

In early 1974, the junta blessed the arrangement by sending Julio Duran to deliver a keynote speech before the exile community in Miami. Duran, Chile's delegate to the U.N. General Assembly and a leading figure in *Patria y Libertad*, promised the exiles that henceforth, Chile would support their cause.

The exiles, most of whom the CIA had abandoned because of periodic policy changes and the fallout from Watergate, became the junta's adopted sons. The junta and the exiles shared the same enemies and ideology. Chile, not the United States, was dedicated to the overthrow of Castro; Chile, not the United States, was now the hemispheric leader in the struggle against international communism; Chile, not the United States, was willing to use terror as a routine tool of policy. The exiles had new parents, and, judging from the frequency of their visits to Chile, a new home. In 1975 Brigade 2506, composed of Bay of Pigs veterans, awarded Pinochet its "medal of freedom."

According to Carlos Rivero Collado, from 1974 to 1976 the Cuban exile terrorist groups, with Chilean moral and material aid, launched a number of violent attacks in and out of this country. Their targets included not only the Cuban Revolution but some of their newly defined enemies in the United States. In one incident, Emilio Millan, a Miami-based Cuban exile, who advocated détente with Cuba, had his legs severed when a C4 bomb exploded in his car, the identical method used later to eliminate Letelier. (For details of atrocities committed by Cuban exiles in the recent past, see "Miami, Haven for Terror," *The Nation*, March 19.)

Our evidence indicates that a high-level DINA agent landed in Miami on September 13, 1976, and met with a group of Cuban exiles who had already been alerted that a "contract" was in the offing. The DINA agent worked out the details of the Letelier assassination with four young terrorists noted for their daring and coldbloodedness. Having secured a plastic explosive and a detonating device, they departed for Washington. There they met with DINA agents, posing as Chilean officials, stationed at the Chilean Embassy. The Washington-based operatives briefed the exiles on Letelier's habits, his car description, daily departure times, route to work, parking location, and probable work schedule at the Institute for Policy Studies during the following week.

The next afternoon, Justice Department sources confirm, a group of Cubans made an official call upon their Chilean Ambassador, Manuel Trucco, to "protest" the extradition of Rolando Otero, a fellow Cuban exile, from Chile to the United States, there to stand trial for bombings in the Miami area. This visit to the Chilean Embassy could serve in the future, should it be necessary, to explain their presence in Washington.

Upon leaving the Chilean Embassy, they probably drove to an alley behind the Institute for Policy Studies, where Letelier routinely parked his car. The explosive was taped to the I-beam of the car, under the driver's seat, for maximum impact. The car may have been driven to test whether the plastic would remain in place. Just the day before a set of Letelier's car keys had been stolen from his office and when Letelier arrived at the car at 8:30 that evening, one of his companions pointed out that the right front door was ajar. He shrugged it off, saying, "Oh, I must have gotten out on the wrong side today."

The next morning Letelier drove to National Airport, parked his car for the day, and took an Eastern shuttle to New York. He returned on Saturday for a party at his house to celebrate Chilean Independence Day.

Monday, the day before the assassination, Letelier worked at his office. At the end of the day, he phoned Isabel, his wife, confirming a dinner-work engagement at home

for that evening with Michael and Ronni Moffitt. When Moffitt discovered that his own car would not start, Letelier phoned again explaining that the Moffitts would drive with him. They stayed until midnight, and then drove Letelier's car to their own home, it being agreed that they would pick him up and drive to work together the next morning.

At 8:45 Tuesday morning, a Latin woman walking in front of Letelier's residence noticed a late-model gray sedan parked near the Letelier driveway. Three occupants sat inside and one man stood by the car. She identified him as "certainly a Latin," about 30, wearing a gray suit and tie. The four appeared to be enjoying an "inside joke," she said.

At 8:55 the Moffitts arrived in the Letelier car, and pulled into Letelier's driveway. Engaged in conversation, they did not notice any other vehicles nearby. As soon as they entered the Letelier residence, one of the group of four must have crawled under Letelier's car and attached the detonating device to the plastic charge—a procedure that requires only seconds.

