

U.S. House of Representatives
Committee on Ways and Means
Subcommittee on Oversight

Testimony of Calvin W. Taylor, Jr.

Hearing on Protecting Small Businesses from IRS Abuse (Part II)

Washington, D.C.
May 25, 2016

Testimony of Calvin W. Taylor, Jr. before the Subcommittee on Oversight of the United States House Ways and Means Committee

Chairman and Members of the Committee:

My name is Calvin W. Taylor, Jr. I am accompanied here today by my wife, Debora Taylor, and our attorney, Steven Gremminger of the Gremminger Law Firm. We appreciate the Committee and its staff inviting us to testify.

My wife and I live in Preston, Maryland. Together with members of our family, we operate C.W. Taylor Farms, LLC. We principally grow sweet corn and raise chickens. We also operate a few farm stands, known as Taylor's Produce, on the Maryland Eastern Shore, where we sell our corn as well as produce that we grow or buy from our neighbors. We hire local teenagers to work at the farm stands and help pick the vegetables. We pay our taxes and we obey the law.

On September 16, 2011, at approximately 11 a.m., an IRS Special Agent and a federal Task Force Officer knocked on the front door of our farmhouse. The farmhouse is our personal residence, where we raised our four children and where our seven grandchildren frequently visit. The IRS agents were not expected, and we had no warning that they were coming. My wife Debora Taylor answered the door. The agents asked her whether I was home. She told them I was likely out on the farm. I had been up since 4 am that day, had completed picking the sweet corn for the day, had checked multiple irrigation systems, and checked on the chickens. They asked her to find me, and she located me at a neighbor's farm, where I was buying peppers for the farm stands.

She invited the agents into our home. They sat at the kitchen table and waited. My wife Debora asked the agents what they were inquiring about, and they stated, "We just have some questions about Mr. Taylor's banking transactions." I got home about 15 minutes after they arrived, and I joined them at our kitchen table. **The very first thing that the agents told us was: "We do not think you have done anything wrong. We just have some questions about your banking transactions." The agents never suggested, nor were we ever offered, the option of consulting an attorney before speaking with them.**

Instead, the interrogation began. The agents questioned why we had changed the name of our business checking account in the last year. We explained that it was due to my father's death, and the farm became a LLC, a sole proprietorship, as opposed to a LLP, which had previously been a partnership with my dad. The agents said that they had traced the deposits to our joint bank account, and that it appeared that we had deposited \$699,255 in cash to the account over the last three-years.

They continued to interrogate us. They asked us why we so frequently made cash deposits to our joint bank account, and why the deposits were frequently in an amount just below \$10,000. I told them that I did so because it is common knowledge that if you make deposits over \$10,000, some form had to be filed. I told them I was told by someone at a bank years ago that if a cash deposit for more than \$10,000 was made, the bank would have to report it to the IRS "and who wants to get reported to the IRS?"

Our retail farm stands generate a substantial amount of cash from the sale of our corn (*best in the State of Maryland*) and the sale of the local produce grown by my family or by other farmers who are our neighbors. Prior to the seizure, the cash was collected, counted, and put together in amounts between \$9,000 and \$10,000. I then took the cash to the local bank and deposited it into the C.W. Taylor Farms, LLC account. (The agents told us they had visited some or all of the produce stands at some point in their investigation. One stated "*you have a good little business going there.*" The agents knew we sold produce, they had visited our farm stands, they saw that we handle cash, and that we have a legal source for the cash.) I think it is scandalous that the IRS and DOJ dedicated scant federal resources to investigating a farm family that grows corn and raises chickens, where there was no suggestion of illegality.

The agents spent about an hour with us, and they asked many questions. We cooperated fully and answered all their questions honestly and willingly, and we were not guarded in what we said. **Then out of the blue, they told us that I was under criminal investigation for "structuring" and "money laundering."** They asked us if we were familiar with a law called "structuring." We said we were not. They explained the law to us, including that violating this law was a felony. They also said that prior to

ringing our doorbell, and being invited into our home, they had served a Grand Jury subpoena on our joint bank account and seized all of the money in the account. The amount seized was reportedly \$90,175.48, leaving our business account balance at ZERO.

