Department of the TREASURY NEWS

WASHINGTON, D.C. 20220 TELEPHONE 566-2041

FOR IMMEDIATE RELEASE
MAY 19, 1980

THE HONORABLE G. WILLIAM MILLER
SECRETARY OF THE TREASURY
BEFORE THE
AMERICAN BAR ASSOCIATION
AND
AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS
WASHINGTON, DC

I welcome the opportunity to talk with you this afternoon about how tax policy helps to shape our Nation's economic future.

Tax Policy in a Changing Economic Environment

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(1) More efficient use of resources, particularly energy resources.

(2) Increased investment and productivity.

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The tax system is now doing much more than just collecting revenues to pay for spending programs. The Internal Revenue Code itself is becoming an unwieldy network of government spending programs.

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The Congressional Budget Act of 1974 requires a listing of tax expenditures in the budget. There are now over 90 different tax expenditure programs. For fiscal year 1980, the aggregate revenue cost attributable to tax expenditures will exceed $150 billion.

Tax expenditures result in allocations of large economic resources without the scrutiny and review of the regular budget process. The benefits of these tax subsidies often are skewed toward higher income taxpayers, causing others to view the tax system as inequitable.

Such a substantial portion of the budget must be subject to accountability. Housing, welfare, energy, agriculture, and a myriad of other programs effected through the tax code should be subjected to normal budget scrutiny. Where these tax programs

are inefficient, unduly complicated or inequitable, they should be modified or repealed. Efforts to eliminate Government waste, reduce budget deficits, and rationalize Federal programs must not end with an examination of direct Government spending.

Tax policy cannot ignore these economic developments. The only acceptable tax policy is one that contributes to our overall economic goals efficiently, fairly and simply. The task of shaping tax policy that is responsive to our nation's economic needs, however, will be a demanding one.

Two examples of these challenges are reflected in the choices we face today with respect to the Administration's action to impose a gasoline conservation fee and its proposal for withholding taxes on interest and dividend income.

Gasoline Conservation Fee

The gasoline conservation fee imposed by the President is now being challenged, both in Congress and in the Courts. But the Administration strongly believes that this fee is essential, that it is within the power of the President, and that it should not be removed. We remain determined to pursue our position in Congress and through the Courts, and are confident that it will be sustained.

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This fee is needed to communicate the inevitable to American consumers -- that gasoline prices, over the long term, are going up and that oil conserving improvements must continue and accelerate, not be put in mothballs. To reverse this message would invite the same reversion to business as usual that paralyzed our energy policy through the last half of the 1970's.

Withholding on Interest and Dividends

With respect to the Administration's proposal for withholding on interest and dividends, the choice is equally clear-cut: As we ask the American people to accept fiscal discipline, with cuts in spending for important programs, we must at the same time take positive action to ensure that billions of dollars of taxes due under present laws do not go unpaid. Congress and the Administration can do this by taking the simple and effective step of requiring that taxes be withheld on interest and dividend income, just as we now require taxes to be withheld on wages.

When American taxpayers completed filing their tax returns last month, they had reported and paid taxes on nearly all -- 97 percent or more -- of their income from wages and salaries.

But about $16 billion in interest and dividend income -- representing between 9 to 15 percent of the total income from these sources -- went unreported. As a result, at least $3 1/2 billion in taxes that were lawfully due will not be collected.

Withholding is the most effective way of collecting taxes. Where we have a requirement for withholding, the reporting of taxable income is high. Where there is no such requirement compliance with the tax laws drops off sharply.

Since 1962, we have had an extensive information reporting system. But, as the figures I just mentioned make clear, the information reporting system has not produced satisfactory compliance. And it cannot do so except at an enormous cost.

The President has asked the Congress to approve his proposal to withhold 15 percent of taxable interest and dividend payments to individuals. To ensure that the absence of withholding does not artificially favor one form of investment over another, withholding would apply to a wide range of assets, including savings bonds and Treasury obligations as well as interest and dividends from banks, savings associations, and corporations.

However, individuals who expect not to owe any tax -- and that includes 70 percent of America's senior citizens -- could file a certificate that would exempt them from any withholding. We also plan to exempt people age 65 or over with modest amounts of interest and dividend income who owe taxes, if they would be significantly overwithheld. Others will be able to reduce their estimated tax payments by the amount of withholding on their interest and dividend income, including interest and dividends eligible for the new $200/$400 exclusion provided in the Crude Oil Windfall Profit Tax Act. For wage earners, we have proposed that current wage withholding rules be modified to permit individuals to reduce the amount of taxes withheld from their wages by the amount of taxes withheld on excludable interest and dividend income.

