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Congress of the United States
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CONSUMER PROTECTION

January 21, 2009

The Honorable Max Baucus
Chairman
United States Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Chuck Grassley
Ranking Member
United States Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Baucus and Ranking Member Grassley:

I am writing to you to express my concerns regarding the appointment of Mr. Timothy Geithner to the position of Secretary of the U.S. Department of the Treasury. As your committee continues to oversee the nomination of high level appointments to serve within the Administration of President Barack Obama, I ask that you take extreme care to fully investigate the background of Mr. Geithner before providing your approval.

Mr. Geithner's personal biography and experience certainly qualifies him serve our nation as a financial expert, but the position of Treasury Secretary requires an additional personal commitment to upholding the law. Several news sources have reported that Mr. Geithner failed to comply with certain aspects of the U.S. Tax Code between 2001 and 2004. Most notably, Mr. Geithner failed to pay some \$34,000 he has owed the federal government since 2001. I have attached a sampling of these articles from the Wall Street Journal, AccountingWeb, and Time magazine to this letter.

This is a critical time for our economy and the person appointed to the position of Secretary of the Treasury must be capable of providing immediate leadership and decisiveness. As Secretary of Treasury, Mr. Geithner would be the official in charge of enforcing the collection of taxes through the Internal Revenue Service (IRS). It would be contradictory to approve a nominee to the office responsible for the collection of taxes if in the past that nominee refused to comply with some aspects of the tax code.

Talk to anyone who has owned or run their own business. They cannot feel comforted by the fact that the designated Secretary of the Treasury evaded taxes they are required to pay. This is yet one more example of a pervasive perception that the well connected are being exempt from the rules the rest of us must follow.

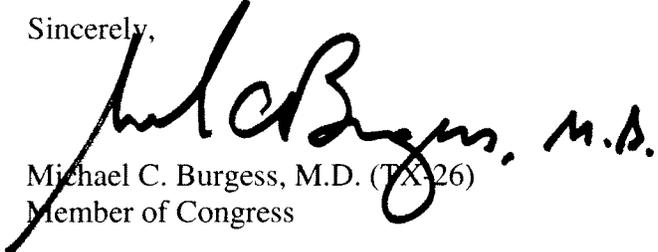
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The Honorable Max Baucus
The Honorable Chuck Grassley
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Should Timothy Geithner receive confirmation to become the next Secretary of Treasury, I am concerned that Mr. Geithner's financial lapses will be a distraction from the important tasks at hand at the Department of the Treasury. At such a critical time we cannot afford to be distracted from the overwhelming task of rebuilding our economy. For that reason, I respectfully request additional insight into the financial history of Timothy Geithner as it pertains to his nomination to serve as the Secretary of the Treasury.

Sincerely,



Michael C. Burgess, M.D. (TX-26)
Member of Congress

Enclosure

Cc: Office of Presidential Appointments
and Scheduling
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

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THE WALL STREET JOURNAL

WSJ.com

JANUARY 15, 2009

IMF Informed Geithner on Taxes

Senate Delays Treasury Nominee's Hearing Till Jan. 21; Obama Vote of Confidence

By JOHN D. MCKINNON and BOB DAVIS

Timothy Geithner, whose nomination as Treasury secretary has been delayed by his past failure to pay taxes, was repeatedly advised in writing by the International Monetary Fund that he would be responsible for any Social Security and Medicare taxes he owed on income he earned at the IMF between 2001 and 2004.

Questions about Mr. Geithner's initial failure to pay more than \$34,000 in taxes are clouding his prospects for confirmation. The Senate Finance Committee postponed Mr. Geithner's confirmation hearing from a tentative Friday date to next Wednesday, which means President-elect Barack Obama will take office without a Treasury secretary amid the biggest financial crisis in decades.

Current and former IMF officials said the fund provided numerous warnings to U.S. employees about payroll taxes. According to IMF documents released by the Senate Finance panel, Mr. Geithner regularly received information about his tax obligations.

Mr. Geithner didn't make any Social Security or Medicare tax payments on his income during the years he worked for the IMF, though he did pay income taxes. After the Internal Revenue Service audited him in 2006 and discovered the payroll-tax errors, Mr. Geithner corrected them for 2003 and 2004. Only after Mr. Obama picked him for Treasury secretary last fall did Mr. Geithner pay the Social Security and Medicare tax he owed for 2001 and 2002.

