

**REPORT #631**

**TAX SECTION**

**New York State Bar Association**

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October 3, 1989

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The Honorable Lloyd Bentsen  
Chairman, Senate Finance Committee  
United States Senate  
205 Dirksen Building  
Washington, D.C. 20510

Dear Senator Bentsen:

On behalf of the New York State Bar Association, I am writing to express a deep concern over the current disparity between salaries paid to attorneys in the private sector and salaries paid to attorneys working for the Federal government, particularly those working for the Internal Revenue Service. This disparity makes it difficult for the Internal Revenue Service to recruit and retain highly skilled individuals. Because it also encourages more rapid turnover of personnel, it also imposes unnecessary training costs and reduces the efficiency of the Service.

According to a recent report issued by the President's Advisory Commission on Federal Pay, the current overall pay gap between the private sector and the Federal government is 28.6 percent. For attorneys, however, that gap is substantially greater. A law school graduate beginning his service at the IRS is employed at a grade GS-11, with an annual salary of \$28,852. In contrast, a first year associate at a Washington, D.C. law firm may earn a salary of \$68,000 or more per year. In the highly competitive New York City market, a first year associate may earn a salary of \$82,000 or more per year. Using \$68,000 and \$82,000, the pay gap in these instances is 58 percent and 65 percent, respectively. In fact, that typical first year

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associate in a New York law firm earns a salary greater than that of the Chief Counsel for the IRS or the Treasury Department's Assistant Secretary for Tax Policy -- two senior Administration policy appointments.

This wide salary disparity has had a chilling effect on Internal Revenue Service recruitment, particularly in high cost geographical areas. Currently, the Service is hiring from the lowest 25 percent of graduating classes. We understand that the IRS is taking steps to improve its recruitment efforts, but that a survey conducted for the Service on its recruitment problems indicates that the primary factor influencing students not to seek employment with the Service is low salary.

This disparity is particularly serious as the complexity of the tax law increases at an accelerating pace. The most able lawyers are having difficulty interpreting recently enacted Code provisions and the attendant regulations. We have grave doubts that a Service staffed with lawyers of lesser ability will be able to cope with the tax law as it is now developing.

The President's Advisory Commission is attempting to slowly narrow the pay gap, and has recommended that Federal salaries be raised 10 percent beginning in January of 1990. Unfortunately, current budget restraints only allowed for the 3.6 percent increase, which was included in the 1990 Treasury, Postal Service and General Government Appropriations Act. A 3.6 percent pay adjustment will raise the GS-11 salary to \$29,891, and will reduce the pay gap in New York City and Washington by only two percentage points to 63 percent and 56 percent, respectively. The GS-11 salary of \$29,891 is obviously far from competitive in today's marketplace.

Given the current pay structure, it is also difficult for the Internal Revenue Service to retain qualified personnel. The problem of attrition is particularly severe in areas with a high cost of living. In the Manhattan District Office, for example, attorneys tend to fulfill their four year commitment with the Service and then move into the more lucrative private practice. The Manhattan District Office requested special salary rates in 1988, and stated in the request that it was expecting to lose more than 60 percent of its staff over a two year period. This high rate of turnover is resulting in a critical shortage of individuals qualified to step into supervisory positions. It has also led to increased costs as the Service invests valuable time and money in the training of new employees.

Congress and the Administration have recognized that the Federal government has serious staffing problems,

particularly with the more highly skilled positions. However, it is difficult to address these problems given today's tight budget constraints. A consultant retained by the Office of Personnel Management has suggested that the current Federal salary structure be abandoned and replaced with a system that includes the establishment of a national pay schedule for professional jobs supplemented by a pay differential in cities like New York where comparable private salaries have skyrocketed. Unfortunately, the cost of full parity between the public and private sector is approximately \$35 billion.

The General Accounting Office's mid-year financial review of the Service clearly illustrates the results of an underfunded, poorly staffed IRS. Because the Service was forced to make cutbacks this year due to a \$360 million budget shortfall, IRS enforcement and service have suffered significantly. More importantly, however, the GAO fears, with good reason, that these budget cutbacks will result in a substantial reduction in FY 1990 revenues.

The New York State Bar Association believes that Congress and the Administration should promptly address the pressing issue of inadequate pay of Internal Revenue Service attorneys. While the problem is by no means limited to IRS lawyers, prompt solution is particularly needed there. The Service is unlike any other government agency. It must have skilled lawyers to interpret and litigate an increasingly complex tax system. Otherwise, tax administration will suffer and compliance decline.

Sincerely,

WLB/JAPP

Wm. L. Burke

cc: The Honorable Dan Rostenkowski  
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