RECEIVED

By Executive Secretariat Correspondence Office at 2:54 pm, Jan 19, 2021

From: LegAffairs@treasury.gov
To: Ches_Garrison@judiciary-dem.senate.gov
Cc: *C&L Congressional Correspondence; LegAffairs@treasury.gov
Subject: FW: Senator Whitehouse Letter to IRS Commissioner Rettig
Date: Tuesday, January 19, 2021 1:11:09 PM
Attachments: Whitehouse IRS Letter (b)(3):26 U.S.C. § 6103 01.19.2021.pdf

---

Thank you, Ches. I will forward your request to IRS.

IRS: please contact Ches Garrison (Sen. Sheldon Whitehouse) at (202) 228-6286 regarding IRS letter
(b)(3):26 U.S.C. § 6103

Best Regards,

Office of Legislative Affairs
Department of the Treasury

From: Garrison, Ches (Judiciary-Dem) <Ches_Garrison@judiciary-dem.senate.gov>
Sent: Tuesday, January 19, 2021 12:29 PM
To: LegAffairs <LegAffairs@treasury.gov>
Subject: Senator Whitehouse Letter to IRS Commissioner Rettig

** **Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

Hello,

Please find the attached correspondence from Senator Whitehouse to Commissioner Rettig.

Thanks,

Ches Garrison
Senior Counsel | Senator Sheldon Whitehouse | (202) 228-6286

SHELDON WHITEHOUSE
RHODE ISLAND

COMMITTEES:
BUDGET
ENVIRONMENT AND PUBLIC WORKS
FINANCE
JUDICIARY

United States Senate
WASHINGTON, DC 20510–3905

http://whitehouse.senate.gov

(202) 224–2921
TTY (202) 224–7746

170 WESTMINSTER STREET, SUITE 200
PROVIDENCE, RI 02903
(401) 453–5294

January 19, 2021

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, D.C. 20224

Commissioner Rettig,

[redacted], as the COVID-19 pandemic reached unprecedented levels, [redacted] a 501(c)(3) nonprofit organization, promoted and held two large events for students and young people [redacted], many participants gathered and mingled indoors without wearing masks, in violation of [redacted] COVID-19 regulations.[1] In holding these "superspreader" events, [redacted] knowingly exposed hundreds of young people and staff working at the events to serious risk of infection.

In light of these actions, the IRS should review whether [redacted] should continue to enjoy its tax-exempt nonprofit status. Established law has long held that an organization is not eligible for tax exemption under section 501(c)(3) if a purpose of the organization is contrary to public policy or is illegal.[2] IRS has established a three-part test to determine whether an organization's activities are consistent with tax exemption under section 501(c)(3): (1) whether the purpose of the organization is charitable; (2) whether the activities are not illegal, contrary to a clearly defined and established public policy, or in conflict with express statutory restrictions; and (3) whether the activities are in furtherance of the organization's exempt purpose and are reasonably related to the accomplishment of that purpose.[3] [redacted] reckless decision to host potential "superspreader" events, in open violation of local COVID-19 regulations, put children and others at risk, and was clearly contrary to the public good.

Tax-exempt status provides a substantial benefit to charitable organizations and reflects the federal government's endorsement of an organization's activities. Organizations that knowingly put in danger minors entrusted to their care should not enjoy the benefits of tax-exempt status.

---

1 [redacted]

2 Restatement (Second), Trusts (1959) Sec. 377; *Bob Jones Univ. v. United States*, 639 F.2d 147 (4th Cir. 1980), *aff'd*, 461 U.S. 574, 103 S. Ct. 2017, 76 L. Ed. 2d 157 (1983).

3 Rev. Rul. 80-278, 1980-2 C.B. 175.

Accordingly, I urge the IRS to review whether it should revoke (b)(3):26 U.S.C. § 6103 tax-exempt status.

Sincerely,

Sheldon Whitehouse
United States Senator

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

March 26, 2021

The Honorable Sheldon Whitehouse
United States Senate
Washington, DC 20510

Dear Senator Whitehouse:

Thank you for your letter dated January 19, 2021, about (b)(3):26 U.S.C. § 6103, a Section 501(c)(3) charity. You shared your concern about reports that the organization hosted COVID-19 super-spreader events in violation of local regulations. You urged the IRS to review and consider whether we should revoke its tax-exempt status.

(b)(3):26 U.S.C. § 6103

Section 6103 of the Internal Revenue Code protects the privacy of tax returns and tax return information of all taxpayers. Therefore, we cannot disclose any actions we may or may not take on this information.

In the future, if you have additional information you believe is relevant to this matter, please contact me or send it to:

Internal Revenue Service
Tax Exempt and Government Entities
CP&C EO Referrals Group
1100 Commerce Street
Dallas, TX 75242

I hope this information is helpful. If you have questions, please contact me, or a member of your staff may contact Amy Klonsky, Chief, National Congressional Affairs Branch, at 202-317-6985.

Sincerely,

Charles P. Rettig

Digitally signed by Charles P. Rettig
Date: 2021.03.26 11:29:46 -04'00'

Charles P. Rettig

RECEIVED

By Executive Secretariat Correspondence Ofice at 8:58 am, Apr 21, 2021

From:	*C&L Congressional Correspondence
To:	Hinton Irma D
Subject:	FW: Letter on opioid company deductions
Date:	Wednesday, April 21, 2021 8:47:26 AM
Attachments:	Hassan-Wyden_Opioid_deductions_letter.210416.pdf

---

From: Moore Harrison B <Harrison.B.Moore@irs.gov>
Sent: Monday, April 19, 2021 8:14 PM
To: *Chief of Staff Advisor <chief.of.staff.advisor@irs.gov>; *C&L Congressional Correspondence <congressional.correspondence@irs.gov>; Klonsky Amy E <Amy.E.Klonsky@irs.gov>
Subject: FW: Letter on opioid company deductions

Fyi

From: Weismuller, Jay (Hassan) <Jay_Weismuller@hassan.senate.gov>
Date: Monday, Apr 19, 2021, 7:04 PM
To: Moore Harrison B <Harrison.B.Moore@irs.gov>
Cc: Schaefer, Sarah (Finance) <Sarah_Schaefer@finance.senate.gov>
Subject: Letter on opioid company deductions

Hi Harrison – please find attached a letter from Sens. Hassan and Wyden, and 10 other colleagues, regarding recent reporting around deductions of settlement expenses for opioid-related litigation.
Thanks

Jay Weismuller
Senior Tax and Economic Policy Advisor
Senator Maggie Hassan
202-224-3324

United States Senate
WASHINGTON, DC 20510

April 16, 2021

The Honorable Charles Rettig
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Commissioner Rettig:

We write to urge the Internal Revenue Service to use the full extent of its authority to challenge any abusive tax deductions claimed by opioid companies for expenses related to legal settlements regarding these companies' role in fueling the opioid crisis.

(b)(3):26 U.S.C. § 6103

Based on this reporting, we are concerned that opioid wholesalers and drug companies may mischaracterize legal settlement expenses in order to claim tax deductions under tax code section 162(f), which allows the deduction of restitution payments.

In January 2021, the IRS published TD 9946, final regulations regarding the deductibility of legal settlement expenses under section 162(f). We strongly encourage the IRS to fully enforce the tax code by challenging any erroneous interpretations of these recent regulations that opioid companies may use in an attempt to claim tax deductions for legal settlement expenses.

We thank you for your attention to this important issue.

Sincerely,

1 (b)(3):26 U.S.C. § 6103
(b)(3):26 U.S.C. § 6103
2 (b)(3):26 U.S.C. § 6103
(b)(3):26 U.S.C. § 6103

Margaret Wood Hassan
United States Senator

Ron Wyden
United States Senator

Brian Schatz
United States Senator

Chris Van Hollen
United States Senator

Tammy Baldwin
United States Senator

Sheldon Whitehouse
United States Senator

Angus S. King, Jr.
United States Senator

Debbie Stabenow
United States Senator

Mark R. Warner
United States Senator

Catherine Cortez Masto
United States Senator

/s/

Jack Reed
United States Senator

Robert Menendez
United States Senator

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

May 6, 2021

The Honorable Margaret Wood Hassan
United States Senate
Washington, DC 20510

Dear Senator Hassan:

Thank you for your letter dated April 16, 2021. You asked the IRS to fully enforce the tax laws to challenge any abusive tax deductions that opioid companies claim for legal settlement expenses related to the opioid crisis.

As you stated, the IRS published final regulations in January 2021, regarding legal settlement deductibility under Section 162(f) of the Internal Revenue Code (the Code). The regulations also provide guidance on the information reporting requirements under new Section 6050X of the Code. Section 6050X relates to suits or agreements concerning the violation of any law.

The IRS is aware of the opioid settlements. We will follow the law and all related guidance during any compliance or enforcement-related activities. The IRS Large Business and International Division has conducted Section 162(f) training for its examiners. It also has technical content, subject matter experts, and Counsel resources available to assist examiners in auditing this issue. If we identify significant non-compliance, the IRS will consider an enforcement campaign on this issue.

Section 6103 protects the privacy of tax returns and tax return information of all taxpayers. Therefore, we cannot disclose any actions we may or may not take related to taxpayers who have entered into opioid settlement agreements.

I hope this information is helpful. If you have questions, please contact me, or a member of your staff may contact Amy Klonsky, Chief, National Congressional Affairs Branch, at 202-317-6985.

Sincerely,

Charles P. Rettig

Digitally signed by Charles P. Rettig
Date: 2021.05.06 15:54:03 -04'00'

Charles P. Rettig

cc: The Honorable Ron Wyden
The Honorable Brian Schatz
The Honorable Chris Van Hollen
The Honorable Tammy Baldwin
The Honorable Sheldon Whitehouse
The Honorable Angus S. King, Jr.
The Honorable Debbie Stabenow
The Honorable Mark R. Warner
The Honorable Catherine Cortez Masto
The Honorable Jack Reed
The Honorable Robert Menendez

RECEIVED
By ESCO at 8:52 am, Apr 20, 2021

Washington Carolyn G

From: Moore Harrison B
Sent: Monday, April 19, 2021 8:14 PM
To: *Chief of Staff Advisor; *C&L Congressional Correspondence; Klonsky Amy E
Subject: FW: Letter on opioid company deductions
Attachments: Hassan-Wyden_Opioid_deductions_letter.210416.pdf

Fyi

From: Weismuller, Jay (Hassan) <Jay_Weismuller@hassan.senate.gov>
Date: Monday, Apr 19, 2021, 7:04 PM
To: Moore Harrison B <Harrison.B.Moore@irs.gov>
Cc: Schaefer, Sarah (Finance) <Sarah_Schaefer@finance.senate.gov>
Subject: Letter on opioid company deductions

Hi Harrison – please find attached a letter from Sens. Hassan and Wyden, and 10 other colleagues, regarding recent reporting around deductions of settlement expenses for opioid-related litigation. Thanks

Jay Weismuller
Senior Tax and Economic Policy Advisor
Senator Maggie Hassan
202-224-3324

United States Senate

WASHINGTON, DC 20510

April 16, 2021

The Honorable Charles Rettig
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Commissioner Rettig:

We write to urge the Internal Revenue Service to use the full extent of its authority to challenge any abusive tax deductions claimed by opioid companies for expenses related to legal settlements regarding these companies' role in fueling the opioid crisis.

(b)(3):26 U.S.C. § 6103

Based on this reporting, we are concerned that opioid wholesalers and drug companies may mischaracterize legal settlement expenses in order to claim tax deductions under tax code section 162(f), which allows the deduction of restitution payments.

In January 2021, the IRS published TD 9946, final regulations regarding the deductibility of legal settlement expenses under section 162(f). We strongly encourage the IRS to fully enforce the tax code by challenging any erroneous interpretations of these recent regulations that opioid companies may use in an attempt to claim tax deductions for legal settlement expenses.

We thank you for your attention to this important issue.

Sincerely,

1 (b)(3):26 U.S.C. § 6103
(b)(3):26 U.S.C. § 6103
2 (b)(3):26 U.S.C. § 6103
(b)(3):26 U.S.C. § 6103

Margaret Wood Hassan
United States Senator

Ron Wyden
United States Senator

Brian Schatz
United States Senator

Chris Van Hollen
United States Senator

Tammy Baldwin
United States Senator

Sheldon Whitehouse
United States Senator

Angus S. King, Jr.
United States Senator

Debbie Stabenow
United States Senator

Mark R. Warner
United States Senator

Catherine Cortez Masto
United States Senator

/s/

Jack Reed
United States Senator

Robert Menendez
United States Senator

RECEIVED
By Executive Secretariat Correspondence Office at 11:57 am, Apr 28, 2021

From: *C&L Congressional Correspondence
To: Hinton Irma D
Subject: FW: Letter to IRS on Dark Money Ruling
Date: Wednesday, April 28, 2021 11:10:01 AM
Attachments: 4.27.21 IRS Dark Money Letter Final v2.pdf

Forwarding CT

Thanks

From: Brown, Vincent (Rules) <Vincent_Brown@rules.senate.gov>
Sent: Wednesday, April 28, 2021 8:25 AM
To: *C&L Congressional Correspondence <congressional.correspondence@irs.gov>
Subject: RE: Letter to IRS on Dark Money Ruling

Please see attached letter from yesterday that reflects Leader Schumer joining.

From: Brown, Vincent (Rules)
Sent: Tuesday, April 27, 2021 11:13 AM
To: 'congressional.correspondence@irs.gov' <congressional.correspondence@irs.gov>
Cc: Walker, Tommy (Rules) <Tommy_Walker@rules.senate.gov>; Gonzalez, Patricio (Finance) <Patricio_Gonzalez@finance.senate.gov>; Peterson, Laura (Tester) <Laura_Peterson@tester.senate.gov>; Beeton, Jonathan (Rules) <Jonathan_Beeton@rules.senate.gov>
Subject: Letter to IRS on Dark Money Ruling

Hello,

Please accept the following letter from Senators Klobuchar, Tester, Wyden, and 35 additional Democratic Senators urging your agency and the Department of Treasury to reverse the Trump Administration's decision to eliminate disclosure requirements for certain tax-exempt organizations that engage in political activity.

If you have any questions, please do not hesitate to reach out.

Thank you,
Vince

Vincent Brown
Counsel
U.S. Senate Committee on Rules and Administration
Room 481, Russell Senate Office Building
Washington, DC 20510|202-224-0025

United States Senate

WASHINGTON, DC 20510-3203

April 27, 2021

The Honorable Janet Yellen
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue N.W.
Washington, D.C. 20530

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue NW
Washington, DC 20224

Dear Secretary Yellen and Commissioner Rettig:

We write to urge the Treasury Department and Internal Revenue Service (IRS) to reverse the Trump Administration's decision to eliminate disclosure requirements for certain tax-exempt organizations that engage in political activity. As it stands, this policy weakens federal tax laws, campaign finance laws, and longstanding efforts to prevent foreign interference in U.S. elections.

For decades, the Treasury Department and IRS required 501(c)(4) organizations and other tax-exempt groups that are eligible to engage in political advocacy to identify, in confidential filings, the names and addresses of individual donors who make significant financial contributions over $5,000. In 2018, the IRS attempted to unilaterally eliminate this requirement. That same year, the Senate voted in a bipartisan manner to overrule the IRS's action, and the rule was eventually struck down by a Federal court. Despite the Senate vote and Federal court ruling, in May of last year the Treasury Department and IRS finalized a regulation eliminating this longstanding disclosure requirement, allowing 501(c)(4), 501(c)(5) and 501(c)(6) groups engaged in political activity to hide the identities of major donors from the IRS.

Eliminating the requirement that tax-exempt groups disclose basic information about the source of their contributions undercuts efforts to enforce prohibitions against foreign spending in U.S. elections and detect other illegal activity. It also undermines the ability of the U.S. government to police the wave of "dark money" that has flooded our political system in the decade since the Supreme Court's decision in *Citizens United v. Federal Elections Commission*. According to a study by the nonpartisan Center for Responsive Politics, dark money groups have spent over $1 billion to influence U.S. elections since 2008.[1]

As secret campaign contributions continue to pour into federal elections, this IRS rule is a major step backwards for transparency and will allow dark money to continue to corrode our political system. The IRS needs every tool at its disposal to ensure that these organizations are complying with the law.

[1] *Dark Money Basics*, Center for Responsive Politics (last accessed April 4, 2021), https://www.opensecrets.org/dark-money/basics.

Reinstating this rule is a critical step in preventing special interests and foreign actors from exploiting loopholes at the expense of the American people. We strongly urge you to reconsider the prior administration's decision and reinstate the requirement that certain tax-exempt organizations engaged in political activity disclose information about their major donors to the IRS.

Sincerely,

Amy Klobuchar United States Senator	Jon Tester United States Senator
Ron Wyden United States Senator	/s/ Charles E. Schumer United States Senator
Sheldon Whitehouse United States Senator	Sherrod Brown United States Senator
Patrick Leahy United States Senator	Mazie K. Hirono United States Senator
Michael F. Bennet United States Senator	Jeffrey A. Merkley United States Senator
Christopher S. Murphy United States Senator	Dianne Feinstein United States Senator

Chris Van Hollen
United States Senator

Benjamin L. Cardin
United States Senator

Cory A. Booker
United States Senator

Brian Schatz
United States Senator

Jeanne Shaheen
United States Senator

Tina Smith
United States Senator

/s/
Raphael Warnock
United States Senator

/s/
Alex Padilla
United States Senator

Robert Menendez
United States Senator

Edward J. Markey
United States Senator

/s/
Richard J. Durbin
United States Senator

Margaret Wood Hassan
United States Senator

Kirsten Gillibrand
United States Senator

Ben Ray Luján
United States Senator

Elizabeth Warren
United States Senator

Tammy Baldwin
United States Senator

Richard Blumenthal
United States Senator

Tammy Duckworth
United States Senator

Tom Carper
United States Senator

Bernard Sanders
United States Senator

Tim Kaine
United States Senator

Joe Manchin III
United States Senator

Catherine Cortez Masto
United States Senator

Jack Reed
United States Senator

/s/
Martin Heinrich
United States Senator

Patty Murray
United States Senator

/s/
Robert P. Casey, Jr
United States Senator

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

June 8, 2021

The Honorable Amy Klobuchar
United States Senate
Washington, DC 20510

Dear Senator Klobuchar:

Thank you for your letter dated April 27, 2021. You urge the Department of the Treasury (Treasury) and the IRS to reverse a final rule issued on May 28, 2020, providing that tax-exempt organizations not described in Sections 501(c)(3) or 527 of the Internal Revenue Code (Code) generally need not report annually the names and addresses of substantial contributors.[1]

The preamble to the final rule contains detailed information about the Treasury and IRS rationale for issuing the regulations. As explained there, we balanced the disclosure of names and addresses of substantial contributors against the costs and risks associated with the annual reporting of such information. We determined it was not necessary to the efficient administration of the internal revenue laws for such tax-exempt organizations (those not described in Sections 501(c)(3) or 527 of the Code) to report annually the names and addresses of substantial contributors; however, all tax-exempt organizations must continue to report the amounts of contributions from each substantial contributor, maintain the names and addresses of their substantial contributors in their own books and records, and provide such information upon request. Therefore, the IRS can efficiently administer the internal revenue laws and access that information through examinations of specific tax-exempt organizations.

As also explained in the preamble, Congress has not authorized the IRS to enforce campaign finance laws. In addition, Section 6103 of the Code strictly limits the IRS's ability to share tax information with other federal agencies. Accordingly, the IRS cannot disclose any names or addresses of substantial contributors to other federal agencies for non-tax investigations, including campaign finance matters, except in very narrowly prescribed circumstances. Unauthorized disclosures may lead to civil and criminal liability.

[1] See T.D. 9898, 85 Fed. Reg. 31,959 (May 28, 2020).

I hope this information is helpful. If you have questions, please contact me, or a member of your staff may contact Amy Klonsky, Chief, National Congressional Affairs Branch, at 202-317-6985.

Sincerely,

Charles P. Rettig

Digitally signed by Charles P. Rettig
Date: 2021.06.08 20:38:17 -04'00'

Charles P. Rettig

cc: The Honorable Jon Tester
The Honorable Ron Wyden
The Honorable Sheldon Whitehouse
The Honorable Sherrod Brown
The Honorable Patrick Leahy
The Honorable Mazie K. Hirono
The Honorable Jeffrey A. Merkley
The Honorable Michael F. Bennet
The Honorable Robert P. Casey Jr.
The Honorable Christopher S. Murphy
The Honorable Dianne Feinstein
The Honorable Chris Van Hollen
The Honorable Robert Menendez
The Honorable Benjamin L. Cardin
The Honorable Edward J. Markey
The Honorable Cory A. Booker
The Honorable Richard J. Durbin
The Honorable Brian Schatz
The Honorable Margaret Wood Hassan
The Honorable Jeanne Shaheen
The Honorable Kirsten Gillibrand
The Honorable Tina Smith
The Honorable Ben Ray Lujan
The Honorable Raphael Warnock
The Honorable Elizabeth Warren
The Honorable Alex Padilla
The Honorable Tammy Baldwin
The Honorable Richard Blumenthal
The Honorable Tammy Duckworth
The Honorable Tom Carper
The Honorable Bernard Sanders
The Honorable Tim Kaine

The Honorable Joe Manchin III
The Honorable Catherine Cortez Masto
The Honorable Jack Reed
The Honorable Martin Heinrich
The Honorable Patty Murray

RECEIVED
By ESCO at 11:42 am, Aug 10, 2021

Baldwin Cavell L

From: Moore Harrison B
Sent: Tuesday, August 10, 2021 11:05 AM
To: *Chief of Staff Advisor; *C&L Congressional Correspondence
Cc: Klonsky Amy E
Subject: FW: Senators Warren, Whitehouse, Sanders letter to Commissioner Rettig on tax compliance proposals
Attachments: 2021.08.10 Letter to IRS on tax compliance proposals.pdf

Incoming, staff alerted us ahead of time this is meant to be a friendly letter

---

From: Laporte-Oshiro, Catherine (Warren) <Catherine_Laporte-Oshiro@warren.senate.gov>
Sent: Tuesday, August 10, 2021 11:03 AM
To: Klonsky Amy E <Amy.E.Klonsky@irs.gov>; Moore Harrison B <Harrison.B.Moore@irs.gov>
Cc: RuBoss, Dan Smith (Whitehouse) <Dan_RuBoss@whitehouse.senate.gov>; Phillips, Richard (Budget) <Richard_Phillips@budget.senate.gov>; Fagan, Liam (Sanders) <Liam_Fagan@sanders.senate.gov>; Cohen, Brian (Warren) <Brian_Cohen@warren.senate.gov>
Subject: Senators Warren, Whitehouse, Sanders letter to Commissioner Rettig on tax compliance proposals

Amy and Harrison –

Attached please find a letter from Senators Warren, Whitehouse, and Sanders to Commissioner Rettig regarding the benefits of investing in the IRS and consequences of inaction. We look forward to your response!

Best,

Catherine Laporte-Oshiro, Ph.D.
Economic Policy Advisor
Office of Senator Elizabeth Warren
catherine_laporte-oshiro@warren.senate.gov
she/her/hers

United States Senate
WASHINGTON, DC 20510

August 10, 2021

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Dear Commissioner Rettig:

I am writing to you regarding the importance of providing the resources the Internal Revenue Service (IRS) needs to go after wealthy tax cheats and provide faster and better service to the majority of Americans who are paying their fair share. In June, amid new reports of abusive tax avoidance by the richest Americans, a bipartisan group of Senators agreed to include $40 billion in funding for the IRS in a bipartisan infrastructure bill – an important step towards a fairer tax system. But several weeks ago, Senate Republicans reneged on their agreement on IRS funding, caving to corporate lobbyists and ideological extremists who want to keep the IRS from tackling the complex tax evasion schemes of the ultra-rich and the armies of financial advisors, accountants, and lawyers hired to facilitate these schemes. I am requesting further information regarding the benefits of investing in the IRS, and the consequences of inaction.

For too long, the wealthiest Americans have been able to use a raft of accountants, tax strategists, financial advisors, lawyers, and lobbyists to avoid paying their fair share in taxes. The top 1% of Americans fail to report more than a fifth of their income on their tax returns, and they account for more than a third of all unpaid federal income tax.[1] New reporting indicates that they pay far less in taxes on their ever-growing wealth than most middle-class wage-earners.[2] Similarly, giant corporations have an ever-more complex set of schemes that they use to reduce their taxes – with many of American's largest and most profitable corporations paying nothing in taxes.[3] This kind of tax evasion has created a massive tax gap – the difference between taxes owed and taxes paid.

---

[1] National Bureau of Economic Research, "Tax Evasion at the Top of the Income Distribution: Theory and Evidence," John Guyton, Patrick Langetieg, Daniel Reck, Max Risch, Gabriel Zucman, March 2021, https://www.nber.org/system/files/working_papers/w28542/w28542.pdf.
[2] ProPublica, "The Secret IRS Files: Trove of Never-Before-Seen Records Reveal How the Wealthiest Avoid Income Tax," Jesse Eisinger, Jeff Ernsthausen, and Paul Kiel, June 8, 2021, https://www.propublica.org/article/the-secret-irs-files-trove-of-never-before-seen-records-reveal-how-the-wealthiest-avoid-income-tax.
[3] Institute on Taxation and Economic Policy, "55 Corporations Paid $0 in Federal Taxes on 2020 Profits," Matthew Gardner and Steve Wamhoff, April 2, 2021, https://itep.org/55-profitable-corporations-zero-corporate-tax/; Americans for Financial Reform, "Letter to Regulators: Letter to the IRS and Treasury on Tackling Systemic Tax Abuses by the Private Equity Industry, May 12, 2021, https://ourfinancialsecurity.org/2021/05/letter-to-regulators-letter-to-the-irs-and-treasury-on-tackling-systemic-tax-abuses-by-the-private-equity-industry/.

On April 13, 2021 in the Senate Finance Committee hearing on the 2021 tax filing season, you stated: "folks on the outside [estimate] that the tax gap is $7.5 trillion over the next 10 years," but "the actual tax gap could approach and possibly exceed $1 trillion per year."[4] You also acknowledged a report from the IRS's office of Research, Applied Analytics, and Statistics (RAAS) that estimated that pass-through entities and unreported offshore income of the top 1 percent of taxpayers account for about an additional $175 billion of the annual tax gap.[5] You testified that a modernized IRS – by catching cheaters and making it less likely that tax evasion schemes succeed – could close the tax gap by more than 20%.[6] The revenues from these policies could be used for programs that benefit millions of Americans: infrastructure, childcare, improved Medicare coverage, and much more.

Part of the reason for the massive tax gap is that more than a decade of politically motivated budget cuts have hampered the IRS's ability to perform its core duties – especially enforcement focused on the ultra-rich and large corporations. Since 2010, the IRS enforcement budget has declined by more than 20% and the agency has lost one-third of its enforcement personnel.[7] Without the necessary resources, audit rates for the very richest taxpayers, those with incomes over $10 million, are nearly 80% lower than they were a decade ago, and audits of the largest companies, those with over $20 billion in assets, declined by nearly 50%.[8]

Another driver of the large tax gap is that the IRS does not have the same information to verify wealthy individuals' incomes that it does for most Americans, making it easier for the wealthy to evade taxes. Most Americans' income is already subject to third-party reporting. When a teacher sits down to do her taxes, she relies on a W-2 that tells her exactly how much she earned in wages. Her school sent her this W-2 automatically, and it sent a copy to the IRS as well. This third-party reporting helps the teacher fill out her tax return accurately, and it also helps the IRS do its job and keep everyone honest: taxpayers accurately report to the IRS 95% of income that is already subject to robust third-party reporting by employers and banks.[9]

---

[4] Senate Committee on Finance, "The 2021 Filing Season and 21st Century IRS," April 13, 2021, https://www.finance.senate.gov/hearings/the-2021-filing-season-and-21st-century-irs.
[5] Internal Revenue Service, Office of Research, Applied Analytics, and Statistics (RAAS), "A Closer Look: Impacting the Tax Gap," April 23, 2021, https://www.irs.gov/pub/foia/ig/cl/tax-gap-for-web.pdf; Senate Committee on Finance, "The 2021 Filing Season and 21st Century IRS," April 13, 2021, https://www.finance.senate.gov/hearings/the-2021-filing-season-and-21st-century-irs.
[6] Senate Committee on Finance, "The 2021 Filing Season and 21st Century IRS," April 13, 2021, https://www.finance.senate.gov/hearings/the-2021-filing-season-and-21st-century-irs.
[7] Center on Budget and Policy Priorities, "Rebuilding IRS Would Reduce Tax Gap, Help Replenish Depleted Revenue Base," April 13, 2021 https://www.cbpp.org/sites/default/files/4-13-21tax.pdf; Congressional Budget Office, "Trends in the Internal Revenue Service's Funding and Enforcement," July 2020, https://www.cbo.gov/publication/56467.
[8] Tax Notes, "Shrinking the Tax Gap: A Comprehensive Approach," Charles O. Rossotti, Natasha Sarin, and Lawrence H. Summers, December 15, 2020, https://www.taxnotes.com/featured-analysis/shrinking-tax-gap-comprehensive-approach/2020/11/25/2d7ht; The Washington Post, "As IRS Audits Waned, Big Businesses Racked Up Unapproved Tax Breaks," Douglas MacMillan and Kevin Schaul, July 14, 2020, https://www.washingtonpost.com/business/2021/07/14/corporate-tax-break-irs/.
[9] Internal Revenue Service, "Federal Tax Compliance Research: Tax Gap Estimates for Tax Years 2011-2013," September 2019, https://www.irs.gov/pub/irs-pdf/p1415.pdf.

But when income is subject to little or no third-party reporting, taxpayers only disclose and pay taxes on 45% of that income.[10] Wealthy tax cheats overwhelming benefit from this information asymmetry, as they are far more likely to have capital gains income that is not subject to third-party reporting that they can hide from the IRS. The lack of third-party reporting for business income also helps corporate tax cheats while harming honest small business owners, who have to compete against tax cheaters and may face audits by an IRS that is not able to draw on third-party reporting to target the biggest corporate tax evaders.

Proposals to increase funding and financial information reporting to the IRS – including the Biden administration's tax compliance plan and my *Restoring the IRS Act* – will help the IRS go after wealthy tax cheats and raise hundreds of billions or even trillions of dollars.[11] These proposals include sustained, multi-year funding for hiring and training agents dedicated to tackling complex tax evasions schemes of the ultra-wealthy and large corporations, modernizing IT systems, and improving taxpayer services. The proposals also include additional third-party reporting by banks and other financial institutions to help the IRS zero in on wealthy and corporate tax cheats. As Secretary Janet Yellen recently testified to the Senate Finance Committee, this reporting requirement would simply add two boxes to an existing form to track aggregate inflows and outflows from accounts,[12] while imposing no additional burden for taxpayers.

