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Ways and Means, Oversight Seek Documents on Illegal Obamacare Expansion

Washington, DC - House Ways and Means Committee Chairman Dave Camp (R-MI), House Oversight and Government Reform Committee Chairman Darrell Issa (R-CA) and Ways and Means Oversight Subcommittee Chairman Charles Boustany Jr., MD (R-LA) today announced a joint [letter](#) sent to Treasury Secretary Tim Geithner requesting unredacted versions of documents withheld from the Committees. The materials relate to the Internal Revenue Service (IRS) decision to extend eligibility for health care subsidies delivered via state-established insurance exchanges to also include individuals enrolled in the federally-run exchanges despite having no authority to do so under ObamaCare.

The letter follows-up on a September 11, 2012 Ways and Means Subcommittee on Oversight [hearing](#) during which senior Treasury officials agreed to provide the Subcommittee with all documents, "relating to the determination that the insurance premium subsidies apply to...federally created exchanges." The Oversight and Government Reform Committee has sent two letters [[8/20/12](#), [10/18/12](#)] seeking information on the justification for the rule. Additionally, staff from the two committees conducted an in-camera review of the material and discovered that key portions were either redacted or withheld without explanation.

The Committees are seeking an August 5, 2011 Treasury memo from the Proposed Regulation Clearance Package and two May 16, 2012 memos from the Final Regulation Clearance Package titled "Final Regulations on the Premium Tax Credit Enacted under ACA," and additional documents.

Background:

A Congressional Research Service legal [analysis](#) of the rule found that, "The plain language of Section 36B [of ObamaCare] suggests that premium tax credits are available only where a taxpayer is enrolled in an 'Exchange established by the State.'"

At a briefing between Treasury and the Committees' staff in November, Treasury officials defended their interpretation of the rule. Treasury stated that the language in the reconciliation bill that accompanied the health care reform bill contained a similar requirement detailing how state and federal exchanges must report information and asserted that the rule was consistent with assumptions made by the Congressional Budget Office (CBO) and Joint Committee on Taxation (JCT).

At the briefing, Treasury officials could not point to a single piece of legislative history that supported their interpretation of the rule other than the assumptions made by CBO and JCT. Beside the fact that CBO and JCT estimates of bills cannot be considered relevant legislative history, CBO and JCT both admitted that they never performed a legal analysis of the bill's language regarding the availability of the tax credits.

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