

**Hearing on Iran Terror Financing and the Tax Code**

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HEARING  
BEFORE THE  
SUBCOMMITTEE ON OVERSIGHT  
OF THE  
COMMITTEE ON WAYS AND MEANS  
U.S. HOUSE OF REPRESENTATIVES  
ONE HUNDRED FOURTEENTH CONGRESS  
FIRST SESSION

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**November 4, 2015**

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## Hearing on Iran Terror Financing and the Tax Code

U.S. House of Representatives,  
Committee on Ways and Means,  
Washington, D.C.

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The subcommittee met, pursuant to call, at 10:03 a.m., in Room 1100, Longworth House Office Building, Hon. Peter Roskam [chairman of the subcommittee] presiding..

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Chairman Roskam. The hearing will come to order. Welcome to the Ways and Means Oversight Subcommittee hearing on Iran terror financing and the tax code.

Today's hearing will review the President's authority to waive provisions in the tax code aimed at discouraging Iran's support for terrorism and explore whether those provisions should be strengthened. Earlier this year, James Clapper, the director of national intelligence, stated, quote, "Iran remains the foremost state sponsor of terrorism and is increasing its ability to influence regional crises and conduct terrorism. This has been the consistent view of the intelligence community for more than three decades," end quote.

Let's start by looking at how all this began. Ironically, today, 36 years ago, it is the anniversary in 1979, Iran's now ruling theocratic regime seized the U.S. Embassy and our diplomatic personnel in Tehran. In response, the U.S. severed our diplomatic relationship and imposed strict economic sanctions against Iran. We also enacted provisions in the tax code to discourage U.S. companies from doing business in Iran.

Iran has long been one of the most active and prolific State sponsors of terrorism in the world, funding hundreds of attacks through its terror proxies abroad including, Hezbollah, Hamas, and Islamic jihad. In 1984, the State Department officially designated Iran as the state sponsor of terrorism.

A year later, in 1985, Iran supported the Hezbollah-led high-jacking of TWA flight 847 en route from Athens to Rome. The hijackers diverted the plane, to Beirut, held most of the passengers and crew hostage. One victim, Navy petty officer Robert Stethem, was singled out because he was a member of the U.S. military. He was tortured and murdered during the attack. In forced heroism, he was posthumously awarded the Purple Heart and the Bronze Star. His brother, Kenneth, is here with us today as one of our witnesses.

Over the years, Iran has increased support for terrorism, committed heinous human rights violations, and engaged in an illegal mission to develop nuclear weapons. To punish these bad acts, numerous countries have imposed economic sanctions against Iran, and the United Nations Security Council has followed suit. So let's fast forward to the present day. In July, the United States and the P5+1 countries finalized the Iran nuclear agreement. And under this deal, the U.S. and our international partners agreed to dismantle the current sanctions regime in the hope that Iran will slow its pursuit of nuclear weapons technology. The agreement also gives the Iranian regime access to an estimated \$150 billion in currently frozen assets.

The Obama administration pursued a nuclear agreement with Iran at any cost, rushing forward to implement the terms of a bad deal, despite majority opposition in both chambers of Congress. In order to do it, President Obama violated the Iran Nuclear Agreement Review Act, also known as Corker-Cardin, that he himself signed. And instead of submitting the full text of the nuclear agreement, plus any related documents and side deals to Congress, as the law requires, he refused to provide the text of the two secret side deals. And as a result, the American public still doesn't know the full scope of the concessions President Obama gave to the Iranians.

What we do know is, that the Iranian nuclear agreement says it will, quote, "Produce the comprehensive lifting of all U.N. Security Council sanctions as well as multi-lateral and national sanctions related to Iran's nuclear program," end quote.

Under the law we are examining today, U.S. companies get two benefits for their worldwide business, foreign tax credits and deferral.

One of the relief measures the President may provide to Iran while implementing his nuclear agreement is to waive these provisions, which work to discourage U.S. companies from doing business there. Under current law, because of Iran's extent of support for terrorism, and because the U.S. Government has severed diplomatic relationships with Iran, no foreign tax credit may be claimed by a U.S. company doing business in Iran. I would like to show a graph.

When U.S. companies do business with foreign countries, say Japan, for example, they are typically eligible for a foreign tax credit which offsets taxes paid to foreign governments. These foreign tax credits make sure U.S. companies don't pay the same taxes twice, once to their home country and once to a country where they may be doing business internationally. But business with Iran is not eligible for this benefit, obviously. U.S. companies do essentially have to pay tax twice for any business conducted in Iran; first, any taxes required by Iran, and then also the usual amount of taxes required by the U.S. Under current law, for every \$100 in profits earned in Japan, a U.S. company would be left with over \$65 after taxes. This is shown on the left.

But for a U.S. company doing business in Iran, they would have far less, from \$100 in profits, only \$42 after taxes, and this is shown on the right. So in addition to the foreign tax credit, the tax code requires U.S. companies to pay taxes immediately on any income derived from Iran by foreign subsidiaries. This is much harsher than the rules that would apply for international commerce in Japan, for example, where taxes are only owed in the U.S. once those profits are repatriated.

These provisions have generally been effective in discouraging U.S. companies from doing business in Iran, business that would certainly improve the Iranian economy and increase the power of financial resources of Iran's regime. However, the law currently gives the President the authority to waive these punishing tax provisions and allow beneficial tax treatment for businesses conducting business in Iran.

Historically, waiving these provisions has only occurred after a country has followed through on the concessions they have promised. For example, President Bush waived the provisions for Libya in 2004, but only after Libya had demonstrably ended its support for terrorism and its weapons of mass destruction programs.

In contrast, President Obama has already entered into an agreement with Iran that would waive most of the current sanctions, potentially including these tax provisions. But instead of requiring concrete proof that Iran's concessions have been achieved, the administration actually said it will waive sanctions against Iran even if the country doesn't comply with the nuclear agreement. So we have to ask ourselves, how will Iran move forward under the agreement?

Iran's supreme leader has publicly said that Iran will use some of the \$150 billion in newly unfrozen assets to continue funding terrorism, and influential Iranian critics and government officials, including the supreme leader himself, continue to call for death to America. The White House not only ignores these declarations, but actually defends them, assuring Americans that this rhetoric is only intended for Iranian domestic political consumption.

Secretary Kerry has said that it doesn't reflect Iran's intention to destroy the United States, because he adds, quote "no specific knowledge of a plan by Iran to actually destroy us," end quote. I think most people consider illegal efforts to build a nuclear arsenal while declaring death to America a clear demonstration of intent. With the lifting of sanctions, the tax code provisions that we examine today are more important than ever. This Committee wrote to the President asking whether he would waive the provisions or if he would commit not to waive them during his presidency. He has not responded. Stopping Iran's support for terrorism is crucial for the safety of the American people both at home and abroad.

And on a final note, let's be clear from the outset. Funds Iran will receive under the administration's nuclear agreement will go to sponsoring terrorism. Whatever one's opinion of the Iran nuclear agreement, and we have a wide range of views on this panel, we should be able to agree on the importance of taking measures to counter Iran's support for terrorism. The tax provisions that we are discussing today are in our jurisdiction and are related to Iran's support for terrorism, not nuclear proliferation. It is that support for terrorism which triggers them so they can and should remain in effect outside of the framework of the nuclear agreement. And I hope that we can work in a bipartisan basis to fight and defeat terrorism and examine how we can strengthen these tax provisions to achieve that goal.

I know that Mr. Rangel would like to be recognized just to acknowledge that he is called to another meeting of the Ways and Means Committee and intends to return.

Mr. Rangel. Thank you so much for the courtesy, Mr. Chairman.

I promised Mr. Lewis and certainly the other members that I would be here, but Chairman Tiberi has called a meeting, which includes the members of the Committee on Trade. We are meeting with the British parliamentary to take a look at the transatlantic agreement. And I wanted so much to be here because I read recently that Prime Minister Netanyahu next week will be visiting with the President of the United States. And I have every reason to believe that the Iranian agreement will not be renegotiated, especially by our Committee, and that we will be looking forward to working to see how we can have a binding bipartisan agreement to show Israel the depth of our commitment to her as a part of being a leader of the free world.

The \$3 billion annual aid package expires in 2017 with Israel, and we hope this Committee will play an important role in developing a 10-year defense package for Israel and to do the best we can to make what some may consider a bad agreement -- it is certainly, not a good agreement, but it could be the best agreement we have had. And I hope the panel and our Committee and Congress and the President would do the best that we can to show that we are Israel's best friend.

So thank you for the courtesy, and I will be returning as soon as the other committee meeting has expired.

Chairman Roskam. Thank you.

Mr. Rangel. Thank you so much.

Thank you, Mr. Lewis.

Chairman Roskam. Mr. Lewis.

Mr. Lewis. Thank you, Mr. Rangel.

Thank you, Mr. Chairman, for yielding.

Many of you know that sanctions can be useful diplomatic tools. For almost 40 years, Congress has worked with the executive branch on Iran's sanction policy and legislation.

It has always been a partnership. I often think some international sanctions help to bring about diplomatic and democratic changes to shift the course of history. This legacy is the reason why I, and many others, support the bipartisan sanction deal that finally brought Iran to the negotiation table to discuss their nuclear weapons program.

Let me be clear, I am no friend of Iran's regime. Like many of you, I am sickened by the acts of terror that the Iranian leadership has supported. Too many people have lost their lives and countless loved ones in senseless attacks and violence. This is why I supported bipartisan, bicameral legislation seeking justice for former American hostages and their families. This is

why I speak up for religious freedom and the release of political prisoners, and this is why I fight to protect victims of human rights abuses in Iran and around the world.

After the Iran nuclear agreement was finalized, I spent months attending briefings, studying documents, and listening to citizens of my district. I held many long executive sessions with myself, and weighed all sides of the argument. In particular, I reflected on the words of Dr. Martin Luther King, Jr. when he called upon us to rededicate ourselves to the long and bitter but beautiful struggle for a new world. You see, the way of peace is an immutable principle that I hold near and dear to my heart. I believe then, as I believe now, that the administration's nuclear agreement is a good deal. Though it may not be perfect, we must not, we cannot, let the perfect be the enemy of the good.

As we speak, the agreement is being implemented and Iran is just beginning to dismantle its nuclear weapons program. Any legislative attempt to undermine this opportunity for peace cannot, must not, be entertained. We do not need more war and conflict. War is messy. It is bloody, it destroy the hopes, the aspirations, and the dreams of a people.

The American public and people around the world are sick and tired of war and violence. As members of Congress, we have a moral obligation, a mission, and a mandate to give peace a chance. We cannot sow the seeds of failure. We must light the way of hope.

Mr. Chairman, thank you. I look forward to hearing from the witnesses, and I yield back.

Chairman Roskam. Thank you, Mr. Lewis.

Chairman Roskam. We are joined by five witnesses, and I want to thank each of you for taking the time to spend with us this morning.

