

United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

June 17, 2020

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

Dear Commissioner Rettig:

We were alarmed to learn that the Internal Revenue Service (IRS) failed to audit 879,415 high-income taxpayers who did not file (or file a complete) tax return for tax years 2014-2016. According to a June 1, 2020 report¹ by the Treasury Inspector General for Tax Administration (TIGTA), entitled “High-Income Nonfilers Owing Billions of Dollars Are Not Being Worked by the Internal Revenue Service,” these taxpayers together owed an estimated \$45.7 billion in taxes to the U.S. Treasury.²

After nearly a decade of budget cuts by Congressional Republicans, enforcement efforts have suffered dramatically. As noted in the IRS response to the draft TIGTA report, since FY2010 it has lost nearly one third of its enforcement personnel and more than one half of its revenue officers. The TIGTA report spotlights an array of examples where the IRS either came up short in its enforcement efforts regarding the highest-earning tax dodgers, or did not even make the effort to pursue them. Such tax dodging is what contributes to the *Tax Gap* – the net difference between taxes collected and taxes owed – which IRS recently estimated at \$381 billion per year.³

As one glaring example, the IRS failed to *even open* taxpayer delinquency investigations into 369,180 of these high-income nonfilers – these are persons who did not respond to two prior IRS delinquency notices, and who owed a combined \$20.8 billion in unpaid taxes. As another example, the IRS appears to have made insufficient use of its authority under section 6020(b) of the tax code to take available tax data, such as third-party tax information, to estimate and assess tax due on unresponsive nonfilers.

¹ TIGTA, “High-Income Nonfilers Owing Billions of Dollars Are Not Being Worked by the Internal Revenue Service,” reference number 2020-30-015, [“TIGTA Report”], *available at*: <https://www.treasury.gov/tigta/auditreports/2020reports/202030015fr.pdf>.

² *Ibid.*, p. 6.

³ See IRS, “Tax Gap Estimates for Tax Years 2011-13,” *available at*: <https://www.irs.gov/pub/irs-pdf/p5364.pdf>.

As yet another example, out of this enormous group of nearly 900,000 nonfilers, TIGTA took a close look at the top 100 by income for tax years 2014, 2015, and 2016 – so 300 nonfilers total. TIGTA concluded that had IRS just audited *these 300 nonfilers alone*, the revenue agency might have collected \$9.9 billion more in taxes owed.⁴

Other issues raised include the IRS giving up on pursuing (“shelving”) audits of 37,217 high-income nonfiler cases⁵ (with estimated tax due of \$3.2 billion), and failing to identify and prioritize auditing nonfilers who did not file tax returns for multiple years.

We have raised concerns with you in the past about declining audit rates on high income individuals and corporations. The TIGTA report establishes a pattern of IRS failing to enforce the nation’s tax laws for the biggest rule breakers. We believe that IRS must do everything in its power – including informing Congress on the extent to which additional resources are necessary – to remedy such tax evasion. Therefore, we ask that you please provide written responses to the following questions within 30 days:

- (1) An explanation for why the IRS did not fully audit these 879,415 nonfilers and collect taxes owed. In particular:
 - a. Why did IRS not enter 369,180 nonfiler cases into taxpayer delinquency investigation status?
 - b. Why did IRS not at least prioritize collecting taxes from the top 100 nonfilers out of this larger group for tax years 2014, 2015, and 2016?
 - c. What criteria did IRS use for determining when to exercise its authority to assess tax under section 6020 of the tax code for nonfilers? Has IRS updated its criteria since tax year 2016, and why or why not?
 - d. Does IRS plan to open (or re-open) audits into these nonfiler cases and collect any outstanding taxes owed, and why or why not? Is a lack of resources an issue?
- (2) What significant changes has IRS made, if any, to increase audit rates of and tax collections from high-income nonfilers for tax years after 2016? How would IRS compare/contrast its approach under your tenure to the past? Should lawmakers expect similar reports to come from TIGTA concerning large numbers of high-income nonfilers for more recent tax years?
- (3) If a lack of resources is the issue, what resources does IRS need to:
 - a. Complete audits of the high-income nonfilers TIGTA has identified for tax years 2014 to 2016?

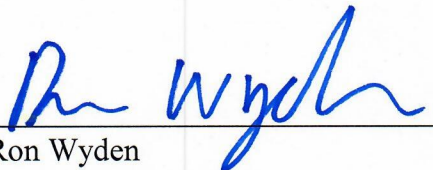
⁴ TIGTA Report, figure 4, p. 9.

⁵ TIGTA uses “shelved cases” to mean “delinquent unpaid accounts or investigations of unfiled tax returns that have been taken out of the Collection function’s inventory because they are of lower priority than other available inventory. *Ibid.*, Appendix VI, footnote 1, p. 30.

- b. Complete audits of similar high-income nonfilers for tax years after 2016?
- (4) According to TIGTA's report, IRS has nine different nonfiler compliance programs that are loosely overseen by a steering committee. TIGTA recommended that the IRS designate a senior management official to address nonfiler compliance. IRS rejected this recommendation.
- a. Why did the IRS reject this recommendation and what alternatives, such as consolidation of nonfiler compliance programs, would improve the efficiency and the likelihood of collecting all outstanding tax liability?
 - b. Does IRS have plans to use the reform authority provided by the Taxpayer First Act (Public Law 116-25) in such an effort?

Allowing nearly 900,000 households to skirt their filing obligations is an affront to basic fairness for the 150 million taxpayers, many of them middle class, who complied with the law and filed their taxes. As we are sure you can appreciate, if enough taxpayers perceive the enforcement of our tax system to be either capricious or unjust, our long-successful system of voluntary tax compliance will unravel.


Sincerely,




Ron Wyden
United States Senator

/s/ Sherrod Brown

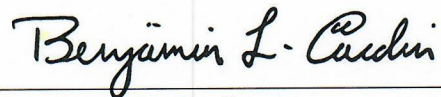
Sherrod Brown
United States Senator



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United States Senator



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United States Senator



Benjamin L. Cardin
United States Senator

/s/ Thomas R. Carper

Thomas R. Carper
United States Senator



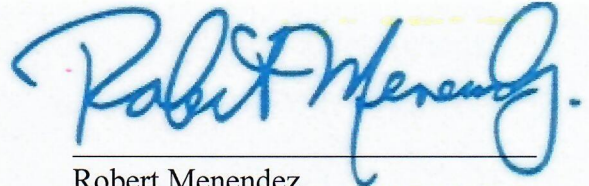
Sheldon Whitehouse
United States Senator



Margaret Wood Hassan
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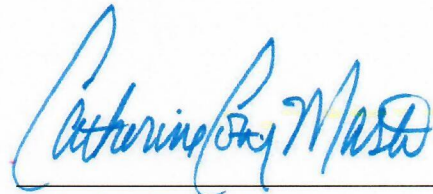
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