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**MEDICARE**

# Thousands of Medicare Part B Providers Abuse the Federal Tax System

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Why GAO Did This Study

Under the Medicare program, the Department of Health and Human Services (HHS) and its contractors paid a reported \$330 billion in Medicare benefits in calendar year 2005. Because GAO previously identified government contractors with billions of dollars in unpaid federal taxes, the Subcommittee requested that we expand our work in this area to all Medicare providers. This testimony addresses Medicare physicians, health professionals, and suppliers for services related to senior health care, who received about 20 percent of all Medicare payments.

Because of limitations in HHS data, GAO was asked to determine if Medicare Part B physicians, health professionals, and suppliers have unpaid federal taxes, and if so, to (1) determine the magnitude of such debts; (2) identify examples of Medicare physicians and suppliers that have engaged in abusive, or potentially criminal activities; and (3) assess HHS efforts to prevent delinquent taxpayers from enrolling in Medicare and levy payments to pay delinquent federal taxes.

To perform this work, GAO reviewed data from HHS and the Internal Revenue Service (IRS). In addition, GAO reviewed policies, procedures, and regulations related to Medicare. GAO also performed additional investigative activities. We plan to report on the results of our work related to other Medicare providers including any needed recommendations later this year.

www.gao.gov/cgi-bin/getrpt?GAO-07-587T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Gregory Kutz at (202) 512-7455 or Steve Sebastian at (202) 512-3406.

MEDICARE

Thousands of Medicare Part B Providers Abuse the Federal Tax System

What GAO Found

Over 21,000 of the physicians, health professionals, and suppliers (i.e., about 5 percent of all such providers) paid under Medicare Part B during the first 9 months of calendar year 2005 had tax debts totaling over \$1 billion. This \$1 billion figure is understated because some of these Medicare health care providers have understated their income and/or not filed their tax returns.

We selected 40 Medicare physicians, health professionals, and suppliers with high tax debt for more in-depth investigation of the extent and nature of any related abusive or potentially criminal activity. Our investigation found abusive and potentially criminal activity, including failure to remit to IRS individual income taxes and/or payroll taxes withheld from their employees. Rather than fulfill their role as "trustees" of this money and forward it to IRS, they diverted the money for other purposes. Willful failure to remit payroll taxes is a felony under U.S. law. Further, individuals associated with some of these providers used payroll taxes withheld from employees for personal gain (e.g., to purchase a new home) or to help fund their businesses. Many of these individuals accumulated substantial wealth and assets, including million-dollar houses and luxury vehicles, while failing to pay their federal taxes. In addition, some physicians received Medicare payments even though they had serious quality-of-care issues, including license reprimands and prior suspensions from state medical boards, revocations of hospital privileges, and previous exclusions from the Medicare program.

Examples of Medicare Health Care Provider Abusive and Criminal Activity

Table with 4 columns: Type of business, Unpaid tax debt, HHS payments received, and Description of activity. Rows include Physician convicted of money laundering, Hospital denied physician's hospital privileges, and Owner convicted for defrauding the U.S. government.

Source: GAO analysis of IRS, HHS, public, and other records.

HHS has not issued Medicare regulations or policies requiring Medicare contractors to consider tax debts in making a decision about whether to enroll a physician, health professional, or supplier into Medicare. Further, HHS has not established a policy to obtain taxpayer consent to obtain tax information from IRS as part of its Medicare eligibility decision-making process.

IRS can continuously levy up to 100 percent of each payment made to a federal payee—for example, a Medicare physician—until that tax debt is paid. However, HHS is not participating in the continuous levy program and thus the government has not collected unpaid taxes from Medicare payments. In the first 9 months of calendar year 2005, we estimate that the government lost opportunities to collect between \$50 million and \$140 million by not participating in the continuous levy program.

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Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to discuss Medicare physicians, health professionals, and suppliers paid under the Supplemental Medical Insurance program, also known as Medicare Part B, who have abused the federal tax system while doing business with the federal government. This testimony provides the results of our most recent work related to identifying abusers of the federal tax system. In recent hearings held by this subcommittee,<sup>1</sup> we testified that federal contractors (Department of Defense, federal civilian, and General Services Administration contractors) abused the federal tax system with little consequence. Due to the significance of the issues raised during those hearings, you asked us to provide additional information about whether Medicare providers who were paid by the government for Medicare-related services were engaged in similar tax abuses. Because of limitations in the data provided to us by the Department of Health and Human Services (HHS), this testimony will cover physicians, health professionals, and suppliers who were paid under Medicare Part B and engaged in tax abuses.<sup>2</sup> We plan to conduct a subsequent audit and related investigations to determine whether other Medicare providers, such as hospitals, durable medical equipment suppliers, and skilled nursing facilities, have abused the federal tax system

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<sup>1</sup>GAO, *Financial Management: Some DOD Contractors Abuse the Federal Tax System with Little Consequence*, [GAO-04-414T](#) (Washington, D.C.: Feb. 12, 2004); *Financial Management: Thousands of Civilian Agency Contractors Abuse the Federal Tax System with Little Consequence*, [GAO-05-683T](#) (Washington, D.C.: June 16, 2005); and *Financial Management: Thousands of GSA Contractors Abuse the Federal Tax System*, [GAO-06-492T](#) (Washington, D.C.: March 14, 2006).

<sup>2</sup>For this testimony, we are defining physician, health professional, and supplier to include the following: (1) Physician to include medicine, doctor of osteopathy, doctor of dental surgery or dental medicine, doctor of podiatric medicine, or doctor of optometry, and a doctor of chiropractic legally authorized to practice by a state in which he/she performs this function. (2) Health professional to include individuals and businesses excluding physicians who may deliver covered Medicare services if the services are incident to a physician's service or if there is specific authorization in the law. They include nurse practitioners and physician assistants, qualified clinical psychologists, clinical social workers, certified nurses, midwives, ambulances, and certified registered nurse anesthetists. (3) Supplier to include an entity that is qualified to furnish health services covered by Medicare, other than providers, physicians, and health professionals. They include ambulatory surgical centers, independent physical therapists, mammography facilities, independent occupational therapists, clinical laboratories, and portable X-ray suppliers. For purposes of this testimony, durable medical equipment suppliers were excluded, but we plan to examine them in the subsequent audit.

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while receiving Medicare payments.<sup>3</sup> Any recommendations needed to address the issues raised in this testimony will be included as part of our planned subsequent reporting on this area.

The specific objectives of this audit and investigation were to determine, to the extent possible, if physicians, health professionals, and suppliers who receive Medicare Part B payments have unpaid federal taxes, and if so, to (1) determine the magnitude of tax debts owed; (2) identify examples of physicians, health professionals, and suppliers involved in abusive or potentially criminal activities; and (3) assess HHS efforts to prevent delinquent taxpayers from enrolling in Medicare and levy Medicare payments to pay delinquent federal taxes.

To identify the magnitude of physicians, health professionals, and suppliers with unpaid federal taxes, we obtained and analyzed Internal Revenue Service (IRS) tax debt data as of September 30, 2005, and obtained and analyzed the HHS database of Medicare Part B-approved claims paid to physicians, health professionals, and suppliers for the first 9 months of calendar year 2005.<sup>4</sup> We matched the list of Medicare physicians, health professionals, and suppliers with IRS tax debts using the taxpayer identification number (TIN). To illustrate examples of abuse or potential criminal activity, based on our data mining, we selected 40 Medicare physicians and suppliers for a detailed audit and investigation of the extent and nature of such activity. For these 40 cases, we reviewed copies of automated tax transcripts and other tax records (for example, revenue officer's notes) and performed additional searches of criminal, financial, health care, and public records. For these cases, we also updated the tax debt amount as of September 30, 2006, to reflect any additional tax assessments or collections that IRS recorded as of that date. To determine whether HHS prevents physicians, health professionals, and suppliers who owe tax debts from enrolling in Medicare or levying Medicare payments to pay taxes, we examined the HHS regulations, policies, and procedures for conducting determinations in the enrollment approval process. We also interviewed officials from HHS, two large HHS Medicare contractors, IRS, and the Department of Treasury's Financial Management Service (FMS)

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<sup>3</sup>In addition to Medicare providers, we are also conducting a separate audit on Medicaid providers who have abused the federal tax system while receiving Medicaid payments.

<sup>4</sup>We requested the approved Medicare Part B claims to physicians, health professionals, and suppliers for calendar year 2005. HHS was able to provide us the first 9 months of calendar year 2005 claims by the end of our review.

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concerning any barriers for levying Medicare payments. A more detailed description of the scope and methodology related to our audit and investigative work supporting this testimony is provided in appendix I.

We conducted our work from June 2006 through February 2007. Our audit work was performed in accordance with U.S. generally accepted government auditing standards. We performed our investigative work in accordance with standards prescribed by the President's Council on Integrity and Efficiency.

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## Summary

Thousands of Medicare Part B physicians, health professionals, and suppliers abused the federal tax system with little consequence.<sup>5</sup> Specifically, our analysis of data provided by HHS and IRS indicates that over 21,000 Medicare Part B physicians, health professionals and suppliers<sup>6</sup> had tax debts totaling over \$1 billion.<sup>7</sup> This represented about 5 percent of the number of all Medicare Part B physicians, health professionals, and suppliers paid during the first 9 months of calendar year 2005. The unpaid taxes largely consisted of individual income and payroll taxes.<sup>8</sup> However, our \$1 billion estimate of tax debts owed by Medicare Part B physicians, health professionals, and suppliers is understated because IRS data does not reflect all amounts owed by businesses and individuals. Specifically, it does not include amounts (1) owed by businesses and individuals that have not filed tax returns or that have failed to report the full amount of taxes due (referred to as nonfilers and underreporters) and (2) for which IRS has not determined that specific tax debts are owed. Further, our past audits have also indicated that IRS

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<sup>5</sup>We considered activity to be abusive when a Medicare Part B physician, health professional or supplier's actions or inactions, though not illegal, took advantage of the existing tax enforcement and administration system to avoid fulfilling federal tax obligations and were deficient or improper when compared with behavior that a prudent person would consider reasonable.