At 9:15, Letelier, Ronni and Michael Moffitt left the house and began the drive from Bethesda to the District of Columbia. Letelier took the route he always drove—River Road to 46th to Massachusetts Avenue. They talked about the day's business and the dreary weather. No one paid attention to a gray sedan trailing them at a "safe" distance.

As Letelier entered Sheridan Circle, a hand in the gray car depressed a button. Michael Moffitt heard the sound of "water on a hot wire" and then saw a "white flash." Thrown clear of the explosion, Moffitt tried to free the unconscious Letelier from the wreckage on top of him. His legs had been snapped from his body and catapulted some 15 feet away. Ronni Moffitt stumbled away from the smoldering Chevrolet; she seemed to be OK, but in fact had suffered severed artery and soon bled to death. Michael screamed out into the world, "The Chilean Fascists have done this."

This reconstruction of the assassinations, based upon evidence gleaned in six months of probing and with some educated guessing, is supported by what we know of FBI findings. In crucial areas, our conclusions and those of the Justice Department match exactly: a DINA official, himself under orders from "above," ordered and supervised the "hit"; Cuban terrorists carried it out; plastic explosive was the murder instrument.

Most of the FBI and Justice Department officials investigating the murders have made a concerted effort to bring the perpetrators to the bar of justice. At the same time, other agents inside the government have leaked material from Letelier's briefcase, seized by the police as potential evidence at the time of the explosion. The leaked material first appeared on the desks of several officials of the Inter-American Development Bank, where Letelier had served for many years. Next, the briefcase material was given to newspaper columnists Jack Anderson and then to Evans and Novak. The columns which these men wrote attempted to discredit Letelier and divert attention from the actual killers—General Pinochet, the Chilean junta, the DINA and their Cuban exile hit men.

The names of most of the killers, their motives, and their *modus operandi* are now known to the Justice Department. What remains are the more fundamental questions: will the U.S. authorities be allowed to gather sufficient evidence to bring the killers to trial? Will they name General Pinochet and other ruling junta members who ordered the assassinations? And will the role of U.S. intelligence and defense agencies, which had previously trained junta leaders, DINA agents and the exiles, be revealed in full?

THE SUNSET ACT OF 1977

Mr. GLENN. Mr. President, the Sunset Act of 1977 is now being evaluated in hearings before the Subcommittee on Intergovernmental Relations of the Governmental Affairs Committee. Senator MUSKIE, who has been the leading advocate of sunset legislation, is chairman of this subcommittee.

In working with Senator MUSKIE on this legislation, I have been particularly concerned that it include sunset provisions for tax expenditure as provided in title IV.

At today's hearings, Senator EDWARD KENNEDY appeared as a witness in favor of the Sunset Act, and particularly in favor of title IV, the tax expenditure portion of the act.

His statement was such an excellent treatise of the whole concept, Mr. President, that I ask unanimous consent that it be printed in the RECORD, and hope it will receive the careful, and I hope favorable, consideration it deserves.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TESTIMONY OF SENATOR EDWARD M. KENNEDY, TAX EXPENDITURES AND S. 2, THE SUNSET ACT OF 1977, SENATE SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

I am pleased to have the opportunity to appear before this Subcommittee and to testify on S. 2, the Sunset Act of 1977.

I regard the sunset concept as one of the most imaginative and innovative approaches to government reform that has been proposed in many years, and I especially commend Chairman Muskie and the other members of this Subcommittee for their efforts to bring this issue before the Senate. I pledge my full support to achieve enactment of this important new building block in the structure that Congress is gradually creating to establish more rational and effective Congressional oversight of the federal government in general and the federal budget in particular.

In my testimony today, I do not propose to deal with the general issues involved in the sunset legislation as it applies to direct federal spending programs. This Subcommittee has studied these issues in depth, and the current hearings will help to refine them even further for action by the full Senate in the coming weeks.

Rather, I wish to direct my comments to one particular aspect of the bill—the critical necessity that the sunset legislation should treat tax expenditures and direct outlays in the same fashion.

Failure to include tax expenditure programs in the sunset legislation would mean that a significant portion of the total federal budget would remain outside the process of regular congressional review and evaluation of federal subsidy programs.

The sun does not only rise and set on direct expenditures. The sun also rises on tax expenditures. And that same sun must also set on tax expenditures, if the Sunset Act is to reach its goal.

