

**THE 2021 FILING SEASON  
AND 21ST-CENTURY IRS**

---

---

**HEARING**  
BEFORE THE  
**COMMITTEE ON FINANCE**  
**UNITED STATES SENATE**  
ONE HUNDRED SEVENTEENTH CONGRESS  
FIRST SESSION

APRIL 13, 2021



Printed for the use of the Committee on Finance

U.S. GOVERNMENT PUBLISHING OFFICE

WASHINGTON : 2022

COMMITTEE ON FINANCE

RON WYDEN, Oregon, *Chairman*

DEBBIE STABENOW, Michigan	MIKE CRAPO, Idaho
MARIA CANTWELL, Washington	CHUCK GRASSLEY, Iowa
ROBERT MENENDEZ, New Jersey	JOHN CORNYN, Texas
THOMAS R. CARPER, Delaware	JOHN THUNE, South Dakota
BENJAMIN L. CARDIN, Maryland	RICHARD BURR, North Carolina
SHERROD BROWN, Ohio	ROB PORTMAN, Ohio
MICHAEL F. BENNET, Colorado	PATRICK J. TOOMEY, Pennsylvania
ROBERT P. CASEY, JR., Pennsylvania	TIM SCOTT, South Carolina
MARK R. WARNER, Virginia	BILL CASSIDY, Louisiana
SHELDON WHITEHOUSE, Rhode Island	JAMES LANKFORD, Oklahoma
MAGGIE HASSAN, New Hampshire	STEVE DAINES, Montana
CATHERINE CORTEZ MASTO, Nevada	TODD YOUNG, Indiana
ELIZABETH WARREN, Massachusetts	BEN SASSE, Nebraska
	JOHN BARRASSO, Wyoming

JOSHUA SHEINKMAN, *Staff Director*  
GREGG RICHARD, *Republican Staff Director*

# CONTENTS

## OPENING STATEMENTS

	Page
Wyden, Hon. Ron, a U.S. Senator from Oregon, chairman, Committee on Finance .....	1
Crapo, Hon. Mike, a U.S. Senator from Idaho .....	3

## ADMINISTRATION WITNESS

Rettig, Hon. Charles P., Commissioner, Internal Revenue Service, Washington, DC .....	5
---------------------------------------------------------------------------------------	---

## ALPHABETICAL LISTING AND APPENDIX MATERIAL

Crapo, Hon. Mike:	
Opening statement .....	3
Prepared statement .....	49
Rettig, Hon. Charles P.:	
Testimony .....	5
Prepared statement .....	50
Responses to questions from committee members .....	61
Wyden, Hon. Ron:	
Opening statement .....	1
Prepared statement .....	100

## COMMUNICATIONS

Center for Fiscal Equity .....	103
Desai, Anand .....	107
Lee, Nicholas Matthew .....	108
Professional Managers Association .....	112
U.S. Citizen .....	115



## THE 2021 FILING SEASON AND 21ST-CENTURY IRS

TUESDAY, APRIL 13, 2021

U.S. SENATE,  
COMMITTEE ON FINANCE,  
*Washington, DC.*

The hearing was convened, pursuant to notice, at 10 a.m., via Webex, in Room G-50, Dirksen Senate Office Building, Hon. Ron Wyden (chairman of the committee) presiding.

Present: Senators Cantwell, Menendez, Carper, Cardin, Brown, Bennet, Casey, Warner, Whitehouse, Hassan, Warren, Crapo, Grassley, Thune, Portman, Toomey, Cassidy, Lankford, Daines, Young, Sasse, and Barrasso.

Also present: Democratic staff: Chris Arneson, Tax Policy Advisor; Adam Carasso, Senior Tax and Economic Advisor; Michael Evans, Deputy Staff Director and Chief Counsel; Joshua Sheinkman, Staff Director; and Tiffany Smith, Chief Tax Counsel. Republican staff: Andre Barnett, Senior Tax Counsel; Courtney Connell, Senior Tax Counsel; and Gregg Richard, Staff Director.

### **OPENING STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM OREGON, CHAIRMAN, COMMITTEE ON FINANCE**

The CHAIRMAN. The Senate Finance Committee will come to order.

This morning the Finance Committee is joined by IRS Commissioner Rettig for our annual hearing that typically marks the end of tax filing season. However, 2021 is no typical year. There's lots to talk about, and I am going to start with the tax gap, the difference between taxes owed and what is collected.

Even the most conservative estimates of the annual tax gap put it in the hundreds of billions of dollars a year. My own view is, the annual tax gap is at least double the official estimate and growing.

The most recent official estimate pegs the tax gap at \$381 billion a year, but it looks all the way back to data from 2011 through 2013. That means the estimates are out-of-date as soon as released.

The fact is, our economy has changed and expanded. In 2011, one Bitcoin could not buy you a ham sandwich. Today's cryptocurrencies and other technologies create huge new opportunities for the tax cheats to rip off the American people.

More and more wealth is building up in the hands of the fortunate few and big corporations. They are the ones with the high-priced lawyers and accountants who specialize in concealing income with sketchy bookkeeping, money laundering, and shell companies.

I am coming off 10 town hall meetings in Oregon. When I hold those meetings—especially during tax season—lots of Oregon taxpayers tell me they have a gut feeling they are being cheated. They hear about the massive tax gap, and they are rightfully ticked off. Close even a portion of the tax gap and you are better able to fund care for the elderly at home, assistance to needy kids, and affordable housing.

The IRS needs more resources to tackle this challenge, but it is only just beginning to recover from a decade of Republican budget cuts. Those cuts hobbled our ability to root out cheating by high flyers and their high-priced accountants. Criminal tax evasion cases have fallen nearly by half. The number of IRS tax enforcement staff—the experts who know how to break down tax evasion cases—has now fallen by nearly a third. Wealthy tax cheats have proven that with enough attack dog lawyering, they can litigate the IRS into submission and rip off working taxpayers for big money.

Meanwhile, the burden of tax audits has shifted unfairly to working people. That is because it is a lot cheaper and easier to hassle a working mom over a tax credit overpayment than it is to decipher the latest money laundering schemes.

My bottom line is, it is time to throw out business as usual on this. Business as usual has proven to be a rainmaker for cheaters and criminals and unfair to everybody else.

The IRS needs more highly skilled investigators and better technology to keep up with these modern crooks. The Biden administration's new budget proposal calls for a 10-percent increase in IRS funding. That is a good start. I believe there is room for a more comprehensive strategy that will lower the tax gap.

The committee is going to kick off a new policy this morning. On my watch, the annual filing season from this point on will put a special focus on what the IRS has done over the previous year to catch the cheats and close the gap. There is a lot of catching up to do.

Let me wrap up with just a couple of other comments. First, Commissioner, I am going to give you a formal introduction, but I want to thank you and the staff for working many, many long hours during the pandemic to get three rounds of relief payments to the public. Millions of hurting families got desperately needed relief payments, and our country got an economic boost.

The committee, the Finance Committee, also led an important effort to make sure that Americans who got unemployment benefits did not get a painful tax surprise this year.

Finally, Commissioner, we are going to want to hear about getting the new Child Tax Credit payments up and running. It is a big job, and millions of Americans are counting on the IRS to get it done.

Commissioner, we will give you a formal introduction after we hear from Senator Crapo.

Thank you for joining us, Senator Crapo.

[The prepared statement of Chairman Wyden appears in the appendix.]

**OPENING STATEMENT OF HON. MIKE CRAPO,  
A U.S. SENATOR FROM IDAHO**

Senator CRAPO. Thank you, Mr. Chairman, and welcome, Mr. Commissioner. I appreciated our phone call the other day.

The past 23 months have brought unprecedented challenges not only for the American people, but also for the Internal Revenue Service.

In addition to its role as our Nation's tax collector, Congress has recently given the IRS an expanded mission and a central role in delivering our economic recovery. So far, this has included distributing three rounds of over 150 million Economic Impact Payments and implementing a variety of temporary tax incentives to keep employees on payroll, guarantee paid leave for employees who contract COVID-19, and help taxpayers bridge the gap through the pandemic. Soon, it will also include the distribution of millions of advance payments of the Child Tax Credit in a temporary policy that vastly changes the scope and mission of the IRS.

Commissioner Rettig, I commend you and your staff for your diligent efforts to balance all of these competing priorities. At the same time, given how much is at stake for our economy and the American people, it is critical that we get it right. Filing season and Economic Impact Payment issues are the most frequent topics I hear about from Idahoans.

I am extremely concerned about the reports of a backlog of millions of tax returns from last year's filing season that have not yet been processed. This means that millions of taxpayers are having to wait longer to receive their refunds in the middle of a pandemic.

Further, IRS call center wait times remain unacceptably long, and many taxpayers have been sent confusing automated notices indicating that they have not yet filed their return, when in fact it was filed but has not yet been processed by the IRS.

Confusion has also been generated because of the massive fraud in unemployment compensation programs. State workforce agencies have been taxed because the Federal Government tells victims of identity theft who have Federal tax issues to figure it out with State agencies.

Meanwhile, in the midst of filing season, a brand-new waiver of Federal taxes on unemployment compensation was passed into law, causing yet more confusion for filers.

Today you have the opportunity to explain how the IRS plans to remedy taxpayer confusion and tackle the backlog of prior-year returns without falling further behind—a formidable task.

I also have a number of concerns about the implementation of the Child Tax Credit advance payment program. Former Finance Committee chairman Grassley and I sent you a letter a few months ago requesting reasonable information about the timeline of implementation, the cost of implementation, and how the IRS plans to tackle fraud and other risks associated with the administration of this new program. What we received from your staff was untimely and unresponsive.

Today is an opportunity for a real conversation about the timeline that the IRS envisions for getting the online portal up and running and issuing the first advance CTC payments.

The IRS must assure us that this implementation will not mean putting the filing season on the back burner, nor rushing to get payments out before we have accurate information from taxpayers regarding eligibility. To date, absent any contrary indication from the IRS, I am left with the impression that the aggressive July 1st payment deadline imposed by congressional Democrats will be challenging to meet by an IRS staff that is already stretched thin, without cutting corners or reassigning staff who should be focused on processing tax returns.

If congressional intent was really to get these advance payments out at all costs as soon as possible, then the logical approach would have been to simply provide an extra bonus in the Economic Impact Payment of each qualifying low-income child. Congress could have put those increased payments in the hands of those parents a month ago with that approach.

Instead, the legislation created a complicated new program for these periodic advance payments, with a clearly stated goal of making this temporary program permanent. With that in mind, fully setting up the required online portal and equivalent secure mechanisms for those without Internet access, in order to ensure that any advance payments issued are both accurate and desired by parents, must be considered at least as much of a controlling priority as the requirement to begin issuing advanced payments this summer.

Finally, we are now approaching 2 years since Congress passed the Taxpayer First Act, an important bipartisan measure that will enhance taxpayer protections, modernize the IRS's organizational structure, and improve its customer service and information technology. Commissioner Rettig, I look forward to hearing an update today on the IRS's efforts to implement these reforms and to usher forth a 21st-century IRS.

Thank you again for appearing before us today, and for your tireless efforts on behalf of our taxpayers.

Thank you, Mr. Chairman.

[The prepared statement of Senator Crapo appears in the appendix.]

The CHAIRMAN. Thank you, Senator Crapo.

Our witness today is Charles P. Rettig, the 49th Commissioner of the IRS. Previously, he was a highly respected law firm partner for 36 years. He has represented thousands of individuals, businesses, and corporate taxpayers before the IRS, the Department of Justice Tax Division, Federal and State courts, and State taxing authorities.

Mr. Rettig has served as a past chair and member of the IRS Advisory Council. He also served as chair of the Taxation Section of the State Bar of California, and has served on the advisory boards of both the Franchise Tax Board and the Board of Equalization in his home State of California. He has a B.A. in economics from the University of California in Los Angeles, as well as a J.D. with honors from Pepperdine University, and an LLM in taxation from New York University.

Welcome. Please proceed, Mr. Commissioner.



**STATEMENT OF HON. CHARLES P. RETTIG, COMMISSIONER,  
INTERNAL REVENUE SERVICE, WASHINGTON, DC**

Commissioner RETTIG. Chairman Wyden, Ranking Member Crapo, and members of the committee, thank you for the opportunity to discuss the current filing season and our efforts to help taxpayers during the COVID-19 pandemic.

Before I begin, I want to thank Congress, each of the members of this committee, and each of your staff for working with us during drafting of the recently enacted stimulus packages. The ability to administer legislation passed by Congress is almost as important as the content of the legislation that is passed. We also thank you for providing the IRS with resources to enable us to implement the tax-related portions of such important legislation.

It will take time for the IRS to overcome the challenges of the past decade, and the agency will continue to struggle to replace workers lost through attrition and to expand our workforce and support implementation of our multi-year integrated business modernization plan as designed. We will continue enhancing meaningful service and compliance efforts on behalf of every American.

With respect to the COVID response, our response illustrates the importance of every American to the IRS, and the importance of the IRS to every American. IRS employees have worked hard since mid-March of last year to implement the major provisions of the CARES Act, the COVID Tax Relief Act, and more recently the American Recovery Plan; to deliver three rounds of Economic Impact Payments; to deliver filing season 2020 and filing season 2021; and to help millions and millions of Americans during the pandemic.

In a bit more than 12 months, IRS and Treasury employees delivered the first round of EIP1, totaling almost \$275 billion. They issued refunds during filing season 2020 of over \$320 billion. We issued EIP2 of over \$142 billion. We are in process with respect to EIP3, and to date we have delivered another \$372 billion. And with respect to filing season 2021, to date we have issued over 62 million refunds totaling more than \$180 billion.

In a bit more than 12 months, the IRS has been instrumental in delivering almost \$1.3 trillion to individuals in our country, and we are proud to have had the opportunity and the privilege to do so.

I want to emphasize and recognize the amount of advance preparation of our employees to achieve such quick turnaround. I believe the committee is aware of the fact that the first EIP1 payments went out within 2 weeks. EIP2 payments went out within 2 days, and the first round of EIP3 payments were issued in less than 24 hours after the date of enactment.

This is a tribute to the quality, dedication, and caliber of the employees that we have. We care, and we know the importance of our role. It is also a call for consistent, timely, adequate, multi-year funding to support our business system's modernization. It should not impede our ability to deliver quickly, promptly, and most of all accurately—and I do understand and we accept that we did not get it perfect, but we did try our best—but the ability to do so should not translate into the fact that we do not need a modernized system.

Our systems are built on the legacy systems of the IRS, and we need to replace our legacy system to have the IRS in a position to move forward effectively when called upon to do so—and as part of our normal daily operations.

Turning to tax season 2021, filing season 2021, it continues to go smoothly. We have received, at peak, 335 submissions per second. We have received more than 93 million individual returns and, as stated, have issued more than 62 million refunds totaling \$180 billion.

As you are aware, we also process returns for various States. We also process business returns and other related matters. To date, that category, all in, we have received over 206 million Federal, State, and business returns—keep in mind, during the pandemic.

The late start of the filing season did not impact our ability to issue refunds. The first rounds of refunds—we opened filing season on February 12th. The first round of refunds for the most needy individuals, the EITC and ACTC, went out on February 16th and February 18th.

As you are aware, we recently issued Notice 21–21 extending the current filing season to May 17th. That extension was not based upon any operational challenges of the Internal Revenue Service. The Internal Revenue Service is operating smoothly with respect to filing season.

With respect to the unemployment insurance and the exclusion of \$10,200 per individual, the IRS announced in IR–2021–71 on March 31st, that for people who filed their returns, we will automatically issue the refunds. We will first be doing the refunds—we will adjust the returns when we are first doing the refunds for single filers, followed by married filers. Taxpayers do not need to file amended returns to claim the exclusion with respect to their unemployment insurance, if they previously reported it. And we expect to be issuing the refunds in May.

Turning to level of service, this has been a challenging year. As you are aware, we have a congressional mailbox. The input and intake for each of you was challenging, but keep in mind that our level of service is an appropriated budget item, which was determined before there was a pandemic, before there was an EIP1, before there was an EIP2, before there was an EIP3.

Our call volumes have more than doubled. We have received at peak more than 1,500 calls per second. We have received 1.1 billion visits to *irs.gov*. We have had to deploy some of our customer service representatives to FEMA work with respect to hurricanes, wildfires, earthquakes, and the more recent extreme cold weather.

During the pandemic, we adjusted to a virtual operation as quickly as we could, but we realized that that was not seamless for the people who had to interact with us, and we greatly appreciate the patience and understanding of others as we tried to operate to the best of our abilities. And I think the foregoing—personally, I am very appreciative of the efforts of our employees, and people generally, and I am not going to call out our people separately. I know everybody had a difficult time. But I asked a tremendous amount of every employee of the Internal Revenue Service.

We got the best of the best. They stepped in. They were creative. They were innovative. They came up with plans in a hurry to allow

us to do as well as we did. The success and strength of the Internal Revenue Service is the employees of the Internal Revenue Service.

Chairman Wyden, Ranking Member Crapo, and members of the committee, this concludes my statement, and I would be happy to take your questions.

[The prepared statement of Commissioner Rettig appears in the appendix.]

The CHAIRMAN. Thank you very much, Commissioner. And again, we very much appreciate all the efforts to get those checks out through the pandemic.

And now we are going to look to the future. And Oregonians come up to me at home, and they say, “Ron, what is the deal with the taxes that the big guys owe that don’t get collected?” Then they tell you they pay taxes with every paycheck, lots of them, and they want to know what is being done to collect from the cheaters.

I went through the estimates, which seem like they are from the Dark Ages—you know, a decade ago—and I have been digging into this, and I have come to the conclusion that the tax gap is in fact far greater than has been officially reported.

So what I would like to start with, Commissioner, is what is your personal opinion about how big the annual tax gap actually is?

Commissioner RETTIG. The published tax gap estimate of the Internal Revenue Service, the current one that is out—and we will be issuing one next year—but the published tax gap estimate for tax years 2011 to 2013 has a gross tax gap of \$441 billion.

As you indicated, Mr. Chair, in 2011 folks were generally unaware of the term cryptocurrency, Bitcoin, and all—there are more than 8,600 cryptocurrencies, virtual currencies, in the marketplace. And the market cap worldwide for cryptocurrencies is almost \$2 trillion.

Our tax gap map for 2011 to 2013 is based on information that is from 2011 to 2013. It does not include any focus with respect to virtual currencies, which I indicated now are about a \$2-trillion market cap. It does not include much information with respect to foreign source income. It does not include information with respect to illegal source income, which is still taxable, and which we do chase. More recently, within the last 2 weeks, there was a report published that included two IRS researchers from our RAAS organization that indicated that the top 1 percent of all taxpayers by high income account for as much as an additional \$175 billion in the tax gap computation. And that is associated with their look at only two issues, which were pass-through entities and offshore income associated with the top 1 percent.

If you aggregate the points that I am talking about, and you look at the fact that there is a current estimate by folks on the outside that the tax gap is \$7.5 trillion over the next 10 years, and you add in the component pieces that I have referenced—there are more; I’ve just referenced the ones that are most highly visible at this point. If you add those in, I think it would not be outlandish to agree that the actual tax gap could approach and possibly exceed \$1 trillion.

The CHAIRMAN. Thank you. And that is something that we very much want to focus on on this committee. We think we can do it in a bipartisan way. A trillion-dollar tax gap—and that is very

much in line with our analysis and reflects the amount that is owed that we are not collecting from cheaters. So I very much appreciate your clarifying that.

What would the IRS do with an increase in funds for enforcement to better be able to collect that trillion-dollar annual tax gap? And what would the rate of return be on those kinds of efforts?

Commissioner RETTIG. To approach the tax gap and have a meaningful reduction in the tax gap, we need a multi-faceted approach. So you have asked with respect to enforcement.

Our figures with respect to—if we received a billion dollars for enforcement, we could bring onboard 4,875 front-line enforcement personnel, which also includes the component parts for taxpayer advocate service, appeals, counsel, and whatnot. It is our package, if you will, to go down that road.

We would also need to use some of those funds to modernize our systems. We are today able to identify evidence of tax fraud, the signatures of tax fraud if you will, and tax evasion, that even 2 years ago we could not identify. But it is an example of how we are heading in the right direction. We need to get there ahead of time. We are up against more sophisticated elements in the community, practitioners and others, and the tools that they are using.

So essentially, the key priorities would be to modernize our system, and onboard enforcement personnel. Realistically, we are down 17,000 enforcement personnel over the last decade. So to replenish that, we could not do that in 1 year. We could not absorb that. We have about 50 to 55,000—

The CHAIRMAN. I am almost out of time, Commissioner.

Commissioner RETTIG. I'm sorry.

The CHAIRMAN. Do you need, in addition to the financial resources, any changes in either regulation or statute to be able to more aggressively go after the tax cheats?

Commissioner RETTIG. We do. We need information reporting almost across all lanes. The statistics are that when there is substantial information reporting and withholding, about 99 percent of those income items get reported. Without information reporting, it fluctuates down around 45 percent. Electronic filing of most returns in most systems would obviously enhance our ability to take a look and focus our resources in the appropriate areas.

And there is, you know, correctable error authority, return preparer regulation. As I said, it is a multi-faceted approach. And nobody should discount the desire of any employee of the IRS to get there. We want to get there, but we do need your help.

The CHAIRMAN. Good. And I am going to do everything I can to make this a bipartisan effort.

Senator Crapo?

Senator CRAPO. Thank you much, Senator Wyden.

Commissioner Rettig, I want to follow up on Senator Wyden's questions for just a minute. First of all, I completely agree that if there are those who are cheating on their taxes and causing us to have such a large tax gap, which I do not doubt, we should address that.

We often see many allegations that there are corporations who pay no income taxes for one reason or the other. In fact, the reasons are not given. And I am not quite sure I understand why. But

one response that has been given back to me when I try to check that out is that many corporations are being accused of using legal provisions in the tax code, such as the R&D tax credit or other tax credits and the deductions and options that they can, in order to manage their tax liabilities.

As you calculate these numbers you just talked to us about involving the tax gap, you are not counting the utilization of legal provisions in the tax code like the R&D tax credit and so forth. Is that correct?

Commissioner RETTIG. Definitely not. There is no part of the tax gap that should include legal transactions that are authorized by the code and the courts and whatnot.

Senator CRAPO. The reason I asked that question is because often in the political discussion of this, what we see in the media at least, is this notion that there are so-called “loopholes” that taxpayers are taking advantage of. And to me, I wonder what those loopholes are. If they are legal provisions in the code, we ought to know that and determine whether they are in fact some valid tax credit that we want to continue to allow, or whether they are some unjustified tax policy.

But that is a whole different discussion than the tax gap, correct?

Commissioner RETTIG. Correct.

Senator CRAPO. Okay. And that is a discussion I think we should engage in as well, Senator Wyden.

I am going to conclude with the questions that I referred to you when we were on the telephone the other day with regard to the CTC advance payment provision.

The first is, the experience with the 2017 tax reform law showed that many American taxpayers have an ongoing expectation of receiving a sizeable refund. And when given the option to get that refund earlier, many households opt to take the refund when they file their taxes because they choose to get it in that fashion.

Based on that experience, has the IRS estimated what percentage of eligible CTC recipients it might expect to opt out of receiving advance payments?

Commissioner RETTIG. We do not currently have that information, but you are accurate that that is the information that we are getting: that this for many people is their largest annual refund.

We are working on that, as you can imagine, because we are implementing—our teams are working on the implementation of the requirements and priorities and whatnot. And I would hope that we would have that for you soon. And I do acknowledge you have asked for that on more than one occasion.

Senator CRAPO. Well, thank you. And again on the same issue, many lower-income and rural individuals and families do not have access to the Internet. And that makes it very difficult for them to use a portal to update their status, or opt out of receiving advance payments.

Can you address how the IRS intends to reach such filers to ensure that they have the same opportunities for access to the portal?

Commissioner RETTIG. If people do not have broadband—and there are tens of millions of people in this country who do not have access or are not comfortable with it—they will end up needing to deal with us either through paper sources, the U.S. mail, or vis-

iting an IRS office, which certainly is not ideal if they are adjusting. And the portal is statutorily required, and it is there for people to identify changed circumstances, and also to opt out.

And so we will make instructions for the forms available for folks who want to opt out in avenues other than the portal.

Senator CRAPO. And when do you project that both the secure online portal and the equivalent non-electronic processes will be fully operational?

Commissioner RETTIG. We will launch the portal for CTC by July 1st, which is the statutorily mandated date. And we have already put our teams together and our working groups together, and we are looking at communication strategies and all the rest.

We will launch by July 1st, with the absolute best product we are able to put together. We might need to address that. We did that with respect to the EIP online portals we would monitor. And we may need to adjust that. But we are trying to get it as user-friendly as possible, but we will launch by July 1st.

Senator CRAPO. Thank you. And clearly a number of important steps have to be taken to achieve that. As such, can you assure us that the IRS will not issue advance CTC payments until the online portal and its secure nonelectronic counterpart process are fully operational, and that all potentially eligible taxpayers have been given the full opportunity to update their status and information, and to opt out of receiving any advance payments if they choose to?

Commissioner RETTIG. We will do so. We will follow the statute, and the statute requires us to do so by July 1st. If we are not prepared—as I indicated to another congressional committee a few months back—if we are not prepared, we will not launch. We are not going to risk our systems. We are not going to open our systems up to possible fraudsters and the rest, and to a series of errors.

We will test, retest, and get it right before we launch. And we are not—the statute requires July 1st, but if we are not ready July 1st, we will tell you that. As of now, we will launch July 1st, but we will not risk our system.

Senator CRAPO. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Crapo.

Senator Cantwell is next.

[No response.]

The CHAIRMAN. Senator Grassley is after Senator Cantwell.

Senator GRASSLEY. Okay. The American Rescue Plan included major temporary modifications of the Child Tax Credit, including making the credit fully refundable and advanceable.

I have concerns that these changes will drastically expand the IRS role into kind of social welfare-oriented, at the expense of its primary mission of tax collector. As Erin Collins, the National Taxpayer Advocate said, quote, “The challenge is, the IRS was not set up for that purpose, and their IT is not structured for that,” end of quote.

It is clear that setting up periodic advance payment and associated infrastructure will be a significant undertaking for your agency. In addition to the dollar cost of this program, can you expand upon the amount of work hours and the number of personnel it is

estimated it will take to set up and administer what is now a temporary program?

Commissioner RETTIG. The budget to implement the CTC program—and we have to create an entirely new structure for the Internal Revenue Service. We are not, historically, a benefits delivery Federal agency—but we are setting that up. The cost for that program is \$391 million. Right now, it will be somewhere around—and this is my guess, but it is an educated guess—a minimum of 300 to 500 people, which includes folks who will have to handle the phone service, because we will have increased phone service.

The Taxpayer Advocate Service will get additional touch points. Criminal Investigation, to the extent fraudsters try to come into the system, will need additional resources there. So it is pretty widespread.

What we have done to date, and the IRS—and again I thank Congress for this—we were part of getting the July 1st date as opposed to an earlier date, and that is very meaningful to the Internal Revenue Service because, as you know, we have filing season, normally April 15th but we moved it to May 17th, but we also have the third round of Economic Impact Payments. It would have been extremely difficult for the IRS to launch a CTC program at any time before July 1st. It is a challenge to do it by July 1st, but it would have been really difficult—

So what we are in process on now—and you have asked as well for additional information, and we will continue to update you and update members of the committee—but what we have done now is put together our working groups to figure out the points such as what you are asking. Who do we need? Where do we need? What are the requirements to launch this portal?

So we have working groups with respect to guidance and policy changes. We have working groups with respect to chief counsel on what we are able to do and what we are not able to do within the scope of the law, and outside the scope of the law. We have working groups in IT working with respect to the authentication levels. As you can imagine, every time—this is a risk-averse agency. Every time we open some system up, it becomes a risk issue for the agency, and we are not going to allow undue risk.

Senator GRASSLEY. I think you have satisfied me for now.

Commissioner RETTIG. Okay; I will follow up—

Senator GRASSLEY. You said you would give updates. So I am also concerned that the Advance Child Tax Credit program might have the possibility of fraud. According to the Treasury Inspector General for Tax Administration, in 2019 the improper payment rate in the program exceeded 15 percent, or \$7.2 billion.

The IRS's experience with the advanceable premium tax credit, which TIGTA estimated has an improper payment rate of 27 percent, suggests a proposal to make the Child Tax Credit advanceable could result in billions more of improper payments.

How would you expect the advanceability of the Child Tax Credit to affect improper payment rates clearly associated with the credit?

Commissioner RETTIG. Opening up the system and having people have the ability to modify their circumstances monthly is another element of risk that the IRS is required to assume under the stat-

ute. And so, I cannot quantify it because we are not there, but there is definitely a risk there.

I will say that our Criminal Investigation division is best-in-class, and they are engaged with us with respect to the planning on this. And you know, we will work from a deterrence perspective, but we will also chase those who come in unlawfully.

