



U.S. Senate Committee on Homeland Security and Governmental Affairs
Subcommittee on Federal Financial Management,
Government Information, and International Security

Hearing on

Deconstructing the Tax Code: Uncollected Taxes and Issues of Transparency
September 26, 2006

Statement for the Record

Mr. Chairman and Members of the Committee,

OMB Watch fully supported the goals of the Federal Funding Accountability and Transparency Act (S. 2590). We believe, however, for the objectives and principles of S. 2590 to fully be met, the government should also provide for increased disclosure of federal tax expenditures.

OMB Watch has long believed that transparency and disclosure, with regard to government information and policymaking processes, are essential characteristics of a properly functioning democracy. A fundamental aspect of any healthy democracy is an engaged and active citizenry. In order to allow citizens to participate in the political and policy process, they require accurate and timely information about the government they are tasked with judging. Conversely, it is also important for elected officials, political appointees, and others who are operating the levers of power to know that their actions and decisions will be scrutinized by an informed citizenry. It is precisely this awareness, and the knowledge that they will be held accountable, which prompts government officials to strive for efficiency and effectiveness in government.

We applaud your leadership in laying the foundation for making a public database of information on grants and contracts a reality this year. However, the database created by S. 2950 would omit significant federal spending because it would not include information on tax expenditures. Tax expenditures merit disclosure to the degree that S. 2950 creates for grants and contracts.

Tax expenditures are defined and recognized as a part of the federal budget by the Treasury Department and the Joint Committee on Taxation. The JCT defines "tax expenditure" as a special tax provision that changes the "normal income tax law." It calculates the cost of tax expenditures based on the taxes not paid because of a special provision in the tax code. And although the Department of Treasury and JCT differ slightly in their definitions and calculations of "tax expenditure" both prepare an annual list and estimated cost of tax expenditures at the beginning of the budget cycle.

Despite the enormous size and importance of tax expenditures, the public cannot easily access and search through this data. The JCT found that the federal government spent \$947 billion through the tax code this year -- 7.2 percent of GDP, and 39.3 percent of total estimated federal revenues.¹ In fact, tax expenditures exceeded FY 2006 discretionary spending (\$843 billion). Yet unlike discretionary spending, or even entitlement spending, none of these tax expenditures are easily available for public scrutiny. No database of tax expenditures is publicly available, and public awareness of the scope and purpose of tax expenditures is miniscule.

There is a great need for better disclosure of tax expenditures. Many tax expenditures do not serve a broad public

¹ Estimates of Federal Tax Expenditures for Fiscal Years 2006 – 2010, Joint Committee on Taxation

purpose commensurate to the revenue they sacrifice. The Congressional Research Service issued a report that found many tax expenditures do not effectively generate social and economic value.² Additionally, many tax expenditures are highly regressive and targeted to special interest groups. Some tax expenditures have had the consequence of increasing the size and complexity of the tax code. The merits of tax expenditures have escaped public debate and judgment and a number of them are cause for greater public scrutiny.

Data on tax expenditures would help citizens hold public officials accountable by giving them the information to make more informed decisions at the ballot box. With easy and timely access to tax spending information, the public will be much more likely and able to question their elected representatives; uproot and decrease unethical and corrupt behavior; and address inappropriate allocation of federal tax revenue. At the same time, the public will develop a more through appreciation of the scope and importance of the federal investment in our communities made through the tax code, and possibly participate more actively in shaping the priorities that govern our federal spending.

Further publication of tax expenditures would build on important precedents of providing information to the public about federal spending. As previously stated, the JCT and Department of the Treasury both publish tax expenditure information for the public. In addition, just last month, the House of Representatives passed a parliamentary rule that requires bills to list any tax expenditure that benefits only one individual or institution at the front of the bill. Neither the JCT nor the Treasury Department disclose data regarding tax expenditures that are below \$50 million over 5 years – expenditures to which the House rule could apply.³ Because of the current patchwork of disclosure, it is still possible many targeted tax expenditures could completely miss exposure to public scrutiny.

A comprehensive database of all tax expenditures would bring all public data on this form of spending together in one location, provide increased functionality and accessibility, and close worrisome gaps. Users could put tax expenditure data into perspective by comparing it with other types of federal spending. A database could also disaggregate tax expenditure information in many different ways (e.g. by congressional district, or by program and by congressional district).

Increased transparency and disclosure of tax expenditures promises great benefits for the public. We realize, however, it would present some logistical hurdles for agencies tasked with its implementation and privacy concerns of confidential information of both individuals and companies. For example: Congress and the President would have to agree on a singular definition of "tax expenditure" and because no system currently exists for collecting and publishing tax expenditure data (as was the case with spending information during the formulation of S. 2590), this disclosure would put additional strains on both the Treasury Department and the Internal Revenue Service. Additionally, there are privacy concerns raised in publishing this information as many tax expenditures go to individuals whose tax returns cannot (and should not) be publicly disclosed.

Despite these issues, we believe that legislators can find a way to balance the rights of the private citizen and those of the general public. The JCT and Treasury Department have implemented methods of disclosing aggregate tax expenditure information. In a similar fashion, lawmakers can find ways of sorting aggregated data that would preserve the privacy of beneficiaries yet meet the goals of transparency.

The public has a right to know how the government expends all funds in the federal budget, and as such, the principles of good government demand better and more accessible information on tax expenditures. At present, there is an opportunity for the federal government to provide its citizens such information at the cost of a modicum of effort and expense. For these reasons, OMB Watch vehemently supports further exploration and debate as to the best way to publish tax expenditure data.

² Tax Expenditures: Trends and Critiques. Sept. 13, 2006. Thomas L. Hungerford, CRS Report for Congress

³ Estimates of Federal Tax Expenditures for Fiscal Years 2005 – 2009, Joint Committee on Taxation