In understanding the need to apply the sunset concept to tax expenditures and the mechanics of implementing that concept it is useful to review briefly how the tax expenditure concept developed and the present state of knowledge concerning the tax expenditure process.

DEVELOPMENT OF THE TAX EXPENDITURE CONCEPT

In the 1960's, work in the Treasury Department demonstrated that the federal tax system is composed of two separate and quite distinct components.

One component—which is the structure most people have in mind when they think of the tax system—consists of the rules necessary to raise and collect taxes. These rules set forth the standards for defining net income, the rates of tax, the annual time periods within which taxes must be paid, the persons and groups required to pay the tax, and the administrative provisions necessary to implement and collect the taxes. These are the basic provisions necessary to establish and maintain any type of income tax system—the so-called “normal” or “structural” part of the system.

But there is a vast number of other provisions in the Internal Revenue Code that do not play any part in defining this “normal” income tax structure. In contrast, these other provisions are measures added by Congress to the Internal Revenue Code to achieve non-tax goals of the federal government.

These goals were numerous and of obvious concern to government. They included better health care, stimulation of investments in machinery and equipment, encouragement of gifts to charitable organizations, incentives for home ownership, inducements to drill for oil and other natural resources, and many other worthwhile objectives. But these goals are not tax goals of the federal government. They are spending goals, and the funds involved are federal subsidies as surely as any direct outlay program involves a federal subsidy.

Accordingly, in the annual report of the Secretary of the Treasury in late 1968, these non-tax subsidy provisions contained in the Internal Revenue Code were finally identified and quantified by Secretary of the Treasury Joseph Barr, who presented the first tax expenditure budget.

In that budget, the numerous spending provisions in the Internal Revenue Code were treated as the functional equivalent of direct outlay programs. That is, these special provisions were viewed as a mechanism by which Congress collects, authorizes and appropriates funds for the objectives set forth in the various provisions. Viewed in this way, each tax spending program could be identified and assigned to the same budget category as related direct outlay programs in the regular budget.

In each subsequent year since 1968, a tax expenditure budget has been prepared by the staff of the Joint Committee on Taxation, working with the Treasury Department and, in recent years, with the Congressional Budget Office.

The identification of these tax provisions as the equivalent of direct outlay programs has proved to be a crucial turning point in our understanding of the total budget picture and the universe of Federal spending programs. As the tax expenditure budget makes clear, when Congress decides to provide financial incentives or support for a particular goal, it always has a choice between two methods:

It can provide the needed financial aid through direct outlays, using the traditional authorization and appropriations process.

Or, it can use the tax expenditure route, in which the authorization and appropriations processes are telescoped into a single action within the House Ways and Means Committee and the Senate Finance Committee. In some respects, tax expenditures are analogous to permanent appropriations or entitlement programs, which are also especially troublesome aspects of the budget because they too short-circuit the crucial authorization-appropriation process.

USES OF THE TAX EXPENDITURE BUDGET

The realization that Congress can write any spending program either in the form of a direct outlay or in the form of a special tax provision makes it obvious that Congress

must apply the same tests to tax expenditure programs as we already apply to direct outlay programs.

Thus, whether the issue is a tax expenditure or a direct expenditure, Congress must satisfy itself about the following questions: Is there a need for any federal spending program at all?

If there is a need, what form of federal spending program most effectively meets the need—such as direct grants, loans, or loan guarantees on the one hand, or tax subsidies on the other hand?

What standards and limitations are required to insure that the program is equitable and that its benefits outweigh its costs?

If these questions are addressed legislation can then be written using either a direct outlay program or a tax expenditure program that reflects the answers Congress has given to the questions.

The problem is that Congress has yet to develop a set of rational criteria for determining when to use a direct outlay or a tax expenditure approach to achieve a particular federal goal. A major cause of the problem is the structure of the committee system in Congress. There is virtually no coordination in this respect between the tax-writing committees and the other standing committees, even though both types of committees are addressing the same national problems and both types of committees are proposing ways to spend federal dollars to solve them.

Although the Senate Committee system reorganization resolution passed earlier this year did not deal with this basic flaw in the present system, it is only a question of time before Congress, faced with irresistible budget constraints, will have to develop adequate methods to coordinate tax spending programs and direct spending programs.