Mr. Obama offered a vote of confidence Wednesday that echoed a defense offered by transition officials a day earlier: Mr. Geithner made a mistake common to people who work for international institutions.

"Tim Geithner, when I [nominated] him, was rightly lauded by people from both sides of the aisle...as somebody who was uniquely qualified" to handle the economy, Mr. Obama said. "Is this an embarrassment for him? Yes. He said so himself."

It's possible some of Mr. Geithner's problems stemmed from bad advice. In 2004, an accountant advised Mr. Geithner in writing that he did not owe employment taxes. An accountant who reviewed Mr. Geithner's 2001 tax return also didn't inform Mr. Geithner he owed taxes, according to an Obama aide familiar with the situation.

Mr. Geithner wasn't available for comment Wednesday.

A number of senators, including Republicans, continued to express their support for Mr. Geithner. "These are not the times to think in small political terms," said Sen. Lindsay Graham, a South Carolina Republican. "He has a great résumé."

Others were more circumspect. "He may be a smart guy, but the average person on the street sees that he hadn't paid his taxes," said Sen. George V. Voinovich (R., Ohio). Senate aides said that Sen. Kent Conrad (D., N.D.), a former state tax commissioner and a Finance Committee member, wants to study Mr. Geithner's tax records and speak to the nominee.

Stuart Levey, currently a Treasury undersecretary for terrorism and financial intelligence, will effectively run the department until a successor for current Secretary Henry Paulson is confirmed.

As an international body, the IMF doesn't withhold taxes for U.S. citizens, and employees are responsible for paying their taxes. The IMF pays employees additional tax allowances to cover federal and state income taxes, and the employer's portion of payroll taxes.

Mr. Geithner prepared his own federal-tax returns during the first two years he worked at the IMF, 2001 and 2002, according to the Senate Finance Committee report.

"The IMF informs U.S. employees about their tax allowance and what it covers and doesn't cover -- and that includes paying your payroll taxes," said Michael Mussa, a former IMF chief economist, who is now at the Peterson Institute for International Economics. "The IMF doesn't leave this out."

An IMF booklet on taxes, which Mr. Geithner told the Senate panel he received, instructed employees that "you pay the employee's share of U.S. Social Security taxes."

Mr. Geithner's quarterly tax-allowance payments also included a statement of what the money was to be used for, and had an entry for "SE tax" -- meaning "self-employment" taxes. In a wrinkle in U.S. tax law, U.S. citizens at the IMF pay Social Security and Medicare taxes as if they were self-employed. Current and former IMF officials said that U.S. officials widely understood "SE tax" to mean

payroll taxes.

Mr. Geithner "filled out, signed and submitted an annual tax allowance request worksheet with the IMF that states, 'I wish to apply for tax allowance of U.S. federal and state income taxes and the difference between the "self-employed" and "employed" obligation of the U.S. Social Security tax which I will pay on my Fund income,'" the Finance Committee reported.

U.S. IMF employees regularly requested "safeguard adjustments," to see if the IMF paid them enough to cover their taxes. An IMF finance-department official, J. Carter Magill, not only checked the tax-allowance payments, but would double-check tax returns to see if U.S. citizens had filled out their tax returns correctly. Mr. Magill, who is now retired, said he doesn't think Mr. Geithner used his service.

Tax professionals noted that even trained preparers sometimes miss the subtleties involved in taxation of employees of international organizations.

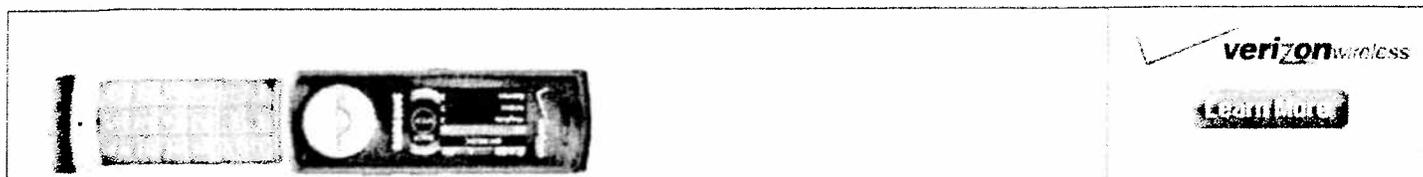
The IRS in late 2006 launched a settlement initiative aimed at noncompliant employees of foreign embassies, as well as international organizations such as the IMF. At the time, the IRS said as many as half of affected employees were out of compliance with tax rules in one way or another.

