

APPENDIX 10

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Ms. Marcia J. MacNaughton, Project Director
Investigation of a Request to Assess
the IRS Tax Administration System
Office of Technology Assessment
Congress of the United States
Washington, D.C. 20510

Dear Ms. MacNaughton:

I have read OTA's report on the internal Revenue service's proposed tax data bank with great interest. The report is excellent--precisely the kind of broad-gauged study of the human consequences of technology that Congress ought to be doing. With this report, the Office of Technology Assessment is off to an auspicious start.

Like any citizens I am delighted whenever the seeks to improve its ability to collect taxes and better serve the taxpayers. The proposed Tax Administration System seems to make administrative sense and I applaud the idea.

However, having spent a good deal of time studying the broader implications of government data banks and having personally been the target of one of the IRS's political audits (because I was questioning the propriety of military data banks on citizen's aid helping Congress to investigate them), I must temper my enthusiasm for this obviously useful idea until it has been more thoroughly examined.

If there is one thing I have learned from studying government data banks, it is that decisions about their contents and use are normally made in bureaucratic seclusion by administrators who are largely oblivious to, or unconcerned about, larger issues of privacy, confidentiality, due process, or equity of administration. I think that was true of the ill-considered proposal for a National Data Bank in the late 1960s, the FBI's National Crime Information Center in the early 1970s, the Nixon proposal in 1974, and the computerized tax audits of the government's critics which have more recently shamed the IRS.

Information is one of the chief sources of governmental power not only to carry out constitutional duties, but to harass political opponents and manipulate the routine lives of citizens for good or ill. Decisions governing the use of this power belong not in the anonymous ranks of bureaucracy, but in the public halls of Congress. It is there, and only there, that a democratic society can properly weigh the promised gains of new information systems against

the threats they may pose to liberty and privacy.

Moreover, these decisions must be made by men and women who understand the institution's short-sightedness of administrators and recognize the need for checks and balances, administrative and legislative accountability, and public participation, even at the cost of some efficiency. If this Madisonian view is to be found anywhere in government today, it lies in Congress and not in the executive branch.

Although OTA'S report is only a preliminary one, it demonstrates quite clearly that further investigation and analysis is imperative before this new data system is implemented and the cost of reform becomes prohibitive. The questions raised are not easy ones. Reasonable men will differ, but the questions must be addressed.

It is regrettable that the IRS, which must regain the respect of the American people, did not address these questions more thoroughly in its initial presentations to Congress. Perhaps the OTA report will stimulate it to do so now. If it does not, Congress should hold the proposed computer hostage until the Service does.

Even if the proposed system poses no threats not inherent in the current system Congress should still use this occasion to conduct a full-scale policy review not just because the handling of tax data affects virtually every citizen in the country, but because a precedent needs to be set for the scrutiny of other data systems now on the political horizon..

This review might profitably begin with informational hearings, followed by a more comprehensive OTA study, IRS studies, and another round of legislative hearings at which the possibility of enacting a charter for the proposed system could be considered. Indeed, the entire inquiry might be constructively focused if the drafting of a charter were made its ultimate objective.

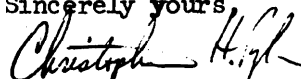
It would be premature to anticipate the contents of that charter, but it certainly could include due process rules to govern what information is collected (e.g. from grudge informers), how long it will be kept, who shall have access to it and when citizens may have access to and may challenge the contents of their records. Special procedures could be established to expedite the correction of errors and provide new channels of accountability. In some instances, Congress might want to prohibit the collection or collation of certain kinds of information on the ground that they pose too high a risk of intentional or **unintentional abuse**.

Congress might also want to forbid the interfacing of the IRS data bank with other systems without special legislative permission. For example, it is common knowledge that the IRS works closely with the CIA and military intelligence to provide special tax treatment for companies owned or used as "fronts." This special relationship might well be abused, perhaps by giving the agency access to a terminal from which data could be obtained facilitating the theft of trade secrets or the exploitation of the economic vulnerabilities of Americans the CIA might wish to recruit for clandestine operations. Tapping of the IRS computer might also be forbidden, if that practice is not barred by other legislation now pending before Congress.

Finally, Congress might wish to **specify additional forms of** public participation in the policy-making process beyond testimony at its public hearings. For example, the IRS could be directed to hold administrative rule-making hearings as it seeks to implement the charter and a temporary study commission of official **and citizen** experts might be set up to monitor the implementation and propose further legislation, if necessary, to safeguard non-bureaucratic interests.

These are just some thoughts that com to mind as I read the report. I appreciate the opportunity to share them with the Offie of Technology Assessment. Please feel free to call on me if I **can** be of further assistance.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Christopher H. Gleason". The signature is fluid and cursive, with the first name "Christopher" being more prominent.

Christopher. Gle
Assistant Professor