

WebMemo



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The U.N. Should Pay What It Owes the U.S. from Its Tax Equalization Fund

Brett D. Schaefer

The United Nations reported that, as of December 31, 2009, it was holding nearly \$180 million owed to the United States from the U.N.'s Tax Equalization Fund (TEF). The report indicated that the U.S. had not been repaid because it had failed to instruct the U.N. on how it wished to dispose of those funds. The U.S. mission should demand that the excess assessments on the U.S. for the TEF be returned or, at the very least, credited to U.S. assessed contributions for 2011.

Furthermore, considering the excessively large overcharges for the TEF in recent years, the U.S. should demand that the process for calculating the withholding for the TEF be revised to reduce discrepancies between income and expenditures resulting in the accumulated surplus owed the U.S. Finally, Congress and the Administration should look into the need for the TEF and consider changes to U.S. tax policy toward U.N. earnings.

The Tax Equalization Fund. The 1946 Convention on Privileges and Immunities of the United Nations¹ states that officials and employees employed by the U.N. shall “be exempt from taxation on the salaries and emoluments paid to them by the United Nations.” Most member states of the U.N. abide by this provision and exempt their citizens from paying taxes on U.N. compensation. When ratifying the convention, however, the U.S. reserved the right to tax the earnings of its nationals paid by the U.N. and the other international organizations (IO) in the U.N. system.²

The U.S. and the U.N. recognized that this situation “penalized” U.S. nationals by paying them a *de facto* lower salary than other U.N. employees that were not taxed by their governments and, therefore, could discourage U.S. nationals from working at the U.N. To overcome this, the U.N. adopted a complex scheme “whereby the United States taxes IO salaries, the IO refunds the taxes paid by U.S. employees, and the United States reimburses the IO for such amounts through bilateral tax reimbursement agreements and tax equalization funds.”³ The net intended effect is to equalize the net pay of U.N. employees despite disparate national tax obligations.

The account created to handle these charges and credits in the U.N. is called the Tax Equalization Fund.⁴ U.N. financial regulations and rules state that TEF “revenue shall be used to refund staff members for income taxes levied by Member States in respect of their United Nations remuneration.”⁵

In practice, this is financed through a deduction from the salaries for all U.N. staff—called a “staff assessment”⁶—of which a portion is credited to the TEF. These salaries are, of course, financed by member state contributions to the U.N. Based on how much member states are charged for U.N. budgets,

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the TEF is apportioned and credited to all U.N. member states. The U.N. member states that do not charge taxes on the earnings of U.N. employees have that credit applied directly against the amount that the U.N. “assesses” them for its budgets, which in turn lowers the amount that they have to pay each year. Member states that tax U.N. earnings, like the U.S., have the amount of tax receipts from U.N. earnings debited against their base TEF credit. The balance is supposed to be applied to their U.N. assessments.

Shifts in U.N. employment and modification of tax laws can result in over- or undercharges. If adjusted periodically to reflect these changes, the variation should be minimal. For instance, the State Department noted in 1993 that “overpayments in 1992 were \$8.1 million. However, in some years there have been underpayments. The net increase in the fund balance from 1983 through 1992 was \$8.3 million.”⁷ The amount over this period (less than \$1 million per year between 1983

and 1992 on average) was relatively minor when compared to overall U.S. assessments and evidently did not concern the U.S.

In 1993, however, “accumulated overpayments in the UN tax equalization fund [were] \$32.2 million.”⁸ The report found this overcharge, inconsistent with past experience, unacceptable and informed that U.N. that the overcharge would be credited toward America’s assessment.

Applying credit from the TEF to the U.S. regular budget assessment was standard practice in the 1990s.⁹ This has changed in recent years, however. A U.N. 2006 financial report stated, “At the end of 2005, the residual balance due to the United States [for the TEF] increased to US\$ 97 million.”¹⁰ According a 2010 financial statement, the U.N. retained a “cumulative surplus for the United States of America [from the TEF] at the end of biennium 2008–2009 amounting to \$179,010,326” that was “payable to the United States of America pending instructions as to its disposition.”¹¹