Mark Dubowitz is the executive director of Foundation for the Defense of Democracies. Mr. David Schizer is the dean emeritus and professor of law and economics at Columbia Law School. Mr. Douglas Feith is the senior fellow at the Hudson Institute, former Under Secretary of Defense for Policy. Mr. Kenneth Stethem, who I recognized in my opening statement, is the chairman and CEO of Aegis Industries. And Dr. Jim Walsh, research associate at the Massachusetts Institute of Technology's security studies program.

We have your written testimony for the record. You are each going to be recognized for 5 minutes.

And, Mr. Dubowitz, let's start with you. Thank you.

**STATEMENT OF MARK DUBOWITZ, EXECUTIVE DIRECTOR, FOUNDATION FOR DEFENSE OF DEMOCRACIES**

Mr. Dubowitz. Chairman Roskam, Ranking Member Lewis, honorable members of the committee, on behalf of FDD and its center on sanctions and illicit finance, thank you for the opportunity to testify, particularly with such a distinguished panel of experts.

Ken, thank you for your service and your brother's service to our country.

I want to emphasize that today the Iranian regime is involved in a range of dangerous and illicit activities. In fact, recently, the regime tested a ballistic missile capable of carrying a nuclear warhead. It has massively increased its crack down on its own citizens. It has expanded its support for Syria's murderous Assad regime and for terrorist organizations like Hezbollah and Hamas.

Meanwhile, Iran remains the leading state sponsor of terrorism and is currently holding several American hostages. The Iran nuclear agreement, the JCPOA, gives the regime a patient pathway to a nuclear weapons capability as key nuclear restrictions begin sunseting after 8 years. In addition, the agreement provides extensive sanctions relief likely to benefit the most dangerous elements of the regime, including those directly involved in terrorism. Specifically, the revolutionary guards, which control key strategic sectors of Iran's economy and the supreme leader's \$95 billion holding company called the execution of Imam Khomeini's order, or EIKO.

It is difficult to imagine a significant business transaction with foreign companies where the IRGC or EIKO won't be in on the deal. These financial gains will enable them to expand their dangerous activities. In anticipation of the sanctions relief from the Iran deal, President Rouhani's 2015-2016 budget rewards the IRGC, the intelligence services, and the hardline clerical establishment with a 48 percent increase in expenditures. The IRGC itself will receive 64 percent of public military spending, which is set to rise to \$11- to \$12- billion annually. The IRGC's massive construction arm, Khatam al-Anbiya, will see its budget double. If past is prologue, the cash will be spent partly on the IRGC's regional aggression, ballistic missile program, and support for terrorism.

Despite Iranian threats, including most recently from the supreme leader, the JCPOA does not preclude the use of nonnuclear sanctions. The administration has done little, however, to respond to Iran's threatening behavior. But regardless of whether one believes that the JCPOA was a great deal or a terrible deal, Congress needs to take the lead on ramping up sanctions to address Iran's support for terrorism and using other provisions to target illicit behavior not covered by the JCPOA.

An important first step is to designate the IRGC as a terrorist organization and to sanction EIKO, where the nexus between corruption and sponsorship of terrorism is overwhelmingly clear. There are major loopholes in U.S. law given the overwhelming evidence that the IRGC, and not just its Quds Forces involved in supporting terrorism, as well as the dangers from the imminent lifting of U.S. sanctions on the supreme leader's \$95 billion terrorism slush fund. Taking these steps against the IRGC and EIKO are not a violation of the agreement.

My written testimony provides greater detail and additional steps that Congress could take, but I want to emphasize the elimination of tax breaks for companies doing business in Iran, provisions

addressing Iran's support for terrorism, nonproliferation, and therefore, not precluded by the agreement. The goal is to diminish the funds available to the IRGC, EIKO, and their support for terrorism, and other illicit activities.

Now, some may argue that preventing tax benefits to U.S. and foreign companies which do business with State sponsors of terrorism will have little impact. I disagree. It is the use of these nonnuclear measures that will undercut the incentives for these companies to engage with illicit Iranian actors.

First, if the U.S. doesn't increase pressure through these nonnuclear sanctions, including through the use of tax provisions, to target Iran's dangerous activities, we are going to be effectively rewriting the agreement as demanded by Iran's supreme leader, Ali Khamenei. We should not be unilaterally disarming our course of power by giving into the supreme leaders's threats.

Second, Congress should use its powers to limit the extent to which foreign subsidiaries of U.S. companies engage with the leading State sponsor of terrorism. If current tax provisions are insufficient to deter this business, Congress should consider strengthening them. If Congress limited OFAC's licensing authorities for U.S. parent-foreign subsidiary transactions and imposed a 100 percent tax rate, for example, on profits from Iran, these companies would be significantly deterred from this business. And Congress should explore imposing negative tax consequences on companies doing business in the U.S. with foreign affiliates doing business with Iran, regardless of the location of a company's headquarters.

Third, and finally, Congress should examine the criteria under which the President could use his waiver authority in this tax provision. These tax benefits should be blocked for State sponsor of terrorism like Iran. Unlike Libya, a country that did benefit from presidential waivers, Iran will not dismantle its nuclear program, not end its state sponsorship of terrorism, and not make restitution of the past victims of Iran terrorism. Unfortunately, there is a substantial risk that tens of billions of dollars will flow to Iran, will be used in part to kill and maim future victims.

Thank you for the opportunity to testify today. I look forward to your questions.

Chairman Roskam. Thank you.

Chairman Roskam. Mr. Schizer.

**STATEMENT OF DAVID SCHIZER, DEAN EMERITUS AND PROFESSOR OF LAW  
AND ECONOMICS, COLUMBIA LAW SCHOOL**

Mr. Schizer. Thank you, Chairman Roskam, Ranking Member Lewis, and members of the subcommittee. Thank you for inviting me to testify today about terrorism-related provisions in the U.S. tax law. This issue is timely and important, since the JCPOA is supposed to ease nuclear-related sanctions on Iran, but not terrorism-related sanctions. And in announcing the JCPOA, President Obama said, and I am quoting him, "We will maintain all sanctions related to Iran support for terrorism."

Curtailling Iran's support for terrorism, obviously, is an important goal. Congress can use the tax law to pursue it in two ways. First, Congress should discourage U.S. and other businesses from paying tax to Iran since this revenue could be used to fund terrorism.

Second, Congress should raise the tax cost of doing business in Iran since this commercial activity can strengthen extremist groups such as the Revolutionary Guard. Two provisions of the tax code pursue these goals under current law. I believe I am the only tax lawyer among the witnesses, so my role is to review how these provisions work. Since both have significant gaps, I will also suggest ways to strengthen them.

The first provision, section 901(j), raises the cost of paying tax to Iran. Ordinarily, when U.S. taxpayers pay tax to a foreign country, every dollar of tax they pay to a foreign country reduces their U.S. tax by a full dollar. But taxes paid to Iran are treated less favorably. A dollar of these taxes reduces U.S. tax by only 35 cents for corporate taxpayers. As the Chairman was observing before, this is instead of the full dollar. The reason is that section 901(j) authorizes only a deduction instead of a credit.

The second provision, section 952(a)(5), accelerates U.S. tax when U.S. multi-nationals do business in Iran. Usually, foreign earnings are not taxed until they are brought back to the U.S. But if this money is earned in a state that sponsors terrorism, the U.S. tax hit right away.

I will now flag some gaps in these provisions and highlight a few possible solutions. First, the rule forcing the U.S. multi-nationals to pay tax immediately is somewhat porous. It applies to income and the statutory test it is derived from, states that sponsor terrorism, but this derived-from standard is imprecise. It applies when a firm is drilling for oil or has operations on the ground, but there is an argument that it doesn't apply when firms sell goods into Iran from the outside. The reason, is that income from the sale of properties sometimes is treated as earned where title passes, instead of where the property ultimately is used. So U.S. taxpayers may argue that income from selling goods into Iran is not derived from Iran, so no current U.S. tax is due as long as title passes in international waters.

To plug these gaps, Congress can direct the Treasury to promulgate regulations that read that derive-from standard more broadly, or Congress can consider legislation. For example, the test can be whether states that sponsor terrorism are the ultimate destination of the property.

Taxpayers may try another way to shift income away from states that sponsor terrorism in an effort to avoid these provisions. Not just by claiming that the revenue comes from somewhere else, but also by stuffing deductible expenses into these countries, such as interests and royalties. To thwart these income stripping strategies and more generally to raise the cost of doing business in Iran, Congress can consider stopping taxpayers from deducting these and other costs of doing business there. In other context Congress has taken away deductions for bribes, for fines and penalties, and for the cost of drug trafficking. Congress should consider the same treatment for costs of doing business in states that sponsor terrorism.

Finally, perhaps the most daunting gap in these rules is that they don't reach foreign multi-nationals. These firms don't pay tax, U.S. tax, on foreign earnings, so they are immune to

the costs imposed by these provisions. Now, even if these provisions just target U.S. firms, they can still weaken states that sponsor terrorism.

If fewer firms are willing to do business with Iran, Iran has less bargaining power and is likely to get less favorable firms. Nevertheless, these rules would be more effective if they also reach foreign multi-nationals. In an important lever here is that these firms do pay U.S. tax on their earnings in the United States. So an extra tax can be imposed on the U.S. earnings of firms that do business in Iran. The size of this extra tax could depend on how much money the firm earns in Iran. To avoid discriminating against foreign firms which would violate our treaties, this extra tax can apply to U.S. firms as well.

So to sum up, section 901(j) and section 952(a)(5) raise the cost of paying tax in Iran and doing business there. All these rules have very useful effects in their current form. Congress can consider ways of strengthening them. Thank you.

Chairman Roskam. Thank you.

Chairman Roskam. Mr. Feith.

**STATEMENT OF DOUGLAS FEITH, SENIOR FELLOW, HUDSON INSTITUTE,  
FORMER UNDER SECRETARY OF DEFENSE FOR POLICY**

Mr. Feith. Thank you, Mr. Chairman.

Chairman Roskam. Your mike is not on.

Mr. Feith. Thank you. Chairman Roskam, Ranking Member Lewis, and members of the subcommittee, it is an honor to speak with you about Iran's sanctions.

I have been asked to discuss a specific question, how Iran's situation now, under the new nuclear deal, compares to Libya's situation in late 2003, after the Qadhafi regime renounced its nuclear and chemical weapons programs. I dealt with the Libya matter when I was Under Secretary of Defense for policy, working for Secretary Rumsfeld from July 2001 until August 2005.

The question is, does President Bush's waiver of section 901(j) sanctions regarding Libya, argue for a waiver now by President Obama regarding Iran. I see significant differences between the cases. The Libyan regime made an unequivocal decision, not only to stop its WMD programs, but to invite American and British engineers into Libya to dismantle those programs facilities and to take the equipment out of the country.

When the Americans and others entered Libya, they were let into all the locations they wanted to inspect. They were given far more information than they already had. Libyan officials didn't play the game of saying that they will confirm data if the foreigners will tell them what they know.

