

Overview

The Joint Committee on Taxation is a nonpartisan committee of the United States Congress, originally established under the Revenue Act of 1926. The Joint Committee operates with an experienced professional staff of Ph.D economists, attorneys, and accountants, who assist Members of the majority and minority parties in both houses of Congress on tax legislation.

The Joint Committee is chaired on a rotating basis by the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee. During the first Session of each Congress the House has the Chair and the Senate has the vice-chair; during the second session the roles are reversed.

The Joint Committee Staff is closely involved with every aspect of the tax legislative process, including:

- Assisting Congressional tax-writing committees and Members of Congress with development and analysis of legislative proposals;
- Preparing official revenue estimates of all tax legislation considered by the Congress;
- Drafting legislative histories for tax-related bills; and
- Investigating various aspects of the Federal tax system.

The Joint Committee Staff interacts with Members of Congress, Members of the tax-writing committees, and their staff on a confidential basis and enjoys a high-level of trust from both sides of the political aisle and in both houses of Congress. Because the Joint Committee Staff is independent, tax-focused, and involved in all stages of the tax legislative process, the staff is able to ensure consistency as tax bills move through committees to the floor of each chamber, and to a House-Senate conference committee.

Statutory Basis for the Joint Committee on Taxation

The Joint Committee is established under the Internal Revenue Code of 1986.¹ The Joint Committee formally consists of ten Members of Congress: five from the Senate Committee on Finance (there are three from the majority and two from the minority); and five Members from the House Committee on Ways and Means (also three from majority and two from the minority).

- The statutorily prescribed duties of the Joint Committee are:
- To investigate the operation and effects of internal revenue taxes and the administration of such taxes;
- To investigate measures and methods for the simplification of such taxes;
- To make reports to the House Committee on Ways and Means and the Senate Committee on Finance (or to the House and the Senate) on the results of such investigations and studies and to make recommendations;² and
- To review any proposed refund or credit of income or estate and gift taxes or certain other taxes set forth in Code section 6405 in excess of \$2,000,000.³

Under Internal Revenue Code section 8021, the Joint Committee is empowered to:

- Obtain and inspect tax returns and return information (as specified in sec. 6103(f)); Hold hearings, require attendance of witnesses and production of books, administer oaths, and take testimony;
- Procure printing and binding;
- Make necessary expenditures. In addition, section 8023 authorizes the Joint Committee (or the Chief of Staff), upon approval of the Chairman or Vice-Chairman, to secure tax returns, tax return information or data directly from the IRS or any other executive agency for the purpose of making investigations, reports, and studies relating to internal revenue tax matters, including investigations of the IRS's administration of the tax laws.

In addition to these functions that are specified in the Internal Revenue Code, the Congressional Budget Act of 1974⁴ requires the Joint Committee to provide revenue estimates for all tax legislation considered by either the House or the Senate. Such estimates are the official Congressional estimates for reported tax legislation.⁵

¹ Sections 8001-8005 and 8021-8023 of the Internal Revenue Code of 1986, and predecessor sections of the Internal Revenue Code of 1954, the Internal Revenue Code of 1939, and preceding Revenue Acts back to the Revenue Act of 1926. These legislatively prescribed duties are essentially unchanged since the Revenue Act of 1926.

² Section 8022 of the Internal Revenue Code of 1986.

³ Section 6405 of the Internal Revenue Code of 1986.

⁴ Section 201(g), as amended by the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings), P.L. 99-177, 99 Stat. 1037.

⁵ Ibid.

How the Joint Committee Fulfills its Statutory Mandate

The role of the Joint Committee in the legislative process has expanded as the complexity of the Federal tax system has increased. Members of Congress, particularly Members of the tax-writing committees, have increasingly relied on the nonpartisan, technical expertise of the Joint Committee Staff to assist them in making objective and informed decisions with respect to proposed revenue legislation. There are four distinct characteristics of the Joint Committee that, together, create its unique contribution to tax legislation.

Nonpartisan staff

The two tax-writing committees, other committees with concerns regarding taxation, individual Members of Congress, and committee and Member staffs rely on the Joint Committee Staff to provide objective and confidential technical analysis and assistance on tax legislation. The Joint Committee Staff does not operate either as a majority staff or as a minority staff. It does not have the duty of representing one particular point of view on an issue. Consequently, it is able to examine critically tax policy in all its aspects. It can take a long-range view, without having to focus on the day-to-day exigencies of the legislative process. For example, the Joint Committee Staff has undertaken studies to update and simplify particular aspects of the tax law, even where there was no short-term pressure for legislation.

Joint

The Joint Committee Staff provides vital continuity from the beginning to the end of the tax legislative process. This continuity minimizes the necessity of "reinventing the wheel" as proposals move through the various stages of the tax legislative process. This continuity also ensures that proposals are consistently evaluated throughout the tax legislative process from the perspectives of tax policy, technical accuracy, administrative feasibility, and revenue impact. This continuity is particularly valuable during conference, after both the House and Senate have passed their own versions of tax bills. There are often significant differences between the House-passed and Senate-passed versions of major tax legislation. The Joint Committee Staff is, however, intimately familiar with both versions and therefore provides crucial assistance to the conferees in reaching workable compromises.

Solely tax

The desire of the Congress to exert comprehensive control over tax legislation has created the need for an extraordinarily high level of technical expertise, including such specialized topics as international taxation, pensions, insurance, trusts and estates, tax administration, tax-exempt bonds, excise taxes, and mergers and acquisitions. The types of objective analysis for which this expertise is needed include legal analysis of the operation of present law as well as proposed changes, predictions as to the behavioral responses of affected taxpayers, economic analysis of the effects of tax proposals on both the aggregate economy and specific sectors, and revenue estimates. The complexity of the tax laws places a high premium on objective technical advice.