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3. U.S. Department of State and U.S. Information Agency, “DOS09: Change UN Administrative and Assessment Procedures,” at <http://govinfo.library.unt.edu/npr/library/reports/STATE9.html> (November 8, 2010).
4. General Assembly Resolution 973 (X) of December 15, 1955, at <http://www.un.org/documents/ga/res/10/ares10.htm> (November 8, 2010).
5. United Nations, “Financial Regulations and Rules of the United Nations,” May 9, 2003, pp. 17–18, at <ftp://ftp.unon.org/dewaftp/ASU%20Documents/RULES,%20CIRCULARS,%20PROCEDURES,%20POLICIES/Finance/UN%20Financial%20Rules%20and%20Regulations.pdf> (November 8, 2010).
6. Field Service Staff Union, “Staff Assessment Explained: A Clarification of Staff Assessment by the ICSC,” December 18, 2000, at http://www.fsu.unlb.org/docs/related_documents/staff-assesmt-explained.pdf (November 8, 2010).
7. U.S. Department of State and U.S. Information Agency, “DOS09.”
8. *Ibid.*
9. “In addition, the Committee is puzzled that the budget does not include a tax equalization fund reduction that previous budgets have included. The Committee understands that the Department is attempting to work with the U.N. to come to an agreement on principles governing tax equalization, but does not understand why the U.S. would pay more than it thinks it owes.” See U.S. House of Representatives, “Departments of Commerce Justice and State the Judiciary and Related Agencies Appropriations Bill, Fiscal Year 1999,” Report 105–636, 105th Congress (2d Session), July 20, 1998, at <http://www.gpo.gov/fdsys/pkg/CRPT-105hrpt636/pdf/CRPT-105hrpt636.pdf> (November 8, 2010).
10. United Nations, “Regular Budget Assessments Outstanding at 31 December 2005,” at <http://www.un.org/reform/consolidated2005/pdfs/analysis.pdf> (November 8, 2010).
11. Report of the Board of Auditors, “United Nations Financial Report and Audited Financial Statements for the Biennium Ended 31 December 2009,” pp. 119–120, 149, at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/468/08/PDF/N1046808.pdf> (November 8, 2010).

The 2010 U.N. financial statement shows that income from staff assessments for the Tax Equalization Fund arising from U.S. contributions to the U.N. budgets was \$216.3 million dollars. Expenditure arising from reimbursing U.N. staff for U.S. taxes was \$162.5 million. Thus, the U.N. overcharged the U.S. for the TEF by more than \$52 million in the 2008–2009 biennium.¹² This TEF overcharge is far beyond what was considered objectionable even during the Clinton Administration.

What the U.S. Should Do. This financial situation raises the question of why the U.S. mission has not provided instructions on how to dispose of nearly \$180 million owed to U.S. taxpayers. Considering the U.S. budgetary situation, Congress and the Administration should ensure that U.S. tax dollars are not squandered.

The U.S. mission to the U.N. should demand that the excess assessments on the U.S. for the TEF be returned or, at the very least, credited to U.S. assessed contributions for 2011. This is consistent with past U.S. practice and with the Financial Regulations and Rules of the United Nations, which state that “any balance on a Member State’s tax equalization account [TEF] after the obligations referred to in regulation 4.11 have been satisfied shall be credited against the assessed contributions due from that Member State the following year.”

The U.S. mission should request that the basis for TEF charges be revised to eliminate unnecessary surpluses. The purpose of the TEF is not to provide the U.N. with extra resources for its programs but to deal with a specific tax issue impacting staff compensation. An adjustment should be made to minimize the discrepancies between TEF income and expenditure. The U.S. should urge the U.N. to reexamine current practices that have contributed to the dramatic excess in income for the TEF in recent years and propose a reduction in the staff assess-

ment to eliminate these overages.¹³

Congress and Administration officials should confer to determine if the current practice of taxing U.N. employee earnings justifies the complex process created by the TEF to equalize U.N. wages. In 1993, the State Department recommended that Congress amend the federal tax code to “make U.S. personnel salaries received from IOs tax-free and eliminate the need for the complicated taxing and reimbursement procedures currently used.”

The report went on to explain that the TEF is overly complex and “produces no net gain for the United States. Any tax collected from U.S. nationals is offset by payments made to the IOs under tax reimbursement agreements or through tax equalization funds. . . . Additionally, there are administrative costs involved in monitoring and reviewing the reimbursement claims and in reimbursing the IOs. There is also the opportunity for fraud and abuse through devices such as amended tax returns.”¹⁴

Congress took no action on this proposal. With nearly \$180 million in TEF surplus funds owed to the U.S. being susceptible to fraud and abuse and with overcharges by the U.N. becoming larger, reevaluation of this issue is merited.

Scrutinizing the U.N. Budget. Allocation of, and accounting for, U.N. financial resources are of particular importance to the U.S., which is the U.N.’s largest contributor. The U.N. has retained funds owed to American taxpayers both with the TEF and with the cash surpluses from closed peace-keeping missions.¹⁵ Together these funds involve hundreds of millions of dollars. The U.S. Congress and Administration officials, as stewards of U.S. taxpayer dollars, should be vigilant in scrutinizing the U.N. budget to guard against impropriety and waste and insist that the U.N. abide by its financial regulations and rules and reimburse and repay the U.S. the amounts it is owed.

12. *Ibid.*, pp. 148–49.

13. The U.N. International Civil Service Commission is charged with analyzing this issue and making recommendations on adjustments to the staff assessment.

14. U.S. Department of State and U.S. Information Agency, “DOS09.”

15. Brett Schaefer, “The U.N. Should Stop Ignoring Its Financial Regulations and Pay Its Debts to the Member States,” Heritage Foundation *Background* No. 2484, November 1, 2010, at <http://www.heritage.org/Research/Reports/2010/10/The-UN-Should-Stop-Ignoring-Its-Financial-Regulations-and-Pay-Its-Debts-to-the-Member-States>.

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