<sup>6</sup>Because some Medicare Part B physicians, health professionals, and suppliers may do business with other federal agencies, some described in this report may also have been included in our reports concerning Department of Defense, General Services Administration, and civilian federal contractors that abuse the federal tax system.

<sup>7</sup>As of September 30, 2006, we estimate that the Medicare Part B providers had over \$1.3 billion in tax debts for tax year 2005 and prior years.

<sup>8</sup>Payroll taxes are amounts that employers withheld from employees' wages for federal income taxes, Social Security, and Medicare as well as the related employer matching contributions for Social Security and Medicare taxes. Employers are responsible for remitting payroll taxes to IRS and are liable for any outstanding balance.

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records contain coding errors that affect the accuracy of taxpayer account information—including erroneous exclusion of tax debt from IRS’s collection activities.<sup>9</sup>

Our audits and investigations detail examples of the extent and nature of abusive and criminal activity related to the federal tax system by 40 Medicare Part B physicians, health professionals, and suppliers. These 40 cases were paid by Medicare for a variety of services, including physician, ambulance, laboratory, and imaging services. Many were established businesses (such as corporations) that owed payroll taxes withheld for their employees. Rather than fulfill their role as “trustees” of this money and forward it to IRS as required by law, these physicians, health professionals, and suppliers diverted the money for other purposes. These payroll taxes included amounts withheld from employee wages for Social Security, Medicare, and individual income taxes.<sup>10</sup> In one case, an ambulance owner paid employees in cash and did not report this income to the IRS. Although the ambulance owner was convicted for defrauding the U.S. government, the ambulance company continued to receive Medicare payments from HHS.

At the same time that they were not paying their federal taxes, many individuals associated with our 40 cases bought or owned significant personal assets, including commercial properties, multimillion dollar homes, and luxury vehicles. One physician gambled millions of dollars at the same time the individual owed hundreds of thousands of dollars in federal taxes. Further, several of the case studies involved physicians who were sanctioned by their state medical boards for, among other things, drug abuse and substandard care of their patients.

HHS does not have policies in place to prevent physicians, health professionals, and suppliers who have tax debts from enrolling in and receiving payments from Medicare. Further, federal law generally prohibits IRS from disclosing taxpayer data to HHS and its contractors

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<sup>9</sup>GAO, *Financial Management: Some DOD Contractors Abuse the Federal Tax System with Little Consequence*, [GAO-04-95](#) (Washington, D.C.: Feb. 12, 2004); and GAO, *Internal Revenue Service: Procedural Changes Could Enhance Tax Collections*, [GAO-07-26](#) (Washington, D.C.: Nov. 15, 2006).

<sup>10</sup>Willful failure to remit payroll taxes is a criminal felony offense while the failure to properly segregate payroll taxes can be a criminal misdemeanor offense. 26 U.S.C. §§ 7202, 7215 and 7512 (b).

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unless the taxpayer provides consent.<sup>11</sup> HHS has not established a policy to obtain Medicare applicant's consent to obtain information from IRS to consider in its Medicare eligibility decision making process. Specifically, HHS has not developed Medicare regulations or HHS implementing policy to require HHS or their contractors to (1) screen physicians, health professionals, and suppliers for unpaid taxes and (2) require contractors to obtain consent for IRS disclosure of federal tax debts. As a consequence, HHS has no mechanism to prevent physicians, health professionals, and suppliers who have tax debts from enrolling in or receiving payments from Medicare.

Further, HHS has not taken advantage of an available program to collect tax debts from physicians and other Medicare Part B providers. A provision of the Taxpayer Relief Act of 1997 authorizes IRS to continuously levy certain federal payments made to delinquent taxpayers.<sup>12</sup> However, in the 10 years since its passage, HHS has neither participated in the continuous levy program nor actively participated in a task force dedicated to improving the program's effectiveness. Thus, no tax debt owed by Medicare Part B physicians, health professionals, and suppliers has ever been collected through the continuous levy program.<sup>13</sup> As a result, we estimate that for the first 9 months of calendar year 2005 alone the federal government lost opportunities to collect between \$50 million to \$140 million in unpaid federal taxes because HHS has not worked with IRS to effectively levy Medicare payments.

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<sup>11</sup>HHS Medicare contractors screen physicians, health professionals, and suppliers prior to enrollment into the Medicare program. Medicare contractors also process and pay the Medicare claims and are reimbursed by CMS through the Medicare Trust Fund.

<sup>12</sup>To improve the collection of unpaid taxes, IRS is authorized to continuously levy up to 100 percent for federal payments related to goods and services. To implement this levy authority, IRS, in coordination with the Department of Treasury's FMS, implemented the Federal Levy Payment Program (FPLP) in July 2000. The FPLP program utilizes FMS's Treasury Offset Program (TOP) for the levy of federal payments..

<sup>13</sup>To satisfy tax debts, IRS does have the authority to legally seize property either held by the taxpayer or owned by the taxpayer and held by a third party. This authority includes the seizure of Medicare receivables held by Medicare contractors and owed to physicians, health professionals, and suppliers. However, IRS policy is to use the levy against Medicare payments for only flagrant cases. Unlike levies from the continuous levy program, each levy is typically a one-time seizure of property (i.e., Medicare receivables) held by Medicare contractors at a specific point of time and is done on a case-by-case basis based on the particular circumstances of the case. IRS officials stated that they do not know how much in tax levies were collected from Medicare payments.

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## Magnitude of Unpaid Taxes of Medicare Part B Physicians, Health Professionals, and Suppliers

Our analysis of 2005 data found that over 21,000 physicians, health professionals, and suppliers<sup>14</sup> who received Medicare Part B payments during the first 9 months of 2005 had over \$1 billion in unpaid federal taxes as of September 30, 2005.<sup>15</sup> This represents about 5 percent of the number of Medicare Part B physicians, health professionals, and suppliers paid during the first 9 months of calendar year 2005. Because the IRS database does not include amounts owed by taxpayers who have not filed tax returns and for which IRS has not assessed tax amounts due, the estimated amount of unpaid federal taxes is understated.

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## Characteristics of Medicare Part B Physicians, Health Professionals, and Suppliers' Unpaid Federal Taxes

As shown in figure 1, about 91 percent of the over \$1 billion in unpaid taxes was comprised of federal individual income and payroll taxes. The other 9 percent of taxes included corporate income, excise, unemployment, and other types of taxes. Unlike our previous reports and testimonies on contractors with tax debts, a larger percentage of taxes owed by these physicians, health professionals, and suppliers was comprised of federal individual income taxes, which are unpaid amounts that individuals owe on their personal income. These taxpayers are typically either sole proprietors or certain limited liability companies that report income through individual income tax returns.<sup>16</sup>

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<sup>14</sup>Our estimate is for Medicare Part B physicians, health professionals, and suppliers with tax debt applicable to the 2004 tax year and prior years as of September 30, 2005. To avoid overestimating the amount owed by Medicare physician and physicians and related suppliers with unpaid tax debts and to capture only significant tax debts, we excluded (1) tax debts that have not been agreed to by the tax debtor or affirmed by the court, (2) tax debts from calendar year 2005, (3) approved Medicare claims less than \$100, and (4) tax debts less than \$100.

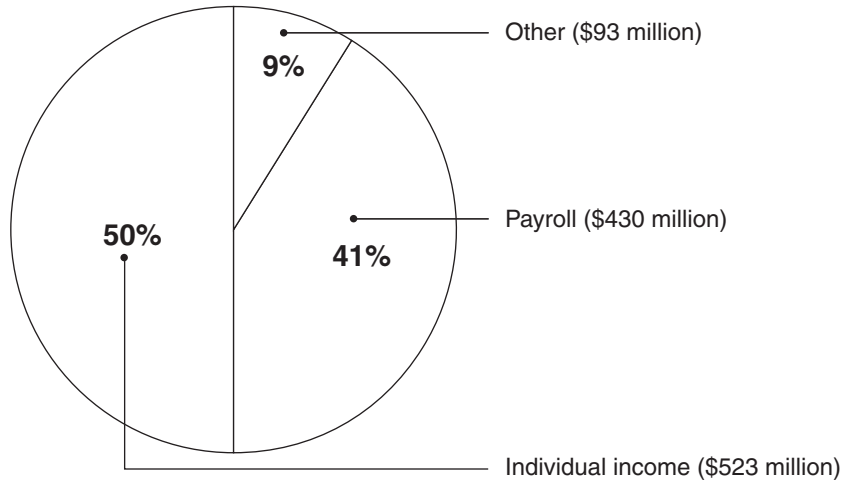
<sup>15</sup>As of September 30, 2006, we estimate that Medicare Part B physicians, health professionals, and suppliers had over \$1.3 billion in tax debts for tax years 2005 and prior years.

<sup>16</sup>Sole proprietors and certain limited liability companies may file Medicare claims under their Social Security Numbers (SSNs). If these physicians and related suppliers had employees, they would typically report the payroll taxes under an employer identification number and not their SSNs.



