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UNITED STATES GENERAL ACCOUNTING OFFICE
Washington, D.C. 20548

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STATEMENT OF

ROBERT F. KELLER, DEPUTY COMPTROLLER GENERAL OF THE UNITED STATES,

Before the

SUBCOMMITTEE ON COMMERCE, CONSUMER AND MONETARY AFFAIRS
COMMITTEE ON GOVERNMENT OPERATIONS
HOUSE OF REPRESENTATIVES

on

H.R. 8948, 94th Congress

Mr. Chairman and Members of the Subcommittee:

We appreciate the opportunity to appear before you to give you our views on H.R. 8948, 94th Congress, which would amend section 117 of the Accounting and Auditing Act of 1950 to provide for audits of the Internal Revenue Service by the Comptroller General.

In testimony before this Subcommittee on May 22, 1975, I furnished the details of the long standing differences between the General Accounting Office and the Internal Revenue Service over the right of the General Accounting Office to perform an audit of the Internal Revenue Service. Unless you wish me to do so I will not go into these differences again today. However, I am convinced the matter is at an impasse and that legislation to clarify that the Internal Revenue Service is subject to audit by the General Accounting Office is necessary. I, therefore, strongly recommend that H.R. 8948 be given favorable consideration by the Congress.

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With respect to the language of H.R. 8948, the proposed new subsection 117(d)(2) of the Accounting and Auditing Act of 1950 would give representatives of GAO access to all books, accounts, financial records, reports, files, and "individual tax returns" belonging to or in use by the IRS. It is possible that the language "individual tax returns" could be interpreted as precluding access to returns of taxpayers other than individuals. Our need for access in order to properly perform our auditing function would apply equally to the tax returns of corporations, trusts, estates, and other taxable entities. To preclude this possible interpretation, we suggest deletion of the word "individual" on page 2, line 4 of the bill. Also, to make it clear that GAO would have access to all information relating to taxpayers we would suggest that the words "and tax return information" be inserted after the word "returns" on page 2, line 4.

Section 117(d)(2) also provides that no officer or employee of the General Accounting Office shall disclose to any person outside of the GAO, except as provided by law, any information which would identify directly or indirectly any taxpayer or any return. We interpret this provision as prohibiting GAO from furnishing such information to any person requesting it unless the person would have a right to the information under the Internal Revenue Code or other law expressly providing for access to such information. So that there will be no difference of opinion on this point, we would suggest the word "expressly" be inserted before the word "provided" in line 12, page 2 of the bill.

Section 117(d)(3) would require a report by the Comptroller General to the Congress within six months after the end of each fiscal year or as soon thereafter as may be practicable on the results of the audit work performed during such fiscal year. The language could be construed as requiring an annual audit and report on all activities of the Internal Revenue Service. IRS is a large organization and its operations are complex. It would not be

possible for us to make a complete audit of the Service in any one year. We recommend that the annual audit reporting requirement be deleted and that the audit of IRS be done on the same basis as that of the other Federal departments and agencies. Under the Budget and Accounting Act, 1921, and the Accounting and Auditing Act of 1950, the determination as to the frequency, as well as to the scope, of the audit to be performed is left to the judgment of the Comptroller General. These judgments are made after consideration of the relative importance of each of the agency's activities, the availability of resources to perform the audit work, and in the light of congressional and public concern with specific programs and problems. You can be assured that if we are given audit authority over the IRS' operations we will make reports to the Congress from time to time on the results of our reviews.

We would also like to point out that the problem of access to tax administration documents and records applies not only to IRS but also to the Bureau of Alcohol, Tobacco and Firearms (ATF). The Bureau was established effective July 1, 1972, pursuant to a Treasury Department Order which transferred the functions, powers, and duties arising under laws relating to alcohol, tobacco, firearms, and explosives from IRS to the Bureau.

On August 24, 1972, the Director ATF notified his regional directors that ATF's position in regard to disclosure of official matters for review and audit by GAO was under study and formulation. He stated that, until a final determination was made, ATF would adopt the position of IRS that the administration and enforcement of the Revenue Code, in all phases, is not subject to review or audit by GAO.

The Director of ATF by letter dated April 10, 1973, advised us that his August 24, 1972, memorandum accurately reflects ATF's official position with respect to disclosure of official matters to GAO. He stated that the position had been reviewed and concurred in by the General Counsel of the Treasury. As a result of this determination GAO does not have access to ATF's records for the purpose of performing independent reviews relating to the administration of laws included in the Internal Revenue Code on distilled spirits, tobacco products, and certain firearms. The Committee may wish to consider expanding the scope of H.R. 8948 to include the Bureau of Alcohol, Tobacco and Firearms.

That concludes my prepared statement. I will be glad to answer any questions.