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Regulatory Reform

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Despite the fact that regulations can impose significant economic burdens upon regulated industries, their economic impact is not systematically scrutinized and analysed. Moreover, our present regulatory structure has grown up over a long period with little thought given to the cumulative effect of each new layer of regulation. The last comprehensive legislation to improve regulatory procedures -- the Administrative Procedure Act -- was passed more than 30 years ago.

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REMARKS OF
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Tax lawyers have such logical minds that I am certain there is a logical explanation for the place you have selected for me on your program. Quite a number of you were here on Sunday to hear about the legislative process from introduction of a bill and hearings to mark-up and enactment. From the legislative process, your program moved in an orderly progression to a discussion of the interpretative process (regulations and rulings), the tax return, the examination process, and the appeals process. Now you have me in between "the appeals process" before lunch, and "tax litigation". I hope this is not an indication that anyone considers the Secretary of the Treasury the last resort before going to Court.

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Department of the Treasury
Office of the Secretary

5395

to: Secretary Miller

room: _____ date 5/19/80

RE: ABA Luncheon Speech

Attached is a revised text for today's luncheon speech. Also attached is further background on Judge Robinson's import fee decision, which outlines the arguments presented to the Court and their treatment in the decision. (TAB A)

Executive Secretariat

Attachments

THE DISTRICT COURT'S OPINION IN THE OIL IMPORT FEE CASE

The claims made by the plaintiffs in the oil import fee case and the District Court judge's responses to these claims are as follows:

1. Claim: The Petroleum Import Adjustment Program (PIAP) is unconstitutional as a revenue-raising measure which did not originate in Congress.

Judge's response: The judge did not refer to this claim. He did say that the President has the authority to impose an import fee pursuant to the Trade Expansion Act (TEA).

2. Claim: The PIAP is beyond the statutory authority of the President under Section 232(b) of the TEA due to its remote and uncertain impact on oil imports.

Judge's response: The judge agreed with this claim. He said that the PIAP affects domestic crude and imported oil and thus could not act as a disincentive to reduce imports.

3. Claim: The PIAP is beyond the statutory authority of the President under Section 232(b) of the TEA due to the lack of the requisite Treasury (now Commerce) study on the impact of current levels of oil imports on the national security.

Judge's response: The judge did not refer to this claim.

4. Claim: The PIAP is beyond the statutory authority of the President provided in the Emergency Petroleum Allocation Act because it fails to achieve the statutory purposes and objectives of the EPAA.

Judge's response: Because the procedural requirements of the EPAA were not met, it is not necessary to deal with this claim in the decision.

5. Claim: The PIAP is beyond the statutory authority of the President provided in the EPAA for failure to comply with procedural requirements.

Judge's response: The judge agreed with this claim, saying that the rule making procedures of the EPAA apply to the President and that the President had not followed these procedures.

6. Claim: Actions taken by the Department of Energy (DOE) under the PIAP are beyond the DOE's authority under the DOE Act for failure to comply with procedural requirements.

Judge's response: The judge did not refer to this claim.

7. Claim: The PIAP is arbitary and capricious because its burden will not fall entirely upon gasoline.

Judge's response: The judge did not refer to this claim.

8. Claim: The President acted arbitarily and capriciously because he did not first apply the programs authorized under the Emergency Energy Conservation Act of 1979.

Judge's response: The judge did not refer to this claim. However, he did say that the action of the Congress in enacting the Energy Policy and Conservation Act in 1975 clearly indicated that the gasoline conservation fee is contary to manifest Congressional intent.

9. Claim: The PIAP is unlawful because it was enacted without compliance with the requirements of the National Environmental Policy Act.

Judge's response: The judge did not refer to this claim.

10. Claim: Enforcement of the PIAP will deprive plaintiff of property without due process of law, in contravention of the Fifth Amendment to the Constitution of the United States, because it was enacted unlawfully.

Judge's response: Absent statutory authority, the President has no inherent power to impose a gasoline conservation fee.

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Withholding on Interest and Dividends

With respect to the Administration's proposal for withholding on interest and dividends, the choice is equally clear-cut: As we ask the American people to accept fiscal discipline, with cuts in spending for important programs, we must at the same time take positive action to ensure that billions of dollars of taxes due under present laws do not go unpaid. Congress and the Administration can do this by taking the simple and effective step of requiring that taxes be withheld on interest and dividend income, just as we now require taxes to be withheld on wages.

When American taxpayers completed filing their tax returns last month, they had reported and paid taxes on nearly all -- 97 percent or more -- of their income from wages and salaries.

But about $16 billion in interest and dividend income -- representing between 9 to 16 percent of the total income from these sources -- went unreported. As a result, at least $3 1/2 billion in taxes that were lawfully due will not be collected.

Withholding is the most effective way of collecting taxes. Where we have a requirement for withholding, the reporting of

taxable income is high. Where there is no such requirement compliance with the tax laws drops off sharply.