Libya's dictator, Muammar Qadhafi, had resolved to get out of the WMD business. His government announced the decision without qualifications or ambiguity. Qadhafi himself publicly confirmed it. Qadhafi, horrible dictator though he was, was serious about permanently ending Libya's WMD programs. His words were clear and categorical, and his actions were consistent with his words. This is not, however, the case with the words and actions now of Iran's leaders.

In the JCPOA, the Iranian regime reaffirms that under no circumstances will Iran ever seek, develop, or acquire any nuclear weapons. But that simply restates its essential nuclear nonproliferation treaty obligation, which Iran accepted in 1970 and then in recent years violated.

Iran's various nuclear activities violate that obligation, which is why the U.N. Security Council supported economic sanctions against Iran and why there has been all the Iran-related diplomacy for years. Iran has never admitted that its uranium enrichment, ballistic missile, and other nuclear programs, aimed to create a weapons capability.

It has never admitted that they violated the nonproliferation treaty; it has never apologized for those programs and doesn't, in the nuclear deal, promise to end them permanently. So Iran's new reaffirmation that it won't seek to develop or acquire nuclear weapons is not valuable. Just as some clothing stores sell pre-torn jeans, the Iranians have sold President Obama a pre-broken promise.

Iran has not made an open book of its nuclear weapons-related secrets as Libya did. It hasn't given inspectors free reign to visit anywhere in Iran. On the contrary, it demanded restrictions, making it difficult, and perhaps impossible, for inspectors to prove violations even if they somehow learn of them. The JCPOA inspection regime focuses mainly on declared facilities, but it is not reasonable to assume that Iran would choose to violate the deal in a declared facility.

The issue of undeclared facilities is important. Iran, over the years, built large nuclear facilities that it managed to conceal from foreign eyes for long periods of time. A former top IAEA official commented a couple of years ago, if there is no undeclared installation today, it will be the first time in 20 years that Iran doesn't have one.

Unlike Libya, Iran has not invited American and other foreign engineers to come in and dismantle its nuclear facilities. Iran, under the JCPOA, is allowed to continue to enrich uranium, to continue nuclear research and development, to increase eventually the quality of centrifuges used for enrichment, and to continue to improve its technology for long-range ballistic missiles that have no purpose other than to deliver nuclear warheads.

As I mentioned, section 901(j) sanctions can be based on the country's support for terrorism, and it bears noting that when President Bush lifted them for Libya, the Qadhafi regime was showing that it was moving away from such support. The Iranian regime, however, appears intent on continuing to finance, arm, train, and aid Hezbollah and other terrorist organizations.

Chairman Roskam. Mr. Feith, so if you can just bring your remarks to a close now, and then we will have an opportunity to continue to engage.

Do you have like another paragraph or so?

Mr. Feith. Sure. What I would say in conclusion, is that the basic reason we have --

Mr. Crowley. Mr. Feith, just a moment. How much more do you have to read or go through?

Mr. Chairman, if you don't mind me asking.

Do you have a lot more to go through?

Mr. Feith. Well, I can end now if you would like.

Mr. Crowley. I am interested in hearing his full text if that is okay. If it is not prolonged, I would be interested in hearing it.

Chairman Roskam. I have got the capacity to foreshadow, and I think he has more to say than we have. So trust me on this.

Why don't you just wind it up, and we will get back. And we will have plenty of opportunity to have a discussion.

Mr. Feith. Sure. Thank you, Mr. Chairman.

There is an incentive that the Iranians had to enter into this agreement, was to lift sanctions and get the enormous economic benefits of potentially hundreds of billions of dollars for doing so. The incentive that the Obama administration had to enter into this deal changed.

Initially, the Obama administration aimed to end the Iran nuclear program. When it became clear that that was not achievable, the administration changed its goal without admitting as much. And its goal shifted from ending the Iran nuclear program to delaying it. And that is all they have managed to accomplish. And they can delay it only if the Iranians comply with the agreement. But it is not clear that the Iranians will comply with the agreement. It is not clear that we will be able to detect violations, and it is not clear that even if we detect violations, that we could do anything effective to enforce the agreement. And those are my main concerns about the situation that we find ourselves in.

Chairman Roskam. Thank you.

Chairman Roskam. Mr. Stethem.

**STATEMENT OF KENNETH STETHEM, CHAIRMAN & CEO, AEGIS INDUSTRIES, LLC**

Mr. Stethem. Thank you, Chairman Roskam, and Ranking Member Lewis for the opportunity to be here today and discuss the presidential authority to waive the antiterrorism provisions in the tax code with regards to Iran.

Before I start, I would like to recognize Representative Meehan and the others on the committee who supported H.R. 3457, the justice for victims of Iran terrorists. Thank you, sir.

The question of the day, my remarks can probably be distilled down to two or three questions. The first question is, will Congress side with Iran and their terrorist activities or with America?

I would like to give you all a brief introduction into my family, the Stethem family, which is a family of service. Between my father, my mother, and three brothers, we have 105 years in the Navy. I have got two brothers who served as Navy seabee divers, and one of my younger brothers, Robert, was the Navy diver that was killed on the TWA flight 847 in 1985 in Beirut, by Hezbollah terrorists which were sponsored by Iraq.

And I was fortunate enough to serve as a SEAL and as an EOD technician. I am here today for two reasons. The first is to discuss the provisions I mentioned earlier and why I think that supporting the antiterror provisions with respect to the tax code in regard to Iran is a sound policy.

The second reason I am here is duty and honor. My brother cannot be here, and many other victims cannot be here. So I would like to take a moment, a brief moment, and recognize my brother, the other victims of Iran terrorism, and also our fallen vets, and vets who sacrificed their lives and limbs in the war on terror.

Thank you. My experience with terrorism began in 1985. I have seen it on a personal level; I have seen it on a professional level, and I have seen it on a policy level for the last 30 years. During the highjacking in 1985, it was my, my family, and our Nation's really first huge terrorist incident that played out over TV and over CNN for a long period of time.

For those who don't know the story, I would just like to share it briefly. Basically, my brother was beaten and tortured, and dragged out front and asked to yell into a mike because Hezbollah wanted to refuel a plane and the amal militia didn't want them to leave; they were getting too much press. So Hezbollah said, we are going to kill -- told the tower, we are going to kill an American if you don't send out a truck. They put a gun to my brother's head, and they said, yell.

And he had already told one of his fellow teammates on the plane that was up there with him, we can't yell, because if there is a rescue attempt, the plane has to be on the ground. And John Testrake said it best, the pilot, when he said, he was beaten and not a sound was heard to come from him. He was shot and then just dumped on the tarmac as if his life had no value.

So I have seen terrorism on a personal level; I have seen it on a professional level, and I have seen it on the policy level. And I will just share a few things that I have learned along the

way. Terrorism must be fought on multiple levels simultaneously. Not sequentially, simultaneously.

And this fight, this strategy against terrorism, must be based on sound strategy. It must be based on sound strategy and not simply on a military action. There is an absolute truth in the military, goes something like this, military operations are only as good, effective, and successful as the political policies and strategies they support. Far too long our countries and our administrations have depended on the military for quick ops and quick success when it is sound policy that is needed for peace.

A common misconception among Americans is the opposite of war is peace, and this isn't true. The word "war" is an ancient German word. It means to confuse. When you make warfare, you make confusion on the enemy. The opposite of war is our word of war or aware. It is clarity. The opposite of confusion is clarity. The opposite of war is awareness. It is sound policy. It is clarity. Peace comes from clarity.

Look at World War II. The war didn't end and all of a sudden there is peace and prosperity. There was a Marshall Plan in Europe and we had another plan for Japan. The peace came -- for Japan, the peace came out of clarity of policy, and we don't have it today.

I have heard the comment made over and over again, Americans are tired of war. That is a projection. Let me tell you something, Americans aren't tired of war. I don't know any of my friends in the military that I served with, SEALs or not, they are willing to fight for freedom. I don't know how many American who doesn't want the military to fight for freedom. Americans aren't tired of war; Americans are tired of war that is not based on sound strategy, sound policy. Wars that are being fought to fight and not win.

Political strategies and policies against terrorism, they need to be simple, they need to be sound, they need to be sustainable, and there needs to be accountability.

I would just briefly mention in accountability, the topic of the JCPOA and the flagrant violations by Iran, there is no accountability. There has already been flagrant violations. There is no accountability. So how good is this policy? If the minor violations -- they aren't held accountable to by the parties, why do we think the major ones will be?

Specifically, on Iran and terrorism, everybody here wants peace. If we could have one thing, we would want peace. I believe that. The question I haven't heard asked since 1979, since the Islamic jihad was declared, and I just -- it blows my mind. I have never heard anybody ask Iran, the Ayatollah, are you still at Islamic jihad, a holy war, with the United States? That question hasn't been answered, because it hasn't been asked. And that is the first question that should have been asked before we started negotiating about nuclear power with them.

Americans have been asked to separate the nuclear issue from the terrorism issue. I would ask has Iran been asked the same? Has Iran renounced the Islamic jihad? Has Iran renounced their terrorist acts on the Beirut barracks bombing, on the TWA flight, on the USS Cole? Chairman, I am almost done. Thank you.

I believe, I strongly believe that separating the radical fundamentalist Islamic regime from their terrorist activities is like trying to separate heat from a flame or light from a candle. It can't be done. The failure of the current administration to develop a sound security strategy policy for the Middle East should not preclude Congress from developing one against this menace of mankind. The first step in developing a sound security strategy for the Middle East is asking Iran, are you jihad? Another one might be to actually define what war means and what combat means.

Congress has a great opportunity before it, and this subcommittee is laying the cornerstone. And if you miss this opportunity, it is going to be like shooting an arrow from a bow, and you are not going to be able to call it back.

In closing, I would like to share two quotes that resonate deeply within me. And they are as true and timeless as when they were first spoken -- today as when they were first spoken. The first one, "I love the man that can smile in danger, that can gather strength from distress and grow brave by reflection, since the business of little minds to shrink, but to he whose conscious approves his conduct will pursue his principles onto death." My brother pursued his principles onto death for everyone here.

The last quote is written on a plaque outside of his team in Virginia Beach: "We will always remember. We will always be proud. We will always be prepared so we can always be free." Thank you.

Chairman Roskam. Thank you, Mr. Stethem.

Chairman Roskam. Mr. Walsh.

#### **STATEMENT OF DR. JIM WALSH, RESEARCH ASSOCIATE, MASSACHUSETTS INSTITUTE OF TECHNOLOGY'S SECURITY STUDIES PROGRAM**

Mr. Walsh. Mr. Chairman, Mr. Ranking Member, members of the committee, it is an honor to be here with you today to discuss the implementation of the nuclear agreement with Iran and our P5+1 international partners.

In my testimony, I want to directly address the central question raised by this hearing: What are the policy implications of providing tax-related sanctions relief. For example, will such relief result in an increase in Iran State sponsored terrorism? Before addressing the issue of possible tax-related sanctions relief, it make sense to step back and consider the agreement itself and what it accomplishes.

