United States Senate

WASHINGTON, DC 20510

May 22, 2003

Congressman William Thomas
Chairman
Joint Committee on Taxation
2208 Rayburn House Office Building
Washington, D.C. 20515

Senator Charles E. Grassley
Vice Chairman
Joint Committee on Taxation
135 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Thomas and Vice Chairman Grassley:

We are concerned with the process surrounding the revenue estimates provided by the Joint Committee on Taxation (JCT) during the recent Senate action on the reconciliation tax bill. Specifically, we have five areas of concern which highlight problems in the revenue estimating process.

First, we are concerned that the JCT significantly underestimated the cost of the amendment offered by Senator Nickles to eliminate temporarily the taxation of dividends. Senator Nickles' amendment was one of the most costly and controversial amendments that the Senate considered during the reconciliation debate. The revenue estimate provided for Senate floor consideration of this provision was $70 billion lower than the estimate provided after floor consideration – with no substantive changes to the amendment. A swing of this magnitude warrants a serious review of the JCT's quality controls necessary to ensure that this type of error does not happen again. Did the JCT receive a copy of the statutory language of the amendment that was ultimately agreed to? Was there a misrepresentation to the JCT regarding the assumptions of the amendment? What did JCT receive and when did the JCT receive it? Please explain why the proposal was underestimated.

Second, we are concerned with the lack of transparency in the revenue estimating process. The Senate's recent experience with the Nickles amendment discussed above is illustrative. A change in the taxation of dividends inherently involves complexities because such changes have a significant effect on corporate America. Unfortunately, because of the lack of information provided by the JCT when the revenue estimate was released, more questions than answers result. For example, what factors did the JCT determine influenced the estimate?

Third, we are concerned with the JCT's quality controls regarding the source of information contained in the JCT's revenue estimate table. Specifically, during the Finance Committee markup of the reconciliation bill, the JCT provided an estimate which listed the cost of state fiscal relief provisions included in the JCT document as having been provided by the Congressional Budget Office (CBO). When confronted with CBO's denial that it had provided such an estimate, the Committee was told that the document was wrong in stating that the CBO had provided the estimate. Then, the JCT Chief of Staff Designate acknowledged that the estimate had been provided by the Republican staff of the Finance Committee. Regardless of which party – Republican or Democrat – the JCT's apparent willingness to use an estimate from either party as its own without independent, nonpartisan analysis, raises serious questions about the quality and accuracy of the JCT's work product.

Fourth, we are concerned with the standards used to estimate tax administration enforcement actions. Historically, the JCT has taken the position that changes in enforcement level of effort do not affect revenues. However, a proposal to utilize private debt collectors was scored, on May 13, 2003, by the JCT as raising $1.296 billion. This same proposal was originally scored, on March 4 and May 8, 2003, to raise revenues by $973 million. Unfortunately, this increase in estimated revenues raised coincided with a shortfall resulting from the fact that the JCT's May 8 estimate did not reflect the $247 million increase in spending that the CBO estimated would be paid to the private agencies. When the CBO took into account this and other costs that were not included in JCT's original estimate, it concluded that the cost of the bill reported May 8 by the Finance Committee exceeded the $350 billion allowed under the budget resolution by $232 million. The subsequent abrupt change in the estimate by the JCT brought the estimated cost of the Finance Committee bill within the $350 billion budget resolution instruction without any significant change in the bill. As such, we believe that it is critical for the JCT to provide information regarding the standards used to estimate level of enforcement effort. Have these standards changed? If so, what was the rationale for the change? Please explain.

Fifth, we are concerned with the timeliness of the JCT estimates. For example, with respect to the recent reconciliation bill, it was apparent for several days prior to Senate action that the key amendments would be the Nickles amendment on dividends and an amendment offered by Senator Breaux regarding elimination of the repeal of section 911. Nonetheless, when the Senate was ready to act on the amendments, a JCT estimate was not available. Does the JCT prioritize revenue estimate requests? If so, what criteria is used? What, if any, procedures are in place to provide expedited, accurate estimates under the time pressure of floor action?

We are concerned that the Senate has enacted very important legislation based on inaccurate information provided by the JCT. These mistakes, misstatements, and changes in estimates seen in the past two weeks call into question the credibility and professionalism of the JCT. We urge you to take steps to ensure that future actions of the JCT give no further grounds for such questions. We welcome the opportunity to work with you to ensure that proper quality controls are in place with respect to the revenue estimating process used for every tax bill considered by the House Ways and Means Committee and Finance Committee and on the floor of both the House of Representatives and the Senate.

Sincerely,

Kent Conrad
Ranking Member
Senate Committee on the Budget

Max Baucus
Ranking Member
Senate Committee on Finance

cc: George Yin
Chief of Staff Designate
Joint Committee on Taxation

Mary M. Schmitt
Acting Chief of Staff
Joint Committee on Taxation