—Jonathan Weisman and Deborah Solomon contributed to this article.

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Wednesday, Jan. 21, 2009

Tax Tips for Tim Geithner

By Stephen Gandel

Memo to Timothy Geithner: Moving expenses are deductible. Commuting is not.

That tax tip, among others, could save Geithner, President Barack Obama's nominee to be the Secretary of the Treasury thousands of dollars, and some embarrassment, when he files his federal returns next year. Geithner is clearly in need of some better tax counseling.

Last week, it was revealed that Geithner had failed to pay nearly \$40,000 in taxes since 2001. When he appears in front of the Senate Finance Committee today for confirmation hearings, he will be interrogated about his plans to deal with the flailing economy, failing banks and rising foreclosures. But the most disconcerting questions Geithner is likely to face may have nothing to do with the current financial maelstrom, but with his track record with the Internal Revenue Service — an agency he would oversee as Treasury Secretary.

Much of Geithner's missing government payments were due to the fact that he had not paid his Social Security and Medicare taxes while working as an employee of the International Monetary Fund in the early part of this decade. The IMF is an international organization, and does not automatically withhold this tax on behalf of its employees as U.S. companies do. IMF employees have to pay that portion of their tax bills themselves. Apparently figuring out what is owed is tricky stuff, and at least one accountant reportedly told Geithner he had made all necessary payments.

But tax experts, who have reviewed a report made for the Senate Finance Committee of Geithner's missing taxes, say at least \$4,334 of the back taxes he owed to the government was the result of basic errors, and possibly some liberal interpretations of the tax code by Geithner, who prepared his taxes several of the years in question, or his accountant. Among Geithner's missteps: He claimed that payments made to summer camp for his children were tax deductible because they qualified as dependent care. But the dependent-care credit is aimed at helping middle-class families with working parents afford the cost of daily childcare, not at helping pay for expensive retreats. An accountant told Geithner in 2006 that overnight camps were not eligible for a tax break, according to the Senate Finance Committee report. Still, Geithner failed to file amended tax returns and pay his back taxes until shortly before being nominated by Obama. (See "All the President's Men and Women")

"Moves like stretching the definition of 'necessary child care' are so silly because all it is going to save you is a few thousand bucks," says Howard Hook, a financial planner and CPA with Access Wealth Planning in Roseland, New Jersey. "But that doesn't stop people from trying."

Geithner's tax foibles probably won't derail his bid to replace Henry Paulson at Treasury. Republican and Democratic senators, a number of whom have reiterated their support for Geithner in the past week, are likely to vote to confirm him as early as Thursday. Still, Hook and other tax experts say that if Geithner hopes to lower his April 15th bill in the future, he still has some legitimate options even if he lands the high-profile Treasury Secretary job. What follows are some filing tips for Geithner, as well as some common tax traps he should avoid:

Claim Your House as a Home Office

Geithner spent the past few years as head of the Federal Reserve Bank of New York, and made nearly \$398,000 in 2007. Hook estimates before deductions Geithner could owe as much as \$130,000 in federal and state taxes for 2008, assuming his income last year was the same as before. On top of that, he will owe nearly \$19,000 in property taxes on his three-and-a-half bedroom home in Larchmont, New York, an upscale suburb north of Manhattan, where he lives with his wife and two children.

Geithner could lower his bill if he or his wife works regularly from home. Geithner's wife, Carole, is a clinical social worker. If she saw patients in her home during the past year, tax experts say the Geithners could reasonably claim at least 500 sq. ft. (45 sq m) of their 2,500-sq.-ft. (230 sq m) home is devoted to Carole's business. That would allow the couple to write off 20% of the upkeep and utilities expenses, as well as local property taxes. (See "The Bailout from A to F")

Since Geithner certainly has an office at his Fed job, he can't claim his home as a place of business. But if he telecommuted, he could write off a portion of the cost of his computer and other gear needed to run the largest branch of our nation's bank from home. To get the deduction, though, Geithner, based on his salary, would have had to spend at least \$8,000 on home office equipment. But that shouldn't be too tough. If you are the head of the New York Fed, a 73" high-definition television (\$3,000 and up) to watch CNBC is a legitimate business expense, right?