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**Figure 1: Medicare Part B Physicians, Health Professionals, and Suppliers with Unpaid Federal Taxes (by Tax Type) as of September 30, 2005**



Source: GAO analysis of HHS and IRS data as of September 30, 2005.

As shown in figure 1, Medicare Part B physicians, health professionals, and suppliers, which are corporations or other kinds of businesses, owed about \$430 million in federal payroll taxes. Employers are subject to civil and criminal penalties if they do not remit payroll taxes to the federal government. When an employer withholds taxes from an employee's wages, the employer is deemed to have a fiduciary responsibility to hold these amounts "in trust" for the federal government until the employer makes a federal tax deposit in that amount. To the extent these withheld amounts are not forwarded to the federal government, the employer is liable for these amounts, as well as the employer's matching Federal Insurance Contribution Act contributions for Social Security and Medicare. Individuals within the business (e.g., corporate officers) may be held personally liable for the withheld amounts not forwarded and assessed a civil monetary penalty known as a trust fund recovery penalty.<sup>17</sup> Willful failure to remit payroll taxes can also be a criminal felony offense punishable by imprisonment of up to 5 years,<sup>18</sup> while the failure to properly segregate payroll taxes can be a criminal misdemeanor offense punishable

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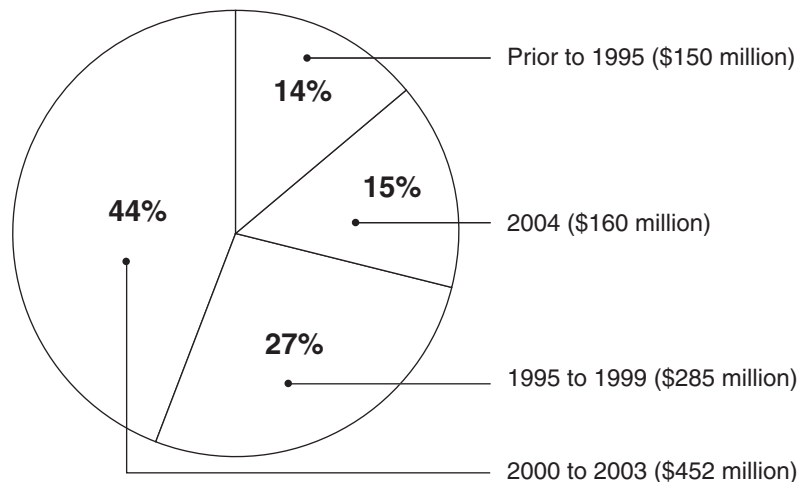
<sup>17</sup>26 U.S.C. § 6672.

<sup>18</sup>26 U.S.C. § 7202.

by imprisonment of up to a year.<sup>19</sup> The law imposes no penalties upon an employee for the employer's failure to remit payroll taxes since the employer is responsible for submitting the amounts withheld. The Social Security and Medicare trust funds are subsidized or made whole for unpaid payroll taxes by the federal government's general fund. Thus, personal income taxes, corporate income taxes, and other government revenues not specifically designated for the trust funds are used to pay for these shortfalls to the Social Security and Medicare trust funds.

A substantial amount of the unpaid federal taxes shown in IRS records as owed by Medicare Part B physicians, health professionals, and suppliers had been outstanding for several years. As reflected in figure 2, about 85 percent of the over \$1 billion in unpaid taxes were for tax periods prior to calendar year 2004, with about 41 percent of the unpaid taxes for tax periods prior to calendar year 2000.<sup>20</sup>

**Figure 2: Medicare Part B Physicians, Health Professionals, and Suppliers with Unpaid Federal Taxes (by Calendar Year) as of September 30, 2005**



Source: GAO analysis of HHS and IRS data as of September 30, 2005.

<sup>19</sup>26 U.S.C. § 7215 and 26 U.S.C. § 7512 (b).

<sup>20</sup>A "tax period" varies by tax type. For example, the tax period for payroll and excise taxes is generally one quarter of a year. The taxpayer is required to file quarterly returns with IRS for these types of taxes, although payment of the taxes occurs throughout the quarter. In contrast, for income, corporate, and unemployment taxes, a tax period is 1 year.

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Our previous work has shown that as unpaid taxes age, the likelihood of collecting all or a portion of the amount owed decreases.<sup>21</sup> This is due, in part, to the continued accrual of interest and penalties on the outstanding tax debt which, over time, can dwarf the original tax obligation. The amount of unpaid federal taxes we have identified does not include all tax debts owed by physicians, health professionals, and related suppliers due to statutory provisions that give IRS a finite period under which it can seek to collect on unpaid taxes. Generally, there is a 10-year statutory collection period beyond which IRS is prohibited from attempting to collect tax debt.<sup>22</sup> Consequently, if these physicians, health professionals, and suppliers owe federal taxes beyond the 10-year statutory collection period, the older tax debt may have been removed from IRS's records.<sup>23</sup> We were unable to determine the amount of tax debt that had been removed.

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## Unpaid Federal Taxes of Medicare Part B Physicians, Health Professionals, and Suppliers Is Understated

Although over \$1 billion in unpaid federal taxes owed by Medicare Part B physicians, health professionals, and suppliers as of September 30, 2005, is a significant amount, it understates the full extent of unpaid taxes owed by these or other businesses and individuals. The IRS tax database reflects only the amount of unpaid federal taxes either reported by the individual or business on a tax return or assessed by IRS through its various enforcement programs. The IRS database does not reflect amounts owed by businesses and individuals that have not filed tax returns and for which IRS has not assessed tax amounts due. For example, during our audit, we identified instances from our case studies in which Medicare Part B physicians, health professionals, and suppliers failed to file tax returns for a particular tax period and IRS had not assessed taxes for these tax periods. Consequently, while these physicians, health professionals, and suppliers had unpaid federal taxes, they were listed in IRS records as having no unpaid taxes for that period. Further, our analysis did not attempt to account for businesses or individuals that purposely underreported income and were not specifically identified by IRS as owing

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<sup>21</sup>GAO, *Internal Revenue Service: Recommendations to Improve Financial and Operational Management*, GAO-01-42 (Washington D.C.: Nov. 17, 2000).

<sup>22</sup>The 10-year time may be suspended for a variety of reasons, including for periods during which the taxpayer is involved in a collection due process appeal, litigation, or a pending offer in compromise or installment agreement. As a result, fig. 2 includes taxes that are for tax periods from more than 10 years ago.

<sup>23</sup>For example, IRS wrote off over \$350,000 for one of our cases because those unpaid taxes could no longer be collected by IRS because it reached its statutory extension period.

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the additional federal taxes. According to IRS, underreporting of income accounted for more than 80 percent of the estimated \$345 billion annual gross tax gap.<sup>24</sup> Consequently, the full extent of unpaid federal taxes for Medicare Part B physicians, health professionals, and suppliers is not known.

In addition to the IRS tax database not reflecting all assessed tax amounts due, our past audits have also indicated that the IRS tax database contains coding errors that adversely affect IRS's collection activities. IRS's collection process is heavily dependent upon its automated computer system and the information that resides within this system. In particular, the codes in each taxpayer's account in IRS's tax database are critical to IRS in tracking the collection actions it has taken against a tax debtor and in determining what, if any, additional collection actions should be pursued. For example, IRS uses these codes to identify cases it should exclude from the continuous levy program,<sup>25</sup> which is an automated method of collecting tax debt by offsetting certain federal payments made to individuals and businesses, as well as from other collection actions.

While we did not evaluate the appropriateness of IRS's exclusions for this testimony, the exclusions are only as good as the codes IRS has entered into its systems. In our previous work, we found that inaccurate coding at times prevented IRS collection action, including referral to the continuous levy program.<sup>26</sup> Specifically, in November 2006, we estimated that about \$2.4 billion in tax debt was erroneously excluded from the continuous levy program as of September 30, 2005. IRS did not identify and correct the coding errors we found because it did not sufficiently monitor the timely updating of the status and transaction codes or the effect of computer

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<sup>24</sup>According to IRS, nonfilers and underpayment of taxes comprised the rest of the gross tax gap.

<sup>25</sup>Each week IRS sends FMS an extract of its tax debt files containing updated account balances of tax debts that are already in TOP, the new tax debts that need to be added to TOP, and all taxes in TOP that need to be removed. FMS sends payment data to TOP to be matched against these unpaid federal taxes. If there is a match and IRS has updated TOP to reflect that it has completed all legal notifications, the federal payment is reduced (levied) to help satisfy the unpaid federal taxes. In addition to federal tax debts, the TOP database also includes federal nontax debts, state tax debts, and child support debts.

<sup>26</sup>GAO, *Financial Management: Some DOD Contractors Abuse the Federal Tax System with Little Consequence*, [GAO-04-95](#) (Washington, D.C.: Feb. 12, 2004); and GAO, *Internal Revenue Service: Procedural Changes Could Enhance Tax Collection*, [GAO-07-26](#) (Washington, D.C.: Nov. 15, 2006).

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programming changes. In addition, we found that the design of IRS's policies for monitoring the status of financial hardship cases was not sufficient to ensure the ongoing accuracy of such designations.<sup>27</sup> Therefore, effective management of these codes is critical because if these codes are not accurately or appropriately updated to reflect changing circumstances, cases may be needlessly excluded from collection action, including the continuous levy program.