About the Joint Committee on Taxation

Because the Joint Committee is devoted solely to tax issues, its focus on fulfilling its statutory mandate is undiluted by the need to respond to other legislative pressures.

Independent

Because of the importance of tax legislation and its wide impact on large numbers of businesses and individuals, the Congress has historically insisted on special independence from the Executive Branch when writing tax laws. Separation of powers considerations reinforce the need for independent Congressional expertise. The members of the party that does not occupy the White House need a source of independent tax analysis and advice. Also, the tax-writing committees need a source of independent, nonpartisan technical tax advice even when the party controlling the Congress is the same as that controlling the Executive Branch.

One manifestation of independence is the extensive Congressional analysis of revenue proposals submitted by the Administration. At the technical level, tax legislative language and the accompanying committee reports typically are drafted in great detail, leaving correspondingly less room for interpretation by both the IRS and the courts. Access to an objective source of analysis and assistance in formulating legislation permits the Congress to retain independence from the tax expertise of the Executive Branch.

Moreover, the independence and neutrality of the Joint Committee Staff serve to facilitate exchanges of information with the IRS, Treasury, and other government agencies, with interest groups and their representatives, and with taxpayers generally. Through access to the Joint Committee Staff, taxpayers are assured a professional review of their suggestions or complaints about tax proposals.

As one dramatic illustration of the benefits of the Joint Committee Staff's independence, in December 1973, President Nixon requested that the Joint Committee Staff review certain transactions as reported on his 1969-1972 income tax returns (which he released to the public), in light of what he called possible "continuing public questioning" of their proper tax treatment. President Nixon stated that the Joint Committee study would "resolve these issues to the full satisfaction of the American people."⁶

More recently, Senators Max Baucus and Charles Grassley of the Senate Finance Committee requested that the nonpartisan Joint Committee Staff conduct a detailed review of Enron Corporation and related entities. The staff began its review in February 2002, focusing on (1) Enron's use of tax shelter arrangements, off-shore entities, and special purpose entities and (2) the compensation arrangements of Enron employees. In February 2003, the Joint Committee Staff published an extensive report of its findings and proposals. The independent report served as the basis for congressional hearings and spurred numerous legislative proposals.

⁶The Joint Committee on Internal Revenue Taxation, Examination of President Nixon's Tax Returns for 1969 through 1972 (JCS-9-74), April 3, 1974, page 1.

Joint Committee Role in the Tax Legislation Process

The Joint Committee Staff is closely involved in every aspect of the tax legislative process. Among other things, the Joint Committee Staff (1) prepares hearing pamphlets, committee reports, and conference reports (statements of managers), (2) assists in the drafting of statutory language, (3) assists Members of Congress with the development and analysis of legislative proposals, (4) assists Members of Congress in addressing constituent issues and problems, (5) prepares revenue estimates of all revenue legislation considered by the Congress, (6) reviews proposed large income tax refunds, and (7) initiates investigations of various aspects of the Federal tax system. These staff activities are described in greater detail below.

Committee hearings

Early in the legislative process, both the House Ways and Means Committee and the Senate Finance Committee often hold hearings on tax legislative proposals. The Joint Committee Staff generally prepares a hearing pamphlet examining the issues to be addressed. The hearing pamphlets typically describe present law and the proposals that are the subject of the hearing. The pamphlets also often provide an in-depth legal and economic analysis of the issues being considered. The staff also prepares several pamphlets every year that are not for specific hearings, such as the Tax Expenditures pamphlet (which the staff produces pursuant to the requirements of the 1974 Budget Act).

Joint Committee Staff members are present at hearings to answer questions that Members, their staffs, and tax-writing committee staffs may have. The staff also frequently briefs Members and their staffs on issues that could arise during the hearing and assist in the formulation of questions for Members to ask witnesses scheduled to testify.

Preparation of bills

The Joint Committee Staff assists all Members in preparing bills for introduction. This assistance includes development and analysis of proposals, assistance in preparation of a statutory draft, and preparation of a description of the bill. This description may be either a technical explanation or a brief description for the general public (or both). This assistance typically involves meetings with the Member or the Member's staff, as well as constituents and others. Some of these bills form the basis for proposals included in larger tax bills, while others do not proceed further through the legislative process.

Preparation for Ways and Means Committee markup

The Joint Committee Staff works very closely with the Chairman of the Ways and Means Committee and his staff in preparing for committee markup of tax legislation. The Joint Committee Staff, along with the Ways and Means Committee staff, helps develop proposals and statutory language for potential inclusion in a Chairman's Mark (the proposal put forward by the Chairman in recent years for committee consideration at the start of the markup process). The Joint Committee Staff helps analyze the arguments for and against the proposals, as well as helps to

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design proposals that meet the specific policy, technical, and revenue goals of the Chairman. The Joint Committee Staff also prepares revenue analyses of the proposals.

The Joint Committee Staff also assists the minority committee Members and their staff, upon their request, in the preparation of markup alternatives. This assistance can range from the preparation of a complete alternative package to the preparation of specific amendments in discrete areas. The Joint Committee Staff also provides these services for individual Members of both the majority and minority parties.

As decisions are made about proposals for markup, the Joint Committee Staff prepares written descriptions of the proposals and their effects on present law. The Joint Committee Staff also prepares a revenue analysis for each proposal, as well as a revenue table reflecting all the proposals in a particular markup package. The Joint Committee Staff often produces distributional analyses of the effects of major legislative proposals.