Rebuilding the IRS would have a significant return on investment, raising funds that could be returned to middle class families and invested to grow the economy. The Treasury Department has estimated that its tax compliance proposals would raise $2.3 trillion in the next two decades.[13] However, Treasury underscores that its estimated return on investment is "conservative" because it does not take into account overhauling and integrating IT systems and improving taxpayer services.[14] Additionally, Treasury notes that its estimates do not include

[10] *Id.*
[11] U.S. Department of the Treasury, "The American Families Plan Tax Compliance Agenda," May 2021, https://home.treasury.gov/system/files/136/The-American-Families-Plan-Tax-Compliance-Agenda.pdf; The Wall Street Journal, "IRS Chief Says $1 Trillion in Taxes May Go Uncollected Each Year," John McCormick, April 13, 2021, https://www.wsj.com/articles/irs-chief-says-1-trillion-in-taxes-may-go-uncollectedeach-year-11618337765; Washington Center for Equitable Growth, "Tax Evasion at the Top of the U.S. Income Distribution and How To Fight It," Daniel Reck, Max Risch, and Gabriel Zucman, March 22, 2021, https://equitablegrowth.org/tax-evasion-at-the-top-of-the-u-s-income-distribution-and-how-to-fight-it/; Bloomberg Tax, "Make Tax System Fairer, Easier for Taxpayers While Collecting $1.4 Trillion Owed But Not Paid," Fred Goldberg and Charles Rossotti, February 17, 2021, https://news.bloomberglaw.com/daily-tax-report/make-tax-system-fairer-easier-for-taxpayers-while-collecting-1-4-trillion-owed-but-not-paid; Brookings, "Tax Reform for Progressivity: A Pragmatic Approach," Natasha Sarin, Lawrence H. Summers, and Joe Kupferberg, January 28, 2020, https://www.brookings.edu/wp-content/uploads/2020/01/SarinSummers_LO_FINAL.pdf.
[12] Rev, "Janet Yellen Testimony on Economic Recovery, 2020 Budget Transcript," June 16, 2021, https://www.rev.com/blog/transcripts/janet-yellen-testimony-on-economic-recovery-2022-budget-transcript.
[13] U.S. Department of the Treasury, "The American Families Plan Tax Compliance Agenda," May 2021, https://home.treasury.gov/system/files/136/The-American-Families-Plan-Tax-Compliance-Agenda.pdf.
[14] *Id.*

deterrent effects, which are estimated to be triple the size of the direct revenue collection impact.[15]

These proposals have bipartisan support, both from current members of the Senate and from former Republican and Democratic IRS Commissioners and Treasury Department leaders.[16] They also enjoy strong support from the public, with support for infrastructure investments actually increasing when Americans know that they will be funded by the wealthy and big corporations paying their fair share of taxes.[17] That is why IRS funding was included in an initial bipartisan infrastructure agreement between key members of the Senate that was announced on June 24, 2021.[18] But almost immediately, these members came under intense pressure from corporate lobbyists and anti-tax extremists, and ultimately rejected this agreement.[19] As a result, the IRS may be forced to go without the additional funding and the tools it needs to catch tax evaders and tax cheats.

It is now more important than ever that we include investments in the IRS and fair tax enforcement in the budget reconciliation infrastructure package that Congress is developing. But corporate lobbyists and conservative elites who benefit from a weakened IRS will not be content with having removed funding from one bill – they will continue to fight any proposal that could jeopardize their ability to pay zero in taxes. They will continue to claim, falsely, that these

---

[15] U.S. Department of the Treasury, "The Budget for Fiscal Year 2017," https://obamawhitehouse.archives.gov/sites/default/files/omb/budget/fy2017/assets/tre.pdf.

[16] Senator Rob Portman, "At Finance Hearing on the IRS' Proposed Budget for FY 20200, Portman Questions IRS Commissioner on Modernization and Cryptocurrency," June 8, 2021, https://www.portman.senate.gov/newsroom/press-releases/finance-hearing-irs-proposed-budget-fy-2022-portman-questions-irs; The Washington Post, "Opinion: Five Former IRS Commissioners: Biden's Proposal Would Create A Fairer Tax System," Lawrence B. Gibbs, Fred T. Goldberg, Margaret M. Richardson, Charles O. Rossotti, and John Koskinen, May 4, 2021, https://www.washingtonpost.com/opinions/five-former-irs-commissioners-bidens-proposal-would-create-a-fairer-tax-system/2021/05/04/c4ee8346-acfc-11eb-ab4c-986555a1c511_story.html; The New York Times, "We Ran the Treasury Department. This Is How to Fix Tax Evasion," Timothy F. Geithner, Jacob J. Lew, Henry M. Paulson Jr., Robert E. Rubin, and Lawrence H. Summers, June 9, 2021, https://www.nytimes.com/2021/06/09/opinion/politics/irs-tax-evasion-geithner-lew-paulson-summers-rubin.html?smid=tw-share.

[17] Americans For Tax Fairness, "New Poll Shows Overwhelming Support for Biden's Plans to Raise Taxes on Wealthy and Corporations," June 10, 2021, https://americansfortaxfairness.org/issue/new-poll-shows-overwhelming-support-bidens-plans-raise-taxes-wealthy-corporations/; Americans For Tax Fairness, "Nationwide Online Tax Poll," May 20, 2021, https://americansfortaxfairness.org/wp-content/uploads/Toplines-ALG-HART-ATF-Tax-Poll-May-2021-for-release.pdf.

[18] CNBC, "'We Have a Deal,' Biden Says after Meeting with Senate Infrastructure Group," Jacob Pramuk and Thomas Franck, June 24, 2021, https://www.cnbc.com/2021/06/24/infrastructure-deal-talks-biden-invites-bipartisan-senators-to-white-house.html.

[19] The Washington Post, "Conservative Groups Mount Opposition to Increase in IRS Budget, Threatening White House Infrastructure Plan," Jeff Stein, Tony Romm, and Yeganeh Torbati, July 8, 2021, https://www.washingtonpost.com/business/2021/07/07/irs-taxes-budget-conservatives/; The New York Times, "For Republicans, Deep Wounds Fuel Resistance to Bolstering the I.R.S.," Alan Rappeport, July 23, 2021, https://www.nytimes.com/2021/07/23/us/politics/republicans-infrastructure-irs-tax-gap.html; New York Magazine, "How the GOP's Long War on the IRS Threatens the Infrastructure Deal," July 9, 2021, https://nymag.com/intelligencer/article/republican-war-irs-threatens-infrastructure-deal.html; Government Executive, "IRS Funding Surge Punted From Bipartisan Infrastructure Package," Eric Katz, July 19, 2021, https://www.govexec.com/workforce/2021/07/irs-funding-surge-punted-bipartisan-infrastructure-package/183873/.

proposals will somehow harm law-abiding taxpayers, when really their concern is that the IRS will have the tools to combat the complex tax schemes of wealthy and corporate tax cheats.

Thus, it is critical that we understand the facts here about the benefits of restoring the IRS and the costs of inaction. To that end, I ask that you provide answers to the following questions no later than August 24, 2021:

1. What are the IRS' current needs and capacity at the funding levels that are now in place for the agency? Specifically,
    a. What are current staffing levels for tax compliance, taxpayer services, IT, and other critical staff, and how will these evolve if we continue at current funding levels?
    b. What are current IT system needs, and will these needs be met at current funding levels?
    c. What are current audit rates for the wealthiest taxpayers? What will happen to these audit rates in future years if there are no changes in IRS funding?
    d. What are current audit rates for large corporations? What will happen to these audit rates in future years if there are no changes in IRS funding?
    e. How does the IRS measure customer service needs and the agency's ability to meet these needs? What will happen to these measures in future years if there are no changes in IRS funding?
    f. What is your best estimate of the tax gap? If there are no funding changes in future years, what will happen to the size of the tax gap?

2. How will proposed increases in funding help close the tax gap and improve IRS customer service? Specifically,
    a. How will increased funding help the IRS hire more tax compliance, taxpayer services, IT, and other critical staff?
    b. How will increased funding help the IRS meet IT system needs, and how will this benefit taxpayers?
    c. How will increased funding affect audit rates for the wealthiest taxpayers?
    d. How will increased funding affect audit rates for large corporations?
    e. How will increased funding help the IRS more effectively audit wealthy taxpayers with income hidden in offshore accounts?
    f. How will increased funding help the IRS improve customer service? In what ways will taxpayers benefit from these improvements?
    g. How will increased funding help IRS close the tax gap and ensure that the wealthy pay their fair share? How much could the tax gap be closed with the proposed increase in funding?

3. How will proposed information reporting requirements for financial institutions help close the tax gap and target audits towards noncompliant taxpayers and away from compliant taxpayers? Specifically,

a. How will the additional information help the IRS enhance its enforcement activities with respect to tax evasion by the wealthy and large corporations?
b. How will the information reporting requirements interact with increased IRS funding, including for staffing and IT systems, to build more capable and targeted enforcement efforts with respect to tax evasion by the wealthy and large corporations?
c. How will the additional information impact compliant taxpayers, including individuals and small businesses?
d. How has the reporting proposal been planned and developed in order to make sure that it is fair and reasonable in how it impacts financial institutions?

Thank you for your consideration of these important matters, and I look forward to your response.

Sincerely,

Elizabeth Warren
United States Senator

Sheldon Whitehouse
United States Senator

Bernard Sanders
United States Senator

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

COMMISSIONER

August 27, 2021

The Honorable Sheldon Whitehouse
United States Senate
Washington, DC 20510

Dear Senator Whitehouse:

Thank you for your letter of August 10, 2021 regarding the benefits of investing in the IRS, the consequences of inaction, and the difficulty the IRS faces without additional funding. To better understand the benefits of restoring the IRS's budget, staffing and technical abilities, and the costs of inaction, you requested we respond to several questions[1] by August 24, 2021.

Our responses to your letter are intended to explain where we have been, where we currently are, and what is possible in the future. Maintaining a flat budget will continue to deprive Americans of both the nature and quality of services they deserve, producing a continuing decline in fairness and service. Adding substantial multi-year mandatory funding, however, provides an opportunity to greatly improve federal tax administration for all Americans.

The gross revenue collected by the IRS is approximately $3.5 trillion per year, representing around 96% of the gross revenue of the United States. The success of the United States in providing meaningful services and benefits—infrastructure, education, etc.—depends, in part, upon the success of the IRS. We interact with more Americans than any other public or private organization. We must build a more modernized IRS, balancing enhanced taxpayer services with appropriate compliance initiatives. Decisions significantly and directly impacting the people of our country should not be resource driven.

Like all federal agencies, the IRS is best suited to fulfilling its responsibilities to the American people when it receives the resources it needs. At a time when the IRS has faced consequential resource challenges, it has also been called upon to take on new, significant responsibilities. Our response to the unprecedented challenges during the COVID-19 pandemic, in which we delivered more than $800 billion in historic relief to

[1] Because we have responded to the questions in a different order than they were asked, we are enclosing a separate document with the questions listed. Each section of this response indicates the questions to which it is responding.

individuals, illustrates the importance of every American to the IRS and the IRS to every American.

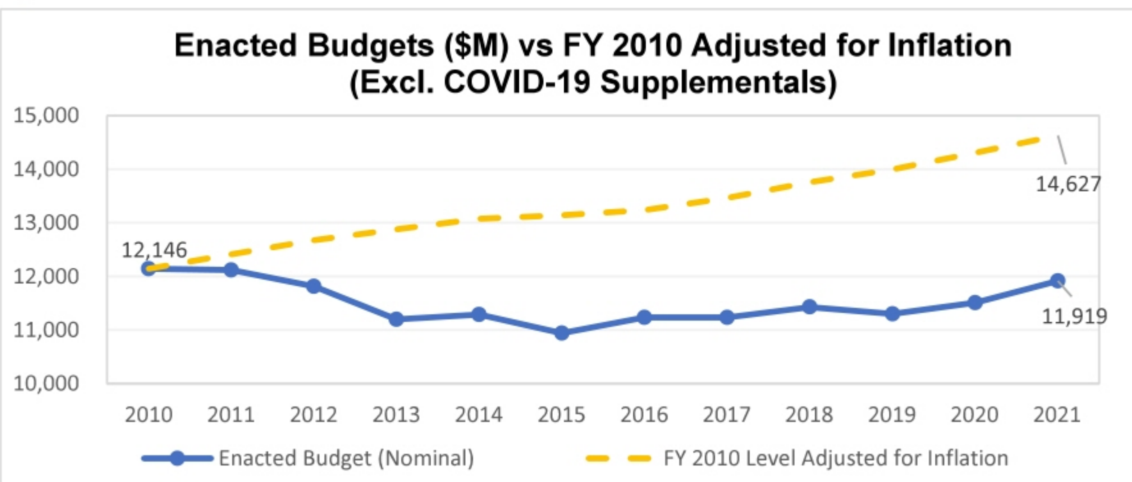
Investing in IRS technology, data analytics, and people will improve taxpayer services, restore base enforcement functions that have declined substantially over the last decade, improve the effectiveness of our existing enforcement workforce and programs, help us tackle key compliance priorities and emerging issues, and allow us to invest in programs essential to maintaining the broad compliance framework. We must earn the trust and respect of every American by providing meaningful support and assistance on behalf of compliant taxpayers while effectively pursuing non-compliant taxpayers.

We are proud to serve our country. Every employee wants to provide meaningful services supporting a fair and impartial system of tax administration every American deserves.

Background on Budget and Staffing Levels

For the better part of the last decade, the IRS has seen its budget reduced in real terms. In Fiscal Year (FY) 2010, the IRS had an enacted budget of $12.1 billion, which supported around 94,700 full-time equivalent (FTE) positions. In FY 2021, the IRS's enacted budget was $11.9 billion—$200 million less than 12 years ago.

Figure 1



This reduction does not factor in the direct effects of inflation, mandatory pay raises, increased responsibilities, and other challenges that have occurred over this same period. With inflation and anticipated mandatory pay raises considered, the IRS's FY 2021 budget is really $2.7 billion less than in FY 2010—a 22% reduction in real terms. Because of this decrease, we only expect to support around 74,200 FTEs this fiscal year—a staffing level nearly identical to the IRS's staffing level in 1973.

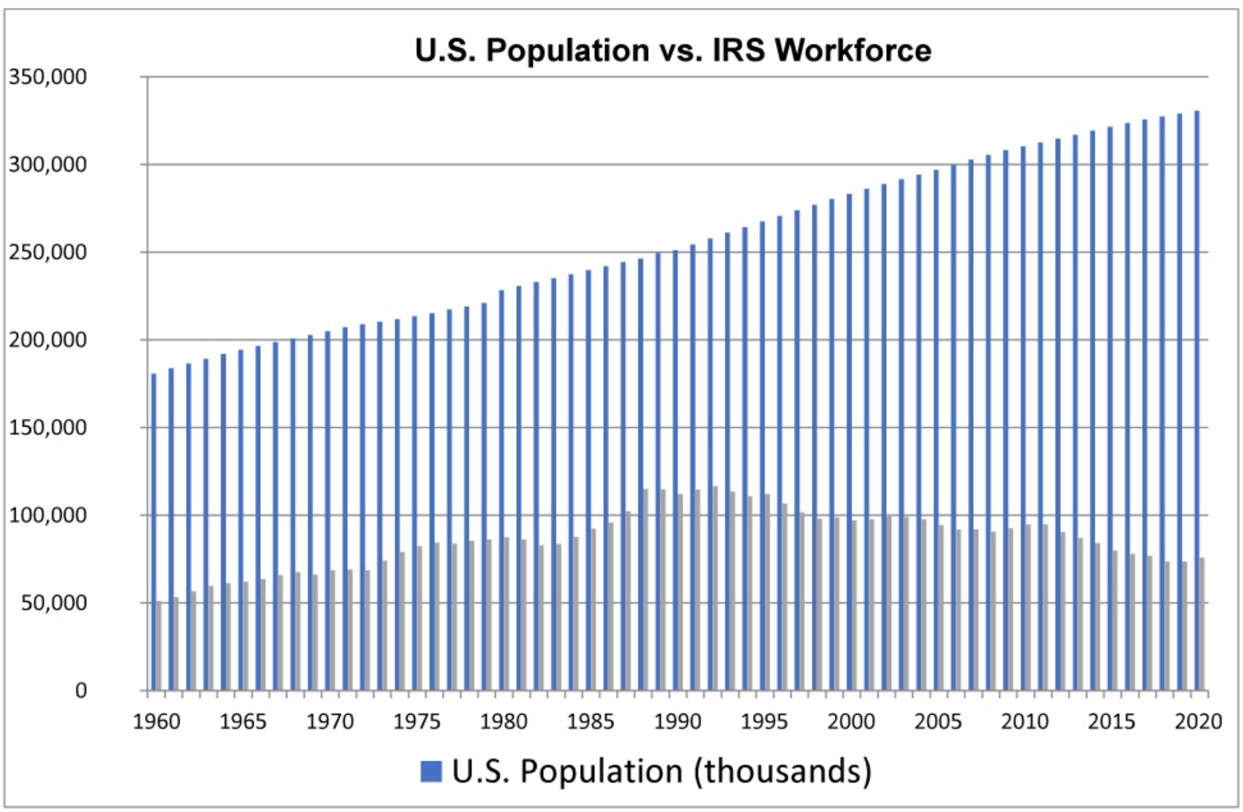
Reduced FTEs has significantly diminished our ability to:

- deliver meaningful customer service,
- maintain sufficient audit coverage of entities and individuals contributing the most to the tax gap,
- collect taxes taxpayers acknowledge they owe but have not paid,
- reduce the tax gap through a coordinated effort of both meaningful guidance and enforcement,
- fund the government, and
- modernize our Information Technology (IT) systems and facilities.

Every measure that is important to effective tax administration has suffered tremendously.

The decline in FTEs over time is even more glaring when compared with other variables that would ideally stay in line with the IRS's overall size. Figure 2 shows annual IRS FTEs compared to the overall U.S. population. Between 1960 and the early 1990s, IRS staffing grew at approximately the same rate as the growth in U.S. population. That trend started to change once electronic filing became the standard for individual returns.

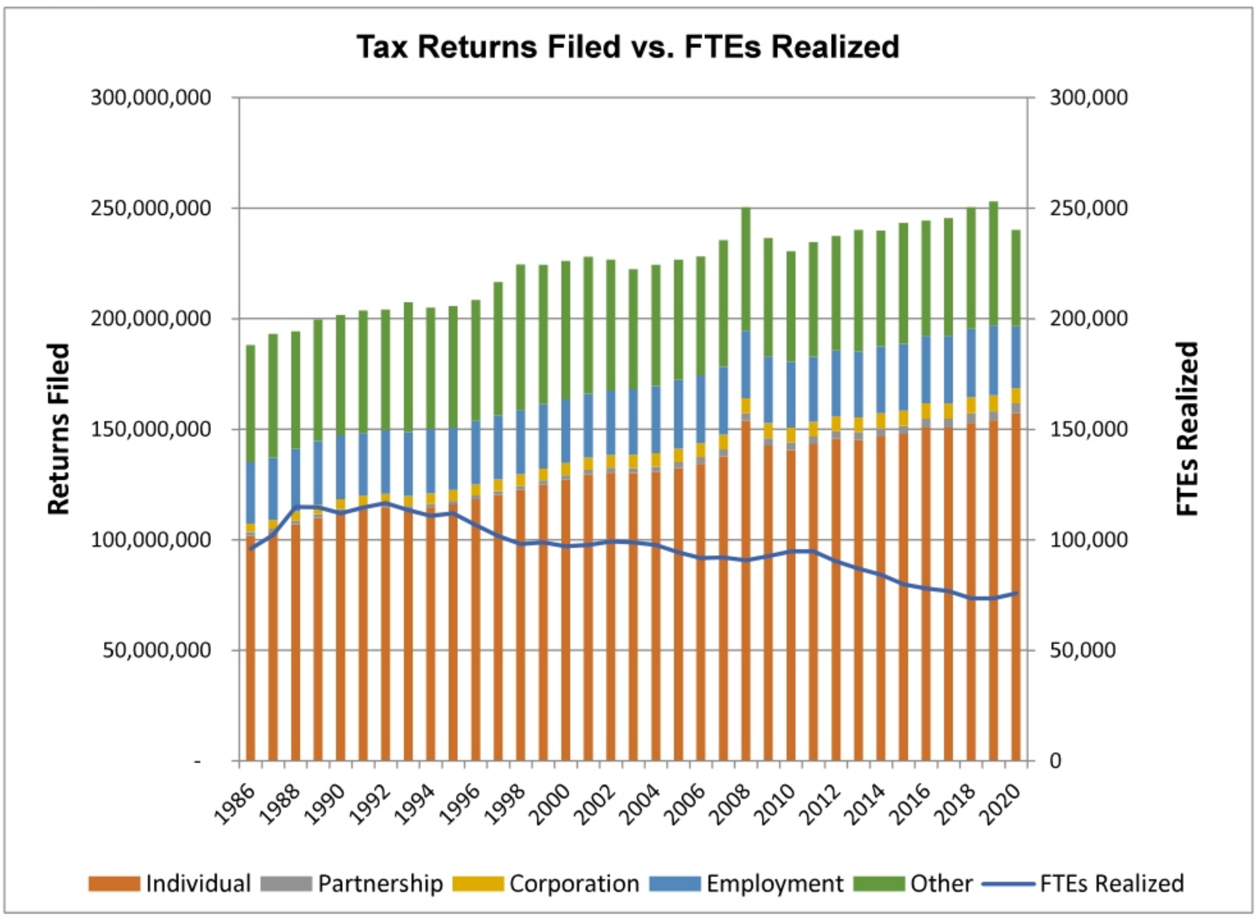
Figure 2



Since 2012, over 80 percent of individual returns have been filed electronically and the IRS no longer has to hire thousands of employees each filing season to process paper returns. However, this means that workforce losses over the course of the last decade are not about efficiency gains from e-filing. Instead, the IRS has had to reduce front-line compliance and service programs, which limits help to those most in need and most vulnerable, further reducing the overall fairness of the tax system.

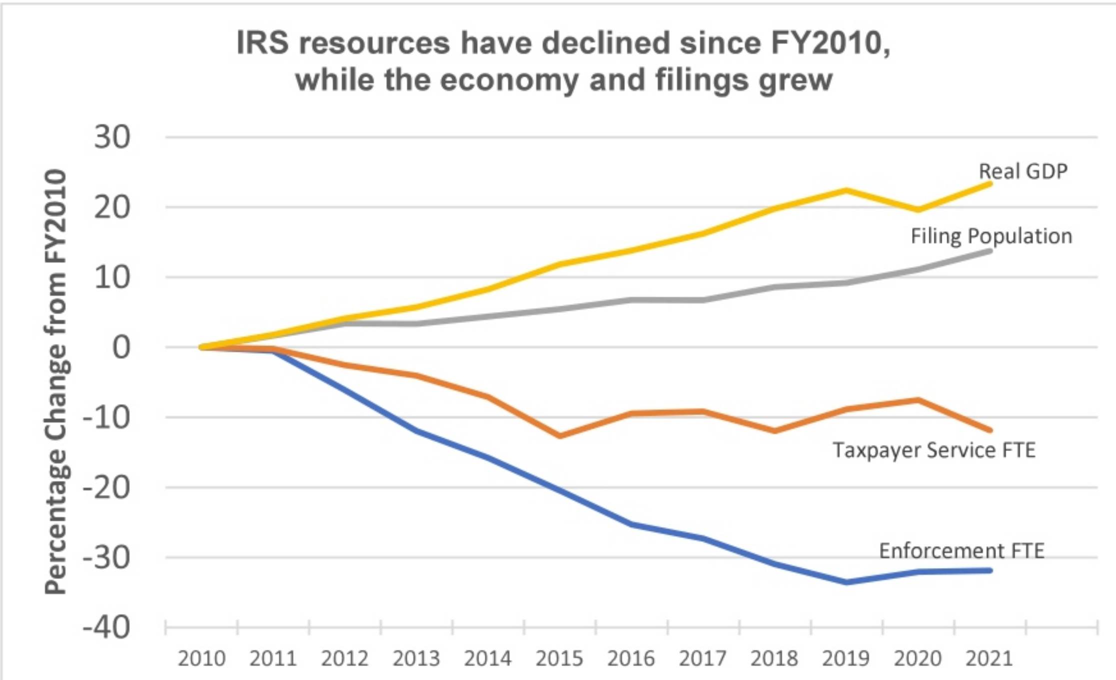
Figure 3 shows how IRS staffing has also not kept pace with total tax returns filed. Reduced IRS staffing affects enforcement through declining rates of audit coverage, collection, and customer service. Technology has helped increase IRS productivity; however, we are now at the point where inadequate investments in systems, facilities, and people outstrip those productivity gains. The IRS is in desperate need of funding across all appropriations—Taxpayer Services, Enforcement, Operations Support, and Business Systems Modernization.

Figure 3



Much has been written about the dramatic decline in our enforcement staffing since FY 2010. As can be seen in Figure 4, taxpayer services staffing has also declined, although not as dramatically. Comparing the decline in staffing levels to changes in the U.S. filing population and GDP demonstrates the significance of this decline in staffing.

Figure 4

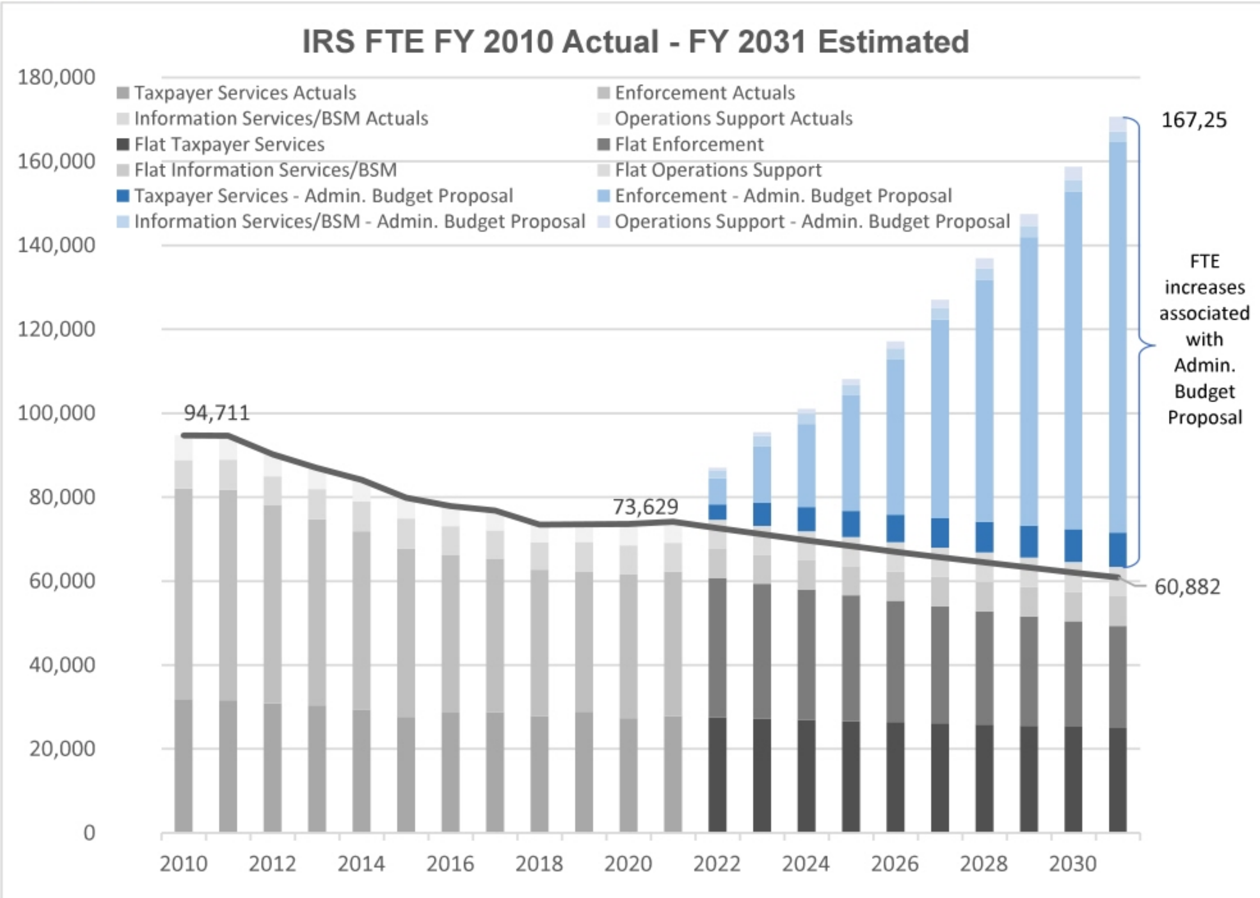


Enforcement and taxpayer services FTEs have declined by 32 percent and 12 percent, respectively, while the filing population has increased by 14 percent and Real GDP has increased 23 percent.

Tax Compliance, Taxpayer Services, IT and Other Critical Staff
Response to Questions 1.a. and 2.a.

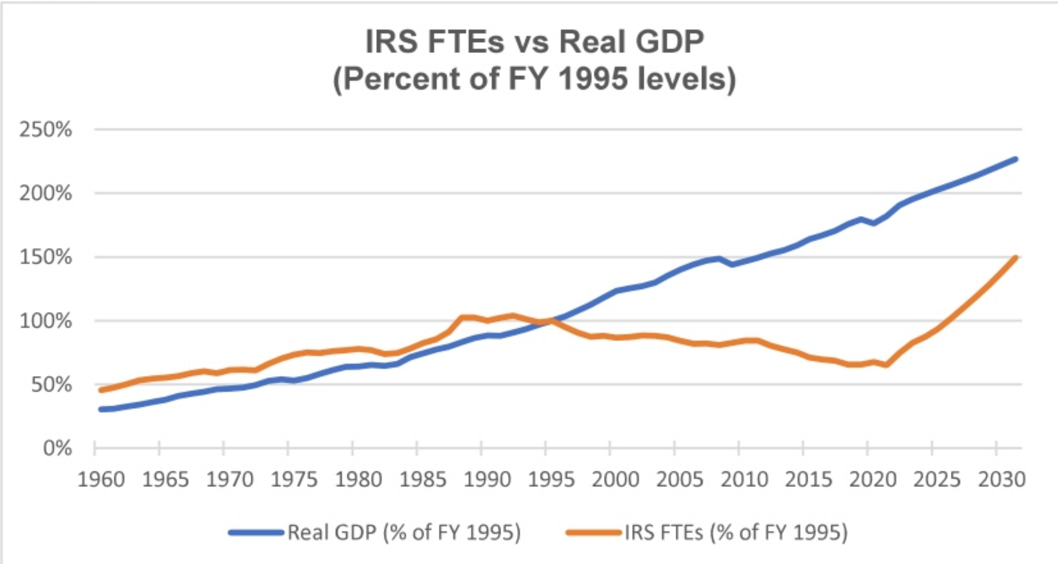
Tax compliance, taxpayer services, IT, and other critical staff roughly correspond to our main funding accounts—Taxpayer Services, Enforcement, Operations Support (OS), and Business Systems Modernization (BSM). IT is funded through both OS and BSM, but to be responsive to your questions, we accounted for it separately. As shown in Figure 5, IRS staffing is down 22 percent since FY 2010. If funding were to remain flat at current levels, given projected inflation and pay raises, IRS staffing would fall to just over 60,000 FTEs by FY 2031. This staffing level would diminish critical services taxpayers deserve and halt modernization efforts entirely. It would also further degrade our audit, collection, and criminal investigation coverage levels, threatening the foundation of voluntary compliance on which our tax administration system is built.

Figure 5



For 35 years, IRS staffing increases remained relatively consistent with GDP growth. However, since 1995, real GDP has increased by 76%, whereas IRS staffing decreased by 32% (See Figure 6). If the IRS received the full appropriations requested in the FY 2022 President's Budget along with the proposed additional program integrity allocation adjustment and mandatory funding described in the American Families Plan, we anticipate the IRS would end FY 2031 with 167,000 FTE. In addition, it would allow us to invest in critical technology to improve the taxpayer experience and use additional information reporting to increase compliance in areas where we currently lack information.

Figure 6



Customer Service
Response to Questions 1.e. and 2.f.

Since the pandemic began more than a year ago, the IRS has worked hard to maintain quality taxpayer service. The IRS currently provides service on phones, in-person, online or through correspondence mailed to the IRS. The IRS maintains, analyzes, and regularly reports on a suite of budget level, performance, quality, and customer feedback measures and indicators, most of which have performance goals and targets based on funding received.

IRS customer service measurements are mostly tied to the annual appropriated Taxpayer Services budget. One such budget-level measure is the IRS Level of Service (LOS) for telephone support. LOS generally refers to how many callers actually reach a Customer Service Representative (CSR). Another budget-level measure is our annual goal for toll-free accuracy. Other examples of budget-level measures relate to the timeliness with which we deliver critical filing season tax products and the number of taxpayer contacts that are resolved through self-assistance.

In addition to budget-level measures, we maintain an extensive set of performance, quality, and operational measures across all major service channels. These channels include return processing, in-person service, and online services, all of which are either directly or indirectly affected by the IRS appropriated budget.