The basic understanding that tax expenditure programs can be structured and analyzed in the same manner as direct expenditure programs carries with it important implications for the budget process. For example, the tax expenditure budget makes clear that if Congress does not exercise the same oversight over tax expenditures as it exercises over direct outlays, the budget process is simply out of control. Accordingly, the Budget Reform Act of 1974 required the President to submit a tax expenditure budget along with a direct outlay budget for each fiscal year. In addition, procedures were set forth in the Budget Reform Act to insure that Congress would exercise its oversight responsibility over tax expenditures in a manner similar to its responsibility over direct outlays.

GROWTH OF THE TAX EXPENDITURE BUDGET

The tax expenditure budgets have also revealed, however, that we still have a long way to go before Congress brings tax spending under the same control that we have achieved with respect to direct spending. When Secretary Barr presented his first tax expenditure budget in 1968, tax expenditures totaled some \$44 billion. For fiscal 1978, the joint tax committee staff estimates show a tax expenditure budget of \$124.4 billion. The tax expenditure budget in the past decade, therefore, has grown by over 180%. By comparison, direct outlays in fiscal 1968 were \$178 billion. President Carter has submitted a direct outlay budget for fiscal 1978 of \$459 billion, a growth of “only” 160% over the past decade.

Obviously, if we are concerned about runaway federal spending in the direct budget, we also have to be concerned about runaway federal spending in the tax budget. Often, however, it turns out that those who call the loudest for restraint in direct spending programs are the biggest spenders when it comes to spending through the tax laws.

The current sorry state of Congressional control over tax expenditures is more the result of historical accident than logic or

intent. The late recognition of the reality that large numbers of provisions in the Internal Revenue Code are actually spending programs has meant that the basic established Congressional review procedures are seldom, if ever, applied to tax expenditure programs.

Normally, when Congress moves by the direct outlay approach, an authorizing committee studies the issue, and recommends a level of funding. Then, the Appropriations Committee reviews the recommendation and sets a funding level consistent with other goals and needs.

But in tax expenditures, the House Ways and Means Committee and the Senate Finance Committee act as both judge and jury. They authorize a program and appropriate the funds for it in a single step. The disciplines and checks produced by the normal authorization-appropriation procedure are missing when tax expenditures are enacted.

This undesirable state of affairs is a long term problem for Congress to resolve. But recognition of this fact makes it imperative, as Congress moves step by step to implement effective budgetary procedures, that tax expenditures be subjected to the same controls as direct outlays.

THE SUNSET BILL AND TAX EXPENDITURES: OVERALL OBJECTIVES

Now, with the Sunset bill, we have the opportunity to take a major step in the right direction. I believe there are at least three widely accepted goals to be achieved by subjecting tax expenditures to the same sunset rules as direct outlays.

First, there will be a regular congressional review of tax expenditure programs.

Second, there will be better coordination between the review of tax expenditure programs and the review of direct outlays in the same budget category.

Third, there will be an opportunity to eliminate outmoded and inefficient tax expenditure programs.

I suspect that there is widespread agreement on these goals. They are reflected in Title IV of the Sunset Act and in the legislation that Senator Glenn has proposed in conjunction with the act. They are also reflected in the basic position of the Carter Administration. And OMB Director Bert Lance testified last week to this Subcommittee, reviewing outlay programs in a given area without also reviewing tax expenditure programs in the same area “would surely be inappropriate.” Similarly, Secretary Blumenthal also testified last week that “it is important that outlays and tax expenditures be considered together.”

There is thus a widespread recognition that the basic policies to be achieved by the sunset legislation can be realized only if tax expenditures are subjected to the same procedures as direct outlay programs. The real question, therefore, shifts from the agreement on this policy goal to the issue of technical implementation.

SUNSET LEGISLATION AND TAX EXPENDITURES: TECHNICAL IMPLEMENTATION

I strongly urge that the same procedures and sanctions that are applied to direct outlay programs in the Sunset bill should be applied to tax expenditures. I believe that the technical “problems” raised by some with respect to inclusion of tax expenditures in the Sunset bill can be easily resolved. The Senate—and the budget experts assisting us—should ask two questions when a technical objection is raised:

Is the same technical problem present in dealing with direct outlays? In other words, are there any technical problems present in terminating a tax expenditure program that would not also be present in terminating a direct outlay program, if the tax expenditure were considered as an outlay?

