

MEMORANDUM

To: Reporters and Editors
From: Carol Guthrie for Finance Chairman Max Baucus (D-Mont.)
Jill Kozeny for Finance Ranking Member Chuck Grassley (R-Iowa)
Re: Documents related to Treasury Secretary Nominee Tim Geithner

The Senate Finance Committee is releasing today several documents related to the nomination of Timothy Geithner to be Secretary of the U.S. Treasury. The documents, compiled from information received and discovered in the Finance Committee's vetting process for the nominee, reflect certain errors in the nominee's past tax returns and an issue with the legal work status of a former household employee. Steps have been taken by the nominee to bring tax returns into compliance.

Senate Finance Chairman Baucus and Ranking Member Grassley are releasing the information after discussions with the nominee and with the presidential transition team. The Senators expect to announce a date for Mr. Geithner's confirmation hearing soon. Along with the documents, the Senators are issuing a short joint statement:

"The Finance Committee is charged with the thorough vetting of all nominees whose confirmations fall under our jurisdiction. When errors or issues of concern are discovered, transparency is vital to allow members of the Committee and the entire Senate to fully review and assess the relevant information before hearings and votes occur. These documents are released to ensure such transparency. The Committee, and we as individual Senators, will continue to review Mr. Geithner's tax returns and other information in advance of a nomination hearing."

Issues detailed in the attached documents include adjustments to Mr. Geithner's previous tax returns based on a failure to pay self-employment taxes during his employment at the International Monetary Fund, and the ineligibility of a former household employee of the nominee to work legally in the United States for a portion of her time of employment by Mr. Geithner.

[Summary \(also in the attachment\) --](#)

Timothy Geithner recently filed amended tax returns for years 2001, 2002, 2004, 2005 and 2006 reporting combined additional taxes and interest of \$31,536. For years 2001 and 2002, the most substantial adjustments resulted from his failure to pay self-employment taxes (SE tax) on earned income while employed by the International Monetary Fund (IMF). Mr. Geithner previously had agreed to similar adjustments to SE tax for years 2003 and 2004 after his returns were examined by the Internal Revenue Service (IRS). The IRS waived penalties for those years. The remaining adjustments on the amended returns resulted from a variety of issues identified during a review of his returns by Finance Committee staff during the nomination process.

Mr. Geithner self-prepared his original tax returns for years 2000, 2001, 2002 and 2005. He used paid tax preparers to prepare his original tax returns for years 2003, 2004, 2006 and 2007.

He used paid preparers to prepare a 2001 amended return that was filed in July, 2002, and his recently amended returns for years 2001, 2002, 2004, 2005 and 2006. All returns were filed using married filing jointly filing status.

Mr. Geithner regularly employs household help. It has been determined that the legal working status of one individual was lapsed for approximately 3 ½ months during 2005 while in the employ of Mr. Geithner.

Tax Adjustments

Background

On December 5, 2008, the Presidential Transition Team (PTT) met with Finance Committee staff and disclosed that Mr. Geithner had paid to the IRS \$34,023 in additional taxes and \$8,679 in interest because he had failed to pay self-employment taxes on his IMF income paid during 2001 through 2004. The IRS audited Mr. Geithner in 2006 for tax years 2003 and 2004, resulting in additional taxes of \$12,719 and \$2,128, respectively, plus interest of \$1,885. The IRS waived penalties for these tax years. Mr. Geithner voluntarily amended his tax returns for years 2001 and 2002 after Barack Obama expressed his intent to nominate Mr. Geithner to be Secretary of the Treasury and paid additional taxes of \$2,364 and \$16,812, respectively, plus interest of \$6,794.

Tax Year	Self-Employment Tax	Interest	Total Tax and Interest
2001	\$2,364	\$956	\$3,320
2002	\$16,812	\$5,838	\$22,650
2003	\$12,719	\$1,711	\$14,430
2004	\$2,128	\$174	\$2,302
Total	\$34,023	\$8,679	\$42,702

As a result of this meeting, a letter was sent on December 9, 2008 to Mr. Geithner's attorney requesting Mr. Geithner's tax returns, notes and other documentation pertaining to tax years 2000 through 2007. Information in response to this letter was received on December 16, 2008. Committee staff have examined this material. Telephone interviews were conducted with three of Mr. Geithner's accountants and a Human Resources representative at the IMF. Mr. Geithner met personally with staff on December 19, 2008 to answer questions about the self-employment tax issue and other issues identified during the course of the document review.

Self-Employment Taxes

The most significant tax concern identified is Mr. Geithner's failure to pay social security taxes during his entire tenure at the IMF, which began in 2001 and concluded in 2003 (some compensation was not paid until calendar year 2004). He paid no FICA taxes or self-employment taxes with respect to the IMF income during that time.