We did not know what “structuring” was prior to the seizure of our bank account or that it was a crime. We also did not know that I was the target of an ongoing criminal investigation prior to being told that by the IRS Agent. We were in shock and disbelief. **We were also finally told at that late point that we should hire a lawyer.** The agents also said that maybe, *after being investigated*, we could possibly get part of our money back—but we should not expect that to happen quickly. **My wife blurted out that we had mailed our oldest daughter's wedding invitations just the day before, and “how were we to pay for this and other bills?”** I was so upset that I got up and walked out of the room briefly and stated to them, **“how am I going to pay my fertilizer bills?”** **The agents replied this was not their problem.** In fact our daughter planned to marry about 6 weeks later; and, we were to pay for the wedding and the reception, to be held at our church. The seizure of our bank account left us with no money for family living expenses, for our daughter’s wedding, or to pay the many farm vendors. A farm generates the majority of its income over the summer months. 2011 was a very dry, hot summer, and I was exhausted at the end of the season, after working 19– 20 hour days, monitoring and moving irrigation systems and overseeing the 500 acres of crops, the poultry operation (which requires intensive management during hot temperatures), four retail produce stands and supervising 20+ teenagers!!!! In August that year, there was a hurricane, which damaged many of the late season crops. One retail vegetable stand was still operating on September 16, 2011, and work was beginning to slow down, as the teenagers were back to school and college. To have our total income taken after such a trying and challenging year was overwhelming. All of this occurred on a Friday. *Who can find a lawyer on a Friday afternoon?*

The agents took unfair advantage of our natural inclination to be honest and helpful. When they arrived at our door, we had no reason to believe that we needed legal counsel. We were never given a “*Miranda* warning.” The agents certainly did not tell us prior to the interrogation and seizure that I faced

potential criminal prosecution with a statutory penalty of potentially 20 years in jail for each transaction proven to involve structuring.

We thereafter retained Steven Gremminger as our attorney. He confirmed the gravity of the offense that I was facing and went to work defending us.

As I understand it, Mr. Gremminger contacted the IRS Agent and the Assistant United States Attorney (AUSA) who was conducting the Grand Jury criminal investigation regarding me. He and his paralegal met with the AUSA and the IRS Special Agent at the U.S. Attorney's Office in Baltimore, Maryland on October 5, 2011. The prosecutor told them during the meeting that he and the DOJ were conducting a large volume of these types of cases regarding persons from Southern Maryland. He said that he had already completed asset forfeiture cases with fishermen, stockbrokers, car salesmen, repairmen and others. Each of these cases involved alleged structuring of cash transactions in order to avoid federal cash transaction reporting and, apparently, all of which involved legal sources of funds. The prosecutor shared a recent article from the *Baltimore Sun* concerning activities that he directed against Maryland citizens who used cash transactions, who he or his surrogates had caught, and who had agreed to the DOJ's civil forfeiture regime in order to avoid going to jail.

(I now understand that the intent of the structuring law is not to prosecute hard-working, taxpaying citizens, but is to pursue terrorists who seek to harm our nation. Once the government knew that we were not tax evaders or criminals, it was a reasonable expectation to receive our money back. It appears to us that the DOJ stretched the law to fund its budget with innocent taxpayer dollars. I wonder how the prosecutor sleeps at night.)

During the meeting, the prosecutor told my attorney that he could prosecute and convict me for "structuring" financial transactions as well as for "money laundering." My attorney stated that I had knowingly committed any crime; said I had no intent to break the federal law; did not know that whatever I had done was a crime, much less was considered "structuring" or "money laundering" under federal law; and that I had not violated any ancillary federal law, such as tax evasion, terrorism, terrorist financing, or

drug trafficking. All our cash was obtained from sales of our farm produce and chickens, as was documented and reported legally for tax purposes.

I understand that my attorney showed the prosecutor a pamphlet published by the U.S. Department of Treasury's Financial Crimes Enforcement Network (FinCEN) concerning the Currency Transaction Reporting requirements. (I now know that FinCEN encourages financial institutions to provide this pamphlet to their customers to keep unwary persons with legal sources of funds from structuring.) Neither the prosecutor nor the IRS agent had ever previously read or heard of the FinCEN pamphlet. (My wife and I had also never seen the pamphlet, which I now understand was produced by the federal government for the purpose of providing information to the public about the little-known but highly dangerous law of structuring.) The prosecutor told my attorney that if we produced all of our financial records, as well as the farm's financial records, to the IRS for review by the Special Agents who seized our bank account, *he and the USDOJ would consider not charging me with a crime*. But he also said that if the records that we soon "voluntarily" produced showed criminal activity, such as tax evasion, he would charge me criminally.