Are there any factors unique to tax ex-

penditures that require modifications in the sunset principles developed for direct programs?

I urge the Subcommittee to approach so-called "technical" problems in applying sunset legislation to tax expenditures with a healthy dose of skepticism. I suspect it will become quickly apparent that virtually all of the "technical" problems involved in terminating tax expenditures are equally applicable to terminating direct expenditure programs. With slight modifications, the procedures in S. 2 for terminating direct expenditures can apply equally well to terminating tax expenditures. The "technical" problems should not become a smokescreen for continuing the long and unjustifiable immunity of tax expenditures from responsible analysis and oversight in Congress.

By way of illustration, let me turn to some of the technical problems that have been raised with respect to the inclusion of tax expenditure provisions in the sunset legislation.

1. Defining tax expenditures

In his testimony last week, Secretary Blumenthal indicated that there might be problems in identifying tax expenditures. But the examples given do not suggest that the problems are significant. To illustrate his point, Secretary Blumenthal quoted a statement from a 1975 pamphlet of the staff of the Joint Committee on Taxation that indicated such difficulties. But that statement has not appeared in similar Joint Committee staff publications for the past two years.

With respect to the specific examples cited by the Secretary, no tax expenditure budget for the past ten years has included personal exemptions as a tax expenditure; every budget has included the standard deduction as a tax expenditure. To my knowledge, there is no disagreement as to either treatment.

Moreover, the Treasury seems to be concerned in its other examples by items that are not included in the tax expenditure budget. But the suggested definitional difficulties seem to be resolved in light of the thorough analysis that has characterized the efforts of the Congressional Budget Office and the Joint Committee on Taxation on this issue in recent years.

The Budget Reform Act of 1974 contains a workable definition of tax expenditures. So, too, do S. 2 and the legislation developed by Senator Glenn. Moreover, under the Budget Reform Act, the Committee reports of the House Ways and Means Committee and the Senate Finance Committee must identify new or increased tax expenditures. Therefore, the Joint Tax Committee and the Congressional Budget Office—as well as the Treasury—are given guidance by Congress as to the items that should be included in the tax expenditure budget.

The one modification that I would suggest in S. 2 is that the task of correlating the review of tax expenditure programs with review of direct outlay programs should be placed in the Congressional Budget Office. Review and termination of tax expenditure programs is primarily a budget matter, not a tax matter. Therefore, the responsibility for developing a timetable for termination of tax expenditure programs should not be placed with the Joint Tax Committee but with the Congressional Budget Office, the agency of Congress that is assigned to assist Congress in carrying out its budget responsibilities. Of course, the Congressional Budget Office should be directed to work closely with the staff of the Joint Tax Committee, the Congressional Budget Committees, the Treasury Department and the Office of Management and Budget in developing the schedule of tax expenditure termination.

2. Method of terminating tax expenditure programs

The Treasury also suggested that there may be difficulties in terminating certain tax expenditure programs. Again, this "problem"

seems capable of easy resolution. Indeed, although Secretary Blumenthal expressed reservations about how to terminate certain tax expenditure programs, the appendix to his statement demonstrated how such programs could be terminated under the sunset legislation.

Terminating tax expenditure programs does not involve problems that are any more difficult to resolve than the problems involved in terminating direct outlay programs. The technique is somewhat different, because the technique of enacting spending programs through the tax writing committees is somewhat different than the technique of enacting direct outlays through the authorization-appropriation process.

To deal with this concern, the sunset bill should require that, six months before the scheduled termination date for a particular tax expenditure program, the Joint Tax Committee should submit a report listing the changes in the Internal Revenue Code (or Treasury Department rulings and regulations) that are required in order to terminate the program. The appendix to Secretary Blumenthal's statement last week provided an example of this kind of report with respect to the tax expenditure program involved in the sensitive area of the tax exemption for interest on state and local bonds.

In addition, if any substantial problems are encountered, the tax writing committees could employ the extension of time procedure in Section 504 of S. 2 that is available when difficulties are encountered in terminating direct expenditure programs.