Senator GRASSLEY. And my last question will have to be this: the current IRS private debt collection program was established in 2015 on a bipartisan basis to collect tax debts that are due but are not currently being worked by the IRS. The program has proven its ability to collect hundreds of millions of dollars in otherwise uncollectible tax debt on an annual basis, including generating nearly half a billion dollars in net revenue in 2020.

However, I was recently informed that the contractors of the program were told IRS decided to delay the delivery of the new cases until the end of September.

Do you agree this program has allowed tax debts to be collected that otherwise would not have been? And can you assure me that the program will continue to be operated on the full extent required under law?

And the reason for the question—and I will quickly stop—is that you know the program was put on hold by the previous Obama administration but is now operating and bringing in money, and I would hope that does not happen again.

Commissioner RETTIG. I have about 18 months left in my term as Commissioner. I am a believer in the private debt collectors. We have a high degree of oversight with respect to the companies that are doing this. There are three companies. They have a 600,000 case backload at present. We are providing 1,000 to 1,500 updates to them, addresses and evidence of activity for folks that they have to collect. And overall, I think it has worked well.

We do work with them so that they do not overly breach. There are a lot of rules in the country generally, and also with respect to tax collection. And so we watch all of that, and we have teams that do that.

The CHAIRMAN. Thank you, Senator Grassley.

Our next questioner will be Senator Menendez, on the web.

Senator MENENDEZ. Thank you, Mr. Chairman.

Commissioner, I appreciate the work that you and all of those public employees at the IRS have done, incredible work, despite having their funding undermined for years by congressional Republicans.

The IRS budget shrank by 20 percent, resulting in 20 percent of its workforce being laid off over the last 10 years. Now middle-class families and small businesses bear the brunt of the IRS customer service problems. Wealthy individuals and large corporations are all too happy to take advantage of the IRS's limitations.

Indeed, according to a recent study by the National Bureau of Economic Research, the top 1 percent of households do not report nearly 21 percent of their income. Overall, some experts estimate that the agency has missed out on \$630 billion in tax revenue in just 2020 alone.

Now, I certainly do not blame you for the tax gap. That problem is rooted in the chronic underfunding of a budget for a decade. It



is estimated that for every dollar invested in the IRS, the agency brings back \$7 to our Treasury.

So, Commissioner, would the agency be able to better pursue corporations and high-income earners that are cheating the tax system if the agency's budget was increased?

Commissioner RETTIG. The IRS absolutely needs more resources across all lanes of the Internal Revenue Service. And you know, we do get out-gunned. There is no other way to say it. We are using our resources—I am confident, and I can assure you we are using our resources to the absolute best of our ability. It is not a dedication or a people issue. It is a numbers issue.

We have about 6,500 front-line revenue agents who handle the most complex, sophisticated individual and corporate matters. Substantially every one of them is dedicated to either high-income individuals, the most egregious cases, or the largest corporations.

Senator MENENDEZ. So then it is a resource problem. Who pays the price of tax evasion by the very wealthy and large corporations?

Commissioner RETTIG. Well ultimately, you know, if people are not paying their fair share, it is borne by the other people who are paying their fair share.

Senator MENENDEZ. Yes, and that is overwhelmingly middle-class and working families. I certainly believe that we can do better by giving the resources to the agency so that everybody pays their fair share and there is not a disproportionate burden.

Let me ask you—I included into law a provision that gives immediate relief to those whose student loans have been forgiven during the pandemic through 2025. Do you think that most borrowers who had their student loans forgiven would be aware that their debt relief would be considered taxable income, if it were not for the Student Loan Tax Relief Act?

Commissioner RETTIG. Hit and miss, probably. If you are asking me a percentage, maybe 30 or 40 percent. I know a lot of folks from those programs who went to professional schools and whatnot, from my time on the outside, and many people are not aware that debt forgiveness is a taxable item for them.

But you know, I would speculate 30 or 40 percent. I really cannot identify it. But certainly many are not aware.

Senator MENENDEZ. And finally, I agree with you that many are not. And we have seen cases who got debt relief and then got a \$7,000 tax bill. So I am glad we were able to get this provision into law to create the relief from that being a taxable event.

Our colleagues on the committee—Chairman Wyden and Senators Brown and Bennet and others—have been very active about the CTC provisions of the American Rescue Plan that have a historic enhancement that can cut child poverty in half.

Commissioner, could you provide us with an update on the progress you are making on implementing the expanded and enhanced Child Tax Credit, and where your agency is on providing recurring advance refund payments?

Commissioner RETTIG. As I indicated to Senator Grassley, we put together working groups. We have put together working groups within our counsel, within our IT, within wage and investment, to determine the requirements, to determine the legal abilities, to determine our ability to do certain things; what is the most user-

friendly path to launching? And we fully anticipate to launch by July 1st, which is the statutorily mandated date.

Senator MENENDEZ. All right; I will look forward to seeing that happen. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Menendez.

Next in the queue—Senator Thune asked that we wait—would be Senator Carper on the web—excuse me, in person. And then he will be followed by Senator Portman. I did not see you, Senator Carper. You are next.

Senator CARPER. Good morning, Mr. Chairman, and to our ranking member, and to my colleagues. It is good to see you.

Commissioner, the last time you were before us that I remember, I think your wife was with us. She's a native of South Vietnam, a place where I served in the Southeast Asian Vietnam War, and we send her a warm welcome. Tell her we say thanks for sharing you with us, especially to find time to be with us today. I believe you have a son who is an Army doc, and I think he is on his way to Fort Benning—

Commissioner RETTIG. He was just promoted to Major. We are very proud of him.

Senator CARPER. Tell him we said navy salutes army.

We have been talking with our colleagues about the need at the IRS for resources that include people, that include technology, that include money. And we have heard several of my colleagues who have said that for every dollar that we provide in additional resources to the IRS, the payback to the Treasury is something like 7 bucks.

When I was elected to the House of Representatives a million years ago, I think Chuck Grassley had just been elected to the U.S. Senate. And I think Senator Wyden and I served together for a number of years in the House. And those are years when we measured the Federal deficit in terms of tens of billions of dollars a year—tens of billions of dollars a year.

Today we measure the Federal deficit in terms of like trillions of dollars a year, trillions of dollars a year. And when you tell us, and you have—and the President has said this as well in his budget offering—that for every dollar in additional resources we provide to the IRS, we get an extra 6 or 7 bucks in revenue to the Treasury, we need every buck that we can bring into the Treasury.

The thing that we lose track of a little bit is, in addition to reducing this enormous deficit, there is a problem with providing good service. And we make the tax code more complicated every year, and we say to you and the folks who work for you, "Deal with this. Provide good constituent service." So how, by providing additional resources, will it actually help us on that side?

Commissioner RETTIG. The service is a component of the tax gap as well, because the enforcement side supports the taxpayers who comply. And you know the deterrent effect of enforcement helps keep the honest people more honest.

On the service side, the easiest category to identify is what we refer to as level of service, which is our telephone service. We currently have 13,760 folks online answering the phones. Only 3 percent of them were telework-eligible before we went into the pandemic; 100 percent of them are telework-eligible today. And that

was not only important for the pandemic, but when we ran into cold weather, we did not skip a beat.

But the easily identifiable number there, when people are looking at our budget, is every 10-percent increase in level of service, so each 10 percent—out of 10 calls to answer one more globally—for the IRS, is \$100 million. So we want a 30-percent increase; that would be \$300 million.

What we are caught in now is, the budget is appropriated for level of service, and this budget was, as I said earlier, determined pre-pandemic, pre-EIP1, 2, and 3, and our call volumes have gone up between 2 and 4 times, depending on the time of service. And we have 13,760—Congress did appropriate 1,000 more in the last budget. It takes us 14 weeks to train those folks. They will be coming onboard in the summer.

Senator CARPER. I have a question for the record. You and I talked on the phone about the IRS's Free File program, which allows people, for free, to get help in filing their taxes. And I am going to ask you to, for the record, provide that response, to share your views with us on the future of the Free File program, what can be done to make this program more widely used and more effective.

The other thing I would ask you to respond to, for the record, is, we have four committees that have jurisdiction over surface transportation legislation, and one of those is the Environment and Public Works Committee. The others include the Banking Committee, which has transit; the Commerce Committee, which has rail and safety; and this committee, whose responsibility is to figure out how to pay for things.

The gas and diesel tax in this country has not been raised, I think, since 1993. We have been stuck at 18 cents per gallon on gasoline, 24 cents a gallon on diesel. Meanwhile, we have seen the shortfall for monies we provide through the user fees for roads, highways, bridges, and so forth, transit, that has now ballooned to like hundreds of billions of dollars.

I am interested in exploring, for the record, a response from the IRS. If the gas and diesel tax were raised maybe about a penny a quarter, a penny per quarter, starting in the next calendar year, 4 cents over a year, for a number of years, is there some way to somehow rebate that money, approximately, to families whose savings income is below median family income? Could you use the tax code to do that?

I do not expect you to do this on the fly, but I want you to talk with your folks about it. The administration has expressed a reluctance to do anything that affects folks whose income is under \$400,000 a year, raising user fees like this. And my response is, you mean somebody who is making \$300,000 a year should not have to help pay for our roads, highways, and bridges?

I am looking for ways that we could possibly use the tax code to rebate to families below a certain income level and make them whole. If you can do that for the record, I would be most grateful.

Commissioner RETTIG. We will take a look.

The CHAIRMAN. I thank my colleague.

Senator Portman is next.

Senator PORTMAN. Thank you, Chairman Wyden. And, Commissioner, I really appreciate your being here and, more importantly, what you and your team have done over the past year. I know it has been a big challenge for you, including workforce challenges you have had with COVID, and people working remotely, and also being asked to do so much by us, including the direct payments and CTC changes and others.

I appreciate your staying in touch with us. On the tax gap, I was intrigued hearing earlier the comments from Chairman Wyden and other members of the committee. I think this is a great opportunity, and it has always been kind of a frustration, you know—how do you get at it?

You mentioned more electronic filing. That is happening. That should make it easier. As you know, we exceeded our expectations on that. You also mentioned information reporting to help close it. We are working on a cryptocurrency bill which would define cryptocurrency for tax purposes and try to provide appropriate reporting rules.

Can you give us any specific suggestions on what reporting would be helpful on the cryptocurrency side, and would that help in closing the tax gap?

Commissioner RETTIG. Absolutely, reporting with respect to cryptocurrencies would be important. I think it is noteworthy, if you go back and you look at the 2019 Form 1040, I was instrumental in adding a provision—together with Diane Grant, who is here with me today—adding a provision in there asking the question, did you have transactions in cryptocurrency? That got on, because of timing, it got on a schedule further in. But on the 2020 Form 1040, right under the address portion, is a cryptocurrency question similar to the FBAR question. It is a yes/no question.

So visibility—and we could give you a lot of guidance from what we see with respect to areas in the crypto world. It is replicating itself constantly. And so now we have these non-fungible tokens, which are essentially collectables in the crypto world. These are not visible items by design. The crypto world is not visible.

I will say, in the criminal context, the IRS Criminal Investigation Cyber Crimes Unit has been spectacular operating in the dark web, engaging with cryptocurrency-related transactions. So we have a lot of experience there.

Senator PORTMAN. Great. We would like your input on it and to get some technical advice. We are working on the bill; it is meant to be bipartisan and something that can help to close the tax gap in that area. Obviously there are a lot of other issues related to cash businesses, and frankly going to the issue of modernization. Back many years ago when I was working on IRS reform, I remember getting this call from a constituent saying, “I had to wait on the line for 45 minutes. I am not going to keep waiting on the line that long.” And here we are again, waiting on the line for 45 minutes, and therefore this individual chose not to file.

So part of the modernization efforts that we have been trying to undertake is about closing that gap as well. Do you agree with that? And let me ask you specifically about what happened with the filing season in 2019.

We still have people who filed paper returns who have not heard. And this is tough for them. One is actually a cousin of a Tax Court judge who happens to live in Ohio, who calls every couple of months and says, “You know, I’ve got to have my certification from the IRS that I have at least filed my tax return, because you cannot get a mortgage.” In some cases, people are not getting their refunds, because some people who file by paper do actually expect a refund, and they have not been able to get it.

It has caused a lot of complications. And some have received this CP-59 notice for failing to file a tax return, even though they filed it over a year ago. So I know you have made some progress in reducing the mail backlog, but unfortunately a large delay still exists. What do you plan to do to mitigate the impact on these taxpayers? And how does this delay impact the processing of the 2020 returns with these same individuals?

Commissioner RETTIG. We have about 1.7 million returns still in process that were filed prior to January 1st of 2021. Those for the most part will be 2019 returns filed in 2020.

We are current with respect to our mail. At one point we had over 20 million pieces of unopened mail. We are current, and that standard is actually right around a million pieces of mail. We always have substantial mail.

As far as processing returns, it is all hands on deck in our submission processing. We have mandatory overtime, split shifts, dual shifts, mandatory weekends, processing as quickly as we can. And we expect to get through this—you know, the term that we use, fortunately or unfortunately, is summer.

Being a lawyer on the outside, I used to categorize things and say, “Well, that is kind of a lawyer answer.” It is, because summer could be May or it could be September. I can just assure you that we are giving it our best.

Folks who did not get an EIP who have not had their 2019 return filed, must file a 2020 return to get the EIP. And we have a lot of avenues to help them with that.

Senator PORTMAN. Well on that, in particular, we have heard from constituents who cannot file electronically in 2020 because they do not have the Adjusted Gross Income from 2019, because they have not received from the IRS the processed return.

So it does look like your 2020 filing season as well. So I appreciate you throwing a lot at it. I think you should let us know what more we can do to be helpful, because this is causing real heartburn for people.

On the modernization effort—and this is an issue that you and I have talked about—one thing we got into legislation in 2019 was to have an Independent Office of Appeals. There is a concern about the independence of that office. It is that the IRS employees, particularly during COVID, did not have the ability to have video conferences. Often they were held by telephone, making it more difficult. And there are other concerns that they are not following the rules of independence that we laid out in that legislation.

How is the IRS protecting taxpayer data as employees work from home? And what technology is the IRS using to allow IRS employees to review but not retain protected taxpayer data such as trade secrets?

Commissioner RETTIG. As you can imagine, because we are one of the largest data warehouses on the planet—other than maybe a few organizations that probably do not have an identity—but because of that, we collect data from everybody who does business in the United States, as well as every American.

So we take to heart the protection and security of the data that we do have. Tying that into the Independent Office of Appeals, I also, from the outside, worked with Appeals for 36 years. I truly respect the independence of Appeals. Most matters that are not resolved in exam are actually resolved inside Appeals. And the training and effort—every employee could not become telework-eligible because every employee did not have a particular secluded area maybe at their home, or did not have broadband, did not have this or that.

So the ability to telework, work from home, and particularly to use accessed taxpayer data, was determined on an individual basis, based on the employee's circumstances. We do have employees who we could not get into—

The CHAIRMAN. We are going to have to move on, Senator Portman.

Senator PORTMAN. Thanks, Mr. Chairman.

The CHAIRMAN. I look forward to following up with you.

Senator Cardin, on the web.

Senator CARDIN. Thank you, Mr. Chairman. And, Commissioner, thank you for your service, and thank you for being before our committee.

You have heard so many of our colleagues talk about the tax gap, which is shocking—a trillion dollars. That is obviously of concern to every member of our committee.

I want to question on the other end. That is, those who are entitled to benefits under the tax code but have a hard time accessing those benefits. Some use paid tax preparers. Others are having a hard time getting through the requirements in order to get the qualifications. The Earned Income Tax Credit is more challenging than it was before.

I regret that we were not able—and I know the chairman worked very hard on this—to give you back the regulatory power in regards to paid tax preparers. But can you just share with us your concern as to being able to protect some of our most vulnerable taxpayers without the ability to regulate the paid tax preparers?

Commissioner RETTIG. We absolutely need the ability to regulate paid tax preparers—and we talk in terms of the most vulnerable taxpayers, the EITC recipients, individuals living in different communities, and also in ethnic communities, individuals who are challenged with the English language. Some of the preparers—you know, they look to somebody, or if they are in fear of the U.S. Government, they look to somebody who might have a comfort factor there, and it is not at all unusual for those individuals, the taxpayers, to be taken advantage of.

In the EITC context, 51 percent of the EITC returns are prepared by preparers. A majority of the mistakes—the mistakes made by preparers in the EITC context—are significantly greater than mistakes made by individuals who prepare their own EITC returns. Individuals generally know whether a child resided with

them or not for more than 6 months. They generally know whether they provided more than half of the support. Preparers, in certain contexts, certain preparers take advantage of the situation.

If you look at the Criminal Investigation cases that we refer to the Department of Justice, the vast majority are of preparers. And in the last year, IRS Criminal Investigation ran 450 undercover operations. Many of those were posing as taxpayers in the preparer community. And many of those led to referrals to the Department of Justice for prosecution.

So without regulation of paid preparers, it is very difficult for us to monitor them. And most preparers, obviously, it goes without saying, are amazing and help the tax administration in this country. They provide comments to you. They provide comments to us. But there is definitely an element out there, as there would be in any type of a community, that takes advantage. And we need to go after that element. And without regulation, we are left with either criminal cases or civil fines, which are a much more complex thing.

Regulation gives us the ability to preclude them from interacting with the Internal Revenue Service, essentially precluding them from having the ability to prepare returns. We absolutely need that ability.

Senator CARDIN. You know, Mr. Chairman, you have expressed, and we have all expressed concerns about the accuracy of the applications for the Earned Income Tax Credit and others. And I think what the Commissioner is telling us is, a lot of this rests with the paid tax preparers.

So I would hope that we will once again try to find a bipartisan way forward to provide reasonable authority to the IRS to regulate tax preparers. It is in the consumer's interest. It is also in the taxpayers' interest that we do this.

Mr. Commissioner, I want to ask you one additional question, if I might, and that is about your outreach to the underserved communities. We have the VITA programs. What are you doing in order to try to assist those who find it more challenging to get services from government to deal with our tax code?

Commissioner RETTIG. Well we, with respect to this last year, opened up the Low-Income Taxpayer Clinics to actually prepare returns. Obviously, we have the VITA sites.

We partnered with more than 11,000 different organizations during the past year with respect to EIPs in filing season. We partnered with over 400 homeless shelters to be able to have what we call trusted partners to receive information for unsheltered homeless individuals.

We did a historic launch in the language area for the first time in history. The Form 1040—the Form 1040 for 2020—is in English and Spanish. Individuals who call in to our phone service get translation services in up to 350 different languages.

And if I might add one more point, the 2020 1040 has a Schedule LEP, Limited English Proficiency. An individual can check one of 20 boxes as to what language they would like us to communicate with them in writing.

So far, we have received over 220,000 of those forms completed. And I give this—the benefit of all this is IRS employees. I opened those doors on languages. As you know, I am sensitive to the com-

munities. I opened those doors, and our employees went through with passion and were really creative and dedicated.

Senator CARDIN. I would just ask you, as you request additional funds, if additional funds are needed to reach underserved communities, I hope that is part of your request.

So thank you, Mr. Chairman.

Commissioner RETTIG. Absolutely. Thank you, sir.

The CHAIRMAN. Thank you, Senator Cardin. And thank you for all your leadership on the tax preparer question, which is hugely important to protecting consumers.

Senator Whitehouse is next.

Senator WHITEHOUSE. Thank you, Mr. Chairman. Commissioner, it is good to have you here.

When you were here for your confirmation, I asked you about the 501(c)(3), 501(c)(4) reporting problem. As you know, a lot of these organizations report that they have nothing to do with politics when they file with the IRS, consistent with IRS regulations. And then they turn up in election filings at the Federal and State level with tens of millions of dollars claimed in spending in political races.

That would seem to be a pretty flagrant predicate for a false-statement investigation, and yet we have a failure in the government between your organization and the Department of Justice.

The Department of Justice will not look at these flagrant, obvious predicated false statement concerns without a referral from the IRS. I have a separate problem with the Department of Justice over that policy, which I think is idiotic.

But setting their problems aside, on the IRS side, have you made any referrals since you have been here for any of these discrepancies in reporting out of 501(c)(3)s and particularly 501(c)(4)s?

Commissioner RETTIG. I don't have that data, but I will get you that data. But I will say that—

Senator WHITEHOUSE. Would you mind telling me when, because I have a very long record of executive agencies saying that they will get me things, and then never doing it.

Commissioner RETTIG. I will let you know this week when we know.

Senator WHITEHOUSE. Great, thanks.

Commissioner RETTIG. And our office will get back to you. But people should not assume that we are not doing something just because it is not visible.

Senator WHITEHOUSE. Okay; well, that is what I want to find out. Because I think this referral policy is a mutually agreeable situation between DOJ and IRS where powerful special interests get to get away with things, and neither organization has to deal with any backlash because you do not make referrals, and they demand referrals. And to me that is just not appropriate when you are seeing public reporting showing what seems to be really strong predication for a false-statement case. Because both of these statements are filed under oath, and both are different. And it is hard to see how both can be true.

On to the Treasury IG for Tax Administration report. The IG said that wealthy taxpayers are paying 39 percent of what they owe; that \$2.4 billion in revenue was lost to the Federal Govern-



ment as a result; that this is not a collection priority for your collection folks; that there is no strategy to address nonpayment by high-income taxpayers; and the Treasury IG for Tax Administration made a number of recommendations, and you rejected five of them.

Can you tell me why?

Commissioner RETTIG. I think, one, I disagree with their report entirely, and I am more than willing to have a discussion with you separately about that, or anybody else, with respect to sometimes what might be in those reports.

But I would draw your attention to the management report there. And I think that the statement that high-income non-filers are not a priority is absolutely false.

Senator WHITEHOUSE. All right. Well, I would love to see that, because you are the first person who has—

Commissioner RETTIG. I will meet with you personally and walk you through it, and I will bring our team.

Senator WHITEHOUSE. Great. No, I would love to see some evidence of that, because all the evidence seems to be the exact opposite way: that you are more likely to get audited if you get an Earned Income Tax Credit as a very poor person—

Commissioner RETTIG. That is false.

Senator WHITEHOUSE [continuing]. Than you are to be audited if you are a very wealthy person surrounded by lawyers.

Commissioner RETTIG. 2019's Data Book, page 34, Table 17-A: high-income taxpayers are audited more than any other taxpayer there; over 8 percent of the people over \$10 million. In EITC folks, it is 1.12 percent. And those are actually hard statistics. We are about ready to issue the 2020 data book—

Senator WHITEHOUSE. I want to get to the bottom of this with you.

Commissioner RETTIG. I am more than willing to come and sit with you on that as well, sir.

Senator WHITEHOUSE. The last topic is that Congress, on a bipartisan basis—much thanks to the leadership of Senator Crapo, the ranking member on this committee—passed a new law obliging shell corporations to report their true beneficial owner to FinCEN at the Treasury so that we can look behind the screen of these corporations and see what criminals, tax evaders, foreign kleptocrats, and other evildoers are up to using the American corporate shield as their device.

Could you give us—in my last minute here—an overview of what you are doing to implement that new law?

Commissioner RETTIG. We have teams that, when legislation passes, they do it. But the real implementation happens in the trenches. It is our front-line employees, so, training the employees on new legislation, and having them go seek. Our struggle, as you are aware, is our front-line agents, which are the examiner revenue agents, who are our most highly capable employees. We only have 6,500 of them, and they are fully deployed in the high-wealth context.

In terms of organizations and nonprofits—that is tax-exempt government entities—I think the committee is aware that our Deputy Commissioner of Services Enforcement, Sunita Lough, just moved

over to TEGE, and she has a strong history with TEGE. She was formerly a Commissioner in TEGE, and I would encourage you to invite us up for briefings in that space.

Senator WHITEHOUSE. All right. It sounds like, at this point, the implementation is primarily in the training of front-line—

Commissioner RETTIG. No, I would not say that. It takes us a while to train, but it is not just in the training. It is in the—

Senator WHITEHOUSE. What else? For instance, have you got a link of some kind with FinCEN so that you can make appropriate requests when it bumps into the—

Commissioner RETTIG. I will have somebody brief you on exactly what is happening there. That is not something that I am directly involved in, as you are aware.

Senator WHITEHOUSE. That ends my questioning and my time, but, Mr. Chairman and Mr. Ranking Member, this may be something that, given the bipartisan support and interest in this committee in getting this shell corporation problem solved, should perhaps be done as a committee-wide briefing so that everybody has the chance to understand what is going on to enforce the law that we passed.

I am happy to take the briefing myself, but I think it is probably going to be of interest to all of the—or a great many of our members.

The CHAIRMAN. I will follow up with the ranking member on that. And the point really is—and the Commissioner is seeing this—there is a connection between these issues. We are seeing huge tax gaps. We are seeing the question of the shell companies. We are seeing how modern crooks are constantly being more inventive and have better resources than the people who are trying to catch them when they abuse the laws. So we have a lot of heavy lifting to do here.

Commissioner RETTIG. We are fully supportive of that.

The CHAIRMAN. We appreciate that.

And Senator Cassidy, I believe, is going to be next on the web.

Senator CASSIDY. Can you hear me, Mr. Chairman?

The CHAIRMAN. Yes.

Senator CASSIDY. Okay. Mr. Commissioner, thank you very much for your service and for the service of all the Treasury Department employees. Thank you for what you all are doing.

One thing that I proposed is that in Louisiana, with our geography, we tend to get more hurricanes than almost anybody else, maybe more than anybody else, and almost every time there is a major disaster in whatever stage it occurs, there is going to be some tax provision that allows disaster tax relief.

My question is, I propose making this permanent. Would it help the IRS if, as opposed to waiting until it is passed to then implement, if you knew that once there was a federally declared disaster of some magnitude, that you would immediately begin to click into the implementation of this? I am maybe begging the answer, but I still think it is important for the record.

Commissioner RETTIG. Yes, I think you are begging the answer a little bit. Everybody should know that we monitor legislation. We plan for that legislation. And when there are multiple bills pending and they start to merge, our planning merges. And that is why—

I think it is obviously clear—we are able to launch our activities as quickly as we are.

So you know, we would be supportive. We have to follow the law. We cannot launch until there is actually a law that supports our ability to do so.

Senator CASSIDY. So if the law was in place then—granted, the efficiency of your staff somehow overcomes it—but if the law was in place, obviously you could launch before, because the law would already be in place. And I do not think I am begging that answer; I think I am just pointing out the obvious.

Commissioner RETTIG. Correct.

Senator CASSIDY. Going to a different issue, in May of 2020, Senator Brown and I introduced legislation to ensure that lower-income families impacted by the coronavirus outbreak could use their wages reported in the 2019 tax return to determine their eligibility for the EITC and the CTC on their 2020. This was included in the December 2020 relief bill.

Can you just give me an update on what IRS has done to make sure that folks will know they are eligible for this relief?

Commissioner RETTIG. Yes; again our outreach, I think, has been more significant than any outreach by the IRS, possibly than any Federal agency in history. Unfortunately, as a Federal agency, sometimes when we think we are doing great, if we put something for example on *irs.gov*, or we issue notices, there sometimes tends to be a belief that folks might actually look there. But in this context during 2020, as I indicated earlier, we partnered with over 11,000 different organizations. We partnered with every other Federal agency. We partnered with HUD, and aggressively so, in terms of getting the word out, getting forms out, getting instructions out.

We had people on the ground throughout the country in 511 different offices, and our folks started coming back in June. I did shut it down in March, but our folks started coming back in June. And the vast majority of people who had a reason to be in the office, who could not otherwise telework, were in our facilities.

Senator CASSIDY. Got it. Let me ask you one more thing—we talked about it yesterday on the phone—the stimulus checks for prisoners. Last year when Congress passed the CARES Act, IRS determined prisoners were not eligible.

As we spoke about, the 9th Circuit ruled otherwise. I proposed an amendment in this latest COVID relief package to prevent those who have been convicted of a crime and sentenced, and currently are incarcerated, from receiving stimulus checks. Surprisingly, that turned out to be partisan, with every Democrat opposing not giving a check to a rapist or a murderer or a terrorist. It was just the most amazing thing. But I recently saw press reports indicating that prisoners in some States had received debit cards which were unusable and had to be replaced. Knowing that the IRS is somewhat stretched thin, there are some folks in my State still waiting on their stimulus check.

So I guess, what are the priorities here? Replacing the debit cards for the inmates or getting folks who are not incarcerated their stimulus checks? It is just kind of amazing that we are giving them to prisoners anyway. And are there administrative challenges

to providing stimulus checks for prisoners that take up IRS resources that could be used for other purposes?

Commissioner RETTIG. First, Secretary Mnuchin is the one who made the policy decision on not paying prisoners last year, and then we reversed that when the 9th Circuit—excuse me, when the District Court ruled against us.

With respect to the debit cards, I think as most people know, we actually do the files. We deliver the files to the Bureau of Physical Services to determine—for unbanked people, they determine whether it is a check or a debit card. Those debit cards should not have been issued by the BSF to prisoners. There is a note on the individual's forms that indicates that. And those debit cards came back and will be replaced by checks.

And as far as the decision or the policy on prisoners receiving or not receiving, we are only a tax administrator. But the individuals could file a 2020 return. There is a separate issue with, for prisoners having access to the 2020 return, having access to the online ability.