IRS employees have performed well under exceptionally difficult circumstances and extreme resource challenges. Resource issues impairing tax administration are not new and have been highlighted by almost every Commissioner over the past few decades. We have been forced to continually modify processes and redeploy our limited resources wherever possible in an effort to accommodate immediate demands and the highest current priorities. Every employee wants to be effective. However, we simply have not had the resources to be as effective as we could be. Therefore, I am extremely supportive of the Administration's funding proposals.

Online Services

We encourage taxpayers to use existing electronic tools available on IRS.gov where possible. Since Congress authorized the first Economic Impact Payments (EIPs) in the CARES Act in March 2020, people have visited IRS.gov in record numbers to perform a variety of tasks. In addition to the services and information previously requested, visitors to the site are gathering information and taking actions regarding their EIPs, delayed tax refunds, and Advance Child Tax Credit (CTC) payments.

Table 1 illustrates the IRS online services with significant growth since the start of the pandemic.

Table 1

Service or Application	FY 2021 through July 31	FY 2019
IRS.gov visits	2 billion	650 million
Attempts to check EIP status through Get My Payment	680 million	N/A
Refund queries in Where's My Refund	600 million	370 million
Transcript downloads through Get Transcript	67 million	21 million
Online Account visits	43 million	12 million
Status queries in Where's My Amended Return	10 million	5 million
Visits to CTC Update Portal	11 million	N/A

As the pandemic affected the ability to provide certain traditional services, the IRS has been increasing the scope of our Taxpayer Digital Communications (TDC) program. TDC provides secure messaging and chat capabilities for certain issues. This program requires an investment in both technology and staff to handle chat sessions and respond to digital correspondence. Table 2 compares these services now and before the pandemic.

Table 2

TDC Capability	FY 2021 through July 31	FY 2019
Chats Serviced	620,000	100,000
Chat Average Handle Time	6 min	7 min
Forms 2848 or 8821 Submitted	230,000	0
Secure Messaging Messages from Taxpayers	80,000	30,000
Secure Messaging Messages to Taxpayers	90,000	45,000
Secure Messaging Taxpayer Accounts Created	40,000	8,000

Additional funding is needed both to sustain these programs and to deliver taxpayers additional digital self-assistance services they have come to expect. We are developing improved authentication methods and a range of new services, such as:

- electronically viewing and receiving IRS notices,
- updating taxpayer addresses online,
- expanding online account access to business taxpayers,
- expanding online chat and secure messaging options, and
- providing new online tools for tax professionals.

All these new services require additional funding to build the technical solutions and re-engineer services. Our goal is to provide an integrated online taxpayer experience.

Toll-Free Telephone Services

We currently have about 14,800 CSRs, which makes the IRS customer service telephone operation one of the largest in the world. We provide phone service to individuals, businesses, tax professionals, and tax-exempt entities. We have specialty lines for the hearing impaired, identity theft victims, the taxpayer protection program, and appointment services for our Taxpayer Assistance Centers (TACs). We also offer over-the-phone translation services in 350 languages. During disasters, such as February's extreme weather in Texas, our CSRs assist the Federal Emergency Management Agency in answering urgent intake calls from disaster victims.

When we closed most of our facilities in March 2020 to protect employees and others from COVID-19, we quickly provided our CSRs laptops, related equipment, and training to become telework eligible. In March 2020, only 3% of our CSRs were telework eligible. Within weeks, they were all telework eligible and able to work remotely in a virtual environment. Even with all our CSRs working, though, we cannot keep up with the volume of phone calls that has skyrocketed beyond anything we've ever experienced.

At the same time, the average duration of each call has also increased due to the complexity of COVID-related tax law changes and because taxpayers have personally endured a lot throughout the pandemic. Some taxpayers have experienced isolation without anyone else to talk to for a long time. Our average time per call has increased from 13 minutes in calendar year 2019 to more than 19 minutes so far in calendar year 2021. Spending more time on each call to provide the customer service taxpayers deserve reduces the operator's ability to handle more calls during a shift. We have encouraged our CSRs to take that time since we are many taxpayers' sole contact with the government.

To provide insight into the scope of our phone operations, we have already received over 199 million calls since January 1 of this year. That volume is about 400% more calls than we get in an average year. Between live assistors and automated services, we have answered more than 49.2 million calls. For comparison, we received a total of 42 million calls in 2018, 40 million calls in 2019, and 55 million calls in 2020.

During a typical filing season, we average two to three million calls each day. On March 15, 2021, we received 8.6 million calls on just that one day, *an average of about 1,500 calls per second*. The high call volume has significantly hampered our ability to manage telephone demand based on the capacity limitations of our telephone routing equipment used to place callers in line for service.

Customer Service Hiring Efforts

As a result of the increasingly high call volumes, our LOS is significantly lower than in previous years. This LOS decrease is exacerbated by our inability to employ enough CSRs to meet the demand. It's hard to turn this situation around quickly as even under typical pre-pandemic levels of demand, each 10% increase in LOS requires an appropriation of approximately $100 million to achieve. As discussed above, current demand greatly exceeds typical levels. The resources currently required are at least four times as high and are far beyond what is available in our appropriated budget. For these reasons, it is extremely difficult to increase LOS in response to a significant, unexpected rise in taxpayer contacts.

When we submitted our FY 2021 funding request to Congress in early 2020, there was no way to predict the severity of the pandemic and the effect it would have on call demand, filing season and hiring. The FY 2021 funding we received from Congress allowed us to employ about 14,800 CSRs for the 2021 filing season for an expected LOS of approximately 50%. That estimate, however, was before approval of three rounds of EIPs, the Advance CTC, and other important tax law changes that taxpayers needed help navigating.

We attempted to ease these challenges by starting the CSR hiring process for the 2021 filing season months earlier than normal. However, the pandemic caused significant hiring challenges, including low applicant pools in some locations, delays in fingerprinting due to closed facilities, and delays in processing applicants virtually. While we were able to hire an additional 3,800 CSRs for the 2021 filing season, it was short of our goal of 5,000.

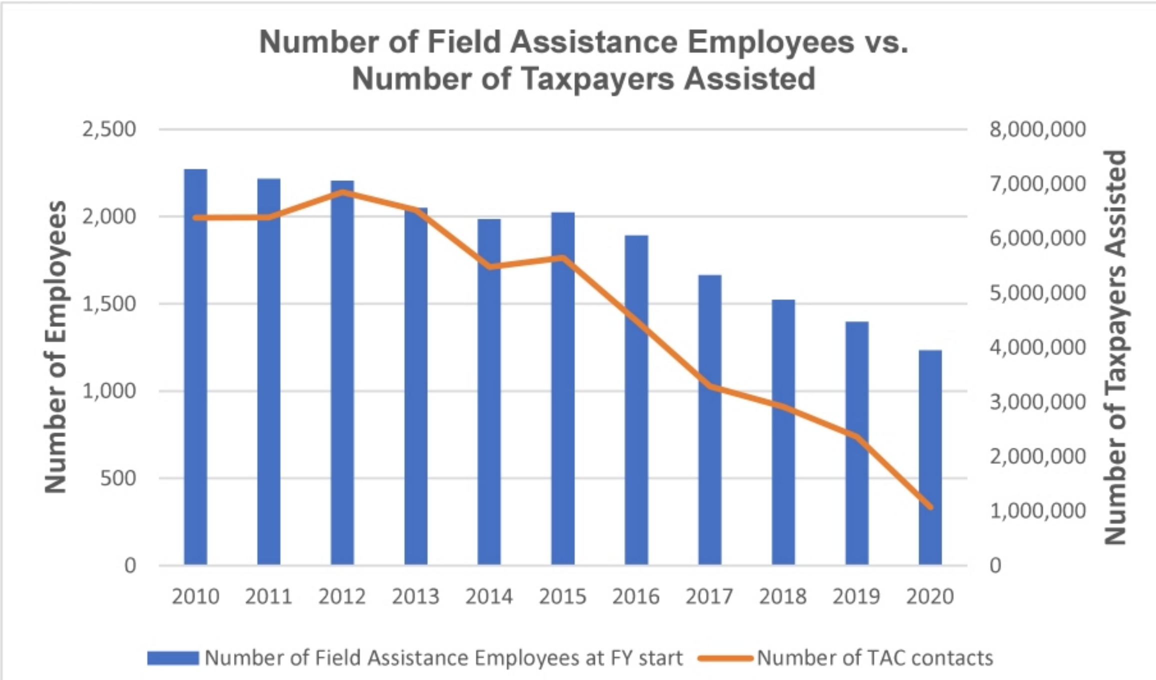
We want to do better in assisting taxpayers. We are working to improve the situation to the extent our resources allow. For example, we are testing new training approaches to get new CSRs ready to work the phones in less than the usual 14-week timeframe. We also are using artificial intelligence (AI) and automated call systems to answer simple questions and free CSRs to handle more complex calls. We are working to reduce hold times by expanding our customer callback feature, which gives callers the option to receive a return call from us rather than stay on hold. This feature has saved people hundreds of thousands of hours waiting for assistance, and we plan to continue expanding this capability in the future.

Customer Service Improvements

We cannot overemphasize the importance of multi-year consistent funding. The timing of funding is critical to service delivery. Without a sufficient and steady stream of funding for taxpayer service, our LOS will remain at an unacceptable level. Too many taxpayers will be unable to reach live assistance when needed, and those who do get through will face longer wait times for service. Further, having consistent funding in place for taxpayer service will enable the IRS to respond to customer demand in real-time, which is important given that demand can at times be difficult to predict, as the last year has highlighted.

Providing quality taxpayer service is crucial to ensuring voluntary compliance, but improving service requires investments in both additional staffing and technology modernization. The FY 2022 Congressional Budget Justification includes a $318 million program increase for annual discretionary funding to increase our ability to answer more telephone inquiries, reduce correspondence inventory by 400,000, and increase TAC staffing levels to re-open TACs and restore office hours. Additional resources through the mandatory funding proposal would add an additional 1,000 employees to our toll-free lines and over 400 employees to the TACs, which would allow for roughly 1,880,000 *additional* taxpayer contacts and help reverse the decline in face-to-face services due to insufficient budget appropriations (see Figure 7).

Figure 7



Modernization is another critical element in expanding the IRS's ability to meet taxpayers' service needs. We are making meaningful progress with modernization efforts and promptly delivered recently enacted financial assistance and administrative relief to hundreds of millions of deserving and needy Americans. However, the speed at which we can deliver services to taxpayers and increase our efficiency through technology is slowed by insufficient funding.

Providing us with multi-year, consistent, and adequate funding for modernization will help us improve the taxpayer experience and meet taxpayer and stakeholder needs. Some examples of the improvements include:

- More meaningful taxpayer experiences and improved interactions with the IRS;
- Expanded digital services, including secure document exchange, expanded payment options for taxpayers, and digital authorization with eSignature;
- Improved taxpayer experience through expanded automated callback, increased use of the appointment process tool, and expanded AI-powered interactions such as chat-bot appointments;
- Strengthened community presence by hiring and training new professionals in hard-to-reach communities;
- Increased access to digital services, including for taxpayers living abroad, through new authentication protocols;
- Expanded multi-lingual services, including increased translation of forms, publications, and notices, as well as multi-lingual assistance;

- Increased access to and use of data, improving program and AI service delivery and creating a continuous feedback loop; and
- Reduced dependency on legacy systems.

As noted earlier, an investment in modernization will support the IRS's efforts to continue implementing its Integrated Modernization Business Plan for upgrading IT systems and retiring legacy applications. This funding will enable the IRS to advance significant modernization initiatives that directly benefit taxpayers. These initiatives include digital communications, customer callback, and Enterprise Case Management, all of which will allow our customer service staff to provide more comprehensive service to taxpayers.

The unprecedented COVID-19 pandemic illustrates the significant role that the IRS plays in the overall health of our country. We have been called upon to provide economic relief during this national crisis while also fulfilling our routine responsibilities of tax administration. Like all federal agencies, the IRS is best suited to fulfilling its responsibilities when it receives the resources it needs. Yet even as the IRS has been asked to take on new responsibilities affecting almost every American, we continue to face significant resource challenges. Our response to the unprecedented COVID-19 challenges illustrates the importance of every American to the IRS and the importance of the IRS to every American.

IT System Needs
Response to Questions 1.b.and 2.b.

IRS's technology needs are severely underfunded, a problem that has worsened over time as the demand for IT services grew and funding did not keep pace. There are several main reasons IT demand is growing:

- Taxpayers expect more electronic interactions, and the IRS strives to provide them;
- Digital services increase speed, reduce errors, and allow operations to continue 24/7 regardless of staff presence;
- As increasingly sophisticated cybersecurity attacks threaten IRS systems, the IRS must increase IT security efforts;
- New statutory requirements require additional IT investment; and,
- Implementation of past information reporting regimes, such as the Foreign Account Tax Compliance Act (FATCA) and merchant card reporting, require IT overhaul.

Because of this growth in demand, current funding levels do not satisfy the IRS's IT needs. Each year, the IRS must take extraordinary measures to fund IT. For FY 2021, we were able to fund about $2.0 billion of the necessary $2.6 billion in OS IT needs from appropriated resources. To fund the remaining $600 million, we had to request an inter-appropriation transfer of approximately $200 million from Enforcement and apportion approximately $400 million of user fees to IT.

In this digital age, so much of what the IRS and taxpayers do each day depends on technology. From electronic filing to web-based online services, technology is at the core of tax administration. To improve compliance and taxpayer service activities, we must not only hire additional employees, but also invest in technology to modernize existing systems and develop new capabilities to further reduce taxpayer burden and ensure compliance with our tax laws.

IT investments drive improved compliance and provide taxpayers with the information and services they need to understand and comply with tax laws. The benefits of increased funding for IRS IT include:

- Expanding online capability to complement existing channels—not replace—to give taxpayers and their representatives more choices in how to engage with the IRS to view, correct, and update account information securely, and to receive and submit documents electronically and securely with the IRS;
- Expanding taxpayer service channels to include text chat, virtual assistant and video chat assistance technologies;
- Improving the selection of returns for audit and enabling identification of the "next best case" across compliance workstreams;
- Identifying specific mismatches between Forms K-1, Forms 1099-K, and FATCA reports;
- Increasing the usability of FATCA report information;
- Using new information reports to identify noncompliant partnerships and other sources of noncompliance;
- Increasing compliance with enhanced online tools and systems to engage and exchange data with taxpayers;
- Moving toward real-time tax processing to identify suspect taxpayers;
- Enabling taxpayer self-service tools to improve voluntary compliance; and
- Enabling proactive taxpayer self-correction by reducing the time between filing and compliance activities—for example, by blending compliance with outreach.

Increased funding for IRS technology will improve our efficiency and overall effectiveness while reducing future operating costs.

In FY 2019, the IRS developed a detailed six-year Integrated Modernization Business Plan (Modernization Plan)[2] that would cost $2.3 - $2.7 billion to fully implement. In the first two years of the Modernization Plan (FY 2019 and FY 2020), the IRS completed 60 deliverables. However, from FY 2019 through FY 2021, the IRS only received around 55% of the planned BSM funding. Even with our use of supplementary funding sources,

[2] https://irssource.web.irs.gov/Linked%20Documents%20Library/IRS-Integrated-Modernization-Business-Plan.pdf

such as inter-appropriation transfers, this funding shortfall required us to significantly rescope and reschedule the Modernization Plan, which proceeded at a slower pace than initially planned. The mandatory funding proposal would provide funding to deliver many of the capabilities described in the Modernization Plan along with on-going Operations & Management costs once the modernized systems are operational and can no longer be funded from the BSM account, which solely funds development.

With increased funding, the IRS will also be also better positioned to implement the proposed Financial Account Information Reporting regime as outlined in the American Families Plan.[3] In addition, the Bipartisan Infrastructure Deal[4] contained a provision for additional information reporting related to cryptocurrency transactions. These two new sources of information would result in significant volumes of new data regarding financial transactions. The new data will provide the IRS with a lens into otherwise opaque sources of income with historically lower levels of reporting accuracy, such as partnership and sole-proprietorship income. Because these transactions do not precisely correspond to line items on tax returns, however, maximizing the effectiveness of this new reporting (as well as existing reporting on foreign accounts and merchant card transactions) requires adequate funding to implement comprehensive systems. These comprehensive systems will not only ingest and store the new data, but will also identify entity relationships and help IRS researchers develop and apply analytics to select the most productive audit work.

In addition to an end-to-end solution to intake and analyze all Form 1099 information returns, additional funding would be used to transition from legacy case management systems. Eliminating legacy systems will allow for quicker issue resolution and increased audit efficiency and productivity. It will also allow the IRS to implement broader, more proactive digital communication systems to support taxpayers earlier in the filing process.

Overall, modernization funding will allow the IRS to address core technology challenges and transform taxpayer services and tax enforcement efforts. It will make data more easily accessible, allow the IRS to integrate case management systems, and move the IRS toward near real-time tax processing. Machine learning capabilities will enable the IRS to leverage the information it collects to better identify tax returns for compliance review. Additional investments in the IT workforce will ensure staff can deploy new analytical techniques and meet imminent threats to the security of the tax system, like cyberattacks.

---

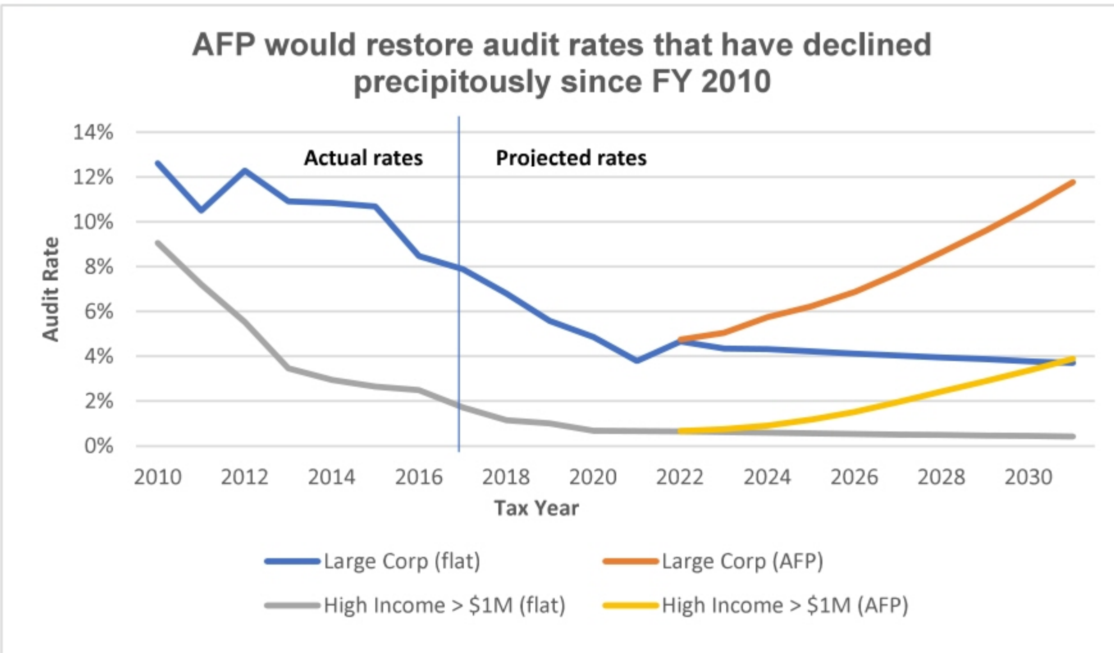
[3] See https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/28/fact-sheet-the-american-families-plan/.

[4] See https://www.whitehouse.gov/briefing-room/statements-releases/2021/07/28/fact-sheet-historic-bipartisan-infrastructure-deal/.

Audit Rates for Wealthiest Taxpayers and Large Corporations
Response to Questions 1.c., 1.d., 2.c., and 2.d.

Figure 8 displays the anticipated audit rate scenarios for high income individuals (more than $1 million in income) and large corporations (assets greater than $10 million) if the IRS funding levels were to remain the same compared to if we were to receive the full funding requested in the FY 2022 President's Budget and the American Families Plan (AFP).[5] The inherent risk of the current reduced IRS audit coverage levels is that taxpayers may become emboldened to take riskier tax positions, such as overclaiming deductions, underreporting income, and not paying what they owe.

Figure 8



We have already begun to shift examination resources to increase our focus on tax returns with complex issues, such as:

- high-income taxpayers,
- pass-through entities,
- multi-national taxpayers with international tax issues,
- large pension plans, and
- private foundations.

[5] The estimated figures in this graph for FY 2017 and beyond are based on the average number of closed and in process audits each year multiplied by the number of anticipated FTEs under current funding levels and under the funding levels requested in the AFP.

Increased funding will allow the IRS to hire additional specialized examination personnel to raise audit coverage in these areas. We currently have about 6,500 front line examiners. For perspective, we received approximately 4.2 million pass-through returns last year, including returns for complex, tiered entities otherwise subject to little third-party reporting.

Enhancements in IRS technology are clearly helpful in offsetting some portion of the declining enforcement workforce. However, it would be difficult for such enhancements on their own to significantly offset the increased sophistication of taxpayers, who operate in a digital world economy with an increasingly complex set of tax laws. With technological advances, we will be able to identify more instances of noncompliance that would not have been possible just a few years ago.

Auditing Wealthy Individuals with Offshore Accounts
Response to Question 2.e.

Analyzing FATCA reports shows that partnerships hold the plurality of offshore assets and income, and the wealthiest taxpayers are the most likely to hold assets in a foreign account. Increased technology funding is essential to link foreign-held assets back to their beneficial owners and to detect potential non-compliance. New technology resources will accelerate our ability to link data from multiple reporting systems. They will also enable us to develop analytical systems that use information reporting to detect unreported income and identify when account holders or foreign financial institutions may be engaging in non-compliant or fraudulent behavior.

Once we detect potential non-compliance or fraudulent behavior, we need sufficient funding to pursue the information and ensure proper compliance. We particularly need additional personnel with specialized training to follow cross-border money flows. They will help ensure tax compliance by improving the IRS's capacity to detect unreported accounts and income generated by those accounts, as well as the sources of assets in offshore accounts.

Tax Gap Estimate
Response to Question 1.f.

Reducing the tax gap and improving compliance is a central part of the IRS mission. The tax gap represents, in dollar terms, an estimate of the annual amount of noncompliance with our tax laws. It does not distinguish between under-reporting, non-filing, or the underpayment of tax based on a good faith misunderstanding of the tax law; intentional evasion of filing or reporting obligations; domestic or foreign source income; legal or illegal source income; etc. However, we base our published estimates on *observed* noncompliant behavior for certain identified non-filers, under-reporters, and underpayers. To the extent we do not have reliable data, our historical estimates do not represent an all-inclusive measure of global tax non-compliance by U.S. taxpayers.

The most recent official tax gap estimates (reflecting a $441 billion annual gap) relate to tax years 2011-2013. We released those estimates in 2019. We are in the process of preparing a new study on the tax gap covering tax years 2014-2016, which we expect to release early in 2022.

Over the years, our studies have consistently suggested that overall tax compliance is holding steady in the 82 percent to 84 percent range.[6] For tax years 2011-2013, the estimated tax gap translated to about 83.6% of taxes paid voluntarily and on time, which is in line with recent levels. This estimate is essentially unchanged from a revised tax year 2008-2010 estimate of 83.8%. After enforcement efforts are considered, the estimated share of taxes eventually paid is 85.8% for both periods, which is in line with the estimates for tax years 2001 and 2006 of 86.3% and 85.5%, respectively. Based on what we know about the deterrent or indirect effects of tax enforcement activities, the overall decrease in IRS audits over the last decade is likely eroding the historically stable voluntary compliance rate.

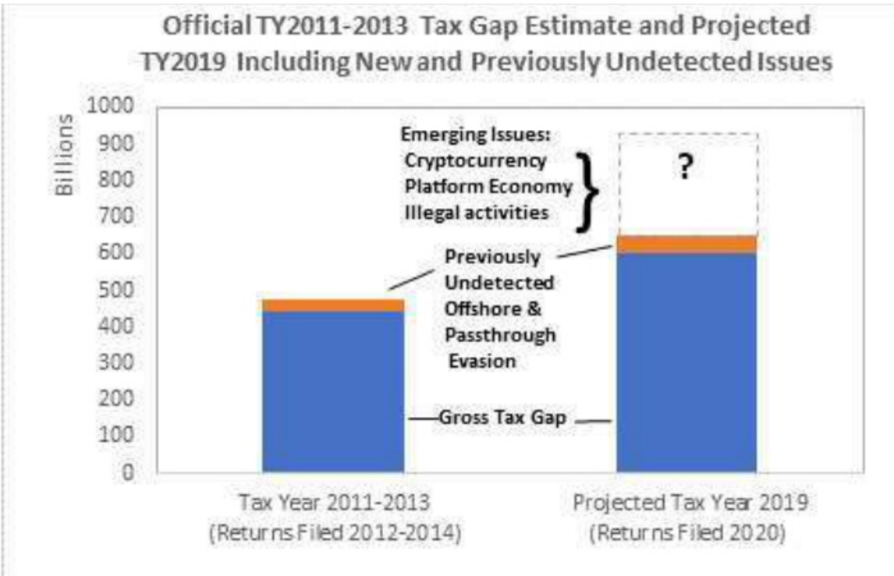
The data needed to produce tax gap estimates using our traditional methodology takes a few years to collect, due to several factors, including the statutory protections and processes granted to taxpayers to file, dispute and appeal tax findings. Taxpayers have until late each year to file a previous year's tax returns and it takes a few years after filing to measure compliance. The IRS uses examination data to estimate some components of the tax gap, and that takes the longest amount of time to collect. Also, reliable estimates require resource-intensive, time-consuming research gathered from a wide range of sources, including statistically selected in-person taxpayer audits conducted under the National Research Program (NRP). The audit findings are then supplemented by other information sources, such as third-party income and expense reporting, late-filed returns, and tabulations from IRS master files of enforced and other collections. These steps mean that tax gap estimates traditionally trail the tax year as we gather data about compliance upon which to base the estimates. Current efforts to produce more timely estimates are detailed below.

For much of the past few years, we have been pursuing new approaches and methodologies to estimate the tax gap in an effort to enhance the currency of future tax gap estimates as well as identify and measure emerging sources contributing to the tax gap. New methodologies will make greater use of information collected during operational audits to augment a smaller, focused random statistical sample of NRP audits. By applying modern machine learning techniques to our data in close to real time, we hope to produce more timely estimates and projections of the tax gap that will better support current strategic planning. These analyses will be grounded in data reported on tax returns along with contemporaneous audit results. In our preliminary research, applying this methodology to the 2011-2013 official tax gap estimate of $441

[6] The actual dollars represented by the tax gap can be affected by whether the country is experiencing a recessionary economy, but the percentage has remained mostly steady since about 2001.

billion suggests the gross tax gap for 2019 would be approximately $600 billion (see Figure 9).

Figure 9



It is important to note that simply projecting data from 2011-2013 forward in time omits important structural changes in the economy since that period. For example, the data underlying the 2011-2013 tax gap estimate did not include the modern platform economy, cryptocurrency, micro-captive insurance schemes and syndicated conservation easements, which were just beginning to gain popularity in that period. Today, they are significant U.S. economic activities. Noncompliance associated with taxpayers conducting transactions in virtual currencies is a particular area of concern today. As of August 20, 2021, there are approximately 11,000 virtual currencies with a current global market cap of more than $2 trillion.[7] Recognizing compliance challenges associated with virtual currencies, the IRS has focused significant enforcement resources over the past two years in the virtual currency environment.

A greater use of operational audit data along with advanced analytics will also provide insights into issues that are not well measured through statistical samples. These issues include noncompliance related to certain foreign transactions and activities, illegal source income (which is taxable and is pursued by the IRS, often in coordination with other federal and state agencies), and other types of concealed taxable income. Such issues are often highly concentrated in relatively small segments of the tax filing population.

[7] https://coinmarketcap.com/

A recently released National Bureau for Economic Research working paper titled Tax Evasion at the Top of the Income Distribution: Theory and Evidence,[8] demonstrates the utility of operational audit data for this purpose. By combining data from randomly selected audit cases and operational audits, the research team was able to measure sophisticated tax evasion by taxpayers at the very top of the income distribution that is not fully captured by our legacy tax gap methodology. The research team indicated they used conservative methods and estimated that evasion through offshore bank accounts and/or complex pass-through business structures contributed an additional $33 billion to the 2011-2013 tax gap. That amount would equal about $46 billion for tax year 2019 in addition to the previous estimate of $600 billion for tax year 2019.

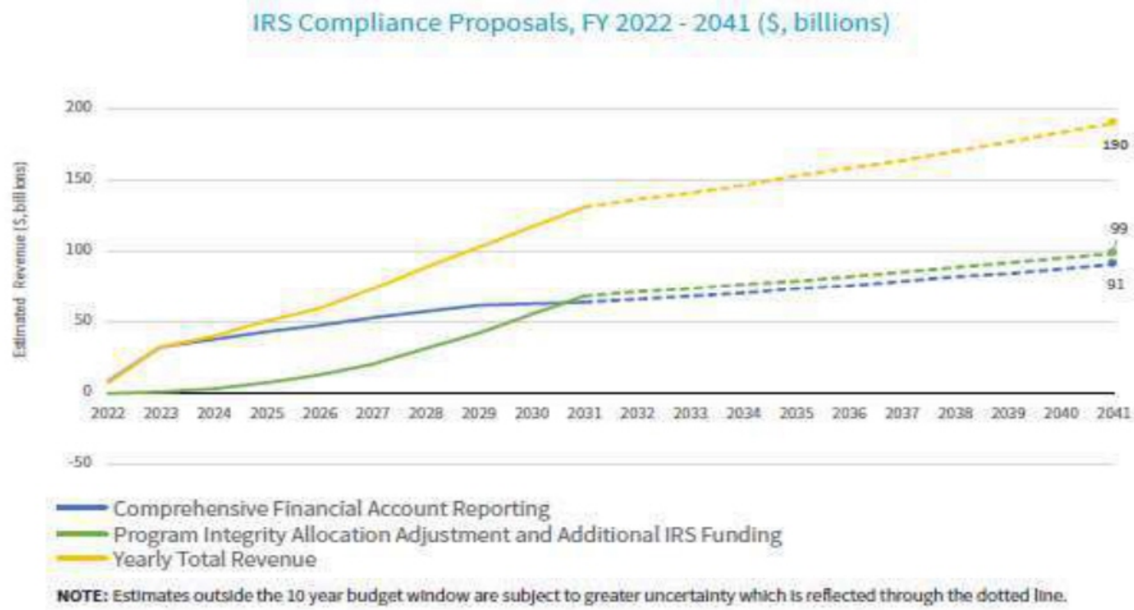
If IRS resources continue to decline, the number of examination and collection activities will decline, and we will collect less direct enforcement revenue in both absolute terms and relative to a growing population. While the U.S. has generally enjoyed high rates of voluntary compliance, declining enforcement activity will result in a smaller deterrent effect and potentially embolden some formerly compliant taxpayers to adopt more aggressive positions or attempt to evade some of their tax responsibilities. Even a 1% decline in the voluntary compliance rate can result in the loss of over $30 billion in annual revenue, exceeding the more immediate effect of declining resources on direct enforcement revenues.

Closing the Tax Gap
Response to Question 2.g.

Figure 10 displays the projected additional revenue over the next 20 years from the cumulative efforts of increasing enforcement funding and financial account information reporting as proposed in the American Families Plan, assuming the increased funding will remain after FY 2031. The Administration estimates that enhanced tax gap efforts will generate $700 billion in additional tax collections over the first ten years, and around $1.6 trillion over the course of the second decade. The rest of this section discusses how these gains will be realized.

[8] Available at https://www.nber.org/papers/w28542.

Figure 10



As discussed above, the gross tax gap is the difference between true tax liability for a given tax year and the amount that is paid on time. It is composed of the nonfiling gap, the underreporting gap, and the underpayment (or remittance) gap. With additional mandatory funding, we will better address the tax gap on all fronts—nonfiling, underreporting, and underpayment.