My professional judgment is that this agreement is the strongest, most intrusive nonproliferation agreement ever negotiated. This positive assessment is not mine alone, but rather, shared by American nuclear weapons scientists, retired diplomats, including three former U.S. Ambassadors to Israel, and retired military officers. Support for the agreement has included a

broad and bipartisan cross-section of the U.S. national security establishment, including Republican national security luminaries, such as Brent Scowcroft and Colin Powell.

In addition, Israel's atomic energy agency and more than 40 retired Israeli defense and the government officials have endorsed the agreement, as well as, our European allies. This agreement reduces Iran's stockpile of uranium by 98 percent. It restricts Iran's enrichment levels. It reduces Iran's installed centrifuges by two-thirds and goes beyond the additional protocol, the current gold standard, for IAEA verification. This agreement provides for 24/7 monitoring of Iran's declared nuclear facilities and a first ever expedited procedure for investigating any suspicious undeclared facilities.

Many of its provisions, including snapback sanctions, are unprecedented. The agreement quadruples the number of inspectors over what had been operating in Iran prior to November 2013, and it is difficult to think of a simpler but more powerful measure of the difference that this agreement makes. If one were to ask virtually anyone, whether increasing the number of IAEA inspectors in Iran by 400 percent is a good thing? The answer would undoubtedly be yes.

With that in mind, I want to shift to the issue of tax related sanctions relief. And by way of background, it should be remembered that the U.S. imposes two broad categories sanctions on Iran, primary sanctions, are those that prohibit American individuals and entities from engaging in business with Iran. Secondary sanctions prohibit foreign individuals from interactions with Iran. This agreement provides relief primarily from secondary sanctions not primary sanctions. With limited exceptions, sanctions prohibiting American trade investment in Iran will remain in place for years to come.

Now let me focus on the policy implications of providing tax-related sanctions relief in particular. Based on a review of the evidence, I judge that even a full waiver of U.S.-owned -- a full waiver of tax penalties on foreign-owned subsidiaries as unlikely and ill-advised as that may be, will not, by itself, generate new trade or investment in Iran.

One, American primary and other sanctions will remain in force. In addition, the architecture created by CISADA and ILSA, particularly as it relates to money laundering, terrorism, and other issues, continues on the books and with enforcement.

Number two, few subsidiaries of U.S. companies will want to do business in Iran. American-affiliated companies are not welcome in Iran and the supreme leader has made that clear in his recent letter to President Rouhani. In addition, the recent arrest of an Iran-American businessman will further dampen interest by American firms and their subsidiaries.

Finally, let me address the broader issue of sanctions relief and terrorism. There is this larger critique offered by some opponents of the agreement suggesting that it will lead to an increase in state sponsor terrorism by Iran. In my judgment both the assumptions of this critique and its conclusions are deeply problematic.

First, the intelligence community has assessed that new funds will be devoted to rebuilding Iran's economy, not to terrorism. The L.A. Times reported that, quote, "A U.S. intelligence assessment predicts that Iran's Government will pump most of the expected funds into the country's slacking economy and won't significantly boost funding for militants," close quote.

Number two, Iran received some \$16 billion in sanctions relief during the 2 years of the interim nuclear agreement, yet, there is no evidence pointing to an upsurge in Iran state-sponsored terrorism.

Number three, the U.S. continues to enjoy a wide variety of tools to combat terrorism with or without an agreement.

Number four, no American wants Iran to support terrorism, to oppress human rights, or to engage in any number of those objectionable activities. But the only thing worse than Iran that does these things, is an Iran that does these things and has nuclear weapons. And absent sanctions relief, there will be no agreement, and Iran's nuclear program will be unconstrained.

In conclusion, this agreement represents a historic achievement that is arguably the strongest multi-lateral nonproliferation agreement ever negotiated. It will advance the national security of the United States as well as the security of our friends and allies for decades to come. And nothing related to tax-related sanctions relief alters that conclusion.

I thank the Committee for providing me the opportunity to share these views.

Chairman Roskam. Thank you, Mr. Walsh.

Chairman Roskam. And thank all the witnesses. It is obvious that you have more knowledge and more experience than we have time in your presentations, so it is our hope and expectation now to be able to engage in questions to you. And I will recognize Mr. Kelly.

Mr. Kelly. Thank you, Chairman. Thank you, all, for being here.

Mr. Stethem, thanks so much. I mean, there is an old saying that time heals all wounds. It is absolutely false. The wound may heal, but it leaves a deep scar that is there forever. Your loss and the show of patriotism and courage from your brother is incredible lesson for all of us to look at.

And I do appreciate people's concern over this. I will say one thing, I note there is nobody I think, that would ever opt for a war. But let me just read something from President Reagan that I think is pretty good on this subject. It says, now let's set the record straight, there is no argument over the joys between peace and war, but there is only one guaranteed way you can have peace, and you can have it in the next second. Surrender.

When we talked about the agreement with Libya, and now we look at in new Iran agreement, there is a huge difference between the two outcomes; is there not? I look now where there is -- we are sending billions and billions of dollars of American money over -- it is getting

distributed through Iraq into Iran's hands; a lot of it going to ISIS and other terroristic entities, there is just no doubt in my mind, they have already violated the agreement.

So, Mr. Dubowitz, Mr. Schizer, Mr. Feith, if you can, there is a huge difference right? I mean, the stark difference of this is the difference between day and night where you have one person, Qadhafi, who was ready then to say, okay, fine, we are going to give into this. And then you have the situation now where it is almost like we are the laughing stock of any type of a peace agreement, like yeah, we are going to go ahead and do what we want to do anyways. First of all, I don't believe you can ever have an agreement with anybody unless both parties agree that they want to get to a common end. Ours was to keep Iran from getting nuclear agreements, their purpose was to go ahead and progress on the path that they were on.

So it went from never getting to for sure getting them. If you can tell me, when it came to Libya, there were stark differences, and the behavior was completely different. What would make anybody think, just after a month or so of this agreement being signed that somehow this is going to have a positive effect? I don't get it. Is there something I am missing?

Mr. Feith, if you would.

Mr. Feith. Representative Kelly, I think that you are correct that there is a world of difference between the cases. One of the main differences is, it is clear from the history that led to Qadhafi's decision to get rid of his WMD. What happened was the United States had reacted to 9/11 in a fierce fashion. There was an intense commitment on the part of the U.S. Government to deal with the problem of countries that supported terrorism and pursued weapons of mass destruction. And what Qadhafi saw was that the United States had overthrown the Taliban regime in Afghanistan and had overthrown the Saddam Hussein regime in Iraq. The timing is quite significant.

Qadhafi, like the Iranians, wanted to get rid of the economic sanctions on his country. When he saw the United States taking that kind of military action, he became very fearful that he was next on the list. And the timing is quite interesting that Saddam Hussein was captured and appeared in his disheveled, humiliated state on international televisions, on televisions all over the world, on December 13, 2003. And it was 6 days later that the Libyan Government announced we are getting out of the WMD business, and Libya invited in the American and British inspectors to come in and --

Mr. Kelly. If I can, and I understand where you are coming from, but I think it really comes down to, Libya knew there were consequences if they didn't stop what they were doing. Iran has absolutely no respect for this agreement and doesn't feel any consequences from it, neither militarily or financially, so why should they follow the agreement? There is no reason for them to follow the agreement. I just would suggest that in any type of agreement, in any type of treaty that you come to -- this is not a treaty -- that if there are no consequences for bad behavior, and they have already violated this agreement, why in the world would they suddenly say, you know what, I think we will start going along with the intent of what was trying to be done.

From the very onset we have done nothing but give, give, give and they take, take, take. We talked about the people that have been held hostage. That never came into it. We talk about now they are testing missiles. They are not going to deliver care packages. They are delivering nuclear warheads. And there is absolutely no retribution for this. There is no consequences for this, so why in the world would we think that somehow, even as tax consequences, we have become so vanilla. We have become so soft. We have become so weak that nobody respects us anymore. Our friends don't trust us, and our enemies don't respect us. I would just suggest, and, Mr. Stethem, I got to tell you, what your brother did in that airplane is the America that I remember. That is the America that the world remembered. All of a sudden we are not that America anymore. We are an America that turns its back on its friends and encourages its enemies to go with bad behavior because there are absolutely no consequences at any level for any bad behavior on the Iranian side. This is absolutely pathetic.

Chairman, thank you for calling this meeting, but I will tell you what. The sanctions are fine. We should have increased them. We shouldn't have backed them off, and we should have demanded other concessions before we even sat down at the table with these people because they are not on the same page with us. Their objective is to wipe us out. It is not to come up with an agreement. Thank you.

Chairman Roskam. Mr. Lewis?

Mr. Lewis. Thank you very much, Mr. Chairman. Let me thank all of the witnesses for being here. Thank you and your families for serving. But I must tell you that I still believe that American people are tired and sick of war and violence. Peace is not the absence of tension and conflict. Peace is the presence of justice.

Dr. Walsh, thank you for being here. You are a native of Atlanta, and I want to welcome you for being here. Is there anything that you would like to add to your testimony or clarify for the record, for clarification, what you said or wanted to say?

Mr. Walsh. Thank you, Mr. Ranking Member, and thank you for calling attention to my Georgia roots. I would like to extend my remarks because I argued that this is the most robust and intrusive nonproliferation agreement in the 70 years of the nuclear age. And I included in that a comparison to the Libya agreement. I would like to spend a moment talking about Libya, if I may.

The Iran agreement is clearly more robust than the Libyan agreement, and I supported the Libyan agreement, by the way. The Libyan agreement had no snapback sanctions. It had no dedicated procurement channel. It had no IAEA access beyond the additional protocol, all of which are features of the Iranian agreement. Now it has been said that Libya dismantled what it had while Iran gets to keep some of its enrichment capability. And while I think that is technically true, it simply reflects the huge differences in the two circumstances.

The Iran agreement came and was negotiated after Iran built 19,000 centrifuges, almost half of which were built under the Bush administration. Libya's nuclear efforts consisted largely of boxes of centrifuge parts, not an industrial-scale centrifuge program. Obviously it is easier for a

country to give up what it wants rather than what it already possesses. The administration took Qadhafi's word that it would not reconstitute the program, start an undeclared program. The Iran agreement is not based on trust. It is based on verification. As we talk about human rights and terrorism and other concerns, it seems odd to me to point to the Libya agreement. It was just a few years after the Libya nuclear agreement, that the U.S. and its European allies were bombing the supposedly trustworthy and reformed Qadhafi because of allegations he was massacring his own people. Now as it stands, I still think it was a good agreement because it was better, as with Iran, to have a bad actor that is doing bad things but doesn't have nuclear weapons.

If we were going after Qadhafi as we did with our European allies, and he had had nuclear weapons, that would have been worse, but I don't know that I would cite the Colonel as a particularly good figure in support of trust rather than verification.

Now, I know you are getting which wildly different assessments of the agreement and predictions about what will happen in the future, and as a policymaker, I am sure that is hard to evaluate. Obviously you should look at the evidence. You should look at the history. Are there internal contradictions in the arguments we are making to you? Do we really get the history right? But I would say in addition to that, one way to judge who to believe and what to believe going in the future, is to look at the track record of the prognosticators, of us here. In the past, have we been accurate in our predictions of what would happen?