We are distributing over 200,000 simplified Form 1040 packages to over 200 different prison institutions in the country to facilitate their ability to file 2020 returns.

The CHAIRMAN. I thank my colleague. Senators obviously have a hectic schedule this morning. The order now is Senator Cantwell, Senator Brown, and Senator Lankford for the next three questioners.

Senator Cantwell?

Senator CANTWELL. Good morning, Commissioner.

Commissioner RETTIG. Good morning.

Senator CANTWELL. Commissioner Rettig, I appreciate you being here today and all your hard work, particularly in such a busy season. I know you already know that you are receiving, or have received, a letter from myself and Senator Toomey about the tax season payment, wishing that the first quarter estimated tax payment deadline would be extended to individuals.

We do not get this difference between individual filers and estimated filers, and the confusion that we think is being caused. And so do you have a comment about the letter? I mean, you do have the ability to do this, correct?

Commissioner RETTIG. It would be a Treasury call, and I have not received the letter. I am obviously familiar with the issue, and we will not be extending the estimated payment beyond April 15th—

Senator CANTWELL. Well, if it is a Treasury call, then why are you saying that?

Commissioner RETTIG. Because we are working with Treasury. Obviously the first call was made with Treasury, and this call was made with Treasury. And I am a bureau of Treasury supervised by the Secretary.

Senator CANTWELL. I think I understand that. So we will take it up with the Secretary of the Treasury then as well, and the White House, because, look, this makes no sense.

You have mom and pop businesses that have a hard time anyway complying with complex regulations. And now we make it seem like they do not have to file until May. But then all of a sud-

den, they start the process and they realize that, oh, they were supposed to make a payment anyway.

And so this, I think, is confusing. I think it is unnecessarily confusing. You also probably have some 1099 individuals who are not—you know, if you talk about the gig worker—also really not sophisticated tax filers, and they are also confused by this deadline.

So the deadline that is May 17th, but really requires people to do something beforehand is, I think, at least for this segment of the population, confusing. I just do not get it. I just do not get why we are creating this level of uncertainty in this environment, particularly when there are probably other complexities related to the COVID packages and what people might have done in the COVID packages.

So then you create more work for yourself later in the process when people overpaid or underpaid, and then we have to figure that out later. I don't know, it just seems to me that it adds to a lot of confusion when we could be saying to everybody, "The deadline is May 17th; that is the deadline."

Commissioner RETTIG. There are numerous other deadlines that were not extended. The only deadline that was extended was the filing of the Form 1040 and affected taxpayers associated with the 1040. We did not extend any other deadlines.

Last year was different. This year is different.

Senator CANTWELL. I think, Mr. Chairman—personally, I think Senator Toomey and I have a well-founded point, particularly as it relates to small businesses and the confusion.

I have certainly heard from lots of people in the State of Washington over this. I am sure we will hear more about it later. So I certainly will push my case to continuation with the rest of Treasury and the administration.

Thank you, Mr. Chairman—oh, one other question, actually, since I have a minute here. I want to understand—the IRS recently put out proposed regulations on income averaging which create a set-aside test that operates completely differently than the other set-aside tests within the Low-Income Housing Tax Credit.

So I am concerned about that. I understand there was a hearing on this in March and would like to know if the IRS is considering any changes to the income averaging regulations to bring them more in line with other LIHTC set-aside tests?

Commissioner RETTIG. I do not have the updated information at the hearing, but we will brief you or your staff, and do that in short order.

Senator CANTWELL. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Cantwell.

Senator Brown, you are next on the web.

[No response.]

The CHAIRMAN. And then Senator Lankford is next, while we wait for Senator Brown. Senator Lankford?

Senator LANKFORD. Thank you. Thank you, Mr. Chairman.

Mr. Rettig, thanks for all the work. There is a lot going on, to say the least. The IRS is being tapped right now to send checks when you are really designed to be able to receive taxes and be able to process those efficiently.

There is a tremendous backlog right now that you are working through, I understand. Can you give us an update on the backlog, on the mail coming in and what the status is for being able to answer mail? We still get a tremendous amount of calls from people saying they are calling the office, trying to get through as well. So help us understand the status on that.

Commissioner RETTIG. We are current on our mail, which means that we have a more typical backlog, which is about a million pieces of mail being processed.

In terms of returns, we have about 1.7 million returns that came in during 2020. And that is a priority for us to get through those returns.

In terms of level of service and the phone calls, the volume of in-bounds has probably gone up as much as four times, depending upon the time of the day. I think I might have indicated earlier that we have received as many as 1,500—one thousand, five hundred—phone calls per second on some of the days.

Our *irs.gov* has had over 1 billion hits in calendar year 2021. And one of the issues is that the level of service, and the staffing, and whatnot inherent with that is determined about 2 years in advance, and it is an appropriated item.

We did get budget to bring on board 1,000 people from the last act, and those people are in training. It takes 14 weeks to train them, to get them on the phones, because obviously, somebody who is trained is better on the phones than somebody who is not trained.

So all I can really say is, we appreciate the patience and understanding of everyone. We are operating, I used the term earlier, at “all hands on deck.” We are doing that everywhere.

For a lot of these activities, we cannot take somebody from one position and move them to another one. One, we need them in that position; two, they might not be trained. But what we have done, where people have moved off of a certain position and they were previously trained, we have taken those folks back into that position to try to do our best. And we get it, that it is far from perfect.

Senator LANKFORD. All right; that is helpful to be able to get the update and be able to get that out.

Economic Impact Payments, when they went out last year, individuals who received those checks were fine, they received those; others who did not receive them for whatever reason, they had to then file for them on their taxes.

What I am finding from some of my constituents now is they file it on their taxes, and if they have outstanding debt, that debt is being withdrawn. They are calling our office and saying, “If I received the check, then I would have just received the entire thing. If there was other debt that was outstanding, it is being withdrawn from it.” Can you help to provide any clarity there?

Commissioner RETTIG. Yes, that is the—there are certain provisions in certain areas that allow for an offset as far as the EIPs with respect to tax debt. EIP1 was different than EIP2, and EIP3 was different than EIP1 and EIP2. You know, individuals should reach out to us if they are in that situation, but essentially we are following the law. We are trying to do our best. Where we can exercise discretion, we are exercising discretion.

Senator LANKFORD. Let me ask about cryptocurrency. I have had folks who have asked about a very confusing aspect of our law, and again what I want to try to get from you is, what clarity is needed on this? Any time a cryptocurrency is cashed in or changed into a fiat currency, it is a taxable event because it is property that is actually moving into that.

What would you suggest is the best place to be able to get information? And what do we need to do in Congress to be able to deal with the cryptocurrency issues, and to be able to clarify what is a taxable event, a nontaxable event, and how they can actually manage that?

Commissioner RETTIG. Yes, we have issued some guidance. We will continue to issue guidance and work with Treasury with respect to the issuance of guidance. And you know, it is not too dissimilar than other property-type issues and the interests that people have.

There is some uniqueness to it, you know, in terms of split forks and such. But by and large, it is there. In terms of assisting us in that arena, obviously information reporting would be significant and huge in helping us, going forward. That is kind of a universal answer for us on our behalf, but it definitely works. More information reporting assists us in tax administration.

Senator LANKFORD. What would that look like for you to get more information reporting for that?

Commissioner RETTIG. 1099s.

Senator LANKFORD. For each of those events?

Commissioner RETTIG. If they are electronically filed, yes. Paper filed, we might trim it down.

Senator LANKFORD. Obviously, lots of folks use cryptocurrency for a lot of transactions, just in their daily or regular life—it may not be daily, it may be monthly, it may be weekly even, for different events. So you would consider each of those a 1099 taxable event?

Commissioner RETTIG. I am saying 1099s. I am not saying that they are taxable events. You can have transfers. You can split. You can do a lot of different things that are not taxable events. That is the guidance that we need to issue, and that is between us and Treasury to get that guidance out. But I think we have issued a considerable amount of guidance, considering the volume of crypto that is out there.

Senator LANKFORD. Okay. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague. The next three questioners will be Senator Brown, Senator Casey, and I see Senator Daines—the next three.

Senator Brown, on the web.

Senator BROWN. Thank you, Mr. Chairman. I hate to go before Bob Casey on his birthday, but you called on me, so I will.

Commissioner, first of all I want to start by saying “thank you” to your outstanding employees at the IRS. You and your workers, the professionals at the IRS, have withstood years of budget cuts, then the pandemic, and a Congress that keeps giving you more and more work to do, even right in the middle of a filing season.

The IRS has been under-resourced for years. You have my commitment to get you the resources you need—I know Chairman Wyden cares about that—to hold corporations accountable for taxes

they owe; getting working families the tax returns they need, including that they have earned, including the significant expansion of the Earned Income Tax Credit and the Child Tax Credit we passed in the American Rescue Plan, including monthly distributions as we talked about, Commissioner, of the CTC. The expectation from me and from Senator Bennet, especially on this committee, and other members of Congress, is the distribution will start going out monthly starting in July.

My question is simple: is the IRS on track for monthly payments starting in July?

Commissioner RETTIG. We are. If we end up not being on track for some unforeseen situation, we will advise you and the committee.

Senator BROWN. Thank you for that, Commissioner.

On a related note, I want to address the alarmism we hear from some of my friends across the aisle about improper payments with the EITC and the CTC. That alarm ignores the billions in revenue we are losing out on from corporations and wealthy people who use every trick in the book to try to get out of paying their fair share.

I remind my colleagues, we have already passed the set of program integrity measures with their support in 2015, as part of the PATH Act. There are two additional bipartisan measures we can take to reduce improper payments and make sure Americans get the refunds they have earned. One of them Senator Cardin mentioned—I thank him for leading that effort—is regulating paid tax preparers. Just to follow up on that question, would we see fewer improper payments if IRS could set minimum competency standards for paid tax preparers?

Commissioner RETTIG. I believe absolutely, yes.

Senator BROWN. Thank you. And I appreciate our private conversation last week about that. As I run out of time, I will raise another bipartisan way to ensure more accurate returns, by supporting VITA, the Volunteer Income Tax Assistance program. VITA has a 94-percent accuracy rate, as you know, Commissioner. If you want an accurate EITC or CTC return prepared, have it done by a VITA volunteer.

Commissioner, I know that VITA is stretched thinner than ever. Will you use part of the IRS funding from the American Rescue Plan to support VITA through the calendar year to help families get their stimulus checks and their Child Tax Credit?

Commissioner RETTIG. VITA is an appropriated item, and we are using every resource, including numerous IRS employees who volunteer for VITA. I just got an email yesterday from an employee expressing her pride at the volume of folks coming in to do returns and getting EIPs out. She said that over 98 percent of the ones that she has done returns for have received their EIPs, and she is very proud to participate in that. And that goes throughout our agency.

Senator BROWN. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Brown, and especially for recognizing our wonderful volunteers. That is such an incredible asset right now. Senator Daines—no, excuse me, Senator Casey is next, and then Senator Daines.

Senator Casey?



Senator CASEY. Mr. Chairman, thanks very much. And I want to thank you, Mr. Chairman, for the work that you did working with Senator Brown, Senator Bennet, and others on the expansion of the Child Tax Credit, and so many other provisions in the Rescue Plan that relate to children and seniors. I know we have more work to do, but I want to commend and salute your work.

Some of the questions that I will raise to the Commissioner are critically important to the people of Pennsylvania, as the Commissioner knows, and I want to thank the Commissioner not only for his public service, but for spending the time recently, as he did, with so many members, to meet with us, with me and my team, and to discuss some of the challenges that Pennsylvanians are facing in tax filing.

We understand—or at least I have some sense of the tasks that your team has undertaken this past year. I have in the past, and will continue to advocate for the IRS to have the resources available to fulfill its responsibilities to taxpayers.

My office, as the Commissioner knows, has heard from Pennsylvanians whose returns have been referred to the Error Resolution System, but have not received communication from the IRS as to why their return was flagged, or how to correct their return.

So I would start with this question, Commissioner. Can you explain the steps that the IRS is taking now to ensure taxpayers understand why, why their returns are being flagged?

Commissioner RETTIG. We have done a fairly—again, IRS-speak, you know, maybe not in the private sector or other people—but for us, we believe we have done a pretty fair amount of outreach, and we continue to do so.

In terms of the Error Resolution Service, historically it has been about a 3- to 5-day process. It is currently running about 10 to 14 days. We currently have an inventory of about 1 million—exceeding 1 million, but about a million matters there.

Where we could, in other arenas we have actually transshipped physical items and returns to other campuses. I think as everybody knows, the Error Resolution System operates out of Kansas City.

The top five issues of why returns are in there, just quickly, are return recovery rebate matching EIP1 and EIP2 against their RRC claim; the EITC with people who elected for 2019 as opposed to 2020; the additional Child Care Credit they claim on the return does not match the information that we have; EITC math errors; and the last one is that they received a premium tax credit but they did not file the Form 8962. And for individuals who do their own returns, the software actually requests that.

But those have been the most prevalent, and they are fairly consistent across the board as to what is pulling returns out, and Error Resolution System is a manual process. And we have put as many folks in there as we can. We get it, and those need to be processed. We are doing the best we can. That does not mean that we are doing well, but we are doing the best we can.

Senator CASEY. Well, Commissioner, thanks for your attention to that issue.

I wanted to make reference to a report in March in *The Washington Post*. The *Post* reported that a caller was told by an IRS call

center agent that over 7 million returns were sent into the Error Resolution System to, quote, “buy time,” unquote.

I would ask, just by way of follow-up, can you share how the number of returns being routed to Error Resolution this filing season compares to previous years? And also, a second question is, what is the IRS plan to resolve this?

Commissioner RETTIG. First, let me just say, we do not do something to “buy time.” If somebody gave that comment, they did not know what they were saying and should not be working for the Internal Revenue Service.

We are a service organization on behalf of the people in this country, and that is just outrageous. Nobody should say that. We do our best. We have processes, and those processes are in place.

In terms of Error Resolution, historically we did not have issues with respect to individuals who could elect, say in this year, 2019, as opposed to 2020, for their EITC. We did not have the matching with respect to the EIP1, EIP2, and the return recovery rebate.

Those are the top two of the five most prevalent issues as to why things get into ERS. And you know, it has certainly increased the volume. If you want a year-to-date item, I do not have that present, but I certainly could give it to you. But you know, we got hit with a couple of additional issues. We got hit with the pandemic. We got hit with staffing issues, and we have had difficulty hiring during this period of time.

And we are hiring, for anybody who might be watching and listening. And on behalf of every member of the committee, now or at other times, I would encourage and invite you to visit some of our facilities. Our employees would very much like to see you, the ones who are on-site. And you know, it is quite meaningful when people do show up.

We have had people show up, you know. Members of Congress show up at some of our facilities, and it does help the motivation of our employees.

Senator CASEY. Commissioner, thank you very much.

Thanks, Mr. Chairman.

The CHAIRMAN. I thank our colleague. And if it did not come through, a big “happy birthday” to our friend.

Our next questioner will be Steve Daines.

Senator DAINES. Thanks, Mr. Chairman.

Commissioner Rettig, thank you for being here today. As Montana’s U.S. Senator, and bringing 28 years of private-sector experience to this job, I truly believe we are here to serve and not to be served. I believe it very important that government works to make life easier for Montanans, and all Americans, on issues they are facing every day. For example, paying taxes.

A Montanan from Billings brought an issue to my attention that I would like to briefly discuss. This individual lost his mother in January of 2020, and only then found out that she had not filed taxes for fiscal years 2017, 2018, and 2019, due to the fact she was ill. He completed and mailed the returns to the IRS in April of 2020, so about a year ago. This Montanan is trying to close out the estate. However, he cannot do so until he receives the refunds as a result of filing these tax returns.

The IRS is not showing they received the returns. My office submitted copies of these returns to the IRS to ensure that they had them. I have heard from other Montanans who have e-filed returns that are not showing up in the IRS system as having been received. And in some instances, this backlog has prevented individuals from even receiving their Economic Impact Payments.

A question, Commissioner Rettig—and I thank you for your passion in the comments you made about service; I think that is really important in the role that you have, and we all have. Could you provide any sort of timetable for when the IRS might fully clear out its mail backlog and help Montanans who are navigating through tough situations like this constituent from Billings?

Commissioner RETTIG. Our mail is current. We have a million pieces of mail. We get about a million to a million and a half pieces of mail per week, and we work through a million to a million and a half pieces of mail per week.

Obviously, we are a large operation in terms of that. So our mail is current. On the matters that you referenced, I would encourage your staff to reach out to me, or to my staff, and I think pretty much everybody on the committee has my cellphone. I have handed that out to members of the committee with the intent that you do so, and feel free to use it to me, and also the Deputy Commissioner Jeff Tribiano, because items that seem unusually long—and certainly April seems unusually long with respect to the estate—we will have somebody look into that.

Senator DAINES. I appreciate that, and the Montanans as well, and we will do that. We will follow up. Thanks for that open door.

Switching gears, I want to talk briefly about conservation easements. This is something that we talked about on the phone last week. I was glad to see it mentioned in your written testimony. Thank you.

Senator Stabenow and I will soon reintroduce our Charitable Conservation Easement Program Integrity Act, which seeks to restore faith in this very valuable conservation incentive by cracking down on these abusive syndicated conservation easement transactions.

Montana in fact is the national leader in the number of acres under conservation easement, with over 2.6 million acres conserved by these voluntary agreements. That is a big reason why I am very passionate about eliminating the abuse, these bad actors that are taking this tax deduction.

Could you provide a brief update of where things stand with syndicated conservation easements, for instance: approximately how many cases has the IRS prosecuted?

Commissioner RETTIG. By a head count, we have 28,000 taxpayers under examination in those easements. We have cases in Tax Court. We have cases in various other courts. We have cases on IRS appeals. You know, we have in excess—well, for tax years 2016, 2017, and 2018, we had about \$21 billion of deductions that we do not believe people are entitled to.

We will soon have information with respect to 2019. I know the committee has held hearings in the space of syndicated conservation easements. We have criminal matters—we recently received two guilty pleas down in Georgia from some advisors.

We have just announced this week somebody agreed to a lifetime injunction to preclude themselves from the ability to participate in these. We have quite a few cases, civil and criminal, with respect to advisors and others. But really to get through it, I think most people would say we absolutely need legislation. The legislation has been pending. We would certainly like to work with members of Congress on legislation and administrability of such legislation.

Senator DAINES. What is your sense of approximately what it might cost the IRS to litigate these cases one by one? It has to be a very costly endeavor.

Commissioner RETTIG. It is absolutely hundreds of thousands of dollars. We are up against people who are funding litigation to the extent of millions and millions of dollars per case.

Senator DAINES. And do you think these resources could be put to use elsewhere, if legislation like the Charitable Conservation Easement Program Integrity Act is signed into law?

Commissioner RETTIG. There is no shortage of places for the IRS to put its resources. We are resource-challenged. So in this space, we have many hundreds of employees, from lawyers down through agents and everybody in between, plus support folks. And you know, it just needs to be stopped.

Senator DAINES. Thank you. And I want to thank you, Commissioner Rettig. Please pass along my gratitude to your workforce, which I know has been working very, very hard in the past 12 months under difficult circumstances.

Commissioner RETTIG. I appreciate that.

Senator DAINES. Thank you.

The CHAIRMAN. I thank my colleague.

And next will be Senator Warner, who I think is going to be questioning on the web. Senator Warner, are you out there in cyberspace?

Senator WARNER. Yes, I am, Mr. Chairman; thank you.

The CHAIRMAN. Great.

Senator WARNER. Let me follow up, pick up from where my colleague, Senator Daines, just left off.

Commissioner, thank you and your workforce. I know, with the pandemic, with the stimulus payments being sent out, it has been an incredibly challenging year. And I am going to take you up on your invitation to go out and visit the workforce.

I know—I think Senator Casey tried to ask you though, because we are both still hearing from a number of constituents who are concerned about the fact of 2019 tax returns still not being processed. I believe Senator Casey asked if you had any idea of the backlog. And I would be curious, how many tax returns prior to January 1, 2021, are still being processed? Can you get us that number at some point for the record?

Commissioner RETTIG. One-point-seven million.

Senator WARNER. One-point-seven? Thank you. And you had said, I believe, in your testimony before the House that you were going to try to get through this backlog by the summer. Are you still on track to do that?

Commissioner RETTIG. We are.

Senator WARNER. I think also, as we get into the President's new proposal on infrastructure and how we pay for it, one of the areas

where there might be broad-based understanding is this tax gap, which I understand by some estimates—the National Bureau of Economic Research said it is about \$600 billion. I understand, Commissioner, you have said it may be as large as a trillion dollars. I think President Biden has moved forward with an increased funding proposal of about 10 percent.

I know former Commissioners Rossotti and Goldberg have argued for a more dependable multi-year income stream. Have you seen a proposal out there on a multi-year income stream that might give you and your workforce a little more assurance about funding that you would be willing to support?

Commissioner RETTIG. I personally, and as Commissioner of the Internal Revenue Service, fully support every proposal from every person with respect to funding. What we need is consistent, adequate, multi-year funding. And it needs to be appropriated in the right positions. And there are accounting financial issues as to where it needs to go so that we can get the best use for it.

We proudly serve more Americans than any other organization, public or private. I think it is in everybody's best interests—and I think folks are aware that we account for 96 percent of the gross revenue of the United States of America. Our last gross revenue, Fiscal 2019, was \$3.56 trillion. And when we look at the tax gap, we know that we could do better.

The desire of our employees to do better is there. We need the tools. We need the resources. We need the staffing. We need the training. We need modernization. We need information reporting. It is a multi-faceted approach, but I believe in my interactions with members of the committee, I think there is strong bipartisan support to get us there. And I know that it is our responsibility to handle any funds we get efficiently and appropriately. And we intend to do so.

I have invited, from before I became Commissioner, oversight from this committee and everybody else of any funds that the Internal Revenue Service gets. I see us in this together. Tax administration does not just belong to the Internal Revenue Service. It belongs to members of Congress. It belongs to taxpayers. It belongs to tax professionals. And I think we can get to a better place.

Senator WARNER. One of the things I hope to work with you on—and one of the disappointments in the March package we just completed was that we did not do the full level of IT modernization that, again, is not a silver bullet, but we do know your systems need to be upgraded.

In my last minute, I just want to raise the issue of gig workers—16 million gig workers in America. I do not think we are going to go back to a traditional 40-hour W-2 work week for all workers going forward.

One of the most important things I think we did in the initial CARES Act, under the chairman's leadership, was to expand unemployment to cover gig workers. I know in the American Rescue Plan we made some additional steps forward on making sure that those workers who make more than \$600 a year, that employers or payers would send out 1099s.

Commissioner, could you talk about other programs that you are looking at, at the IRS, and how we can deal with this 16 million

and growing contingent of the American workforce that does contingent or gig work, and how we can make their interactions with the IRS easier?

Commissioner RETTIG. Part of the issue with gig workers is our need for outreach, guidance, education, and the rest. And a lot of folks who get into a certain element of gig work, if you will, do so temporarily. Or it is a second job, and then they move on to another job, or they move on to education, and they do a lot of different things.

So from that perspective, it is somewhat of a transient workforce. And it is difficult for us to actually connect with them directly when we do that. And again, you know, mainstream media tends to be one of the best outlets, much more so than *irs.gov*, because the average gig worker is not necessarily going on *irs.gov* to see our latest notice. And my point there is that it is a collective responsibility for the IRS, for members of Congress, as well as folks on the outside, to get our messages across clearly, in single syllables, and be direct and timely.

And we take that to heart. And we do our best.

Senator WARNER. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague.

Senator Young, I believe, is next on the web.

Senator YOUNG. Well, welcome to the committee, Commissioner Rettig. And thanks for taking time out of your schedule. I know it has been a really busy time for the IRS. You have seen your role greatly increase over the past year in the midst of this pandemic.

Your employees have been asked to undertake all manner of COVID-related duties, like distributing each round of Economic Impact Payments to Americans, and still taking all necessary requirements to keep IRS employees safe amid the pandemic.

I understand the challenges presented to the IRS, but I have to say, I do have deep concerns regarding the delays that Hoosiers continue to see over a year into this crisis. An early and recurring complaint that I receive from constituents involves the backlogs from our regional offices, namely, the IRS processing center in Kansas City.

Even with the involvement of local taxpayer advocates, we still have constituents waiting on 2019 refunds, sometimes with no reason provided for the delay. Can you please explain the process that the IRS has adopted in order to process the backlog of tax returns, sir?

Commissioner RETTIG. It is our submission processing element of what we refer to as the Wage and Investment Operating Division, and as I indicated, we have all hands on deck. We are doing multiple shifts, mandatory overtime. We are doing weekends. Folks who were trained in that lane who went on to other positions within the Internal Revenue Service have been detailed back into that.

So we have the maximum amount of folks dedicated to that. About 5 million returns that are in process are actually returns where we have asked for additional information, whether it is a form, or certain information in the EITC space verifying that, you know, children are qualifying children for EITC. And so we have actually sent out requests for that information, and that ties into our mail side. Because of those folks who have actually responded

in paper mail—in our mail side of the house, our mail backlog is about a million pieces of mail, which is actually current. It is not a backlog. We average a million to a million and a half pieces of mail a week. And that is what we process. And “process” means we open it, and we enter it into our system, and we redirect it to where it needs to go.

We are moving that as quickly as possible. I get it, and I am very sensitive to the fact of—you mentioned things like refunds and whatnot, and certainly in addition to that, refunds for the most vulnerable taxpayers, the EITC, CTC folks out there.

I want to assure you, we are doing everything we can. There is a high degree of concern and dedication. And I get it that doing everything we can did not get somebody their payment earlier. But we are doing everything we can in that space. We have used every resource possible.

Senator YOUNG. Right, including addressing major bottlenecks. The errors department in Kansas City and the processing of unopened mail from over a year ago have been a challenge, but what I am hearing from you is, you are diverting resources to attend to challenges like that. Is that accurate, sir?

Commissioner RETTIG. We are. And we transship physical mail among our four different campuses for processing, specifically out of Kansas City into Austin, Memphis, and Ogden, to handle that. And the errors are now averaging about 10 to 14 days, where historically it was about 3 to 5 days to process.

Senator YOUNG. Thank you, Commissioner.

In my remaining time, I would like to discuss an issue that is of great concern to me: the tax gap. As you know, the tax gap is the difference between the taxes legally owed and taxes that are actually paid.

The gap results from individual taxpayers and businesses under-reporting their income, over-reporting tax-preferred activities, failing to file, or under-paying taxes owed.

Mr. Commissioner, the law needs to be followed. And I think we should all obviously agree on that. In response to the chairman’s questioning earlier, Mr. Commissioner, you shared your estimate that the tax gap could approach \$1 trillion per year.

Now just to re-emphasize the point, you are stating that if everyone paid exactly what the tax code says today, without increasing current tax rates, no increases in tax rates, the IRS would collect an additional \$1 trillion every year. Is this correct?

Commissioner RETTIG. That is what the tax gap represents. But it must be acknowledged that, I think historically most people have indicated, with resources, the IRS could probably bring in 10, 15, 20 percent. I think a modernized IRS could actually beat that. I am just relying on historical estimates.

But when I see—you know, I came from the private sector. When I see the employees and the dedication—you see it in their eyes, you know where their heart and soul are to try to get this done. Our people are equally offended by people who do not comply.

And the other side of that is, they want to support those who do comply. And so both components of that are there. And I think a modernized IRS—give us the tools, give us the resources, let us

bring on people. We are down 17,000 enforcement people over the last decade. That has to have an effect, and it does.

And you know, certain elements of society take advantage of an agency like ours if they think we are on our back.

Senator YOUNG. Well, Mr. Commissioner, I am going to follow up with you about that—

Commissioner RETTIG. I would appreciate that.

Senator YOUNG [continuing]. So I can better understand what constitutes a modern IRS, and how we might work together to address this.

It is my understanding that high-income taxpayers account for most of the tax gap. Is that accurate, sir?

Commissioner RETTIG. And corporations, yes.

Senator YOUNG. And corporations. Why might the IRS have difficulties in verifying certain high-earning taxpayers' income to ensure that they are paying what they legally owe?

Commissioner RETTIG. If you look at the report that was recently published on NEBS, two IRS researchers were involved, and they looked at two different components. One is offshore and the offshore FATCA, and other components helped with respect to offshore. And obviously IRS ran various programs in the offshore arena.

But the other area that they looked at, where we need help, is in pass-throughs, partnerships, S corporations; tiered partnerships are sometimes used to mask. You add some foreign elements there, you add a private foundation in there—it is very difficult for us to get there. We did just bring on—we had a hiring in the pass-through arena. We brought on more agents—sophisticated, experienced folks from the private sector—than we ever have before.

The CHAIRMAN. Senator Young, we are just going to have to move on. We appreciate the areas you are looking at.

Senator Cortez Masto is next.

Senator CORTEZ MASTO. Thank you, Mr. Chairman.