First, to address the underreporting gap, the IRS will hire specialized examiners, significantly increasing audit activity on high income individual taxpayers, partnerships, and large corporations. As explained in the American Families Plan, the Administration projects that over 10 years, we will collect an additional $269 billion in direct enforcement revenue and will protect an additional $46 billion by preventing fraudulent refunds.

Second, assuming we receive additional information reporting for cryptocurrency transactions plus account inflows and outflows from financial institutions, we will have significant, meaningful insight on areas where we currently have limited or no information. Enhanced information reporting is one of the few means of sizably increasing the compliance rate, largely due to the increased visibility of income sources and financial transactions. When the IRS has information returns to cross-reference with tax returns, we see voluntary compliance of around 95 percent. In short, the more transparent a taxable payment is to the IRS, the more likely it is to be reported. Although this new reporting will not be a direct match to line items on the tax return like wage or interest income reporting, we will be able to apply sophisticated data analysis to better identify underreporting of income.

The Department of the Treasury's Office of Tax Analysis estimated that the additional information reporting for financial inflows and outflows could bring in an additional $460 billion over 10 years. The Joint Committee on Taxation (JCT) estimated the cryptocurrency reporting provision could bring in an additional $28 billion over 10 years.

Moreover, whenever we implement new information reporting requirements, we see behavioral changes among taxpayers that result in higher voluntary compliance. In 1991, the New York Times published an article[9] that reported the following two examples of these behavioral changes:

- The IRS required Social Security numbers for all dependents over the age of 5 starting in 1987. The number of claimed dependents that year dropped by 9 percent (or 7 million children). The reduction in dependents increased revenue by $2.9 billion. Although about 20 percent of those dependents were children who had been claimed by both parents after a divorce, most of the vanished dependents likely never existed.
- In 1989, taxpayers claiming the dependent-care credit had to start reporting the name, address, and Social Security number of the care provider. That year, thousands of day-care providers began reporting income. The number of taxpayers claiming the credit also dropped by 30 percent—from 8.7 million in 1988 to 6.1 million in 1989—effectively eliminating 2.6 million alleged baby-sitters.

When the IRS introduces new technologies, we also see tangible and measurable improvement to tax compliance. For example, the IRS began developing the Return Review Program in 2010. The program's purpose is to detect and stop identity theft and other fraudulent activity in individual return filings. Between 2015 and 2019, the number of taxpayers reporting that they were identity theft victims fell 79% from 677,000 in 2015 to 137,000 in 2019. Between 2015 and 2019, the IRS protected a combined $26 billion in fraudulent refunds by stopping confirmed identity theft returns.[10]

We also plan to increase our collection staff with increased funding. While we send an initial notice and demand letter to every taxpayer with a balance due, we were able to dispose of only 41 percent of the available collection inventory in FY 2019, leaving 59 percent unresolved. At the end of FY 2019, there were over 30 million cases left in our collection inventory that had either a delinquent return or outstanding balance due. Additional trained collection employees will improve taxpayer compliance by getting taxpayers to fully pay the taxes they owe, addressing the underpayment gap. They will also be able to better interact with taxpayers who simply don't file a return at all, addressing the nonfiling gap.

---

[9] *See* Tamar Lewin, *I.R.S. Sees Evidence of Wide Tax Cheating on Child Care* (Jan. 6, 1991), available at https://www.nytimes.com/1991/01/06/us/irs-sees-evidence-of-wide-tax-cheating-on-child-care.html.
[10] *See* Internal Revenue Service Progress Update, Fiscal Year 2020, Publication 5382 (Rev. 12-2020), available at https://www.irs.gov/pub/irs-pdf/p5382.pdf.

Where the IRS can make the greatest progress on closing the tax gap is by improving voluntary compliance. It is important to point out that failures to comply with the tax law are often due to unintentional mistakes from not fully understanding what has come to be an extremely complex tax code. For that reason, efforts to reduce the tax gap and increase overall tax compliance absolutely must include efforts to assist taxpayers in meeting their filing, reporting and payment obligations. These efforts include the issuance of timely and clear guidance and programs to educate taxpayers in their tax obligations.

For every 1 percent improvement in voluntary compliance, annual revenue should increase by about $30 billion per year. An example is the additional enforcement efforts we undertook surrounding Reports of Foreign Bank and Financial Accounts (FBARs). The Bank Secrecy Act requires taxpayers to file FBARs annually when the total value of their foreign accounts exceeds $10,000. The IRS saw a large increase in the number of self-reported foreign accounts after we implemented enhanced and well-publicized enforcement efforts in 2008. In 2009, the number of first-time FBAR filers more than doubled compared to the prior years to about 90,000 individuals. According to an article in the American Economic Journal published last year:[11]

> The steep increase [in filed FBARs] is suggestive that a large number of taxpayers—a simple difference estimate would be around 50,000 individuals—disclosed previously unreported foreign accounts in response to the new enforcement policies. Only about 15,000 of the first-time FBAR filers in 2009 participated in the voluntary disclosure program, suggesting that much of the compliance response—a simple difference estimate would imply around 35,000 individuals—occurred in the form of "quiet disclosures" outside of the voluntary disclosure program. We estimate that the combined value of the accounts disclosed because of the enforcement efforts was just over $100 billion.

Enhanced Enforcement through Additional Information Reporting
Response to Questions 3.a. and 3.b.

Tax compliance is far higher when reported income is subject to verification against information reporting. Our research shows that compliance is as low as 45 percent when income is subject to little or no information reporting or tax withholding. When there is substantial information reporting, compliance rises above 95 percent.

There are behavioral reasons for this: Taxpayers are more likely to be compliant when they know the IRS has the information necessary to pursue them should they not meet their tax obligations. Furthermore, additional information reporting will improve IRS

---

[11] *See* Niels Johannesen, et al., *Taxing Hidden Wealth: The Consequences of US Enforcement Initiatives on Evasive Foreign Accounts*, American Economic Journal: Economic Policy, Vol. 12, No. 3 (August 2020), available at https://www.aeaweb.org/articles?id=10.1257/pol.20180410.

enforcement actions by providing the IRS with data we do not currently have on wealthy taxpayers, and could provide insight to their potential tax liability without requiring an examination.

While tax enforcement is necessary and financially worthwhile, significant mitigation of the tax gap will also require policy and other changes, such as:

- legislative expansions of IRS authority,
- reduced complexity of the tax code,
- increased information reporting, and
- policy changes that improve IRS access to relevant data.

The IRS can also apply data analytics to newly collected data and detect emerging areas of compliance risk, as well as improve case selection so we are focusing on the most egregious instances of noncompliance. By focusing our compliance efforts on noncompliant taxpayers, we will simultaneously reduce the burden on compliant taxpayers.
Increased information reporting targets underreported income, which is the largest category of the tax gap. It does this task by making it more difficult to hide and underreport income. The President's plan includes three elements that are complementary to increased information reporting—improved technology, expanded analysis, and increased staffing for compliance. The proposal allocates $4.5 billion over ten years for IT to administer the new program by ingesting, storing, and analyzing large financial transaction data to identify cases and improve examination outcomes. It also funds additional research staff to identify the best methods to use the new information. Finally, the proposal funds large increases in enforcement staff. This last element is important, because once the IRS identifies a case of likely tax evasion, we must have examination staff to prove impropriety and assess additional taxes owed.

This combination is expected to provide revenue to the government through direct enforcement collections. Even more importantly, the analysis from the Department of the Treasury's Office of Tax Analysis (OTA) discussed earlier shows its greatest effect would be improving voluntary compliance among taxpayers who otherwise might have chosen to underreport their income. As previously stated, OTA estimated the generation of $460 billion in additional tax revenues over the course of the next decade, and the JCT estimated that information reporting associated with cryptocurrency assets will generate an additional $28 billion.

Impact of Additional Information Reporting on Compliant Taxpayers
Response to Question 3.c.

Additional information reporting serves compliant taxpayers in multiple ways. First, it provides them information relevant to completing their return, which reduces their filing and compliance costs. Second, it reduces the burden of unnecessary compliance contacts with IRS. With more effective data matching and near real-time processing of the additional information from the Financial Account Information Reporting (FAIR) regime, the IRS is less likely to engage in unnecessary or erroneous interactions with compliant taxpayers. Third, technological investments that enable timely access to third-party information and increased data usage will allow prompt communication with taxpayers and help them correct inadvertent errors before penalties and interest accrue. Finally, by improving the IRS's ability to detect and rectify willful noncompliance, additional information reporting will ensure the tax ecosystem remains fair for the majority of taxpayers who are striving to meet their tax obligations.

Impact of Additional Information on Financial Institutions
Response to Question 3.d.

We have worked with our colleagues at the Department of the Treasury (Treasury) to think about the implementation of a new FAIR regime, including the information that will be reported to the IRS and how this new information will be stored and deployed in enforcement activities. As explained above, increased information reporting is one of the best ways to improve tax compliance. Our history with information reporting reveals its immense value. It is important, however, that any new reporting requirements be designed to mitigate any costs to individual taxpayers and businesses.

Treasury has been careful to mitigate such costs in the context of the FAIR regime. Specifically, individual taxpayers do not have any new requirements. From a compliant taxpayer's perspective, there is a potential benefit—due to better enforcement targeting from new information reports, there is a lower likelihood they will need to undergo a costly and burdensome audit.

The FAIR regime has also been designed to minimize any costs for financial institutions associated with providing additional information to the IRS about account inflows and outflows. Specifically, FAIR builds off the existing Form 1099-INT. Financial institutions already send this report to the IRS when a taxpayer earns more than $10 in interest income during the year. Further, Treasury has made clear they are actively working with members of Congress to reduce any new burden associated with this new reporting requirement, particularly on small financial institutions.

It is worth noting that Treasury also worked to ensure that banks are not at a competitive disadvantage with non-bank competitors. For that reason, and to ensure the reporting regime is comprehensive, the new reporting regime also includes non-bank financial institutions. The objective is to provide information that can help the IRS identify high-end tax evaders and make meaningful progress in addressing their noncompliance.

Mandatory multi-year, consistent funding will help us deliver meaningful services to taxpayers, conduct critical enforcement initiatives, and support long-term modernization efforts improving both service and compliance. We remain committed to ensuring the tax system is administered fairly and impartially and that every American receives the nature and quality of services they deserve.

I hope this information is helpful. I am sending a similar response to Senators Warren and Sanders. If you have questions, please contact me, or a member of your staff may contact Amy Klonsky, Chief, National Congressional Affairs Branch, at 202-317-6985.

Sincerely,

Charles P. Rettig

Digitally signed by Charles P. Rettig
Date: 2021.08.27 17:50:03 -04'00'

Charles P. Rettig

Enclosure

Enclosure

Questions from Senators Warren, Whitehouse, and Sanders

1. What are the IRS' current needs and capacity at the funding levels that are now in place for the agency? Specifically,
   a. What are current staffing levels for tax compliance, taxpayer services, IT, and other critical staff, and how will these evolve if we continue at current funding levels?
   b. What are current IT system needs, and will these needs be met at current funding levels?
   c. What are current audit rates for the wealthiest taxpayers? What will happen to these audit rates in future years if there are no changes in IRS funding?
   d. What are current audit rates for large corporations? What will happen to these audit rates in future years if there are no changes in IRS funding?
   e. How does the IRS measure customer service needs and the agency's ability to meet these needs? What will happen to these measures in future years if there are no changes in IRS funding?
   f. What is your best estimate of the tax gap? If there are no funding changes in future years, what will happen to the size of the tax gap?

2. How will proposed increases in funding help close the tax gap and improve IRS customer service? Specifically,
   a. How will increased funding help the IRS hire more tax compliance, taxpayer services, IT, and other critical staff?
   b. How will increased funding help the IRS meet IT system needs, and how will this benefit taxpayers?
   c. How will increased funding affect audit rates for the wealthiest taxpayers?
   d. How will increased funding affect audit rates for large corporations?
   e. How will increased funding help the IRS more effectively audit wealthy taxpayers with income hidden in offshore accounts?
   f. How will increased funding help the IRS improve customer service? In what ways will taxpayers benefit from these improvements?
   g. How will increased funding help IRS close the tax gap and ensure that the wealthy pay their fair share? How much could the tax gap be closed with the proposed increase in funding?

3. How will proposed information reporting requirements for financial institutions help close the tax gap and target audits towards noncompliant taxpayers and away from compliant taxpayers? Specifically,
   a. How will the additional information help the IRS enhance its enforcement activities with respect to tax evasion by the wealthy and large corporations?
   b. How will the information reporting requirements interact with increased IRS funding, including for staffing and IT systems, to build more capable and targeted enforcement efforts with respect to tax evasion by the wealthy and large corporations?
   c. How will the additional information impact compliant taxpayers, including individuals and small businesses?
   d. How has the reporting proposal been planned and developed in order to make sure that it is fair and reasonable in how it impacts financial institutions?

Baldwin Cavell L

From: Hinton Irma D
Sent: Monday, August 16, 2021 8:49 AM
To: *C&L Congressional Correspondence
Subject: FW: CONGRESSIONAL letter re Customer Service
Attachments: CONGRESSIONAL letter re Customer Service 081221.docx

Please create e-trak case for draft response CIR is sending to 535 members. Send e-trak number once the case is created.

Thank you
Irma

-----Original Message-----
From: *Chief of Staff Advisor <chief.of.staff.advisor@irs.gov>
Sent: Monday, August 16, 2021 8:41 AM
To: Hinton Irma D <Irma.D.Hinton@irs.gov>
Cc: Kornegay Risa W <Risa.W.Kornegay@irs.gov>; *Chief of Staff Advisor <chief.of.staff.advisor@irs.gov>
Subject: FW: CONGRESSIONAL letter re Customer Service

Irma,

Please open a new eTrak for this and let me know if you have any questions. Thank you!

Nancy M. Gilmore
Chief of Staff Co-Advisor (on detail)
(443) 853-5458

-----Original Message-----
From: Rettig Charles P <Charles.P.Rettig@irs.gov>
Sent: Friday, August 13, 2021 7:04 PM
To: O'Donnell Douglas W <Douglas.W.Odonnell@irs.gov>; Tribiano Jeffrey J <Jeffrey.J.Tribiano@irs.gov>; Corbin Kenneth C <Kenneth.C.Corbin@irs.gov>; Grant Dianne <Dianne.Grant@irs.gov>; Cullinan Thomas A <Thomas.A.Cullinan@irscounsel.treas.gov>; *Chief of Staff Advisor <chief.of.staff.advisor@irs.gov>
Cc: Rettig Charles P <Charles.P.Rettig@irs.gov>; McIver Kevin Q <Kevin.Q.McIver@irs.gov>; Walters Kathleen E <Kathleen.E.Walters@irs.gov>; Klonsky Amy E <Amy.E.Klonsky@irs.gov>; LTOursler@gmail.com; Cardone John V <John.V.Cardone@irs.gov>
Subject: CONGRESSIONAL letter re Customer Service

I've attached a form of letter I'm thinking of sending to the 535+ Members of Congress in an effort to personally identify challenges and our responsive efforts. Most all of the information has been included in some manner in previous briefings or letters sent to various Members of Congress.

When we reach consensus, I'd like to possibly get it out next week.

Best,
Chuck
____
Charles P. Rettig

COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

U.S. Senate
U.S. House of Representatives
Washington, DC 20515

Re: Customer Service Update

Dear -------------:

During the COVID-19 pandemic, for many reasons, including those set forth below, we have been unable to provide the nature and quality of meaningful services every American deserves. However, IRS employees have performed exceptionally well under extremely difficult circumstances as we have continually modified processes and redeployed resources wherever possible.

Although I have talked with many, many Members of Congress on a somewhat regular basis, I thought it would be helpful to provide each of you with a general status update regarding our current filing season, our progress with the third round of Economic Impact Payments (EIP3) and the Advance Child Tax Credit (Advance CTC) payments as well as certain other customer service issues. This information is not to be interpreted as some type of excuse. Instead, this information is intended to help you and others better understand the impact of the pandemic upon our employees and overall IRS operations at a time when the IRS has faced consequential resource challenges while also being called upon to take on new, significant responsibilities.

We interact with more Americans than any other agency—virtually every individual and business in the country. The IRS is statutorily responsible for a large volume of ongoing programs that are critical to the wellbeing of this nation and the taxpayers we proudly serve. These programs include the filing season, customer service, tax enforcement, stimulus efforts, etc. With approximately 80,000 employees, the IRS serves more than 4,000 taxpayers per employee. We are proud to serve our country. However, decisions significantly impacting the people of our country should not be resource driven.

During the pandemic, we have had to find new ways to pursue our mission. As we faced enormous challenges, we didn't always get it right, but we worked hard, often with limited resources. Where possible, we have redeployed resources to accommodate the increased demand. We appreciate and understand the frustration caused by the high volume of manually processed returns, the limited information available to taxpayers about the status of the return processing, the refund delays, and the difficulty reaching

IRS employees. We also understand that complex tax issues, recent legislation and the pandemic have many taxpayers looking for help.

Although discussed in more detail later, it is important to provide brief examples of a few recent challenges:

- **Exceptionally High Call Volume.** Receipt of a historically high volume of calls have significantly hampered our ability to manage telephone demand, largely due to the existing capacity limitations of our telephone routing equipment used to place callers in line for service.
    - *We have received over 199 million phone calls since January 2021.* This is more than 400% of our normal call volume for an entire year, handled in just six months.
        - For comparison, we received a total of 42 million calls in 2018, 40 million calls in 2019, and 55 million calls in 2020. Between live assistors and automated services, we have *answered* more than 51.7 million calls as of August 6, 2021.
    - During a typical filing season, we average two to three million calls each day.
        - On March 15, 2021, we received 8.6 million calls on just that one day—*an average of about 1,500 calls per second.*
    - During this period, we have also been called upon to provide phone intake services on behalf of the Federal Emergency Management Agency (FEMA) when natural disasters occur, such as hurricanes and wildfires. Since 2019, more than 11,000 of our Customer Service Representatives (CSRs) have handled more than 1.3 million calls on behalf of FEMA.

- **Mail Inventory Increased While IRS Operations Were Suspended**. Since June 2020, employees at our four Submission Processing Centers have been operating in a socially distanced environment, working day, night, and weekend shifts (16 hours per day), along with mandatory overtime in multiple functions, to open mail and process tax returns and taxpayer correspondence.
    - By January 1, 2021, *all* backlogged mail had been opened and extracted for processing.
        - Last summer, our mail backlog exceeded 20 million pieces of unopened mail (correspondence and paper returns).
    - We receive approximately 1-1.5 million pieces of mail each week and we are now current in opening all mail received.
            - We have approximately 3.7 million pieces of mail (including amended returns) in processing.

- **Manual Review Required for Certain Returns.** Once filed, a return may be subjected to manual review if our systems detect possible errors or omissions. Our Error Resolutions System (ERS) manually reviews all returns with identified errors potentially affecting the accuracy of the claimed Recovery Rebate Credit (RRC), Earned Income Tax Credit (EITC), Child Tax Credit (CTC) or Additional Child Tax Credit (ACTC). All potentially available resources have been dedicated to ERS.

- The IRS is currently correcting significantly more errors on returns and issuing more math error notices than in previous years. From January 1 through July 15, 2021 we made about 9 million math error corrections, around 7.4 million of which were related to the RRC.
  - For the same time in 2020, we made 628,997 math error corrections.

Barring unforeseen circumstances, we anticipate that Error Resolution may be current and within normal operating inventories by the end of 2021, ahead of the 2022 Filing Season.

- **New Legislation – Lookback Rule.** The Consolidated Appropriations Act, 2021, signed into law on December 27, 2020, included a lookback rule allowing taxpayers to elect to use their 2019 income to calculate their EITC or ACTC on their 2020 tax return.
  - Due to the late passage of the law, we were unable to adjust our forms and computer systems before the start of the 2021 filing season to systemically process returns that used 2019 income for these refundable credits. Instead, we had to manually verify millions of returns. The ERS holds these returns in suspense until an employee can manually review the return and verify the 2019 earnings.

- **New Legislation- Unemployment Compensation Exclusion** The American Rescue Plan Act of 2021 (American Rescue Plan) was signed into law during the 2021 filing season, on March 11, 2021.The law exempted from tax the first $10,200 of unemployment benefits received in 2020 ($20,400 for married couples filing joint returns) if the modified adjusted gross income is less than $150,000.
  - By the time this legislation was signed into law, nearly half of all individual taxpayers had already filed their 2020 individual income tax returns.
  - We reprogrammed our systems to take this change into account, automatically reducing taxable income up to $10,200 for each taxpayer who received unemployment compensation and refunding or applying to other outstanding taxes any resulting overpayment of tax.
  - We also automatically adjusted certain credits claimed on the return that increased because of the change in taxable income, such as the EITC where the taxpayer claimed a qualifying child.

- **Filing Season 2021.** As of August 6, 2021, we have issued more than 117 million individual refunds totaling over $321 billion and processed more than 152 million returns.
  - By comparison, over the same period last year, we issued 104 million refunds totaling $288 billion and processed 148 million returns.

- **Economic Impact Payments.** During the pandemic, we developed new taxpayer facing online tools and, in three separate rounds, we have so far issued over 488 million Economic Impact Payments (EIPs) totaling more than $826 billion.
    - **CARES ACT** (March 2020) – 168 million payments totaling more than $275 billion.
    - **COVID TAX RELIEF ACT** (December 2020) – 168 million payments totaling more than $275 billion.
    - **AMERICAN RECOVERY PLAN** (March 2021)– 173 million payments totaling more than $404 billion.

- **Advanced Child Tax Credit**. We developed new taxpayer facing online tools and, at present, have issued more than 70 million separate ACTC payments in two rounds, on July 15 and August 13, totaling more than $30 billion to families that include roughly 61 million eligible children.

We have done the best we could under the circumstances, and we will continue to do our best as we face the current challenges. Our response to the unprecedented COVID challenges – including issuing almost $1.5 trillion in combined historic economic relief and individual refunds – illustrates the importance of every American to the IRS and the importance of the IRS to every American.

We are committed to providing the service taxpayers need to help them—on the phone or through whatever channel they prefer. We will continue to use all appropriated funding to improve taxpayer communications with our agency. As we move forward, we appreciate the patience and understanding of everyone, including members of Congress, taxpayers, and tax professionals.

Current Filing Season Update

Refunds and Processing

The IRS significantly rescaled operations last year due to the COVID-19 pandemic and temporarily closed more than 90% of our facilities (more than 500 in total). Despite these closures in 2020, we processed more than 163 million individual returns, including more than 125 million refunds totaling more than $320 billion. As of August 6, 2021, we have issued more than 117 million individual refunds totaling over $321 billion and processed more than 152 million returns.

Typically, 15-20% of returns received require manual processing due to issues relating to math and consistency checks, identity verification, EIP/EITC reconciliation errors, or a fraud check. As of August 7, 2021, we had approximately 9.5 million individual returns where processing has been suspended for one or more of these reasons. Of these, more than 4.2 million are in ERS and more than 2.1 million involve identity theft pending taxpayer authentication. Barring unforeseen circumstances regarding the pandemic or similar, we anticipate that Error Resolution may be current and within normal operating inventories by the end of 2021, ahead of the 2022 Filing Season.

We have now processed all error-free paper and electronic individual returns received prior to April 2021. As of August 7, 2021, we had 11.3 million (down from 15.4 million as of July 17) unprocessed individual returns in the pipeline. Unprocessed returns include those requiring RRC corrections and validation of 2019 income used to calculate the EITC and ACTC. This work does not generally require correspondence with taxpayers but does require special handling and verification by an IRS employee; therefore, in these instances, it is taking us more than 21 days to issue any related refund. In some cases, this work could take 90 to 120 days. If we make a correction to any RRC, EITC or ACTC claimed on the return, we send the taxpayer an explanation.

We understand the importance of timely processing tax returns and refunds. The primary causes for return processing delays are mistakes such as RRC errors and missing information. As of August 6, 2021, there have been more than 34.5 million electronically filed returns claiming the RRC with one-third of those being manually handled in ERS. The most common reasons for a return to be in ERS include reconciliation of the RRC or other refundable credits, the Additional Child Tax Credit not matching the IRS computed ACTC, EIC Math Verification with Schedule EIC Attached (the taxpayer claimed EIC does not match the IRS computed EIC), the required Form 8962,Advanced Premium Tax Credit was not received.

Suspected identity theft or fraud is another cause for delay. Through December 2020, approximately 185,000 taxpayers self-reported as victims of identity theft, with approximately 30% of the receipts related to the CARES Act and the EIPs. If we can correct a return without contacting the taxpayer, we will. If we need more information or if we need to verify a taxpayer's identity, we will communicate by letter. When correspondence is necessary, taxpayer response time and potential mail delays affect the process. Additionally, while we can resolve some matters through initial taxpayer response, other matters require further follow-up.

When we initially receive a return, we cannot always determine without additional information if the taxpayer has met certain key eligibility requirements to claim refundable credits like the EITC. In those instances, we need additional information from the taxpayer. For example, we may need additional information to determine if a taxpayer can be claimed as a dependent on another return or if a qualifying child lived in the United States for more than six months. Automatically issuing an EITC based solely on return information could lead to erroneous refunds, hindering the IRS's ongoing efforts to reduce improper payments. Without legislative and policy changes, current processes do not allow for accurate determination of automatic taxpayer eligibility for the EITC at the time of filing. The IRS will continue to send notices to claimants who appear to be eligible for the EITC and ask them to provide additional information.

Among other actions we are taking to minimize delays, we have rerouted tax returns and taxpayer correspondence to locations where more staff is available. We open and generally process tax returns in the order we receive them.

Return Information and Status Updates

We regularly update information on IRS.gov to realistically reflect our processing timeframes. We encourage taxpayers to continue checking the Where's My Refund? tool on IRS.gov for their personalized refund status.[1] They can also review the Frequently Asked Questions[2] for additional information and visit our Status of Operations page[3] for ongoing updates, including updated processing timeframes.

Taxpayers who filed electronically and received an IRS acknowledgement need not take any further action other than promptly responding to any requests for information. Taxpayers who filed a paper return should check the Where's My Refund? tool or IRS2Go app to verify the status of their return. If the status says we have received their return or are processing or reviewing it, they should not file a second tax return. They also should not call the IRS to check on the status, since our Customer Service Representatives (CSRs) cannot provide them any additional information.

Taxpayer Correspondence

We are currently opening mail within normal timeframes. We typically receive between 1 million and 1.5 million pieces of mail each week and are able to process that amount on a weekly basis. As previously indicated, employees at our four Submission Processing Centers are working day, night, and weekend shifts (16 hours per day), along with mandatory overtime in multiple functions, to open mail and process tax returns and taxpayer correspondence.

We are processing all taxpayer correspondence in the order received. Once a taxpayer has answered a notice, they do not need to answer it again. While we are opening mail within our normal timeframe, processing taxpayer responses to letters and notices is taking longer than usual due to social distancing and resource restrictions. The exact timeframe varies depending on the type of issue. We are continuously taking actions to reduce delays, such as redistributing taxpayer responses to IRS sites with more staff. This way, we can process all taxpayer correspondence more quickly.

Progress with EIP3 and Advance CTC payments

EIP3

[1] See https://www.irs.gov/refunds.
[2] See https://www.irs.gov/refunds/tax-season-refund-frequently-asked-questions.
[3] See https://www.irs.gov/newsroom/irs-operations-during-covid-19-mission-critical-functions-continue.

We have worked since mid-March of last year to implement major provisions of the CARES Act, the COVID Tax Relief Act, and the American Rescue Plan to provide much-needed economic stimulus and assistance to our nation's people. As of August 5, 2021, we have disbursed approximately 173 million EIP3, totaling more than $404 billion. Since March 2020, we have disbursed over 488 million EIPs in three rounds, totaling more than $826 billion.

We continue to focus these efforts on those who have not yet received their payments. This includes partnering with more than 10,000 community-based organizations, direct services organizations, federal and state agencies, and other groups that have experience engaging underserved communities to share information and outreach materials. EIP outreach materials have been distributed in 35 different languages. Our goal is to make sure every eligible American receives the stimulus Congress intended.

Advance CTC

As required by the American Rescue Plan, we determined Advance CTC eligibility using information from the taxpayer's 2020 tax return (or 2019 tax return if the taxpayer did not file a return for 2020). We also used information taxpayers provided on a simplified tax return filed through the CTC Non-Filer Sign-up Tool discussed below. We issued the first round of more than 35 million Advance CTC payments for delivery on July 15, 2021. These payments totaled more than $15 billion on behalf of approximately 60 million eligible dependents. We delivered the second round on August 13, also totaling about 35 million payments of more than $15 billion on behalf of approximately 60 million children. Further payments will be delivered on the 15th of each month through December 15, 2021.

Our Advance CTC implementation strategy includes electronic and non-electronic methods to allow taxpayers to opt out of the advanced payments or to provide new information relevant to determining their eligibility and payment amount. Starting in mid-June, we launched the following new online tools:

- The CTC Eligibility Assistant[4] allows families to answer a series of questions to determine whether they qualify for the advance credit.

- The CTC Non-Filer Sign-Up Tool[5] helps families who normally don't have a tax return filing obligation to quickly register for the CTC and Advance CTC payments. The CTC Non-Filer Tool was created by Intuit as part of the Free File Alliance and they have committed to it remaining available through October 15, 2021.

---

[4] See https://www.irs.gov/credits-deductions/advance-child-tax-credit-eligibility-assistant.
[5] See https://www.irs.gov/credits-deductions/child-tax-credit-non-filer-sign-up-tool.

- The CTC Update Portal[6] allows families to verify their eligibility for Advance CTC payments and update their bank account information, if needed. They can also choose to unenroll from the Advance CTC payments and receive a lump sum credit when they file their 2021 tax return. As of July 25, 2021, more than 4.4 million unique users have accessed this tool.

We have promoted awareness of these tools through events held with our community partners in cities throughout the country. Volunteers at these events also help eligible taxpayers use the tools to get the benefits to which they are entitled.

As more fully explained below, we developed a robust outreach strategy to inform eligible taxpayers about the Advance CTC payments and how they can make payment modifications. In June, the IRS sent letters (Letter 6416 and 6416-A) to more than 30 million American families who, based on previously filed tax return information, may be eligible to receive ACTC monthly payments. We sent a second round of more than 30 million letters in early July providing information (calculated amount, number to call and website for questions, awareness of online tools) to those we determined are eligible to receive Advance CTC payments.

As of August 7, 2021, we have received more than 875,000 calls on our dedicated ACTC phone line identified in these letters that have been answered by screeners, automated services and dedicated live assistors. When a taxpayer changes their information, we will send a letter confirming the change and the impact on their initially calculated advance payment. No later than January 31, 2020, we will send each eligible taxpayer a reconciliation statement summarizing the advance payments made to the taxpayer between July and December. Additional information about the Advance CTC payments is available at the Advance CTC 2021 page on IRS.gov.[7]

CTC Funds Tracking

Taxpayers must reconcile their CTC when they file their 2021 tax return. To do so they will need to compare:

- The total amount of the Advance CTC payments received during 2021; with
- The amount of the CTC they can properly claim on their 2021 tax return.

If the amount of CTC a taxpayer can properly claim on their 2021 tax return exceeds the total amount of Advance CTC payments the taxpayer received during 2021, the taxpayer can claim the remaining amount of CTC on their 2021 tax return. If a taxpayer receives a total amount of Advance CTC payments that exceeds the amount of CTC they can properly claim on their 2021 tax return, they may need to repay to the IRS some or all of

---

[6] See https://www.irs.gov/credits-deductions/child-tax-credit-update-portal.
[7] See https://www.irs.gov/credits-deductions/advance-child-tax-credit-payments-in-2021.

that excess payment, depending on whether they qualify for statutorily provided repayment protection.[8]

In January 2022, we will send Letter 6419 to taxpayers to provide the total amount of Advance CTC payments that the IRS disbursed to them during 2021. Taxpayers can refer to this letter when they file their 2021 tax return during the 2022 tax filing season.

