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July 18, 2017

The Honorable John Koskinen
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Commissioner Koskinen:

Last year, the House Ways and Means Committee and the Senate Finance Committee asked the Treasury Inspector General for Tax Administration (TIGTA) to examine the Internal Revenue Service's (IRS) procedures for retaining and producing electronic documents. The Committees made this request after learning that the IRS had sanitized the hard drive of an employee whose records were required as part of ongoing litigation. The Committees also had concerns stemming from IRS's accidental destruction of 422 backup tapes and 24,000 emails that Congress had requested as part of the bipartisan investigation into the IRS's treatment of tax-exempt organizations. We write today to strongly urge the IRS to address these deficiencies immediately in light of TIGTA's recent findings.

TIGTA's recent report, entitled "Electronic Record Retention Policies Do Not Consistently Ensure That Records are Retained and Produced When Requested," confirms the concerns of the Committees. TIGTA found that the IRS's email system does not currently meet Federal records retention requirements, and will not do so until September 2017. Furthermore, prior TIGTA work has highlighted the IRS's failure to implement an enterprise email system that would have met these requirements.¹ Until fully addressed, IRS employee emails are difficult, if not impossible, to search and can easily be lost or destroyed when stored on employee hard drives. As part of an interim solution, the IRS has attempted to preserve electronic records by storing 32,000 computers and hard drives of separated employees in 53 IRS facilities nationwide without a complete inventory of these devices. TIGTA also found several instances in which the IRS did not fully search or find all requested records when responding to Freedom of Information Act requests, and did not follow its own policies for documenting search efforts for employee records.

The lack of an electronic mail system that is compliant with Federal records management requirements and could allow the IRS to retain and search the records of current and separated

¹ TIGTA, *Review of the Enterprise E-mail System Acquisition*, Report No. 2016-20-080 (Sept. 30, 2016).

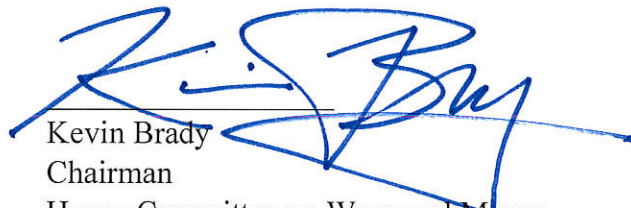
employees is unacceptable. Failure to retain and produce records reduces transparency, inhibits Congressional oversight, and opens the IRS to judicial sanctions during litigation. TIGTA's findings are also symptomatic of the IRS's shambolic information technology modernization efforts. The production of IRS emails as part of external records requests currently relies on the continued integrity and retrievability of thousands of individual employees' hard drives; or, alternatively, relies on IRS employees to print and file important emails. Neither system is enforceable, sustainable, reliable, or scalable to satisfy the voluminous document productions that are required of the IRS.

We therefore ask that you provide a briefing to our staff at the end of September to discuss the solution in place. Thank you in advance for your prompt response to this request. If you have any questions or concerns, please contact Lindsay Steward of the House Ways and Means Committee at (202) 225-3625 or Christopher Armstrong of the Senate Finance Committee at (202) 224-4515.

Sincerely,



Orrin G. Hatch
Chairman
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