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January 24, 2005

The Honorable John W. Snow
Secretary
Department of the Treasury
1600 Pennsylvania Ave NW, Room 3419
Washington, DC 20220

Dear Secretary Snow:

I was dismayed to read the National Taxpayer Advocate's recent report to Congress, which suggests the IRS is targeting low-income taxpayers in fraud investigations. The Criminal Investigation unit should not be allowed to indefinitely freeze refunds of these taxpayers without any notice or other due process protections. This type of fraud investigation is a waste of limited resources, and it is being carried out in a way that likely violates the Fifth Amendment.

As you know, the Taxpayer Advocate Service studied 500 frozen refunds. Results showed 75 percent of these taxpayers were claiming the Earned Income Credit (EITC). A full 66 percent of these returns were free from fraud and the taxpayers were due full refunds. After paying interest on returns wrongfully frozen it is possible that freezing these returns actually costs the Treasury money instead of increasing revenue.

Common sense would suggest high-income taxpayers have much larger incentives to file fraudulent tax returns. The continued investigation of EITC beneficiaries is foolhardy, considering the return on investment possible from discovering fraud in larger returns. I urge you to immediately change the current policy at the Criminal Investigation unit that focuses on low-income taxpayers.

At the very least, the refund freeze program must provide sufficient due process protections for taxpayers. Refunds wrongfully frozen without notice and due process are an unconstitutional taking of private property. I ask that you implement a new policy at IRS providing notice to taxpayers who have their refunds frozen pending a fraud investigation. This notice must include an explanation of the process to contest the initial determination freezing the refund, and contact information for the Taxpayer Advocate Office nearest the taxpayer.

I look forward to your reply on this issue.

Sincerely,

Pete Stark
Member of Congress