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## Cabinet-Pick Kirk Owes \$10,000 in Back Taxes

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[Norm Lofgren](#), a Member at Gray Reed & McGraw, was quoted in the Dallas Morning News article "Cabinet-pick Kirk owes \$10,000 in back taxes".

Norm's practice focuses on taxation, estate planning and family wealth protection and transfer. His experience as a former trial attorney for the IRS coupled with his extensive experience in income, estate, gift, generation-skipping tax matters and tax planning for closely held businesses enables Norm to create solutions that minimize tax exposure and preserve wealth.

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### Cabinet-Pick Kirk Owes \$10,000 in Back Taxes

WASHINGTON – Ron Kirk's excess deductions for basketball tickets and failure to report speaking fees as income have cost him \$10,000 in back taxes, a Senate committee disclosed Monday, in the latest IRS-related embarrassment for an Obama Cabinet pick.

The problems are the first indication of potential trouble for Kirk's nomination to be U.S. trade representative, though White House officials and key senators called the errors minor and predicted the former Dallas mayor will be confirmed by the Senate.

"When you put anybody's tax filings under a microscope, people don't have to be dishonest," said Senate Majority Leader Harry Reid, D-Nev. "It's just hard to do all the right things. It certainly shouldn't disqualify him."

Aides to the Senate Finance Committee uncovered Kirk's tax shortfall during weeks of vetting. Kirk, a lawyer and the Texas Democratic Party's 2002 Senate nominee, will file amended tax returns for the last three years and pay the Internal Revenue Service \$9,975 plus interest.

That pales beside the lapses of some Obama Cabinet picks, though independent tax experts agreed that Kirk had made some "careless" errors.

Treasury Secretary Timothy Geithner paid \$43,000 in back taxes before his confirmation. Tom Daschle, the former Senate majority leader who withdrew his bid to lead the Health and

Human Services Department, paid \$128,203 in back taxes, plus interest, for failing to report as income the car and driver a friend had provided to him.

Labor Secretary Hilda Solis' confirmation was delayed for weeks amid questions about her husband's unpaid taxes. Outside the Cabinet, an Obama pick for a top White House job withdrew over questions about her tax compliance.

The series of problems prompted the White House to review its vetting process and slow the pace of nominations. It was hard to gauge Monday how badly Kirk might suffer from the snafus' cumulative effect.

"We are confident that Mayor Kirk will be confirmed," said White House spokesman Ben LaBolt.

### **'Disappointed'**

Texas Sen. John Cornyn, a member of the GOP leadership and the finance committee who defeated Kirk in the 2002 race, had been supportive of the nomination. But Monday night, an aide called the tax problems "a very serious offense."

"He's very disappointed," Cornyn spokesman Kevin McLaughlin said. "He's hopeful Mr. Kirk will take the opportunity to provide an explanation when he comes before the finance committee."

The top Republican on the panel, Sen. Charles Grassley of Iowa, "will reserve judgment on the nomination until the vetting process, including the hearing and any follow-up questions resulting from the hearing, is completed," said spokeswoman Jill Gerber.

Chairman Max Baucus, D-Mont., postponed the confirmation hearing for four days, until next Monday, citing a conflict with the White House health care summit. He was standing by Kirk, however.

"Mayor Kirk is the right person for this job," Baucus said. "I am confident he can successfully restore the confidence of Congress and the American people in a balanced international trade agenda."

Kirk supports free trade, and Republicans have generally welcomed the pick.

He earned more than \$1 million last year as a law partner at Houston-based Vinson & Elkins and from corporate board positions, according to his financial disclosure form.

He was a key Obama supporter in Texas and was unveiled in December as Obama's point person on foreign trade. Kirk's nomination has been pending longer than any other for the

Cabinet. Baucus blamed his committee's focus on the economic stimulus and nominations for Treasury and health and human services posts.

Kirk didn't respond to interview requests Monday.

His tax bill includes three main discrepancies:

- He owes \$5,800 because of \$37,750 in honorariums from 16 speeches dating to 2004. He assigned the fees to be paid directly to a scholarship fund at his alma mater, Austin College in Sherman. The Finance Committee said he should have reported the income and claimed a corresponding charitable deduction.

Independent tax attorneys agreed but called it an honest mistake.

"This is not something he should be hauled over the coals for," said Bill Roberts, a Dallas tax lawyer. "It doesn't show any intent to evade tax. ... Anybody could have made that mistake."

- Kirk owes \$2,600 stemming from deductions for season tickets to the NBA Dallas Mavericks: \$6,208, \$7,035 and \$4,139 in 2005, 2006 and 2007, respectively.

A memo issued by Democratic and GOP Finance Committee staffs said, however, that "he has substantiated \$9,900 of the total \$17,382 as qualifying entertainment expenses."

### **Written records rule**

The IRS requires written records indicating the time and place, business purpose, and name and business relationship of the person being entertained.

A White House official called it a "matter of record-keeping," arguing that just because Kirk couldn't come up with documentation for every game since 2005 doesn't mean he hadn't taken clients.

But Norm Lofgren, a partner at Gray Reed & McGraw law firm in Dallas and a former IRS trial attorney, said that being able to substantiate only 57 percent of claimed expenses "suggests carelessness in his business record-keeping. The question is why. Mayor Kirk is an experienced lawyer who undoubtedly knows the specific substantiation rules for entertainment."

- An additional \$1,000 in back taxes involved deductions for \$25,218 in tax and accounting fees over three years. Kirk attributed 90 percent to his law practice, but that was too high.

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Last October, Kirk also paid the IRS \$2,188 plus \$139 interest for tax year 2006, after the IRS notified him that he had failed to report a \$5,000 speaking honorarium and \$819 in dividend income.

Sen. Kay Bailey Hutchison, R-Texas, said through an aide late Monday that "I have confidence in Ron Kirk [and] I believe he should be confirmed."

Staff writers Pamela Yip in Dallas and Dave Michaels in Washington contributed to this report.