Under section 3121(b)(15), international organizations like the IMF are exempted from the Federal Insurance Contributions Act (FICA, or social security taxes). Such organizations do not pay the employer share of FICA. There is no employee liability for the employee share of FICA and there is no payroll withholding for the employee's share. Under section 1402(c)(2)(C), service performed by an employee of such an organization is treated as service that is subject to the Self-Employment Contributions Act (SECA, or SE taxes) to the extent that the service is performed in the United States by a United States citizen. Thus, employees of an international organization who are citizens of the United States must pay SE taxes with respect to the compensation received from the organization. IMF workers receive tax allowances for federal, state and self-employment obligations in the form of gross-ups to their regular salary. The IMF, as is their policy as an international organization, did not withhold any taxes, including FICA taxes, and reported "NONE" on Form W-2 in Box 2 (Federal income tax withholding) and Box 4 (Social security tax withheld). No entries appeared in Box 3 (Social security wages), Box 5 (Medicare wages and tips) and Box 6 (Medicare tax withheld).

IMF employees are responsible for meeting their own tax obligations, including federal income taxes, state income taxes and self-employment taxes. The IMF provides employees with several documents throughout the year to help employees understand and meet their tax obligations. These documents include:

- *IMF Employee Tax Manual.* This manual is given to employees at the time they are hired and includes information describing how to pay self-employment taxes.
- *Quarterly Wage Statements.* These statements are provided to employees on a quarterly basis. They report on separate lines for each type of tax the amount of gross-ups for federal, state and self-employment taxes that have been included in wage income for that quarter.
- *Year-End Wage Statements.* These statements are delivered annually via an e-mail that describes the data as very important and includes information regarding the payment of self-employment taxes. The wage statement sent with the e-mail contains a detailed breakdown of wages and compensation paid to the employee for the entire year, including separately stated amounts for federal, state and self-employment taxes.
- *Annual Tax Allowance Request.* IMF employees are required to file annually a form requesting the federal, state and self-employment gross-ups to wages.

Mr. Geithner acknowledged receiving all of these documents. He wrote contemporaneous checks to the IRS and the State of Maryland for estimated tax payments in amounts that tied exactly to the federal and state tax allowances reported on the IMF quarterly wage statements. He did not write checks corresponding to the self-employment tax allowance that was separately stated directly underneath the federal and state allowance amounts. He 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."

Mr. Geithner has experience with social security tax issues. For tax years 1993 through 1995, he late-filed, in February, 1996, social security taxes and Maryland FUTA taxes for household employees. For 1998, he incorrectly calculated Medicare taxes for household employees and received an IRS notice. He filed a corrected 2001 Form W-2 for his household employee. He received notices from the Social Security Administration and the IRS regarding the non-filing of 2003 and 2004 Forms W-2 (the matters were dropped after he submitted copies of the forms). He has filed Schedule H (employment taxes for household help) with several tax returns. He reported self-employment taxes on Schedule C net income for his personal consulting business and his wife's clinical work. In addition, he used tax software to prepare his own returns. These programs include specific boxes and prompts to enter social security taxes.

In November, 2006, the IRS announced a settlement offer to resolve tax matters of U.S. based employees of foreign embassies, foreign consular offices and international organizations.

Other Tax Adjustments

The amended returns contain various other tax adjustments identified during a review of Mr. Geithner's returns. Additional tax of \$4,334 and interest of \$1,232 applies to these adjustments. Items adjusted include a ten-percent early withdrawal penalty on a distribution from a retirement plan maintained by the federal government, recapture of a section 179 deduction for equipment used in a business that was discontinued, an additional charitable contribution deduction for non-cash items, a reduction in utilities expense to account for personal use, investment interest expense, and reductions to the dependent child care credit. Mr. Geithner included payments to overnight camps in his dependent care credit computations for years 2001, 2004 and 2005. The accountant who prepared his 2006 tax return apprised him that payments to overnight camps were not allowable expenses for purposes of the credit but he did not file amended returns at the time to correct the prior years.

Household Employees

Mr. Geithner has employed three persons to provide household help since 2004. He did not obtain the required Form I-9, Employment Eligibility Verification, from these persons at the time they were hired to verify their legal work status. The legal status of the three employees was reviewed and notes were entered into an address book with citizenship dates, passport numbers and employment authorization numbers, as applicable, for each employee. No copies were retained of the documents used to determine legal status.

One employee, hired in September, 2004, provided a United States Citizenship and Immigration Service Employment Authorization Document (EAD) issued on July 15, 2004 as proof of legal work status. The EAD number was recorded in the Geithner's address book together with the expiration date of the EAD, July 14, 2005. When the EAD expired, the employee did not renew her legal work status and the Geithners did not follow up with the employee to confirm whether she had done so. This person remained employed by the Geithner's until October, 2005. Thus, for the period July 15, 2005 through October, 2005, the person was not eligible for legal employment. Employment taxes were appropriately paid on the individual throughout her period of employment with the Geithners.