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## Examples of Medicare Part B Physicians, Health Professionals, and Suppliers Involved in Abusive and Potentially Criminal Activity Related to the Federal Tax System

For all 40 cases involving Medicare Part B physicians, health professionals, and suppliers with outstanding tax debt that we audited and investigated, we found abusive and/or potentially criminal activity related to the federal tax system.<sup>28</sup> Of these cases, 25 involved physicians, health professionals, and suppliers that had unpaid payroll taxes dating as far back as the early 1990s. Rather than fulfill their role as "trustees" of this money and forward it to IRS as required by law, these physicians, health professionals, and suppliers diverted the money for other purposes. IRS had trust fund recovery penalties in effect for 16 of the 25 business cases at the time of our review. In addition, as discussed previously, willful failure to remit payroll taxes can be a criminal felony offense punishable by imprisonment up to 5 years,<sup>29</sup> while the failure to properly segregate payroll taxes can be a criminal misdemeanor offense punishable by imprisonment of up to a year.<sup>30</sup> The other 15 cases involved individuals who had unpaid individual income taxes dating as far back as the 1970s.

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<sup>27</sup>IRS grants tax debtors experiencing financial difficulty a hardship designation that excludes them from the continuous levy program and other tax collection activities until their income increases. To measure this, IRS solely uses the income reported on the tax debtor's annual tax returns. However, IRS does not monitor those tax debtors to ensure they are filing and paying current taxes. As we reported last year, for 31 financial hardship cases we examined, 24 had ceased to file tax returns.

<sup>28</sup>For all cases, we performed searches of criminal, financial, tax, and public records to determine whether the physicians and suppliers are involved in other related entities. For each related entity, we determined whether that entity had Medicare payments for the first 9 months of calendar year 2005 and had unpaid federal taxes as of September 30, 2005. In instances where we identified related parties with both Medicare Part B payments and tax debts, we defined a case study to include those related entities, and reported on the combined unpaid taxes and combined Medicare Part B payments for the original individual/business and all the related entities.

<sup>29</sup>26 U.S.C. § 7202.

<sup>30</sup>26 U.S.C. § 7215 and 26 U.S.C. § 7512 (b).

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Our review of selected Medicare Part B physicians, health professionals, and suppliers revealed significant challenges that IRS faces in its enforcement of tax laws, a continuing high-risk area for IRS.<sup>31</sup> Although the nation's tax system is built upon voluntary compliance, when businesses and individuals fail to pay voluntarily, IRS has a number of enforcement tools, including the use of levies, to compel compliance or elicit payment. Our review of the 40 physicians, health professionals, and suppliers found that IRS attempts to work with the businesses and individuals to achieve voluntary compliance, pursuing enforcement actions later rather than earlier in the collection process. Our review of IRS records with respect to our 40 cases showed that IRS did not issue paper levies to the Medicare contractors to levy the payments of physicians, health professionals, and suppliers for 28 of our 40 cases. As a result, most of the physicians, health professionals, and suppliers in our case studies continued to receive Medicare Part B payments while owing their federal taxes.

Our investigations revealed that, despite owing substantial amounts of federal taxes to the IRS, some physicians, health professionals, and suppliers had substantial personal assets—including multimillion dollar homes and luxury cars. For example, one physician purchased a house for over \$1 million while his business owed over \$1 million in federal taxes. Another physician purchased a luxury vehicle, paid for partly with cash, and gambled millions of dollars while owing over \$400,000 in taxes.

In addition to failure to pay taxes, our investigations also revealed that several physicians associated with our case studies received Medicare Part B payments even though they had significant problems related to the practice of medicine. Six physicians had been previously excluded from the Medicare program for such things as professional incompetence, financial misconduct involving a government-operated program, and failure to pay health education loans. Further, 13 physicians in our cases had also been sanctioned by their state medical boards for such things as substandard care of their patients, drug abuse, abusive prescription writing, unprofessional conduct, lack of moral character, income tax evasion, embezzlement, aiding and abetting unlicensed practice, and illegible patient records.

Table 1 highlights 15 of the 40 cases of Medicare physicians, health professionals, and suppliers with unpaid taxes. Appendix II provides

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<sup>31</sup>GAO, *High Risk Series: An Update*, GAO-07-310 (Washington, D.C.: Jan. 2007).

details on the other 25 cases we examined. We are referring all 40 cases we examined to IRS for further collection activity and criminal investigation, if warranted.

**Table 1: Summary Information on Unpaid Federal Taxes and Abusive and Criminal Activity Related to 15 Medicare Part B Physicians, Health Professionals, and Suppliers**

Case	Nature of work / type of entity	Medicare Part B paid claims for first 9 months of calendar 2005 <sup>a</sup>	Unpaid federal tax <sup>b</sup>	Description of activity
Case 1	Physician / Individual	Over \$100,000	Nearly \$1 million	<ul style="list-style-type: none"> <li>Physician has not made any federal tax payments since the early 2000s.</li> <li>Hospital denied physician's hospital privileges due to substandard care.</li> <li>State medical board investigated physician for disciplinary action.</li> <li>HHS IG had previously excluded physician from Medicare program.</li> <li>Physician delinquent on child support.</li> <li>In 2 recent years, physician reported to IRS over \$300,000 and \$100,000 in net profit for the business.</li> <li>Physician did not submit claims to Medicare contractor, sometimes for months at a time, to avoid IRS levies.</li> <li>IRS reported tax debts to TOP for collection action.</li> </ul>
Case 2	Physician / Individual	Up to \$100,000	Over \$600,000	<ul style="list-style-type: none"> <li>IRS generated tax returns for the physician for the late 1990s and early 2000s because the physician did not file them. Physician did not make any tax payments for those tax years.</li> <li>Physician convicted of money laundering through offshore accounts.</li> <li>Physician owns a related business that owes over \$300,000 in taxes.</li> <li>Physician recently submitted compromise offer to IRS for less than one half of individual income taxes owed.</li> <li>Physician delinquent on child support for tens of thousands of dollars.</li> <li>HHS IG had previously excluded physician from Medicare program.</li> </ul>
Case 3	Ambulance / Business	Over \$1 million	Nearly \$11 million	<ul style="list-style-type: none"> <li>IRS assessed trust fund recovery penalty against an officer of the business.</li> <li>Business officer owns several luxury vehicles.</li> <li>State Medicaid Fraud Unit investigating business.</li> <li>Law enforcement seized cash from business.</li> <li>Business received thousands of dollars from another federal agency over a 2-year period.</li> <li>IRS reported tax debts to TOP for collection action.</li> </ul>

Case	Nature of work / type of entity	Medicare Part B paid claims for first 9 months of calendar 2005 <sup>a</sup>	Unpaid federal tax <sup>b</sup>	Description of activity
Case 4	Ambulance / Business	Over \$100,000	Over \$5 million	<ul style="list-style-type: none"> <li>Owner convicted of defrauding the U.S. government.</li> <li>Owner paid employees in cash and did not report their income to IRS.</li> <li>Business partially paid payroll taxes while owner was in prison. Business owner stated that the business officer used company funds, in part, for a party. IRS assessed trust fund recovery penalty on business officer.</li> <li>IRS established repayment agreement in 2004 with business for over \$3,000 per month with possibility of increasing payment in the future.</li> <li>Owner owes nearly \$600,000 in individual income taxes.</li> </ul>
Case 5	Imaging / Business	Over \$1 million	Nearly \$3 million	<ul style="list-style-type: none"> <li>Tax debt is primarily unpaid payroll taxes.</li> <li>Business entered into installment agreement of about \$6,000 a month but subsequently defaulted for failure to pay federal tax deposits.</li> <li>Government agency fined business over \$1 million for substandard work.</li> <li>Business lost over \$200,000 in adjudicated medical malpractice claim.</li> <li>IRS recently issued a tax refund for tens of thousands of dollars to the owner. IRS subsequently filed a trust fund recovery penalty against the owner, thus missing an opportunity to offset the refund payment.</li> </ul>
Case 6	Physician / Individual	Over \$100,000	Over \$1 million	<ul style="list-style-type: none"> <li>Physician generally has history of not paying all taxes owed since the early 1990s.</li> <li>In the early 2000s, physician made compromise offer of over \$200,000 but the offer was lost by IRS in the review process. Physician submitted revised offer. No decision was made on the compromise offers by IRS.</li> <li>Physician has not filed an individual income tax return or paid any taxes since early 2000s.</li> <li>Over \$100,000 of the tax debt owed by the physician reached its statutory collection expiration period and can no longer be collected by IRS.</li> <li>State medical board reprimanded physician.</li> </ul>
Case 7	Physician / Individual	Over \$100,000	Over \$2 million	<ul style="list-style-type: none"> <li>Physician's tax debts are comprised of individual income tax debt and trust fund recovery penalty from another business.</li> <li>Physician has extensive history of not filing individual income tax returns or payroll tax returns from another business on time.</li> <li>Physician offered installment agreement of over \$10,000 per month but was rejected by IRS for his failure to disclose accounts receivables.</li> <li>Owner owns two other businesses that owe over \$1 million in unpaid federal taxes.</li> <li>State medical board sanctioned physician.</li> </ul>