Ways and Means Committee markup

When the Ways and Means Committee begins a markup, the Chief of Staff of the Joint Committee usually sits at the witness table and describes the legislative proposals before the committee. In addition, the Chief of Staff answers questions from the Members relating to the proposed legislation. As amendments are raised by other Members, the Chief of Staff frequently describes and answers questions about the amendments. The Joint Committee Staff may also answer questions about the tax policy and administrative aspects of proposals under consideration. As amendments are adopted in markup, the Joint Committee Staff analyzes the revenue impact of those amendments, and keeps a running total of the revenue effects of the committee's actions.

While markup is in progress, the Joint Committee Staff meets with Ways and Means Committee staff and legislative counsel attorneys to help draft the statutory language for any amendments to the Chairman's Mark. The Joint Committee Staff has the primary responsibility for writing the legislative explanation that will accompany the committee's legislation. At the conclusion of markup, the Joint Committee Staff compiles comments that have been received from the Ways and Means Committees staff on the draft of the legislative explanation and produces the final version of the committee report. Often this must be done in a very short time period. In addition, the Joint Committee Staff prepares the final revenue table reflecting all decisions made by the Ways and Means Committee. The committee report and statutory language are then filed on the House floor.

In addition, the Joint Committee Staff assists the Ways and Means Committee's staff in their preparation of (1) talking points for the Chairman to use in explaining the committee's action, (2) a summary of the committee's action for members of the news media, and (3) any materials that may be necessary for the Rules Committee or the House floor. Simultaneously, the Joint Committee Staff assists Members of the minority (upon their request) in preparing amendments to the committee's bill for consideration by either the Rules Committee or on the floor.

When tax legislation is considered on the floor, Joint Committee Staff members are available to answer questions about the content of the bill and possible amendments.

Senate Finance Committee markup

Markup in the Senate Finance Committee is similar to markup in the Ways and Means Committee, with two principal exceptions. First, Finance Committee procedure typically allows the consideration of a larger number of amendments. Consequently, the Joint Committee Staff spends a great deal of time assisting Members of both the majority and minority in the preparation of amendments and alternative packages. Second, the Finance Committee generally does not mark up statutory language, but rather uses the Joint Committee Staff description of a proposal as the basis of the markup.

Senate Floor consideration

Joint Committee Staff assists Senators and their staffs in the preparation of possible floor amendments. Joint Committee staff members also are present on the Senate floor when tax legislation is being considered. The Joint Committee Staff responds to questions from Senators and their staffs, as well as from Finance Committee staff, about amendments that might be considered by the Senate. In addition, the Joint Committee Staff prepares revenue analyses of amendments that may be considered on the Senate floor and assist in the preparation of explanatory materials.

Preparation for Conference

After the House has passed a bill, and while the bill is being considered on the Senate floor, the Joint Committee Staff prepares for conference. The Joint Committee Staff prepares side-by-side revenue tables for all provisions in both bills as well as a side-by-side document describing all the provisions in both bills. The Joint Committee Staff meets with Members of the conference committee, as well as their staffs, to analyze the effects of proposals that might be considered by the conferees, as well as clarifications and modifications to those proposals.

Conference Committee

At the start of the conference, the Chief of Staff of the Joint Committee generally describes the content of the two bills. The staff meets with the conferees, particularly the two Chairmen of the tax-writing committees, to assist them in developing possible compromise proposals on matters before the conference. In addition, the Joint Committee Staff assists the staffs of the Ways and Means and Finance Committees in developing offers from one side to the other. While assisting in the conference negotiations, the Joint Committee Staff assists in drafting the statutory language that will implement the decisions of the conferees and estimates the revenue consequences of the various compromise proposals. The Joint Committee Staff also has the primary responsibility for writing the explanatory statement-of-managers portion of the conference report. At the conclusion of the conference, the Joint Committee Staff is responsible for incorporating the comments of the tax-writing committees' staffs into the statement of managers. The Joint Committee Staff produces the final statement of managers as soon as possible after the conference concludes.

Conclusion of Conference

Once the conferees have completed their work and the Joint Committee Staff has prepared both the statement of managers and the final revenue table, the staff assists the Chairmen and the tax-writing committee staffs in preparation of explanatory materials of the conferees' decisions. The Joint Committee Staff answers questions from Members' offices, from private parties, and from the news media, regarding the decisions made by the conferees. The staff also assists in answering questions on the floors of both the House and Senate that arise in the consideration of the conference report.

Consultation with the Administration

The Joint Committee Staff consults with Treasury and IRS personnel throughout the legislative process. This permits the staff to gain a better understanding of Administration proposals, to assess the impact of proposals on the current tax system, and to address administrative and compliance issues that will arise if proposals are enacted. These efforts result in a better legislative product and often eliminate the need for technical corrections or other future amendments.

Meetings with outside parties

Throughout the entire legislative process, meetings are held with outside parties that may be affected by the legislation being considered. The Joint Committee Staff does so at the outside parties' request, at a Member's request, and on the staff's own initiative. These meetings help the Joint Committee Staff assess the impact of the provisions, understand their effect on the private sector, and consider and analyze requests for modifications.

Joint Committee Revenue Estimation Process

Overview of Revenue Estimating Responsibilities

The Joint Committee staff is nonpartisan and serves the entire Congress. The Congressional Budget Act of 1974 ("the Budget Act"), as amended, stipulates that revenue estimates provided by the Joint Committee staff will be the official estimates for all tax legislation considered by the Congress. The objective of the estimating process is to produce accurate, consistent, fair, and impartial estimates that can be relied upon by Members of Congress in making legislative decisions.

