

COMMITTEES:
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Congress of the United States
House of Representatives
Washington, DC 20515

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January 28, 1987

Hon. James A. Baker III
Secretary of the Treasury
15th and Pennsylvania Avenue, NW
Washington, DC 20220

Dear Secretary Baker:

I have recently learned that a minor provision of the Tax Reform Act of 1986 has the potential to eviscerate a major component of the Immigration Reform and Control Act of 1986. Section 1234 of the Tax Reform Act requires an alien applying for adjustment to permanent resident status to provide information on whether he or she was required to file a tax return for the previous three years. This information is then to be forwarded to the Treasury Department, presumably for use in enforcement proceedings.

As you know, one of the two main purposes of the Immigration Reform and Control Act is to provide legal status to aliens who have resided in the U.S. illegally since 1982. An alien who meets the criteria laid down in the Act is first given temporary resident status, which, if he or she meets additional criteria, is subsequently adjusted to permanent resident status. The Congress specifically provided in this Act that the information supplied to the INS in these applications is confidential and may not to be used by any other agency of the government. Obviously, we could not have a successful legalization program if by submitting an application an alien became vulnerable to an enforcement action by the IRS.

Of course, once an alien is granted lawful status he will be subject to the same taxation requirements as everyone else. The prohibition on providing information to other agencies of the government, including the IRS, was only intended to prevent intrusions into what we hoped would be an orderly transition from illegal to legal status.

I am concerned that although Congress clearly did not intend for the legalization program to be sabotaged by the Tax Reform Act, the INS will feel compelled to abide by the provisions in section 1234, effectively killing the legalization program. I urge you to use the exemption authority granted to you under section 1234(e) and immediately issue a regulation declaring that

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individuals adjusting to temporary and permanent resident status under the Immigration Reform and Control Act of 1986 are exempt from the provisions of section 1234.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles E. Schumer".

Charles E. Schumer
Member of Congress

cc: Lawrence B. Gibbs
Alan Nelson