RSC Republican Study Committee

Rep. Jeb Hensarling (R-TX), Chairman
Russ Vought, Executive Director

132 Cannon House Office Building
Washington, DC 20515

www.house.gov/hensarling/rsc
ph (202) 226-9717 / fax (202) 226-1633

Legislative Bulletin……………………………………..………October 10, 2007

Contents:

Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: 0

Total Cost of Discretionary Authorizations: $0

Effect on Revenue: $252 million decrease over ten years

Total Change in Mandatory Spending: $676 million decrease over ten years

Total New State & Local Government Mandates: 0

Total New Private Sector Mandates: 0

Number of *Bills* Without Committee Reports: 0

Number of *Reported* Bills that Don't Cite Specific Clauses of Constitutional Authority: 0

H.R. 3056—Tax Collection Responsibility Act (*Rangel, D-NY*)

Order of Business: The bill is scheduled to be considered on Wednesday, October 10th, likely subject to a closed rule. Should any amendments be made in order under the rule, the RSC will summarize them in a separate document.

Summary: H.R. 3056 would, among other things, repeal the authority of the Internal Revenue Service (IRS) to use private debt collection companies. The details of the legislation are as follows:

- Strikes the authority for the IRS to enter into, extend, or renew contracts for tax collection with private entities, retroactive to contracts signed on or after July 18, 2007.

Contracts in effect before this date would remain in force, as long as they have not been altered since July 18, 2007. Under current law, the IRS may use private debt collection companies to contact taxpayers who owe any tax and to arrange payment of such tax liabilities. The IRS is currently authorized to pay these collection companies (up to 25% of the amount collected) and to reserve another 25% of the collections for collection enforcement activities at the IRS.

- Affirmatively deems as void any such contract entered in to on or after July 18, 2007.

- <u>NOTE</u>: According to the Republican staff of the Ways & Means Committee, the IRS has contracted with private debt collectors only to collect smaller tax-debts when the amount owed is not in question (i.e. when the taxpayer has filed a correct tax return). The IRS does not use private tax collectors to collect larger tax-debts or when the amount of tax liability is in question.

- Delays by one year (from December 31, 2010 to December 31, 2011) the date after which a three-percent withholding requirement would become effective on certain government payments to persons providing qualifying property or services to such government (any level of government, including federal, state, and local). Payments subject to the three-percent withholding include any payment made in connection with a government voucher or certificate program that functions as a payment for property or services (such as many agriculture programs).

- Applies to subtitle F of the Internal Revenue Code (Procedure and Administration) the current three-year statute of limitations for U.S. Virgin Islands residents filing a tax return with the Virgin islands to be treated as if filing a tax return in the United States. This provisions would be retroactive to 1986.

- **Imposes a new capital gains tax** on certain U.S. citizens who relinquish their U.S. citizenship and on certain long-term U.S. residents who terminate their U.S. residency. Such individuals would be subject to a tax on the net unrealized gain—in excess of $600,000 (thereafter indexed for inflation)—**in all of their property** (with a few exceptions) **<u>as if</u> the property had been sold** on the day before the expatriation for its fair market value (known as a "mark-to-market tax"). Any gains or losses subsequently realized would be adjusted for gains and losses taken into account without regard to the $600,000 exemption.

- NOTE: Current law taxes expatriates only on their U.S.-source income for ten years after expatriating.

- Exempts expatriates' deferred compensation items, interests in nongrantor trusts, and specified tax deferred accounts from the mark-to-market tax, yet makes them subject to the special rules detailed in the legislation.

- Applies this departure tax to any expatriate who has an average annual net income tax liability for the five preceding years ending before the date of the loss of U.S. citizenship or residency termination that exceeds $124,000 in 2004 (adjusted for inflation thereafter); has a net worth of $2 million or more on the expatriation date; or fails to certify that he or she has complied with all U.S. federal tax obligations for the preceding five years or fails to submit such evidence of compliance as the Secretary may require.

- Exempts expatriates who were born with citizenship both in the United States and in another country (as long as the person continues to be a taxable citizen of the other country); have been a resident of the United States for not more than 10 taxable years during the 15-year taxable year period ending with the taxable year of expatriation; or relinquish U.S. citizenship before reaching age 18-1/2 if they have been residents of the United States for no more than 10 taxable years before such relinquishment.