Any Member of Congress may request a revenue estimate for a tax proposal or solicit the Committee staff's help in crafting legislation. In 1986, the Joint Committee staff received 474 requests. By 2004, this figure had increased to 3,580. The largest number of requests to date, 7,786, was received in 2007. While the majority of requests are for revenue estimates, the Joint Committee staff also receives requests for distributional, legal, and data analyses. All Requests are treated as confidential. Generally, a response to a request is released only to the Member making the request and the response remains confidential unless the Member decides to make the information public. Confidentiality allows the Joint Committee staff to maintain its nonpartisan role in the legislative process.

When a revenue estimate has been included in a publicly available document (e.g., a revenue table summarizing a markup proposal or the result of a reported bill), the estimate is posted to the Joint Committee website. An estimate is also publicly released in circumstances where the information is of widespread and immediate interest by the Members of Congress (e.g., a tax bill about to be voted upon by the full House or the full Senate).

Background on Revenue Estimating and Budget Act Requirements

The starting point for a revenue estimate prepared by the Joint Committee staff is the Congressional Budget Office ("CBO") 10-year projection of Federal receipts, referred to as the "revenue baseline." The revenue baseline serves as the benchmark for measuring the effects of proposed tax law changes. The baseline assumes that present law remains unchanged during the 10-year budget period. Thus, the revenue baseline is an estimate of the Federal revenues that will be collected over the next 10 years in the absence of statutory changes.

In providing conventional estimates, the Joint Committee staff assumes that a proposal will not change total income and therefore holds Gross National Product ("GNP") fixed. The use of fixed economic assumptions does not prevent the Joint Committee staff from taking into account possible shifts in economic activity across sectors or markets and/or changes in the timing of such activity in response to the proposed tax change, so long as GNP remains unaffected.

The Joint Committee staff uses confidential tax return information to prepare revenue estimates. The Statistics of Income Division ("SOI") of the IRS provides large micro-level data sets consisting of carefully sampled and edited tax returns. SOI data provides the primary building block for revenue estimates. In the process of estimating a proposal, other information sources are

used frequently. These sources include other government data, survey data, constituent data, and third-party data.

The Budget Window and Presentation of Estimates

The Joint Committee staff is required by the budget resolutions to present revenue estimates as point estimates (that is, present one dollar figure rather than a range of possibilities) calculated in nominal dollars. The current budget process also requires the Joint Committee staff to generate revenue estimates of tax legislative proposals over a 10-year period, often referred to as the "budget window." Revenue estimates for each year within the budget window are fiscal year estimates. The budget resolutions require revenue estimates to be expressed in nominal dollars over a fixed period.

Behavioral Effects in Revenue Estimates

Although conventional revenue estimates are sometimes referred to as "static," Joint Committee staff revenue estimates take into account taxpayers' likely behavioral responses to proposed changes in tax law. Behavioral effects can be broadly characterized as shifts in the timing of transactions and income recognition, shifts between business sectors and entity form, shifts in portfolio holdings, shifts in consumption, and tax planning and avoidance strategies. See JCX-1-05 for a few specific examples that give a flavor for the issues the Joint Committee staff considers when accounting for behavioral effects in revenue estimates.

Compliance, Administration and Enforcement Costs

The Joint Committee staff attorneys, accountants, and economists working as a team examine compliance, administration, and enforcement issues that could affect the timing or amounts of revenues collected as part of the process of understanding how a proposal would operate. When these issues are likely to be important to a proposal, the Joint Committee staff accounts for their effects in the revenue estimate.

The Joint Committee staff uses a variety of sources to determine how compliance, administration, and enforcement issues might affect revenue. IRS compliance studies provide information for issues involving individual taxpayers. The Joint Committee staff also uses information provided by the IRS about their examination, enforcement, appeal, and litigation activities. In some areas, such as tax shelters, the Joint Committee staff is frequently briefed by IRS personnel. Information provided at these meetings helps the Joint Committee staff gauge the likely compliance, administrative, and enforcement effects of particular proposals.

Indirect Tax Effects

In estimating the revenue effects of proposed changes to tax law, the Joint Committee staff incorporates the behavioral responses of taxpayers (within the fixed-GNP convention) and any indirect tax effects associated with that behavior. These secondary effects are not the direct result of tax changes. Instead, they arise from changes in taxable income induced by behavioral responses to tax changes.

Indirect tax effects are not limited to changes in tax law, however. Non-tax legislation, either by design or not, may cause changes in taxable income and thereby impact Federal tax receipts. The CBO has responsibility for scoring the budget effects of non-tax legislation, and over time CBO has developed general guidelines for when indirect tax effects are scored and by whom (often in consultation with the Joint Committee staff). Regardless of whether CBO or the Joint Committee staff scores the indirect tax effects, to the extent that these effects are accounted for they are included with the estimate of the bill.

Offsets in Revenue Estimates

In estimating the revenue effects of changes in excise taxes, the Joint Committee staff (along with staff at CBO and Treasury's Office of Tax Analysis) generally assumes that the net effect on total Federal tax receipts from an increase in Federal excise taxes is less than the increase in gross excise tax receipts. The difference between the change in excise tax receipts and the change in total Federal tax receipts is referred to as the "income and payroll tax offset." The difference arises from the fact that an increase (decrease) in excise taxes results in a decrease (increase) in income subject to Federal income and payroll taxation. The existence of the income and payroll tax offset for excise taxes has become an established, generally accepted component of revenue estimates for excise taxes. In addition to the offset for excise taxes, the Joint Committee staff (along with staff at CBO and Treasury's Office of Tax Analysis) incorporates an income and payroll tax offset when estimating the effects of changes in payroll taxes. See JCX-1-05 for a more detailed discussion of the income and payroll tax offset with respect to payroll taxes.

