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Wyden Statement at Finance Committee Markup of Bills to Prevent Identity Theft and Tax Refund Fraud

As Prepared for Delivery

Let me begin by saying that the committee today will consider several important, bipartisan proposals pertaining to ID theft and taxpayer protection. Every new headline about hackers and crooks stealing taxpayer dollars and personal data is a reminder that there's a lot more to be done on this front. There's the recent example of the hack into the "get transcript" system at the IRS, where the crooks nailed taxpayers coming and going. Lax security on the IRS system left the front door open to hackers, who stole data on three quarters of a million taxpayers. Then when the IRS gave out special Identity Protection PIN numbers to the victims, it opened the back door by again using a security system that didn't keep the bad guys out.

That's why this package restores streamlined critical pay authority, which the IRS can use to build a top-notch team of tech experts to beat back hackers and protect taxpayer data. And it will be much easier to flag and crack down on fraudulent returns by making better use of the National Database of New Hires. Those are positive, bipartisan steps that I fought to include in this legislation. But in my view, there is a glaring hole in this package as it stands now, and politics have gotten in the way of fixing it.

If this legislation, when it hits the Senate floor, doesn't allow for minimum standards to crack down on crooked, fraudulent, and incompetent return preparers, it will be one more example of lawmakers in Congress willfully failing to protect vulnerable taxpayers.

The victims of fraud and incompetence aren't just Democrats, Republicans or Independents, and they aren't exclusive to blue states or red states. The fact is, this issue has nothing at all to do with politics. This has everything to do with Americans we represent getting ripped off by criminals, and Congress sitting on its hands instead of doing something to stop it.

Right now there are no minimum national standards whatsoever for paid tax return preparers. No rules to prevent rank incompetence. No safeguards to keep con artists from falsifying returns and leaving their victims in financial ruin.

Colleagues, it just doesn't pass the smell test to say everything's A-OK with a system that has taxpayers handing over their Social Security and bank account numbers to people who meet no standards at all. There are nearly half a million registered preparers who don't claim to have professional credentials. And last year alone, these paid tax preparers submitted more than 75 million returns – well more than half of all returns filed with the IRS.

Study after study has found high rates of errors in tax returns filed by paid preparers who were not required to meet minimum competency standards. By comparison, preparers in Oregon and the few other states with minimum standards have lower error rates than paid preparers nationally. Even unpaid volunteers required to meet minimum standards outperform paid tax preparers.

One prominent national chain of tax preparers has been forced to close dozens of locations across the country this year because of rampant fraud committed by franchisees and their workers. The Maryland comptroller was recently forced to stop accepting returns from 65 questionable tax prep firms at 68 locations in the state. One California man who ran a string of tax prep businesses ripped off taxpayers to the tune of \$14 million before he was banned from the industry by a federal court.

Just in the last few weeks, indictments have been handed down to accused fraudsters in New Mexico, Texas, Maryland, Rhode Island, New York, Alabama and elsewhere. And those indictments stem from crimes committed three, four and five years ago in some cases. That's often how long it takes to bring criminals to justice in this shadowy environment. And those are just some of the cases that have been uncovered. In my view, what should scare everybody most is that there's no good way of figuring out just how much money criminals are pocketing. There's no way to tell exactly how many Americans have been victimized, or to keep the bad guys out from the beginning.

The bottom line is that Congress has left the door open, and fraudsters and organized criminals have invaded. Their victims are often some of the most vulnerable people in this country – working families who struggle to make ends meet and turn to paid tax preparers every spring. Meanwhile, tax lawyers and accountants who typically work with wealthier Americans and business owners go through years of schooling and rigorous certifications. They don't operate in the shadows the way criminal paid preparers do because there are strong rules that protect their clients. So when it comes to getting tax help, the well-off are safe, and the less-fortunate are being thrown to the wolves.

In my judgement, the fact that Congress is maintaining this imbalance is extremely unfair to millions of Americans. It would be like Congress telling construction companies that on the less affluent side of town, they don't have to build houses to code or use licensed contractors. The standards should be there to protect everybody.

Let's be clear, setting minimum standards for tax return preparers is not a wacky, new idea from the left side of the aisle. A small handful of states have rules in place, including my home state of Oregon. And under Democratic and Republican leadership in the recent past, this committee supported legislation giving the green light for minimum standards. Unfortunately, for unrelated reasons, those efforts never got a bill to the President's desk.

In September, the Finance Committee had a bill ready to go that combined these vital minimum standards with many of the same additional proposals that are up for consideration today. That markup was pulled at the 11th hour. Eight months later, the provision on minimum standards for tax preparers is absent from the package.

There are two bills before the committee today. Part of the second bill writes into permanent law the Volunteer Income Tax Assistance program, or VITA, which helps some low-income Americans file their taxes. To protect these taxpayers near the bottom of the income scale, VITA does require testing and minimum standards for its volunteers. And in all likelihood, the committee will vote today to make that requirement permanent. So in my view, there's a clear double standard at play. I can see absolutely no

reason why minimum protective standards are good enough for a modest program like VITA, but they don't make the cut for paid tax preparers used by millions nationwide.

Today I'm going to offer an amendment that would end this double standard and allow for minimum standards to be set. My amendment will be different from previous proposals in an important way. Some of my colleagues have said they oppose setting minimum standards because of the IRS' role overseeing the process. So my amendment leaves the IRS out of the equation. The Treasury Department can handle setting up the standards and making sure they're met once they're in place. And in fact, my amendment moves the office that handles these issues out of the IRS entirely.

After the last markup was canceled, we went to great lengths to address all the concerns that members heard from outside groups, including one representing certified public accountants. They've got a lot of well-meaning members with legitimate concerns. And after the work we put in to address those concerns, they fully support my amendment.

Colleagues, tax day was two days ago. I'm sure that at this very moment there are desperate families across the country – people who fell victim to scammers – trying to figure out how to clean up the damage. Let's set aside our opinions of this administration and the IRS. Let's set aside politics. This committee has the ability to protect people from financial ruin. So I urge my colleagues to support my amendment when it comes up in debate.

Thank you to the chairman and my colleagues for all their work bringing this package together. I hope we're able to improve it today.

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