- **Imposes a new transfer tax** on the RECEIPT of certain gifts or bequests received by a U.S. citizen or resident from an expatriate covered by this legislation. Such gifts or bequests would be those acquired by gift directly or indirectly from an expatriate at the time of such acquisition or directly or indirectly by reason of the death of an individual who was a covered expatriate. Such gifts or bequests would NOT include any property shown as a taxable gift on a timely filed gift tax return by the covered expatriate or any property included in the gross estate of the covered expatriate for estate tax purposes and shown on a timely filed estate tax return of the estate of the covered expatriate.

- Calculates the new transfer tax by multiplying the value of the gift or bequest by the highest marginal rate in effect for the estate or gift tax at the time of the gifting.

- Imposes the tax only on recipients of gifts totally $10,000 or more in a calendar year.

- Reduces the tax on gifts and bequests by the amount of any gift or estate tax paid to a foreign country with respect to such covered gift or bequest.

- Eliminates the current-law provision proving for certain suspensions of penalties and interest on unpaid tax liabilities as it applies to assessments more than three years after the filing of a tax return.

- Increases the penalties for failing to file correct information on tax returns as follows:
  --the first-tier penalty would be increased from $15 to $25, with a maximum penalty of $200,000 per calendar year (up from $75,000);
  --the second-tier penalty would be increased from $30 to $60, with a maximum penalty of $400,000 per calendar year (up from 150,000); and
  --the third-tier penalty would be increased from $50 to $100, with a maximum penalty of $600,000 per calendar year (up from $250,000).

- Sets maximum penalties for small businesses failing to file correct information at:
  --$75,000 (up from $25,000) if the failures are corrected on or before 30 days after the prescribed filing date;
  --$150,000 (up from $50,000) if the failures are corrected on or before August 1; and
  --$250,000 (up from $100,000) if the failures are not corrected on or before August 1.

- Increases the minimum penalty for intentional disregard of the information reporting requirements to $250 per return (up from $100).

- Increases the penalty for failing to furnish correct payee statements to taxpayers and the penalty for failing to comply with other information reporting requirements to $100 for each such failure (up from $50), up to a maximum of $600,000 in a calendar year (up from $100,000).

- Increases the estimated tax payments that certain corporations must remit to the federal government. Under current law, corporations with assets of at least $1 billion must make estimated tax payments for the third quarter of 2012 that are 114.50% of the estimated payment otherwise due. The payment due for the fourth quarter of 2012 is reduced accordingly so that the corporations pay no net increase in estimated payments in 2012.

- H.R. 3056 would increase this 114.50% figure to 114.75%. This provision is merely a revenue timing shift, a gimmick used to comply with the House's PAYGO rules.

RSC Bonus Fact: According to the Republican staff of the Ways & Means Committee, during the next ten years, the IRS' private debt collection program is projected to collect between $1.5 billion and $2.2 billion in receipts that would otherwise go uncollected.

Committee Action: On July 17, 2007, the bill was referred to the Ways & Means Committee, which, on the following day, marked up and ordered the bill reported to the full House by a near-party-line vote of 23-18.

Possible Conservative Concerns: Some conservatives may be concerned that this bill would eliminate a successful program that the IRS has used to collect smaller tax-debts, debts that the IRS has said it would not otherwise make sense (from a cost perspective) to go after. Additionally, some conservatives may be concerned at the motivation behind the bill—limiting the ability for the federal government to use private contractors.

Furthermore, conservatives may be concerned at the new tax increases on expatriation in the legislation, as well as the tax-timing shift, which some conservatives would regard as a budget gimmick, to meet PAYGO rules.

Administration Position: A Statement of Administration Policy (SAP) was not available at press time.

Cost to Taxpayers: CBO estimates that this legislation would increase revenues by $34 million in FY2008, increase revenues by $26 million over the FY2008-FY2012 period, and reduce revenues by $252 million over the FY2008-FY2017 period.

The two largest revenue increase portions of the bill are the tax expatriation provisions, which would increase taxes by $764 million over ten years, and the information return penalties, which would increase revenues by $280 million over ten years.

CBO notes that, because of the resulting inability of the IRS to use a portion of its collected revenues under this program for special collection enforcement procedures, the bill would also reduce mandatory spending by $25 million in FY2008, by $306 million over the FY2008-FY2012 period, and by $676 million over the FY2008-FY2017 period.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The Ways & Means Committee, in House Report 110-281, asserts that, "Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Ways and Means Committee has determined that the bill as reported contains no congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of that rule."

Constitutional Authority: The Ways & Means Committee, in House Report 110-281, cites constitutional authority in Article I, Section 8, Clause 1 (the congressional power to lay and collect taxes) and the 16^{th} Amendment (the congressional power to tax incomes).

RSC Staff Contact: Paul S. Teller, paul.teller@mail.house.gov, (202) 226-9718