IRS employees would benefit from additional training on the principles outlined in the *Vinatieri* decision, independently of any other circumstance, the IRS should not levy or propose to levy if the levy will create economic hardship;

Whereas, according to the National Taxpayer Advocate, the IRS's collection policies inflict unnecessary harm on taxpayers who are struggling financially;

Whereas, according to the National Taxpayer Advocate, in fiscal year 2010, the IRS filed liens against 1,100,000 taxpayers;

Whereas, according to the National Taxpayer Advocate, between fiscal year 1999 to fiscal year 2010, the IRS increased its lien filings by 553 percent;

Whereas when the IRS files a notice of Federal tax lien, the taxpayer's credit rating can be damaged for the long term;

Whereas tax liens are recorded by consumer reporting agencies and remain on a taxpayer's credit report for 7 years from the date a tax liability is resolved;

Whereas employers, mortgage lenders, landlords, car dealerships, auto insurance companies, and credit card companies utilize credit reports, and a tax lien has the potential to render an individual unemployable, unable to obtain housing (owned or rented), and unable to obtain car insurance or a credit card, at least at reasonable rates, for many years into the future;

Whereas a tax lien can be particularly devastating to small businesses, as it often cuts off their access to credit;

Whereas section 6343(a)(1)(D) of the Internal Revenue Code of 1986 states that a levy shall be released if the Secretary has determined that such levy is creating an economic hardship due to the financial condition of the taxpayer;

Whereas Treasury Regulation section 301.6343-1(b)(4) provides that economic hardship is present "if satisfaction of the levy in whole or in part will cause an individual taxpayer to be unable to pay his or her reasonable basic living expenses";

Whereas, to determine hardship, the IRS considers general earning potential, basic living expenses, and the cost of living in the taxpayer's geographic location;

Whereas a levy on the taxpayer's wages or property would cause the taxpayer to be unable to pay reasonable basic living expenses, creating an economic hardship that

would require release of the levy pursuant to Treasury Regulation section 301.6343-1(b)(4) and other regulations;

Whereas the IRS has not revised Internal Revenue Manual sections that lead it to propose to levy on a taxpayer in economic hardship;

Whereas the IRS lacks sufficient procedures to monitor economic hardship among taxpayers;

Whereas the IRS should work with the Taxpayer Advocate Service to revise its Internal Revenue Manual and other procedural guidance to clarify that all collection employees have authority to put a taxpayer account into currently-not-collectible status based on economic hardship even when the taxpayer has unfiled returns, independently of any other criteria;

Whereas the IRS should work with Taxpayer Advocate Service to train collection employees how to manage taxpayer accounts when the taxpayer is facing economic hardship;

Whereas the IRS should establish quality review procedures that measure whether employees considered the possibility that a taxpayer was in economic hardship and managed accounts appropriately;

Whereas taxpayers and small businesses continue to be harmed as a result of the IRS's failure to correct its instructions to its employees;

Whereas the IRS has not corrected either of these conditions;

Whereas currently-not-collectible status is the mechanism for preventing issuance of levies;

Whereas it is the IRS's mission to provide America's taxpayers with quality service by helping them understand and meet their tax responsibilities; and

Whereas it is the IRS's obligation to apply tax law with integrity and fairness to all: Now, therefore, be it

1 *Resolved*, That it is the sense of the House of Rep-
2 resentatives that the Internal Revenue Service should im-
3 mediately update its collection policies and procedures in
4 order to more adequately protect and assist taxpayers suf-
5 fering an economic hardship.

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