Take for example, predictions around the Joint Plan of Action, the interim nuclear agreement that preceded the JCPOA. Now we have had critics and some on this panel who said arriving at the interim agreement would lead to the collapse of sanctions, that the sky was going to fall, that all these terrible things were going to happen, and none of it did. Those predictions were wrong. In fact, many of the fiercest critics of the interim agreement found themselves 2 years later arguing it should be extended, rather than having an alternative comprehensive agreement.

So, again, it is fair to look at the evidence. It is fair to look at the logic, and it is fair to look at the track record of whether people have been right or wrong in the past about their predictions. So, let me pause there in case you have additional questions.

Mr. Lewis. Dr. Walsh, going forward, if Iran cheats or violates the terms of the agreement, can the United States and allies reimpose sanctions?

Mr. Walsh. Absolutely. I don't think people really appreciate the miracle of the snapback sanctions. At any point, any member of the P5 on the Security Council for any reason -- doesn't have to wait for IAEA; doesn't have to wait for anyone else. If the United States thinks that Iran is in material breach of the agreement, it goes to the Security Council and says Iran is cheating, and at that moment, bang, the clock starts. A 30-day clock starts ticking, and those sanctions snap back in 30 days unless the Security Council passes a resolution to extend them.

So you might say, well, maybe the Europeans or the Russians will try to extend that and prevent the snapback, and yet the U.S. has a veto power. That is the beauty of the new snapback sanctions. If Russia tries to block, the Chinese try to block, the Europeans try to block, our ability to reimpose sanctions, we veto it, and those sanctions take effect.

Mr. Lewis. Thank you, Dr. Walsh. I yield back, Mr. Chairman.

Chairman Roskam. Mr. Meehan?

Mr. Meehan. Thank you, Mr. Chairman. I don't know where to begin. The miracle or the myth of snapback sanctions is really the place that I would begin that inquiry, but that is not my line of inquiry right now. I have been struggling with a number of aspects of this, not the least of which is the recognition that in excess of \$100 billion worth of assets are ready to be returned to Iran in preparation for the conclusion of this agreement, most of which, again the myth that these are going to flow somehow to the government, which is largely run by the Quds Forces and the Iranian Guard to begin with, who are going to benefit from that, and we know it is going directly to terrorism.

So as opposed to sending excess dollars that are going to support terrorism around the globe, I also appreciate that as a matter of law, families like Mr. Stethem's, law created by this Congress who enticed the families like Mr. Stethem's to see some measure of justice to hold those countries accountable. And I found that there were 87 such lawsuits filed in Federal courts and an excess of \$46 billion worth of judgments against Iran directly associated to Iranian-sponsored terror.

Now let's begin with the fact of precedent. Mr. Feith, you were there in Libya in a similar situation when the congressional opportunity created by the Foreign Sovereign Immunities Act gave victims of the Lockerbie bombing the same opportunity. Prior to concluding that agreement, is it not accurate that you also negotiated that Libya would pay in full the reparations responsible for the terror created by Libya?

Mr. Feith. Yes, sir. In the period before the Libyans decided -- the Qadhafi regime in Libya decided to get rid of its WMD, it for several years tried to get out from under the economic sanctions by offering a compensation package to the families of the victims of Pan Am 103, and it concluded that arrangement. It is interesting that what happened was it concluded an arrangement with the families. The issue then went to the U.N. for the lifting of sanctions, and the position of the U.S. Government was we abstained on that resolution, to lift the economic sanctions from Libya, because we said that we were still troubled by Libyan support for terrorism and Libyan WMD, and so our position was very threatening to the Qadhafi Government.

Mr. Meehan. But the point was, we assured, that those victims were compensated before the conclusion of the agreement.

Mr. Feith. Right. But we didn't let them off the hook merely for that. In other words, we kept the pressure on, even when our pressure was successful to get them to compensate the families, we kept the pressure on.

Mr. Meehan. Mr. Dubowitz, it is a matter of law, and, again, that the families are entitled, including extensions of this under the Terrorism Risk Insurance Act and other things which gave us access to even more of these assets. Now, is this something that can just be unilaterally

overrun by the President because he reached an agreement, or are there requirements on the President with respect to certifications of Congress before this kind of agreement can be reached in violation of the congressionally mandated opportunities for victims like Mr. Stethem's families?

Mr. Dubowitz. Well congressman, unfortunately the President is using his national security interest waiver to unilaterally release this \$90- to \$150 billion that is sitting in these oil escrow funds in six countries. And money is going back to Iran. Not a dime is going back to the victims of Iranian terrorism. And I think it is quite an interesting conversation with Dr. Walsh here. The notion that somehow this Iranian regime is not going to be using this money for terrorism and hasn't been using the money that it has already received since the Joint Plan of Action for terrorism.

I think we have all noticed that there has been a massive expansion of Iranian terror activity and regional aggression in Syria led by Qasem Soleimani of the Quds Force. I mentioned the budget of 2015, 2016. President Rouhani is giving the revolutionary guards and the Quds Force a 50 percent increase in their budget. So the fact that he is anticipating all this money that is going to be coming and he is giving the revolutionary guards and Soleimani and the Quds Force a 50 percent increase.

Mr. Meehan. The point of it is though, that he has used this power without certifying why it is in the best interests of the United States to return \$100 billion to Iran to continue to pursue terror.

Mr. Stethem, let me just close my questions by asking you something very, very specific. Families like yours who are entitled to see some measure of justice, this isn't about the money. It is about the opportunity to see some measure of justice, and I know from my time as a prosecutor, every time a victim replays the circumstances in a courtroom, it is as if the incident happened fresh again.

Now this administration has explicitly stated that they continue to assure that they are going to do everything possible to assure that the pursuit of the rights of the victims are going to be taken into consideration. Do you believe this administration is doing that?

Mr. Stethem. No. I believe the administration has done a better job representing Iran and their terrorist ways than the American people. This isn't about the money. If I had to put my finger on what this is really about, this is about another family not going through a loss like our family had. This is about another American man, woman, child, being beaten, tortured, and blown up because we happen to believe in a different way.

I really do believe the administration has represented Iran better than it has represented American interests in the Middle East.

Mr. Meehan. Thank you, Mr. Stethem.

Chairman Roskam. Mr. Crowley.

Mr. Crowley. Thank you, Mr. Chairman. Mr. Stethem, you and I actually have something in common that is unwelcome. The fact is you lost your brother, and I remember the day your brother was assassinated or was killed, and I was heartbroken.

Mr. Stethem. My condolences.

Mr. Crowley. And my first cousin, you may know, was killed on 9/11. He was battalion chief in the fire department and he found himself in Tower 2. His last known words were, I want to try and make a difference. And unfortunately, the only problem we have is that we both know that America will continue to lose men and women, unfortunately, in the future in defense of freedom because we know there are enemies out there that want to take that away from us.

But I do appreciate that. My condolences to you and to your family and for the history of support to this great Nation, that they have lent to this great Nation, so thank you, sir, for your appearance today, and for your testimony.

Mr. Stethem. Thank you, sir.

Mr. Crowley. You mentioned specifically sound strategies, sound politics. Under Secretary Feith, I think it is fair to say that Americans have some questions about the strategies and the policies and, particularly your judgment, on the matters of war and peace. It is interesting that you are here today to talk about Iran because you are universally acknowledged as having been an important proponent of the war in Iraq. I know there is a difference between Iran and Iraq. One ends in N. The other ends in Q. In between there is an O and P, and I think that stands for oops. We made a mistake here. But having said that, you did that while serving in the Defense Department.

In your book you defend the decision to go to war in Iraq, and as late as 2008, you still were justifying the war in Iraq as a good decision, and you said, and I quote, "I think the President made the right decision given what he knew and given what we knew and to tell you the truth, even given what we have learned since," end quote.

Do you still really believe all that given the terrible cost of the conflict in Iraq, and was the decision to go to war and your prodding to go to war, the right thing to do?

Mr. Feith. I think the world is better off without the Saddam Hussein regime. The Saddam Hussein regime represented a serious threat to the United States and to our interests, and I think that after 9/11 when the President looked at the vulnerability of the United States that had been exposed on 9/11 and he looked at the nature of the Iraqi regime and the kinds of activities it was involved in, he came to the conclusion that after years of trying to deal with that problem --

Mr. Crowley. In the interest of time, I think the answer is yes. You believe that it was the right move to make. Is that correct?

Mr. Feith. I think the President made the right decision --

Mr. Crowley. I asked you, did you think, your terms, it was the right move to make. I take it by the answer the answer is yes. I can see that that is the same judgment with which you are approaching the deal with Iran. Under Secretary Feith, many people were deeply disturbed by the previous administration's attempts to play up the ties between Iraq and Al Qaeda. This was such a serious problem that the Pentagon's inspector general carried out a report of your office's work. The inspector general said your office drew, and I quote, "conclusions that were not fully supported by the available intelligence," end quote. They also said that your office, quote, "did not provide the most accurate analysis of intelligence," end quote, to senior decisionmakers. That sounds fairly serious considering what it all led to.

My question is, did you at that time do anything that was inappropriate in the run-up to the Iraq war? Yes or no? Do you think you did anything inappropriate leading up to the Iraq war.

Mr. Feith. No and --

Mr. Crowley. Mr. Feith, the Pentagon's inspector general specifically described the work of your office as inappropriate.

Mr. Feith. Mr. Crowley, you are not doing justice to the issues that you are raising.

Mr. Crowley. I have the time, Mr. Chairman. It is running out. I am asking you to answer the questions.

Mr. Crowley. Do you not agree with the independent Pentagon inspector general, yes or no?

Mr. Feith. No. And I wrote an article -- by the way if you are interested, I wrote an article in the Washington Post that addresses --

Mr. Crowley. Answer the question. No, and I am following --

Chairman Roskam. No, listen, you are controlling the time.

Mr. Crowley. I am. Thank you. Do you still believe today that Iraq and Al Qaeda were as close as implied at that time? Many Americans, most Americans, distinctly recall the administration making a connection between Al Qaeda and Saddam Hussein. Do you believe that was the case and still is the case?

Mr. Feith. As I have said, I believe that the best information on that was the information that ultimately the director of the CIA released in a letter to the Senate Intelligence Committee chairman.

Mr. Crowley. Mr. Feith, your office was responsible for the post-invasion planning of the Defense Department. Is that correct?

Mr. Feith. We were one of the many offices in the government that played a role in that.

Mr. Crowley. Do you believe you did a good job in post-invasion planning in Iraq? Do you believe you correctly anticipated the scale of the insurgency that would arise and last for so many years afterwards?

Mr. Feith. You are asking a question that is essentially an intelligence question, and my office is not intelligence.