<b>Case</b>	<b>Nature of work / type of entity</b>	<b>Medicare Part B paid claims for first 9 months of calendar 2005<sup>a</sup></b>	<b>Unpaid federal tax<sup>b</sup></b>	<b>Description of activity</b>
Case 8	Physician / Individual	Up to \$100,000	Over \$400,000	<ul style="list-style-type: none"> <li>Physician entered into installment agreement of about \$10,000 a month but subsequently defaulted.</li> <li>HHS IG had previously excluded physician from Medicare program.</li> <li>State medical board placed physician's license on probation.</li> <li>Physician made multiple large cash deposits totaling tens of thousands of dollars. Many of these transactions were structured to avoid mandatory IRS reporting.</li> <li>Owner recently purchased a luxury vehicle paid, in part, by a large cash transaction.</li> <li>At the same time the physician was not paying taxes, the physician made millions of dollars in gambling transactions.</li> <li>Physician reported about \$500,000 and over \$100,000 in net profit for his physician business in 2 recent years.</li> <li>Physician delinquent on child support for tens of thousands of dollars.</li> <li>IRS reported tax debts to TOP for collection action.</li> </ul>
Case 9	Physician / Individual	Up to \$100,000	Over \$400,000	<ul style="list-style-type: none"> <li>IRS suspended collection action on physician for financial hardship.</li> <li>Hospital revoked physician's clinical privileges for substandard care.</li> <li>HHS IG had previously excluded physician from Medicare.</li> <li>Business owes over \$150,000 to another federal agency.</li> </ul>
Case 10	Physician / Business	Over \$100,000	Nearly \$400,000	<ul style="list-style-type: none"> <li>Owner convicted for filing fraudulent tax returns. Owner used business accounts to pay for personal expenses.</li> <li>Owner attempted to transfer large amounts of money to a country known for state-sponsored terrorism at same time the business owed taxes.</li> <li>Owner owns multiple real properties, including a multimillion dollar home.</li> <li>Owner's recent reported income was about \$500,000.</li> <li>Owner closed business and paid IRS the asset value of business, which was hundreds of thousands of dollars less than taxes owed. IRS listed business as defunct. Owner started virtually identical business to get a new start.</li> <li>IRS reported tax debts to TOP for collection action.</li> </ul>

Case	Nature of work / type of entity	Medicare Part B paid claims for first 9 months of calendar 2005 <sup>a</sup>	Unpaid federal tax <sup>b</sup>	Description of activity
Case 11	Ambulance/ Business	Over \$1 million	Nearly \$2 million	<ul style="list-style-type: none"> <li>• Business owns several ambulance companies owing tax debts, mostly payroll taxes.</li> <li>• Business officer decided to “grow the business” instead of paying federal taxes.</li> <li>• Business received over \$100,000 from another federal agency over a 2-year period.</li> <li>• Business obtained contract for disaster relief efforts.</li> <li>• Business officer possesses multiple real properties, including house on a golf course and luxury vehicles, while owing taxes.</li> <li>• Company filed for bankruptcy in the 2000s.</li> <li>• IRS assessed trust fund recovery penalty against an officer of the business.</li> <li>• IRS reported tax debts to TOP for collection action.</li> </ul>
Case 12	Physician / Business	Up to \$100,000	Nearly \$400,000	<ul style="list-style-type: none"> <li>• Owner owes over \$400,000 in individual income taxes.</li> <li>• Owner owns an expensive house, liquor establishment, and a plane while owing taxes.</li> <li>• IRS has not assessed trust fund recovery penalty for the payroll tax debts because owner owes large individual income taxes liabilities that would make the collection of trust fund recovery penalty unlikely.</li> <li>• IRS reported tax debts to TOP for collection action.</li> </ul>
Case 13	Physician / Business	Over \$100,000	Nearly \$2 million	<ul style="list-style-type: none"> <li>• Tax debt is primarily unpaid payroll taxes.</li> <li>• Business entered into installment agreement of about \$20,000 a month but subsequently defaulted.</li> <li>• IRS assessed trust fund recovery penalty against owner. IRS erroneously placed the account in taxpayer claim status for about 9 months suspending certain collection activities. During this time, the owner was able to purchase a house for over \$1 million and receive a tax refund on his personal taxes for thousands of dollars.</li> <li>• Owner receives income from a tobacco farm.</li> <li>• Physician lost over \$1 million in adjudicated medical malpractice claims.</li> </ul>
Case 14	Physician / Business	Up to \$100,000	Nearly \$1 million	<ul style="list-style-type: none"> <li>• Tax debt is primarily unpaid payroll taxes.</li> <li>• Business has history of entering into installment agreements with IRS and defaulting on those agreements.</li> <li>• Owner transferred properties worth over \$2 million to his spouse while IRS was pursuing collection efforts.</li> <li>• Owner leases luxury car while owing taxes.</li> <li>• IRS has not assessed trust fund recovery penalty for the payroll tax debts because business is a sole proprietor and, thus, owner is personally liable for the payroll taxes.</li> <li>• IRS reported tax debts to TOP for collection action.</li> </ul>

Case	Nature of work / type of entity	Medicare Part B paid claims for first 9 months of calendar 2005 <sup>a</sup>	Unpaid federal tax <sup>b</sup>	Description of activity
Case 15	Physician / Business	Over \$1 million	Over \$1 million	<ul style="list-style-type: none"> <li>• Tax debt is primarily unpaid payroll taxes.</li> <li>• Owner recently submitted compromise offer to IRS for about one fourth of taxes owed to be paid over 2 years. The amount to be paid would cover the trust fund recovery penalty assessed on the business owner.</li> <li>• Owner's recent reported income was about \$500,000.</li> <li>• Owner owns million dollar house, a pleasure boat, and several night clubs while owing taxes.</li> </ul>

Source: GAO's analysis of IRS, FMS, Medicare claims, public, and other records.

Notes: Dollar amounts are rounded. A Medicare physician, health professional, or supplier can submit claims using either an Employer Identification Number (EIN) or Social Security Number (SSN). In our testimony, any entity submitting a claim with an EIN is referred to as a business, and any entity submitting a claim with an SSN is referred to as an individual.

<sup>a</sup>Medicare Part B payments are physician, health professional, and supplier claims approved by HHS for payment for the first 9 months of calendar year 2005.

<sup>b</sup>Unpaid tax amount as of September 30, 2006.

The following provides detailed information on three of the cases we examined.

- Case 1: Although in 2 recent years, the physician's business reported a net income of over \$300,000 and \$100,000, respectively, the physician has not made any federal tax payments to IRS. In addition, the physician has been delinquent in child support during this time. As a result, the physician's spouse had to sell the residence because the spouse could not afford the house. A hospital revoked the physician's hospital privileges for substandard care and the state medical board also investigated the physician. The physician received over \$100,000 in Medicare Part B payments for the first 9 months of calendar year 2005.
- Case 2: A physician was convicted of money laundering through offshore accounts. In addition to owing over \$600,000 in federal individual income taxes, the physician owes tens of thousands of dollars in delinquent child support and also owns a related business that owes over \$300,000 in federal taxes. Even though owing significant debts, the physician owns several residential properties, including an overseas house. HHS paid the physician nearly \$100,000 in Medicare Part B payments during the first 9 months of calendar year 2005.
- Case 4: An ambulance business owner paid employees in cash and did not report this income to IRS. The ambulance business owner was convicted and incarcerated for defrauding the U.S. government. While the owner was in prison, a business officer used company funds to purchase property for

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the business officer instead of paying the federal payroll taxes to IRS. In 2004, the business negotiated and is paying on a repayment agreement of about \$3,000 per month. These monthly payments are substantially less than the interest that would accrue on the debt. HHS paid the ambulance company over \$100,000 in Medicare Part B payments during the first 9 months of calendar year 2005.

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## Physicians, Health Professionals, and Suppliers with Unpaid Taxes Are Not Prohibited from Enrolling or Receiving Payments from Medicare

HHS does not prevent physicians, health professionals, and suppliers with tax debts from enrolling in or receiving payments from the Medicare program. HHS has not developed Medicare regulations or HHS implementing policy to require HHS or their contractors to (1) screen physicians, health professionals, and suppliers for unpaid taxes and (2) require contractors to obtain consent for IRS disclosure of federal tax debts. However, because HHS has not participated in the continuous levy program, no tax debts owed by these physicians, health professionals and suppliers are being collected through the program. As a result, the federal government lost opportunities to collect between \$50 million and \$140 million in unpaid taxes in the first 9 months of calendar year 2005.<sup>32</sup>

HHS Medicare contractors are responsible for screening physicians, health professionals, and suppliers prior to enrollment into the Medicare program. However, as part of the screening process, neither HHS policies nor HHS regulations require Medicare contractors to consider tax debts or tax-related abuses of prospective physicians, health professionals, and suppliers. Medicare contractors are also not required to conduct any criminal background checks on these individuals. Medicare contractors are required to review the HHS Office of Inspector General (OIG) exclusion list and the General Services Administration (GSA) debarment lists; however, these lists do not include all individuals or businesses who have abused the federal tax system.<sup>33</sup> The basis of exclusion of certain individuals and entities from participation in Medicare programs is made

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<sup>32</sup>The \$50 million estimate is based on 15 percent rate that FMS uses to levy civilian contractors. The \$140 million estimate is based on the 100 percent rate authorized by law.

<sup>33</sup>The OIG exclusion list provides information on health care providers that are excluded from participation in Medicare, Medicaid, and other federal health care programs because of criminal convictions related to Medicare or state health programs or other major problems related to health care (e.g., patient abuse or neglect). The GSA debarment list provides information on individuals or entities that are debarred, suspended, or otherwise excluded from participating in any other federal procurement or nonprocurement activity. Federal agencies can place individuals or entities on the GSA debarment list for a variety of reasons including fraud, theft, bribery, and tax evasion.