Commissioner, it is good to see you again. Thanks for coming before the committee. As you remember, we exchanged letters about making sure that survivors of domestic violence could access their Economic Impact Payments. My letter included a list of steps the IRS could take to help survivors get their checks. And I was on telephone calls with you as well regarding this.

In your last hearing before this committee, you said that many of the suggestions were good, and yet you have implemented very few of them to date. I am frustrated that your verbal commitment to me on this issue does not seem to match the agency's actions.

So my question to you is, what are you currently doing to help domestic violence survivors get their Economic Impact Payments? And please tell me the systems you have put in place to help these survivors really to, not only address their concerns about getting this relief, but also in the future.

Commissioner RETTIG. I think you are aware, the issue on domestic violence victims is not in the statute for us to be able to peel out and make a duplicate payment to somebody if the abuser, if you will, received both payments and took both payments, and whatnot. And I know initially folks took the position that it is a civil matter between the abuser and the abuse victim.



And I realize and am sensitive to the fact that that is not an appropriate answer for the victim. But as an administrative agency, we have limited discretion in a lot of different arenas. There was nothing in the EIP3 that addressed this issue either. And if the IRS actually had the authority to issue a duplicate payment for victims of domestic violence and had the ability to demonstrate that—and there are areas where we can put information in our system to identify not to share information belonging to one spouse with the other spouse. We have that ability, but we do not have the discretion to actually make a duplicate payment.

Senator CORTEZ MASTO. Well, let's—I get the fact about the duplicate payment. What else are you doing to address the concerns that we highlighted for you, now and in the future, for domestic violence survivors?

Commissioner RETTIG. We have guidance. We have outreach. Our people have been on the ground with presentations. We have done remote presentations through Zoom and the rest. And you know, I will follow up with you and get you more specifics. I am sensitive to your initial comments. And if that is how you feel, I would like to talk to you individually. I think you also have my cellphone, and I consider myself pretty reachable.

Senator CORTEZ MASTO. Commissioner, thank you. Yes, but my frustration is that this is the same conversation we have already had. And you were responsive in the sense that you got on the phone with me and talked about how we can work together.

Commissioner RETTIG. Maybe we can work together on legislation.

Senator CORTEZ MASTO. I hope so. Listen, I hope so.

Let me ask you this: I understand the IRS is preparing a change-of-circumstances portal to allow taxpayers to update changes in information that determines their ability to access their stimulus payments, and other payments.

Talk to me a little bit about that. What gives you the authority to make that change-of-circumstances portal? And what is that all about?

Commissioner RETTIG. That is in the statute with respect to the CTC, to launch by July 1st. And people who have changed family circumstances, or people who want to opt out of what will be monthly payments for the CTC, will be able to use the portal beginning July 1st. A challenge will be somebody who has changed family circumstances: they put information in there in July, and they are expecting their August payment to be different. That will be a challenge for the agency, but we will do our best. We will also have to messenger around that. If we cannot make it for the next month, we need to let people know that in advance. But it is in the statute.

Senator CORTEZ MASTO. So this potential portal could help survivors of domestic violence as well address some of the concerns that they have?

Commissioner RETTIG. As it is going to launch on July 1st. But let me get back to you on that. I appreciate the question.

Senator CORTEZ MASTO. Okay. Yes, please do. There is an opportunity here, and if we have to pass legislation, we will look at legislation. I think there are innovative ways that we can talk about. Across the country, Secretaries of State are doing innovative things

about how we address survivors of domestic violence to make sure that they are getting access to the mail that they need, the information that they need. And I think there is a way for the IRS to do it as well. And I am hopeful that we can work together.

The last thing I want is for folks at the IRS to say, “No, we just do not do it that way.” I am looking for somebody who is innovative, who really is looking forward and thinking, “Yes, maybe there is a way we could figure something out and look at legislation.” I was hopeful that we would be able to do something when I initially contacted you years ago. So I am hopeful we can try to address this.

And I really would look forward to you reaching out to some of the advocate groups that are out there that have been bringing forward these issues to really look out and fight for our survivors around domestic violence.

So thank you for being here, and I will follow up with you.

The CHAIRMAN. I thank my colleague.

Senator Sasse is next on the web.

Senator SASSE. Thank you, Mr. Chairman.

Commissioner, thanks for being here. I would like to talk about the Employee Retention Credit that is part of the CARES Act—and obviously the congressional purpose in it was to encourage employers to keep employees on their payrolls during the pandemic and the lockdowns.

In December of last year, Congress made some changes to the credit to try to enhance its usefulness. And one of the purposes there was to retroactively allow employers who took PPP loans to be eligible for the credit. Given the economic strain caused by the pandemic, it is obviously incredibly important that businesses are incentivized to both rehire and to retain their employees.

Can you just discuss a little bit the IRS’s implementation of this credit, as well as any efforts you are making to retroactively provide refunds to businesses that became eligible because of the December change, please?

Commissioner RETTIG. Yes. Where we can, we do recoveries. But with respect to the retention credit, I think that we have actually processed—we actually received around 56,000. I think we have processed about 47,000. Many of them that were rejected were rejected because they otherwise filed a 941. And so rather than getting the advance, they should have it with respect to the 941 itself.

But we have been processing those as quickly as possible.

Senator SASSE. So help me understand that on the 941 point, because we are hearing about this from some Nebraska businesses. Your number was 56,000 applied, and 47,000 got it?

Commissioner RETTIG. It was 56,017 or something like that received, and I think we have processed about 47,000 of those, which would leave a current pool, if I am correct, of about 10,000. I will get you the specific numbers, but that is the number that I recollect as within the last week or so.

Senator SASSE. Okay, but as for the 10,000, is that just a backlog? Or do you mean those are people who applied for it on both sides and they should have only applied on one?

Commissioner RETTIG. Some of the 47,000 are folks who have applied for both sides and were given information back indicating

that if they have already done a 941, it comes under 941 not the 7200. So we had that situation. And we can get you specifics. We have quite a bit of data here, and I know some other members of the committee have asked questions in this space as well.

So let me get you up-to-date, accurate data as far as the ones that are pending, why they are pending, and then the ones that have been processed yet—my term would be “rejected”—but why they were rejected. And we should be able to provide that for you in short order.

Senator SASSE. That would be great. I have three follow-up questions in that lane, but I will just wait for your data, because you are probably going to speak to what I was going to ask there.

So then I will just conclude by asking, could you give us a bit of a status check on the interaction between you all, the IRS and the Small Business Administration, on whether or not we think we have adequately explained to small businesses and to their tax advisors any complications in this space? Just give us a status report on the interaction between the two agencies.

Commissioner RETTIG. Again, you know—let me put that in two pieces: one, as somebody who was in private practice for 36 years; two, as somebody who is with the government. I think the government view is that we do really great with respect to outreach. And this is not to be disparaging of anybody in our communications and other departments, or of SBA, or of others, but we sometimes are narrowly focused on the lanes that we know, and the lanes that historically our agency has been in.

And certainly, with respect to PPP and other issues that have come up during the pandemic, those lanes are not sufficient to actually get the information out to members of the public.

I think we have done well in terms of outreach beyond our normal lanes, but I think we all would agree we could all do better. And we constantly try to do better. We have modified—we have learned lessons from March of last year through June of last year, through September of last year, through today. We are doing things better. Our outreach is better. And you know, that is kind of what I would give it.

And I get it on the outside why some people in certain lanes say, “Hey, I just did not know this.” And I had that in private practice as well. So I can only really say that we are trying our best. We do think, from an agency perspective, that we have done amazingly well. But every time somebody did not get something, obviously that calls out that we could do better.

Senator SASSE. Thank you, sir. I am out of time, but thank you for being here.

Commissioner RETTIG. We will follow up.

Senator SASSE. Thank you.

Senator CRAPO [presiding]. Thank you very much.

And we will next move to Senator Bennet.

Senator BENNET. Thank you, Commissioner. I do not know if you can see me, my video—

Senator CRAPO. We cannot see you, but we can hear—oh, there you are.

Senator BENNET. Commissioner, I want to thank you for being here, and for your service. I also want to thank your staff for their incredible hard work in the last few months.

Commissioner RETTIG. We appreciate that.

Senator BENNET. I want to go back to the Child Tax Credit. As you know, the American Rescue Plan today is a significant expansion of the Child Tax Credit modeled after my American Family Act I built with Senator Brown, which would cut childhood poverty nearly in half.

Our bill advances payments of \$250 a month per child, or \$300 per month for children under the age of six. I had a meeting at the Boys and Girls Club of Pueblo, CO last week with parents, and I was asking them whether it was important for them to get these checks on a monthly basis, or whether a periodic payment would work for them? And not surprisingly, as any parent can tell you, expenses like diapers and formula and child care cannot wait until tax time. And monthly payments are particularly important during the pandemic when so many low- and middle-income families are experiencing significant challenges.

I think Congress's intent was clear with the American Rescue Plan, and that was for the expanded CTC payments to be available monthly starting in July of this year.

So I would ask you, Commissioner, whether you can commit to sending CTC payments starting in July and delivering them on a monthly basis?

Commissioner RETTIG. We fully expect to launch in July. We expect to launch with payments going out on a monthly basis. I think I might have commented earlier to the effect that we will launch the portal, that it is going to be as user-friendly as possible. But as we did with respect to the Non-Filers portal, as we did with respect to the Get My Payment portal, as we did with respect to pretty much every IT product that we provide certainly externally, we will enhance that over the course of probably the first 6 months, 3 to 6 months or so, to make it more so. We will monitor the traffic. We will monitor the activity. If we see people having difficulty on certain aspects, we will have to deal with that and monitor that.

There is an authentication level that will be moderately significant. Any time we open a system to allow an individual to provide information as to that individual, we need certain levels of verification. And the more information that they are able to provide, the higher that level of verification needs to be. And so that will be one area that will certainly be monitored closely. But we will pay attention, and we expect to launch July 1st.

Senator BENNET. I deeply appreciate that.

Commissioner RETTIG. If we are unable to do so, you will hear from me as well.

Senator BENNET. That is all I was going to ask for. I deeply appreciate that answer, and please let us know if there is anything that we can do between now and then to make sure that we do whatever we can do to make sure you and your folks are successful at that.

One of the most important steps we took in the American Rescue Plan was to make the Child Tax Credit fully refundable. As you know, previously a third of all children, 27 million kids, were left

out of the full CTC, mostly because their parents earn too little to qualify for the full credit. We fixed that flaw for this coming year, and I sincerely hope we are going to make that fix permanent going forward.

Many of these newly eligible children are in the Nation's most vulnerable families, families who face barriers to navigate, as you were just saying, our complex tax code, especially during the pandemic. And many of them may not have a filing requirement at all.

I was worried when I heard you say in March that families will need to file a 2020 tax return in order to receive their Advance Child Tax Credit. And I was wondering whether it would be possible for the IRS to use information from a 2019 return, if they filed one, or the Social Security Administration, or the Veterans Administration, to locate many of these families and determine their eligibility.

Are there more creative ways for us to skin this cat?

Commissioner RETTIG. We do work closely with other Federal agencies, and certainly I think everybody is aware, during the pandemic, with SSA, VA, and others. We also work with a lot of State agencies and others, and where we can, we try our best.

One issue with respect to the filing of tax returns is, tax returns get us the information so that we know the amount of the credits that we are to provide by law, under both the CTC and the EITC, and otherwise. And without that return information—and certainly current information is better than old information.

And in addition, banking information is critical, and current banking information is extremely critical.

Senator BENNET. I appreciate that answer as well, and I think that the work that you are doing on the Non-Filer portal is going to be enormously important to answering these questions in a way that gets the American people the help that they need.

So, Mr. Chairman, I will yield back. Thank you for having me.

Senator CRAPO. Thank you, Senator Bennet.

Senator BARRASSO?

Senator BARRASSO. Thank you very much, Mr. Chairman.

Shortly after passage of the American Rescue Plan Act, I got an email from a constituent in Wyoming. She is a tax preparer, and she let her feelings be known about the inclusion in the bill of retroactive provisions that were implemented during the middle of the tax filing season.

She had already filed taxes for some of her clients. And then, when you get a sudden change in the law, what she had done was now wrong. I know that is not your doing, that is the law. That is the mistake made by the way that this was passed through Congress. But essentially she was asking for a reading between the lines. Are we all nuts for doing this sort of thing while we have preparers all around the country who are working and sending in things, and clients who have signed forms that are now incorrect?

You know, trying to explain that does not make it any better for what she is going through, or for her clients as well.

So can you understand the anger that my constituents are experiencing, having the rules change after the work was completed correctly and submitted?

Commissioner RETTIG. I personally know more than 1,000 tax return preparers—let me just leave it at that—including my wife.

Senator BARRASSO. So you can appreciate the——

Commissioner RETTIG. I hear everything in the system every single day, in the morning, in the evening, and sometimes I get phone calls.

Senator BARRASSO. So in terms of the resources and manpower that you use at the IRS, what is the impact on your own staff when you have to deal with situations like this?

Commissioner RETTIG. We—I will say that the IRS as an agency, and the employees of the IRS, have been spectacular in rising to challenges. The unemployment, the exclusion, was a significant challenge for us. And I think that the innovation of our employees allowed us to be able to do something where people will not have to file amended returns who had already filed returns. And it would be easier for me to say this if I was on the outside, but I think that is absolutely spectacular of our employees, but it is absolutely a challenge. And it is more challenges, and more challenges, and more challenges.

Senator BARRASSO. Along those lines—Senator Cantwell touched on this during her questions, and I would like to add my support to what Senator Cantwell had to say.

Because the Treasury Department and IRS agreed to extend the tax filing deadline for individuals from April 15th to May 17th, after visiting with a number of CPAs back home, I do not understand the logic of the limited extension, in particular since the deadline to file the estimated payments was still left at April 15th. So, individuals who have to make estimated payments must virtually complete their 2020 return to determine what their estimated tax payment is going to be for the first quarter so they can get it in by this Thursday.

So the extension to a month from now really was of no benefit to those taxpayers. In fact, I would argue that the extension created more confusion and stress for the taxpayers and the professionals working with them.

So were you given an explanation by your boss, the Secretary of Treasury Janet Yellen, as to the logic behind not extending it beyond this, especially as it relates to taxpayers who need to file their estimated taxes?

Commissioner RETTIG. There are two ways—I was a small business owner on more than one occasion, different businesses on the outside. I grew up in a small business. My dad had a truck. I probably know hundreds of small business owners, and I probably know hundreds of tax preparers preparing returns for small business owners. And the issue that is being floated around is actually the difficulty, if you will, for small business owners.

Let me give you an example of a small business owner, a small business owner who for calendar 2021 might have \$100,000 net profit. Over that—and I would start to argue it is no longer a small business owner—but if I had a \$100,000 net profit, and I had \$32,000 of taxable income, you divide that by 4, theoretically I owe \$8,000 as of April 15th.

I file my return, Schedule C. I file that return as of May 17th. I pay my \$8,000 on May 17th. And I will do that. And the question

that people are raising—and I have had discussions with members of this committee; I have had discussions with people in the House. And we have received substantial amounts of comments from people on the outside, including people inside organizations that are sending letters to you all disagreeing with the content of the letters you are receiving.

But in the example I just gave—\$100,000 net income, \$32,000 of tax, \$8,000 first quarter—I make my payment on May 17th. People who are referring to the penalty, it is an interest penalty. What I owe on May 17th—if by way of calendar year 2021 I have not paid 90 percent of my income, my tax for the year is \$20. So it is \$8,020 if I make that payment on May 17th; \$8,000 times 3 percent for 1 month, so 112 times 3 percent times \$8,000, and I actually do not owe that \$20 when I make my payment on May 17th.

There is a true-up at the end of the year, and I can qualify. It is not based on just did I do last year's income, do I have that number? Section 654 of the code provides two alternatives.

I will also say that a majority of small business owners that I am aware of are not going to make that \$8,000 payment to the Internal Revenue Service. They are going to pay rent. They are going to buy chicken. They are going to buy whatever it is their business is, and they are going to pay what the equivalent would be of a 3-percent interest charge on money that they used in their business as working capital during the year. And the code allows that.

It is an interest charge, because the taxpayer who gets withholding has withholding out of every single check, so they pay as they go. For people who are 1099 and Schedule C, the pay-as-you-go is, you make quarterly payments during the course of the year. If you fail to do so, and many people choose to not make those payments and retain the funds, the \$8,000 in my example, at the end, when there is a true-up when you file your 2021 return, you owe 3 percent on that.

There is not a penalty on the penalty. It is an interest-based penalty.

The CHAIRMAN. We are just going to have to move on. We have additional colleagues.

Senator Hassan is next.

Senator BARRASSO. We can follow up. Thank you.

Senator HASSAN. Good afternoon, Commissioner Rettig, and thank you, Mr. Chairman and Ranking Member Crapo, for holding this hearing.

Commissioner Rettig, I just want to reiterate what many of my colleagues have said, and thank the employees of the IRS who are, as you point out, doing double time, overtime, and really trying to work their way through an enormous amount of work. So we are grateful to them.

Commissioner RETTIG. We appreciate those comments.

Senator HASSAN. And I really want to emphasize that.

I want to start with following up on something Senator Sasse was asking you about, which was the Employee Retention Tax Credit, and the general awareness around it.

The December relief package was a bipartisan bill that I worked on with Senator Burr and others to provide the Employee Retention Tax Credit to businesses that received Paycheck Protection

Program assistance. The relief package also directed the IRS and Treasury to raise awareness of the tax credit among small businesses.

And so you talked a little bit about some of the things you are doing, but we are still hearing from small businesses and preparers that they do not know much about it. So how can Congress, or members of this committee, work with you to increase the outreach and the awareness generally?

Commissioner RETTIG. I think the responsibility is ours to do the outreach, but it is not ours alone. I mean, I appreciate your comments for assistance from Congress, but also with respect to particularly local community groups. The pandemic has put us in touch with more local community groups—churches, social organizations, and whatnot—than we ever had access to.

So they are now, if you will, on our outreach campaigns and participating. We have folks on the ground who participate. When local organizations have events, we participate on the ground.

Could we do better? I believe that we could. Do I have an idea where we have a deficit? I do not.

Senator HASSAN. Just because my time is limited, my issue is not that you guys are not doing a lot—

Commissioner RETTIG. No, I get it—

Senator HASSAN. But what I am hearing is, they are not aware of it, right? So we want our small businesses to be able to use this Employee Retention Tax Credit, and we want them to know about it.

So let's move on to another question. But this is an invitation from me and other members of the committee: we would be eager if there are ways that we can partner with all of you. It would be, I think, in everybody's interest, our constituents' interests, to get it done.

I want to turn to the issue of the backlog in unprocessed 2019 tax returns. You have heard a lot about it from members of this committee. I sent you a letter in January urging the IRS to clear the backlog of unprocessed 2019 tax returns. And obviously, I have been hearing from constituents, as all my colleagues have.

You have discussed in your answer to Senator Portman and others the steps that the IRS is taking to address this backlog, but could you explain how or if IRS is working to mitigate the impact of unprocessed returns on affected taxpayers?

Commissioner RETTIG. We are working—we are doing everything we can to process—which is not the impacts on them, but actually processing to try to get to the “there” point sooner. And in terms of mitigation, there was an example given where we issued a CP59 notice. That notice was a mistake. It absolutely should not have been sent out. I think we issued about 278,000.

We found out about that. We notified Congress. We corrected that. We issued corrected notices. So you know, we do have issues. Those are not mitigation. They are making it worse, right?

Senator HASSAN. Right. I mean, what I am thinking about is examples of somebody who cannot close an estate. They cannot get a mortgage. And if there are ways that the IRS can say, yes, this person has actually filed the return, we are processing—something



like that that would help the taxpayer be able to get on with the rest of their business, right?

Commissioner RETTIG. Actually, we have 1.7 million returns in process that came in before January 1st. Those, our system is aware of. Our system has those returns, which I think is critical. That has not always been the case.

Senator HASSAN. Okay.

Commissioner RETTIG. You know, we have a lot of avenues for folks. For example, the estate, or the mortgage, or whatnot—through the pandemic, we were doing a lot of things for folks in those situations. And if you become aware of that, I would appreciate it if you let our staff work with your staff. We should be able to find those and resolve them.

Senator HASSAN. Okay. Thank you.

I also want to thank you for acknowledging the impacts that the IRS's dependence on legacy IT has had. I have been working to reduce reliance on outdated IT systems at a number of Federal agencies, including the IRS. They cost more to maintain than newer systems, while they also deliver worse service.

So how would reducing your reliance on outdated IT systems at the IRS help reduce the issues with processing tax returns, prevent future backlogs—and I assume it would save you money over time.

Commissioner RETTIG. I would assume that many of you probably woke up sometime in the night during 2020 wondering whether we were going to be delivering the next day. So one thing is, it will get people a lot more sleep to have the reliability of our system.

Our systems work. They operate. But unfortunately, they are—you know, we have had to build through the years systems on systems on systems, and ultimately the foundation cannot hold what we are building on those systems.

So the ability for the IRS to be agile, to be nimble, to deliver services, to deliver in the enforcement arena, both internally and externally, is where we are headed. And I think collectively, including members of the committee, I think we all agree, it is what the people of this country deserve.

Senator HASSAN. Okay; thank you. I look forward to working with you on that. And I thank you, Mr. Chair. I will ask you another question about the Employee Retention Tax Credit for startups for the record. Thank you.

The CHAIRMAN. I thank my colleague.

Senator Warren is next.

Senator WARREN. Thank you, Mr. Chairman.

Our tax system is rigged in favor of wealthy individuals and giant corporations that can use lawyers and accountants and lobbyists to avoid paying their fair share in taxes.

One problem is the tax code that shields the wealthy and the wealth of ultra-millionaires. And I have proposed solutions like a wealth tax to be able to fix that. But the tax code is only part of the problem.

Right now, we are not actually enforcing the laws on the books and catching people who fail to pay what they already owe, particularly the ultra-rich. The top 1 percent of Americans account for

more than a third of all unpaid Federal income tax. And this adds up.

Over the next decade, IRS will fail to collect an estimated \$7.5 trillion in taxes owed. That is money we are leaving on the table under current law, money that could be invested in child care, education—a whole bunch of other priorities.

So let me ask you, Commissioner Rettig. One of the best tools the IRS has to ensure that people are paying their taxes is to audit them, check their numbers, force them to pay up if they are cheating. But since 2010, audit rates have fallen nearly 60 percent overall, and they have fallen nearly 80 percent for taxpayers with more than \$10 million in income. Why has the audit rate fallen most sharply for the richest taxpayers?

Commissioner RETTIG. In the last decade, our enforcement personnel—we have lost 17,000 enforcement personnel. So we have 17,000 fewer people to do exactly what you are asking. And the point is, we actually have 6,500—that is our population—who go after the high-income taxpayers, the most egregious cases in the corporate world.

So if you were to add 17,000 to 6,500, I think you would see a reversal in those numbers. We are very hopeful. We feel some momentum, bipartisan momentum, for our support if we manage our operations effectively. But also there are amounts that we can absorb, and probably absorb 5,000 to 7,000 per year.

We are ramping up our Human Capital office—

Senator WARREN. I appreciate that. Republicans deliberately targeted the IRS with budget cuts, which depleted its ability to enforce our tax laws. So even as the wealthy and corporations engineer increasingly creative tricks to game the system, the IRS is forced to play catch-up with an enforcement staff that is now 30 percent smaller than it was 10 years ago—and a technology system that is built on computer programming that is nearly 60 years old.

It is clear we need a bold investment in the IRS, which President Biden has called for in his infrastructure plan. And Chair Wyden has been a champion for more enforcement funding for years.

But the solution is not just more funding. It is about more stable funding that is targeted toward catching the biggest fish and that is protected from lobbyists that try to chip away at that funding.

Most of the IRS's funding is discretionary, meaning that Congress decides every year how much the agency should get. But this leaves the IRS budget unpredictable and vulnerable to cuts.

By contrast, mandatory funding would provide funding on an ongoing basis, ensuring that the IRS has a stream of funds that is steady, that is predictable, that is sustained. Congress has provided this kind of funding for important purposes like preventing fraud in Medicare and Medicaid.

So let me ask you, Commissioner Rettig, would additional mandatory funding, on top of what the IRS gets through the annual appropriations process—would that kind of mandatory funding strengthen the IRS's ability to go after wealthy tax cheats?

Commissioner RETTIG. Absolutely. Mandatory, consistent, adequate, multi-year funding allows us to plan appropriately. Every time we go into hiring, we have a concern whether we can actually feed those folks the next year.

Senator WARREN. Well, I am glad to hear that this would be helpful, because I am working on legislation to do exactly that. It is one of the biggest ways that the wealthy and corporations hide their income and avoid paying taxes by claiming they have much less income than they really do.

This legislation would also require more third-party verification of the reported numbers, the same way that wages and interest are already reported to the IRS for the rest of us.

Rebuilding the IRS is about making sure that we have a playing field that is level and making sure that we have a government that works for everyone.

Thank you, Mr. Rettig. And thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Warren. I know we are going to be working closely together on these issues.

So, Commissioner, just a quick comment on where we are going to go from here. I asked you, close to 3 hours ago, about the tax gap. I thought that the official estimates were just a fraction of what the real tax gap was. And you have delivered this morning, now this afternoon, a jaw-dropping figure of a trillion dollars annually.

So in the budget window in the U.S. Congress, we are talking about \$10 trillion that does not come into government coffers because of cheaters. That is what this means when you set aside all of the government lingo and the like. And the fact is that nurses and firefighters have to pay with every paycheck, and so many high flyers can get off using fancy accountants and lawyers to figure out how to avoid paying taxes. And then some just do not pay at all.

So that is what we are dealing with here. And what I think was helpful, especially this morning—and by my count, about half of the members of the Finance Committee on both sides of the aisle have asked you about this, reflecting the seriousness of the matter—we have now broken down some of the big areas where taxpayers get fleeced: crypto global market cap, \$2 trillion; foreign source income; illegal source income; the top 1 percent pass-through and offshore kind of activity. This is a real blueprint for where you have to go, and a number of my colleagues brought up constructive ideas for getting that money from the cheaters into the government coffers.

The Biden administration has proposed increasing the IRS budget by 10 percent. I have made it clear I think that more—and particularly targeted enforcement efforts—is necessary. And you know, the reality is that we are going to have to, in a 50/50 Senate, have a bipartisan effort. And I have been talking with Senator Crapo about this, and my hope is, on the basis of the number of members who brought this up this morning, we can have an aggressive, proactive effort that reflects the seriousness of this.

We have big debates about all kinds of future tax policy. How about telling people that we are really serious about going after the cheaters who are figuring out ways to not pay their taxes, when millions of law-abiding Americans are?

So I have paid attention to your comments, especially about how funding for the IRS will yield substantial, like 7-, 8-fold amounts of revenue collected. I indicated that Senator Crapo and I have

talked over the course of the morning about wanting to tackle this in a bipartisan way.

I thank you for delivering this important wake-up call to this committee about the enormity of the cheating that is taking place in America with respect to taxes. That is what this morning has really been all about for me. We have a lot of heavy lifting to do on a variety of issues, but this has been a wake-up call, particularly at a time when Americans are asking what is going to be done to promote more fairness in the tax system.

Well, I think we had a pretty good assessment of what the job is all about.

So with that, the Finance Committee is going to be adjourned, but, Commissioner, know that we are going to be following up. And every year we are going to be asking, when we have this hearing, what has actually been accomplished to reduce the tax gap from the last time this was discussed. A trillion dollars is a big number, and we are going to want to see big results in the next year.

With that, the committee is adjourned.

[Whereupon, at 12:37 p.m., the hearing was concluded.]

## APPENDIX

### ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

---

PREPARED STATEMENT OF HON. MIKE CRAPO,  
A U.S. SENATOR FROM IDAHO

Thank you, Mr. Chairman, and thank you, Commissioner Rettig, for joining us today.

The past 12 months have brought unprecedented challenges not only for the American people, but also for the Internal Revenue Service. In addition to its role as our Nation's tax collector, Congress has recently given the IRS an expanded mission and central role in delivering our economic recovery.

So far, this has included distributing three rounds of over 150 million Economic Impact Payments and implementing a variety of temporary tax incentives to keep employees on payroll; guaranteeing paid leave for employees who contract COVID-19; and helping taxpayers bridge the gap through the pandemic.

Soon, it will also include the distribution of millions of advance payments of the Child Tax Credit, in a temporary policy that vastly changes the scope and mission of the IRS.

Commissioner Rettig, I commend you and your staff for your diligent efforts to balance all of these competing priorities. At the same time, given how much is at stake for our economy and the American people, it is critical that we get it right. Filing season and Economic Impact Payment issues are the most frequent topics I hear about from Idahoans.

I am extremely concerned about the reports of a backlog of millions of tax returns from last year's filing season that have not yet been processed. This means that millions of taxpayers are having to wait longer to receive their refund in the middle of a pandemic.