Mr. Crowley. I am asking, do you believe that you foresaw and planned adequately for what would happen in the aftermath of the invasion of Iraq, that empowered not Iraq obviously, but Iran while we were sleeping, while the administration back then was sleeping, to further develop nuclear weapons?

Mr. Feith. It is a large question you are asking some of the planning was good. Some of the planning was less good.

Mr. Crowley. The failure to adequately plan for post-combat operations led directly to the chaos and instability that roils Iraq and the region today. You were one of the architects of our current chaos. Why should we have any confidence -- I know, Mr. Chairman, my time is just about up. Why should we have any confidence that you have any ability to accurately assess the situation in the Middle East today, given your track record in advocating maybe the biggest strategic blunder the U.S. has ever made, why should any American ever again follow your advice?

Mr. Feith. Calling it the biggest strategic blunder the United States ever made I think undermines your credibility, not mine.

Mr. Crowley. How is that, Mr. Feith?

Chairman Roskam. The gentleman's time is expired.

Mr. Crowley. No, no, Mr. Chairman. He questioned my character. So why is that, Mr. Feith?

Chairman Roskam. The gentleman's time is expired.

Mr. Crowley. Mr. Feith, why is that? Please, please, Mr. Chairman, you have to allow him to further that comment.

Chairman Roskam. Listen, he laid a --

Mr. Crowley. I would like to know why he thinks that falls on me.

Chairman Roskam. Mr. Holding?

Mr. Crowley. Mr. Chairman, with all due respect. He made an comment --

Chairman Roskam. Listen, I have got nothing but respect for you. Your time is expired. Mr. Holding? And we have gone well over.

Mr. Crowley. No, but you haven't gone nearly as over as you have with the other members, Mr. Chairman.

Chairman Roskam. Listen, the gentleman's time is expired.

Mr. Crowley. Mr. Chairman, Mr. Feith made a direct comment to me about my responsibility. I accept, but I would like for him to further explain what he meant by that.

Chairman Roskam. The gentleman's time is expired. Regular order. Mr. Holding.

Mr. Crowley. Thank you, Mr. Chairman.

Mr. Holding. Thank you, Mr. Chairman. I would like to draw our attention back to the tax provisions that we are discussing today which relate to Iran's support for terrorism. The Obama administration has made clear that the JCPOA only addresses Iran's nuclear activities and doesn't affect the ability of the United States to impose sanctions to address Iran's support for terrorism. So tax provisions, terrorism.

Now there are some who maintain, argue that the tax provisions have little impact on whether companies can invest in Iran because the sanction is still in place prohibit doing very much business with Iran. I want to dig just a little bit deeper. So Mr. Schizer, do you think it is correct that the current tax provisions impact whether companies invest in Iran in all circumstances.

Mr. Schizer. Absolutely. In fact, I can tell you because I know lots of tax directors at many multi-national companies, they are very focused on the details of the tax law -- it will not surprise this committee at all to learn that -- and the idea that the tax costs would be higher pursuing opportunities in Iran would have a very significant impact.

One of the points that I have made earlier is that there are ways in which this committee can consider strengthening those rules so that the deterrent would be even greater, but certainly these rules could be effective in many circumstances.

Mr. Holding. Now to the degree that the tax provisions are ineffective, do you think there are ways that we could strengthen these tax provisions to have a more meaningful impact on whether companies will invest in Iran, and how would you propose we do that?

Mr. Schizer. Absolutely. So I think one of the things we have to consider, is broadening the definition of the kind of income that is going to be picked up here. We wouldn't want people to make technical, very legalistic arguments about how they are making profits with Iranian customers, but it is not really in Iran. And that is very much a doable mission for this committee or for the Treasury.

I think another consideration is trying to sweep in foreign multi-nationals, because the truth is, these provisions at the moment really don't affect them very much. They effect American companies but not foreign companies. But this committee could propose legislation that would reach them as well.

Mr.  Holding . Indeed it is clearly within the orbit of this committee and with Congress that we could strengthen these provisions and say any company, foreign or domestic, considering their options in Iran, it has to have in the back of their mind, you know, will the tax laws change, and they can certainly change in a way that would be incredibly detrimental to their business activities in Iran. Correct?

Mr.  Schizer . Absolutely, sir. And the truth is, if you think about the calculation that a company could make, they could think well, we could make some money in Iran. It is a market that we might like to explore. But if there is a consequence in the U.S. market, that would vastly overwhelm any interest they would have in making profit in Iran because the American market is the largest in the world.

Mr.  Holding . Mr. Dubowitz, do you really think that it is clear the administration isn't going to allow the American companies to invest in Iran through foreign subsidiaries?

Mr.  Dubowitz . You are asking me, sir?

Mr.  Holding . Yes.

Mr.  Dubowitz . Congressman, I think it is actually clear that that is exactly what is going to happen, that foreign subsidiaries of U.S. companies are eager to do business in Iran, and as long as there is no U.S. person who is actually in the foreign subsidiary, and as long as that foreign subsidiary satisfies the specific regulations that OFAC lays out, then that foreign subsidiary will be engaging or will be permitted to engage not only in business in Iran, but business with the revolutionary guards and the supreme leaders, \$95 billion terrorist slush fund, which as I have been trying to emphasize, are the dominant economic players in Iran.

Mr.  Holding . But the laws could change?

Mr.  Dubowitz . The laws can change. I think the laws should change.

Mr.  Holding . You don't think that Iran is going to suddenly overnight become something other than the largest state sponsor of terrorism in the world, do you?

Mr.  Dubowitz . Well, there was a New York Times story just today actually which I thought was interesting from Thomas Erdbrink, who is the New York Times Tehran bureau chief; and the point of the story is to show that, in fact, post-deal Iran has become even more aggressive, even more anti- American. It is funding even more terrorism. It is cracking down even more viscerously on its own citizens. In fact, I see no indication that this deal is going to lead to the sort of transformative impact that many of the deal supporters believe.

And I would just say one other point. I know we don't want to get into the nuclear physics of this, but Mr. Walsh has talked about this at great length. Understand that the deal's restrictions are going set to expire beginning in 8 years time. Within 10 years, Iran will be able to install an unlimited number centrifuges in its Natanz enrichment facility. After 15 years, most of these restrictions will go away, and Iran will have a industrial-size nuclear program with near zero nuclear weapons breakout capability. That is the Iran you need to imagine. That Iran, in my estimation, is not going to transform into a moderate, responsible player.

Mr. Holding. Mr. Stethem, one quick question for you. Do you think the Congress should use the tax code to discourage investment in Iran?

Mr. Stethem. Yes. I think our administration, our Congress, our Federal Government, should use every means available in every way to fight them until, until we know the jihad is over or that regime is replaced.

Mr. Holding. Thank you for your resolve.

Chairman Roskam. Mr. Doggett?

Mr. Doggett. I yield 30 seconds and only 30 seconds to Mr. Crowley.

Mr. Crowley. Mr. Feith, will you please expound upon what you said to me at the end of your testimony. I believe you suggested was on me. Is that correct?

Mr. Feith. I said that I don't agree with you on your characterization of how --

Mr. Crowley. I appreciate that but, what do you mean by your last sentence when you said the responsibility is on me?

Mr. Feith. No, no. I didn't say the responsibility was on you. I said that the assertion that Iraq was the worst disaster in American history undermines your credibility.

Mr. Crowley. How does it undermine my credibility?

Mr. Feith. Because I disagree with you on your characterization of the --

Mr. Crowley. It has nothing to do with my credibility. You called into question --

Mr. Doggett. I reclaim my time.

Mr. Crowley. It is your judgment, Mr. Feith, is what is being called into question before this committee today.

Chairman Roskam. Mr. Doggett is recognized.

Mr. Doggett. Mr. Stethem, I honor your service as much as I completely disagree with your policy recommendations and honor your brother, and share the outrage that all of us feel at what happened to him. Indeed, I feel outrage about the lost lives of over 4,000 Americans from cherry picked intelligence from the Bush administration that led us into a totally unnecessary war in Iraq.

The scheduling of today's vote as an anniversary of the embassy takeover, like the scheduling of the vote on the Iranian nuclear agreement on 9/11, demonstrates that this is all about showmanship, not legislative draftsmanship.

Indeed it is the most slender of reed that even connects anything within the jurisdiction of this committee to the Iranian nuclear agreement. No President in American history has ever waived these provisions, no President other than President George W. Bush on one occasion. And to suggest that Mr. Obama is considering the waiving of these provisions, and that there is some intelligence to that effect is about like the quality of the intelligence, Mr. Feith, that you and Mr. Rumsfeld and Mr. Cheney relied upon to get us into the disaster in Iraq of which we are continuing to pay a very dear cost.

There is a serious earning-stripping, subsidiary abuse by multi-nationals, and, Mr. Chairman, if you are interested in exploring under existing law, since this committee won't do anything about that problem worldwide, if you want to explore what pharmaceutical companies in the United States can sell to Iran under existing law, whether they charge the Iranians lower prices than they do Americans and whether they paid a dime on their profits, I would be eager to join you.

But today is not about legislation. It is about catch up. It is about catch up because we have attempted -- we have had attempts to repeal the ObamaCare provisions 61 or 62 times, and we have only had one effort so far in the form of H.R. 3457 to repeal and undermine the Iranian nuclear agreement. And so today we are on that program. As with the attempts to repeal ObamaCare, there is much missing information. Where was the concern with the Iranian centrifuges when President Bush was the President? Fox News' own Chris Wallace finally got Dick Cheney to admit that when he was Vice President, Iran's number of centrifuges went up from zero to more than 5,000. That was the effective anti-Iranian policy of the last administration.

Mr. Chairman, there are over 4,000 American lives that have been lost, hundreds of thousands of lives of Iraqis, and over \$2 trillion in United States funds. I think an apology is called for. I would like to see an apology from those who forced us into that unnecessary war, jeopardized our economy, and continue to place the lives of young Americans in danger today because they engaged in the greatest foreign policy disaster in American history.

And if we can do a little before we use military force to secure our families, our allies, in Israel, and the rest of the world from an Iranian nuclear bomb through using negotiation rather than putting those young Americans on the line first before we have tried to use negotiation, we must do it, and that is why I so vigorously support efforts to fully and effectively implement this agreement rather than to see it undermined with stunts like today. I yield back.

Chairman Roskam. Thank you. Just to give you a little editorial feedback, today is no stunt. Today is an attempt to draw the attention of what is a possibility of the administration. So Chairman Ryan on September 22 wrote to the President and asked him the question, are you going to waive these things? And so there has been no answer.

And I understand the nature, the real difficulty that I have and I think that all the members on the committee have, of separating out the nuclear deal from the other terror activities, and it is very hard for us to keep these apart. And I think we have got to be disciplined in how we do it. It is not an admonition against anybody on the committee. These things tend to conflate.

But what our challenge is, and the effort before this committee is, how do these tax provisions relate? We are talking about huge commercial enterprises. And so, Mr. Doggett, I would rest easy if the President said I agree with you and I have no intention of waiving these things. And then, that would be a good thing. He has not said that. He has not answered the chairman of the Ways and Means Committee, now the Speaker.