Distributional Analysis

Distributional analysis is not a legally required task of the Joint Committee staff. However, upon request of Members or committee staff, distributions of certain tax changes are provided as background information. The Joint Committee staff has produced distributional analyses since the early 1970s. The current distribution methodology dates to 1994. Under this method, the Joint Committee staff provides a distribution by current income group, when sufficient information is available, for legislation affecting the individual income tax, Social Security and Medicare payroll taxes, and excise taxes. The current methodology does not distribute corporate income taxes and estate and gift taxes.

The measure used in the distributional analysis is the change in liability (taxes paid) for the taxable year. Liability is measured, whenever possible, after any behavioral response related to the tax change. Compliance issues are also taken into account in the measurement of liability. The basic unit of analysis is the tax filing unit or return. Changes in tax liability are distributed to taxpayers according to their expanded income. This income classifier begins with Federal adjusted gross income and adds tax-exempt interest, employer contributions for life and health insurance, employer share of Social Security and Medicare payroll tax, workers' compensation, untaxed Social Security benefits, insurance value of Medicare benefits, alternative minimum tax preference items, and excluded income of U.S. citizens living abroad. Yearly distributions in nominal dollars are provided for the first five years of the 10-year budget window.

Tax Models

The Joint Committee staff uses several highly developed microsimulation tax models to estimate the revenue impact of changes in tax laws. These are the Individual Model, the Corporate Model, and the Estate and Gift Model. In addition, the staff is beginning to use individual panel-based models. The primary source of tax data for the models comes from the SOI division within the IRS. Some of the models use large micro-data files, while others are smaller and spreadsheet based. Some models reside on a desktop computer, while others reside on "servers" and are simultaneously available to several staff members. With respect to any revenue estimate, the complexity and scope of the model used are determined by several factors including the amount and type of data available, the level of interest in the model, and the level of complexity associated with the questions being asked of the model.

Technical Corrections

From time to time enacted tax legislation may not exactly reflect the intent of the legislators. When this occurs, legislators may seek a technical correction to fix the statutory language. The Joint Committee staff does not provide estimates of the revenue effect of technical corrections. This convention stems from the view that the original revenue estimate reflects the intent of the legislation. Therefore, an estimate of the correcting provision would be a double counting of the effect of the original policy.

Pamphlets on Revenue Estimating Methodologies

An overview of the current procedures used in the revenue estimating process is provided in Joint Committee on Taxation, *Overview of Revenue Estimating Procedures and Methodologies Used by the Staff of the Joint Committee on Taxation*, (JCX-1-05), February 2, 2005. The report provides a summary of the revenue estimating responsibilities of the Joint Committee staff; discusses requirements, constraints, and conventions of the revenue estimating process; and presents the estimating procedures and models used by the Joint Committee staff in preparing revenue estimates. The emphasis is solely on methodology and issues associated with the preparation of conventional revenue estimates of proposed changes to the Internal Revenue Code. See Joint Committee on Taxation, *Overview of Work of the Staff of the Joint Committee on Taxation to Model the Macroeconomic Effects of Proposed Tax Legislation to Comply with House Rule X111.3.(h)(2)*, (JCX-105-03), December 22, 2003, for a discussion of how the Joint Committee staff provides supplemental macroeconomic analysis of certain tax proposals.

Joint Committee Statutory Refund Review

One important function of the Joint Committee Staff is to determine whether the provisions of the tax law operate as intended or cause unintended administrative, interpretive, or statutory problems. Two ways in which this is accomplished are, first, the refund review mechanism, which statutorily requires the submission of reports by the IRS in cases involving refunds of tax in excess of \$2,000,000, and, second, the post review program, under which the IRS submits reports on large cases that they closed prior to submitting them to the Joint Committee.

The IRS prepares a written report for the Joint Committee Staff on each refund case. The report contains a brief history of the situation of the taxpayer and an explanation of the reasons for any refunds. Attached to the report are supporting documents prepared by the IRS. These documents discuss the amount of, and reason for, all the adjustments considered by the IRS for taxable years under review.

The Joint Committee Staff review of these reports focuses on the technical aspects of the case and the IRS's resolution of the issues presented. This review enables the staff to become familiar with specific issues in individual industries and to find problems in the administration of the law. For example, the Joint Committee Staff sometimes uncovers situations in which taxpayers are reaping unintended benefits. If the problem emanates from the statutory language, the Joint Committee Staff may recommend an amendment to the Code. When the problem comes from IRS pronouncements, such as rulings or regulations, the Joint Committee Staff may request that the IRS clarify or reconsider its published position. When the problem is lack of uniform application of the law, the Joint Committee Staff may request that the IRS publish guidance on the issue.

The Joint Committee Staff refund review also permits identification of issues that, as a technical matter, were not handled correctly by the IRS. In these instances, the Joint Committee Staff recommends adjustment to the amount of the refund when the tax effect in the case is significant. Adjustment also is recommended when, as a result of the correction, loss or credit carryforwards will be reduced significantly even though there is no effect on the proposed refund. When the impact in a given case is small, no adjustment is recommended, but the staff still gives comments to the IRS to prevent repetition of the error.

Although the statute does not require that the IRS comply with Joint Committee Staff requests for adjustments, both the Joint Committee Staff and the IRS view the review process as a way of improving tax administration. Thus, the IRS will not pay any part of a refund while the Joint Committee Staff has a continuing objection, and has on occasion requested that the staff monitor a particular issue to ensure that IRS agents are handling the item appropriately. The Joint Committee Staff also attends and addresses training sessions held by IRS LMSB and Appeals regarding substantive and procedural issues of mutual interest.