Outreach Initiatives

We have undertaken historic sweeping EIP and Advance CTC outreach, education, and media campaign efforts. These efforts help people understand their eligibility, including those who normally don't have a tax return filing obligation. We work with a broad and growing partner base to reach people in vulnerable and underserved communities.

Our partners include a wide spectrum of national, state, and local community and professional groups and organizations. For example, the groups include homeless organizations, food banks, and social service groups, as well as any associations to which these organizations belong. We are also working closely with state and local government agencies to raise awareness.

Through these partnerships, we provide important information and steps individuals can take to access their EIP and Advance CTC. We also equip our partners with outreach bundles they can use immediately or repurpose to fit their own communication and outreach channels. We continue to share this information nationwide, with stakeholders inside and outside the tax community, as well as through the news media and on social media and websites.

We are working with non-profits and advocacy groups to host virtual and in-person Advance CTC outreach events in select cities across the country this summer.[9] These events focus on communities without internet access and that have limited English proficiency. During these events, volunteers, community stakeholders, and IRS employees help eligible families sign up for these important tax credits and benefits.

The outreach events and materials are part of our larger effort to reach all people eligible for Advance CTC payments and other credits. To share information and raise awareness, we continue working with partner groups nationwide, both inside and outside of the tax community. We will continue our robust national communications and outreach efforts throughout the year to help eligible families receive Advance CTC payments.

---

[8] See IRS Frequently Asked Questions, 2021 Child Tax Credit and Advance Child Tax Credit Payments, Topic H: Reconciling Your Advance Child Tax Credit Payments on Your 2021 Tax Return, available at https://www.irs.gov/credits-deductions/2021-child-tax-credit-and-advance-child-tax-credit-payments-topic-h-reconciling-your-advance-child-tax-credit-payments-on-your-2021-tax-return.

[9] See https://www.irs.gov/newsroom/irs-holds-additional-weekend-events-july-23-24-to-help-people-with-child-tax-credit-payments-and-economic-impact-payments.

In addition to the outreach events and materials, we have created a special Advance CTC 2021 landing page on IRS.gov.[10] We designed this page to provide the most up-to-date information about the CTC and the Advance CTC payments, including a series of Questions and Answers about how the IRS is issuing Advance CTC payments. It is available in multiple languages, including Spanish.[11]

We have distributed, and will continue to distribute, EIP outreach materials in more than two dozen languages, including materials specifically focused on individuals experiencing unique circumstances. We will continue our efforts to expand ways to communicate with taxpayers who prefer to get information in other languages.

Customer Service Issues

Balance Due Notices

Taxpayers who receive a balance due notice can securely view their account information online by setting up an online account[12] or requesting an account transcript to be received online or by mail.[13] With an online account, taxpayers can view the amount they owe, see their payment history, make a payment, see payment plan options, and request a payment plan using an online application.[14] Many taxpayers qualify to set up a payment plan online without needing to speak to anyone at the IRS. Taxpayers can also request a payment agreement by mail using the Form 9465, Installment Agreement Request,[15] or by calling the phone number on their IRS notice.

Taxpayer Assistance

Since the pandemic began more than a year ago, the IRS has worked hard to maintain quality taxpayer service. At the same time, we also dealt with pandemic challenges and effects, focusing on the health and safety of taxpayers and our employees. We quickly transitioned to a virtual environment with over 61,000 employees teleworking. For the substantial portion of our services that are not portable, employees worked in socially distanced environments throughout various facilities to maintain required operations.

We strongly encourage taxpayers to use existing electronic tools available on IRS.gov where possible. We also assist taxpayers through our toll-free telephone lines. We currently have about 14,800 CSRs, including 3,400 seasonal employees who work mainly

---

10 https://www.irs.gov/credits-deductions/advance-child-tax-credit-payments-in-2021
11 https://www.irs.gov/es/credits-deductions/advance-child-tax-credit-payments-in-2021

12 See https://www.irs.gov/payments/view-your-tax-account.
13 See https://www.irs.gov/individuals/get-transcript.
14 See https://www.irs.gov/payments/online-payment-agreement-application.
15 See https://www.irs.gov/pub/irs-pdf/f9465.pdf.

during the filing season. This process makes ours one of the largest customer service phone operations in the world.

We provide phone service to individuals, businesses, tax professionals and tax-exempt entities. We have specialty lines for the hearing impaired, identity theft, the taxpayer protection program and appointment services for our Taxpayer Assistance Centers (TACs). We also offer over-the-phone translation services in 350 languages. For calendar year 2021 through August 6, 2021, our TACs have had more than 681,000 face-to-face contacts with more than 531,000 of those contacts scheduled by appointment. During disasters, such as February's extreme weather in Texas, our CSRs also assisted FEMA in fielding urgent intake calls from disaster victims.

Our CSRs are based in ten main campus sites and 14 smaller satellite locations across all mainland United States time zones, plus Puerto Rico. The CSRs work 7 a.m. to 7 p.m. shifts staggered nationally according to time zones. When we closed most of our facilities in March 2020 to protect employees from COVID-19, our Information Technology operation worked rapidly—within weeks—to provide our CSRs with laptops so they could work remotely in a virtual environment.

Customer Callback is offered to randomly selected taxpayers, when estimated wait times are greater than 15 minutes. For FY 2021, we expanded the number of applications offering a callback option from five to sixteen - meaning that over 40% of our toll-free demand is provisioned to support customer callback - and offered it to more than 5.7 million taxpayers, with about 57% accepting and a reconnection rate of more than 91%. We estimate a savings of about 1.6 million taxpayer hours associated with these efforts. We plan to continue expanding callback with a goal of 95% of our demand provisioned for callback by FY 2024.

Even with all our CSRs working, we cannot keep up with the volume of phone calls that has skyrocketed beyond anything we've ever experienced. At the same time, the average duration of each call has also increased due to the complexity of COVID related tax law changes and because taxpayers have personally endured a lot throughout the pandemic. Some have experienced isolation without anyone else to talk to for a long time. Our average time per call has increased from 13 minutes for calendar year 2019 to more than 19 minutes for calendar year 2021. Spending more time on each call to provide the customer service taxpayers deserve reduces the operator's ability to handle more calls during a shift. We have encouraged our CSRs to take that time since, for many taxpayers, we are their only contact with the government during the pandemic.

To provide an idea of the scope of our phone operations, we have already received over 199 million calls since January 1 of this year. That volume is about 400% more calls than we get in an average year. Between live assistors and automated services, we have answered more than 51.7 million calls. For comparison, we received a total of 42 million calls in 2018, 40 million calls in 2019, and 55 million calls in 2020. We have also received more than 1.6 billion visits to IRS.gov and more than 589 million visits to our Where's My Refund? tool.

During a typical filing season, we average two to three million calls each day. On March 15, 2021, we received 8.6 million calls on just that one day, which is an average of about 1,500 calls per second. The high call volume has significantly hampered our ability to manage telephone demand based on the capacity limitations of our telephone routing equipment used to place callers in line for service.

Customer Service Hiring Efforts

We maintain one of the largest call sites in the world - our call sites are open and all major phone lines are open. One way we measure our telephone support performance is the IRS Level of Service (LOS). Generally, the LOS refers to the relative success rate of taxpayers who call the toll-free number to connect with an assistor. Unfortunately, our LOS is significantly lower this year than in previous years. However, in addition to the already noted significantly higher call volume and substantially longer call duration, another significant factor affecting our LOS is the inability to employ enough CSRs to meet the demand. It's hard to turn this situation around quickly. From a budget perspective, each 10% increase in LOS requires a funding level of approximately $100 million, which is provided by an appropriation. For these reasons, it is extremely difficult to increase LOS during a significant, unexpected rise in taxpayer contacts.

We submitted our Fiscal Year 2021 (FY21) funding request to Congress in early 2020, before approval of three rounds of EIPs and other important tax law changes that taxpayers need help navigating. The FY21 funding we received from Congress allowed us to employ about 14,800 CSRs for the 2021 filing season for an expected LOS of approximately 50%. At that time, however, there was no way to predict the severity of the pandemic and the effect it would have on call demand, filing season and hiring.

We attempted to ease these challenges by starting the CSR hiring process for the 2021 filing season months earlier than normal. We anticipated the high unemployment rate throughout the country might result in larger applicant pools in all locations. However, this situation didn't happen. While we were able to hire an additional 3,800 CSRs for the 2021 filing season, it was short of our goal of 5,000. The pandemic caused significant hiring challenges, including low applicant pools in some locations, delays in fingerprinting due to closed facilities, and delays in processing applicants virtually.

We are striving to do better in assisting taxpayers. We are working to improve the situation to the extent our resources allow. For example, we are trying new training approaches to get new CSRs ready to work the phones in less than the usual 14-week timeframe. We also are using artificial intelligence and automated call systems to answer simple questions and free up CSRs for more complex calls. We are working to reduce hold times by expanding our customer callback feature that gives callers the option to get a return call from us rather than stay on hold. This feature has saved people hundreds of thousands of hours waiting for assistance, and we plan to continue expanding this capability in the future.

Constituent Inquiries

The IRS.gov website is the best way to get answers to tax law questions or check the status of refunds, tax payments or EIPs. TACs provide limited in-person help by appointment. They also offer phone assistance to taxpayers calling to make an appointment and educate taxpayers about available alternative services. Approximately 50% of all inquiries are resolved by our trained TAC appointment telephone staff, without an in-person visit. This year, our TACs have received more than 1.2 million calls requesting an appointment, have scheduled more than 530,000 appointments, and have held more than 681,000 face-to-face meetings. Using appointments for face-to-face assistance assures taxpayers that their inquiry will be addressed on their first visit and they are less likely to experience a long wait period. An appointment also enables the IRS to forecast and maintain resources to meet customer demand and serve the maximum number of taxpayers each day. In some cases, it is possible for a taxpayer who walks into a TAC to schedule a same-day appointment.

There are approximately 358 TACs located throughout the 50 states and Puerto Rico. Of these, 22 are staffed by staff riding circuit from other TACs. A TAC can be stand-alone offices or situated in offices with other government services. Face-to-face services provided in the TACs include:

- tax law assistance,
- tax account resolution,
- collection of payments and payment arrangements,
- access to tax forms and publications,
- installment agreements,
- alien tax clearances (sailing permit),
- authentication services for Individual Taxpayer Identification Number applications, and
- identity theft victim assistance.

The easiest way to schedule an appointment at one of our TACs is through IRS.gov or the IRS2GO app. Your constituents can also schedule an appointment by calling 844-545-5640. We would be pleased to investigate any outstanding constituent cases if your staff provides us with the appropriate privacy release documentation.

We are looking to build a modernized IRS focusing on enhanced taxpayer services with an appropriate balance of compliance initiatives. Like all federal agencies the IRS is best suited to provide the services Americans deserve and appropriately enforce the tax laws in support of compliant taxpayers when it receives the resources it needs to do so. Modernization will reduce our dependency on our legacy systems and provide more meaningful taxpayer experiences.

I am extremely proud of the dedication of our workforce toward helping American taxpayers fulfill their tax responsibilities and resolve tax issues. This has been an extremely challenging time for us all, but I remain confident the IRS will continue to do all it can to serve taxpayers. Our goal is to provide the nature and quality of assistance taxpayers deserve and for the reasons set forth above and more, we have been unable to recently satisfy our goal, but working together with Congress and the Administration, WE WILL!

I hope this information is helpful. We remain available to meet with you and/or your staff to discuss ongoing IRS operations. If you have questions, please contact me, or a member of your staff may contact Amy Klonsky, Chief, National Congressional Affairs Branch, at 202-317-6985.

Sincerely,

Charles P. Rettig

Enclosure

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

COMMISSIONER

September 20, 2021

The Honorable Sheldon Whitehouse
United States Senate
Washington, DC 20510

Re: Customer Service Update

Dear Senator Whitehouse:

During the COVID-19 pandemic, to varying degrees we have been unable to provide the nature and quality of meaningful services every American deserves; however, IRS employees have performed exceptionally well under extremely difficult circumstances. Wherever possible, we have continually modified processes and redeployed resources in an effort to meet unprecedented demand.

Although I have talked with many members of Congress and both taxpayer and professional associations on a somewhat regular basis, I thought it would be helpful to provide a general status update regarding our current filing season, our progress with the third round of Economic Impact Payments (EIP3) and the Advance Child Tax Credit (Advance CTC) payments, and certain other customer service issues. Our goal is to restore return processing to pre-pandemic levels by the end of the year, while continuing to improve our online, in-person and telephone service delivery based on available resources. The information in this letter is intended to help you and others better understand the ongoing effect of the pandemic upon our employees and overall IRS operations at a time when the IRS has faced consequential resource challenges, while also being called upon to take on new, significant responsibilities. We also provide information that you might find helpful for your constituents.

During the pandemic, we have had to find new ways to pursue our mission. As we faced enormous challenges, we didn't always get it right, but we worked hard, often with limited resources, to adjust and improve. We appreciate and understand the frustration caused by the high volume of manually processed returns, the limited information that has been available to taxpayers about the status of the return processing, the refund delays, and the difficulty reaching IRS employees. We also understand that complex tax issues, recent legislation and the pandemic have record numbers of taxpayers looking for help.

Although discussed in more detail later, it is important to provide brief examples of a few recent challenges:

- **Exceptionally High Call Volume.** A historically high volume of calls has significantly hampered our ability to manage telephone demand.
    - *We have received over 199 million phone calls in just six months in 2021, from January through June.* This level is more than 400% of our normal call volume for an entire year.
        - For comparison, we received a total of 42 million calls in 2018, 40 million calls in 2019, and 55 million calls in 2020. Between live assistors and automated services, we have *answered* more than 56.6 million calls as of August 20, 2021.
    - During a typical filing season, we average two to three million calls each day.
        - On March 15, 2021, we received 8.6 million calls on just that one day—*an average of about 1,500 calls per second.*
    - During this period, we have also been called upon to provide phone services on behalf of the Federal Emergency Management Agency (FEMA) when natural disasters occur, such as hurricanes and wildfires.
        - Since 2019, more than 11,000 of our Customer Service Representatives (CSRs) have handled more than 1.3 million calls on behalf of FEMA.
        - We presently have more than 1,000 CSRs providing assistance with efforts regarding Hurricane Ida and deployed IRS Special Agents to Baton Rouge, Louisiana to assist local law enforcement efforts.

- **Mail Inventory Increased While IRS Operations Were Suspended**. Since June 2020, employees at our four Submission Processing Centers have been operating in a socially distanced environment, working day, night, and weekend shifts (16 hours per day), often with mandatory overtime in multiple functions for the majority of 2021, to open mail and process tax returns and taxpayer correspondence.
    - By January 1, 2021, *all* backlogged mail had been opened and extracted for processing.
        - During the summer of 2020, our mail backlog exceeded 20 million pieces of unopened mail (correspondence and paper returns).
    - We receive approximately 1-1.5 million pieces of mail each week and we are now current in opening all mail as received.
        - We currently have approximately 3.7 million pieces of mail (including amended returns) in processing.

- **Manual Review Required for Certain Returns.** Once filed, a return may be subjected to manual review if our systems detect possible errors or omissions.

Our Error Resolutions System (ERS) manually reviews all returns with identified errors potentially affecting the accuracy of the claimed Recovery Rebate Credit (RRC), Earned Income Tax Credit (EITC), Child Tax Credit (CTC) or Additional Child Tax Credit (ACTC). All potentially available resources have been dedicated to ERS.

- The IRS is currently correcting significantly more errors on returns and issuing more math error notices than in previous years.
  - From January 1 through July 15, 2021, we made about 9 million math error corrections, around 7.4 million of which were related to the RRC.
  - For the same time in 2020, we made 628,997 math error corrections.
- *Barring unforeseen circumstances, we anticipate that ERS may be current and within normal operating inventories by the end of 2021, ahead of the 2022 Filing Season.*

- **New Legislation – Lookback Rule.** The Consolidated Appropriations Act, 2021, signed into law on December 27, 2020, included a lookback rule allowing taxpayers to elect to use their 2019 income to calculate their EITC or ACTC on their 2020 tax return.
  - Due to the late passage of the law, we were unable to adjust our forms and computer systems before the start of the 2021 filing season to systemically process returns that used 2019 income for these refundable credits. Instead, we had to manually verify millions of returns. The ERS holds these returns in suspense until an employee can manually review the return and verify the 2019 earnings.

- **Filing Season 2021.** As of September 3, 2021, we have issued more than 123 million individual refunds totaling over $338.7 billion and processed more than 157.9 million returns.
  - By comparison, over the same period last year, we issued 120 million refunds totaling $294.2 billion and processed 151.5 million returns.

- **Economic Impact Payments.** During the pandemic, we developed new taxpayer-facing online tools and, in three separate rounds, we have issued 493 million Economic Impact Payments (EIPs) totaling more than $830 billion as of August 14, 2021.
  - **CARES Act** (March 2020) – 168 million payments totaling more than $280 billion.
  - **COVID Tax Relief Act** (December 2020) – 152 million payments totaling nearly $148 billion.
  - **American Recovery Plan Act of 2021** (March 2021) – 172 million payments totaling more than $402 billion.

- **Advance CTC**. We redeployed resources to develop new taxpayer-facing online tools and, at present, have issued more than 106 million separate Advance CTC payments in three rounds on July 15, August 13, and September 15 totaling more than $45 billion to families that include roughly 61 million eligible children.

We have done the best we could under the circumstances, and we will continue to do our best as we face new challenges. Our response to the unprecedented COVID pandemic—including issuing almost $1.5 trillion in combined historic economic relief and individual refunds—illustrates the importance of every American to the IRS and the IRS to every American.

We are committed to providing the service taxpayers need to help them—on the phone or through whatever channel they prefer. We will continue to use all appropriated funding to improve taxpayer communications with our agency. As we move forward, we appreciate the patience and understanding of everyone, including taxpayers, tax professionals and members of Congress.

Current Filing Season Update

Refunds and Processing

The IRS significantly rescaled operations last year due to the COVID-19 pandemic and temporarily closed more than 90% of our facilities (more than 500 in total). Despite these closures in 2020, we processed more than 163 million individual returns, including more than 125 million refunds totaling more than $320 billion. For the current filing season, as of September 3, 2021, we have issued more than 123 million individual refunds totaling over $338.7 billion and processed more than 157.9 million returns.

In years before the pandemic, 15-20% of returns typically received require manual processing due to issues relating to math and consistency checks, identity verification, EITC reconciliation errors, or a fraud check. As of September 9, 2021, we had suspended the processing of approximately 2.68 million individual returns for one or more of these reasons. Of these, 780,000 are in ERS and 1.9 million involve identity theft pending taxpayer authentication. Barring unforeseen circumstances regarding the pandemic or similar circumstances, we anticipate that Error Resolution may be current and within normal operating inventories by the end of 2021, ahead of the 2022 Filing Season.

We have now processed all error-free paper and electronic individual returns received prior to April 2021. As of September 9, 2021, we had 8.5 million (down from 15.6 million as of July 17) unprocessed individual returns in the pipeline. Unprocessed returns include those requiring RRC corrections and validation of 2019 income used to calculate the EITC and ACTC. This work does not generally require correspondence with taxpayers, but does require special handling and verification by an IRS employee;

therefore, in these instances, it is taking us more than 21 days to issue any related refund. In some cases, this work could take 90 to 120 days, depending on the issue and whether we need to correspond with the taxpayer. If we make a correction to any RRC, EITC or ACTC claimed on the return, we send the taxpayer an explanation.

As of August 15, 2021, there have been more than 34.6 million electronically filed returns claiming the RRC with one-third of those requiring manual handling in ERS. The most common reasons for a return to be in ERS include reconciliation of the RRC or other refundable credits, the reported ACTC not matching the IRS computed ACTC, EITC Math Verification with Schedule EITC Attached (the taxpayer claimed EITC does not match the IRS computed EITC), or the required Form 8962, Advanced Premium Tax Credit was not received. Suspected identity theft or fraud is another cause for delay. Through December 2020, approximately 185,000 taxpayers self-reported as victims of identity theft.

If we can correct a return without contacting the taxpayer, we will. If we need more information or if we need to verify a taxpayer's identity, we will communicate by letter. When correspondence is necessary, taxpayer response time and potential mail delays affect the process. Additionally, while we can resolve some matters through initial taxpayer response, other matters require further follow-up.

For example, we may need additional information to determine if a taxpayer can be claimed as a dependent on another return or if a qualifying child lived in the United States for more than six months. Automatically issuing an EITC based solely on return information could lead to erroneous refunds, hindering the IRS's ongoing efforts to reduce improper payments. Without legislative and policy changes, current processes do not allow for accurate determination of automatic taxpayer eligibility for the EITC at the time of filing. The IRS will continue to send notices to claimants who appear to be eligible for the EITC and ask them to provide additional information.

Among other actions we are taking to minimize delays, we have continually rerouted tax returns and taxpayer correspondence to locations where more staff is available. We open and generally process tax returns in the order we receive them.

Return Information and Status Updates

We regularly update information on IRS.gov to realistically reflect our processing timeframes. We encourage taxpayers to continue checking the Where's My Refund? tool on IRS.gov for their personalized refund status.[1] They can also review the Frequently Asked Questions[2] for additional information and visit our Status of Operations page[3] for ongoing updates, including updated processing timeframes.

[1] See https://www.irs.gov/refunds.
[2] See https://www.irs.gov/refunds/tax-season-refund-frequently-asked-questions.
[3] See https://www.irs.gov/newsroom/irs-operations-during-covid-19-mission-critical-functions-continue.

Taxpayers who filed electronically and received an IRS acknowledgement need not take any further action other than promptly responding to any requests for information. Taxpayers who filed a paper return should check the Where's My Refund? tool or IRS2Go app to verify the status of their return. If the status says we have received their return or are processing or reviewing it, they should not file a second tax return. They also should not call the IRS to check on the status, since our CSRs cannot provide them any additional information.

Taxpayer Correspondence

We are currently opening mail within normal timeframes. We typically receive between 1 million and 1.5 million pieces of mail each week and are able to process that amount on a weekly basis. As previously indicated, since June 2020, employees at our four Submission Processing Centers have been operating in a socially distanced environment, working day, night, and weekend shifts (16 hours per day), initially along with mandatory overtime in multiple functions for the majority of 2021, to open mail and process tax returns and taxpayer correspondence.

We are processing all taxpayer correspondence in the order received. Once a taxpayer has answered a notice, they do not need to answer it again. While we are opening mail within our normal timeframe, processing taxpayer responses to letters and notices is taking longer than usual due to social distancing and resource restrictions. The exact timeframe varies depending on the type of issue. We are continuously taking actions to reduce delays, such as redistributing taxpayer responses to IRS sites with more staff. This way, we can process all taxpayer correspondence more quickly.

<u>Progress with EIP3 and Advance CTC payments</u>

EIP3

We have worked since mid-March of 2020 to implement major provisions of the CARES Act, the COVID Tax Relief Act, and the American Rescue Plan to provide much needed economic stimulus and assistance to Americans. As of August 14, 2021, we have disbursed approximately 172 million EIP3, totaling more than $402 billion. Since March 2020, we have disbursed over 493 million EIPs in three rounds, totaling more than $830 billion.

We continue to focus these efforts on Americans who have not yet received their payments. This process includes partnering with more than 10,000 community-based organizations, direct services organizations, federal and state agencies, and other groups who have experience engaging underserved communities to share information and outreach materials. We have distributed EIP outreach materials in 35 different languages. Our goal is to make sure every eligible American receives the stimulus Congress intended.

Advance CTC

As required by the American Rescue Plan, we determined Advance CTC eligibility using information from the taxpayer's 2020 tax return (or 2019 tax return if the taxpayer did not file a return for 2020). We also used information taxpayers provided on a simplified tax return filed through the CTC Non-Filer Sign-up Tool discussed below. We issued the first round of more than 35 million Advance CTC payments for delivery on July 15, 2021. These payments totaled more than $15 billion on behalf of approximately 60 million eligible dependents. We delivered the second round on August 13, also totaling about 36 million payments of more than $15 billion on behalf of approximately 61 million children. The third round of about 35 million payments on September 15 totaled about $15 billion. Further payments will be delivered on the 15th of each month through December 15, 2021.

Our Advance CTC implementation strategy includes electronic and non-electronic methods to allow taxpayers to opt out of the advanced payments or to provide new information relevant to determining their eligibility and payment amount. Starting in mid-June, we launched the following new online tools:

- The CTC Eligibility Assistant[4] allows families to answer a series of questions to determine whether they qualify for the advance credit.

- The CTC Non-Filer Sign-Up Tool[5] helps families who normally don't have a tax return filing obligation to quickly register for the CTC and Advance CTC payments. The CTC Non-Filer Tool was created by Intuit as part of the Free File Alliance and they have committed to keeping it available through October 15, 2021.

- The CTC Update Portal[6] allows families to verify their eligibility for Advance CTC payments and update their bank account information, if needed. They can also choose to unenroll from the Advance CTC payments and receive a lump sum credit when they file their 2021 tax return. As of July 25, 2021, more than 4.4 million unique users have accessed this tool.

We have promoted awareness of these tools through events held with our community partners in cities throughout the country. Volunteers at these events also help eligible taxpayers use the tools to get the benefits to which they are entitled.

---

[4] See https://www.irs.gov/credits-deductions/advance-child-tax-credit-eligibility-assistant.
[5] See https://www.irs.gov/credits-deductions/child-tax-credit-non-filer-sign-up-tool.
[6] See https://www.irs.gov/credits-deductions/child-tax-credit-update-portal.

As more fully explained below, we developed a robust outreach strategy to inform eligible taxpayers about the Advance CTC payments and how they can make payment modifications. In June, the IRS sent letters (Letter 6416 and 6416-A) to more than 30 million American families who, based on previously filed tax return information, may be eligible to receive Advance CTC monthly payments. We sent a second round of more than 30 million letters in early July providing information (calculated amount, number to call and website for questions, awareness of online tools) to those we determined are eligible to receive Advance CTC payments.

As of September 4, 2021, we have received 1.2 million calls on our dedicated Advance CTC phone line identified in these letters and 1.2 million have been answered through our system of utilizing screeners, automated services and dedicated live assistors. When a taxpayer changes their information, we will send a letter confirming the change and the effect on their initially calculated advance payment. No later than January 31, 2022, we will send each eligible taxpayer a reconciliation letter (Letter 6419) summarizing the advance payments made to the taxpayer between July and December. Additional information about the Advance CTC payments is available at the Advance CTC 2021 page on IRS.gov.[7]

CTC Funds Tracking

Taxpayers must reconcile their CTC when they file their 2021 tax return. To do so they will need to compare:

- The total amount of the Advance CTC payments received during 2021; with
- The amount of the CTC they can properly claim on their 2021 tax return.

If the amount of CTC a taxpayer can properly claim on their 2021 tax return exceeds the total amount of Advance CTC payments the taxpayer received during 2021, the taxpayer can claim the remaining amount of CTC on their 2021 tax return. If a taxpayer receives a total amount of Advance CTC payments that exceeds the amount of CTC they can properly claim on their 2021 tax return, they may need to repay to the IRS some or all of that excess payment, depending on whether they qualify for statutorily provided repayment protection.[8]

In January 2022, we will send Letter 6419 to taxpayers to provide the total amount of Advance CTC payments that the IRS disbursed to them during 2021. Taxpayers can refer to this letter when they file their 2021 tax return during the 2022 tax filing season.

---

[7] See https://www.irs.gov/credits-deductions/advance-child-tax-credit-payments-in-2021.

[8] See IRS Frequently Asked Questions, 2021 Child Tax Credit and Advance Child Tax Credit Payments, Topic H: Reconciling Your Advance Child Tax Credit Payments on Your 2021 Tax Return, available at https://www.irs.gov/credits-deductions/2021-child-tax-credit-and-advance-child-tax-credit-payments-topic-h-reconciling-your-advance-child-tax-credit-payments-on-your-2021-tax-return.

Outreach Initiatives

We have undertaken historic sweeping EIP and Advance CTC outreach, education, and media campaign efforts. These efforts help people understand their eligibility, including those who normally don't have a tax return filing obligation. We work with a broad and growing partner base to reach people in vulnerable and underserved communities.

Our partners include a wide spectrum of national, state, and local community and professional groups and organizations. For example, the groups include homeless organizations, food banks, and social service groups, as well as any associations to which these organizations belong. We are also working closely with state and local government agencies to raise awareness. We also equip our partners with outreach bundles they can use immediately or repurpose to fit their own communication and outreach channels.

We are working with non-profits and advocacy groups to host virtual and in-person Advance CTC outreach events in select cities across the country this summer.[9] These events focus on communities without internet access and that have limited English proficiency. During these events, volunteers, community stakeholders, and IRS employees help eligible families sign up for these important tax credits and benefits.

In addition to the outreach events and materials, we have created a special Advance CTC 2021 landing page on IRS.gov.[10] We designed this page to provide the most up-to-date information about the CTC and the Advance CTC payments, including a series of Questions and Answers about how the IRS is issuing Advance CTC payments. It is available in multiple languages, including Spanish.[11]

We have distributed, and will continue to distribute, EIP outreach materials in more than two dozen languages, including materials specifically focused on individuals experiencing unique circumstances. We will continue our efforts to expand ways to communicate with taxpayers who prefer to get information in other languages.

Customer Service Issues

Balance Due Notices

Taxpayers who receive a balance due notice can securely view their account information online by setting up an online account[12] or requesting an account transcript

[9] See https://www.irs.gov/newsroom/irs-holds-additional-weekend-events-july-23-24-to-help-people-with-child-tax-credit-payments-and-economic-impact-payments.
[10] https://www.irs.gov/credits-deductions/advance-child-tax-credit-payments-in-2021
[11] https://www.irs.gov/es/credits-deductions/advance-child-tax-credit-payments-in-2021
[12] See https://www.irs.gov/payments/view-your-tax-account.

to be received online or by mail.[13] With an online account, taxpayers can view the amount they owe, see their payment history, make a payment, see payment plan options, and request a payment plan using an online application.[14] Many taxpayers qualify to set up a payment plan online without needing to speak to anyone at the IRS. Taxpayers can also request a payment agreement by mail using the Form 9465, Installment Agreement Request,[15] or by calling the phone number on their IRS notice.

Taxpayer Assistance

The IRS.gov website is the best way to get answers to tax law questions or check the status of refunds, tax payments or EIPs. Since the pandemic began more than a year ago, the IRS has worked hard to maintain quality taxpayer service. At the same time, we also dealt with pandemic challenges and effects, focusing on the health and safety of taxpayers and our employees. We quickly transitioned to a virtual environment with over 61,000 employees teleworking. For the substantial portion of our services that are not portable, employees worked in socially distanced environments throughout various facilities to maintain required operations.

We strongly encourage taxpayers to use existing electronic tools available on IRS.gov where possible. We also assist taxpayers through our toll-free telephone lines. We currently have about 15,000 CSRs, including 3,400 seasonal employees who work mainly during the filing season. This process makes ours one of the largest customer service phone operations in the world.

We provide phone service to individuals, businesses, tax professionals and tax-exempt entities. We have specialty lines for the hearing impaired, identity theft victims, the taxpayer protection program and appointment services for our Taxpayer Assistance Centers (TACs). We also offer over-the-phone translation services in 350 languages. For calendar year 2021 through August 13, 2021, our TACs have had more than 707,000 face-to-face contacts with more than 553,000 of those contacts scheduled by appointment. During disasters, such as February's extreme weather in Texas, our CSRs also assisted FEMA in fielding urgent calls from disaster victims. Since 2009, more than 11,000 CSRs have handled more than 1.3 million calls on behalf of FEMA. We presently have more than 1,000 CSRs providing assistance to FEMA with efforts regarding Hurricane Ida and have deployed IRS Special Agents to Baton Rouge, Louisiana.