Further, IRS call center wait times remain unacceptably long, and many taxpayers have been sent confusing automated notices indicating that they have not yet filed their return, when in fact it was filed but has not yet been processed by the IRS. Confusion has also been generated because of massive fraud in unemployment compensation programs. State workforce agencies have been taxed because the Federal Government tells victims of identity theft who have Federal tax issues to figure it out with the State agencies.

Meanwhile, in the midst of a filing season, a brand new waiver of Federal taxes on unemployment compensation was passed into law, causing yet more confusion for filers. Today, you have the opportunity to explain how the IRS plans to remedy taxpayer confusion and tackle the backlog of prior year returns without falling further behind.

I also have a number of concerns about the implementation of the Child Tax Credit advance payment program. Former Finance Committee Chairman Grassley and I sent you a letter a few months ago requesting reasonable information about the timeline of implementation, the cost of implementation, and how the IRS plans to tackle fraud and other risks associated with administration of this new program. What we received from your staff was untimely and unresponsive.

Today is an opportunity for a real conversation about the timeline that the IRS envisions for getting the online portal up and running, and issuing the first advance CTC payments. The IRS must assure us that this implementation will not mean

putting filing season on the back burner, nor rushing to get the payments out before we have accurate information from taxpayers regarding eligibility.

To date, absent any contrary indication from the IRS, I am left with the impression that the aggressive July 1st payment deadline imposed by congressional Democrats will be challenging to meet by an IRS staff that is already stretched thin, without cutting corners or reassigning staff who should be focused on processing tax returns.

If congressional intent was really to get these advance payments out at all costs, as soon as possible, then the logical approach would have been to simply provide an extra bonus in the Economic Impact Payment of each qualifying low-income child. Congress could have put those increased payments in the hands of those parents a month ago, with that approach.

Instead, the legislation created a complicated new program for these periodic advance payments, with a clearly stated goal of making this temporary program permanent.

With that in mind, fully setting up the required online portal, and equivalent secure mechanisms for those without Internet access, in order to ensure that any advance payments issued are both accurate and desired by parents, must be considered at least as much of a controlling priority as the requirement to begin issuing advance payments this summer.

Finally, we are now approaching 2 years since Congress passed the Taxpayer First Act—an important bipartisan measure that will enhance taxpayer protections, modernize the IRS's organizational structure, and improve its customer service and information technology.

Commissioner Rettig, I look forward to hearing an update today on the IRS's efforts to implement these reforms and usher forth a 21st-century IRS.

Thank you again for appearing before us today and for your tireless efforts on behalf of taxpayers.

---

PREPARED STATEMENT OF HON. CHARLES P. RETTIG,  
COMMISSIONER, INTERNAL REVENUE SERVICE

#### INTRODUCTION

Chairman Wyden, Ranking Member Crapo, and members of the committee, thank you for the opportunity to discuss the filing season and IRS operations, especially the work we have been doing to help taxpayers during the COVID-19 pandemic.

I am pleased to report the 2021 filing season is going smoothly in terms of tax return processing and the operation of our information technology (IT) systems. Through April 2nd, the IRS received more than 93.2 million individual Federal tax returns and issued more than 62.3 million refunds totaling more than \$180.2 billion. A more detailed discussion of the filing season is provided later in this testimony.

At the same time, the IRS is working closely with the Treasury Department to implement the American Rescue Plan Act of 2021 (ARP Act) as quickly as possible to help the Nation's taxpayers. As part of these efforts, we took immediate steps to begin delivery of the third round of Economic Impact Payments (EIP) to millions of Americans within days of the legislation being signed on March 11th. Thus far, we have delivered about 156 million payments totaling approximately \$372 billion. The IRS is also coordinating with Treasury on another important provision, which provides periodic advance payments of the Child Tax Credit (CTC) to eligible taxpayers. The IRS will be working hard to deliver this program quickly and efficiently.

Now in my third year as Commissioner, I remain extremely proud to be working for the IRS and excited about the future of our agency. We are grateful for the increased and multi-year funding that will allow the IRS to (i) modernize our systems, (ii) increase our workforce and their capabilities through a robust recruitment and training program, (iii) implement the provisions of the Taxpayer First Act, including improving the taxpayer experience, and (iv) conduct compliance activities that support our voluntary tax compliance system.

My experiences as Commissioner have strengthened my belief that a fully functioning IRS is critical to the success of our Nation. In Fiscal Year (FY) 2019, the IRS collected \$3.56 trillion in taxes and generated almost 96 percent of the funding

that supports the Federal Government's operations. We serve and interact with more Americans than nearly any other public or private organization.

This unprecedented pandemic illustrates the significant role that the IRS plays in the overall health of our country. We have been called to provide economic relief during this national crisis while also fulfilling our routine responsibilities of tax administration.

I am proud that IRS employees have responded admirably to the COVID-19 situation by quickly facilitating financial assistance and administrative relief to hundreds of millions of deserving and needy Americans—including distributing nearly \$800 billion in Economic Impact Payments since the spring of last year. People at the IRS continually demonstrate just how much they care, and how important the agency is to our country, by their heroic response to events over the past year. At the same time, the IRS remains focused on its core mission, striving to serve taxpayers in a manner that facilitates voluntary compliance by providing meaningful guidance and proper levels of staffing and support at points of significant taxpayer interaction.

Given the events of the past year, we appreciate the \$3.1 billion in additional funding we received from Congress to respond to the COVID-19 pandemic and implement the EIPs and other tax changes. In addition, our base FY 2021 funding level (excluding these additional resources) represents a 3.6-percent increase over FY 2020. However, it will take time to overcome the challenges of the past decade, and the agency will continue to struggle to replace employees lost through attrition and expand our workforce, support implementation of our multi-year Integrated Modernization Business Plan as designed, and continue enhancing meaningful service and compliance efforts that will earn the trust and respect of every American and improve our working relationships with taxpayers and others in the tax community.

We respect and proudly serve all taxpayers, none more or less so than any other. We must operate from their perspective, through their eyes, enhancing their experiences while striving to provide clear, meaningful guidance and services, in the language of their choice, wherever possible. In support of compliant taxpayers, we must aggressively pursue non-compliant taxpayers by maintaining robust, visible civil and criminal enforcement efforts. We are making a difference, and we want to continue to successfully pursue our mission on behalf of our great country.

#### UPDATE ON THE 2021 FILING SEASON

The IRS workforce navigated preparation for the 2021 filing season while continuing to implement COVID-related relief measures and delivering an extended 2020 filing season. These circumstances challenged our ability to make the necessary annual changes for filing season 2021. Nonetheless, as a result of the ongoing efforts of our employees, the IRS is on track to deliver a smooth filing season again this year.

I'm pleased to report the filing season opened successfully on February 12th. To give you an idea of how well our systems performed, the IRS over that initial weekend received a total of 55 million submissions, which includes individual Federal returns along with other items such as State tax returns, amended returns and returns filed by businesses. At the peak that weekend, our IT systems enabled us to successfully receive 335 submissions per second.

The February 12th opening of the filing season was slightly later than in previous years. The delayed start gave the IRS time to do additional programming and testing of our systems following the December 27th tax law changes that provided the second round of EIPs and other benefits. The additional programming and testing ensured that people would receive their needed tax refunds quickly, and also receive any remaining stimulus tax credits they might be eligible for as quickly as possible.

The delay in the start of the filing season did not add any additional delays to refunds on returns claiming the Earned Income Tax Credit (EITC) or the Additional Child Tax Credit (ACTC). By law the IRS cannot issue these refunds before February 15th. This filing season, the IRS was able to issue refunds for EITC and ACTC returns on February 16th and 18, 2021. We expect those refunds were promptly available in taxpayer bank accounts if they chose direct deposit and there were no other issues with their tax return. We encourage taxpayers to e-file their returns and to check the Where's My Refund online tool on *IRS.gov* or the IRS2Go app to find out their estimated refund date.

On March 17th, Treasury and the IRS announced that the deadline for individuals to file Form 1040 and pay their Federal income tax has been extended from April 15, 2021 to May 17, 2021. IRS Notice 2021-21 provides details on the additional tax deadlines which have been postponed until May 17th. After carefully considering all the options, the Department of the Treasury and the IRS determined a limited 2021 filing season deadline extension for individuals filing Form 1040 to May 17, 2021, was in the best interest of tax administration.

All individuals can get an automatic extension of time to file a Federal income tax return until October 15, 2021. Taxpayers can request the filing extension on paper or online, including through various free online tax services. They must request the filing extension on or before May 17, 2021. For most, the request only requires their name, address and Social Security number. Many States will also grant an extension to file a State return without requiring a form. Those anticipating a Federal income tax liability must also pay that estimated tax liability no later than May 17, 2021.

While we recognize the desire and importance of requests to further extend the 2021 filing season deadline or expand the scope of the extension, doing so poses a significant potential risk to implementing the ARP Act. Additionally, it could further delay delivery of Recovery Rebate Credits (RRCs) and the third round of EIPs, as well as refunds—including EITC and CTC payments—to the most vulnerable Americans.

As part of our work on the filing season, the IRS continues to spread the word about EIPs by reminding people who didn't initially qualify for a payment—or didn't receive the full amount—that they should check to see if they qualify to claim the payment as an RRC. The EIPs represented advance payments of the RRC, and this credit can be claimed on the 2020 tax return, by taxpayers and by individuals who don't normally file. The 2020 Instructions for Forms 1040 and 1040-SR include a worksheet that can be used to calculate the amount of any RRC for which a taxpayer is eligible. Individuals are encouraged to file electronically to claim this credit, and most can do so at no cost with IRS Free File, including those who do not have a filing requirement. This process should not be a burdensome action for individuals, including those who normally do not file. We realize that delayed processing of some 2019 returns could affect the ability of some taxpayers to claim the RRC, so we are working as quickly as possible to process outstanding returns.

Another important filing season reminder involves people who received unemployment compensation during 2020. We are working to make sure they understand the tax law governing unemployment benefits they received pursuant to U.S. law or that of a State. In general, these payments are taxable and must be reported as income on taxpayers' Federal returns. These individuals should receive Form 1099-G showing the amount they were paid, along with any Federal income tax they elected to have withheld. Since some States do not mail Form 1099-G, some recipients will need to get the electronic version of the form from their State's website.

However, the ARP Act exempts the first \$10,200 in unemployment compensation from Federal taxation for individuals with income below \$150,000. For those who received unemployment benefits last year and have already filed their 2020 tax return, they should not file an amended return.

As set forth in an IRS news release (IR-2021-71) issued on March 31, 2021, because the change occurred after some people filed their taxes, the IRS will take steps in the spring and summer to make the appropriate change to their return which may result in a refund. The first refunds are expected to be made in May and will continue into the summer. For those taxpayers who already have filed and figured their tax based on the full amount of unemployment compensation, the IRS will determine the correct taxable amount of unemployment compensation and tax. Any resulting overpayment of tax will be either refunded or applied to other outstanding taxes owed. For those who have already filed, the IRS will do these recalculations, in two phases starting with those taxpayers eligible for the \$10,200 exclusion. The IRS will then adjust returns for those married filing jointly taxpayers who are eligible for the \$20,400 exclusion and others with more complex returns.

There is no need for taxpayers to file an amended return unless the calculations make the taxpayer newly eligible for additional Federal credits and deductions not already included on the original tax return. For example, the IRS can adjust returns for those taxpayers who claimed the EITC (or other credits) and, because the exclusion changed the income level, they may now be eligible for an increase in the EITC amount which may result in a larger refund. However, taxpayers would have to file



an amended return if they did not originally claim the EITC but now are eligible because the exclusion changed their income. These taxpayers may want to review their State tax returns as well.

The IRS is also working to alert taxpayers to an identity theft scam involving these payments. There have been instances of criminals using stolen identities to fraudulently apply for and receive unemployment compensation. For many individuals who did not claim unemployment compensation last year, this issue came to light when they began receiving 1099-G forms with amounts they never applied for or received. We encourage anyone in this situation to file an accurate return only reporting the taxable funds they actually received, report this fraud to the State agency that issued the 1099-G, and ask the agency to issue them a corrected 1099-G showing the correct amount. They can also go to [dol.gov/fraud](https://dol.gov/fraud) for more information about how to reach their State workforce agency and report this type of fraud.

During this filing season, the IRS will continue to emphasize the safety and health of taxpayers and our employees. For that reason, our face-to-face operations will continue to be limited to appointment services, with provision for assisting taxpayers with hardships on a walk-in basis. We believe that this year, it is more critical than ever for taxpayers and tax professionals to take advantage of e-filing and online and virtual services to help them with their taxes. We continue to encourage taxpayers to use electronic tools to the extent possible, including [IRS.gov](https://irs.gov), where they will find a wealth of helpful information.

For taxpayers who need help preparing and filing their returns, I'm pleased to report that the Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) programs supported by the IRS are again providing free assistance to eligible individuals. I'm very proud of the work our VITA and TCE partners are doing during the filing season to help taxpayers at approximately 8,000 sites around the country, including military bases. This year, to ensure the health and safety of taxpayers and volunteers, many volunteer tax preparation sites are offering virtual help to taxpayers, either over the phone or online. Some sites still offer in-person tax help, but safety and social distancing will be emphasized.

Understanding the need to plan for the future and the desire to maintain a safe operating environment, the IRS will continue operating under its current posture until further notice, and we will continue to follow—and where possible, exceed—applicable CDC guidelines for public health and safety and measures. We will continue to balance responding to urgent tax administration needs with doing everything possible to protect taxpayers and our employees.

We appreciate the patience and understanding of taxpayers and tax professionals as we work to deliver the filing season during this challenging time. I am confident the IRS will deliver for the Nation, just as it has during other times of national urgency.

#### *Phone Level of Service During the 2021 Filing Season*

An important service delivery channel, during the filing season and throughout the year, continues to be our toll-free telephone line, which constitutes one of the world's largest customer service phone operations. This filing season through April 2nd the IRS has received approximately 21.4 million taxpayer calls, with about one-third, or 6.94 million, handled by our Customer Service Representatives (CSRs). The rest were calls made to lines providing automated messages containing helpful tax information.

When we were submitting our Congressional Budget Justification level of service (LOS) estimates for the 2021 filing season last spring (before the pandemic, EIP1, EIP2, EIP3, partial exclusion of unemployment compensation, and other tax law changes emanating from several rounds of legislation), there was no way to predict the pandemic and the impact it would have on our call volume, filing season, and hiring. We are still working through the impacts of COVID-19, which created staffing shortages and closures, and we have been experiencing a much higher-than-expected call volume coupled with an increase in call handling time caused by greater call complexity due to three rounds of EIPs and other tax law changes.

We attempted to mitigate these issues by starting the CSR hiring process for the 2021 filing season earlier than normal, with the anticipation that the high unemployment rate throughout the country might result in larger applicant pools in all locations. However, this was not the case. We set a CSR hiring goal for FY 2021 of 5,000 CSRs but have encountered significant hiring challenges during the pandemic, including low applicant pools in some locations, delays in fingerprinting due to closed facilities, and delays in processing applicants virtually. As such, the IRS

has onboarded approximately 3,800 CSRs (our largest-ever hiring of phone assistants for a filing season), for a total of approximately 13,760 CSRs. We also expect to hire an additional 1,000 CSRs to be ready this summer with the funding provided in the ARP Act for implementation of the child tax credit changes, to address potential call volume increases. Accordingly, we are currently estimating a LOS for the 2021 filing season that is significantly less than where we want to be, and that may fluctuate further based on increasing call volumes.

#### *Improving Service to Diverse Communities*

We view our efforts through the eyes and experience of those we proudly serve. An important way the IRS serves taxpayers during the filing season and throughout the year is by communicating with them in their most comfortable language. In preparing for the 2021 filing season, the IRS took important steps to further improve the amount of service we provide in multiple languages.

Prior to this filing season, the IRS for years had been working to provide tax information in additional languages. For example, many pages of *IRS.gov* are available in Spanish, Vietnamese, Russian, Korean, Haitian Creole and Chinese (Simplified and Traditional), and basic tax information is available on the website in 20 languages. And the IRS continues to expand its efforts to post and link to information available in multiple languages on social media platforms, including Twitter and Instagram.

I'm proud to say that this filing season, we are providing the Form 1040 in Spanish for the first time. Also for the first time, the 2020 Form 1040 will give taxpayers the opportunity to indicate whether they wish to be contacted in a language other than English.

Other recent changes include making Publication 1, *Your Rights as a Taxpayer*, available in 20 languages. In addition, we have issued a new, streamlined version of Publication 17, *Your Federal Income Tax*, that is easier to navigate and faster to download than previous versions, and is now accessible on most personal electronic devices. The new Publication 17 is available in English, Spanish, Chinese (traditional and simplified), Vietnamese, Russian, and Korean.

Additionally, taxpayers who interact with an IRS representative now have access to over-the-phone interpreter services in more than 350 languages. The IRS has also recently begun inserting information about translation services and other multilingual options into the high-volume notices we send out to taxpayers. Our diverse workforce is proud to be reflective of the diverse communities we serve.

#### PROVIDING RELIEF TO TAXPAYERS DURING THE COVID-19 PANDEMIC

##### *Delivering Economic Impact Payments*

While delivering last year's filing season—which was the longest in history—and preparing for the one now underway, IRS employees also worked many long hours to implement major provisions of the Coronavirus Aid, Relief and Economic Security (CARES) Act, including developing new tools and meaningful guidance to deliver the first round of EIPs in record time. In fact, millions of Americans started seeing EIPs show up in their banking accounts within 14 days after the March 27, 2020 enactment of the CARES Act. IRS employees successfully delivered more than 160 million payments of nearly \$275 billion in this first round of EIPs.

The IRS also quickly delivered the second round of EIPs included in the Tax Relief Act enacted on December 27, 2020. The IRS delivered approximately 147 million payments totaling about \$142 billion and in many cases, these payments started posting to bank accounts just two days after the law's enactment. IRS employees worked nonstop through the holidays to get these payments out, while remaining hard at work preparing for the 2021 tax filing season. I want to emphasize the amount of advance preparation our employees did, once it started to become apparent that a second round of payments would be enacted, in order for us to achieve such a quick turnaround.

Another factor helping us speed the effort on the second round of EIPs was our ability to build off and use the data we had accumulated in delivering the first round. That accumulation of data again helped us move quickly on delivery of the third round of EIPs that began last month.

The vast majority of people did not need to take any action to receive an EIP, either in the first or second round, and we have been working to ensure the same is true for the third round of EIPs. The IRS calculated and automatically sent the payments to taxpayers as well as others eligible, including many people who may

not normally need to file returns, such as senior citizens with modest incomes, others receiving Social Security retirement, survivors or disability insurance benefits, and railroad retirees. The IRS also issued EIPs last year to those whose only income is from Supplemental Security Income (SSI) benefits and people receiving disability compensation, pension or survivor benefits from the Department of Veterans Affairs (VA).

In our initial work on EIPs during the spring of 2020, the IRS worked cooperatively with the Social Security Administration (SSA), the VA, and other government agencies to pull these agencies' information into our systems to ensure that we could send payments to these groups of people without requiring them to file a return or take any other action. These agencies provided critical help that allowed the IRS to reduce the burden for these individuals, including reducing the need for them to seek in-person tax return preparation to file a return. This effort was a significant step beyond anything the IRS was able to do during previous stimulus efforts to help taxpayers.

Again this year, the IRS began working with the SSA and the VA early on to help ensure we could deliver the latest round of EIPs as soon as possible to non-filers who receive Federal benefits such as those described above. Because information about who receives Federal benefits changes over time, the IRS needed these agencies to provide updated 2021 information, and we requested this information as quickly as possible so we could process the beneficiary data and make these automatic payments. For the first round of EIPs in the spring of 2020, these groups received their payments in four to six weeks after the CARES Act was signed into law.

For the EIP3, we are on track to meet or surpass last year's time frame, and we will continue working to get these payments out to Federal beneficiaries as soon as possible. As of April 7th, we delivered more than 19 million EIP3 payments with a total value of more than \$26 billion to Retirement, Survivors, and Disability Insurance (commonly referred to as "Social Security") program beneficiaries who didn't file a 2020 or 2019 return and who did not use the Non-Filers tool last year. We have also delivered more than 3 million payments to SSI beneficiaries with a total value of nearly \$5 billion, and nearly 85,000 payments with a total value of more than \$119 million to Railroad Retirement Board beneficiaries.

In its efforts last year to quickly deliver EIPs and provide information to eligible recipients, the IRS provided two new online tools:

- The **Non-Filers** tool, which was launched on *IRS.gov* on April 10, 2020 and available through November 21, 2020 in both English and Spanish, allowed people who normally don't have a filing obligation to enter basic information so that they could receive their payment.
- The **Get My Payment** tool, which launched on *IRS.gov* on April 15, 2020 and is available in English and Spanish, allows many taxpayers to check the status of their payment or enter their bank account information to receive their payment electronically, if it was not already provided on a 2019 or 2018 tax return or through the Non-Filers tool.

Since the launch of Get My Payment, nearly 350 million successful status checks have been made using this tool. And nearly 15 million people have successfully provided their banking information, meaning they received their payments much more quickly via direct deposit.

The IRS has taken significant steps to reach all potential EIP recipients throughout each round of EIPs. We extended our reach far beyond our normal contacts to many lower-income, military, veterans, retired, older, limited English proficient, and homeless communities around the country. In fact, we worked with our partners to distribute EIP outreach materials in 35 languages within these communities.

We have continued to ask for assistance from hundreds of local community groups and religious organizations, as well as the national associations to which they belong, and numerous others to reach into their respective communities. We worked with thousands of homeless organizations, including more than 300 organizations that became "Trusted Partners" where an unsheltered homeless individual could designate to receive their payment. We also expanded the authority of Low-Income Taxpayer Clinics (LITCs) to provide return preparation assistance for individuals seeking their EIPs. To support these ongoing efforts, we developed a special online toolkit containing helpful information for groups to use in identifying and getting the word out to people who qualify for EIPs. The toolkit, IRS Publication 5420, can

be found on *IRS.gov*. We also provided information regarding a similar online toolkit to every member of Congress.

Also as part of this effort, we mailed a letter in September 2020 to millions of Americans who might be eligible, but hadn't received an EIP and didn't file a return for either 2018 or 2019. We obtained these names by performing an extensive internal analysis of records corresponding to individuals who did not file returns or receive Federal benefits and were not responsive to other EIP outreach efforts. These individuals did not typically have a tax return filing requirement but had received Forms W-2, 1099s and other third-party statements. We sent letters to these individuals to notify them of their potential eligibility as we lacked information on: whether they would qualify; whether they had eligible dependents; or whether an individual may be ineligible due to being claimed as a dependent by someone else.

To help these groups, we extended the initial access to the Non-Filers Tool five weeks to November 21, 2020. This new deadline provided additional time for individuals to use the tool without adversely affecting our work on the 2021 filing season. On November 10th we held National EIP Registration Day (and supported other similar events), to encourage people who had not received a payment to use the Non-Filers tool before the November 21st deadline.

Our outreach effort during delivery of this third round of EIPs includes reminding people who did not receive payments in the first or second rounds last year that, if they qualify for them, they can receive those payments by filing a tax return and claiming the RRC. We are also encouraging these people, when filing their return, to check to see if they qualify to claim other tax credits, including the EITC and the CTC.

The IRS has also been providing support to members of Congress who have been receiving inquiries from constituents about the payments. To help provide these answers, the IRS set up a special online "EIP Mailbox" last May to which congressional staffs could send inquiries.

The EIP Mailbox proved even more popular than anticipated, with the number of emails received averaging 700 a day at first and reaching 1,000 a day by the summer. To make sure we helped as many people as possible, we modified our processes and temporarily reassigned IRS employees to respond to these inquiries. By the time we closed the mailbox in December, we had received a total of more than 130,000 inquiries and resolved an estimated 90 percent of the questions. To accommodate inquiries related to the second round of EIPs, we reopened the EIP mailbox on January 11, 2021, and it has remained open since then. Currently, we are receiving approximately 150 emails a day.

#### *Implementing Business Tax Relief*

Along with EIPs for individuals, the IRS has also been working to make sure businesses know about important tax relief available to them, and we continue to provide guidance about business tax relief. This assistance was originally provided in COVID-relief legislation last year. Two important measures, the Employee Retention Credit and the Credit for Sick and Family Leave, have already resulted in, as of January 2021, credit amounts claimed on returns of nearly \$10 billion. These measures were extended and/or modified by the ARP Act as follows:

- *Credit for Sick and Family Leave.* Eligible employers are entitled to receive a refundable (and advanceable) tax credit for the qualified sick leave and family leave they provide to employees dealing with specified health and family issues related to the coronavirus between April 1, 2020, and September 30, 2021.
- *Employee Retention Credit.* This refundable credit is designed to encourage businesses to keep employees on their payroll. As amended by the American Rescue Plan, the refundable credit is 70 percent of up to \$10,000 in qualified wages paid by employers financially affected by COVID-19. Qualifying wages—including health plan expenses—are those paid after June 30, 2021 and before January 1, 2022. The credit was modified to include: eligibility for certain startup businesses; special rules for "severely financially distressed employers" that experienced a gross receipts reduction of more than 90 percent; and a 5-year statute of limitations for the IRS to make an assessment of any amount attributable to the employee retention credit.

In addition, for the Credit for Sick and Family Leave and the Employee Retention Credit, the IRS set up a system that allowed businesses to claim these refundable credits in advance during 2020 and thus have more funds available to keep their

workers employed without having to wait to claim the credits on tax returns filed in 2021.

Another important area where Congress provided relief involves net operating losses of businesses. The CARES Act includes a provision allowing businesses to carry back net operating losses over 5 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.

*Providing Administrative Relief and Protecting Taxpayers*

Along with implementing the CARES Act, the IRS provided significant administrative relief in 2020 to ease the burden on taxpayers:

- A postponement of the deadline for individuals to file Federal returns and pay Federal income tax from April 15, 2020, to July 15, 2020. This relief covered all taxpayers with a tax return filing deadline or payment due date between April 1, 2020, and July 15, 2020. As noted above, this year we provided a more limited extension, applying to individuals filing Form 1040, to May 17, 2021.
- The IRS People First Initiative, under which we temporarily adjusted our processes to help people and businesses during these uncertain times. This included limiting certain collection and examination activities.

While it has been important to the tax system, and the Nation, for the IRS to resume its critical tax compliance responsibilities, we continue to assess the wide-ranging impacts of COVID–19 and other difficulties people are experiencing.

To that end, the IRS continues to offer a wide range of taxpayer relief options. We are:

- Doing everything we can under existing rules for immediate, broad-based relief from unpaid liabilities resulting from COVID–19 issues, including those affected by IRS mail processing and correspondence delays;
- Removing bureaucratic barriers and expanding flexibilities to all taxpayers whose financial condition has been affected by COVID–19; and
- Balancing the relief provided against the need to serve all taxpayers and uphold the Nation’s tax laws.

When appropriate, the IRS can help taxpayers by abating penalties, extending payment plans, expanding access to installment agreements, and providing relief for taxpayers having difficulty meeting the terms of previously accepted offers to settle tax debts.

Our new initiatives offer help in a variety of ways. Taxpayers without income or the ability to pay can request a temporary suspension of collection activity through the Currently-Not-Collectible program. Taxpayers with balance due amounts may qualify for installment agreement options with generous terms and timeframes, and taxpayers with existing Online Payment Agreements, or Direct Debit Installment Agreements can propose lower monthly payment amounts and update their payment due dates. Other penalty relief options include first-time abatement for reasonable cause.

The IRS has also been diligently working to alert taxpayers and tax professionals to scams related to COVID–19, especially calls and email phishing attempts tied to the EIPs. The IRS and its partners throughout the country have been publicizing these scams.

MAINTAINING IRS OPERATIONS DURING COVID–19

The IRS’s initial efforts to provide relief to taxpayers came during Filing Season 2020 and at a time when the agency had to temporarily scale back operations to protect the health and safety of both IRS employees and taxpayers. Even with our reduced operations, the IRS continued to successfully deliver the 2020 filing season, by processing electronic tax returns, issuing tax refunds, and accepting electronic payments.

During COVID–19, the IRS has been using innovative approaches to make sure our employees can deliver on the agency’s mission:

- We have set records for the number of IRS employees teleworking, thanks to the continued support of our Information Technology (IT) division;

- Our IT systems continue to perform at a high level. Our internal networks are supporting nearly 61,000 employees online at the same time, all in a secure environment;
- IT provided the equipment necessary to allow thousands of our customer service representatives (CSRs) to telework, which gave critical help to the IRS in its efforts to resume phone assistance to taxpayers while maintaining the safety of employees during the COVID pandemic;
- Our external-facing IT systems also continue to work extremely well in a time of increased demand, including filing season systems as well as *IRS.gov* tools; and
- We have been able to continue bringing on new employees through the use of a successful virtual onboarding process.

As part of these efforts, the IRS continues to find ways to provide new virtual services and online tools for practitioners to ensure the critical work of the agency continues.

Last summer, for example, we moved quickly to shift our Nationwide Tax Forums for tax professionals into an all-virtual setup rather than handling these in person at locations across the country. And in our 30th year of offering the forums, I'm proud to report our virtual version last year still attracted more than 10,000 practitioners from across the country.