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by statute.<sup>34</sup> The statute provides for both mandatory and permissive exclusions. Mandatory exclusions are confined to health-related criminal offenses while permissive exclusions concern primarily non-health-related offenses. The Federal Acquisition Regulation cites conviction of tax evasion as one of the causes for debarment; indictment on tax evasion charges is cited as a cause for suspension. Consequently, the deliberate failure to remit taxes, in particular payroll taxes, while a felony offense, will likely not result in an individual or business being debarred or suspended unless there is an indictment or conviction of the crime. Moreover, while a felony offense, the deliberate failure to remit taxes, in particular payroll taxes, will likely not result in an individual or entity being placed on the Medicare exclusion or GSA debarment lists unless the taxpayer is convicted.

Even if an individual or entity is convicted of tax evasion or other tax-related crime, the individual or business still may not be placed on the Medicare exclusion or GSA debarment lists. To be placed on these lists, federal agencies must identify those individuals and businesses and provide them with due process. As part of the due process, the agency must make a determination as to whether the exclusion or debarment is in the government's interest. None of the 40 cases that we investigated, including those involving a conviction for tax-related crimes, are currently on the Medicare exclusion or GSA debarment lists.

Further complicating HHS decision making on the consideration of tax debts for Medicare, federal law does not permit IRS to disclose taxpayer information, including tax debts, to HHS or Medicare contractor officials unless the taxpayer consents.<sup>35</sup> HHS has not established a policy to obtain Medicare applicants' consent to obtain tax information from IRS to consider in its Medicare eligibility decision making process. Thus, certain tax debt information can only be discovered from public records if IRS files a federal tax lien against the property of a tax debtor<sup>36</sup> or a record of conviction for tax offense is publicly available.<sup>37</sup> Consequently, HHS

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<sup>34</sup>42 U.S.C. § 1320a-7.

<sup>35</sup>26 U.S.C. § 6103.

<sup>36</sup>For example, 8 of the 40 cases for which we performed detailed audit and investigation did not have federal tax liens filed against them. See app. III for federal and state tax liens by each case.

<sup>37</sup>Under section 6321 of the Internal Revenue Code, IRS has the authority to file a lien upon all property and rights to property, whether real or personal, of a delinquent taxpayer.

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officials and their contractors do not have ready access to information on unpaid tax debts to consider in making decisions on physicians, health professionals and suppliers.

Further, HHS has not established policy to participate in the IRS continuous levy program, thus preventing IRS from capturing at least a portion of the Medicare payments made to physicians, health professionals, and suppliers that owe tax debts. As stated earlier, federal law allows IRS to continuously levy federal vendor payments up to 100 percent until the tax debt is paid.<sup>38</sup> IRS has implemented this authority by creating a continuous levy program that utilizes FMS's Treasury Offset Program system. In July 2001, we reported that HHS did not have plans to participate in the continuous levy program and we recommended that the Commissioners of IRS and FMS work with HHS to develop plans to include Medicare payments in the continuous levy program.<sup>39</sup> In July 2006, IRS began to pursue HHS participation in the continuous levy program through the Federal Contractor Tax Compliance (FCTC) Task Force, a multiagency group dedicated to improving the continuous levy process.<sup>40</sup> In response to IRS's request, HHS began to participate in the FCTC Task Force meetings in February 2007.

If HHS had previously worked with IRS to levy Medicare Part B payments, we estimate, using the conservative 15 percent rate that FMS uses to levy

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<sup>38</sup>Of the 40 cases that we performed detailed review, IRS reported 16 of them for continuous levy.

<sup>39</sup>GAO, *Tax Administration: Millions of Dollars Could Be Collected If IRS Levied More Federal Payments*, [GAO-01-711](#) (Washington, D.C.: July 20, 2001).

<sup>40</sup>To address issues raised by our February 12, 2004, report and testimony, this multiagency task force was established to help improve the continuous levy program. The task force includes representatives from the Department of Defense (DOD), Defense Finance and Accounting Service, IRS, FMS, General Services Administration, Office of Management and Budget, and Department of Justice. As a result of the actions undertaken by the task force, IRS reported collecting millions in taxes through the improvements in the continuous levy program.

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civilian contractors,<sup>41</sup> the federal government could have collected about \$50 million in unpaid federal taxes for the first 9 months of calendar year 2005. Using the 100 percent rate authorized by law, the federal government could have collected approximately \$140 million. These estimates were based on debt information IRS has reported to TOP as of September 30, 2005.

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## Concluding Comments

Thousands of Medicare Part B physicians, health professionals, and suppliers have failed in their responsibility to pay federal taxes they owe as individuals and businesses residing and conducting business in this nation. Further our case studies demonstrate that physicians and other medical service providers with federal tax debts can receive Medicare Part B payments while engaging in abusive and potentially criminal activity. In addition, our case studies determined that some physicians who abused the federal tax system are also not providing quality care to all of their patients. Additionally, because HHS has failed to participate in the continuous levy process since its authorization in 1997, the federal government has missed the opportunity to collect hundreds of millions of dollars in unpaid taxes from Medicare Part B physicians, health professionals, and suppliers. The federal government cannot afford to leave millions of dollars in taxes uncollected each year in the current environment of federal deficits, nor can it continue to permit physicians, health professionals, and suppliers that have abused the federal tax system from participating in the Medicare program.

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<sup>41</sup>In October 2004, Congress passed the American Jobs Creation Act 2004, Pub. L.108-357, 118 Stat 1418 codified as amended in scattered sections of 26 U.S.C., to increase the maximum continuous levy from 15 percent to up to 100 percent of payments to contractors with unpaid taxes. The act specifically increased the continuous levy on payments to vendors for "goods and services" sold or leased to the government. According to IRS, the legal language, which specified that goods and services be subject to the 100 percent levy provision, excludes real estate, such as rent payments, from the new levy requirement. Because civilian agencies' payment systems cannot separately identify real estate transactions from other contractor payments, FMS could not implement the new law for civilian payments and continues to levy payments at 15 percent.

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Mr. Chairman and Members of the Subcommittee, this concludes our statement. We would be pleased to answer any questions that you or other members of the committee may have at this time.

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## GAO Contacts

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# Appendix I: Scope and Methodology

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To identify the magnitude of unpaid taxes owed by Medicare Part B physicians, health professionals and suppliers, we requested from Department of Health and Human Services (HHS) the related Medicare Part B claims data for calendar year 2005.<sup>1</sup> HHS was only able to provide us these data for the first 9 months of calendar year 2005 by the end of our review. We also obtained and analyzed the Internal Revenue Service (IRS) unpaid assessment data as of September 30, 2005. We matched the Medicare claim data to the IRS unpaid assessment data using the taxpayer identification number (TIN) field. To avoid overestimating the amount owed by Medicare Part B physicians, health professionals, and suppliers with unpaid tax debts and to capture only significant tax debts, we excluded from our analysis tax debts and paid claims meeting specific criteria to establish a minimum threshold in the amount of tax debt and in the amount of paid claims to be considered when determining whether a tax debt is significant. The criteria we used to exclude tax debts are as follows:

- tax debts that IRS classified as compliance assessments or memo accounts for financial reporting,<sup>2</sup>
- tax debts from calendar year 2005 tax periods, and
- Medicare Part B physicians, health professionals, and suppliers with total unpaid taxes and Medicare Part B paid claims of less than \$100.

The criteria above were used to exclude tax debts that might be under dispute or generally duplicative or invalid, and tax debts that are recently incurred. Specifically, compliance assessments or memo accounts were excluded because these taxes have neither been agreed to by the taxpayers nor affirmed by the court, or these taxes could be invalid or duplicative of other taxes already reported. We excluded tax debts from calendar year 2005 tax periods to eliminate tax debt that may involve matters that are routinely resolved between the taxpayer and IRS, with the taxes paid or abated within the current year. We further excluded tax debts and Medicare Part B paid claims of less than \$100 because they are insignificant for the purpose of determining the extent of taxes owed.

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<sup>1</sup>Physician claim data consists of all Part B claims processed for physicians, health professionals, and suppliers by Medicare contractors excluding durable medical equipment. As such, durable medical equipment will be reviewed in the subsequent audit.

<sup>2</sup>Under federal accounting standards, unpaid assessments require taxpayer or court agreement to be considered federal taxes receivables. Compliance assessments and memo accounts are not considered federal taxes receivable because they are not agreed to by taxpayers or the courts.

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To identify examples of abuse or potentially criminal activity, we selected 40 Medicare Part B physicians, health professionals, and suppliers with federal tax debts for detailed audit and investigation. The 40 cases were chosen using a nonrepresentative selection approach based on our judgment, data mining, and a number of other criteria. Specifically, we narrowed the 40 cases with unpaid taxes based on the amount of unpaid taxes, number of unpaid tax periods, amount of payments reported by Medicare Part B, and indications that owner(s) might be involved in multiple companies with tax debts.

We obtained copies of automated tax transcripts and other tax records (for example, revenue officer's notes and certain individual tax returns) from IRS, and reviewed these records to exclude physicians and suppliers that had recently paid off their unpaid tax balances and considered other factors before reducing our number of case studies to 40. We performed additional searches of criminal, financial, and public records. In cases where record searches and IRS tax transcripts indicate that the owners or officers of a business are involved in other related entities<sup>3</sup> that have unpaid federal taxes, we also reviewed records of the related entities and the owner(s) or officer(s), in addition to the original business we identified. For each related entity, we determined whether that entity had Medicare Part B payments for the first 9 months of calendar year 2005 and had unpaid federal taxes as of September 30, 2005. We updated the tax debt amount as of September 30, 2006, to reflect any additional tax assessments or collections that have occurred. In instances where we identified related parties that had both Medicare Part B payments and tax debts, our case studies included those related entities, combining unpaid taxes and combined Medicare Part B payments for the original individual/business as well as all related entities.