Job Hunting? Save Your Receipts

The Secretary of Treasury job is not a position that finds you. Presumably, Geithner did some high-level networking, and even flew out to Chicago a few times to meet with Obama in order to land the nomination not to mention the trip down to Washington, D.C., for the confirmation grilling. Good news, Tim. According to Barbara Weltman, editor of the popular tax guide J.K. Lasser's Your Income Taxes, all of those trips are tax deductible. So hopefully you saved your receipts. The

IRS will let you write off a third of the cost of job-search expenses as long as you land a job in your usual field. And since Geithner reportedly has held more than one meeting with current Treasury Secretary Paulson in the past year, it is safe to say he is staying in the same line of work. One thing to watch out for, Tim: expenses must be reasonable in the eyes of the IRS. So if you flew first class to Chi-town, you are probably only going to be able to expense a portion of your ticket.

There's a catch in write-offs, however. Because of his high income, Geithner will most likely run afoul of the dreaded alternative minimum tax (AMT). Among other things, the AMT applies to people who would be able to use deductions to reduce a large portion of their federal income taxes. The idea of the AMT being to make sure wealthier types pay their fair share. State income taxes and property taxes are federal income tax deductions. And since Geithner pays nearly \$45,000 in those two taxes, he most certainly would be caught by the AMT. When you pay AMT, you can't take individual federal deductions. Still, he could use deductions to lower his state taxes, which at about \$25,000 are pretty sizable.

Move in Style

Mark Luscombe, principal tax analyst at Riverwoods, Ill.-based CCH, which provides tax information and software to accountants, points out that if you have to relocate because of your job, you can deduct a portion of your move. To qualify, your new commute would have to be 50 miles longer if you stayed in your current home. Since Geithner's place of work may be moving from Lower Manhattan to Washington D.C., he qualifies. And unlike the job-search deduction, moving expenses are not subject to the AMT. So don't go with one of those flat-fee moving services, Tim. Based on your current salary, taxpayers could pick up as much as 30% of your relocation costs.

Geithner could also get a tax benefit when he sells his house. That's because he's not likely to get back the \$1.6 million he paid for the home when he bought it in 2004. If he were to sell it today, Geithner's house would fetch \$1,357,500, according to Zillow. Add in realtors' fees, plus any money Geithner put into the house in remodeling and repair costs, and Geithner is probably looking at an investment loss of more than \$300,000. He can use that to lower the taxes he

may have to pay against long-term stock market gains, if he is lucky enough to have any of those. But don't try to write the house off against regular income, Tim. If you do, the Senate might want to talk to you about it.

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Did Obama's Treasury nominee, Tim Geithner, weave a tangled tax web?

Last November when then president-elect Barack Obama tapped Timothy Geithner to take the reins as Treasury Secretary, Geithner's confirmation seemed like a slam dunk. But that was before the Obama team started vetting the nominee to make sure there would be no surprises.

Geithner has been hailed as a financial wizard after working in several Treasury positions under three different presidential administrations, nearly four years at the International Monetary Fund (IMF), and most recently, as president of the New York Federal Reserve Board. So how did this financial wizard make what is being called an "honest mistake" amounting to a serious underpayment of income taxes?

Here's what happened

In his years at the IMF, 2001-2004, Geithner was paid large sums of money from which Social Security and Medicare were not withheld, as is a customary practice at the IMF. Because of this practice, the IMF instructs recipients that they need to report the income and pay self-employment tax of 15.3 percent on the money, just like any self-employed taxpayer would be required to do. But there was one difference. In addition to the untaxed money, Geithner was permitted to request additional funds to pay the taxes. To get the additional funds, he had to sign a form each year certifying that he would use the funds to pay the taxes. He signed the form, received the funds to pay the taxes, but did not pay the taxes.

In 2006, when the IRS audited his 2003 and 2004 income tax returns, the omission for those two years was noticed, and Geithner then paid the overdue taxes and interest, amounting to \$17,230. The IRS waived penalties. Since his tax returns for 2001 and 2002 were not targeted for audit, the fact that the exact same circumstances also applied to those years, resulting in significant unpaid taxes went unnoticed by the IRS, and undisclosed by Geithner.