And we can interpret that one way or we can interpret that another way. But I think that there is a real opportunity for us because what you have noticed is, there is nobody here that is defending Iran, nobody. There is bipartisan recognition that Iran is a bad actor killing people and being despicable. So since I used your name in debate, I will yield to you.

Mr. Doggett. Thank you very much. There has not been the slightest indication that this administration attempted to do what no other administration has ever done, what this administration has ever done, with the exception of the action of President Bush in Libya. I think if you want to explore what is being sold to Iran today by American pharmaceutical companies and others under exception, what they are charging, what they are getting, that is a legitimate line of inquiry.

But to have Mr. Feith, who has so much experience with intelligence, tell us he thinks the President might be considering doing something here that we have got to stop, well it is really a stretch. It is really unfortunate.

Chairman Roskam. Well, reclaiming my time. Reclaiming my time. It is not Mr. Feith that is making that assertion. It is the chairman of the Ways and Means Committee that is making that assertion, and we have not heard from the administration --

Mr. Doggett. Based on what? I mean, Mr. Feith says he might be considering it. What is the basis for this letter --

Chairman Roskam. -- to a letter from this committee.

Mr. Doggett. What is the basis for inquiring at all other than to thwart and undermine the agreement?

Chairman Roskam. Mrs. Noem is recognized.

Mrs. Noem. Thank you, Mr. Chairman. I think the chairman made several of the points that I wanted to make today as well. I don't understand why the President hasn't clarified for us exactly what his intentions are. I would think the security of the United States is in question with this agreement, and that is why as much clarity and light he can shed on the situation would be extremely helpful and help us rest easy, that we know which side we are on on this agreement.

And I guess under that kind of discussion, Mr. Dubowitz, I would like to ask you in particular, we know that Iran endangers Americans, abroad and here at home, and that their actions have been to spend billions of dollars to fund terrorism over the years. We know on this committee that the tax code can incentivize or disincentivize actions. That is what this hearing is about today. It is to talk about what provisions are in the tax code that can either be used to encourage Iran to take action or discourage them from taking action. And that can have a powerful impact on decisions that are made into the future. It can be a critical tool for punishing Iran's behavior.

When trying to modify Iran's behavior in the past, what works better, concessions, giving them concessions or giving them penalties for how their actions go forward? Mr. Dubowitz?

Mr. Dubowitz. Well, Congresswoman, first of all, thank you for redirecting the focus to what this hearing is about. I think you are exactly right in that we have got a track record, a bipartisan track record, of demonstrating that the use of sanctions, both nuclear and nonnuclear sanctions, have been very successful in actually getting Iran to agree to a nuclear deal. Whether you agree with the deal or not, the coercive tools that Congress, that you and your colleagues put in place primarily between 2010 and 2013, had a major impact not only on Iranian behavior but most importantly as you have identified, on market behavior.

And so these non-nuclear sanctions, which I included the tax provisions under, are actually a tool that the President has said he still has and will still use but is not using.

Mrs. Noem. And do you agree these sanctions are what actually brought Iran to the negotiating table?

Mr. Dubowitz. Oh absolutely. The Iranians were facing economic collapse in a severe balance of payments crisis in 2013 as a result of Central Bank sanctions, Swiss sanctions, oil sanctions, CISADA financial sanctions, that brought Iran to the table.

Mrs. Noem. So tell me what has happened since the deal has been finalized as far as concessions. Do we see a change in behavior by Iran? Do we see them complying with international law?

Mr. Dubowitz. Well, quite the contrary. We see them violating U.N. Security Council Resolution 1929 in testing a long-range ballistic missile capable of carrying a warhead.

Mrs. Noem. Have they been required to dismantle their missile systems or weapons systems at all?

Mr. Dubowitz. Well, certainly the agreement itself unfortunately doesn't deal with ballistic missiles. The administration promised it would, and then midway through the negotiation exempted that from the agreement.

Mrs. Noem. And then what has happened since then? Have they done anything to deal with their weapons systems, or do they remain intact?

Mr. Dubowitz. No. Their ballistic missile program, in fact, is expanding, and it is expanding in the direction of an ICBM program, which obviously from an Iranian perspective, they need an industrial-sized nuclear capacity on the enrichment side, they need a warhead, and they need a long-range ballistic missile and ICBM to have a full-blown nuclear weapons program. And they are able to proceed patiently down those three pathways in ways that I think are going to be of deep concern to all of us.

Mrs. Noem. So tell me about their change in behavior, if there has been any, as far as being a regional actor since the negotiations have been finalized.

Mr. Dubowitz. Well, Iran has increased its regional expansion. It is obviously implicated in substantial bloodshed in Syria, in Iraq, in Yemen. They are continuing to ship heavy weaponry to Hezbollah via Assad, and they are threatening our ally Israel. If anything, Qasem Soleimani, the Quds Force, and the Revolutionary Guards itself have become more aggressive and are going to be better funded in order to engage in that kind of regional expansion, support for terrorism and sectarian bloodshed.

Mrs. Noem. So are our allies in that region safer since the negotiations have been finalized?

Mr. Dubowitz. Well, certainly my assessment is no. Their assessment, as they have expressed I think publicly and privately, to Members of Congress is that they are deeply fearful of what this Iranian nuclear deal and more importantly Iran's regional breakout has actually meant for them.

Mrs. Noem. Thank you. I would firmly believe from what we have seen in Iran's previous behavior and their behavior today is that certainly concessions do not work to change their behaviors. Penalties, sanctions, certainly do. And that when we look at our tax code, that we should keep those kind of things in mind when we make sure that we are going to have an impact to keep our allies in the region safer and our people here at home safer as well. With that I will yield back.

Chairman Roskam. Mr. Renacci.

Mr. Renacci. Thank you, Mr. Chairman. I want to thank the witnesses for their testimony today. I also want to get back to the tax code and whether really the current tax provisions relating to Iran work, and whether they should be strengthened. Knowing that there are really two hammers here, one is that companies do not get the benefit of the tax credit; and, number two, they don't get the no deferral of their income.

Mr. Schizer, you said in your testimony that denying the benefit of deferral, which is the second hammer as I call it, is porous and suggests that it will be interpreted more broadly by the Treasury, so I kind of want to get into the weeds a little bit. Can you explain what types of investments and business transactions would likely escape the provisions if companies engaged in careful tax planning?

Mr. Schizer. Absolutely, Congressman. That is an excellent question. I think the ones that we are likely to catch under current law involve activities in Iran, drilling for oil, opening a factory there; but a great deal of economic activity won't involve that. If a company wanted to sell scientific equipment, for example, or other types of equipment and ship it into Iran, what they would then do is two strategies, neither of which I think are fully stopped by the law currently.

One would be to sell it to an intermediary, perhaps in Dubai, and then rely on that intermediary to sell it into Iran, and then that company would simply say we just made money in Dubai.

The other possibility is they could even ship it directly to Iran, but if the title passes in the Mediterranean before you get to Iranian territory, then the taxpayer could take the position that actually this money doesn't derive from -- the phrase is derive from Iran, and so the penalties don't apply.

I think technically this committee is very well positioned to change the relevant language to capture those activities. Treasury could do it through regulations also, but unfortunately under current law, taxpayers would have an argument that they could do that.

Mr. Renacci. It is interesting. It sounds like you could actually set up a shell company unrelated to yours and actually ship through that company and not have the effect of the deferral?

Mr. Schizer. Right. You could form a relationship with some independent entity in another country and rely on them to sell at a very small margin, so most of the profit remains with you, but as long as that agent wasn't in Iran, you could argue that this didn't apply.

Mr. Renacci. The other thing you talked about which I believe is important is, you testified that tax provisions only impact companies headquartered in the United States but not their foreign counterparts with U.S. operations, which does concern me. You know, we have to have a general level playing field. We don't want American headquartered companies at a disadvantage. Can you tell us what policies we might consider to level the playing field and impose negative tax consequences on more companies with U.S. earnings doing business with Iran?

Mr. Schizer. So the challenge here is that the U.S. does not assert tax jurisdiction over the foreign earnings of companies that are not incorporated in the United States. So we couldn't directly tax the profits that Siemens or a company like that was making in Iran.

On the other hand, they are earning lots of money here in the United States. We are emphatically permitted to tax that, and the point is we could introduce some added tax costs on their U.S. earnings as a penalty for the fact that they have economic activity in Iran, and that could involve

either a higher tax rate, or it could involve disallowed deductions. I think technically it could be done, and the focus would have to be on tax they would be paying to the United States anyway.

Mr. Renacci. And one other thing. In your testimony you talked about -- I am a CPA and I have done tax planning and tax counseling -- companies could shift a lot of their deductions on that income in Iran and actually reduce the penalty there too. You would agree with that?

Mr. Schizer. Right. And so really even if they admitted that the income was earned in Iran, if they were able to offset that income with deductions that they said were in Iran, then they would get to the same place of avoiding these penalties. And it is fully consistent with this committee's approach and our tax laws' approach to disallow deductions for activity that is public policy matter we don't like.

So you can't get a deduction for making a bribe. You can't get a deduction for penalties for violating the law. There are no deductions allowed for people who make their living selling illicit drugs. And in the same spirit, this committee and Congress could decide that they wanted to disallow those deductions as well.

Mr. Renacci. Thank you for your insights. I really believe this committee needs to continue to explore tax measures which discourage business with Iran while continuing, especially while Iran continues to fund terrorism. Mr. Chairman, I yield back.

Chairman Roskam. Thank you. Mr. Smith.

Mr. Smith. Thank you, Mr. Chairman. I definitely appreciate you holding this hearing today. This is clearly an important issue. Back whenever I was serving in the Missouri State House, I worked to pass some legislation that would prevent the State of Missouri to invest in countries that support terrorism. And Iran was one of the countries within that parameter.

We have heard a lot of testimony here today that the waiver of sanctions will especially help Iranian entities closely tied to the regime, including those supporting terrorism. It seems to me that the tax provisions are that much more important with this agreement.

And, Mr. Schizer, if the President were to waive these tax provisions, how would that impact companies looking to do business with Iran?

Mr. Schizer. The waiver of the tax provisions would eliminate the penalties that we have been describing. What it means is that when an American company pays tax to Iran, it can reduce its American tax dollar for dollar, by the amount of tax that it is paying to Iran. And a way to think about that is a transfer from the U.S. Treasury to the Government of Iran. To me that seems like an extremely unappealing proposition.

The other point is that American companies could then benefit from the same deferral that they now benefit from when they do business elsewhere in the world. But although we might have reasons why we want them to have that deferral when they do business in other countries, we

really shouldn't, I think, want to encourage this economic activity in Iran. So a waiver would eliminate the penalties that exist under current law.

Mr. Smith. So it would promote more companies doing more business in Iran, paying more taxes in Iran, creating more revenue for the Iranian Government, and the result, allowing more resources to help direct terrorism activities. Would you agree with that?

Mr. Schizer. It could, yes.