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- Obtain and inspect tax returns and return information (as specified in sec. 6103(f));
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⁸ Section 8022 of the Internal Revenue Code of 1986.

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¹⁰ Section 201(g), as amended by the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings), P.L. 99-177, 99 Stat. 1037.

¹¹ Ibid.

History of the Joint Committee

In 1924, Senator James Couzens (Michigan) introduced a resolution in the Senate for the creation of a Select Committee to investigate the Bureau of Internal Revenue. At the time, there were reports of inefficiency and waste in the Bureau and allegations that the method of making refunds created the opportunity for fraud. One of the issues investigated by the Select Committee was the valuation of oil properties. The committee found that there appeared to be no system, no adherence to principle, and a total absence of competent supervision in the determination of oil property values.

In 1925, after making public charges that millions of tax dollars were being lost through the favorable treatment of large corporations by the Bureau, Senator Couzens was notified by the Bureau that he owed more than \$10 million in back taxes. Then Treasury Secretary Andrew Mellon was believed to be personally responsible for the retaliation against Senator Couzens. At the time, Secretary Mellon was the principal owner of Gulf Oil, which had benefited from rulings specifically criticized by Senator Couzens.

The investigations by the Senate Select Committee led, in the Revenue Act of 1926, to the creation of the Joint Committee on Internal Revenue Taxation. The Select Committee emphasized

the need for the institution of a procedure by which the Congress could be better advised as to the systems and methods employed in the administration of the internal revenue laws with a view to the needs for legislation in the future, simplification and clarification of administration, and generally a closer understanding of the detailed problems with which both the taxpayer and the Bureau of Internal Revenue are confronted. It is more properly the function of the Senate Finance Committee and the House Ways and Means Committee, jointly, to engage in such an activity.¹²

As originally conceived by the House, a temporary "Joint Commission on Taxation" was to be created to "investigate and report upon the operation, effects, and administration of the Federal system of income and other internal revenue taxes and upon any proposals or measures which in the judgment of the Commission may be employed to simplify or improve the operation or administration of such systems of taxes.....".¹³

The Senate expanded significantly the functions contemplated by the House and transformed the proposed Joint Commission to a Joint Committee with a permanent staff. The Senate version was incorporated into the Revenue Act of 1926, and the Joint Committee was created.¹⁴

The first Chief of Staff of the Joint Committee on Internal Revenue Taxation was L.H. Parker, who had been the chief investigator on Senator Couzens' Select Senate Committee. The Revenue Act of 1926 required the Joint Committee on Internal Revenue Taxation to publish from time to time for public examination and analysis proposed measures and methods for the simplification of

¹² Revenue Act of 1926, Senate Report 52, 69th Cong., 1st Sess. (1926) (emphasis added).

¹³ Revenue Act of 1926, House Report 1, 69th Cong., 1st Sess. (1925).

¹⁴ Revenue Act of 1926, House Report 356 (Conference Report), 69th Cong., 1st Sess. (1926); Revenue Act of 1926, Public--No. 20--69th Congress (44 Stat. 127).

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internal revenue taxes and required the Joint Committee to provide a written report to the House and Senate by December 31, 1927, with such recommendations as it deemed advisable. The Joint Committee published its initial report on November 15, 1927, and made various recommendations to simplify the Federal tax system, including a recommendation for the restructuring of the Federal income tax title.

In the Revenue Act of 1928, the Joint Committee's authority was extended to the review of all refunds or credits of any income, war-profits, excess-profits, or estate or gift tax in excess of \$75,000. In addition, the Act required the Joint Committee to make an annual report to Congress with respect to such refunds and credits, including the names of all persons and corporations to whom amounts are credited or payments are made, together with the amounts credited or paid to each.

Since 1928, the threshold for review of large tax refunds has been increased from \$75,000 to \$2 million in various steps and the taxes to which such review applies has been expanded. Other than that, the Joint Committee's prescribed responsibilities under the Internal Revenue Code have remained essentially unchanged since 1928.

While the statutory mandate of the Joint Committee has not changed significantly, however, the tax legislative process has. Consequently, the actual responsibilities of the Joint Committee Staff have expanded considerably. Today, the Joint Committee Staff plays an integral role in every stage of the tax legislative process.

About the Joint Committee on Taxation

Edward D. Kleinbard
(Chief of Staff 2007 - 2009)

Education

B.A., Brown University, 1973
M.A., Brown University, 1973
J.D., Yale Law School, 1976

Professional

University of Southern California, Gould School of Law, professor,
present
Yale Law School, visiting lecturer, 2007
Cleary Gottlieb Steen & Hamilton, LLP, New York, 1977 - 2007



George K. Yin
(Chief of Staff 2003-2005)

Education:

B.A., University of Michigan, 1970
M.Ed., University of Florida, 1972
J.D., George Washington University Law School, 1977

Professional:

University of Virginia School of Law, Edwin S. Cohen
Distinguished Professor of Law & Taxation, 2005-
Present
University of Virginia School of Law, Howard W. Smith
Professor of Law, 1994-2003
The American Law Institutes, Federal Tax Project,
Reporter, 1994-1999
Senate Committee on Finance, Tax Counsel, 1983-1986



About the Joint Committee on Taxation

Lindy L. Paull

(Chief of Staff 1998-2003)

Education:

B.B.A., Florida International University and University of Florida, 1974

J.D., University of Florida College of Law, 1980

LL.M., University of Florida College of Law, 1980

Professional:

PriceWaterhouseCoopers LLP, Washington National Tax Services, Partner, *Present*

Georgetown University Law Center, Adjunct Professor of Law

Senate Committee on Finance, Majority Staff Director and Chief Counsel, 1995-1998