Another great example is our announcement earlier this year that we are giving tax professionals a new online option to obtain signatures from individual and business clients and submit authorization forms electronically. This option applies to Form 2848, *Power of Attorney and Declaration of Representative*, and Form 8821, *Tax Information Authorization*. This development is an important first step in our ongoing efforts to expand digital options for tax professionals using electronic signatures and online uploads.

New options for taxpayers include the launch last year of an electronic filing option for those who need to amend their income tax returns. Providing an online filing option for the amended individual income tax return—also known as Form 1040-X—has been an IRS goal for many years and is a major milestone for us. Electronically accepting Form 1040-X posed a number of unique challenges, but we succeeded thanks to a great deal of hard work by employees across the agency.

#### *Resuming Operations and Answering Taxpayer Needs*

Last summer, the IRS began resuming operations for non-portable services, as more States and local areas also began reopening. As we have continued our work during this unusual period, we have been aware of the continuing taxpayer needs and the backlog of work at our campus and office locations.

One area we have worked hard to improve upon is opening the mail. Because we had to scale back mail-processing functions last spring due to the pandemic, we developed a backlog of unprocessed paper returns and other mail. At one point, the backlog reached more than 20 million pieces. But since last summer, we have been working through this backlog, and we are now current.

While working to reduce the paper backlog, we also have provided relief for taxpayers who sent us mail that was unopened for a period of time. For example:

- For people who had tax refunds affected by our closure, the IRS has paid interest on refunds. These payments, which can sometimes show up as a second deposit, averaged \$18 for nearly 14 million taxpayers.
- For people who made a payment but where there was a delay in when the mail was opened, we credited people on the date the mail was received, not the day we processed the payment.

As difficult as these last months have been, we have seen many examples of how this crisis has brought out the best in people, including the IRS workforce. I am proud of what our employees have accomplished during the pandemic. Our employees shared the same health and safety concerns for themselves and their families as every other American. However, they not only went the extra mile in doing their jobs; they also made a difference in their communities.

For example, we saw IRS employees across the country doing some amazing things: getting out their sewing machines and creating homemade face masks for family members and friends; donating essentials to protect first responders on the front lines in their communities; and delivering “care packages” to seniors in nurs-

ing homes. During last summer's Feds Feed Families Campaign, employees at our Memphis Campus donated a record-breaking 51,800 pounds of food to the Mid-South Food Bank!

Another good example of providing help during the pandemic involved our Criminal Investigation division. A group of 12 special agents deployed to Travis Air Force Base in Fairfield, CA in March 2020. They helped provide security and quarantine enforcement at hospitals and other locations, such as COVID-19 quarantine sites operated by the Department of Health and Human Services (the Assistant Secretary for Preparedness and Response and the Centers for Disease Control and Prevention).

It is important to note that, in addition to their efforts during the pandemic, IRS employees routinely deliver in times of need for the Nation when disasters strike. Since 2012, more than 10,000 IRS phone assistants have stepped up to help take the burden off the Federal Emergency Management Agency's (FEMA) call centers in the aftermath of hurricanes and other natural disasters, answering an estimated 1.6 million calls from storm survivors seeking help. We have also had many agents from our Criminal Investigation division provide their help and expertise during disasters. For example, in September 2020, a team of about two dozen special agents deployed to Oregon in support of those fighting wildfires in that State. More recently IRS phone assistants were called upon to be ready to help FEMA with respect to the weather-related difficulties in Texas.

#### ENSURING TAX COMPLIANCE

Enforcement activities of the IRS affect revenues directly, through the collection of unpaid taxes, and indirectly, by influencing taxpayers' behavior. Nearly all of the IRS's funds are appropriated annually by Congress. Appropriations for the IRS fell by about 20 percent (adjusted for inflation) since FY 2010. About 70 percent of the IRS's overall budget is for labor, and thus the decline in the overall IRS budget resulted in a 15-percent decline in the number of full-time employees at the agency (since FY 2010) and a 31-percent decline in the number of full-time employees working in enforcement roles (since FY 2010). The number of examining revenue agents, who handle complex enforcement cases, fell by 35 percent, and field collection revenue officers, who manage difficult collections cases, dropped by 48 percent. The loss of approximately 17,436 enforcement employees since 2010 has resulted in the examination rate for individual returns falling by about 45 percent; for businesses with assets equal to or exceeding \$10 million, the examination rate fell by about 72 percent.

Despite these resource challenges, the IRS remains committed to having a strong, visible, robust tax enforcement presence to support voluntary compliance. When taxpayers file their returns, they should feel confident others are doing the right thing too. Enforcement of the tax laws is critical to ensuring fairness in our tax system. IRS employees who collect taxes, audit returns and investigate fraud, as well as tax-related identity theft, work hard throughout the year to enforce the tax laws while treating taxpayers fairly and respecting their rights. This commitment is true across our agency—our divisions that deal with individuals, large businesses, small businesses and exempt organizations are highly coordinated. In fact, the IRS's Office of Fraud Enforcement (OFE), which was created in March 2020, is actively encouraging and ensuring this coordination across IRS, promoting compliance, strengthening the IRS's response to fraud and mitigating emerging threats.

Over the past 2 years, we have shifted significant examination resources and technology to increase our focus on high-income and high-wealth taxpayers. For example, an IRS initiative announced last year involves improving tax compliance among high-income taxpayers by increasing visits to those generally with incomes above \$100,000 who failed to file tax returns in 2018 or previous years. Substantially all experienced examiners—those who are the most highly trained with substantial accounting skills—are almost entirely focused on tax returns that include complex issues, such as high-income taxpayers, pass-through entities, multi-national taxpayers involving international tax issues, large pension plans, private foundations and the most egregious situations.

As reported in the IRS's most recently published Data Book (2019), the exam coverage rate (closed and in-process) for Tax Year 2015 of taxpayers with income of \$10 million or more was about 8.16 percent (down from almost 23.06 percent in 2010). The rate for taxpayers with income between \$5–10 million was 4.39 percent; for those with income between \$1–5 million was about 2.39 percent; for those with income between \$500,000–\$1 million was about 1.13 percent; and for those with in-

come between \$200,000–\$500,000 was about 0.55 percent. The IRS receives more third-party information (Forms W-2s, Forms 1099, etc.) for taxpayers with income between \$200,000–\$1 million than for those above \$1 million. These audit rates are higher than for any other category of individual filers. Tax Year 2015 is the last year for which we know the actual final audit rates, because the IRS can still open audits for more recent years, so the data for more recent years is not yet complete but we expect to see that trend generally continue with Tax Years 2016, 2017, and 2018.

We also have new compliance programs addressing virtual currency (non-filers and filers), return preparer non-filers, those who fail to file Form 8300, *Report of Cash Payments Over \$10,000*, and others. These programs require experienced, specialized examiners.

Along with launching our OFE, where technical advisors provide fraud policy and operations support to all IRS operations, we also created an Office of Promoter Investigations (OPI) within the past year. OPI is focused on taxpayers and the promoters of abusive tax avoidance transactions, including abusive syndicated conservation easements and abusive micro-captive insurance arrangements, as well as the use of virtual currencies, offshore transactions and other transactions to inappropriately avoid or under-report tax. Substantially all of these transactions are engaged in by high-income individuals. OPI coordinates Service-wide enforcement activities, most often interacting with our Large Business and International division, our Small Business/Self-Employed division, OFE, the Office of Chief Counsel, and our Criminal Investigation division.

We are also investing in our Human Capital Office to ensure that we can hire the necessary enforcement personnel in our priority areas, such as the oversight of large corporations, partnerships and other pass-through entities, and high-income/high-wealth taxpayers.

The IRS is committed to pursuing those who would intentionally evade their tax obligations and commit fraud. We are also pursuing those who promote and make use of abusive tax shelters, and are especially concerned about certain variations, including abusive syndicated conservation easements and micro-captive insurance shelters. The IRS Office of Chief Counsel, which appointed a National Fraud Counsel last year, is working closely with IRS compliance officers to properly and fully develop cases with indicators of fraud across all operating divisions, in pursuit of a civil fraud penalty where appropriate, or for the most egregious violations, a criminal fraud referral. Our Criminal Investigation division also does important work to uncover tax fraud.

Additionally, the IRS—in particular, the OFE and the National Fraud Counsel—has been focused on preventing COVID-19-related fraud and scams, working closely with the Small Business Administration, the Bureau of Fiscal Service and the Department of Justice to prevent and stop improper claims for tax credits and see that the unscrupulous individuals face appropriate civil and criminal sanctions.

Importantly, the IRS is using technology to develop new enforcement tools. Our advanced data and analytic strategies allow us to catch instances of tax evasion that would not have been possible just a few years ago. We also recognize that we must evolve our enforcement efforts to address new types of tax fraud and criminal behavior. For example, the IRS has been working to ensure taxpayers with virtual currency transactions understand the tax laws governing virtual currency and meet their tax obligations. Our Criminal Investigation Cyber Crimes Unit has been involved in new complex types of tax enforcement, including: taking down the largest child exploitation site operating in the Dark Net utilizing virtual currencies; uncovering international money laundering operations involving the theft of virtual currencies; and the seizure of terrorism financing sites maintained on behalf of al Qaeda, Hamas, and ISIS.

#### TAXPAYER FIRST ACT: UPDATE ON IMPLEMENTATION

Even during this challenging period, the IRS is meeting not only the immediate needs of taxpayers but is also developing an innovative approach to the future of tax administration that will better serve everyone, including those in underserved communities.

The IRS is using its implementation of the Taxpayer First Act (TFA), to make significant improvements in the way we serve taxpayers, enforce the tax laws in a fair and impartial manner, and ensure our workforce collaborates and is well-trained. In January, pursuant to the statutory requirement, we submitted our TFA



Report to Congress. This report includes strategic recommendations to improve the taxpayer experience, employee training, and the current agency organizational structure. The report is the culmination of input and feedback from our employees, our partners in the tax community, and other stakeholders.

I'm pleased to report that we will have strong, experienced leaders guiding us in our efforts to improve the taxpayer experience:

- We recently announced that Heather Maloy, a former IRS executive, has returned to the agency to be the new director of the Taxpayer First Act Office. Heather held many prominent positions while at the IRS, including Commissioner of our Large Business and International Division.
- Just 2 weeks after issuing the Report to Congress, we announced the creation of the Chief Taxpayer Experience Officer position to unify and expand efforts across the agency to serve taxpayers. We selected Ken Corbin, the Commissioner of our Wage and Investment Division for this role. With more than three decades at the IRS, Ken Corbin is ideally suited to lead our efforts to improve interactions with the IRS for taxpayers and the tax professional community.

As we move forward on TFA implementation, our Enterprise Case Management initiative (ECM) is a major part of our Integrated Modernization Business plan and is a critical component in the implementation of long-term TFA changes. ECM will allow us to modernize key IRS business processes and migrate them to a common case management platform. This in turn will allow us to decommission as many legacy components and systems as possible. For our employees, implementing ECM will mean giving them appropriate access to a 360-degree view of a taxpayer's account and also support our ability to give taxpayers more digital options in their interactions with us. The employees who interact with taxpayers are helping to develop features and services that will best help their customers, and they have been the key to the success of ECM thus far.

The Tax Exempt/Government Entities Division's (TE/GE) Exempt Organizations Correspondence Unit process was the first business process to migrate to our new ECM platform in 2020. This milestone transitioned paper-based processes to an electronic format that enabled the Correspondence Unit to work more efficiently, speeding up the response time to organizations that interact with TE/GE. The lessons learned while migrating this business process to ECM will allow us to build on this initial success and migrate other business processes quickly and efficiently in the coming years. We are currently working on migrating the IRS Grants Management program in time to award grants under the new system in 2021 to organizations participating in the VITA and TCE programs.

Our progress thus far on implementation of the TFA shows how committed IRS employees are to serving the Nation. With our TFA Report guiding us, and with ongoing support and feedback from our employees and partners in the tax community, we will continue to make improvements to ensure the IRS can serve the needs of the Nation's taxpayers well into the future.

#### CONCLUSION

Chairman Wyden, Ranking Member Crapo, and members of the committee, thank you again for the opportunity to update you on IRS operations, especially our responses to the COVID-19 situation. The IRS is dedicated to improving service to taxpayers, modernizing its systems and maintaining the integrity of the tax system, while also protecting the health of its workers and American taxpayers.

We believe we have made great strides over the past year and will continue this progress with the help of Congress, as we move the agency into the future. This concludes my statement, and I would be happy to take your questions.

---

#### QUESTIONS SUBMITTED FOR THE RECORD TO HON. CHARLES P. RETTIG

##### QUESTIONS SUBMITTED BY HON. RON WYDEN

*Question.* 26 U.S. Code § 7203 makes the willful failure to file a tax return and failure to pay Federal income tax a crime. As you are aware, the Treasury Inspector General for Tax Administration (TIGTA) published a report last year which found that hundreds of thousands of high-income taxpayers did not file tax returns for tax years 2014–2016, collectively owing an estimated \$45.7 billion in taxes to the U.S.

Treasury. While the IRS has moved to resolve and collect revenue from this group, you recently told the committee that over \$34 billion in taxes from this group of taxpayers remains uncollected.

I am particularly concerned that IRS has not fully addressed the problem posed by repeat offenders, high-income non-filers with multiple years of unfiled tax returns. The IRS recently estimated that there are almost 50,000 high-income non-filers owing \$7.1 billion in tax with multiple unfiled returns for TYs 2014 through 2016. This amount is likely even higher as this figure is dated and the annual amount of owed taxes uncollected by the IRS has only continued to increase.

For cases involving high-income non-filers with multiple years of unfiled returns, has the IRS made any criminal referrals to the tax division of Department of Justice for the willful failure to file a tax return or pay estimated tax? If so, please provide the number of cases the IRS has referred for prosecution.

Answer. The IRS is the sole law enforcement agency with title 26 authority. Beyond the investigation of tax crimes associated with a particular taxpayer, a significant component of any IRS Criminal Investigation (IRS-CI) investigation is deterrence of similar conduct by others. The willful failure to file a return, supply information or pay a tax is generally a misdemeanor offense under Internal Revenue Code (IRC) section 7203. As a misdemeanor, violations of IRC 7203 are limited to a maximum 1 year term of incarceration. Historically, sentencing courts have imposed probation or limited terms of incarceration for violations of IRC 7203.

During Fiscal Year (FY) 2014 through FY 2020, IRS-CI recommended approximately 134 IRC 7203 violations only to the Department of Justice for prosecution consideration. For that same period, we recommended approximately 229 IRC 7203 violations along with other felony charges to the Department of Justice for criminal prosecution. During FY 2014-FY 2020, the Department of Justice indicted approximately 196 IRC 7203 matters associated with IRS-CI prosecution recommendations and approximately 244 indictments for IRC 7203 violations along with other felony charges.

IRS-CI's primary goal is deterrence. After considering all relevant options, including the allocation of limited investigative and prosecutorial resources, every opportunity is taken to maximize the impact of potential deterrence effect upon the public in deciding which cases to investigate and, when appropriate, which to recommend for prosecution to the Department of Justice. Investigations by IRS-CI are not public, but, generally, the filing of a Criminal Information or Indictment by the Department of Justice is a public document. Deterrence is most significant in the criminal tax context when unlawful conduct results in a successful prosecution followed by period of incarceration for those involved. To ensure that our limited criminal investigation resources are primarily used to further the goal of deterrence, IRC 7203 prosecutions are less favored than felony violations when pursuing criminal tax fraud.

*Question.* Please describe the process and criteria used by the IRS to initiate a criminal investigation regarding cases involving taxpayers with multiple years of unfiled tax returns and significant amounts in unpaid taxes. Please also describe how the IRS assesses whether a taxpayers failure to file tax returns in multiple years is considered "willful" and criminal as described in 26 U.S. Code § 7203.

Answer. IRS-CI identifies taxpayers with multiple years of unfiled returns in a variety of ways. Many come from Internal Revenue Service (IRS) civil operating divisions, who make a fraud referral when in the course of their operations they encounter a taxpayer who has a history of not filing in an effort to evade their tax obligations. Other ways non-filing taxpayers are identified include: whistleblower filings, walk-in informants, complaints from law enforcement partners, spin-offs of existing criminal investigations, and data analytics at the field office level. After a potential subject is identified, IRS-CI evaluates the information to determine if a criminal investigation (referred to as a Subject Criminal Investigation) is warranted. In this process, referred to as a Primary Investigation, special agents use IRS records, interviews of the IRS employee who made the fraud referral, interviews of other IRS employees who had contact with the taxpayer, real estate public records, Department of Motor Vehicle data, other law enforcement records, State corporate filings, and public court records to determine filing requirements and the scope of the potential tax loss. During the Primary Investigation, no contacts are made with non-governmental, third-party witnesses in order to maintain taxpayer confidentiality. The special agent decides, based upon the information evaluated, if the case warrants a Subject Criminal Investigation, or should be forwarded to IRS civil oper-

ating divisions for civil enforcement consideration or closed. The initiation of a Subject Criminal Investigation requires approval by the Special Agent in Charge of the field office.

The criteria used to initiate a Subject Criminal Investigation include, but are not limited to: if the failure to file is part of a broader scheme to evade taxes, the amount of tax due, the number of years or pattern of non-filing, any prior history of tax non-compliance, if the subject is involved in other criminal activity, if the subject is in a position of trust, the complexity of the subject's non-compliance scheme, the number of participants in the subject's scheme, if the subject is promoting tax non-compliance to others, how prosecution will promote voluntary compliance by others, the health of the subject, and the likelihood of the case being prosecuted by the Department of Justice.

Willfulness is an element of title 26, United States Code, §7203. The U.S. Supreme Court has defined willfulness in criminal tax violations as a "voluntary, intentional violation of a known legal duty" [United States v. Bishop, 412 U.S. 346, 360 (1973)]. Proving a subject's willfulness is done with direct evidence and/or circumstantial evidence. Direct evidence of willfulness is obtained through subject admissions or accomplice testimony. Circumstantial evidence of willfulness is determined through multiple sources, including but not limited to: prior tax filing history, providing fraudulent tax documents to financial institutions, statements to witnesses, soliciting cash payments, false statements on Forms W-4 claiming exemption from taxation, specialized education or work experience, statements to State tax agencies, titling and movement of assets to place them beyond government reach, use of nominee accounts, and deliberate use of business entities to obfuscate beneficial ownership and income.

*Question.* According to a recent analysis by TIGTA, a group of 64,005 high-income taxpayers each owe over \$100,000 to the IRS, with a total balance of over \$28 billion in unpaid taxes. How many of these taxpayers have multiple years of unfiled returns?

*Answer.* In TIGTA's final report for Audit # 2021-30-015 ("High-Income Taxpayers Who Owe Delinquent Taxes Could Be More Effectively Prioritized"), it is reported in Figure 1 that as of May 2019, there were 64,005 taxpayers who had a balance due of at least \$100,000 and who reported an Adjusted Gross Income (AGI) of \$200,000 or more on at least one Form 1040, U.S. Individual Income Tax Return, filed for Tax Years 2013 through 2017.

The IRS continues to select (and since tax year 2016 has selected) all high-income non-filers for compliance action since, including the taxpayers identified in this group. We estimate that almost 8 percent of the 64,005 taxpayers (5,120 taxpayers) have multiple unfiled returns where the taxpayer likely has a filing requirement.

This estimate was derived based on an independent analysis conducted by IRS's Collection organization as the list of taxpayers corresponding to TIGTA's analysis in Audit # 2021-30-015 was not provided to the IRS.

---

#### QUESTIONS SUBMITTED BY HON. MICHAEL F. BENNET

*Question.* One of the most important steps we took in the American Rescue Plan was to make the Child Tax Credit fully refundable. Previously, one-third of all children—27 million kids—were left out of the full CTC, mostly because their parents earned too little to qualify for the full credit.

We fixed that flaw for this coming year and I sincerely hope we will make that fix permanent going forward. Many of these newly eligible children are in our Nation's most vulnerable families—families who may face barriers to navigating our complex tax code, especially during a pandemic. Many of them may not have a filing requirement at all.

I was disappointed to hear you say in March that families will need to file a 2020 tax return in order to receive their advance Child Tax Credit payments.

Could the IRS use its forthcoming CTC portal to collect sufficient information to send out payments instead of requiring them to file a 2020 return?

*Answer.* The Advance Child Tax Credit (Advance CTC) payments will be based on a processed tax year 2020 tax return or 2019 tax return (including information entered into the Non-Filer tool for Economic Impact Payments on *irs.gov* in 2020).

Last year the IRS established a new online tool in collaboration with outside partners for the Economic Impact Payments. This year, IRS worked with its partners to develop and deliver the Non-filer Sign-up Tool. This tool is a new online tool designed to help eligible families who don't normally file tax returns register for the monthly Advance CTC payments scheduled to begin July 15th. This new tool provides a free and easy way for families who don't have a return-filing obligation to provide the IRS the information needed to figure and issue their Advance CTC payments if eligible. Often, these are families who receive little or no income, including those experiencing homelessness, the rural poor and other underserved groups. This new tool will be available only on *irs.gov*.

This effort includes a robust outreach strategy that will inform eligible taxpayers about the Advance CTC payments and how they can make modifications as needed. The IRS has started sending letters (Letter 6416 and 6416-A) to more than 30 million American families who, based on tax returns filed with the agency, may be eligible to receive monthly Advance CTC payments. We have developed a portal for taxpayers to opt out of the advanced payment or provide new information that is relevant to determining their eligibility and advance payment amount.

As is the case with any IRS initiative including Economic Impact Payments (EIPs) and the Rebate Recovery Credit (RRC), we will work with a broad and growing partner base to reach those individuals who may be eligible for the Advance CTC so that they can prepare for the opportunity to receive advance payments later in 2021. We have established relationships or built upon many existing partnerships that will help the IRS reach the underserved with this important information and communicate the necessary steps to take to access the Advance CTC. The IRS is exploring other outreach opportunities that may help address the special needs of the homeless and other hard to reach communities.

*Question.* Will the IRS provide supplemental funding to enable volunteer income tax assistance (VITA) sites to remain open all year to help non-filers claim the CTC?

*Answer.* The IRS is unable to provide supplemental funding to VITA sites. The VITA grant program is a matching program, and the partner sites must have the funding to match the amount of the grant. Matching funds are a legislative requirement. Most grant recipients have received their grant funds; therefore, the matching requirement has been met for Filing Season 2021. However, the IRS and its partners in non-profit organizations, churches, community groups and others will host events to help people who don't normally file a Federal tax return to register for the monthly payments.

*Question.* I hope the IRS will seek support from a broad range of State, local, and community organizations to reach families who do not typically file or have trouble interacting with the IRS. What efforts is the IRS making engage to agencies and nonprofits that wish to conduct their own outreach, and what information will be shared with such organizations?

*Answer.* For Advance CTC outreach we plan to build off and expand the extensive campaign we undertook for the Economic Impact Payments. The IRS has taken significant steps to reach all potential EIP recipients throughout each round of EIPs. We extended our reach far beyond our normal contacts to many lower-income, military, veterans, retired, older, limited English proficient, and homeless communities around the country. In fact, we worked with our partners to distribute EIP outreach materials in 35 languages within these communities. On May 19th, the IRS issued a release, IR 2021-116, explaining how community groups can assist those taxpayers without a permanent address receive their payments. We also have a section on *irs.gov* dedicated to providing outreach materials on a variety of subjects to partners and volunteers: <https://www.irs.gov/individuals/partner-and-volunteer-resource-center>.

We have continued to ask for assistance from hundreds of local community groups and religious organizations, as well as the national associations to which they belong, and numerous others to reach into their respective communities. We worked with thousands of homeless organizations, including more than 300 organizations that became "Trusted Partners" which an unsheltered homeless individual could designate to receive their payment. We also expanded the authority of Low-Income Taxpayer Clinics (LITCs) to provide return preparation assistance for individuals seeking their EIPs. To support these ongoing efforts, we developed a special online toolkit containing helpful information for groups to use in identifying and getting the word out to people who qualify for EIPs. The toolkit, IRS Publication 5420, can

be found on *irs.gov*. We also provided information regarding a similar online toolkit to every member of Congress.

*Question.* As you know, last year the IRS created a Non-Filer portal to help families claim their checks under the CARES Act. During last year's filing season hearing, you told this committee that tools like the Non-Filer portal are "the future of the IRS." While the tool was not without its flaws, I was disappointed to learn that the IRS plans to discontinue the Non-Filer portal.

How many households ultimately used the Non-Filer portal to access their stimulus payments?

*Answer.* The total number of households who accessed Economic Impact Payments during the first round of distribution on the Non-Filers: Enter Payment Here Tool portal was 8,518,600.

*Question.* Why did the IRS decide to discontinue the Non-Filer portal, despite your statement about such tools constituting "the future of the IRS"?

*Answer.* Last year, the IRS established a new online tool in collaboration with outside partners, called the Non-Filers: Enter Payment Info Here tool, which was launched on *irs.gov* on April 10, 2020 and was available through November 21, 2020 in both English and Spanish, allowing people who normally don't have a filing obligation to enter basic information so that they could receive their EIP.

The Non-Filers tool was designed to capture limited information from taxpayers who did not have a filing requirement, but who may have been eligible for an EIP. The information captured was used to determine EIP eligibility and to produce a very simple tax return with no income or tax liability calculated.

The Non-Filers tool did not capture essential information about an individual's eligibility to claim the earned income tax credit (EITC) and any other refundable credits to which the taxpayer may be entitled. The utility only captured limited information used to determine EIP eligibility.

Because of income changes in 2020, people may qualify for the EITC when they didn't previously. We encourage taxpayers to file a tax return to determine eligibility for other credits they may be entitled to. Taxpayers may use their 2019 earned income to figure their Earned Income Tax Credit if they earned more income in 2019 than in 2020. The same is true for the Additional Child Tax Credit. This could increase the credit for someone who lost their job or worked reduced hours because of the pandemic.

Most taxpayers can e-file for free using IRS Free File. If they earned \$72,000 or less during 2020 they can click "browse" on the page to review the options, or IRS Free File has a *look-up tool* to help you find an offer that best meets your needs. You can find it on *irs.gov* or the IRS2Go app. For taxpayers who need help preparing and filing their returns, the IRS sponsored Volunteer Income Tax Assistance and Tax Counseling for the Elderly volunteer sites will again provide free assistance, including free electronic filing, to low-income taxpayers, those who are older, people with disabilities and those whose primary language is not English. Some volunteer sites will offer virtual help to taxpayers in place of face-to-face assistance. This allows volunteers to help taxpayers over the phone or online to complete their returns. While virtual volunteering will be an option this tax season, some VITA/TCE sites will still offer in-person free tax help. However, safety and social distancing will be emphasized. Filing electronically is the fastest and most accurate way to file. The safest and fastest way to get a tax refund is to combine electronic filing with Direct Deposit.

However, the IRS is using a similar approach for the monthly Advance CTC payments. The IRS worked with the Free File Alliance to create the Non-Filer Sign-up Tool. This tool is a new online tool designed to help eligible families who don't normally file tax returns register for the monthly Advance CTC payments scheduled to begin July 15th. This new tool provides a free and easy way for families who don't have a return-filing obligation to provide the IRS the information needed to figure and issue their Advance CTC payments if eligible. Often, these are families who receive little or no income, including those experiencing homelessness, the rural poor and other underserved groups. This new tool will be available only on *irs.gov*.

*Question.* Many low-income individuals and families don't claim benefits for which they're eligible, such as the EITC or CTC, because they face difficulty filing or accessing overburdened resources like VITA. Others hand over large portions of these benefits to paid preparers in exchange for help filing. Should the IRS build and

maintain an easy-to-use point of access for individuals who might not otherwise file, as the non-filer portal was intended to be?

Answer. The IRS cannot determine at the time of filing if the taxpayer has met certain key eligibility requirements for claiming the EITC without a qualifying child without obtaining additional information from the taxpayer. For example, based on the information on the Form 1040, the IRS cannot determine if a taxpayer can be claimed as a dependent on another return or if the taxpayer lived in the United States for more than six months. Therefore, issuing the EITC automatically, based solely on return information, could lead to erroneous refunds which would hinder 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 credit at the time of filing.

The IRS will continue to send notices to taxpayers who appear to be eligible for the EITC and ask them to provide additional information.

*Question.* In 2020, despite the pandemic, 3,700 volunteer income tax assistance (VITA) sites across the Nation prepared more than one million returns for free, helping taxpayers claim more than \$1.7 billion in refunds. VITA sites will be instrumental in ensuring low-income taxpayers—especially those who do not usually file a return—can access the CTC, EITC, and stimulus payments for which they are eligible.

However, VITA programs only receive funding from Treasury during the traditional filing season, and face a 50-percent matching requirement, entailing extensive fundraising efforts. Without additional funding—and a request to remain open—most VITA programs will close in mid-May.

Will the IRS communicate with VITA site grantees about the importance of remaining open for the rest of the year, giving programs as much lead time as possible?