Mr. Smith. And it all comes from the cost to our taxpayers. Isn't it right that the foreign tax credits are paid from the Treasury?

Mr. Schizer. It is a way to reduce your tax to the Treasury dollar for dollar, so yes.

Mr. Smith. And a lot of people refer to these types of credits of the tax code as a subsidy by U.S. taxpayers. Do you agree that that is quite common?

Mr. Schizer. I think it is clearly a tax benefit.

Mr. Smith. Okay. Isn't it fair so say that if the President had waived these provisions, U.S. taxpayer would effectively be subsidizing Iranian-sponsored terrorism?

Mr. Schizer. Resources that otherwise would go to our government would end up going to their government, yes.

Mr. Smith. So subsidizing, using our resources to help another country?

Mr. Schizer. Uh-huh.

Mr. Smith. Especially a country who is not our friend. I would like to ask Mr. Stethem, what do you think about giving tax breaks for doing business with Iran, and also do you think that this kind of tax policy Americans expect from their government?

Mr. Stethem. So the first question you asked, what do I think --

Mr. Smith. About giving tax breaks for doing business with Iran?

Mr. Stethem. I would like to be clear to everybody on the committee. My first choice isn't war. It is peace. But you can't have peace unless the other side wants peace too. And I hate to keep beating this drum, but it needs to be beat.

Is Iran at Islamic jihad with us, a holy war or not? If they are, we fight them on every street on every corner in every way possible, in the banks, in the businesses, and if they want, on the battlefield. We do not advance to the rear. So I do support it. Your second question?

Mr. Smith. So, let me get this right. You said that you do support tax breaks to companies that do business with Iran?

Mr. Stethem. Excuse me. Excuse me, sir. No, I don't support the tax breaks. My apology. No.

Mr. Smith. Okay. So you would clearly think that this kind of tax policy is not the kind of tax policy that Americans would expect from their government?

Mr. Stethem. Our government should be representing the interests of America and Americans and not funding terrorists and not supporting companies that do business with state sponsors of terrorism.

Mr. Smith. I would agree. Thank you. Mr. Chairman.

Chairman Roskam. Mr. Dold?

Mr. Dold. Thank you, Mr. Chairman, and I certainly appreciate your leadership on this issue and for calling this hearing, and I want to thank our panelists for coming.

One of the things that I try to do is try to figure out what unites us. What do we agree on across the Congress, across our country? And one of the things is we want to make sure we are protecting our country. The other thing I think is, does anybody disagree that Iran is the greatest state sponsor of terror in the world today? Any of our panelists disagree with that statement? You are going to disagree that they are not a --

Mr. Walsh. I would say Pakistan and Saudi Arabia are competitors, but they are in the top three.

Mr. Dold. Okay. But we can certainly agree that Iran is a great sponsor of terror, and there is no question about it, and I would argue probably the greatest state sponsor out there and probably widely written on both sides of the aisle. I would argue that they are certainly plotting to kill Americans each and every day. They are funding terrorist organizations, Hezbollah and Hamas, Assad. And so really what we want to try to do is how do we stop the terror?

And Mr. Dubowitz, I know that you have written extensively, and the Supreme Leader Khomeini's public letter on October 21 stated that the imposition of any sanctions at any level under any pretext by any of the negotiating countries will be considered a violation of the JCPOA. Well, frankly, do you think that the Supreme Leader is going to abide by the JCPOA?

Mr. Dubowitz. It is an interesting question actually. If the Supreme Leader does abide by the JCPOA, then he has a patient pathway to a nuclear weapon. I think that he has an irresistible impulse to cheat, as he has in the past, so I think he will. I think he will cheat incrementally, perhaps not egregiously, but the sum total of those incremental cheating will be egregious.

Mr. Dold. Has Iran in previous agreements ever kept their word or ever abided by the agreement?

Mr. Dubowitz. Iran has a track record of nuclear mendacity which is decades long.

Mr. Dold. Obviously we are very concerned by the recent testing of the ballistic missile and that certainly puts not only our allies in the region, but I would argue all over the world at risk. And again taking a long range approach, and as we look at the tax provisions and the sanctions relief, do you doubt that Iran came to the table because crippling sanctions were in place?

Mr. Dubowitz. I have no doubt that was exactly the reason they came to the table.

Mr. Dold. And the sanctions relief that is going to happen because of the Joint Plan of Action, is roughly between, I think you have written between \$90 and \$120 billion. We have seen estimates of \$150 billion. Can you give me some sort of an idea as we look at that kind of how that is going to play out, and what do you think they are going to do with those resources vis-à-vis terrorism?

Mr. Dubowitz. That is just the upfront payment, \$90 and \$120 billion. Then Iran will be able to sell its oil in an unrestricted way. The IMF and World Bank predict that Iran's economy will grow about 5 to 6 percent in GDP annually, which compared to 2013 there was a loss of 6 percent. So the sanctions relief is far greater than the initial \$90 to \$120 billion in initial oil escrow release.

But to answer your second part of your question, there is no doubt. When you look at the Iranian open books budget, their transparent declared budget, they are going to give a 50 percent increase to the entity, the Revolutionary Guards, responsible for carrying out terrorism. So they have actually even signalled to us publicly that they are increasing terrorism, not to mention the off-the-books money of tens of billions of dollars that is sitting in these holding companies and shadow entities that they use to fund their terror techniques.

Mr. Dold. Can you give us some sort of an idea today how much Iran is sending in terms of liquid assets to Assad in Syria?

Mr. Dubowitz. So according to the U.N. Special Repertoire on Syria, the Iranian regime gave \$6 billion in cash in kind to the Assad regime last year.

Mr. Dold. And how much do you anticipate after sanctions relief will go to Assad?

Mr. Dubowitz. Well, certainly the Iranians have made it very clear that the survival of the Assad regime is their number one strategic priority in the region, so one would assume that there is going to be a double-digit increase in that.

Mr. Dold. So I guess as we look at kind of the increase of funding of terror, which again I would argue, puts Americans at greater risk. We have seen people that have been kidnapped in Iran as recently as just this week. You know, President Obama has repeatedly stated that he will continue sanctions on Iran for terrorism. Yet he has not indicated any support for increasing sanctions, particularly against the IRGC.

Can you give me some sort of an indication as people are looking at this saying why in the world would we not want to sanction Iran?

Mr. Dubowitz. Well, this is why this hearing is so critical because what you are talking about is the tax provision which effectively amounts to a nonnuclear sanction. And so you have got to basically today, you have got to call the supreme leader's bluff. He threatened 2 weeks ago that the imposition of nonnuclear sanctions on Iran would lead to the Iranians walking away from the agreement.

If we don't test the Iranians today, by imposing the nonnuclear sanctions that the President of the United States promised, the longer we wait, the more difficult it will be to impose nonnuclear sanctions to stop terrorism, human rights abuses, and ballistic missile tests. And so we have got to choose nonnuclear sanctions early on that will inflict cost on the Iranian regime, and we have to do it early because the longer we wait, the more difficult it will be. We will be self-deterred from using coercive measures to respond to Iranian aggression.

Mr. Dold. And Mr. Chairman, my time is expired, but I do welcome the opportunity to work with you all as we look forward on how do we make sure we hold them accountable. Thank you.

Chairman Roskam. Thank you. I just want to follow up, Mr. Dubowitz, on that point, and I think it is really important for the purposes of today, to take away sort of the some of the heat and the anxiety and sort of the discussion to get back to this crucial point. JCPOA as negotiated by the administration allows for nonnuclear sanctions. That is right, isn't it?

Mr. Dubowitz. Correct.

Chairman Roskam. Now in light of that, it is completely germane and completely appropriate for us as a committee based on our jurisdiction to be thinking, all right, what role do we play? And what we are saying is, look, we have posed this question to the administration, that is the committee has, and we have not heard from the administration about what the President's plans are as it relates to these two important provisions. That is, the foreign tax credit as it relates to Iran, and deferral as it relates to Iran.

So some people can interpret it one way. Some people can interpret it another way. In the words of my son, Steve, I am just sayin', and I am just sayin' that President Obama has done many things that no American President has done before, and simply because a President has not done something before doesn't mean that it is off the table for President Obama. Am I being reasonable in how I am looking at the world right now?

Mr. Dubowitz. Chairman Roskam, it is entirely reasonable and would have been a very simple response from the administration to Speaker Ryan's letter, which is to say, Mr. Chairman at the time, Mr. Speaker, we have said repeatedly that we will be using nonnuclear sanctions on Iran to respond to terrorism, ballistic missile tests, human rights abuses; and the tax provisions of the U.S. tax code are a nonnuclear sanction, and we will be using those, and we will be not waiving those. I mean that would have been a very simple answer.

I have to say from my professional assessment, I remain deeply concerned that the President will use nonnuclear sanctions to respond to Iranian misbehavior and illicit activity. And I think it is incumbent upon your committee and incumbent upon the U.S. Congress, to get a clear answer from the President and from the U.S. Treasury Department whether those sanctions, those nonnuclear sanctions, completely consistent with the JCPOA, will or will not be imposed.

Chairman Roskam. So I want to thank all of you today. I want to thank the panel of witnesses for your time and your expertise. Mr. Stethem, particularly you because it is obvious to all of us that walking this journey with us today churns up a lot within you, and because we value you and your brother's sacrifice and the journey that your family has gone through, it churns up a lot in us to see you reflecting this. So don't assume that that is lost on us today. And I just want to let you know I am very appreciative. Go ahead.

Mr. Stethem. Thank you very much, sir. I would like to say, thank the committee again, thank you; but I will tell you something. I am so fortunate to have been born into the family I was and the family I have, and nobody needs to feel sorry for our family because we are proud Americans who love to serve.

Chairman Roskam. Thank you. There is an audience today that is important for us, and I know I am speaking on my behalf. I wouldn't presume to speak on behalf of the entire committee.

Chairman Roskam. But to those companies that are contemplating a rush to do business with a terrorist regime. I urge caution, because I am telling you what, we are interested, and we are particularly interested in making it difficult to do that. And I think there are a lot of people in Congress that are going to try and extract a very high price for American companies or anybody else that is trying to do business and be complicit with the type of activity that robs the life of an American hero on and on and on and on.

If they just think this Committee's going to lay back and not be a challenge to that, they are sorely mistaken. So we are going to be looking at tax credits; we are going to be looking at deferral; we are going to be looking at the definitions within the tax code; we are going to work to build a bipartisan approach on this, because this is a donkeys and elephants issue. This is an issue where the majority of Congress should come together around this, and it is an issue that the administration itself has said in the JCPOA, these sanctions are fair game. And they are absolutely fair game, and we intend to be forthright about it.

And so unless some of these companies think they can just go in and make a quick buck and let the Iranians get more money, they are going to have a lot of conflict on their hands. So on that happy note, I yield back.

And all members are given the requisite number of time to submit written questions to be answered later in writing. Those questions and your answers will be made part of the formal hearing record. And with that, the meeting is adjourned.

[Whereupon, at 12:06 p.m., the subcommittee was adjourned.]

**Public Submission for the Record**