TRIBUTE TO JAMES KELLEY

HON. PAUL E. KANJORSKI
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1995

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to a close personal friend from my district, the Honorable James P. Kelley. This year, Jim will retire from his position as Northumberland County Commissioner, a post he has held with the highest distinction for almost a quarter of a century.

Once in a very great while, an individual not only surpasses the requirements expected of him as an elected official, but actually transforms the nature of his office to embody a greater ideal. Jim Kelley is such an individual. He not only served as an excellent county commissioner, but by his service, he changed the very definition of being a county commissioner. His extraordinary compassion, his impeccable integrity, his tireless efforts to improve the economic condition of his county, and his masterful skill at governing made Jim Kelley the epitome of what a public servant can and should be.

A banker for 22 years, a funeral director for 35 years, Jim was first elected to serve Northumberland County as a commissioner in 1971. Jim served as chairman of that board for five of his six consecutive terms of office. A respected community leader, Jim is responsible for the information of the Northumberland County Area Agency on Aging. During his leadership, the County Human Service Agency achieved a No. 1 national rating. He was the first chairman of the Central Region Training Service.

Jim was appointed by Gov. Bob Casey to serve 8 years on the Pennsylvania Infrastructure Investment Board. He has been honored by his party as both Northumberland County Democrat of the Year and Pennsylvania Democrat of the Year.

Jim's leadership in Northumberland County is legendary throughout the Commonwealth of Pennsylvania. He has earned the admiration and respect of us who have been fortunate enough to have worked with him. Mr. Speaker, as Commissioner James P. Kelley steps down, he leaves behind a tradition of excellence and service which will be difficult to replace. He has devoted a lifetime of service to the people of Northumberland County, and that service will be felt for many more years to come. I am pleased to bring to the attention of my colleagues the accomplishments of my good friend, Jim Kelley.

INTRODUCTION OF THE TAXPAYER BILL OF RIGHTS 2

HON. NANCY L. JOHNSON
OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1995

Mrs. JOHNSON of Connecticut. Mr. Speaker, I am pleased to introduce the Taxpayer Bill of Rights 2. This legislation will help safeguard the rights of taxpayers in dealing with the Internal Revenue Service [IRS].

The Taxpayer Bill of Rights does not involve the substantive provisions in the Internal Revenue Code which determine a person's tax liability. The subject matter does not involve capital gains or depreciation rules. The nature of the subject matter involves the procedural rules and IRS operational practices which apply during the examination of tax returns and the collection process. Many times these rules and practices can have as much importance to the taxpayers as the substantive provision in the tax law from which their liability arises.

The original Taxpayer Bill of Rights was enacted as part of the Technical and Miscellaneous Revenue Act of 1988. While this action was helpful, there was a general consensus that more could be done to protect the rights of taxpayers.

The Subcommittee on Oversight sought to develop a Taxpayer Bill of Rights 2 during the 102d Congress. It developed a package of recommendations for taxpayer safeguards which eventually was introduced as H.R. 3838 in November 1991. A Taxpayer Bill of Rights section, based on H.R. 3838, was included in H.R. 11 the Revenue Act of 1992, which was vetoed by former President Bush.

The Subcommittee on Oversight held a hearing on March 24, 1995, to investigate what additional taxpayer safeguards were appropriate in order to provide citizens more evenhanded treatment in their dealings with the IRS. In addition, the subcommittee staff reviewed numerous communications from taxpayers which described their experiences with the IRS and reinforced the position that a Taxpayer Bill of Rights 2 was needed. The subcommittee's recommendations are a combination of many of the provisions which were developed in the 102d Congress, as well as a number of new initiatives.

The bill that Representative MATSUI and I are introducing today reflects the narrative recommendations which the Subcommittee on Oversight unanimously approved on September 12, 1995. For example, the bill would make it easier for taxpayers who win their cases against the IRS in Tax Court to collect attorney's fees. Under current law, not only does a taxpayer have to prevail against the IRS to collect attorney fees, but she must also prove that the IRS was not substantially justified in pressing its case against her. The bill shifts the burden to the IRS of proving that its position was justified. This is consistent with the judicial principal that the party in control of the facts should bear the burden of proof. Who knows better than the IRS why it pressed its case against the taxpayer?

Another major area is the treatment of separated or divorced taxpayers. Under current law, married couples who file a joint return are each fully responsible for the accuracy of the return and for the full tax liability, even though one spouse may have earned the income which is shown on the tax return. This is known as joint and several liability. Spouses who wish to avoid this joint and several liability feature may file as a married person filing separately.

The subcommittee learned of many instances where divorced taxpayers who had previously signed a joint tax return during their marriage were treated harshly when the IRS later disputed the accuracy of their joint tax return. In many cases the IRS tried to collect the entire amount of taxes from the wife, even though the omitted income or erroneous deductions which caused the deficiency were attributable solely to her former husband. All too often, the woman, being pursued for payment of taxes due, was not aware that a tax return filed during the marriage had been audited or that a deficiency had been imposed on the return.

In an era where almost 50 percent of marriages end in divorce, this problem is contributing to the growing perception that the tax system is unfair. The time has come to reexamine the joint and several standard of liability and consider replacing it with a proportionate liability standard, where each spouse would be responsible for the taxes on that portion of the income which he or she earned.

However, replacing the current standard would be changing over 60 years of established practice and so the subcommittee concluded that it did not have information about all the ramifications of such a change to include it in the bill. What the bill does do is direct the Department of the Treasury and the General Accounting Office to conduct detailed studies examining possible changes to the joint and several liability standard in order to better protect the rights of separated or divorced couples. These studies are due within 6 months and I believe they could be a prelude to further legislative action in the 104th Congress.

A brief sample of the bill's other features includes: First, allowing taxpayers who have been the victim of reckless collection actions by the IRS, to sue the IRS for up to $1 million in damages, up from the current ceiling of $100,000; second, giving the IRS the authority to withdraw tax liens and return seized property when it would be in the best interest of the taxpayer and the Government; third, creating a civil cause of action for damages for taxpayers who have been harmed by fraudulent information returns; and fourth, requiring the IRS to send out annual reminders to taxpayers with outstanding tax obligations. This will alert taxpayers that the IRS has not forgotten an old tax liability.

Mr. Speaker, the public may never be thrilled about the fact that they must pay taxes to the Government. But the Taxpayer Bill of Rights 2 should at least give them more leverage and ammunition in dealing with the IRS.