

# *U.S. Senate Committee on Finance*

For Immediate Release

Wednesday, March 31, 2004

## Grassley, Baucus Express Concern Over Poor Oversight of Tax Practitioners

WASHINGTON – Sen. Chuck Grassley, chairman of the Committee on Finance, and Sen. Max Baucus, ranking member, today expressed concern that the Internal Revenue Service is doing too little to rein in tax practitioners and must increase its efforts to stop abusive tax shelters, bad service from paid preparers, and other problems.

“At the heart of every abusive tax shelter is a tax lawyer or accountant,” Grassley said. “If the IRS isn’t getting at the lawyers and accountants who take unfair advantage, then it’s not pulling out the weed by its roots. The same goes for paid tax preparers who overcharge their clients. Often the tax practitioner, not the taxpayer, is the problem. The IRS is taking some steps in the right direction, but it has to do a lot more to make real progress in cleaning up tax abuses.”

Baucus said, “In too many cases, recent financial scandals on Wall Street have been the result of shady tax practitioners leading companies down the garden path. While ultimate responsibility falls on the shoulders of those who commit the crimes, it’s up to the IRS to lay down the law. Let’s stop these unsavory practices in their tracks by restoring integrity and professionalism in the practitioners community -- an ounce of prevention is worth a pound of cure. By strengthening the Office of Professional Responsibility within the IRS we can eliminate problems before they begin.”

The senators wrote to Treasury Secretary John Snow to express their concerns and ask for more action from the IRS’ Office of Professional Responsibility, which regulates tax practitioners. The text of their letter follows.

March 31, 2004

The Honorable John Snow  
Secretary  
Department of the Treasury  
1500 Pennsylvania Avenue  
Washington, DC 20220

Dear Mr. Secretary:

We applaud the recent selection of Mr. Cono Namorato as the head of the Office of Professional Responsibility (OPR). However, we remain concerned that the Department of Treasury

(Treasury) and the Internal Revenue Service (IRS) have unnecessarily narrowed the effectiveness of the OPR. At a recent Federal Bar Association symposium, a senior Treasury official was asked about regulating the conduct of tax practitioners. In response, the Treasury official stated, "Congress is never going to give the IRS the resources that would be necessary to cover things on a very broad basis. . . ." These comments were reported in the tax press on January 12, 2004. One of the serious weaknesses in the IRS' and the Treasury's enforcement of the tax laws, including shutting down of abusive tax shelter transactions, has been the operation of OPR.

The comments by the Treasury official demonstrates the self-imposed limitations Treasury and the IRS have placed on the OPR. We believe that the first step to ensuring that Congress properly funds OPR is for the Administration to inform Congress of the amount needed to ensure vigorous enforcement of the law, including policing tax practitioners. Thus, the statement that Congress will "never" provide the resources necessary for a robust enforcement program appears premature and presumptuous if Congress is not advised about workload requirements and resource needs. Please provide us with the budget and full-time equivalent requests for OPR for the last six years, including the administration's proposal for FY 2005, as well as the amount appropriated by the Congress in previous years.

While we recognize that a significant step to rectify the problem has been taken with the appointment of Mr. Cono Namorato as the head of OPR, we remain concerned with Treasury's and the IRS' self-limiting authority through rulemaking and guidance for the OPR. Without a clear change in course as directed from you, these are unacceptable limitations that Mr. Namorato will confront.

We are concerned that the IRS Chief Counsel has been slow to follow through on any substantial changes to Circular 230. The IRS has historically restrained itself from regulating paid tax preparers even though there is no statutory restriction. We remain concerned that Treasury and IRS have not acted to alter that approach. Moreover, we remain concerned that OPR is not receiving referrals from other divisions within the IRS, such as the Office of Tax Shelter Analysis, and are concerned equally that OPR is not working in a collaborative effort with the Justice Department (DOJ). Such institutional intransigence in the face of the demanding need and changing economic realities brings into question whether there truly is a desire by the Treasury and the IRS to properly police tax practitioners.

Therefore, we request that you provide the Finance Committee with your plans for pursuing unscrupulous practitioners and for OPR to fully and effectively pursue those who are enabling others to abuse the tax laws. We also urge you to put an end to the self-limiting mindset that has plagued the Treasury and the IRS regarding OPR. Mr. Namorato's success hinges on your willingness to give him more authority.

Sincerely yours,

Max Baucus  
Ranking Member

Charles E. Grassley  
Chairman

cc: The Honorable Mark W. Everson, IRS Commissioner  
Mr. Cono Namorato, Director, Office of Professional Responsibility