Answer. The IRS works collaboratively with external partners to operate VITA sites nationwide. While the IRS provides guidance and oversight to partners that run these sites, we do not determine operating hours including open and close dates. Partners have the flexibility to operate sites that fit their IRS certified volunteers' schedules. For instance, in contrast to those sites that are open on a regular schedule throughout the filing season, some sites are open just a day or a few days during the filing season. Additionally, there are volunteer sites located in donated space, such as libraries and may not have the flexibility to remain open past April 15th. Traditionally, some VITA sites may be open year-round depending on the partners' time and resources. Not all VITA partners receive grant funding. In some cases, whether grant-supported or not, the volunteers may not be available after the traditional filing season due to other commitments.

*Question.* Will the IRS commit to funding VITA sites to remain operational for the remainder of 2021, without requiring matching funds, using some of the funds it received in the American Rescue Plan?

Answer. The IRS is unable to commit to VITA sites remaining open, regardless of matching grant funds or American Rescue Plan funding. While the IRS provides guidance and oversight to partners that run these sites, we do not determine operating hours including open and close dates. Partners have the flexibility to operate sites that fit their IRS certified volunteers' schedules. However, the IRS and its partners in non-profit organizations, churches, community groups and others will host events to help people who don't normally file a Federal tax return to register for the monthly payments.

---

QUESTIONS SUBMITTED BY HON. THOMAS R. CARPER

*Question.* The Highway Trust Fund will become insolvent in 2022, and over the next 10 years, the total shortfall just to maintain baseline spending will be nearly \$200 billion. It is clear that we need to find new revenues to provide for the long-term solvency of the Highway Trust Fund. However, it's also clear that we need to consider the equity of the impact of any new taxes, and President Biden has stated that households making less than \$400,000 per year should not face any increase in their tax burden.

My question to you is this: if we were to raise gas taxes and collect those taxes from all drivers, is there a way to use the tax code to rebate the cost of that tax

increase for households earning less than median family income, whether it be the exact amount of gas tax they paid, or an average amount for all households??

Answer. Under the current tax code, taxpayers who use or sell certain fuels for a nontaxable use or produce alternative fuels, can claim a refundable tax credit on their income tax return using Form 4136, Credit for Federal Tax Paid on Fuels. The credit is treated as a payment towards a taxpayer's tax liability and is fully refundable even if a taxpayer has no tax liability. Any expansion to allow additional taxpayers to claim a rebate on a potential gas tax increase would have to be analyzed to determine feasibility, taking into account factors such taxpayer burden, IRS resources, cost, and information technology programming changes.

*Question.* Last Congress, I served as the ranking member of the Permanent Subcommittee on Investigations (PSI), which conducted a bipartisan review of the IRS Free File program. As you know, Free File is a partnership between the IRS and online tax preparation companies that allows the majority of taxpayers—this year, those making less than \$72,000—to file their taxes for free. Unfortunately, the Free File program is greatly underutilized. The Treasury Inspector General for Tax Administration (TIGTA) found that 14 million taxpayers could have filed their taxes for free using Free File, but instead paid for tax preparation services. The program has also experienced challenges, including findings that Free File partners manipulated search results to direct consumers to paid products, and one of the largest Free File partners recently leaving the program.

With the Memorandum of Understanding (MOU) between the IRS and Free File members expiring in October this year, can you share whether the IRS has any plans to change its MOU based on the findings from the Permanent Subcommittee on Investigations, Treasury Inspector General for Tax Administration, and Government Accountability Office? If so, what changes does the IRS plan to make to the Free File program?

Answer. In 2019, the IRS commissioned an independent assessment of the IRS Free File program, leveraging MITRE to obtain objective feedback on the program. In September 2020 we made improvements to the IRS web pages. We improved web searches and implemented random surveys of taxpayers by Free File, Inc. (FFI). We also responded timely to all follow up status requests from TIGTA regarding their recommendations, and we have made progress on five of their nine recommendations. IRS's MOU with the Free File members is scheduled to expire in October 2022. The IRS is developing the agency's renegotiation position inclusive of the appropriate reports recommendations. This work is evolving as we continue to balance demands and resources.

The MITRE report is available at <https://www.irs.gov/newsroom/irs-statement-on-free-file-program> on *irs.gov*. It includes a section on consumer choices and decisions. In late 2021, MITRE will provide a report to the IRS on overall taxpayer behaviors and what shapes choices that taxpayers make for the tax preparation methods.

An addendum signed December 26, 2019, was added to the MOU that states: "FFI Members are prohibited from engaging in any practice that would cause the member's Free File Landing Page to be excluded or lowered on the order of search results from an organic Internet search. Each FFI member shall standardize the naming of its Free File offer listed on the IRS Free File Website and the member Free File Landing Page so taxpayers can link to the member's Free File Landing Page from organic searches." Membership in Free File is by company choice: each company makes its own business decision whether to participate in Free File Inc. The IRS cannot speak to business decisions made by any company for provisioning free services via FFI.

*Question.* Reports by the Permanent Subcommittee on Investigations, Treasury Inspector General for Tax Administration, and Government Accountability Office have found that the Free File program has suffered from a lack of marketing funds and IRS oversight for many years. Last year, you told us about some of the outreach efforts the IRS has conducted to increase awareness of the Free File program.

What resources does the IRS currently dedicate to marketing and overseeing the Free File program? What additional resources does the IRS need to improve taxpayer uptake of Free File, and what resources does the President's upcoming full FY 2022 budget include for the IRS to better market and oversee the Free File program?

Answer. As of April 26, 2021, 3.3 million IRS Free File tax returns have been submitted in the 2021 Filing Season.

- Oversight:
  - The Free File Program Office is a part of the Industry Engagement and Strategy Office under e-File Services. Currently, the IRS uses one temporary detailee and three full-time employees to administer the program. This group includes a team lead, two senior program analysts, and a temporary business analyst detailed into the program. The senior manager of the Industry Engagement and Strategy Branch divides management time among the duties of that office and the other demands under her purview.
  - In order to implement many of the recommendation changes, and to manage and monitor the impact of the changes, the IRS is considering allocating additional staffing to this program. This needed staff will need to be focused on: interpreting survey results in order to create actionable next steps; working with Online Services to design on-line Real-Time website surveys; working with Communications and Liaison (C&L) to help develop proposals and outreach/education plans; and assisting with performing in-depth reviews of Free File websites and software.
- Marketing:
  - It is important to note that a mature multi-billion-dollar tax preparation software industry exists against which the IRS would be competing for consumer attention. This industry spends a considerable amount, exceeding \$1 billion annually, to advertise their commercial products which include “free” tax preparation commercial products. For example, in 2019 based on public filings, H&R Block spent \$269.8 million and Intuit spent \$800 million advertising their commercial products. Any government funded advertising would necessarily have to compete with these commercial efforts in the tax preparation marketplace. As can be interpreted from these marketing budgets for private industry, IRS would need to spend significant amounts on marketing to garner any attention.
  - The IRS Free File team works with the shared service of W&I Communications and Liaison to utilize existing communication and promotion vehicles that are available to all IRS programs. This group manages production and posting of press releases before and during the filing season, tax tips, and fact sheets as part of the IRS’s larger, annual campaigns. The IRS also employs social media to promote Free File, actively posting on Facebook, LinkedIn, Instagram and @IRSNews and @IRSenEspanol. Their efforts have helped drive an increase in volume this year compared to last year; we ended the 2020 year with a 50 percent growth.

In addition to the more typical messaging channels the agency employs, in the 2021 filing season the Free File team led an effort to send 2.5 million postcards to prior year paper filers eligible for the IRS Free File program. These postcards were to promote the IRS Free File and VITA programs. The IRS Free File team, working with W&I research, will assess the efficacy of this effort to determine if it should be used in subsequent years.

*Question.* As you know, the IRS is currently working through a backlog of 2.4 million 2019 paper tax returns filed by individuals. These processing delays have slowed the delivery of much-needed tax refunds and Economic Impact Payments to many of my constituents who are struggling to get by during this pandemic.

Can you please share the specific actions that the IRS is taking to address this backlog of 2019 paper returns and what Congress can do to help? What is the IRS’s timeline for clearing this backlog?

Answer. The backlog of all individual paper returns received in 2020 has been cleared and they are now in the processing pipeline. We took all necessary steps to address this, including transshipping backlogged work between our centers and shifting resources between functions to address backlogs. This is also attributable to our four Submission Processing Centers working day, night, and weekend shifts (16 hours per day) along with mandatory overtime to open mail and process tax returns and taxpayer correspondence.



## QUESTION SUBMITTED BY HON. BILL CASSIDY

*Question.* Incentives for historic preservation in the tax code are extremely important to Louisiana, and easements and other preservation programs have made it viable to protect and rehabilitate buildings in New Orleans and other cities that would otherwise likely have been bulldozed.

Some preservationists in my State report that actions by IRS have led to uncertainty and delay. I recognize there are instances of abuse in conservation easement transactions, and recommend that historic preservationists be included in the conversation as the IRS addresses these abuses.

I am told your team recently met with historic preservationists to discuss ways to differentiate valid historic preservation easements from inappropriate abuses of the tax code, and appreciate your taking the time to hear from the group.

Moving forward, can you work towards bringing together a working group, which includes stakeholders such as historic preservationists, to work on detailed IRS guidance?

*Answer.* The Internal Revenue Service recognizes that Congress authorized the charitable contribution deduction for conservation contributions—historic preservation—to provide taxpayers with a valuable incentive to preserve historic structures. We recognize the importance of providing such taxpayers with guidance that will create certainty and with advice that helps taxpayers ensure that their contributions comply with the law and conserve historic structures in perpetuity, as Congress intended. As such, we are committed to the continued development of, and encourage members of the public to suggest topics for, such guidance and advice.

We are currently formulating this year's Priority Guidance Plan that focuses our resources for guidance items that are the most important to taxpayers and tax administration. We encourage the public and other stakeholders to engage us in developing the Priority Guidance Plan by submitting items for consideration, pursuant to Notice 2021–28.

---

 QUESTIONS SUBMITTED BY HON. MIKE CRAPO

## IRS ENFORCEMENT

*Question.* Your testimony expressed a need for further information reporting, and indicated that with information reporting 99 percent of items get reported.

What areas of information reporting currently present the greatest gaps for the IRS?

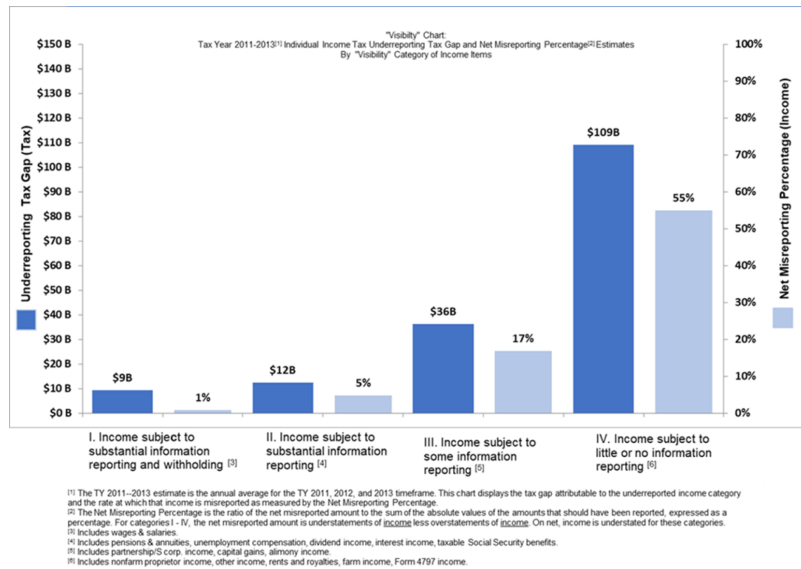
*Answer.* Our research on the compliance of filers of individual income tax returns indicates that income subject to substantial information reporting and withholding has the least amount of misreporting with a net misreporting percentage of 1 percent. Income subject to substantial information reporting but not withholding also has high voluntary reporting with a net misreporting percentage of about 5 percent.

“Gaps” in the information reporting and withholding system fall into the following general categories:

- (1) Exclusions of certain type of “payee” entities from being subject to information reporting.
- (2) Exclusions of certain type of entities from a requirement to report on certain types of payments.
- (3) Exclusions of certain types of payments.
- (4) Lack of requirement/option for withholding.
- (5) Information and other detail.
- (6) Timing.

Many of the choices previously made related to the above gaps were made in a different era of technology. Substantial advances in technological capabilities and expectations over time make what once would have been considered overly burdensome or complex requirements more feasible in our current and future environments.

The “visibility” chart below shows the relationship between information reporting/withholding and reporting compliance. The income items associated with each level of information reporting are specified in the footnotes.



We also note that the usefulness of information reporting for tax enforcement depends to a large extent on the IRS's ability to electronically capture and analyze the information received. Electronic filing of tax returns and information returns is the most efficient way to ensure availability of data. The existing framework for mandating electronic filing covers a patchwork of tax forms and entities, however, it also leaves several comparable filings out of reach for an e-filing requirement. It would be most effective to authorize the Secretary to determine which returns, statements, and other documents must be filed electronically, to apply without regard to the number of returns that a person files, and with an exception for any individual filing forms in the Form 1040 series. Paper returns, and even pdf attachments filed electronically, are only of use for data aggregation and analysis if they are digitized after the fact. While we do this, those processes are resource-intensive, time-consuming, and often error-laden. IT funding is critical for the development, implementation, and maintenance of business requirements for existing and new information reporting.

Another category of income that is subject to little information reporting is income derived from virtual currency transactions. The virtual currency market has grown substantially over the past several years reaching a market cap in excess of \$2 trillion for more than 8,600 different virtual currencies. We believe that there is a high degree of noncompliance involving reporting of taxable virtual currency transactions. We are receiving information reports in some cases from virtual currency exchanges; however, more complete data are needed to administer the tax law on this segment. Comprehensive reporting from brokers, exchangers and payment facilitators for virtual current transactions and payments are needed. Additionally, Currency Transaction Reports (CTRs) are required to be filed by U.S. financial institutions with the Financial Crimes Enforcement Network (FinCEN) for each deposit, withdrawal, exchange of currency, or other payment or transfer, by, through, or to the financial institution which involves a transaction of currency of more than \$10,000. As with cash transactions, businesses that receive cryptoassets with a fair market value of more than \$10,000 could also be reported on.

*Question.* Do you have authority to address any of these key areas via regulation?

*Answer.* The Secretary has general authority to propose regulations that would close many of the gaps discussed above. For example, the Secretary has the authority, and is currently working on, proposed regulations that would expand broker reporting for virtual currency transactions and payments. The Secretary also likely has the authority to require employers reporting wages to indicate the amount of total wages paid using virtual currency.

*Question.* Are there areas where legislation is necessary, and if so, what are they?

*Answer.* Many of the gaps discussed above would require or benefit from legislation to resolve because the underlying statutory language might not provide sufficient authority to make the necessary changes. The President's FY 2022 Budget includes a number of legislative proposals to expand information reporting:

- Create a comprehensive financial account information reporting regime, including reporting on crypto exchanges, to increase the visibility of business income to the IRS.
- Apply the current law reporting requirements to cases in which taxpayers buy crypto assets from one broker and then transfer the crypto assets to another broker, and to cases in which businesses receive crypto assets in transactions with a fair market value of more than \$10,000.
- Expand broker information reporting with respect to crypto assets to include reporting on beneficial owners of entities holding accounts with the broker, and allow the United States to share such information with appropriate partner jurisdictions.
- Expand the Secretary's authority to require electronic filing for tax forms and returns.
- Allow the IRS to require payees of any reportable payments to furnish their taxpayer identification numbers (TINs) to payors under penalty of perjury.

Details of these legislative proposals can be found in this budget document: <https://home.treasury.gov/system/files/131/General-Explanations-FY2022.pdf>.

*Question.* Assuming regulations or legislation were put in place to address information reporting gaps, how long would it take before such reporting had a material impact on the tax gap?

*Answer.* The tax gap estimates are aggregated at a very high-level which makes it difficult to decouple the impact of any legislative or regulatory changes from general economic factors which are much more likely to have a material impact on the tax gap. For example, the most recent reported tax gap, pertaining to tax years 2011–2013, computed an annual gap of \$441 billion, and it's important to note that the revenue collected from all enforcement programs in a given year is approximately 12 to 14 percent of that total. That said, there are alternatives available to estimate or track the impact of any regulatory or legislative changes outside of the framework of the tax gap.

Following legislation, we draft and promulgate regulations to provide guidance to the third parties who will collect and report the information. Once the guidance is in place, the reporter may need time to update their system to collect the data. The data would then be collected starting on January 1st of the new tax year and reported to the IRS in the spring of the following calendar year. Then, the IRS will conduct document matching processes during that calendar year and select returns for compliance activities. This process may take two to four years for results to be reflected in tax gap estimates. We will also need the funds to support electronic receipt of the information returns and to build the document matching processes.

*Question.* What tradeoffs would exist with respect to enacting such greater information reporting, including estimates of the specific costs to taxpayers (financial and time spent)?

*Answer.* Information reporting typically imposes burden on one set of taxpayers (the issuers) and reduces burden on another set of taxpayers (the recipients). In addition, information reporting creates a paper trail between the issuer and the recipient which facilitates better tax administration. Thus, when considering imposing a new information collection, one must consider the impact on the issuer, the recipient, and tax administration to understand whether that new information collection requirement is reasonable.

The IRS conducts surveys to gather information from taxpayers about the time and money they spend to meet their information reporting responsibilities. This information could be used to estimate the costs associated with a new reporting obligation. However, the accuracy of such an estimate is dependent on how similar the new reporting requirement is to an existing reporting requirement for which the IRS has previously collected survey data. When a specific burden estimate is not possible, a decision to impose a new information collection can be informed by a general understanding of how the burden of information reporting varies by taxpayer. A taxpayer who already keeps the records to be reported, has the infrastructure in place to electronically process and submit the returns, and can benefit from econo-

mies of scale faces a much lower per-return burden than a small business that manually prepares a few of the same information returns each year. For example, a tax year 2014 information return issuer compliance cost survey indicates that issuers responsible for completing a single Form 1099-MISC incur approximately 3.5 hours and \$40 of burden while issuers responsible for completing over 500 Forms 1099-MISC incur approximately 15 minutes and \$3 of burden per information return.

Information reporting works the most efficiently when the issuer has an incentive to report the information and the recipient benefits from the information. For example, Form W-2 serves as an employer's documentation of wages paid and removes all wage record-keeping requirements for the employees. If the recipient has documentation of income or expenses (such as invoices), receipt of an information document provides little benefit to the recipient. In such a case, it may be reasonable to require the issuer to report the information only to the IRS.

While we must always consider the taxpayer burden, there are times when the need to collect information to facilitate tax administration outweighs any burden imposed. In this case, IRS strives to impose the minimum amount of burden necessary.

#### CHILD TAX CREDIT

*Question.* In order for the IRS to move forward with beginning to make advance child tax credit payments on July 1st:

What are the specific metrics that must be met as far as availability of and level of security with respect to the portal?

*Answer.* The Advance CTC monthly payments will begin on July 15th. In compliance with National Institute of Standards and Technology (NIST) Special Publication 800-63-3, the portal Identity Proofing requirement is Identity Assurance Level 2 and Authentication requirement is Authentication Assurance Level 2. These security metrics will provide enough rigor of ID proofing such that the IRS will have confidence that only legitimate individuals are accessing their accounts on the portal.

*Question.* How far along must the IRS be in its outreach process to those without the ability to access the portal via the Internet and what are the appropriate metrics?

*Answer.* We developed an implementation strategy for the Advance CTC credit as provided in the American Rescue Plan Act of 2021. The strategy includes the portal and non-portal (non-electronic) processes for taxpayers to opt out of the advanced payment or provide new information that is relevant to determining their eligibility and advance payment amount. This effort includes a robust outreach strategy that will inform eligible taxpayers about the periodic Advance CTC payments and how they can make modifications as needed. The IRS has started sending letters (Letter 6416 and 6416-A) to more than 30 million American families who, based on tax returns filed with the agency, may be eligible to receive monthly Child Tax Credit payments.

*Question.* Once the portal and non-electronic process are fully available, how long will you give individuals to opt out of receiving any advance payments before you start issuing the first batch of payments?

*Answer.* The specific timeline is still being developed; however, we plan to issue a notice to eligible taxpayers prior to issuing advance payments to provide them instructions on how to opt out if they are not interested in receiving advance of payments. This effort includes a robust outreach strategy that will inform eligible taxpayers about the periodic Advance CTC payments and how they can opt-out or make modifications as needed.

*Question.* What is your estimate of the percentage of advance payments issued starting on July 1st that will be completely accurate and desired by the recipients to be received as advance payments?

*Answer.* The Advance CTC payments will begin on July 15th and will be based on a processed tax year 2020 tax return (or tax year 2019 if the tax year 2020 tax return has not been filed). We developed an implementation strategy for the advance payments of the child tax credit as provided in the American Rescue Plan Act of 2021. The strategy includes the portal and non-portal (non-electronic) processes for taxpayers to opt out of the advanced payment or provide new information that is relevant to determining their eligibility and advance payment amount.

*Question.* Your senior staff previously told us it will take 12 weeks to hire and fully train each new customer service representative needed to handle the responsibilities related to this new program. How many new customer service representatives will you require to be hired and fully trained before going forward with issuing any advance payments?

*Answer.* Our implementation team is still developing the portal and procedures, so we have not finalized the length of training at this time. We are also still working with our research division to get a better projection of how many calls we may receive. Until we have a firm projection, we are unable to determine how many assistants will be needed to answer these calls. We plan to hire additional Customer Service Representatives between June 21st and August 30th, but we can redirect existing staff to answering these calls if they begin coming in before the new hires are fully trained.

*Question.* With respect to non-filers: will a current non-filer, who is the parent of a qualifying child, be in a position to receive an advance payment on July 1st solely based on whatever non-filer information that individual provided to the IRS to prove eligibility for their EIP?

*Answer.* The Advance CTC payments will be based on a processed tax year 2020 tax return (or tax year 2019 if the tax year 2020 tax return has not been filed). The IRS worked with its Free File Alliance to develop a new Non-Filers Sign-up tool for taxpayers to report their qualifying child tax credit dependents to be used to determine eligibility for the advance payments. This tool is a new online tool designed to help eligible families who don't normally file tax returns register for the monthly Advance CTC payments scheduled to begin July 15th. This new tool provides a free and easy way for families who don't have a return-filing obligation to provide the IRS the information needed to figure and issue their Advance CTC payments if eligible. Often, these are families who receive little or no income, including those experiencing homelessness, the rural poor and other underserved groups. This new tool is available only on [irs.gov](https://www.irs.gov).

*Question.* Or, to receive an advance payment on July 1st, or any other date, will the individual have to first file and have processed a complete 2020 tax return, even if that individual otherwise has no obligation to file a return?

*Answer.* Please see our response immediately above.

As is the case with any IRS initiative including Economic Impact Payments (EIPs) and the Rebate Recovery Credit (RRC), we will work with a broad and growing partner base to reach those individuals who may be eligible for the Advance CTC so that they can prepare for the opportunity to receive advance payments later in 2021. We have established relationships or built upon many existing partnerships that will help the IRS reach the underserved with this important information and steps to take to access the Advance CTC. The IRS is exploring other outreach opportunities that may help address the special needs of the homeless and other hard to reach communities.

*Question.* How many individuals, who otherwise have no need to file or interact with the IRS, will need to go through the process of actually filing a tax return in order to receive the full amount of the credit?

*Answer.* We developed an implementation strategy for the Advance CTC as provided in the American Rescue Plan Act of 2021. This effort includes a robust outreach strategy that will inform eligible taxpayers about the Advance CTC payments and the new Non-Filer Sign-Up tool that individuals with no filing requirement may use to register for the advance payments.

*Question.* With respect to all filers: what is your estimate for the overall increased burden (both in terms of cost and time) on taxpayers in terms of return filing and provision of information updates with respect to the credit?

*Answer.* We developed a portal for taxpayers to opt out of the advanced payment or provide new information that is relevant to determining their eligibility and advance payment amount. The applicable tax forms, instructions and publications will be updated and we will provide each taxpayer a notice no later than January 31, 2022, that provides the aggregate amount of Advance CTC payments made in 2021 to aid in completing their tax year 2021 tax return. We keep the customer experience at the forefront of all our efforts, and we strive to minimize taxpayer burden.

*Question.* How would these costs change (if at all) if the provision is made permanent?

*Answer.* Taxpayers only need to take action to receive the Advance CTC if they do not have a filing requirement, wish to opt out of receiving advance monthly payments, or need to make some other change not already included in their most recent tax filing, such as recording additional children, or changing bank account information. Otherwise, the payments will be automatic based on information from their most recent tax return filed. If this law were to be made permanent, depending how the law is written, we believe the additional burden would mostly be on those who would not have a filing requirement, as they would still be required to report certain information through the portal annually.

*Question.* With respect to potential delivery issues on the advanced refundable CTC: notwithstanding the diligent efforts of IRS employees, the economic impact payments have been plagued by both accuracy and timeliness issues. Elsewhere, various States have had significant challenges providing enhanced jobless benefits to recipients. How will delivery issues compare (*i.e.*, better, worse, etc.) between advance refundable credits and economic stimulus payments?

*Answer.* The IRS stands ready to deliver and serve the American taxpayers, much like we did when implementing major provisions of the Coronavirus Aid, Relief, and Economic Security Act and COVID-Related Tax Relief Act of 2020. The IRS is an administrative agency and will take steps to deliver whatever is asked of us as we did with the delivery of Economic Impact Payments (EIPs) and will leverage our experience in successfully delivering three rounds of EIP payments totaling more than \$800 billion as we deliver the Advance CTC payments.

*Question.* To what extent will the use of debit cards impact the rate (and dollar amount) of improper payments and other delivery issues?

*Answer.* The IRS defers to the Treasury Department's Bureau of Fiscal Service to address these concerns.

#### ROI/\$1-TRILLION "TAX GAP"

*Question.* In July 2020, the nonpartisan Congressional Budget Office estimated that "increasing the IRS's funding for examinations and collections by \$20 billion over 10 years would increase revenues by \$61 billion" and that "increasing such funding by \$40 billion over 10 years would increase revenues by \$103 billion."<sup>1</sup>

Please explain whether, and why or why not, the IRS methodology would confirm CBO's projections that a \$20 billion (\$40 billion) increase in IRS funding for examinations and collections over 10 years would increase revenues by \$61 billion (\$103 billion).

*Answer.* The CBO estimate is based on the IRS methodology with some minor adjustments as detailed on page 19 of the July 2020 "CBO Trends in the Internal Revenue Service's Funding and Enforcement" document (excerpt below).

Although CBO's estimates start with the IRS's calculations of the revenue it would collect per dollar of enforcement spending, CBO made two adjustments to better approximate the marginal return on that spending. The first is an adjustment for taxpayers' learning. After the third year of an initiative, CBO judges that taxpayers will have adapted to a new enforcement activity and developed ways to evade that enforcement. CBO therefore reduced the marginal return on each activity after the third year. The second adjustment incorporates the expectation that the IRS prioritizes enforcement activities that it projects to have the highest average return; therefore, the spending associated with the 2021 initiative would have the greatest return, and initiatives that start in the 2022–2025 period would have progressively lower returns.

It is worth noting that while our current model does not directly address a learning curve on the part of taxpayers, we do include a learning curve on the part of newly hired employees. Specifically, the revenue potential is low within the first 2 years for each wave of new hires because new hires will generally not reach full productivity until year 3, and we also assume no new revenue generating work 5 years after hire to account for new hire attrition and turnover. Once assessments are made, revenues can be generated across the 10-year statute of limitations to collect an assessment. We estimate the 10-year revenue stream based on (i) the estimated assessments from work completed by successive waves of new hires during their respective 5 years of work and (ii) the past observations of how long it takes to collect revenue following an assessment. Like the CBO, we include marginality

<sup>1</sup>See <https://www.cbo.gov/publication/56467>.

adjustments to account for the assumptions that any new hires will be working cases lower in priority than current staff.

*Question.* Please provide the specific IRS empirical basis for computing returns on investment to additional funding for examinations and collections, including assumptions and estimation methodology.

*Answer.* This ROI methodology uses 10 years of direct enforcement revenue attributed to enforcement activity in constant weighted dollars to calculate a revenue per FTE estimate. Using a 10-year constant dollar-weighted average discounts the importance of any particular year that may be influenced by unusual events or economic cycle, while recognizing that recent years are more predictive than older years and that a dollar collected 10 years ago is not the same as a dollar collected last year.

Adjustments are made to account for the date of hire, the learning curve of new employees (productivity), training costs, and an assumption that new work will generate less revenue than current work (marginality). This is divided by the FTE cost, which includes the cost of the FTE along with other costs associated with bringing in a new hire, such as training, information technology, and other support costs.