Since 1962, we have had an extensive information reporting system. But, as the figures I just mentioned make clear, the information reporting system has not produced satisfactory compliance. And it cannot do so except at an enormous cost.

The President has asked the Congress to approve his proposal to withhold 15 percent of taxable interest and dividend payments to individuals. To ensure that the absence of withholding does not artificially favor one form of investment over another, withholding would apply to a wide range of assets, including savings bonds and Treasury obligations as well as interest and dividends from banks, savings associations, and corporations.

However, individuals who expect not to owe any tax -- and that includes 70 percent of America's senior citizens -- could file a certificate that would exempt them from any withholding. We also plan to exempt people age 65 or over with modest amounts of interest and dividend income who owe taxes, if they would be significantly overwithheld. Others will be able to reduce their estimated tax payments by the amount of withholding on their interest and dividend income, including interest and dividends eligible for the new $200/$400 exclusion provided in the Crude Oil Windfall Profit Tax Act. For wage earners, we have proposed that current wage withholding rules be modified to

permit individuals to reduce the amount of taxes withheld from their wages by the amount of taxes withheld on excludable interest and dividend income.

Because almost 90 percent of interest and dividends that will be subject to withholding is already subject to information reporting, withholding will involve little additional paperwork for payors. The principal change from administering an information reporting system will be the processing of exemption certificates. To minimize the paperwork involved for this purpose, we have proposed that the exemption certificates be permanent until revoked.

For recipients of interest and dividends who comply with the law and fully report their income, withholding will not impose any new burden. No increase in taxes is involved; it is a matter of cracking down on tax evasion.

The effects of withholding on the compounding of interest will be negligible, and, for small savers, will be offset many times over by the legislation recently signed by President Carter to phase out interest ceilings on bank and thrift deposits.

Withholding is the most effective way of ensuring a high level of reporting of taxable income. It is the easiest way for individuals to pay their taxes. And at a time when balancing the Federal budget is a national priority in the fight against

inflation, recovering billions in revenues lost through the absence of withholding on dividends and interest is surely one of the most sensible steps for Congress and the Administration to take.

Regulatory Reform

Before closing, I would like to discuss briefly just one other of the areas of the Administration's anti-inflation efforts -- regulatory reform.

Federal regulation has become a major economic force in our nation. We now have over 58 regulatory agencies, including 18 independent commissions. These agencies issue about 7,000 rules and policy statements per year, including roughly 2,000 legally binding rules with significant impact and over 100 with major economic effects. Most estimates of the costs of regulations are in the $50-150 billion range -- or as much as 5% of GNP.

Despite the fact that regulations can impose significant economic burdens upon regulated industries, their economic impact is not systematically scrutinized and analysed. Moreover, our present regulatory structure has grown up over a long period with little thought given to the cumulative effect of each new layer of regulation. The last comprehensive legislation to improve regulatory procedures -- the Administrative Procedure Act -- was passed more than 30 years ago.

In the last two years, the Administration and Congressional leaders have developed a program to overhaul the regulatory process. In some areas, like trucking, communications, and the railroads -- we no longer need regulation. We have already eliminated much of the regulation of airlines, clearly with good result.

Deregulation is not the answer, however, for most regulatory programs. In these areas, especially where Congress has delegated broad power to agencies to "legislate" rules, more careful attention needs to be given to the quality of regulations that are issued. And this is the precise purpose of regulatory reform. It requires regulatory agencies to analyze and compare the economic impact of alternative approaches before issuing any new regulation. By forcing all options to be explored, regulations can be made less burdensome, more reasonable, and more comprehensible.

We have, however, recognized that it would be inappropriate to apply our proposals for revising the process of promulgating rules and regulations to tax regulations. In the tax area, regulations generally are only interpretive and have slight economic effect beyond the Code provisions that they implement. Therefore, there is little point in demanding that alternatives be considered or that cost/benefit analyses be performed by the IRS for each new regulation that is issued or that periodic reviews be made of the impact of existing regulations. Indeed,

the need in the tax area is often for more, rather than fewer, tax regulations, and such analyses and reviews would unduly delay the issuance of tax regulations that provide necessary guidance for both taxpayers and the government.

I know that the tax sections of both the ABA and the AICPA share these views and have been actively involved in communicating them to the committees of Congress with jurisdiction over the various regulatory reform bills. Moreover, all the committees that have dealt to date with this legislation have adopted the Administration position that regulatory analysis and periodic review should not apply to tax regulations. And, as we face future challenges, both with respect to this legislation and other issues, I am confident that both the ABA and AICPA tax sections will actively contribute to the fundamental goal of maintaining a sound and fair tax system, a goal that both taxpayers and the government share.