Senate Committee on Finance, Minority Deputy Staff Director and Chief Tax Counsel, 1988-1995

Senate Committee on Finance, Minority Deputy Chief Counsel, 1987

Senate Committee on Finance, Minority Tax Counsel, 1986

Sutherland, Asbill & Brennan, Tax Associate, Washington, D.C., 1982-1986



Kenneth J. Kies

(Chief of Staff 1994-1998)

Education:

B.G.S (University College), Ohio University, 1974

J.D., Ohio State University College of Law, 1977

LL.M., Georgetown University Law Center, 1986

Professional:

Federal Policy Group - Clark Consulting, Inc., Managing Director, 2002-*Present*

PricewaterhouseCoopers LLP, Washington National Tax Services, 1998-2002

Baker & Hostetler's, Cleveland and Washington D.C., 1988-1994

House Committee on Ways and Means, Minority Chief Tax Counsel, 1982-1987



About the Joint Committee on Taxation

John Buckley

(Chief of Staff 1993-1994)

Education:

J.D., University of Wisconsin School of Law, 1973

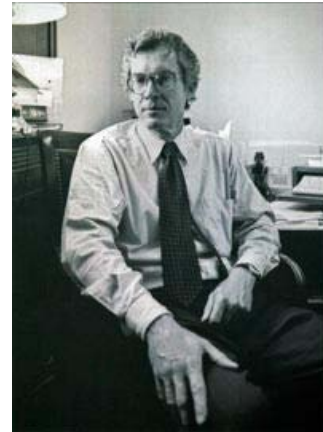
Professional:

House Committee on Ways and Means, Majority Chief Tax Counsel, *Present*

House Committee on Ways and Means, Minority Chief Tax Counsel, 1995-2005

Georgetown University Law Center, Adjunct Professor, 1995- *present*

House of Representatives U.S. Congress, Office of Legislative Counsel, 1973-1993



Harry L. Gutman

(Chief of Staff 1991-1993)

Education:

A.B., Princeton University, 1963

B.A., University College, Oxford England, 1965

LL.B., Harvard Law School, 1968

Professional:

KPMG Washington Federal Tax Legislative & Regulatory Services, Principal, *Present*

University of Pennsylvania, Professor of Law, 1989-1991

University of Virginia, Professor of Law, 1984-1989

U. S. Department of Treasury, Deputy Tax Legislative Counsel, 1980-1984

U.S. District Court for the Eastern District of New York, Law Clerk for the Hon. John R. Dooling, Jr.

Simpson Thacher & Bartlett LLP, Partner



About the Joint Committee on Taxation

Ronald A. Pearlman
(Chief of Staff 1988-1990)

Education:

B.A., Northwestern University, 1961
J.D., Northwestern University, 1965
LL.M., Georgetown University Law Center, 1967

Professional:

Georgetown University Law Center, Professor of Law
and Director of Graduate Tax Programs, *Present*
Covington and Burling, Partner
U.S. Department of Treasury, Assistant Secretary of
Treasury, Tax Policy, 1984
U.S. Department of Treasury, Deputy Assistant Secretary
for Tax Policy
Washington University School of Law, Adjunct Professor of Law,
1971
Thompson & Mitchell, Partner, 1970-1983
Internal Revenue Service, Office of the Chief Counsel,
Interpretative Division, 1965-1969



David H. Brockway
(Chief of Staff 1983-1987)

Education:

B.B., Cornell University, 1968
Harvard Law School, 1971
U.S. Army - Active Duty, 1963-1966

Professional:

McKee Nelson, LLP, Partner, 2006-*Present*
Deloitte & Touche, Washington National Tax Office,
1999-2006
Dewey Ballantine, Chairman and Tax Partner, 1987-1999
Joint Committee on Taxation, Deputy Chief of Staff and
International Tax Counsel, 1976-1983
Donovan, Leirsure, Newton & Irvine, Tax Partner, New York,
1971-1976



About the Joint Committee on Taxation

Mark L. McConaghy
(Chief of Staff 1981-1983)

Education:

B.A., Illinois Wesleyan University
J.D., University of Missouri Law School

Professional:

PricewaterhouseCoopers LLP, Washington National Tax Services, Partner, *1983-present*
Joint Committee on Taxation, Deputy Chief of Staff, *1976-1980*
Joint Committee on Taxation, Legislation Counsel, *1971-1976*
Internal Revenue Service, Office of Chief Counsel, *1968-1971*



Bernard M. (Bob) Shapiro
(Chief of Staff 1977-1981)

Education:

B.A. and C.P.A., Washington and Lee University
J.D. and LL.M., Georgetown University Law Center

Professional:

PricewaterhouseCoopers LLP, Washington National Tax Services, Founder and Partner, *1981-present*
Georgetown University Law Center, Graduate Tax Program, Adjunct Professor
Catholic University Law School, Adjunct Professor
Joint Committee on Taxation, Assistant Chief Of Staff, *1974-1977*
Joint Committee on Taxation, Staff Attorney, *1967-1974*



About the Joint Committee on Taxation

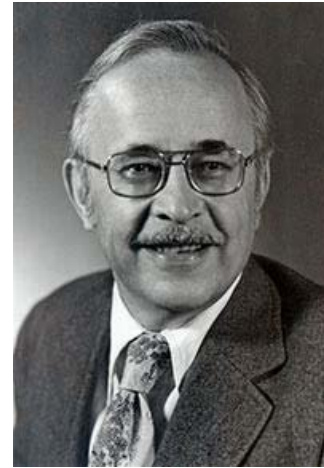
Dr. Laurence N. Woodworth(Deceased)
(Chief of Staff 1964-1977)