Our CSRs are operating from 10 main campus sites and 14 smaller satellite locations across all mainland United States time zones, plus Puerto Rico. The CSRs work 7 a.m. to 7 p.m. shifts staggered nationally according to time zones. When we closed most of our facilities in March 2020 to protect employees from COVID-19, our Information

---

[13] See https://www.irs.gov/individuals/get-transcript.
[14] See https://www.irs.gov/payments/online-payment-agreement-application.
[15] See https://www.irs.gov/pub/irs-pdf/f9465.pdf.

Technology operation worked rapidly—within weeks—to provide our CSRs with laptops, related equipment and training so they could work remotely in a virtual environment.

Customer Callback is offered to randomly selected taxpayers when estimated wait times are greater than 15 minutes. For Fiscal Year (FY) 2021, we expanded the number of applications offering a callback option from five to sixteen (including two in Spanish) – resulting in over 40% of our toll-free demand is provisioned to support customer callback - and offered it to more than 5.7 million taxpayers, with about 57% accepting and a reconnection rate of more than 91%. We estimate a savings of about 1.6 million taxpayer hours associated with these efforts. We plan to continue expanding callback with a goal of 95% of our demand provisioned for callback by FY 2024.

Even with all our CSRs working, we cannot keep up with the volume of phone calls that has skyrocketed beyond anything we've ever experienced. At the same time, the average duration of each call has also increased due to the complexity of COVID related tax law changes and because taxpayers have personally endured a lot throughout the pandemic. Some have experienced isolation without anyone else to talk to for a long time. Our average time per call has increased from 13 minutes for calendar year 2019 to more than 19 minutes for calendar year 2021. Spending more time on each call to provide the customer service taxpayers deserve reduces the operator's ability to handle more calls during a shift. However, we have encouraged our CSRs to take that time since, for many taxpayers, we are their only contact with the government during the pandemic.

To provide an idea of the scope of our phone operations, we have already received over 199 million calls since January 1 of this year. That volume is about 400% more calls than we get in an average year. Between live assistors and automated services, we have answered more than 56.6 million calls. For comparison, we received a total of 42 million calls in 2018, 40 million calls in 2019, and 55 million calls in 2020. We have also received more than 1.7 billion visits to IRS.gov and more than 598 million visits to our Where's My Refund? tool.

During a typical filing season, we average more than million calls *each day.* On March 15, 2021, we received 8.6 million calls on just that one day, which is an average of about *1,500 calls per second.* The high call volume has significantly hampered our ability to manage telephone demand.

Customer Service Hiring Efforts

We maintain one of the largest call sites in the world - our call sites are open and all major phone lines are open. One way we measure our telephone support performance is the IRS Level of Service (LOS). Generally, the LOS refers to the relative success rate of taxpayers who call the toll-free number to connect with an assistor. Unfortunately, our LOS is significantly lower this year than in previous years. It's hard to turn this situation around quickly. From a budget perspective, *in years of normal call volume without significant modernization of our systems*, each 10% increase in LOS requires a funding level of approximately $100 million, which is provided by an appropriation. For these reasons, it is extremely difficult to increase LOS during a significant, unexpected rise in taxpayer contacts.

We submitted our FY 2021 funding request to Congress in early 2020, before approval of three rounds of EIPs and other important tax law changes that taxpayers need help navigating. The FY 2021 funding we received from Congress allowed us to employ about 15,000 CSRs for the 2021 filing season for an expected LOS of approximately 50%. At that time, however, there was no way to predict the severity of the pandemic and the effect it would have on call demand, filing season and hiring.

We attempted to ease these challenges by starting the CSR hiring process for the 2021 filing season months earlier than normal. We anticipated the high unemployment rate throughout the country might result in larger applicant pools in all locations. However, this situation didn't happen. While we were able to hire an additional 3,800 CSRs for the 2021 filing season, it was short of our goal of 5,000. The pandemic caused significant hiring challenges, including low applicant pools in some locations, delays in fingerprinting due to closed facilities, and delays in processing applicants virtually. We are trying innovative training approaches to get new CSRs ready to work the phones in less than the usual 14-week timeframe.

Business Issues

Business Credit Administration

We took immediate action to implement the CARES Act modifications to the net operating loss rules for losses arising in 2018 or 2019. On April 17, 2020, we established temporary procedures to accept eligible carryback refunds through dedicated electronic fax (e-fax) lines. In addition, we provided FAQs to assist taxpayers with this process. We established these procedures due to the closure of IRS Campus operations during the early days of the pandemic and to help taxpayers who were facing liquidity issues.

To minimize delays to taxpayers, we also made improvements to the Joint Committee on Taxation (JCT) review program, including increased staffing and a modified process for submissions of reports to the JCT. These changes ensured we were ready to handle the expected influx of cases. The streamlined processes also ensured the timely handling of JCT cases and refunds.

Working with the Business Community

We quickly instituted a number of changes allowing business taxpayers to work with us in a virtual environment during the pandemic. We provided IRS employees access to technology to communicate with taxpayers electronically, including secure email and virtual meetings. To protect the health of taxpayers and tax professionals, we temporarily allowed the use of digital signatures on certain forms that cannot be filed electronically. In addition, we implemented temporary procedures for fax transmission of the duplicate copy of Form 3115, Application for Change in Accounting Method. To limit delays in case processing, our Large Business & International Division established and implemented a virtual case closing process for examinations, providing taxpayers quicker access to the Office of Appeals. Throughout the pandemic, we have actively engaged with the business community to ensure awareness of their issues.

Form 7200, Advance Payment of Employer Credits

Businesses can claim the Credit for Sick and Family Leave, the Employee Retention Credit, and the COBRA Credit in advance by filing Form 7200, Advance Payment of Employer Credits Due to COVID-19. IRS employees are working to ensure Form 7200 filers are claiming the credits accurately and appropriate amounts are paid.

We have made significant outreach efforts to make sure businesses are aware of these important COVID tax relief credits. We participated in hundreds of Stakeholder Liaison events, Payroll Industry calls, Reporting Agent Forums, and Small Business Forums. We also added over 60 relevant links on IRS.gov and worked with the Department of the Treasury to issue guidance.

As of August 6, 2021, these provisions have already resulted in nearly $37 billion in credits to employers so they can continue operating their businesses and paying their employees. Additionally, the CARES Act allowed businesses to carry back net operating losses over five years and obtain tax refunds for those years. The IRS issued Revenue Procedures 2020-23 and 2020-24 and Notice 2020-26 to clarify this provision and help businesses and partnerships take advantage of the relief it provides.

Taxpayer Advocate Service (TAS) Excessive Case Inventory

Congress created TAS to be the voice of taxpayers and to act as the safety net for those taxpayers experiencing hardship or systemic issues. TAS has recently experienced significant challenges in their case work, including a dramatic increase in overall case receipts and an increase in attrition, leaving fewer fully trained Case Advocates to work cases. These challenges have resulted in higher inventory per Case Advocate.

Overall TAS case receipts for FY 2021 are up 25% over FY 2020 and almost 55% since FY 2017. At the same time, TAS has experienced a decrease in Case Advocate onboarding. In FY 2018, TAS Case Advocates carried an active case load of approximately 96 cases. That number has risen dramatically to 163 active cases per Case Advocate, representing nearly a 60% increase in inventory. Additionally, the calls received on the TAS intake phone line are up 44% over last year, resulting in a decreased level of service—currently at an unacceptable 32%.

TAS Case Advocates are struggling to deal with their rising inventories and the influx of taxpayer calls while displaying compassion and support during these difficult discussions. Unfortunately, TAS is no longer timely in contacting taxpayers, often taking up to a month to call a taxpayer back. While this situation is not sustainable—for taxpayers or for TAS—TAS has been exploring various alternatives to improve service to taxpayers.

During the past year operating with limited resources, TAS decided to limit the types of cases it can accept, including the decision to not take any EIP or ACTC standalone cases. TAS based this decision on a lack of capacity and the belief these cases could be better handled by the IRS Wage & Investment Division.

Constituent Inquiries – Taxpayer Assistance Centers (TACs)

TACs provide limited in-person help by appointment. As of June 2021, trained TAC appointment telephone staff have resolved approximately 57% of all inquiries without an in-person visit. This year, our TACs have received more than 1.2 million calls requesting an appointment; have scheduled more than 531,000 appointments; and have held more than 707,000 face-to-face meetings. Using appointments for face-to-face assistance assures taxpayers that their inquiry will be addressed on their first visit and they are less likely to experience a long wait period. An appointment also enables the IRS to forecast and maintain resources to meet customer demand and serve the maximum number of taxpayers each day. In some cases, it is possible for a taxpayer who walks into a TAC to schedule a same-day appointment.

There are approximately 358 TACs located throughout the 50 states and Puerto Rico. Of these, 22 are staffed by staff riding circuit from other TACs. A TAC can be stand-alone office or situated in offices with other government services.

Summary

We are looking to build a modernized IRS focusing on enhanced taxpayer services with an appropriate balance of compliance initiatives. Like all federal agencies, the IRS is best suited to accomplish our mission when we receive the resources necessary to do so. With a gross revenue of approximately $3.5 trillion collected by the IRS per year, representing approximately 96% of the gross revenue of the U.S., the success of our nation is largely dependent upon the success of the IRS.

The IRS interacts with more Americans than any other public or private organization. Working together with Congress, we must build a more modernized IRS, balancing enhanced taxpayer services with appropriate compliance initiatives. We must invest in in technology, data, and analytics to improve taxpayer services, improve the effectiveness of our existing enforcement workforce and programs, restore base enforcement functions that have declined substantially over the last decade, tackle key compliance priorities and emerging issues, and invest in programs that are essential to maintaining the broad compliance framework. We must earn the trust and respect of every American by providing meaningful support and assistance on behalf of compliant taxpayers while effectively pursuing non-compliant taxpayers.

I am extremely proud of the dedication of our workforce toward helping American taxpayers fulfill their tax responsibilities and resolve tax issues. This period has been an extremely challenging time for us all, but I remain confident the IRS will continue to do all it can to serve taxpayers. Our response to the unprecedented challenges during the COVID-19 pandemic, in which we delivered more than $830 billion in historic relief to individuals, illustrates the importance of every American to the IRS and the IRS to every American. Our goal is to provide the nature and quality of assistance taxpayers deserve. For the reasons set forth above and more, we have been unable to recently satisfy our goal, but working together with Congress and the Administration, WE WILL!

I hope this information is helpful. We remain available to meet with you and/or your staff to discuss ongoing IRS operations. If you have questions, please contact me, or a member of your staff may contact Amy Klonsky, Chief, National Congressional Affairs Branch, at 202-317-6985.

Sincerely,

Charles P. Rettig

Digitally signed by Charles P. Rettig
Date: 2021.09.20 11:32:51 -04'00'

Charles P. Rettig

RECEIVED
By ESCO at 2:56 pm, Dec 09, 2021

Washington Carolyn G

From: White Catherine
Sent: Thursday, December 9, 2021 2:38 PM
To: *C&L Congressional Correspondence
Cc: Klonsky Amy E; *Chief of Staff Advisor; Moore Harrison B
Subject: Senator Murray/Wyden-led Letter re: Same-Sex Pension Survivor Benefits
Attachments: Same Sex Pension Letter (12.9.21).pdf

See attached a letter from Sens. Murray & Wyden (along with 43 other Senators) to CIR and Secretary Yellen on Same-Sex Pension Survivor benefits issues.

From: Oppenheimer, Josh (HELP Committee) <Josh_Oppenheimer@help.senate.gov>
Sent: Thursday, December 9, 2021 14:24
To: White Catherine <Catherine.White2@irs.gov>
Cc: Isaacson, Kendra (HELP Committee) <Kendra_Isaacson@help.senate.gov>; Crouch, Drew (Finance) <Drew_Crouch@finance.senate.gov>
Subject: Same-Sex Pension Letter

Hi Catherine,

I hope all is well. On behalf of Senator Murray, Senator Wyden, and 43 additional Senate Democrats, attached please find a letter to Secretary Yellen and Commissioner Rettig requesting that they reconsider guidance that has led to members of the LGBTQIA+ community being denied pension survivor benefits after losing their life partner.

We look forward to discussing this matter with you further. Thank you.

Sincerely,
Josh Oppenheimer

Josh Oppenheimer (he/him)
Counsel
Senate Committee on Health, Education, Labor & Pensions (HELP)
For Senator Patty Murray, Chair

United States Senate
WASHINGTON, DC 20510

December 9, 2021

The Honorable Janet Yellen
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Ave., NW
Washington, DC 20220

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Ave., NW
Washington, DC 20224

Dear Secretary Yellen and Commissioner Rettig:

We write to urge you to reconsider the guidance issued under the Obama Administration that permits certain qualified retirement plans to discriminate against providing survivor benefits to same-sex couples. We should not let the echoes of the bigotry that robbed so many people of the right to marry for so long rob them once again after they have lost their loved ones.

When the Supreme Court struck down state bans on same-sex marriage, tens of thousands of Americans rushed to get married. These LGBTQ+ Americans had been in committed relationships for years—some, for decades—and were finally able to have their love recognized under the law and receive all of the benefits that come with marriage. However, in a painful reminder of the inequality these couples have long faced, some in same-sex relationships who tragically lost their partner shortly after being married or before they were able to legally marry have also been kept from receiving survivor benefits.

For these surviving spouses or partners, difficulties arise where access to benefits depends on the length of their marriage. For example, under current law, certain qualified retirement plans must provide a qualified joint and survivor annuity ("QJSA") upon retirement to married participants (and generally must provide a qualified preretirement survivor annuity ("QPSA") to the surviving spouse of a married participant who dies before retirement).[1] A plan, however, does not have to treat a participant as married unless the participant and spouse have been married throughout the one-year period ending on the earlier of the annuity starting date or the date of the participant's death.[2]

It has come to our attention that some retirement plans are refusing to deem same-sex marriages as having met the one-year requirement when the couples were legally barred from marrying within one-year of the participant's death.

In 2014, the Internal Revenue Service ("IRS") issued guidance following the Supreme Court's decision in *U.S. v. Windsor*, which struck down Section 3 of the Defense of Marriage Act defining marriage as a union between one man and one woman.[3] In Notice 2014-19, the IRS required a qualified retirement plan to recognize the same-sex spouse of a participant as the

[1] *See* 26 U.S.C. § 401(a)(11).
[2] *See* 26 U.S.C. § 417(d); *see also* 26 CFR § 1.401(a)-20 Q-25.
[3] 570 U.S. 744 (2013).

participant's spouse on and after June 26, 2013, if the participant was domiciled in a state that recognizes same-sex marriages, as well as on and after September 16, 2013, if the participant was domiciled in a state that does not recognize same-sex marriages.[4] The guidance, though, also notably provided that a qualified retirement plan will not be disqualified "merely because it did not recognize the same-sex spouse of a participant as a spouse before June 26, 2013."

By permitting a plan to disregard same-sex relationships before that date, the IRS ignores the reality that many of these couples were barred from marriage because of discriminatory marriage laws where they lived—even though they were in loving, committed relationships and would have married earlier if they could. It was not until June 26, 2015, that same-sex relationships were properly recognized, when the Supreme Court held in *Obergefell v. Hodges* a constitutional right to marry, including the "constellation" of rights associated with marriage, such as the "rights and benefits of survivors."[5]

The Social Security Administration recently recognized this reality and will accept and/or reconsider claims for survivor benefits by same-sex spouses and partners who were unable to be married for the required nine months because of state marriage bans.[6] The IRS should do the same for pension survivor benefits. Just as laws barring same-sex couples from marriage are unconstitutional, so, too, are exclusions from survivor benefits that are tied to those marriage bans.

Specifically, the IRS should revise its 2014 guidance to require that qualified retirement plans with marriage duration requirements must recognize as eligible for survivor benefits *bona fide* same-sex relationships where same-sex partners had married their loved ones but were denied equal access to benefits because they were prevented from being married for the time required under the plans' documents, or where they were prevented from marrying their loved ones at all. While the use of a marriage duration requirement may be justified as a proxy for detecting or deterring sham relationships between opposite-sex couples—who have always enjoyed the right to marry—it cannot serve that function for same-sex couples who were banned from marrying one another. Surviving same-sex partners and spouses who were unable to be married because of discriminatory marriage laws should be permitted to submit new claims for survivor benefits or reopen previously denied claims.

Correcting this error will end the discriminatory treatment of potentially thousands of same-sex partners and spouses, and allow them to access the benefits they are owed.

---

[4] *See* IRS Notice 2014-19, *available at* https://www.irs.gov/pub/irs-drop/n-14-19.pdf.

[5] 576 U.S. 644, 670 (2015). The Supreme Court further acknowledged these rights in *Pavan v. Smith*, 137 S. Ct. 2075 (2017), repeating that "same-sex couples, no less than opposite-sex couples, *must have access*" to the benefits of marriage. *Id.* at 2078 (emphasis added).

[6] *See* Tara Siegel Bernard, *More Same-Sex Couples May be Eligible for Social Security Survivor Benefits*, N.Y. TIMES (Nov. 2, 2021), https://www.nytimes.com/2021/11/02/business/social-security-same-sex-survivor-benefits.html (reporting that the Department of Justice and Social Security Administration dropped their Trump-era appeals to two class action lawsuit rulings, both of which had found that surviving same-sex partners who were not able to marry because it was not yet legal were denied fair access to Social Security survivor benefits).

We look forward to hearing from you. Thank you in advance for your attention to this important matter.

Sincerely,

Patty Murray
United States Senator

Ron Wyden
United States Senator

Elizabeth Warren
United States Senator

Sherrod Brown
United States Senator

Edward J. Markey
United States Senator

Robert P. Casey, Jr.
United States Senator

Tammy Baldwin
United States Senator

Cory A. Booker
United States Senator

Patrick Leahy
United States Senator

Jeanne Shaheen
United States Senator

Tammy Duckworth
United States Senator

Benjamin L. Cardin
United States Senator

Jeffrey A. Merkley
United States Senator

Robert Menendez
United States Senator

Margaret Wood Hassan
United States Senator

Tim Kaine
United States Senator

Richard Blumenthal
United States Senator

Alex Padilla
United States Senator

Catherine Cortez Masto
United States Senator

Chris Van Hollen
United States Senator

Sheldon Whitehouse
United States Senator

Bernard Sanders
United States Senator

Kyrsten Sinema
United States Senator

Mazie K. Hirono
United States Senator

Richard J. Durbin
United States Senator

Reverend Raphael Warnock
United States Senator

Michael F. Bennet
United States Senator

Amy Klobuchar
United States Senator

Tina Smith
United States Senator

Jack Reed
United States Senator

Christopher S. Murphy
United States Senator

Christopher A. Coons
United States Senator

John Hickenlooper
United States Senator

Maria Cantwell
United States Senator

s/ Martin Heinrich

Martin Heinrich
United States Senator

Jacky Rosen
United States Senator

Ben Ray Luján
United States Senator

Dianne Feinstein
United States Senator

Brian Schatz
United States Senator

Kirsten Gillibrand
United States Senator

Debbie Stabenow
United States Senator

Mark Kelly
United States Senator

Charles E. Schumer
United States Senator

Gary C. Peters
United States Senator

/s/ Thomas R. Carper

Thomas R. Carper
United States Senator

RECEIVED
By ESCO at 10:29 am, Feb 17, 2022

Baldwin Cavell L

From: Moore Harrison B
Sent: Thursday, February 17, 2022 10:17 AM
To: *C&L Congressional Correspondence; *Chief of Staff Advisor
Cc: Klonsky Amy E
Subject: FW: Letter to Commissioner Rettig Re: Overtime
Attachments: Final Letter to IRS on Maximizing the Workforce (PDF).pdf

---

From: Khalili, Olivia (Menendez) <Olivia_Khalili@menendez.senate.gov>
Date: Thursday, Feb 17, 2022, 10:10 AM
To: Moore Harrison B <Harrison.B.Moore@irs.gov>
Cc: Brown, Jennifer (Menendez) <Jennifer_Brown@menendez.senate.gov>, Schatz, Rebecca (Menendez) <Rebecca_Schatz@menendez.senate.gov>
Subject: Letter to Commissioner Rettig Re: Overtime

Hi Harrison,

Please find the letter attached.

Thank you,

Olivia Khalili
Legislative Correspondent • U.S. Senator Bob Menendez
202.224.4744 • 528 Hart Senate Office Building

United States Senate

February 17, 2022

The Honorable Charles P. Rettig
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Dear Commissioner Rettig:

Thank you for your ongoing work to eliminate the unprecedented backlog at the Internal Revenue Service (IRS). With the 2022 filing season underway, we continue to be concerned about the backlog's impact on taxpayers and congressional offices' ability to assist constituents with IRS casework. As the IRS works to eliminate the current backlog of returns and correspondence, we request you to pursue additional actions to maximize the IRS' current workforce to address the backlog in order to reduce disruptions this filing season.

Our teams of congressional caseworkers work to provide timely assistance to constituents experiencing challenges with the IRS. We continue to hear from constituents who are still waiting for their 2020 tax returns, have received confusing notices about overdue payments they already paid, and cannot reach anyone at the IRS for assistance. Many of these problems stem from the millions of unprocessed correspondence items from 2021.

In 2020 and 2021, the IRS was integral to providing financial relief to Americans during the pandemic, such as distributing economic impact payments and monthly Child Tax Credit payments as well as processing small businesses' filings. While we appreciate the magnitude of these endeavors and strongly believe Congress must support the IRS with the resources necessary to fulfill its responsibilities, we also recognize that there are many taxpayers still in dire need and who have legitimate concerns about the current filing season.

We understand the long-term solution to ensure the IRS can manage its workload and provide timely and high-quality service to taxpayers is additional resources to hire and train employees across several departments and modernize technologies. However, those investments will take time, and taxpayers require more immediate relief, especially with the 2022 filing season already underway. We were encouraged to see your announcements of forming surge teams to address the backlog and pursuing overtime policies. In order to maximize the impact of the current IRS workforce, we respectfully request information on the following question:

- What are the current overtime policies for different positions working on the backlog? Please provide information on overtime policies for employees typically assigned to processing correspondence, those temporarily working on surge teams, and any other relevant positions.

Additionally, we urge you to consider the following policies:

- Pursue maximum overtime options for staff who are working on the backlog for those who do not already have maximum overtime flexibilities.
- Allow additional employees to volunteer to join surge teams, such as employees with prior account management experience or those who could be trained in a relatively short period of time.
- Extend overtime options for additional surge team employees.

Thank you for your attention to this critical issue, and for the IRS' work serving taxpayers. Your swift action on this issue will help alleviate the concerns of taxpayers across our country.

Sincerely,

Robert Menendez
United States Senator

Tammy Baldwin
United States Senator

Michael F. Bennet
United States Senator

Cory A. Booker
United States Senator

Richard Blumenthal
United States Senator

Sherrod Brown
United States Senator

Benjamin L. Cardin
United States Senator

Thomas R. Carper
United States Senator

Robert P. Casey, Jr.
United States Senator

Christopher A. Coons
United States Senator

Dianne Feinstein
United States Senator

Kirsten Gillibrand
United States Senator

Margaret Wood Hassan
United States Senator

Martin Heinrich
United States Senator

John Hickenlooper
United States Senator

Mazie K. Hirono
United States Senator

Mark Kelly
United States Senator

Angus S. King, Jr.
United States Senator

Amy Klobuchar
United States Senator

Patrick Leahy
United States Senator

Edward J. Markey
United States Senator

Jeffrey A. Merkley
United States Senator

Bernard Sanders
United States Senator

Brian Schatz
United States Senator

Jeanne Shaheen
United States Senator

Kyrsten Sinema
United States Senator

Debbie Stabenow
United States Senator

Mark R. Warner
United States Senator

Chris Van Hollen
United States Senator

Sheldon Whitehouse
United States Senator

Elizabeth Warren
United States Senator

Ron Wyden
United States Senator
Chairman, Committee on Finance

COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

March 16, 2022

The Honorable Ron Wyden
Chairman
Committee on Finance
United States Senate
Washington, DC 20510

Dear Chairman Wyden:

Thank you for your letter dated February 17, 2022. You asked us for information about our overtime policies, and to consider other options for overtime and the surge teams. I've provided that information below, but also taken this opportunity to share information about many other actions we are taking to "get healthy" and deliver a successful filing season.

The IRS experienced extraordinary challenges during the COVID-19 pandemic, which has affected us all. The combination of the pandemic, new tax laws and numerous other factors led to an unprecedented amount of unprocessed tax returns and correspondence remaining in the IRS inventory during 2021.

I assure you, we are working hard to meet taxpayers' continuing needs and provide relief or assistance whenever appropriate.

2022 Filing Season

The IRS pursued significant actions during the 2021 filing season to address the return and correspondence inventory. We continue pursuing innovative strategies while supporting the hard work and dedication of our employees to fulfill our commitment to return inventories to a healthy level before entering the 2023 filing season.

Specifically, we are pursuing aggressive actions to reduce our inventory including:

- **Reassigning employees from other areas of IRS**. We're deploying surge teams, which are groups of skilled employees across the agency organized to temporarily assist with urgent issues. For example, the IRS is temporarily reassigning experienced employees from other organizations to work in key areas where they previously worked.

- **Implementing mandatory overtime**. We have implemented mandatory overtime in our return processing and correspondence operations, as we did in 2021. Employees at our three Submission Processing Centers are working day, night, and weekend shifts to open mail and process tax returns and taxpayer correspondence. Specifically, we have required mandatory overtime for the over 6,000 employees processing original returns. Overtime is also available for approximately 10,000 employees processing amended returns and taxpayer correspondence.
- **Developing innovative ways to expedite case closures.** We developed a new internal tool that helps IRS employees review and process tax returns with errors to help taxpayers receive refunds quicker in 2022. This effort has already demonstrated positive results.

We also have introduced the following measures to increase available employees:

- **Hiring 10,000 new employees:** On March 10, the IRS announced plans to hold job fairs across the country in March with the aim of filling 5,000 open positions in the coming months. Working with Treasury, the Office of Personnel Management, and the National Treasury Employees Union, the IRS recently secured direct hiring authority for these employees, as well as an additional 5,000 new hires to be made over the course of the next year. Congress also helpfully provided hiring flexibilities in the omnibus to further expedite hiring in critical positions. This will allow for onboarding and training new emergency teams which will begin working on inventory within just a few weeks.
- **Creating new 700-person surge team to process new returns:** The IRS is in the process of shifting approximately 700 employees at the Austin, Ogden, and Kansas City campuses to process original returns. These efforts will address the historically high inventories of paper tax returns. At full capacity, this surge will close millions of cases each month.
- **Maintaining initial surge team to process amended returns and taxpayer correspondence:** The second surge effort builds on efforts earlier in filing season, when the IRS moved hundreds of existing employees with previous experience to address the backlog. The IRS currently has approximately 800 people on this team, which started in February.
- **Supporting additional contractor support for inventory:** The IRS is quickly pursuing additional contracting options to help with original return processing, including mailroom operations, transcription, and input of paper returns into IRS systems.

The IRS successfully opened the 2022 tax season two weeks earlier than last year, clearing the way for the timely processing of 160 million tax returns. We are working hard to meet taxpayers' continuing needs and provide relief or assistance whenever appropriate. We're always pursuing additional relief measures while balancing all the demands for our time and limited resources.

Some additional relief measures are already underway:

- Suspending automated collection notices which we normally issue when a taxpayer owes additional tax or has no record of filing a tax return. Note that the Internal Revenue Code requires the IRS to issue many other notices within a certain timeframe for the notice to be legally valid.
- Evaluating penalty relief options; however, we must also determine if each option requires systemic programming changes or manual intervention. Manual intervention would require re-direction of resources from processing original returns and amended tax returns.

Online Tools

To help taxpayers and tax professionals, the IRS launched a special tax season webpage on IRS.gov.[1] During this tax season, taxpayers face a number of issues due to critical tax law changes that took place in 2021 and ongoing challenges related to the pandemic.

This new page provides the latest details and information affecting the 2022 filing season and ongoing efforts by the agency to reduce the inventory of previously filed tax returns. The page also features a quick overview of information to help people filing tax returns as well as those who have previous year tax returns awaiting processing by the IRS.

The webpage is available through the IRS.gov home page and we will share the link through social media and other channels.

We also regularly update information on IRS.gov to realistically reflect our processing timeframes. We encourage taxpayers to visit the Where's My Refund?[2] tool to check for their personalized refund status. They can also review the Tax Season Refund Frequently Asked Questions.[3]

Return Processing

We are processing returns following a first in, first out order. We prioritize timely filed refund returns first to get money out to taxpayers, followed by balance due returns and

[1] Available at https://www.irs.gov/newsroom/help-for-taxpayers-and-tax-professionals-special-filing-season-alerts.
[2] See https://www.irs.gov/refunds.
[3] See https://www.irs.gov/refunds/tax-season-refund-frequently-asked-questions.

prior year returns. We are actively working to process all returns in the pipeline and continue to work multiple shifts with overtime to clear our inventory.

Staffing Challenges

The IRS continues to experience significant challenges recruiting talent to support the critical work the agency does for taxpayers and our nation, particularly in the current labor market. For example, we have major processing center operations in Austin, TX, Kansas City, MO and Ogden, UT, where we are struggling to attract eligible applicants for more than 5,000 vacant positions. These entry-level positions are low paid, GS-3 to GS-05, and critical to the manual processing of paper-filed returns and other forms of correspondence. Through the end of 2021, we were able to onboard fewer than 200 new employees of the 5,000+ needed, due to the small number of applicants and the screening requirements they must pass. We are competing against fast food chains and fulfillment warehouses that pay more, offer better benefits and can more rapidly adjust their pay and benefits as conditions change.

We are exploring opportunities to make the IRS a more attractive employer, and we welcome the opportunity to work with you and your staff to identify and implement ways we can ensure the IRS has the workforce needed to provide the service that people want and deserve.

IT Challenges

The IRS also faces the challenge of outdated IT systems. The delay in modernizing our IT systems means the IRS and taxpayers must continue to use certain paper-based processes. These processes can result in significant delays, building IRS inventories and limiting taxpayers' ability to know the status of their case. We are in this position because we have not had the sustained multi-year investment necessary to improve our systems.

Because the IT systems are outdated, we are also limited in immediate changes we can make without risking a negative effect on other parts of the system. We can't make changes that jeopardize the overall operating system, processing of the more than 160 million returns we anticipate in the current filing season, or important interests of tax administration. The outdated systems can also put more strain on our overstretched workforce.

As with our employment concerns, we welcome the opportunity to work with you and your staff to ensure the IRS has the funding and support to implement significant IT changes that will streamline return processing going forward.

I am extremely proud of our workforce and their dedication to successfully helping American taxpayers fulfill their tax responsibilities and resolve tax issues. Our goal is to provide the type and quality of assistance taxpayers deserve and to maintain fairness for all by enforcing the tax laws. I remain confident the IRS will continue to do all it can to serve taxpayers.

I hope this information is helpful. If you have questions, please contact me, or a member of your staff may contact Amy Klonsky, Chief, National Congressional Affairs Branch, at 202-317-6985.

Sincerely,

Charles P. Rettig

Digitally signed by Charles P. Rettig
Date: 2022.03.16 17:11:10 -04'00'

Charles P. Rettig

cc: The Honorable Robert Menendez
The Honorable Tammy Baldwin
The Honorable Michael F. Bennet
The Honorable Cory A. Booker
The Honorable Richard Blumenthal
The Honorable Sherrod Brown
The Honorable Benjamin L. Cardin
The Honorable Thomas R. Carper
The Honorable Robert P. Casey, Jr.
The Honorable Christopher A. Coons
The Honorable Dianne Feinstein
The Honorable Kirsten Gillibrand
The Honorable Margaret Wood Hassan
The Honorable Martin Heinrich
The Honorable John Hickenlooper
The Honorable Mazie K. Hirono
The Honorable Mark Kelly
The Honorable Angus S. King, Jr.
The Honorable Amy Klobuchar
The Honorable Patrick Leahy
The Honorable Edward J. Markey
The Honorable Jeffrey A. Merkley
The Honorable Bernard Sanders
The Honorable Brian Schatz
The Honorable Jeanne Shaheen
The Honorable Kyrsten Sinema
The Honorable Debbie Stabenow
The Honorable Mark R. Warner

The Honorable Chris Van Hollen
The Honorable Elizabeth Warren
The Honorable Sheldon Whitehouse

Baldwin Cavell L

From: Singh Carolyn
Sent: Friday, February 25, 2022 4:41 PM
To: *C&L Congressional Correspondence
Subject: FW: Senator Whitehouse - Constituent Assistance
Attachments: Stackpole_IRS-letter Galas 22-02-02.pdf; Stackpole, Irving_IRS PAW 21-12-22.pdf

Good afternoon, please see the enclosed inquiry for appropriate handling.