To determine the extent to which HHS officials and their contractors are required to consider tax debts or other criminal activities in the enrollment of physicians, health professionals, and suppliers into Medicare, we examined Medicare regulations and HHS policies and procedures for enrollment. We also discussed policies and procedures used to enroll physicians, health professionals, and suppliers into Medicare with officials from two Medicare contractors. As part of these discussions, we inquired whether HHS and their contractors specifically consider tax debts or

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<sup>3</sup>We define related entities as entities that share common owner(s) or officer(s), a common TIN, or a common address.

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perform background investigations to determine whether prospective physicians, health professionals, and suppliers are qualified before their enrollment to Medicare is granted.

To determine the extent to which HHS levies Medicare Part B payments to physicians, health professionals, and suppliers owing tax debts, we examined the statutory and regulatory authorities that govern the continuous levy program to determine whether any legal barriers exist. We also interviewed officials from HHS, two Medicare contractors, IRS, and Department of Treasury's Financial Management Service (FMS) officials as to any operational impediments for the continuous levy of provider payments to pay federal tax debts.

To determine the potential levy collections on the first 9 months of calendar year 2005, we used 15 percent and 100 percent of the total paid claim or total tax debt amount reported to TOP per IRS records, whichever is less. To be conservative, we used the 15 percent rate that FMS uses to levy civilian contractors. A gap will exist between what could be collected and the maximum levy amount calculated because (1) tax debts in TOP may not be eligible for immediate levy because IRS has not completed due process notifications, and (2) IRS may remove tax debts from the levy program because the taxpayer filed for bankruptcy, negotiated an installment agreement, or some other action which made the taxpayer ineligible for the levy program.

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## Data Reliability Assessment

To determine the reliability of the IRS unpaid assessments data, we relied on the work we performed during our annual audits of IRS's financial statements. While our financial statement audits have identified some data reliability problems associated with the coding of some of the fields in IRS's tax records, including errors and delays in recording taxpayer information and payments, we determined that the data were sufficiently reliable to address this report's objectives. Our financial audit procedures, including the reconciliation of the value of unpaid taxes recorded in IRS's masterfile to IRS's general ledger, identified no material differences.

For HHS's Medicare claims history and FMS's TOP databases, we interviewed HHS and FMS officials responsible for their respective databases. In addition, we performed electronic testing of specific data elements in the databases that we used to perform our work.

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Based on our discussions with agency officials, review of agency documents, and our own testing, we concluded that the data elements used for this testimony were sufficiently reliable for our purposes.

We conducted our audit work from June 2006 through February 2007 in accordance with U.S. generally accepted government auditing standards, and we performed our investigative work in accordance with standards prescribed by the President's Council on Integrity and Efficiency.

# Appendix II: Medicare Physicians, Health Professionals, and Suppliers with Unpaid Taxes

This appendix presents summary information on the abusive or potentially criminal activity associated with 25 of our 40 case studies.<sup>1</sup> Table 2 summarizes the abuse or potentially criminal activity related to the federal tax system for these 25 physicians, health professionals, and suppliers that also received Medicare Part B payments in 2005. The cases involving businesses primarily involved unpaid payroll taxes.

**Table 2: Summary Information on Other Medicare Part B Physicians, Health Professionals and Suppliers with Unpaid Federal Taxes**

Case	Nature of work / type of entity	Medicare Part B paid claims for first 9 months of calendar 2005 <sup>a</sup>	Unpaid federal tax <sup>b</sup>	Description of activity
Case 16	Medical Imaging / Business	Up to \$100,000	Nearly \$900,000	<ul style="list-style-type: none"> <li>• Tax debt is primarily unpaid payroll taxes covering over 15 tax periods. For most of these tax periods, business made no tax payments.</li> <li>• IRS assessed trust fund recovery penalty against the owner of the business.</li> <li>• Business filed for bankruptcy in 2000s.</li> <li>• State agency investigated and closed business for negligent services.</li> <li>• IRS reported tax debts to TOP for collection action.</li> </ul>
Case 17	Physician / Individual	Up to \$100,000	Over \$100,000	<ul style="list-style-type: none"> <li>• Tax debt is individual income tax debt owed from the mid 2000s.</li> <li>• IRS recently levied over \$200,000 in investments that paid off individual income taxes owed from the late 1990s to the early 2000s.</li> <li>• State medical board suspended physician's license.</li> <li>• Physician filed for bankruptcy in 2000s.</li> </ul>
Case 18	Physician / Individual	Up to \$100,000	Over \$400,000	<ul style="list-style-type: none"> <li>• Physician has not filed tax returns to the IRS since late 1990s.</li> <li>• State medical board reprimanded physician.</li> <li>• HHS IG had previously excluded physician from Medicare program.</li> </ul>
Case 19	Physician / Individual	Over \$100,000	Over \$400,000	<ul style="list-style-type: none"> <li>• Physician's tax debt is largely comprised of individual income taxes owed for tax years in the 1990s.</li> <li>• HHS IG had previously excluded physician from Medicare program.</li> <li>• State medical board suspended physician's license.</li> <li>• Physician owes over \$100,000 to another federal agency.</li> </ul>

<sup>1</sup>Table 1 in the main portion of this testimony provides data on 15 detailed cases.

Case	Nature of work / type of entity	Medicare Part B paid claims for first 9 months of calendar 2005 <sup>a</sup>	Unpaid federal tax <sup>b</sup>	Description of activity
Case 20	Physician / Individual	Up to \$100,000	Over \$3 million	<ul style="list-style-type: none"> <li>Physician has generally refused to pay federal income taxes since 1970s.</li> <li>Physician is a tax protester.</li> <li>Physician attempted to convey residential property to children to prevent foreclosure by IRS.</li> <li>Over \$350,000 of tax debt owed by the physician reached its statutory collection expiration period and can no longer be collected by IRS.</li> <li>Physician owes over \$1 million to another federal agency.</li> </ul>
Case 21	Physician / Individual	Up to \$100,000	Nearly \$900,000	<ul style="list-style-type: none"> <li>Physician offered installment agreement of about \$1,000 a month.</li> <li>Physician did not make federal income tax payments for several years in 2000s.</li> <li>State medical board suspended physician's license.</li> <li>Physician was convicted of income tax evasion.</li> </ul>
Case 22	Ambulance / Business	Over \$100,000	Nearly \$700,000	<ul style="list-style-type: none"> <li>Business offered installment agreement of about \$20,000 a month but was rejected by IRS because taxpayer did not stay current with either making required payroll tax deposits or filing required payroll tax returns.</li> <li>Business officer admitted to using tax money for another business.</li> <li>IRS is investigating business for abusing filing requirements.</li> <li>IRS is in the process of assessing trust fund recovery penalty for the payroll tax debts.</li> </ul>
Case 23	Physician / Individual	Over \$100,000	Nearly \$3 million	<ul style="list-style-type: none"> <li>IRS revenue officer noted that taxpayer used compromise offers to delay collection efforts.</li> <li>State medical board suspended physician's license.</li> <li>Physician is under investigation for illegally transferring assets so that IRS cannot seize them.</li> <li>IRS reported tax debts to TOP for collection action.</li> </ul>
Case 24	Physician / Individual	Over \$100,000	Over \$1 million	<ul style="list-style-type: none"> <li>Physician's tax debt is largely comprised of individual income taxes owed for tax years in the 1990s. Physician also owes a trust fund recovery penalty for over \$100,000.</li> <li>Physician stated that he did not pay taxes because of purchase of businesses and payment of children's college education.</li> <li>Physician owns house near a country club worth over \$500,000 while owing taxes.</li> <li>Physician's recent reported income was over \$500,000.</li> <li>IRS reported tax debts to TOP for collection action.</li> </ul>

Case	Nature of work / type of entity	Medicare Part B paid claims for first 9 months of calendar 2005 <sup>a</sup>	Unpaid federal tax <sup>b</sup>	Description of activity
Case 25	Physician / Business	Over \$100,000	Over \$2 million	<ul style="list-style-type: none"> <li>• Tax debt is primarily unpaid payroll taxes.</li> <li>• Owner claimed that taxes were not paid because Medicare and Medicaid were slow in paying claims.</li> <li>• Owner owns multimillion dollar house, as well as paintings, antiques, and other collectibles worth hundreds of thousands of dollars while business owed taxes.</li> <li>• Owner recently closed business and started a new company. At about the same time, the business owner paid over \$1 million in trust fund recovery penalty payments to pay off the personal assessment. However, even with these payments, business still owes over \$2 million in unpaid taxes.</li> </ul>
Case 26	Ambulance/ Business	Over \$1 million	Nearly \$2 million	<ul style="list-style-type: none"> <li>• Tax debt is primarily unpaid payroll taxes.</li> <li>• Business has generally not made any federal tax deposits since mid-2000s. Owner stated that tax returns were not filed because owner did not have the money to pay payroll taxes.</li> <li>• Multiple federal and state tax liens totaling nearly \$2 million filed against the business.</li> <li>• Business received thousands of dollars from another federal agency over a 2-year period.</li> <li>• IRS is in the process of assessing trust fund recovery penalty for the payroll tax debts.</li> <li>• IRS reported tax debts to TOP for collection action.</li> </ul>
Case 27	Physician / Business	Over \$100,000	Over \$1 million	<ul style="list-style-type: none"> <li>• Tax debt is primarily unpaid payroll taxes.</li> <li>• Owner owes over \$600,000 in individual income taxes.</li> <li>• IRS classified account as a financial hardship.</li> <li>• Owner owns \$2 million dollar house.</li> <li>• Owner made large cash withdrawals totaling hundreds of thousands of dollars during the time little or no payroll taxes were paid to IRS.</li> <li>• State medical board sanctioned physician.</li> <li>• IRS has not assessed trust fund recovery penalty for the payroll tax debts because business is a sole proprietor and thus is personally liable for the payroll taxes.</li> </ul>
Case 28	Ambulance / Business	Over \$100,000	Over \$1 million	<ul style="list-style-type: none"> <li>• Tax debt is primarily unpaid payroll taxes.</li> <li>• Business under court order to pay IRS tens of thousands per month.</li> <li>• Owner owns another business that owes over \$400,000 in payroll taxes.</li> <li>• IRS assessed trust fund recovery penalty against the owner of the business.</li> <li>• Business obtained contract for disaster relief efforts.</li> <li>• Owner stated that taxes were not paid because of higher gasoline prices and insurance.</li> </ul>