In sum, as the Treasury statement put it, tax expenditures do "lend themselves to automatic expiration," just as do conventional budget outlays, and the Senate should not hesitate to apply the termination procedure evenhandedly to both types of federal spending.

3. Scope of tax expenditure programs

The Treasury testimony also suggests that the broad scope of some tax expenditure programs makes it difficult to apply the sunset concept. The example given is capital gains, but it is a curious example to select. The tax expenditure budget already divides the total capital gains tax expenditure into several different categories, including capital gains for timber, capital gains for coal and iron ore, capital gains for corporations, capital gains for individuals, and capital gains on property transferred at death. Perhaps further refinements in categories might be desirable. But it is obvious that the budget experts can divide broad tax expenditures into workable program categories that correspond to direct outlay programs.

The same process currently operates in other tax expenditure programs. For example, accelerated depreciation in the tax expenditure budget is shown in separate components for programs for rental housing, other buildings, machinery and equipment, corporations, and individuals. Thus the "scope" problem raised by the Treasury is really a matter that budget experts are easily capable of resolving.

4. Interrelationship aspects

The Treasury also suggests that the interrelationship among tax expenditure programs is unique to tax expenditures. As reports by the Congressional Budget Office have pointed out, however, these same interrelationships exist in direct spending programs. That is, if some direct expenditure programs are terminated, there will be a shift to other direct expenditure programs.

Moreover, if Congress terminates some direct expenditure programs, it may well choose to substitute new or improved programs in place of the discarded programs. For example, if the existing welfare programs were to terminate under the sunset legislation, it is obvious that Congress would want to substitute another program in place of the present

system. The same is obviously true of tax expenditures. In this regard, terminating tax expenditure programs is no different from terminating direct expenditure programs.

5. Transition rules

The Treasury also noted that transition problems may be different for tax expenditure programs than for direct expenditure programs. Again, such problems do not seem to present serious difficulties. Capital recovery programs such as accelerated depreciation—the example used by the Treasury—are simply interest free loans provided by the government to business. The transition problems of terminating this loan program are no different from the transition problems of terminating direct loan programs that the government provides, for example, to farmers and small business. The transition techniques developed for terminating those direct programs are equally applicable to the transition techniques needed to terminate programs under the tax system.

6. Relation to tax reform

The Treasury also indicated that automatic termination dates might interfere with the tax reform process. But nothing in the sunset legislation prevents the Treasury and Congress from moving faster than the schedule prescribed in the sunset bill. One might as easily argue that the sunset bill will impede welfare reform legislation or national health insurance. But obviously, the sunset termination of federal welfare programs five years in the future does not prevent Congress and HEW from moving ahead on welfare reform as quickly as possible in 1977.

7. Estimating tax expenditures

On occasion, it is asserted that it is difficult to estimate tax expenditures. While this may be so, it is important to understand that the difficulties are hardly different from those encountered in advance estimates of direct outlays. Supplemental appropriations bills are often required when actual outlays exceed estimates. We are also familiar with the fact that in the past fiscal year, outlays in key areas fell well short of estimates, with resulting shortfall of \$10-15 billion; the same shortfall problem is plaguing the Administration in the current fiscal year.

Budgets are estimates and the problems of estimating a tax expenditure budget are neither greater nor less than those involved in formulating a direct outlay budget.

CONCLUSION

I commend this Subcommittee and its parent committee for your efforts to produce legislation that will give Congress a new and more effective tool to provide greater oversight and control over Federal programs and the federal budget process.

I am confident that the committee's legislation will adequately cover direct outlay programs. I strongly urge the committee to apply the same controls to tax expenditure programs. Failure to do so will mean that more than \$125 billion of federal spending—one-fifth of the total federal budget—will be left outside the control of Congress.

Such a large-scale abdication of our responsibility cannot be defended to the American people. We now have the chance—through the sunset concept—to provide effective oversight and control over every program in the federal budget. That oversight and control must also be exercised over each tax expenditure program, if the sunset approach is to be capable of fulfilling its great promise.

DISTINGUISHED PUBLIC SERVICE AT THE FOOD AND DRUG ADMINISTRATION

Mr. PERCY, Mr. President, in July of 1973, Commissioner Alexander Schmidt