Thank you,

Carolyn Singh
IRS Congressional District Liaison
U.S. Department of the Treasury
Phone: (202) 317-5161

From: Mellen, Hollie (Whitehouse) <Hollie_Mellen@whitehouse.senate.gov>
Sent: Friday, February 25, 2022 4:30 PM
To: Singh Carolyn <Carolyn.Singh@irs.gov>
Subject: RE: Senator Whitehouse - Constituent Assistance

Yes exactly! He has some issues he still needs to work out with the IRS and is concerned about working with this representative.

Thank you.

From: Singh Carolyn <Carolyn.Singh@irs.gov>
Sent: Friday, February 25, 2022 3:26 PM
To: Mellen, Hollie (Whitehouse) <Hollie_Mellen@whitehouse.senate.gov>
Subject: RE: Senator Whitehouse - Constituent Assistance

Good afternoon Hollie, to help me better understand the issue, his passport inquiry was resolved and he is only concerned about the representative handling the issue? If so, I can pass this on for awareness of the appropriate business units.

Regards,
Carolyn

From: Mellen, Hollie (Whitehouse) <Hollie_Mellen@whitehouse.senate.gov>
Sent: Friday, February 25, 2022 2:00 PM
To: Singh Carolyn <Carolyn.Singh@irs.gov>
Subject: Senator Whitehouse - Constituent Assistance

Good afternoon Carolyn,

Senator Whitehouse is writing on behalf of his constituent, (b)(3):26 U.S.C. § 6103; (b)(6) had contacted the Senator's office looking for assistance with some IRS issues he had been experiencing. As a result, (b)(3):26 U.S.C. § 6103; (b)(6) received the attached letter from the IRS and reached out again to our office:

(b)(3):26 U.S.C. § 6103; (b)(6)

Thank you again for your assistance.

Any advice or information you could provide for the constituent would be greatly appreciated.

I hope you are staying warm!

Stay Healthy,
Hollie

Hollie Mellen
Caseworker
Sheldon Whitehouse
United States Senator

170 Westminster Street, Ste. 200
Providence, RI 02903
O: 401.453.5294 / F: 401.453.5085
Hollie_Mellen@Whitehouse.Senate.Gov

Withheld pursuant to exemption

(b)(3):26 U.S.C. § 6103 ; (b)(6)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(3):26 U.S.C. § 6103 ; (b)(6)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(3):26 U.S.C. § 6103 ; (b)(6)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(3):26 U.S.C. § 6103 ; (b)(6)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(3):26 U.S.C. § 6103 ; (b)(6)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(3):26 U.S.C. § 6103 ; (b)(6)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(3):26 U.S.C. § 6103 ; (b)(6)

of the Freedom of Information and Privacy Act

Page 117

Withheld pursuant to exemption

(b)(3):26 U.S.C. § 6103 ; (b)(6)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(3):26 U.S.C. § 6103 ; (b)(6)

of the Freedom of Information and Privacy Act

Privacy Act Waiver/Authorized Release of Information

Congressional Assistance Requested

Office of United States Senator Sheldon Whitehouse

As required by Public Law 93-579, the Privacy Act, I hereby request and authorize Senator Sheldon Whitehouse to intercede on my behalf, including the right to review all appropriate documentation that he or his staff deems necessary in connection with the application for assistance or any other action I have pending with the agency named below. I understand that any documents I provide to Senator Whitehouse or his staff may be copied and forwarded to officials of the agency listed below for review.

I, (b)(3):26 U.S.C. § 6103; (b)(6) hereby authorize the Office of Senator Whitehouse to act on my behalf with the **INTERNAL REVENUE SERVICE,** and therefore, waive all rights in the release of any and all information pertaining to the years and taxes listed below.

I also understand that this inquiry may not conclude in my best interest. I sign this waiver in good conscience and without any mental reservation.

December 22, 2021	(b)(3):26 U.S.C. § 6103; (b)(6)
DATE	**SIGNATURE**
(b)(3):26 U.S.C. § 6103; (b)(6)	All____________________
SSN/ID NUMBER	**YEARS/PERIODS**
Income	______________________________
TYPE OF TAX	**FEDERAL TAX FORM (i.e 1040, 1120, 941)**
______________________________	______________________________
FOR OFFICE USE: CASE NUMBER	**FOR OFFICE USE: STAFF**

Mailing Address: (b)(3):26 U.S.C. § 6103; (b)(6)

Phone Number: (b)(3):26 U.S.C. § 6103; (b)(6)

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

June 6, 2022

Honorable Sheldon Whitehouse
United States Senator
170 Westminster Street, Ste 200
Providence, RI 02903

Attention: Hollie Mellen

Dear Senator Whitehouse:

I apologize for the delay responding to your February 25, 2022 inquiry, on behalf of your constituent, (b)(3):26 U.S.C. § 6103; (b)(6) He asked if we could reassign his collection case to another revenue officer. He previously worked with (b)(3):26 U.S.C. § 6103; (b)(6) revenue officer, to resolve his collection issues and to decertify his passport.

I am pleased to hear we were able to help (b)(3):26 U.S.C. § 6103; (b)(6) resolve the issue involving his U.S. Passport. Our goal is to provide excellent customer service to all taxpayers.

We reviewed (b)(3):26 U.S.C. § 6103; (b)(6) case. We have authorized Collection Group Manager, (b)(3):26 U.S.C. § 6103; (b)(6) to reassign the case to (b)(3):26 U.S.C. § 6103; (b)(6) should hear from the new revenue office shortly. (b)(3):26 U.S.C. § 6103; (b)(6) can always contact the Collection Group Manager (b)(3):26 U.S.C. § 6103; (b)(6) if he has questions or concerns.

I hope this information is helpful. If you have additional questions, please contact me at (b)(3):26 U.S.C. § 6103; (b)(6)

Sincerely,

(b)(3):26 U.S.C. § 6103; (b)(6)

Territory Manager

Baldwin Cavell L

From: Klonsky Amy E
Sent: Thursday, May 5, 2022 11:57 AM
To: *C&L Congressional Correspondence; *Chief of Staff Advisor; Walters Kathleen E
Cc: Lemons Terry L; Reynolds Jodie M; Landes Scott S; Moore Harrison B
Subject: FW: Letter from Sen. Whitehouse re reporting discrepancies of 501(c)(4) organizations
Attachments: Letter to DOJ IRS Treasury re reporting discrepancies of c4 groups_FINAL.pdf

For appropriate routing and response.

From: RuBoss, Dan Smith (Whitehouse) <Dan_RuBoss@whitehouse.senate.gov>
Sent: Thursday, May 5, 2022 11:48 AM
To: Klonsky Amy E <Amy.E.Klonsky@irs.gov>; Moore Harrison B <Harrison.B.Moore@irs.gov>
Cc: Kim, Claire (Judiciary-Dem) <Claire_Kim@judiciary-dem.senate.gov>; Owens, Annie (Judiciary-Dem) <Annie_Owens@judiciary-dem.senate.gov>
Subject: Letter from Sen. Whitehouse re reporting discrepancies of 501(c)(4) organizations

Hi Amy and Harrison,

Please find attached a letter to Commissioner Rettig that is also being sent to Secretary Yellen and Attorney General Garland.

Let us know if you have any questions, and look forward to hearing back.

Thanks!
Dan

Dan Smith RuBoss
Senior Economic Policy Advisor
Sen. Sheldon Whitehouse
202.224.2921 | Hart 530

SHELDON WHITEHOUSE
RHODE ISLAND

COMMITTEES:
BUDGET
ENVIRONMENT AND PUBLIC WORKS
FINANCE
JUDICIARY

United States Senate
WASHINGTON, DC 20510–3905

http://whitehouse.senate.gov

(202) 224–2921
TTY (202) 224–7746

170 WESTMINSTER STREET, SUITE 200
PROVIDENCE, RI 02903
(401) 453–5294

May 5, 2022

The Honorable Merrick Garland
Attorney General of the United States
U.S. Department of Justice
Office of the Attorney General
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

The Honorable Janet Yellen
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, D.C. 20224

Dear Attorney General Garland, Secretary Yellen, and Commissioner Rettig:

I write to follow up on my previous discussions with each of you regarding the political activities of social welfare groups organized under section 501(c)(4) of the Internal Revenue Code. I have described to you flagrant and persistent instances in which 501(c)(4) organizations engage in political activity—and report that political spending to the Federal Election Commission (FEC) or its state equivalents—while telling the Internal Revenue Service (IRS) that they did not engage in any political activity.[1] For example, in 2012 ProPublica investigation surveyed 104

[1] *E.g.*, Letter to Secretary Yellen (Feb. 3, 2021), https://www.whitehouse.senate.gov/imo/media/doc/2021.02.03%20Letter%20to%20Sec.%20Yellen%20re.%20IRS%20investigation%20of%20dark%20money%20%20non-profits.pdf; Letter to Attorney General Garland (Mar. 11, 2021), https://www.whitehouse.senate.gov/imo/media/doc/Ltr%20to%20AG%20Garland.pdf; Statement of Senator Sheldon Whitehouse at Finance Committee Hearing entitled "The IRS, the President's Fiscal Year 2023 Budget, and the 2022 Filing Season" (Apr. 7, 2022), https://www.finance.senate.gov/hearings/the-irs-the-presidents-fiscal-year-2023-budget-and-the-2022-filing-season.

501(c)(4) organizations that reported electioneering activity to the FEC or state equivalents, and found 32 groups that told the IRS they had spent no money to influence elections.[2]

Ten years later, a new report by Citizens for Responsibility and Ethics in Washington (CREW) reveals that 501(c)(4) organizations still make the same inconsistent statements in plain view.[3] The CREW report identified over two dozen flagrant inconsistencies between publicly available IRS filings and publicly available disclosures to the FEC or state equivalents.[4]

This fact pattern, where tax-exempt organizations' submissions under oath to different government entities are plainly inconsistent, should present straightforward cases for the IRS and the Department of Justice (DOJ) to pursue. Such facts present prima facie cases of noncompliance with IRS rules, and predicate "false statement" investigations under 26 U.S.C. § 7206 and 18 U.S.C. § 1001. Yet, at a Senate Finance Committee hearing last month, Commissioner Rettig said that he believed the IRS has *never* referred to DOJ a single case of such inconsistent statements, nor does it appear that DOJ has ever investigated such statements despite the open and notorious inconsistencies.

As we heard during a hearing I held yesterday in the Finance Subcommittee on Taxation and IRS Oversight entitled "Laws and Enforcement Governing the Political Activities of Tax Exempt Entities," seemingly flagrant violations of law, left uninvestigated, send a terrible message and encourage mischief and corruption. I request that IRS and DOJ together brief my office on this matter. I request both Commissioner Rettig and Attorney General Garland to clarify the referral policy between IRS and DOJ so that well-predicated investigations do not constantly fall between the infielders. My previous requests to Attorney General Garland to address this issue, dated March 11, 2021, and March 11, 2022, have gone unanswered, so I hope you will act expeditiously.

---

[2] *See* Kim Baker, *How Nonprofits Spend Millions on Elections and Call it Public Welfare*, PROPUBLICA (Aug. 18, 2012), https://www.propublica.org/article/how-nonprofits-spend-millions-on-elections-and-call-it-public-welfare; *see also*, Hearing: "Current Issues in Campaign Finance Law Enforcement," U.S. Senate Committee on the Judiciary, Subcommittee on Crime and Terrorism, Apr. 9, 2013.

[3] *See* Matt Corley and Adam Rappaport, *The IRS Is Not Enforcing the Law on Political Nonprofit Disclosure Violations*, Citizens for Responsibility and Ethics in Washington (Apr. 28, 2022), https://www.citizensforethics.org/reports-investigations/crew-reports/the-irs-is-not-enforcing-the-law-on-political-nonprofit-disclosure-violations/.

[4] *Id.*

I appreciate your consideration of these matters and hope I can receive a reply by May 31, 2022.

Sincerely,

Sheldon Whitehouse
Chair, Senate Judiciary Subcommittee on Federal Courts, Oversight, Agency Action, and Federal Rights
Chair, Senate Finance Subcommittee on Taxation and IRS Oversight

From: Singh Carolyn
To: *C&L Congressional Correspondence
Subject: FW: BIQ20356: Cong. Inquiry: Sen. Whitehouse (RI)
Date: Tuesday, July 12, 2022 10:11:16 AM
Attachments: image001.png
image002.png
image003.png
image004.png
image005.png

Please see enclosed for entering in etrak. A status update was requested by the Senator's office.

From: Singh Carolyn
Sent: Monday, July 11, 2022 4:49 PM
To: Swartz Benjamin <Benjamin.Swartz@irs.gov>; Bristow Brian S <Brian.S.Bristow@irs.gov>
Cc: Catoggio Jerilyn A - CS <Jerilyn.A.Catoggio@irs.gov>; Little Paulette C <Paulette.C.Little@irs.gov>; Stone Lisa M <Lisa.M.Stone@irs.gov>
Subject: RE: BIQ20356: Cong. Inquiry: Sen. Whitehouse (RI)

Will do, Ben. Thank you!

From: Swartz Benjamin <Benjamin.Swartz@irs.gov>
Sent: Monday, July 11, 2022 4:42 PM
To: Singh Carolyn <Carolyn.Singh@irs.gov>; Bristow Brian S <Brian.S.Bristow@irs.gov>
Cc: Catoggio Jerilyn A - CS <Jerilyn.A.Catoggio@irs.gov>; Little Paulette C <Paulette.C.Little@irs.gov>; Stone Lisa M <Lisa.M.Stone@irs.gov>
Subject: RE: BIQ20356: Cong. Inquiry: Sen. Whitehouse (RI)

Hi Carolyn,

I think the best way to make sure that (b)(3):26 U.S.C. § 6103 stays on the radar is to send just that quarter to e-track.

Thank you,

Benjamin M. Swartz

Senior Advisor to the Commissioner, SB/SE

1111 Constitution Ave, NW| Washington, DC 20224
SB/SE| Office: 202.317.4498

Please don't print this e-mail unless you really need to.

From: Singh Carolyn <Carolyn.Singh@irs.gov>
Sent: Wednesday, July 6, 2022 4:01 PM
To: Bristow Brian S <Brian.S.Bristow@irs.gov>; Swartz Benjamin <Benjamin.Swartz@irs.gov>
Cc: Catoggio Jerilyn A - CS <Jerilyn.A.Catoggio@irs.gov>; Little Paulette C <Paulette.C.Little@irs.gov>; Stone Lisa M <Lisa.M.Stone@irs.gov>

Subject: RE: BIQ20356: Cong. Inquiry: Sen. Whitehouse (RI)

Good afternoon Brian, Sen. Whitehouse's office pinged requesting a status update on this. Should I follow up in etrak or are you able to advise on the status?

Regards,
Carolyn

From: Bristow Brian S <Brian.S.Bristow@irs.gov>
Sent: Monday, May 9, 2022 12:05 PM
To: Singh Carolyn <Carolyn.Singh@irs.gov>; Swartz Benjamin <Benjamin.Swartz@irs.gov>
Cc: Catoggio Jerilyn A - CS <Jerilyn.A.Catoggio@irs.gov>; Little Paulette C <Paulette.C.Little@irs.gov>; Stone Lisa M <Lisa.M.Stone@irs.gov>
Subject: RE: BIQ20356: Cong. Inquiry: Sen. Whitehouse (RI)

Carolyn/Ben,

(b)(3):26 U.S.C. § 6103 [redacted]

Constituent info:

(b)(3):26 U.S.C. § 6103 [redacted]

Brian S. Bristow | Assistant Legislative Liaison | Wage & Investment Division | IR3138 | Desk: 202-317-3750

From: Bristow Brian S
Sent: Friday, May 6, 2022 10:36 AM
To: Singh Carolyn <Carolyn.Singh@irs.gov>
Cc: Catoggio Jerilyn A - CS <Jerilyn.A.Catoggio@irs.gov>; Little Paulette C <Paulette.C.Little@irs.gov>; Stone Lisa M <Lisa.M.Stone@irs.gov>
Subject: BIQ20356: Cong. Inquiry: Sen. Whitehouse (RI)

+Record ID added to SUBJ LINE for better inventory control

Carolyn, I am Acknowledging this request and forwarding for research, I will share my findings as soon as they are received.

Brian S. Bristow | Assistant Legislative Liaison | Wage & Investment Division | IR3138 | Desk: 202-317-3750

From: Singh Carolyn <Carolyn.Singh@irs.gov>
Sent: Friday, May 6, 2022 10:23 AM
To: Bristow Brian S <Brian.S.Bristow@irs.gov>
Cc: Catoggio Jerilyn A - CS <Jerilyn.A.Catoggio@irs.gov>; Little Paulette C <Paulette.C.Little@irs.gov>; Stone Lisa M <Lisa.M.Stone@irs.gov>
Subject: Cong. Inquiry: Sen. Whitehouse (RI)

Good morning Brian, please see the enclosed ERC status request.

Regards,

Carolyn Singh
IRS Congressional District Liaison
U.S. Department of the Treasury
Phone: (202) 317-5161

From: Mellen, Hollie (Whitehouse) <Hollie_Mellen@whitehouse.senate.gov>
Sent: Wednesday, May 4, 2022 3:31 PM
To: Singh Carolyn <Carolyn.Singh@irs.gov>
Subject: Senator Whitehouse - Constituent Assistance

Good afternoon Carolyn,

Senator Whitehouse is writing on behalf of (b)(3):26 U.S.C. § 6103 (b)(3):26 U.S.C. § 6103 has reached out to Senator Whitehouse's office looking for assistance with their Employee Retention Credits, and specifically, when they can expect their Q3s.

We respectfully request that you review and give appropriate consideration to (b)(3):26 U.S.C. § 6103 concerns, in accordance with all applicable rules and regulations. Please feel free to reach out if you have any further questions. Thank you.

Hollie Mellen
Office of Sheldon Whitehouse
United States Senator
170 Westminster Street, Suite 200
Providence, RI 02903
O: 401.453.5294
F: 401.453.5085
E: hollie_mellen@whitehouse.senate.gov

www.whitehouse.senate.gov

Privacy Act Waiver/Authorized Release of Information

Congressional Assistance Requested

Office of United States Senator Sheldon Whitehouse

As required by Public Law 93-579, the Privacy Act, I hereby request and authorize Senator Sheldon Whitehouse to intercede on my behalf, including the right to review all appropriate documentation that he or his staff deems necessary in connection with the application for assistance or any other action I have pending with the agency named below. I understand that any documents I provide to Senator Whitehouse or his staff may be copied and forwarded to officials of the agency listed below for review.

I, hereby authorize the Office of Senator Whitehouse to act on my behalf with the **INTERNAL REVENUE SERVICE,** and therefore, waive all rights in the release of any and all information pertaining to the years and taxes listed below.

I also understand that this inquiry may not conclude in my best interest. I sign this waiver in good conscience and without any mental reservation.

(b)(3):26 U.S.C. § 6103 [redacted]

May 2, 2022
DATE

3rd Quarter 2021
YEARS/PERIODS

941-X
FEDERAL TAX FORM (i.e. 1040, 1120,941)

(b)(3):26 U.S.C. § 6103 [redacted]
EIN NUMBER

Business/Organization Name: (b)(3):26 U.S.C. § 6103 [redacted]

Name (print): (b)(3):26 U.S.C. § 6103 [redacted] Title: (b)(3):26 U.S.C. § 6103 [redacted]

Mailing Address: (b)(3):26 U.S.C. § 6103 [redacted]

Phone Number: (b)(3):26 U.S.C. § 6103 [redacted] Cell: (b)(3):26 U.S.C. § 6103 [redacted]

Email: (b)(3):26 U.S.C. § 6103 [redacted]

Withheld pursuant to exemption

(b)(3):26 U.S.C. § 6103

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(3):26 U.S.C. § 6103

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(3):26 U.S.C. § 6103

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(3):26 U.S.C. § 6103

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(3):26 U.S.C. § 6103

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(3):26 U.S.C. § 6103

of the Freedom of Information and Privacy Act

Date: August 16, 2022

The Honorable Sheldon Whitehouse
United States Senator
170 Westminster Street, Suite 200
Providence, RI 02903

Attention: Hollie Mellen

Dear Senator Whitehouse:

I'm responding to your May 4, 2022 inquiry on behalf of your constituent, (b)(3):26 U.S.C. § 6103 He asked about the status of the 2021 employee retention tax credit (ERTC) refund claim he filed for the third quarter.

I apologize for the delayed response (b)(3):26 U.S.C. § 6103 experienced while we processed his ERTC claim. Our goal is to provide all taxpayers excellent customer service.

(b)(3):26 U.S.C. § 6103 we processed (b)(3):26 U.S.C. § 6103 ERTC claim. We mailed a refund of (b)(3):26 U.S.C. § 6103 to the address shown on the tax return. He should receive his refund (b)(3):26 U.S.C. § 6103 (b)(3):26 U.S.C. § 6103

I hope this information is helpful. If you have further questions, please contact me at 504-202-9742.

Sincerely,

Carol L. Madison

Digitally signed by Carol L. Madison
Date: 2022.08.16 12:36:39 -05'00'

Carol L. Madison, Director
SB/SE Exam Case Selection

Washington Carolyn G

From: Moore Harrison B
Sent: Monday, July 18, 2022 1:53 PM
To: *Chief of Staff Advisor; *C&L Congressional Correspondence
Subject: FW: [EXT] Senator Whitehouse's letter to Commissioner Rettig on the paper tax return backlog
Attachments: Filing Season IRS Letter.pdf

Incoming

From: Breda, Sonja (Whitehouse) <Sonja_Breda@whitehouse.senate.gov>
Sent: Monday, July 18, 2022 1:51 PM
To: Klonsky Amy E <Amy.E.Klonsky@irs.gov>; Moore Harrison B <Harrison.B.Moore@irs.gov>
Cc: RuBoss, Dan Smith (Whitehouse) <Dan_RuBoss@whitehouse.senate.gov>
Subject: [EXT] Senator Whitehouse's letter to Commissioner Rettig on the paper tax return backlog

Good afternoon,

Attached please find a letter from Senator Whitehouse, Chairman Wyden, and other members of the Senate Finance Committee to Commissioner Rettig regarding the paper tax return backlog.

Thanks for your attention.
Sonja

Sonja Breda
she/her
Legislative Correspondent
Office of Sheldon Whitehouse

July 18, 2022

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Dear Commissioner Rettig,

We write to express our concern about the unprocessed tax return backlog, ongoing customer service challenges, and the effect of Internal Revenue Service (IRS) budget constraints on the agency's ability to serve taxpayers. While the vast majority of taxpayers, who were able to file electronically, received the refunds they were owed,[1] delayed refunds can pose a significant hardship for the millions caught in the backlog.

The Treasury Department warned in January that the IRS would face "enormous challenges" this tax-filing season and that it would be a "frustrating" time for taxpayers.[2] The reasons for these challenges are well-known. Budget cuts have shrunk the agency's funding by 20 percent since 2010.[3] In turn, overall staffing declined by 17 percent over the same period and customer service representatives, in particular, by more than 25 percent.[4] Meanwhile, the number of individual tax filers has grown by 19 percent.[5]

COVID-19 exacerbated these existing challenges. The IRS temporarily shut down its facilities to protect the health and safety of IRS employees, slowing tax return processing. Simultaneously, Congressional actions to provide financial relief to American families and businesses placed new demands on the IRS.[6] These combined challenges have led to a tax return backlog, which affects millions of Americans and small businesses.

In March 2022, the IRS announced a plan to tackle the tax return backlog.[7] The plan included hiring 10,000 new IRS employees, creating a 700-person surge team to process returns, requiring mandatory paid overtime for employees processing returns, and pursuing additional

[1] "National Taxpayer Advocate Annual Report to Congress 2021," Taxpayer Advocate Service, January 12, 2022, p. v, https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/01/ARC21_Full-Report.pdf.
[2] Jeff Stein, "Treasury warns of 'enormous challenges' this tax filing season that could delay refunds," The Washington Post, January 10, 2022, https://www.washingtonpost.com/us-policy/2022/01/10/treasury-irs-filing-season/.
[3] "National Taxpayer Advocate Annual Report to Congress 2021," p. 2.
[4] "National Taxpayer Advocate Annual Report to Congress 2021," p.12.
"IRS Budget & Workforce", the Internal Revenue Service, Table 32, https://www.irs.gov/statistics/irs-budget-and-workforce.
"Internal Revenue Service Data Book, 2010," the Internal Revenue Service, p. 67, https://www.irs.gov/pub/irs-soi/10databk.pdf.
[5] "National Taxpayer Advocate Annual Report to Congress 2021,"p. 1.
[6] "Treasury and IRS Announce Aggressive Plan to End Pandemic Inventory Backlog This Year," U.S. Department of the Treasury, March 10, 2022, https://home.treasury.gov/news/press-releases/jy0648.
[7] "Treasury and IRS Announce Aggressive Plan to End Pandemic Inventory Backlog This Year."

support from contractors to speed IRS operations. The plan also included proactive taxpayer outreach to improve tax return accuracy and expanded in-person and online taxpayer assistance throughout the filing season.

You reported in March that the IRS was well-positioned to begin 2023 with near-normal inventory levels. To support these efforts, Congress provided the IRS with $12.6 billion for Fiscal Year 2022, an increase of $675 million over 2021, as part of the Consolidated Appropriations Act of 2022. This legislation also provided the IRS with new hiring authorities to help the agency scale staffing to meet these urgent challenges. We know that these limited resources, for just FY 2022, are not sufficient for the agency to provide taxpayers the service they deserve. We remain committed to working to secure stable, multi-year funding for the IRS going forward to support the critical work that you do on behalf of American taxpayers.

Perhaps unsurprisingly given the IRS's resource constraints, the National Taxpayer Advocate's recent *Objectives Report to Congress*, found that millions of taxpayers continue experiencing lengthy refund delays and IRS customer service challenges. The report found that at the end of May 2022, "the IRS had a larger backlog of paper tax returns than it did a year ago," and the pace of processing paper tax returns was "slowing."[8] The report also highlights ongoing customer service challenges. For instance, the agency's incoming call volume decreased by more than half compared to last filing season, but just ten percent of calls were answered – up only one percent from last year. Additionally, customer service wait times increased over the past year from 20 to 29 minutes.[9]

We have heard concerns from our constituents about how these processing delays affect their families and small businesses. As the National Taxpayer Advocate notes, many of these issues "snowball," further exacerbating inventory issues and processing delays. When taxpayers are required to send additional correspondence, whether to fix errors or verify their identity, it must usually be by mail, leading to additional refund delays and a larger backlog.

Given the National Taxpayer Advocate's findings, we write to check on the status of IRS efforts to address the paper tax return backlog and improve taxpayer services, and to inquire how additional funding could avoid these problems in the future. We request written answers to the following questions by August 5, 2022:

1. What is the current status of the tax return backlog? Do you still project that the IRS is well-positioned to begin 2023 with near-normal levels of inventory?
2. What is the status of implementing your March 2022 plan to tackle the tax return backlog? Specifically:
    a. Since March 2022, how many new employees has the IRS hired?
    b. Do you anticipate meeting your goal of hiring 10,000 new employees by the end of the year?
    c. How have new hiring authorities in the Consolidated Appropriations Act of 2022 supported these efforts? Is additional authority required to help increase the agency's staffing capacity?

[8] "National Taxpayer Advocate Objectives Report to Congress Fiscal Year 2023," preface iii.
[9] "National Taxpayer Advocate Objectives Report to Congress Fiscal Year 2023," preface vii.

3. Given that delayed refunds create particular hardship for low-income filers, how is the IRS prioritizing outreach to these communities? What actions are currently underway to ensure low-income filers, in particular, receive timely refunds?
4. With the $80 billion in long-term funding proposed in the *Build Back Better Act*, how could the IRS reduce the current tax return backlog and prevent future processing delays, improve taxpayer services, including the percentage of calls answered, invest in online tools to simplify filing, and modernize IRS processing technologies?

We are grateful for the IRS's continued efforts to address the tax return backlog and for providing Americans with timely financial assistance during this unprecedented time. We look forward to continuing to work with you to ensure the IRS has the necessary resources and authorities to provide taxpayers the service they deserve.

We appreciate your attention to this matter.

Sincerely,

Sheldon Whitehouse
United States Senator

Ron Wyden
United States Senator
Chairman, Committee on Finance

Elizabeth Warren
United States Senator

Sherrod Brown
United States Senator

Robert Menendez
United States Senator

Mark R. Warner
United States Senator

RECEIVED
By ESCO at 10:50 am, Aug 15, 2022

From:	Moore Harrison B
To:	*C&L Congressional Correspondence; *Chief of Staff Advisor; *Chief of Staff Advisor
Cc:	Klonsky Amy E; Lemons Terry L
Subject:	FW: [EXT] Letter to IRS Re: Customer Service and the Backlog
Date:	Monday, August 15, 2022 10:37:32 AM
Attachments:	image001.png image002.png image003.png image004.png image005.png image006.png 2022_08_15 Letter to IRS Re_ Customer Service and the Backlog.pdf

---

Incoming from a large group of members. Please note the requested response date is this Friday 8/19

From: Khalili, Olivia (Menendez) <Olivia_Khalili@menendez.senate.gov>
Date: Monday, Aug 15, 2022, 10:33 AM
To: Moore Harrison B <Harrison.B.Moore@irs.gov>
Cc: Brown, Jennifer (Menendez) <Jennifer_Brown@menendez.senate.gov>, Schatz, Rebecca (Menendez) <Rebecca_Schatz@menendez.senate.gov>, Zelden, Samuel (Cassidy) <Samuel_Zelden@cassidy.senate.gov>, Coughlin, Isabel <Isabel.Coughlin@mail.house.gov>, jacqueline.collie@mail.house.gov <jacqueline.collie@mail.house.gov>
Subject: [EXT] Letter to IRS Re: Customer Service and the Backlog

Hi Harrison,

Please find attached a letter to the IRS regarding customer service and the tax backlog. This letter is led by Senator Menendez, Senator Cassidy, Rep. Spanberger, and Rep. Fitzpatrick. Thank you.

Kind Regards,

Olivia Khalili
Legislative Correspondent • U.S. Senator Bob Menendez
202.224.4744 • 528 Hart Senate Office Building

August 15, 2022

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, D.C. 20224

Dear Commissioner Rettig:

Thank you for your continued work to eliminate the unprecedented backlog at the Internal Revenue Service (IRS). Since last year, numerous Members of Congress in the House and Senate have sent several letters regarding customer service issues, processing delays, and the outstanding backlog of returns. Several Members of Congress have urged you to provide penalty relief for taxpayers, have continually pressed the agency to pursue maximum overtime options for staff who are working on the backlog and on surge teams, and have asked the agency to deploy additional surge teams and other resources in an effective manner to reduce the backlog. Yet, we are writing again to urge the IRS to extend the suspension of automated collections, continue the pause on automated notices, keep its surge teams in place until hiring challenges and processing backlogs are adequately addressed.