Thereafter, my attorney produced to the IRS and to the DOJ all of our and the C.W. Taylor Farms, LLC financial records for the prior three years, and the year of the seizure, 2011. This included all of the cash receipt logs from the C.W. Taylor Farms, LLC farm stands. The records had to be submitted in electronic form as requested by the IRS, which was both very time consuming and expensive.

It is my understanding that the IRS thoroughly examined our financial records that we "voluntarily" produced under threat of criminal prosecution. **It took the IRS Special Agent who visited us at our residence, seized our bank account, and served us with a Grand Jury subpoena about 2-3 weeks to find absolutely no evidence that we had any tax underpayment, much less that we had committed tax evasion.**

But the nightmare did not end there. Having been investigated by the federal government and found not to have knowingly committed any crime, my family and I had the reasonable expectation that no

criminal charges would be filed, that the investigation would be dropped, and that all our money would be returned. ***That did not happen.***

The prosecutor told my attorney that he had decided that he would not charge me with a crime, *but only if* I agreed to a civil forfeiture of a portion of the seized funds. I had to agree to the United States Attorney's proposal or face possible criminal prosecution under the Bank Secrecy Act that carried a potential prison term of 20 years for each transaction. The "deal" that I was offered was that I had to consent to the civil forfeiture of 5% of the amount the Justice Department and IRS alleged was deposited in a structured fashion from July 2008 through August 2011. The forfeiture amount was \$41,790. It was clear that if the "deal" was not accepted, *all bets were off*, including that I might be charged with the federal crimes of "structuring," "money laundering," or other charges.

Thereafter, the prosecutor sent a letter to my attorney making a formal settlement offer. **Under the circumstances, I had no choice but to agree to the DOJ and IRS keeping our legally earned money.** I faced potential criminal charges for crimes I did not know I had committed, but that a U.S. federal prosecutor nonetheless threatened to bring against me. So under duress, I agreed to the civil forfeiture the prosecutor and the U.S. Department of Justice dictated. I was forced to consent to a civil forfeiture of 5% of the funds deposited to the bank account over the previous 3 years and in 2011, \$41,790.

Adding insult to injury, the prosecutor advised my attorney that the "deal," which I accepted under duress, was the "best" deal he had offered to anyone. I feel that I had absolutely no rational choice but to agree to the unfair forfeiture. My family's option was literally to bet, and likely forfeit, our farm—the C.W. Taylor Farm, LLC. We decided that it was better to agree to allow the DOJ and IRS to confiscate the money that it illegally seized than to contest the forfeiture or potential criminal prosecution (or both)—which we thought almost assuredly could be decided in favor of the federal government. The potential cost of defending myself was astronomical, and it greatly exceeded our family's resources. Settling was an obvious and sensible business decision in the circumstances, made under duress in order to avoid criminal

prosecution and potentially, a long jail term. I understand that a judgment for the “agreed” terms of the forfeiture was subsequently entered by the U.S. District Court for the District of Maryland.

I think what the DOJ and IRS did to my family was reprehensible. The forfeiture action received attention from the news media. This caused my family personal embarrassment, emotional distress, and financial hardship. The IRS published a Statement of Seizure in the local newspapers. Two fellow farmers and businessmen contacted us about the forfeiture. On my attorney’s advice, we declined comment to the numerous press inquiries. The damage to our reputation, our health, and to our business was considerable, as was the cost of defending ourselves.

We recently filed a verified Petition with the U.S. Department of Justice asking it to return the money that was illegally seized from us, together with interest, attorney fees and other costs. The DOJ acknowledged our Petition, and it included a letter it says it sent last June, that appears to make a veiled threat to still prosecute me. We do not see how even if we should get our money back that we will ever be whole. This was a devastating and undeserved blow to our family that undermined our faith in the federal government, caused unwarranted embarrassment and harm to our family and our business, and was a very ugly chapter of our lives.

With all the illegal financial activity going on—such as drug dealing, human trafficking, and terrorist financing-- the DOJ and the IRS should have better things to do than stealing legally earned money from hardworking taxpayers.