Case	Nature of work / type of entity	Medicare Part B paid claims for first 9 months of calendar 2005 <sup>a</sup>	Unpaid federal tax <sup>b</sup>	Description of activity
Case 29	Physician / Business	Over \$100,000	Over \$1 million	<ul style="list-style-type: none"> <li>• Tax debt is primarily unpaid payroll taxes.</li> <li>• IRS assessed trust fund recovery penalty against the owner of the business.</li> <li>• Hospital suspended physician's clinical privileges for substandard care.</li> <li>• State medical board sanctioned owner.</li> </ul>
Case 30	Physician / Business	Over \$100,000	Over \$1 million	<ul style="list-style-type: none"> <li>• Tax debt is unpaid payroll taxes.</li> <li>• Business made no tax payments since early 2000s and has not filed a tax return since mid-2000s.</li> <li>• Owner owns about \$900,000 in real property.</li> <li>• IRS has not performed assessment for trust fund recovery penalty related to payroll tax debts.</li> <li>• IRS reported tax debts to TOP for collection action.</li> </ul>
Case 31	Physician / Business	Over \$100,000	Over \$1 million	<ul style="list-style-type: none"> <li>• Tax debt is primarily unpaid payroll taxes.</li> <li>• IRS assessed trust fund recovery penalty against the owner of the business.</li> <li>• IRS filed federal tax liens totaling nearly \$1 million against the business.</li> <li>• Owner owns a million-dollar house and luxury car while owing taxes.</li> <li>• Physician delinquent on student loans for tens of thousands of dollars.</li> </ul>
Case 32	Physician / Business	Over \$100,000	Over \$900 thousand	<ul style="list-style-type: none"> <li>• Tax debt is primarily unpaid payroll taxes, with business only making one tax payment since the early 2000s.</li> <li>• IRS assessed trust fund recovery penalties against owner for this business and several other businesses totaling over \$1 million.</li> <li>• Owner received about \$90,000 in interest payments in one year from a company he owned that also owed federal taxes.</li> <li>• Owner owns several partnerships involved in medical services and land properties.</li> <li>• Physician served on the Board of Directors of a publicly held company.</li> <li>• IRS went to court to enforce summons order against business owner.</li> <li>• Owner was investigated for check fraud.</li> </ul>



Case	Nature of work / type of entity	Medicare Part B paid claims for first 9 months of calendar 2005 <sup>a</sup>	Unpaid federal tax <sup>b</sup>	Description of activity
Case 33	Physician / Business	Over \$100,000	Over \$300,000	<ul style="list-style-type: none"> <li>• Tax debt is primarily unpaid payroll taxes.</li> <li>• Business sought to establish installment agreement with IRS for taxes owed but was rejected because business was not current of tax deposits.</li> <li>• Owner claims taxes were not paid when business lost health contracts after hiring a noncertified doctor.</li> <li>• Owner owns several real estate properties worth nearly \$4 million including residence worth over \$1.5 million.</li> <li>• IRS assessed trust fund recovery penalty against owner for the payroll tax debts.</li> <li>• IRS reported tax debts to TOP for collection action.</li> </ul>
Case 34	Physician / Business	Over \$100,000	Nearly \$800,000	<ul style="list-style-type: none"> <li>• Business recently established installment agreement with IRS for taxes owed and agreed to future increases.</li> <li>• Owner was convicted of obtaining controlled substances by means of deception.</li> <li>• IRS is in process of assessing trust fund recovery penalty for the payroll tax debts.</li> </ul>
Case 35	Physician / Individual	Over \$100,000	Over \$2 million	<ul style="list-style-type: none"> <li>• Physician was convicted of tax evasion after transferring funds overseas.</li> <li>• Physician lost over \$500,000 in adjudicated medical malpractice claims.</li> </ul>
Case 36	Physician / Individual	Over \$100,000	Over \$1 million	<ul style="list-style-type: none"> <li>• Physician offered to compromise the debt for over \$200,000 in 2004 but was rejected by IRS.</li> <li>• Physician reported individual annual income to IRS for over \$250,000 in mid-2000s.</li> <li>• Physician owns residence worth over \$800,000 while owing taxes.</li> <li>• IRS reported tax debts to TOP for collection action.</li> </ul>
Case 37	Physician / Business	Over \$100,000	Over \$600,000	<ul style="list-style-type: none"> <li>• Tax debt is primarily unpaid payroll taxes.</li> <li>• Owner owns other multiple business entities owing approximately \$500,000 in federal taxes. Owner also personally owes over \$1 million in individual income taxes.</li> <li>• IRS went to court to enforce summons order against business owner.</li> <li>• State medical board sanctioned owner.</li> <li>• IRS assessed trust fund recovery penalty against the owner of the business.</li> <li>• IRS reported tax debts to TOP for collection action.</li> </ul>
Case 38	Physician / Business	Up to \$100,000	Over \$200,000	<ul style="list-style-type: none"> <li>• Tax debt is primarily unpaid payroll taxes.</li> <li>• IRS assessed trust fund recovery penalty against business owner.</li> <li>• State medical board sanctioned owner.</li> <li>• Both the business and the owner filed for bankruptcy in the 2000s.</li> </ul>

Case	Nature of work / type of entity	Medicare Part B paid claims for first 9 months of calendar 2005 <sup>a</sup>	Unpaid federal tax <sup>b</sup>	Description of activity
Case 39	Medical Laboratory/ Business	Over \$100,000	Over \$600,000	<ul style="list-style-type: none"> <li>• Tax debt is primarily unpaid payroll taxes.</li> <li>• Business owner possesses multiple real properties, as well as several luxury vehicles and boats while business owed taxes.</li> <li>• Business owner received multiple tax refunds in 2000s totaling tens of thousands of dollars because no trust fund recovery penalty was assessed against owner. In addition, business owner received \$1 million dollar cash settlement.</li> </ul>
Case 40	Physician/ Business	Over \$100,000	Over \$800,000	<ul style="list-style-type: none"> <li>• Tax debt is primarily unpaid payroll taxes. For several tax periods, business made no tax payments.</li> <li>• Owner owns multiple real properties, including residence, worth over \$500,000 while owing taxes.</li> <li>• Owner lost over \$250,000 in adjudicated medical malpractice claim.</li> <li>• IRS plans to assess trust fund recovery penalty for the payroll tax debts if the business does not fully repay tax debts.</li> <li>• IRS reported tax debts to TOP for collection action.</li> </ul>

Source: GAO's analysis of IRS, FMS, HHS, public, and other records.

Notes: Dollar amounts are rounded. A Medicare physician, health professional, or supplier can submit claims using either an Employer Identification Number (EIN) or Social Security Number (SSN). In our testimony, any entity submitting a claim with an EIN is referred to as a business, and any entity submitting a claim with an SSN is referred to as an individual.

<sup>a</sup>Medicare Part B payments are physician, health professional, and supplier claims approved by HHS for payment for the first 9 months in calendar year 2005.

<sup>b</sup>Unpaid tax amount as of September 30, 2006.

# Appendix III: Medicare Physicians, Health Professionals, and Suppliers With Federal and State Tax Liens

This appendix summarizes the extent to which Medicare physicians, health professionals, and suppliers have federal or state liens filed against their property. As discussed previously, certain tax debt information can only be discovered from public records, such as credit reports, if IRS files a federal tax lien against the property of a tax debtor. Of the 40 cases, 31 had federal tax liens filed by the Internal Revenue Service and 23 had tax liens filed by the states. Table 3 provides a summary of the federal or state tax liens filed for all 40 cases.

**Table 3: Summary of Federal and State Tax Liens Against Medicare Part B Physicians, Health Professionals, and Suppliers with Unpaid Taxes**

Case study	Federal tax lien?	State tax lien?
1	Yes	No
2	Yes	No
3	Yes	Yes
4	Yes	Yes
5	No	No
6	Yes	No
7	Yes	No
8	Yes	No
9	Yes	Yes
10	No	No
11	No	No
12	Yes	Yes
13	Yes	Yes
14	Yes	Yes
15	No	Yes
16	Yes	No
17	Yes	No
18	Yes	No
19	Yes	No
20	Yes	Yes
21	Yes	Yes
22	No	No
23	Yes	No
24	Yes	Yes
25	Yes	Yes
26	Yes	Yes

<b>Case study</b>	<b>Federal tax lien?</b>	<b>State tax lien?</b>
27	Yes	Yes
28	Yes	Yes
29	Yes	Yes
30	No	Yes
31	Yes	Yes
32	Yes	Yes
33	Yes	Yes
34	No	Yes
35	No	Yes
36	Yes	No
37	Yes	Yes
38	Yes	Yes
39	Yes	No
40	Yes	No

Source: Public records.

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