In a Senate Finance Committee Hearing on April 7, 2022, you estimated that the IRS would return to a "healthy state" by the end of 2022 and that the IRS expected to hire 10,000 customer service representatives between this year and next year. Yet, according to the National Taxpayer Advocate (NTA), the paper return backlog has actually ***increased*** by 1.3 million from the same point as last year and that the IRS was only able to meet 12 percent of its hiring goals for processing center employees earlier this year.[1] NTA also noted that the IRS has not met its 5,000 employee hiring goal for submission processing positions—falling short by 3,417 employees, and that while historically the IRS has paid refunds from paper returns in four to six weeks, refunds are currently taking six months or longer.[2]

Accordingly, we believe that the IRS must take additional steps to improve customer service issues, decrease processing delays, and work-down the backlog of paper returns and correspondence by continuing the maximum use of overtime and surge teams, as well as the continued suspension of automated notices and collections—which have been critical in reducing pandemic-related tax return and correspondence backlogs. Additionally, the IRS must improve

---

[1] *See* NATIONAL TAXPAYER ADVOCATE, OBJECTIVES REPORT TO CONGRESS (June 2022) at v, https://www.taxpayeradvocate.irs.gov/reports/2023-objectives-report-to-congress/full-report/ ("For the week ending May 22, 2021, the backlog of unprocessed paper returns stood at 20 million. At the end of May this year, the backlog had increased to 21.3 million.").
[2] *Id.* at iv.

its recruitment and retention efforts to adequately address the backlog and increase levels of taxpayer service.

In order to gauge the extent of hiring and processing challenges still facing the Agency, we ask that you provide answers to the following questions no later than August 19, 2022:

Processing Backlogs:

1. How do you plan to keep your promise to eliminate the backlog?
2. What is a "healthy level" of unprocessed tax returns? How does this level align with average carryover levels, prior to the pandemic? Please provide the average carryover level over the ten years prior to FY2020, and the current carryover levels.
3. How would you quantify a "manageable" carryover level? How does this compare to average carryover levels prior to the pandemic? Please provide a breakdown of average carryover levels for accounts management, submission processing, and returns in suspense.
4. By how much do you estimate the carryover level will increase following the October 15, 2022 extension filing deadline?
5. Do you believe your answers to questions 2-4 call your end-of-year estimate for a "healthy" IRS into question?
6. For this filing season, what is the average refund delivery period? For comparison, please provide the average refund delivery period over the past ten years including the COVID-19 pandemic and excluding the COVID-19 pandemic.
7. How long will the surge teams continue? Will they continue through the end of the fiscal or calendar year, or beyond?
8. What effect does the use of surge teams to process the backlog have on the IRS' other activities, particularly answering phones?
9. What steps is the Agency taking to speed up its processing of tax returns? Please specifically note whether the agency prioritizes the processing of returns with refunds.
10. What is the status of IRS efforts to implement scanning technology, as recommended by the NTA?

Hiring Challenges:

11. How many contractors is the IRS currently utilizing? How do contractors factor into the IRS' stated hiring goals for submission processing and accounts management positions?

We appreciate your consideration of these requests and attention to these issues.

Sincerely,

Robert Menendez
United States Senator

Bill Cassidy, M.D.
United States Senator

Abigail Davis Spanberger
Member of Congress

Brian Fitzpatrick
Member of Congress

Tammy Baldwin
United States Senator

Richard Blumenthal
United States Senator

Richard Burr
United States Senator

Benjamin L. Cardin
United States Senator

Thomas R. Carper
United States Senator

Susan M. Collins
United States Senator

Christopher A. Coons
United States Senator

Tammy Duckworth
United States Senator

Dianne Feinstein
United States Senator

Kirsten Gillibrand
United States Senator

John Hickenlooper
United States Senator

Mazie K. Hirono
United States Senator

Tim Kaine
United States Senator

Mark Kelly
United States Senator

Angus S. King, Jr.
United States Senator

Amy Klobuchar
United States Senator

Patrick Leahy
United States Senator

Cynthia M. Lummis
United States Senator

Joe Manchin III
United States Senator

Edward J. Markey
United States Senator

Alex Padilla
United States Senator

Jack Reed
United States Senator

Jacky Rosen
United States Senator

Bernard Sanders
United States Senator

Brian Schatz
United States Senator

Jeanne Shaheen
United States Senator

Kyrsten Sinema
United States Senator

Tina Smith
United States Senator

Debbie Stabenow
United States Senator

Chris Van Hollen
United States Senator

Mark R. Warner
United States Senator

Raphael G. Warnock
United States Senator

Elizabeth Warren
United States Senator

Sheldon Whitehouse
United States Senator

Ron Wyden
United States Senator
Chairman, Committee on Finance

Cynthia Axne
Member of Congress

Don Bacon
Member of Congress

Karen Bass
Member of Congress

Donald S. Beyer Jr.
Member of Congress

Sanford D. Bishop, Jr.
Member of Congress

Earl Blumenauer
Member of Congress

Brendan F. Boyle
Member of Congress

Julia Brownley
Member of Congress

Tony Cárdenas
Member of Congress

Sheila Cherfilus-McCormick
Member of Congress

Judy Chu
Member of Congress

Gerald E. Connolly
Member of Congress

J. Luis Correa
Member of Congress

Madeleine Dean
Member of Congress

Adriano Espaillat
Member of Congress

/s/

Mayra Flores
Member of Congress

Vicente Gonzalez
Member of Congress

Josh Gottheimer
Member of Congress

William R. Keating
Member of Congress

Fred Keller
Member of Congress

Andy Kim
Member of Congress

Young Kim
Member of Congress

Susie Lee
Member of Congress

Elaine G. Luria
Member of Congress

Tom Malinowski
Member of Congress

Betty McCollum
Member of Congress

A. Donald McEachin
Member of Congress

Patrick T. McHenry
Member of Congress

Daniel Meuser
Member of Congress

Joseph D. Morelle
Member of Congress

Seth Moulton
Member of Congress

Jerrold Nadler
Member of Congress

Grace F. Napolitano
Member of Congress

Donald Norcross
Member of Congress

Tom O'Halleran
Member of Congress

Jimmy Panetta
Member of Congress

Donald M. Payne, Jr.
Member of Congress

Scott H. Peters
Member of Congress

Chellie Pingree
Member of Congress

Mark Pocan
Member of Congress

Katie Porter
Member of Congress

Jamie Raskin
Member of Congress

Deborah K. Ross
Member of Congress

Lucille Roybal-Allard
Member of Congress

David Scott
Member of Congress

Robert C. "Bobby" Scott
Member of Congress

Mark Takano
Member of Congress

Dina Titus
Member of Congress

David J. Trone
Member of Congress

Ann Wagner
Member of Congress

Randy K. Weber, Sr.
Member of Congress

Bruce Westerman
Member of Congress

Jennifer Wexton
Member of Congress

Nikema Williams
Member of Congress

Action Routing Sheet

Request for signature of	e-Trak control number	Due date
Commissioner	20220-57793	08/19/2022

Subject
INTERIM RESPONSE

Senator Bob Menendez and ninety-two members of congress wrote to CIR to urge that we extend the suspension of automated collections, continue the pause on automated notices, keep its surge teams in place until hiring challenges and processing backlogs are adequately addressed. In order to gauge the extent of hiring and processing challenges still facing the Agency, they ask that we provide answers to eleven questions no later than August 19, 2022.

Reviewing Office	Support Staff		Reviewer		Comment
	Initial	Date	Initial	Date	
Amy Klonsky Acting Director, Legislative Affairs			Amy E. Klonsky Digitally signed by Amy E. Klonsky Date: 2022.08.19 15:59:57 -04'00'		
Tom Cullinan Chief of Staff			Thomas A. Cullinan Digitally signed by Thomas A. Cullinan Date: 2022.08.19 16:06:31 -04'00'		
Charles Rettig Commissioner			Charles P. Rettig Digitally signed by Charles P. Rettig Date: 2022.08.19 16:44:16 -04'00'		

Summary
Interim response to Menendez, et al, who wrote about IRS efforts to "improve customer service issues, decrease processing delays, and work-down the backlog of paper returns and correspondence." Response to 11 questions requested by August 19, 2022.

Prepared by	Telephone number	Office Location/Building	Return to
Risa Kornegay	202-317-5978	Washington, DC	Leg. Affairs

RECEIVED
By ESCO at 10:50 am, Aug 15, 2022

From:	Moore Harrison B
To:	*C&L Congressional Correspondence; *Chief of Staff Advisor; *Chief of Staff Advisor
Cc:	Klonsky Amy E; Lemons Terry L
Subject:	FW: [EXT] Letter to IRS Re: Customer Service and the Backlog
Date:	Monday, August 15, 2022 10:37:32 AM
Attachments:	image001.png image002.png image003.png image004.png image005.png image006.png 2022_08_15 Letter to IRS Re_ Customer Service and the Backlog.pdf

---

Incoming from a large group of members. Please note the requested response date is this Friday 8/19

From: Khalili, Olivia (Menendez) <Olivia_Khalili@menendez.senate.gov>
Date: Monday, Aug 15, 2022, 10:33 AM
To: Moore Harrison B <Harrison.B.Moore@irs.gov>
Cc: Brown, Jennifer (Menendez) <Jennifer_Brown@menendez.senate.gov>, Schatz, Rebecca (Menendez) <Rebecca_Schatz@menendez.senate.gov>, Zelden, Samuel (Cassidy) <Samuel_Zelden@cassidy.senate.gov>, Coughlin, Isabel <Isabel.Coughlin@mail.house.gov>, jacqueline.collie@mail.house.gov <jacqueline.collie@mail.house.gov>
Subject: [EXT] Letter to IRS Re: Customer Service and the Backlog

Hi Harrison,

Please find attached a letter to the IRS regarding customer service and the tax backlog. This letter is led by Senator Menendez, Senator Cassidy, Rep. Spanberger, and Rep. Fitzpatrick. Thank you.

Kind Regards,

Olivia Khalili
Legislative Correspondent • U.S. Senator Bob Menendez
202.224.4744 • 528 Hart Senate Office Building

Congress of the United States
Washington, DC 20510

August 15, 2022

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, D.C. 20224

Dear Commissioner Rettig:

Thank you for your continued work to eliminate the unprecedented backlog at the Internal Revenue Service (IRS). Since last year, numerous Members of Congress in the House and Senate have sent several letters regarding customer service issues, processing delays, and the outstanding backlog of returns. Several Members of Congress have urged you to provide penalty relief for taxpayers, have continually pressed the agency to pursue maximum overtime options for staff who are working on the backlog and on surge teams, and have asked the agency to deploy additional surge teams and other resources in an effective manner to reduce the backlog. Yet, we are writing again to urge the IRS to extend the suspension of automated collections, continue the pause on automated notices, keep its surge teams in place until hiring challenges and processing backlogs are adequately addressed.

In a Senate Finance Committee Hearing on April 7, 2022, you estimated that the IRS would return to a "healthy state" by the end of 2022 and that the IRS expected to hire 10,000 customer service representatives between this year and next year. Yet, according to the National Taxpayer Advocate (NTA), the paper return backlog has actually ***increased*** by 1.3 million from the same point as last year and that the IRS was only able to meet 12 percent of its hiring goals for processing center employees earlier this year.[1] NTA also noted that the IRS has not met its 5,000 employee hiring goal for submission processing positions—falling short by 3,417 employees, and that while historically the IRS has paid refunds from paper returns in four to six weeks, refunds are currently taking six months or longer.[2]

Accordingly, we believe that the IRS must take additional steps to improve customer service issues, decrease processing delays, and work-down the backlog of paper returns and correspondence by continuing the maximum use of overtime and surge teams, as well as the continued suspension of automated notices and collections—which have been critical in reducing pandemic-related tax return and correspondence backlogs. Additionally, the IRS must improve

---

[1] *See* NATIONAL TAXPAYER ADVOCATE, OBJECTIVES REPORT TO CONGRESS (June 2022) at v, https://www.taxpayeradvocate.irs.gov/reports/2023-objectives-report-to-congress/full-report/ ("For the week ending May 22, 2021, the backlog of unprocessed paper returns stood at 20 million. At the end of May this year, the backlog had increased to 21.3 million.").

[2] *Id.* at iv.

its recruitment and retention efforts to adequately address the backlog and increase levels of taxpayer service.

In order to gauge the extent of hiring and processing challenges still facing the Agency, we ask that you provide answers to the following questions no later than August 19, 2022:

Processing Backlogs:

1. How do you plan to keep your promise to eliminate the backlog?
2. What is a "healthy level" of unprocessed tax returns? How does this level align with average carryover levels, prior to the pandemic? Please provide the average carryover level over the ten years prior to FY2020, and the current carryover levels.
3. How would you quantify a "manageable" carryover level? How does this compare to average carryover levels prior to the pandemic? Please provide a breakdown of average carryover levels for accounts management, submission processing, and returns in suspense.
4. By how much do you estimate the carryover level will increase following the October 15, 2022 extension filing deadline?
5. Do you believe your answers to questions 2-4 call your end-of-year estimate for a "healthy" IRS into question?
6. For this filing season, what is the average refund delivery period? For comparison, please provide the average refund delivery period over the past ten years including the COVID-19 pandemic and excluding the COVID-19 pandemic.
7. How long will the surge teams continue? Will they continue through the end of the fiscal or calendar year, or beyond?
8. What effect does the use of surge teams to process the backlog have on the IRS' other activities, particularly answering phones?
9. What steps is the Agency taking to speed up its processing of tax returns? Please specifically note whether the agency prioritizes the processing of returns with refunds.
10. What is the status of IRS efforts to implement scanning technology, as recommended by the NTA?

Hiring Challenges:

11. How many contractors is the IRS currently utilizing? How do contractors factor into the IRS' stated hiring goals for submission processing and accounts management positions?

We appreciate your consideration of these requests and attention to these issues.

Sincerely,

Robert Menendez
United States Senator

Abigail Davis Spanberger
Member of Congress

Tammy Baldwin
United States Senator

Richard Burr
United States Senator

Thomas R. Carper
United States Senator

Bill Cassidy, M.D.
United States Senator

Brian Fitzpatrick
Member of Congress

Richard Blumenthal
United States Senator

Benjamin L. Cardin
United States Senator

Susan M. Collins
United States Senator

Christopher A. Coons
United States Senator

Tammy Duckworth
United States Senator

Dianne Feinstein
United States Senator

Kirsten Gillibrand
United States Senator

John Hickenlooper
United States Senator

Mazie K. Hirono
United States Senator

Tim Kaine
United States Senator

Mark Kelly
United States Senator

Angus S. King, Jr.
United States Senator

Amy Klobuchar
United States Senator

Patrick Leahy
United States Senator

Cynthia M. Lummis
United States Senator

Joe Manchin III
United States Senator

Edward J. Markey
United States Senator

Alex Padilla
United States Senator

Jack Reed
United States Senator

Jacky Rosen
United States Senator

Bernard Sanders
United States Senator

Brian Schatz
United States Senator

Jeanne Shaheen
United States Senator

Kyrsten Sinema
United States Senator

Tina Smith
United States Senator

Debbie Stabenow
United States Senator

Chris Van Hollen
United States Senator

Mark R. Warner
United States Senator

Raphael G. Warnock
United States Senator

Elizabeth Warren
United States Senator

Sheldon Whitehouse
United States Senator

Ron Wyden
United States Senator
Chairman, Committee on Finance

Cynthia Axne
Member of Congress

Don Bacon
Member of Congress

Karen Bass
Member of Congress

Donald S. Beyer Jr.
Member of Congress

Sanford D. Bishop, Jr.
Member of Congress

Earl Blumenauer
Member of Congress

Brendan F. Boyle
Member of Congress

Julia Brownley
Member of Congress

Tony Cárdenas
Member of Congress

Sheila Cherfilus-McCormick
Member of Congress

Judy Chu
Member of Congress

Gerald E. Connolly
Member of Congress

J. Luis Correa
Member of Congress

Madeleine Dean
Member of Congress

Adriano Espaillat
Member of Congress

/s/

Mayra Flores
Member of Congress

Vicente Gonzalez
Member of Congress

Josh Gottheimer
Member of Congress

William R. Keating
Member of Congress

Fred Keller
Member of Congress

Andy Kim
Member of Congress

Young Kim
Member of Congress

Susie Lee
Member of Congress

Elaine G. Luria
Member of Congress

Tom Malinowski
Member of Congress

Betty McCollum
Member of Congress

A. Donald McEachin
Member of Congress

Patrick T. McHenry
Member of Congress

Daniel Meuser
Member of Congress

Joseph D. Morelle
Member of Congress

Seth Moulton
Member of Congress

Jerrold Nadler
Member of Congress

Grace F. Napolitano
Member of Congress

Donald Norcross
Member of Congress

Tom O'Halleran
Member of Congress

Jimmy Panetta
Member of Congress

Donald M. Payne, Jr.
Member of Congress

Scott H. Peters
Member of Congress

Chellie Pingree
Member of Congress

Mark Pocan
Member of Congress

Katie Porter
Member of Congress

Jamie Raskin
Member of Congress

Deborah K. Ross
Member of Congress

Lucille Roybal-Allard
Member of Congress

David Scott
Member of Congress

Robert C. "Bobby" Scott
Member of Congress

Mark Takano
Member of Congress

Dina Titus
Member of Congress

David J. Trone
Member of Congress

Ann Wagner
Member of Congress

Randy K. Weber, Sr.
Member of Congress

Bruce Westerman
Member of Congress

Jennifer Wexton
Member of Congress

Nikema Williams
Member of Congress

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

COMMISSIONER

August 19, 2022

The Honorable Robert Menendez
United States Senate
Washington, DC 20510

Dear Senator Menendez:

Thank you for your letter dated August 15, 2022. You and your colleagues wrote about IRS efforts to “improve customer service issues, decrease processing delays, and work-down the backlog of paper returns and correspondence.” You asked us to respond to 11 questions specifically related to return processing and hiring by August 19, 2022.

I assure you, we take your inquiry seriously and are keenly aware that the topics you raised are vital to tax administration and taxpayer confidence. We want to provide every taxpayer the top-quality service they expect and deserve. While we cannot respond to your questions by August 19, we are diligently working to provide you a complete response within the next several weeks. We’ll need this time due to the complexity of topics you raised.

If you have questions, please contact me, or a member of your staff may contact Amy Klonsky, Chief, National Congressional Affairs Branch, at 202-317-6985.

Sincerely,

Charles P. Rettig

Digitally signed by Charles P. Rettig
Date: 2022.08.19 16:44:41 -04'00'

Charles P. Rettig

cc: The Honorable Bill Cassidy, M.D.
The Honorable Abigail Davis Spanberger
The Honorable Brian Fitzpatrick
The Honorable Tammy Baldwin
The Honorable Richard Blumenthal
The Honorable Richard Burr

The Honorable Benjamin L. Cardin
The Honorable Thomas R. Carper
The Honorable Susan M. Collins
The Honorable Christopher A. Coons
The Honorable Tammy Duckworth
The Honorable Dianne Feinstein
The Honorable Kirsten Gillibrand
The Honorable John Hickenlooper
The Honorable Mazie K. Hirono
The Honorable Tim Kaine
The Honorable Mark Kelly
The Honorable Angus S. King Jr.
The Honorable Amy Klobuchar
The Honorable Patrick Leahy
The Honorable Cynthia M. Lummis
The Honorable Joe Manchin III
The Honorable Edward J. Markey
The Honorable Alex Padilla
The Honorable Jack Reed
The Honorable Jacky Rosen
The Honorable Bernard Sanders
The Honorable Brian Schatz
The Honorable Jeanne Shaheen
The Honorable Kyrsten Sinema
The Honorable Tina Smith
The Honorable Debbie Stabenow
The Honorable Chris Van Hollen
The Honorable Mark R. Warner
The Honorable Raphael G. Warnock
The Honorable Elizabeth Warren
The Honorable Sheldon Whitehouse
The Honorable Ron Wyden
The Honorable Cynthia Axne
The Honorable Don Bacon
The Honorable Karen Bass
The Honorable Donald S. Beyer Jr.
The Honorable Sanford D. Bishop Jr.
The Honorable Earl Blumenauer
The Honorable Brendan F. Boyle
The Honorable Julia Brownley
The Honorable Tony Cárdenas
The Honorable Sheila Cherfilus-McCormick
The Honorable Judy Chu
The Honorable Gerald E. Connolly
The Honorable J. Luis Correa
The Honorable Madeline Dean

The Honorable Adriano Espaillat
The Honorable Mayra Flores
The Honorable Vincente Gonzalez
The Honorable Josh Gottheimer
The Honorable William R. Keating
The Honorable Fred Keller
The Honorable Andy Kim
The Honorable Young Kim
The Honorable Susie Lee
The Honorable Elaine G. Luria
The Honorable Tom Malinowski
The Honorable Betty McCollum
The Honorable A. Donald McEachin
The Honorable Patrick T. McHenry
The Honorable Daniel Meuser
The Honorable Joseph D. Morelle
The Honorable Seth Moulton
The Honorable Jerrold Nadler
The Honorable Grace F. Napolitano
The Honorable Donald Norcross
The Honorable Tom O'Halleran
The Honorable Jimmy Panetta
The Honorable Donald M. Payne Jr.
The Honorable Scott H. Peters
The Honorable Chellie Pingree
The Honorable Mark Pocan
The Honorable Katie Porter
The Honorable Jamie Raskin
The Honorable Deborah K. Ross
The Honorable Lucille Roybal-Allard
The Honorable David Scott
The Honorable Robert C. "Bobby" Scott
The Honorable Mark Takano
The Honorable Dina Titus
The Honorable David J. Trone
The Honorable Ann Wagner
The Honorable Randy K. Weber Sr.
The Honorable Bruce Westerman
The Honorable Jennifer Wexton
The Honorable Nikema Williams

FOIA request 2022-21571: Correspondence Log

Case Number	Topic	Received Date	Due Date	Correspondence Type	Case Type	Status	Taxpayer Name	Members Due Date	Document unavailable
2021-31057	COMMISSIONER TRACKING - Senator Sheldon Whitehouse asked us to investigate (b)(3):26 U.S.C. § a 501(c)(3) nonprofit organization and whether it should continue to enjoy its tax-exempt status. He said they promoted and held two large events for students and young people (b)(3):26 U.S.C. § 6103 where many participants gathered and mingled indoors without wearing masks, knowingly exposing hundreds of young people and staff working at the events to serious risk of infection.	1/19/2021	2/10/2021	ESCO	Commissioner	Closed			
2021-34749	COMMISSIONER TRACKING - Twelve members of Congress wrote to urge IRS to challenge any abusive tax deductions claimed by opioid companies for expenses related to legal settlements regarding the opioid crisis. They encouraged IRS to fully enforce the tax code under section 162(f) regarding the deductibility of legal settlement expenses.	4/21/2021	5/12/2021	ESCO	Commissioner	Closed			
2021-34964	COMMISSIONER TRACKING Twelve senators wrote about recent reporting of deductions of settlement expenses for opioid-related litigation under section 162(f).	4/20/2021	6/22/2021	ESCO	Commissioner	Closed			No response necessary (duplicate of case 2021-34749
2021-34989	COMMISSIONER TRACKING - Thirty Eight members of Congress wrote to urge the Treasury Secretary and the CIR to reverse the Trump Administration's decision to eliminate disclosure requirements for 501(c)(4), 501(c)(5) and 501(c)(6) tax exempt groups engaged in political activity to hide the identities of major donors from the IRS.	4/27/2021	5/18/2021	ESCO	Commissioner	Closed			
2021-39956	COMMISSIONER TRACKING-Three members of congress wrote to the CIR about proposals to increase funding and financial information reporting to the IRS, in new reports of abusive tax avoidance by the richest Americans. They said it is critical that for them to understand the facts about the benefits of restoring the IRS and the costs of inaction. They ask that we provide answers to several questions no later than August 24, 2021.	8/10/2021	8/31/2021	ESCO	Commissioner	Closed		8/24/2021	
2021-40189	COMMISSIONER TRACKING-Commissioner Rettig wrote to Five hundred-Thirty-five members of congress about our current filing season, progress with the third Economic Impact Payments (EIP3) and the Advance Child Tax Credit (ACTC) payments as well as certain other customer service issues.	8/16/2021	9/7/2021	ESCO	Commissioner	Closed			

FOIA request 2022-21571: Correspondence Log

Case Number	Topic	Received Date	Due Date	Correspondence Type	Case Type	Status	Taxpayer Name	Members Due Date	Document unavailable
2022-45531	COMMISSIONER TRACKING-Forty-five Senators wrote Secretary of the Treasury Janet Yellen and the CIR urging us to reconsider the guidance issued under the Obama Administration that permits certain qualified retirement plans to discriminate against survivors benefits to same-sex-couples.	12/9/2021	1/3/2022	ESCO	Commissioner	Closed			No written response necessary (closed via call from Treasury)
2022-48647	COMMISSIONER TRACKING-Chairman of the Finance Committee, Ron Wyden and thirty one senators wrote to the CIR with concerns about the 2022 filing season and their concerns about the backlog impact on taxpayers and congressional offices' and their ability to assist constituents with IRS casework. They also request us to pursue additional actions to maximize our current workforce to address the backlog in order to reduce disruptions this filing season. They asked us to provide a response to a question and urge us to look at policies they have listed.	2/17/2022	3/11/2022	ESCO	Commissioner	Closed			
2022-49262	Senator Sheldon Whitehouse's constituent wrote to seek help with the taxes owed.	3/1/2022	5/20/2022	ESCO	Business Unit	Closed	(b)(3):26 U.S.C. § 6103; (b)(6)		
2022-52109	CMMISSIONER TRACKING-Sheldon Whitehouse, Chair, Senate Judiciary Subcommittee on Federal Courts, Oversight, Agency Action, and Federal Rights Chair, Senate Finance Subcommittee on Taxation and IRS Oversight wrote to The Honorable Merrick Garland, Attorney General of the United States, U.S. Department of Justice, Secretary Yellen and CIR regarding the political activities of social welfare groups organized under section 501(c)(4) of the Internal Revenue Code. He asked both, CIR and Attorney General to brief his office on the matter, and to clarify the referral policy between IRS and DOJ so that well-predicated investigations do not constantly fall between the infielders. He asked for a reply by May 31, 2022.	5/5/2022	5/26/2022	ESCO	Commissioner	Open		5/31/2022	No response available (inquiry is still open)
2022-55757	DLR-Senator Sheldon Whitehouse's constituent wrote with concerns about Employer's Quarterly Taxes.	7/13/2022	8/11/2022	ESCO	Business Unit	Closed	(b)(3):26 U.S.C. § 6103; (b)(6)		
2022-55984	COMMISSIONER TRACKING-Chairman, Committee on Finance Ron Wyden and five members wrote to CIR with concerns about the unprocessed tax return backlog, ongoing customer service challenges, and the effect of Internal Revenue Service (IRS) budget constraints on the agency's ability to serve taxpayers. They request written answers to the four questions outlined in the letter by August 5, 2022.	7/18/2022	8/8/2022	ESCO	Commissioner	Open			No response available (inquiry is still open)

FOIA request 2022-21571: Correspondence Log

Case Number	Topic	Received Date	Due Date	Correspondence Type	Case Type	Status	Taxpayer Name	Members Due Date	Document unavailable
2022-57793	COMMISSIONER TRACKING-Senator Bob Menendez and ninety-two members of congress wrote to CIR to urge that we extend the suspension of automated collections, continue the pause on automated notices, keep its surge teams in place until hiring challenges and processing backlogs are adequately addressed. In order to gauge the extent of hiring and processing challenges still facing the Agency, they ask that we provide answers to eleven questions no later than August 19, 2022.	8/15/2022	9/6/2022	ESCO	Commissioner	Open		8/19/2022	Finral response not available (inquiry is still open)

SHELDON WHITEHOUSE
RHODE ISLAND

COMMITTEES:
BUDGET
ENVIRONMENT AND PUBLIC WORKS
FINANCE
JUDICIARY

United States Senate
WASHINGTON, DC 20510–3905

http://whitehouse.senate.gov

(202) 224–2921
TTY (202) 224–7746

170 WESTMINSTER STREET, SUITE 200
PROVIDENCE, RI 02903
(401) 453–5294

May 5, 2022

The Honorable Merrick Garland
Attorney General of the United States
U.S. Department of Justice
Office of the Attorney General
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

The Honorable Janet Yellen
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, D.C. 20224

Dear Attorney General Garland, Secretary Yellen, and Commissioner Rettig:

I write to follow up on my previous discussions with each of you regarding the political activities of social welfare groups organized under section 501(c)(4) of the Internal Revenue Code. I have described to you flagrant and persistent instances in which 501(c)(4) organizations engage in political activity—and report that political spending to the Federal Election Commission (FEC) or its state equivalents—while telling the Internal Revenue Service (IRS) that they did not engage in any political activity.[1] For example, in 2012 ProPublica investigation surveyed 104

[1] *E.g.*, Letter to Secretary Yellen (Feb. 3, 2021), https://www.whitehouse.senate.gov/imo/media/doc/2021.02.03%20Letter%20to%20Sec.%20Yellen%20re.%20IRS%20investigation%20of%20dark%20money%20%20non-profits.pdf; Letter to Attorney General Garland (Mar. 11, 2021), https://www.whitehouse.senate.gov/imo/media/doc/Ltr%20to%20AG%20Garland.pdf; Statement of Senator Sheldon Whitehouse at Finance Committee Hearing entitled "The IRS, the President's Fiscal Year 2023 Budget, and the 2022 Filing Season" (Apr. 7, 2022), https://www.finance.senate.gov/hearings/the-irs-the-presidents-fiscal-year-2023-budget-and-the-2022-filing-season.

501(c)(4) organizations that reported electioneering activity to the FEC or state equivalents, and found 32 groups that told the IRS they had spent no money to influence elections.[2]

Ten years later, a new report by Citizens for Responsibility and Ethics in Washington (CREW) reveals that 501(c)(4) organizations still make the same inconsistent statements in plain view.[3] The CREW report identified over two dozen flagrant inconsistencies between publicly available IRS filings and publicly available disclosures to the FEC or state equivalents.[4]

This fact pattern, where tax-exempt organizations' submissions under oath to different government entities are plainly inconsistent, should present straightforward cases for the IRS and the Department of Justice (DOJ) to pursue. Such facts present prima facie cases of noncompliance with IRS rules, and predicate "false statement" investigations under 26 U.S.C. § 7206 and 18 U.S.C. § 1001. Yet, at a Senate Finance Committee hearing last month, Commissioner Rettig said that he believed the IRS has *never* referred to DOJ a single case of such inconsistent statements, nor does it appear that DOJ has ever investigated such statements despite the open and notorious inconsistencies.

As we heard during a hearing I held yesterday in the Finance Subcommittee on Taxation and IRS Oversight entitled "Laws and Enforcement Governing the Political Activities of Tax Exempt Entities," seemingly flagrant violations of law, left uninvestigated, send a terrible message and encourage mischief and corruption. I request that IRS and DOJ together brief my office on this matter. I request both Commissioner Rettig and Attorney General Garland to clarify the referral policy between IRS and DOJ so that well-predicated investigations do not constantly fall between the infielders. My previous requests to Attorney General Garland to address this issue, dated March 11, 2021, and March 11, 2022, have gone unanswered, so I hope you will act expeditiously.

---

[2] *See* Kim Baker, *How Nonprofits Spend Millions on Elections and Call it Public Welfare*, PROPUBLICA (Aug. 18, 2012), https://www.propublica.org/article/how-nonprofits-spend-millions-on-elections-and-call-it-public-welfare; *see also*, Hearing: "Current Issues in Campaign Finance Law Enforcement," U.S. Senate Committee on the Judiciary, Subcommittee on Crime and Terrorism, Apr. 9, 2013.

[3] *See* Matt Corley and Adam Rappaport, *The IRS Is Not Enforcing the Law on Political Nonprofit Disclosure Violations*, Citizens for Responsibility and Ethics in Washington (Apr. 28, 2022), https://www.citizensforethics.org/reports-investigations/crew-reports/the-irs-is-not-enforcing-the-law-on-political-nonprofit-disclosure-violations/.

[4] *Id.*

I appreciate your consideration of these matters and hope I can receive a reply by May 31, 2022.

Sincerely,

Sheldon Whitehouse
Chair, Senate Judiciary Subcommittee on Federal Courts, Oversight, Agency Action, and Federal Rights
Chair, Senate Finance Subcommittee on Taxation and IRS Oversight