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**United States Senate**

WASHINGTON, DC 20510

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December 17, 2014

The Honorable Jacob Lew  
Secretary  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

Dear Secretary Lew:

I write to express concern with how the IRS reportedly pursues, seizes and forfeits assets, particularly small business bank accounts of law-abiding Americans depositing cash receipts in the course of routine business operations and without connection to any overt criminal act.

I direct your attention specifically to the pages of the *Washington Post*, *New York Times* and *Idaho Statesmen*, which all have reported recently on IRS seizure and forfeiture activities of otherwise legitimate small business accounts in connection with the federal "anti-structuring" requirements of 31 U.S.C. § 5324.

That IRS has spent the better part of a year on establishing the new policy, announced on October 17, 2014, to address what it calls "legal source" structuring, demonstrates the IRS has been aware for some time of problems with such investigations as a general law enforcement matter. Apparently, the main concerns for IRS were consistency of case management and undue hardship on IRS manpower issues, which draws vital resources away from the key priorities of the IRS Criminal Investigations Division.

More than IRS manpower issues, I am concerned with the impact that these legally-sourced structuring investigations may have on law-abiding American taxpayers, particularly when the seizure and forfeiture procedures used to preserve assets during the course of investigation may turn out to deny taxpayers use of legitimate assets for up to two years, by some accounts.

Moreover, I am concerned with the proper and efficient administration of Bank Secrecy Act implementation and enforcement, of which structuring violations form an integral part. While penalties for structuring transactions are an important deterrent in the fight against money laundering and terrorist financing, it is absolutely imperative that

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investigators understand the law and proper procedures that are in place and used to protect otherwise legitimate businessmen in their day to day activities.

Accordingly, in light of the new IRS policy, together with the reports of alleged abuses connected to structuring violations, I ask that you provide me the following information:

1. What fund holds the assets seized and forfeited by the IRS generally and that specifically related to structuring crimes? Does the IRS share these funds with local law enforcement or any other agency?
2. What types and threshold amount of evidence was required by IRS under the old policy before IRS seized a bank account? What kind of evidence is required now, under the new October 17<sup>th</sup> policy?
3. How often and how long were assets seized or forfeited under suspicion of structuring only to never see a structuring case prosecuted?
4. When was work begun on the new policy? Were seizures of legal sourced funds, unconnected to a second crime, suspended during this time period?
5. Did the new policy guideline go through interagency review?
6. What effect does IRS expect the new guideline to have on taxpayers? On law enforcement efforts?
7. What qualifications are required for state and local law enforcement officers to participate on IRS task forces or Suspicious Activity Review (SAR) review teams and what training is provided?
8. How often did IRS discover that either federal or affiliated state and local law enforcement authorities interpreted 31 U.S.C. § 5324 to mean that multiple or serial sub-\$10 thousand deposits without more were acts of structuring and grounds for seizure?
9. Does IRS believe that this anti-structuring guideline should be implemented across all law enforcement agencies, nationwide? Why or why not?
10. Will the guideline lead to consistency of nationwide investigations or lead to uneven application of the structuring law depending on the investigating agency?

Please provide my office with all responsive information by January 19, 2015.

Thank you for your cooperation.

Sincerely,



Mike Crapo