Education:

A.B., Ohio Northern University, 1940
M.S., Government Management, University of Denver,
1942
Ph.D., New York University, 1960

Professional:

U.S. Department of Treasury, Assistant Secretary of
Treasury, Tax Policy, 1977
Joint Committee on Taxation, Economist, 1944-1964
Tax Foundation, New York, 1943-1944
Civic Research Institute, Kansas City, Mo, 1942-1943



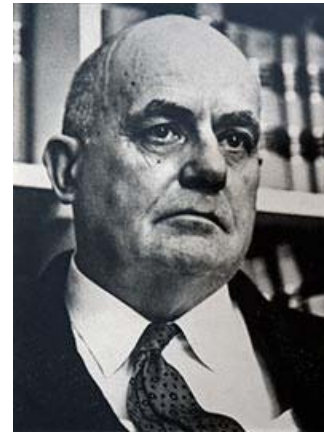
Colin F. Stam (Deceased)
(Chief of Staff 1937-1964)

Education:

B.A., Washington College, Chestertown, MD
J.D., Georgetown University Law Center, 1922
George Washington University Law School, Special
Courses in Taxation
Honorary degree of Doctor of Laws, Dartmouth College,
1958

Professional:

Tax Foundation, Inc., Consultant, 1964-1966
Joint Committee on Taxation, Counsel, 1929-1937
Joint Committee on Taxation, Assistant Counsel, 1928-1929
Bureau of Internal Revenue, General Counsel, 1926-1927
Bureau of Internal Revenue, Division of Rules and Regulations,
1922-1926



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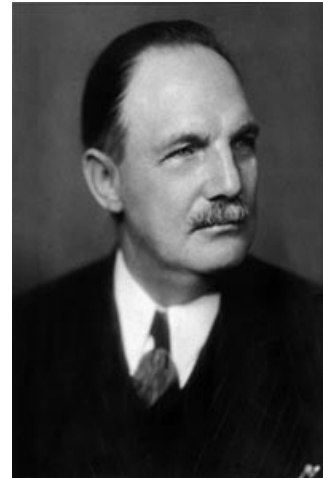
L.H. Parker (Deceased)
(Chief of Staff 1926-1937)

Education:

B.S., Massachusetts Institute Technology, *1905*
LL.B., National University, Washington D.C., *1931*

Professional:

Private Tax Consultant, *1937*
U.S. Senate Committee Investigating Bureau of Internal Revenue, *1924-1926*
State of New York and the United States Shipping Board, Engineer, *1906-1923*
Pennsylvania Railroad, Assistant Engineer, *1905-1906*



Other Services of the Joint Committee

Treaties

The Joint Committee Staff consults on an ongoing basis with the Treasury Department, the tax-writing committees, and the Senate Foreign Relations Committee to formulate and represent congressional views on issues raised by the Administration's negotiations of tax treaties and other tax-related agreements (such as NAFTA), and to contribute the Joint Committee Staff's technical expertise to the Administration. The Joint Committee Staff prepares hearing pamphlets for the Senate Foreign Relations Committee on tax-related treaties and provides technical advice to the Senate Foreign Relations Committee and its staff on tax issues raised by the treaties. The Joint Committee Staff assists the Foreign Relations Committee staff in formulating questions for Senators to use at hearings. The Joint Committee Staff generally testifies at the Senate Foreign Relations Committee hearings on the tax issues raised by the treaties, prepares the Foreign Relations Committee's Executive Report on each treaty, and assists in drafting the Senate's resolution of advice and consent (with any reservations) on the treaty. The Joint Committee Staff is available to answer questions from Senators and their staff prior to and during Senate floor consideration of tax treaties.

Tax Issues in the Confirmation of Administration Nominees

The Joint Committee Staff is sometimes asked for advice concerning tax issues raised in considering Administration nominees requiring Congressional confirmation. Two of the rare instances in which this role became public were when the House and Senate Judiciary Committees requested review of the income tax returns of Gerald Ford and Nelson Rockefeller in connection with their confirmation hearings for the position of Vice President. A confidential report was provided in each case. The Joint Committee Staff continues to supply confidential assistance (upon request) to Congressional committees and Members in their consideration of Executive Branch nominees.

Oversight of Tax System

One aspect of the Joint Committee Staff's oversight of the tax system is monitoring the substantive positions taken by the Treasury Department and the IRS to ensure that those positions are consistent with the legislative intent of the Congress. In addition to the refund review process, the Joint Committee Staff consults regularly with both the Treasury Department and the IRS to clarify the meaning of past legislation. The Joint Committee staff also monitors the administration of the tax laws by the IRS directly and through studies conducted by the U.S. Government Accountability Office. GAO regularly conducts specific studies as an agent of the Joint Committee or in consultation with Joint Committee Staff.

Another aspect of the Joint Committee Staff's oversight of the tax system is developing and reviewing proposals for simplification and clarification of the tax laws.

Production of Original Public Documents

The Joint Committee Staff is responsible for the production of a substantial volume of original written material for use by Congressional offices and the general public. This includes pamphlets for hearings and reports, explanations, and statements prepared in connection with the progress of tax legislation through Congress. The Joint Committee Staff does all the preparation of these publications--often under extreme time pressure.

Availability of Legislative Materials

The Joint Committee is the only repository of complete legislative history materials on Federal taxation, starting with the Tariff and Income Tax Act of 1913. (For a variety of reasons, the collection of the Library of Congress is incomplete.) The Joint Committee Staff also distributes to Members, their staffs, and the public, copies of Joint Committee Staff documents dating back to 1970.

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