When Obama's vetting team discovered this fact and notified Geithner, he immediately paid tax and interest of \$25,970 on November 21, according to Obama transition officials.

Originally it was hoped that Geithner's nomination would be confirmed on January 20th, Inauguration Day. Because of this tax glitch, the nomination was then pushed to Friday, January 23rd. But... in spite of the tax issues and questions

from some Senators, the confirmation hearings got underway this morning, January 21st, and are expected to result in a clear path for Geithner.

Both Republicans and Democrats in the Senate are calling this an "honest mistake," and predicting that it will not cause a long delay. But researchers at the *Wall Street Journal* would like to see the matter pursued further, based on the policy the Democrats have pushed since they took control of Congress, of closing the "tax gap," which is the amount between taxes owed and taxes collected.

Democrat Senator Max Baucus, Finance Committee Chairman, has referred to the tax gap as "an affront to all the rest of us who pay our taxes." But in Geithner's case, he says "this is an honest mistake and it's clear there was no intention not to pay," and adds that Geithner's confirmation is "a given."

The Wall Street Journal, on the other hand, calls Geithner "the living embodiment of the tax gap."

After the revelation of the tax problems, the Obama vetting team uncovered another issue. Geithner and his wife employed a part-time housekeeper who, at the time of hiring was verified as having authorization to work in the United States. Three months before she quit to have a baby, her work authorization expired, a fact which seems to have been unknown to the Geithners. The housekeeper was married to a U.S. citizen at the time, and was later issued a Green Card. On its own, this matter seems unlikely to result in a delay of Geithner's confirmation.

Given the fact that Geithner was warned by the IMF of the need to report the income and pay the taxes and was also provided money to pay the taxes due, these problems seem unlikely to be overlooked. Even so, Some Democrats are predicting that the matter will ultimately be brushed off as "honest mistakes." If that happens, it could clear the way for Geithner to be appointed as head of the department responsible for enforcing the same tax code which he violated, and to which rank and file Americans are held responsible.

Robert Gibbs, incoming White House press spokesman was quoted in the press as saying, "The President-elect chose Tim Geithner to be his Treasury Secretary because he's the right person to help lead our economic recovery during these challenging times. He's dedicated his career to our country and served with honor, intelligence, and distinction. That service should not be tarnished. He made a common mistake on his taxes, and was unaware that his part-time housekeeper's work authorization expired for the last three months of her employment. We hope that the Senate will confirm him with strong bipartisan support so that he can begin the important work of the country."

What is the press saying about the "honest mistakes?"

Brian Carney of *The Wall Street Journal* speculated in an online interview about the appropriateness of a guy who is

supposed to be a financial whiz, tapped to save our economy who cannot understand the tax system himself. "If he can't figure it out, maybe we need a simpler tax system," said Carney who seemed disturbed that ordinary Americans are held to a higher standard than the man who will be enforcing the tax code.

In the run-up to Inauguration Day, the *Washington Post* - generally friendly to Democrats - speculated that Timothy Geithner is not the 'change we need' and President-elect Barack Obama should withdraw his nomination.

With Democrats and some Republicans in the Senate insisting Geithner's tax issues were "honest mistakes," it is probable that Geithner will be confirmed. At the very least, this is, as Obama admits, an "embarrassment" in the kickoff of his administration. Even so, Obama adds, "My expectation is that Tim Geithner will be confirmed."

Who prepared his taxes?

Geithner told *Washingtonpost.com* that he prepared his own taxes using tax software at home. Before the Senate nominating committee which convened on January 21st, Geithner was asked if the software he used directed him to pay the taxes... he answered that it did not, and that the fault was his, not the software. Of course, no software can direct a person to pay taxes on income unless that income is reported. It's not known at this time whether Geithner was asked if he reported the income (or the additional funds to pay the taxes).

In the *Washingtonpost.com* interview he offered what was his first public apology for his "honest mistakes."

"I should have been more careful. I take full responsibility for them. I have gone back and corrected the errors; I have paid what I owed. I want to apologize to the committee for putting them in the position of having to spend so much time on these issues when there is so much more pressing business before the country."

Is this a sign that, in the future, the IRS will be as forgiving of our "honest mistakes" as the Obama administration and the Senate appear to be of the guy who will be in charge?

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