*Revenue Estimation Model Data*

- Enforcement Revenue Information System (ERIS) Data
  - Recommended/Assessed/Collected Dollars
  - Direct Hours
  - Business Operating Division (BOD)
- Input from the BODs
  - Number of FTE—By Position Type (Example: Revenue Agent/Revenue Officer)
  - Type of Work Assumed (Example: Activity Codes 278–281)
- Gross Domestic Product (GDP) Deflators

*Adjustments to Revenue*

- Enter on Duty Date (Reduced for January/April hire date)
- Productivity Adjustments
  - **Year 1**–60 percent; **Year 2**–80 percent; **Year 3**–100 percent
- Marginality Assumption
  - The next cases worked will be 90 percent as productive as the previous cases
- Training (FTE in years 1 and 2 are reduced by hours employees and trainers spend in training)

*Question.* Please explain why specifically the IRS concurs or does not concur with the diminishing returns to additional funding for examinations and collections that are reflected in CBO's projections.

*Answer.* The IRS concurs that there are diminishing returns to hiring additional enforcement staff, and we incorporate them into our revenue estimates. However, we also believe that with the current level of staffing, we are far from reaching the level of diminishing returns that would dramatically affect ROI assumptions in most enforcement areas. And we account for that when determining the type of enforcement activities to emphasize in budget requests.

*Question.* Your testimony cited past “tax gap” estimates, and you indicated that those estimates did not, or perhaps did not fully, account for things like virtual currencies, foreign-source income, and illegal-source income. You identified that past estimates also do not reflect more recent findings of researchers, including IRS researchers, who have focused on pass-through entities and offshore income of the “top 1 percent.” Regarding the latter, you suggested that the recent research findings suggest perhaps \$175 billion per year which could be added to a tax gap estimate. It appears that the research you referred to is the March 2021 National Bureau of Economic Research (NBER) Working Paper 28542 (“Tax Evasion at the Top of the Income Distribution: Theory and Evidence,” by J. Guyton, P. Langetieg, D. Reck, M. Risch, and G. Zucman). I have several questions about basing a tax-gap estimate on results of the recent paper, and on the research findings themselves.

The NBER working paper, as identified on its title page, has not been peer-reviewed or been subject to the review by the NBER Board of Directors that accompanies official NBER publications. Is it reasonable to assign to what we believe might be the tax gap results from very recent research that has not yet been peer-reviewed?

Answer. Section 61 of the Internal Revenue Code generally defines “gross income” as “all income from whatever source derived. . . .” Taxable income is that portion of gross income that is properly subject to taxation under applicable provisions of tax law. The tax gap is defined as the difference between the amount of tax owed by taxpayers for a given year and the amount that is actually paid voluntarily and timely. The tax gap represents, in dollar terms, the annual amount of tax non-compliance with our tax laws. It does not distinguish between under-reporting, non-filing or 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, our published estimates are based on limited types of information and are not intended to represent an all-inclusive measure of global tax non-compliance by U.S. taxpayers.

The most recent “official” tax gap estimates relate to tax years 2011–2013 and were released in 2019. The 2021 digital world economy is significantly different from the world economy of 2011–2013. “Official” tax gap estimates have traditionally relied on historical audit and collection data for certain identified non-filers, under-reporters, and underpayers. Estimates currently in use represent a substantial challenge for the IRS, are outdated, and under-inclusive. For at least the past 18 months, we have been working on updating and enhancing the underlying methodology, improving the currency of the estimates and considering how to identify and incorporate additional information and emerging compliance issues. By including more operational audit data, the IRS anticipates that we’ll be able to produce estimates that are more reflective of the actual tax gap, more timely, more inclusive and that include forecasting of emerging issues.

This NBER working paper has received several rounds of comments from internal IRS reviewers and external reviewers as well prior to posting as an NBER working paper. Earlier drafts of this working paper were accepted to the program of the National Bureau of Economic Research (NBER) Conference on Research in Income and Inequality (March 2020) and the Annual Meetings of the National Tax Association (November 2019 and November 2020). The current draft was accepted to the program on the NBER Public Economics Program Meeting. As noted in the text, the work is grounded in work by other, well respected economists and consistently uses assumptions from relevant sources in that literature while providing sensitivity analyses around those assumptions. Therefore, we believe findings to be of high quality and credible.

*Question.* The title page of the working paper identifies that “The views expressed here are those of the authors and do not necessarily reflect the official view of the Internal Revenue Service or the National Bureau of Economic Research.” Does the IRS endorse the findings and views of the paper?

Answer. Yes, the IRS endorses the findings of the paper.

*Question.* The title page identifies that “All data work for this project involving confidential information was done at IRS facilities, on IRS computers, by IRS employees, and at no time was confidential taxpayer data ever outside of the IRS computing environment.” Can you substantiate those claims?

Answer. Yes, all data work for this project involving confidential information was done at IRS facilities, including telework locations approved as part of COVID–19 mitigation, on IRS computers, and by IRS employees. At no time was confidential taxpayer data outside of the IRS computing environment.

*Question.* The title page identifies that authors “Reck and Risch are IRS employees under an agreement made possible by the Intragovernmental Personnel Act of 1970 (5 U.S.C. 3371–3376).” Please provide copies of the agreements for each author to my Senate Finance Committee staff.

Answer. Copies of these agreements are attached.

- MOU IC Risch
- IPA Risch
- Dreck 2018 JSRP IPA Addendum
- DRsigned DReck IPA MOU Date Change
- DRSigned Dreck modified IPA OF 69
- IPA Reck LSE completed

*Question.* Please list all outside researchers deemed to be IRS employees under any agreement, including the Intragovernmental Personnel Act of 1970, and the terms of their employment.



Answer. Below we have provided a list of current/active IPA's/Student Volunteers working with the Research, Applied Analytics and Statistics division. Documentation addressing the terms of employment are attached—the OF-69 and the supplemental IPA/SV agreements/addendums.

Last Name	First Name	Affiliation	Status	IPA-SV Start Date	IPA-SV Expiration Date
Anderson	Brandon	Stanford Univ.	IPA	4/1/2020	4/1/2022
Black	Emily	Stanford /CMU	Student Volunteer	3/1/2021	3/1/2023
Elzayn	Hadi	Stanford Univ.	IPA	10/26/2020	10/26/2022
Goldin	Jacob	Stanford Univ.	IPA	12/5/2019	12/5/2021
Henderson	Peter	Stanford Univ.	Student Volunteer	6/1/2020	n/a
Hess	Ryan	Stanford Univ.	IPA	5/3/2021	5/3/2023
Ho	Daniel	Stanford Univ.	IPA	9/30/2019	9/30/2021
Paul	Mansheej	Stanford Univ.	Student Volunteer	11/5/2020	n/a
Reck	Daniel	London School of Economics	IPA	8/1/2016	8/31/2021
Risch	Max	Carnegie Mellon University	IPA	10/15/2019	10/15/2021
Smith	Evelyn	Stanford/Univ of MI	Student Volunteer	4/30/2018	n/a

Intergovernmental Personnel Act (IPA) agreements are governed by OPM. A link to the relevant policy document is included below: <https://www.opm.gov/policy-data-oversight/hiring-information/intergovernment-personnel-act/#url=Provisions>.

*Question.* Results from the paper rely on data that involve confidential taxpayer information, and therefore are replicable only by a researcher having access to such information. To have access, what is required of a non-IRS-employee researcher? Please document any processes through which a non-IRS-employee can access confidential and sensitive taxpayer information, including the process that was used to assign Reck and Risch to be IRS employees.

Answer. Please see the attached document—JSRP Program Description.

#### JOINT STATISTICAL RESEARCH PROGRAM (JSRP)

##### I. Goals

The Joint Research Program is intended to increase the use of tax microdata by researchers outside the Federal Government in order to provide new insights that provide new understandings of taxpayer behavior that could impact the administration of the tax system. Research may also that will advance the understanding of the ways that existing tax policies affect people, businesses, and the economy. Finally this research will benefit RAAS employees by providing developmental opportunities through joint research with the Nation's leading economic researchers, improving RAAS's ability to hire and retain a talented and highly motivated work force.

##### II. Soliciting Projects

Projects for the program are solicited bi-annually, resources permitting. RAAS consults a variety of sources, including a panel of internal and external stakeholders, to develop a list of specific research topics for each annual solicitation. Applicants, however, can propose additional ideas for consideration. (The 2018 Call for Proposals can be found at: <https://www.irs.gov/pub/irs-soi/18jsrpapplication.pdf>)

### III. Evaluating Projects

Review team: The composition of the team will include RAAS and Treasury staff.  
Review Criteria: Selection criteria will include factors such as:

- Relevance to Tax Policy and/or Tax Administration (as defined in Internal Revenue Code (IRC) 6103(b)), with preference given to projects with a direct impact on current tax policy questions;
- Available RAAS resources—includes data, human capital, financial;
- Degree of RAAS Employee involvement included in the proposal;
- Issue's contribution to IRS/OTA research goals;
- Research team's demonstrated ability to do the work, based on past performance, qualifications, etc.

### IV. Data Access

Researchers can be granted microdata access through one of three mechanisms: Intergovernmental Personnel Act (IPA), Student Volunteer program, or a contract executed under IRC 6103(n).

*Intergovernmental Personnel Act:* This program is available for Non-IRS researchers who are employees of non-profits or State governments, and who meet the other requirements of the program (see 5 CFR part 334). Under an IPA, a researcher is treated as an employee administratively, subject to background investigation and all applicable disclosure restrictions and penalties, sworn in as an employee and assigned to a manager who provides oversight of the project. The researcher's primary employer remains solely responsible for his/her salary and benefits as long as both the researcher's organization and RAAS benefit from the arrangement. The term of the agreement is usually 2 years but can be extended. These agreements are reviewed and processed by the IRS human resources function, with additional approval from the CFO office.

*Student Volunteers:* This program is available for Non-IRS researchers who are students at accredited institutions, and who meet the other requirements of the program (see 5 U.S.C. 3111). Under this program, a researcher is treated as an employee administratively, subject to background investigation and all applicable disclosure restrictions and penalties, sworn in as an employee and assigned to a manager who provides oversight of the project. The researcher's institution must approve the student's participation in the project and the project must be clearly related to the student's area of study. Participation ends when the project is completed or when the participant graduates or leaves the institution. These agreements are reviewed and processed by the IRS human resources function, with additional approval from the CFO office.

*IRC 6103(n) Contracts:* IRC 6103(n) contracts are approved and administered through the IRS procurement system, with oversight by a RAAS contracting officer's representative and an RAAS/SOI manager. The researchers are generally awarded a sole source contract and the cost is limited to cover travel fees that allow contractors to meet with SOI and OTA staff over the course of the 2-year contract in order to discuss the work and present findings. For the 2016 JSRP, these contracts are used only for research partners from other Federal agencies or organizations.

Regardless of the mechanism used to grant data access, an RAAS manager will be assigned to oversee each project. Researchers who are given access to tax microdata are subject to the following conditions:

- Must undergo a background clearance prior to accessing data.
- All tax data remain in a secure IRS system and are accessed using IRS-issued equipment.
- All software access is requested and approved through the IRS Online 5081 system by the manager of record and annually recertified.
- Researchers accessing tax data must take UNAX/FMSS/ISS data security training courses on an annual basis. Failure to complete training timely would result in cancellation of all system access privileges.

Project team members who are neither IPAs, Student Volunteers or contractors will be required to sign an MOU acknowledging that they will not be permitted to access taxpayer data. They will only be permitted to access RAAS disclosure-protected output.

### V. Periods of Performance and Extensions

Given that the scope of all approved research projects will be narrowly focused, research arrangements will last 2 years, with an additional extension of up to 2

years available on a case-by-case basis. Additional extensions may be granted, for example, if a project is significantly delayed due to unexpected administrative issues, for example delays in completing background investigations, issuing ID cards, or configuring computer hardware/software.

#### VI. Disseminating Results

1. Research projects should result in a paper that will be suitable for presentation at a professional conference and may also be submitted for publication in economic or statistical journals. Completed papers will also be included in the SOI Paper Series and will be made available to the public via the Tax Stats pages on *irs.gov* (<https://www.irs.gov/uac/SOI-Tax-Stats-SOI-Working-Papers>).
2. Prior to publication or presentation, all papers are reviewed to ensure:
  - The work complies with disclosure prevention protocols as outlined in IRS Publication 1075 and SOI's disclosure rules as articulated by its Disclosure Review Board.
  - The text is consistent with the approved research project purpose and clearly articulates the tax administration purpose for which it was undertaken.
  - The text accurately describes the data and tax law.
  - The tone and content comply with OMB statistical policy directives (see <https://www.whitehouse.gov/omb/inforeg—statpolicy>).

*Question.* The paper contains numerous assumptions, methodological choices, and interpolation. Does the IRS endorse all assumptions, choices, and interpolations used?

*Answer.* Yes, the IRS endorses the assumptions, choices and interpolations used in this paper. As is common in the literature, this working paper relies on a series of other published papers and reports as a starting point. The paper conducts a variety of sensitivity analyses around many of the required assumptions, acknowledging that the current estimates fall within a broader range of plausible estimates. As a research paper developing new estimation methods, it has been released as a working paper to provide an opportunity to receive feedback on methods for further refinement prior to submission for independent peer review.

*Question.* The paper uses wealth estimates and estimation methodology constructed by the often-cited authors Zucman and Saez. Those estimates and the methodology used by those authors have been the subject of substantial controversy within the economics, finance, and tax research communities. Some have speculated that political agendas may influence some of the methodological choices made, rather than adherence to the scientific method. Are you aware of any controversy surrounding research by any of the authors of NBER Working Paper 28542—a paper from which you suggested we may find useful information for estimating the tax gap?

*Answer.* It is common practice to reference relevant prior work as part of the context of developing new analytical methods. Work by Zucman with Saez on the distribution of income and separately on offshore evasion are important parts of the current literature in this area. That said, the work by Zucman does not play a major role in the magnitude of additional misreporting identified in this paper. Earlier drafts of this working paper were accepted to the program of the National Bureau of Economic Research (NBER) Conference on Research in Income and Inequality (March 2020) and the Annual Meetings of the National Tax Association (November 2019 and November 2020). The current draft was accepted to the program on the NBER Public Economics Program Meeting. Drafts of the paper have been presented twice to the staff of the Treasury Office of Tax Analysis and have seen extensive internal IRS review. We believe the paper makes important contributions to our understanding of the challenges in the detection of certain forms of offshore and pass-through income even as the exact measures and their distribution across the population are reviewed and refined through the professional feedback process of working paper releases prior to submission for independent peer review for an academic journal.

#### UNEMPLOYMENT ASSISTANCE

*Question.* The Department of Labor's Office of Inspector General has estimated that more than \$63 billion of unemployment assistance under COVID-19 relief packages has been paid out improperly, either through fraud or errors, which is roughly 10 percent of the total amount paid under COVID pandemic-related unemployment programs. As of March, the State of California alone estimates that there

has been about \$11 billion in fraudulent payments and an additional \$19 billion in suspect accounts. Other States have also similarly been affected.

You noted in your testimony that individuals who received a 1099-G form that should not have received the form should notify their State agency. Does the IRS intend to work with these State agencies to compile data on who fraudulently received 1099-G forms as a way to track the fraud as well as prevent fraud in the future?

Answer. We have taken proactive measures to address unemployment identity fraud to minimize the burden on fraud victims and in December 2020 conducted training sessions with State workforce agencies to instruct them not to file Forms 1099-G with the IRS in cases where they have determined benefits were fraudulently paid. We've also presented and issued an alert to the Federation of Tax Administrators and the State Departments of Revenue who in turn issued a bulletin to their membership.

*Question.* How can the IRS, working with the DOL, ensure that as UI funds continue to be sent to Americans, fraudulent activity is capped?

Answer. If taxpayers are concerned that someone has stolen their personal information and they want to protect their identity when filing their Federal tax return, they can request an Identity Protection PIN (IP PIN) from the IRS. An IP PIN is a six-digit number that prevents someone else from filing a tax return using the taxpayer's Social Security number. The IP PIN is known only to the taxpayer and the IRS. Using an IP PIN helps the IRS verify the taxpayer's identity when they file their electronic or paper tax return.

We have raised awareness and educated taxpayers on steps they may take if they become victims of fraudulent unemployment claims. Actions we've taken include:

- Issued identity theft guidance for unemployment compensation reporting on *irs.gov*, as requested by States (December 2020).
- Issued a press release and an additional guidance alert to taxpayers on identity theft involving unemployment benefits (January 28, 2021).
- Held ongoing IRS Security Summit meetings to talk with the Federation of Tax Administrators (FTA) and other partners to share best practices on identifying irregularities and how to share and disseminate information.

#### TIGTA REPORT

*Question.* In your testimony, you indicated that you disagreed "entirely" with the TIGTA report and its conclusions. Can you elaborate as to the specific bases for why you so disagree?

Answer. Please see the Management Response to the TIGTA Report Number: 2021-30-015, High-Income Taxpayers Who Owe Delinquent Taxes Could Be More Effectively Prioritized. Decisions regarding IRS workplans are made by career employees based on consideration and an evaluation of all available options, including significant enforcement resource limitations, leading to determinations that are deemed to be in the best overall interests of tax administration. Tax enforcement has both a direct effect on taxpayers actually contacted, but also an indirect "deterrence" effect on taxpayers generally. Unfortunately, decisions significantly impacting the people of this country are often driven by the lack of available resources. Criticism for not deploying sufficient resources to a specific issue or type of taxpayer often ignores the importance to tax administration of maintaining meaningful compliance coverage across all segments of society, compliance issues, etc. With that coverage requirement in mind, and after considering all the options, including the tax dollars involved, the IRS determines the best overall solution for tax administration by devoting our limited enforcement resources across numerous areas with significant perceived non-compliance. Reporting that the IRS fails to "prioritize" any single enforcement option, without appropriately referencing the need to spread extremely limited resources across many different areas of noncompliance is not appropriate.

---

#### QUESTIONS SUBMITTED BY HON. CHUCK GRASSLEY

*Question.* I've heard concerns from a number of accountants and tax preparers in Iowa on the current filing deadline. While the IRS has postponed the deadline 1 month, many say additional time is still needed given the delayed start to filing sea-

son, changes in tax law late last year, and COVID related issues. Can you explain why the IRS has been reluctant to extend the filing deadline further? Also, why wasn't the postponed deadline extended to estimated tax payments?

Answer. We appreciate and respect the comments we received both for and against a filing extension. Those requesting a FS21 deadline extension included members of Congress and several associations representing tax professionals and others. Those requesting that we not extend the FS21 deadline included the following:

- Federation of Tax Administrators, representing State tax administrators around the country;
- Council for Electronic Revenue Communication Advancement, representing a wide diversity of industry participants, including tax software firms, large tax preparation companies, technology integrators, and financial services companies; and
- American Coalition of Taxpayer Rights, helping more than 110 million taxpayers each year through tax preparation solutions.

We also had direct talks with members of Congress, tax professionals, and others about whether to extend the FS21 deadline and the nature of any potential extension.

After carefully considering all the options, the Department of the Treasury (Treasury) and the IRS determined a limited FS21 deadline extension for individuals filing Form 1040 to May 17, 2021, was in the best interest of tax administration.

IRS Notice 2021–21 sets forth the details of the extension. Notice 2021–21 only applies to income tax returns for individual taxpayers. It does not extend the filing deadline for any other type of tax return and does not change the April 15, 2021 deadline for estimated tax payments.

While we recognize the desire and importance of requests to further extend the FS21 deadline or expand the scope of the extension, doing so poses a significant potential risk to implementing the American Rescue Plan Act (ARP). Additionally, it could have delayed delivery of the Recovery Rebate Credits (RRCs), ARP Economic Impact Payments (EIP3), and refunds—including Earned Income Tax Credit (EITC) and Child Tax Credit (CTC) payments—to the most vulnerable Americans.

The IRS is continuing to help taxpayers navigate the unusual circumstances related to COVID–19, while also meeting its important tax administration responsibilities for our country. The IRS frequently faces competing priorities for the same set of limited resources, especially customer support and information technology.

We currently have more than 13,700 IRS customer service representatives (CSRs) assisting taxpayers on the phone and they will remain available through the May 17, 2021 extended FS21 deadline. ARP included funding to bring an additional 1,000 CSRs onboard this summer. Following the end of the filing season, CSRs begin sorting and working through our correspondence inventory. This correspondence often includes taxpayer responses to our requests for additional information required to complete processing some filed returns. Extending the filing season deadline delays the CSR correspondence assistance. This delay, in turn, potentially slows the resolution of taxpayers' accounts and results in delayed refunds, including EITC and CTC payments.

For many taxpayers, refunds are often their largest source of funds each year, and they use this money to purchase necessities and pay down debt. When we extend the filing season deadline, many taxpayers postpone filing their return. This postponement, in turn, delays refunds and impairs the timely benefit of EITC and CTC payments. For FS21, it also delays distribution of RRCs, which is the only way eligible taxpayers can claim any unreceived payments from the first and second rounds of EIPs. Further, under ARP, the IRS bases EIP3 eligibility and amount on information in the 2020 return or, if not filed, the 2019 return. If a taxpayer who received an EIP3 based on 2019 return information then files a 2020 return showing they are entitled to a larger EIP3, the IRS promptly issues a supplemental EIP to that taxpayer for the difference. A delayed 2020 return means a delayed supplemental EIP.

Extending any filing season also compresses the development cycle for the entire tax ecosystem, including the IRS, the State departments of revenue, and the tax software development companies. The IRS typically begins preparing for the next filing season shortly after the traditional April 15th deadline. This preparation includes developing the programming and form changes needed to implement recent

tax provision changes. Extending the filing season deadline limits the time to identify, test, and build changes for the next filing season and introduces risks of problems or even an unsuccessful filing season. It also affects programming and preparation challenges for industry stakeholders. Continued changes and uncertainty in the filing season deadlines create confusion and affect taxpayer confidence and understanding of compliance deadlines.

The IRS and Treasury also remain highly sensitive to the numerous challenges facing small business owners in general and especially during the pandemic. The estimated tax “penalty” is an interest-based addition to tax, based on the IRS’s current interest rate. We are aware that, during the pandemic, many small businesses are choosing to absorb the estimated tax penalty and retain the funds as working capital or to pay down other obligations with a higher interest rate.

Small businesses choosing to make the first quarter estimated payment on May 17th instead of April 15th will have to pay an estimated tax penalty equal to  $\frac{1}{12}$  of the annualized interest rate (currently 3 percent) times the estimated payment amount. For example, a first quarter estimated tax liability of \$8,000 paid on May 17th would incur an estimated tax penalty of \$20 ( $\frac{1}{12} \times 3$  percent  $\times$  \$8,000). Meanwhile, the business would retain any economic benefit of having such funds in its possession during the period from April 15th to May 17th.

Individual taxpayers must pay taxes as they earn or receive income during the year, either through withholding or estimated tax payments. Most individual taxpayers have their taxes automatically withheld from their paychecks and submitted to the IRS by their employer. Individuals whose income is not subject to income tax withholding must make quarterly estimated tax payments to the IRS. However, there are certain exceptions and special rules that apply to some groups, including farmers, fisherman, those who recently became disabled, recent retirees, and those who receive income unevenly during the year. Estimated taxes can be paid online using IRS Direct Pay, credit card, Electronic Fund Withdrawal (EFW), or the Electronic Federal Tax Payment System; through the mobile application IRS2Go using EFW or credit card; by phone using EFW or credit card; or in person or mail using a check or money order and the Estimated Tax Payment Voucher.

Individuals do not need to rely solely on their prior year’s taxes to properly estimate their first quarter estimated income tax payment. Section 6654 of the Internal Revenue Code imposes an addition to tax on individuals for failing to timely pay estimated income taxes. The addition to tax is calculated by using the lesser of the following:

- 100 percent of the prior year’s tax (110 percent for higher-income individuals),  
or
- 90 percent of the current year’s tax.

Individuals also retain the ability to automatically extend the filing date of their 2020 income tax return. There are many online services that allow most individuals to automatically extend their filing deadline without cost for such services. As noted above, businesses that do not report income on an individual tax return are not affected by the extended filing season deadline.

*Question.* I appreciate your response to my question on the importance of the IRS Private Debt Collection (PDC) program during the Finance Committee hearing. This program allows the IRS to engage private debt collectors to collect delinquent tax debts that in most cases the IRS has stopped pursuing. This means that the PDC program brings in revenue that would otherwise not be collected, and allows the IRS to use the proceeds to hire more revenue agents.

According to IRS data, the PDC program has collected more than \$623 million from FY 2017 through September 17, 2020, with more than \$320 million collected in FY 2020 alone. Combined with revenue collected by additional IRS personnel funded by the program, the PDC program has provided more than \$678 million to the U.S. Treasury.

Despite the clear success of this program, I am concerned by reports that the IRS has made a decision not to provide new cases for the program until the end of September, 2021.

What is the basis for the decision to delay the delivery of new cases to PDC companies?

Answer. The IRS considered several factors when making the decision to delay the delivery of new cases to the private collection agencies (PCA):

- Current status of the filing season and processing delays the IRS and taxpayers are experiencing. The IRS continues to work through backlogs in some of our operations that affects the eligible inventory.
- Contract transition activities including IT development work for new capabilities and compensation structures
- Each PCA has approximately 670K open cases that in total averages \$6.8B in balances due.
- In addition to the open cases, the IRS is still delivering new tax debts on the accounts that are already assigned to a PCA. Since the end of January 2021, we have placed about 50,000 new tax debts (modules) totaling \$379M in balances due.

*Question.* Is the date which the PDC companies have been given for new cases, which I understand is September 27th, final, or will the IRS attempt to provide new bases before that date?

*Answer.* The date is firm, for the same reasons as stated above.

*Question.* I also want confirm the full inventory of “outstanding inactive tax receivables” is being made available to the PDC program as intended by law. Aside from the recent pause in cases delivered to PDC companies, I am concerned by a finding in a report issued by the Treasury Inspector for Tax Administration (TIGTA) on March 10, 2021. In this report, titled “High-Income Taxpayers Who Owe Delinquent Taxes Could Be More Effectively Prioritized,” “TIGTA identified 3,185 high-income taxpayers whose accounts were not sent to a private collection agency at any point since the program started in Fiscal Year 2017 and who owed \$110 million on modules that were shelved in an inactive inventory as of May 14, 2019.”

In light of these concerns, I have the following questions regarding the available inventory of cases eligible to be assigned for the Private Debt Collection program.

The Taxpayer First Act generally exempted taxpayers under 200 percent of the Federal poverty level from the program. However, at the same time, the time period for when accounts may be assigned to the program was shortened from over 3 years after assessment to 2 years. This shorter timeline became effective at the beginning of 2021. Can you confirm that the IRS has updated its pool of eligible accounts for the program based on this updated timeline? How many additional accounts has this resulted in being eligible for the program?

*Answer.* The IRS updated the pool of eligible accounts for the program based on this change. The change from 3 years to 2 years currently adds about 80,000 additional cases to the pool of eligible accounts. Note that many cases older than 2 years are already swept into inventory by other parts of the statute, because they are already shelved due to lack of resources or there has been no taxpayer contact for over a year.

*Question.* Please provide the most recent estimate of the gross dollar amount of tax debt receivables and number of tax modules in the Individual Master File.

*Answer.*

Individual Master File <sup>2</sup>	Number of Entities	Gross Dollar Amount
	15,665,114	\$303,618,588,929

*Question.* Please provide the most recent estimate of the gross dollar amount of tax debt receivables and number of tax modules in the Business Master File.

*Answer.*

Business Master File	Number of Entities	Gross Dollar Amount
	3,379,230	\$165,784,958,068

*Question.* Please provide the most recent estimate of the number of tax modules in each file that meet the requirements of “inactive tax receivable” as defined under section 6306 of the tax code without regard to section 6306(d).

<sup>2</sup>All figures for the tables in this response are as of April 22, 2021.

Answer.

Inactive Tax Receivables (accounts/entities)	2,886,404
Individual Master File	2,340,150
Business Master File	546,254

*Question.* Please provide the most recent estimate of the number of tax modules in each file that have been designated by IRS as eligible for transfer to PDC companies.

Answer.

Eligible for Transfer (accounts/entities)	704,398
Individual Master File	359,187
Business Master File	345,211

*Question.* Please provide the most recent estimate of the number of tax modules that are excluded from the PDC program according to each exception under IRC section 6306(d).

Answer.

Legislative Exclusions	Count
Pending or Active Offer in Compromise	1,117
Pending or Active Installment Agreement	106,121
Open Examination	17,191
Litigation and Bankruptcy	1,103
Currently Under Levy	125,894
Right to Appeal—Collection Due Process	23,765
Innocent/Injured Spouse	3,883
Combat Zone/Military Deferment	13,525
Deceased	183,186
Less than 18 Years Old	2,362
Identification Theft	365,046
SSDI	125,329
Low Income	396,205
Criminal Investigation	1,385
Total	1,366,112

*Question.* Please provide the number, if any, of tax modules that are excluded from the program for any reason other than as an exception under section 6306(d) of the tax code and the reason for exclusion.

Answer. In addition to the exceptions identified in section 6306(d), there are other operational conditions that excluded an account from the program. The operational conditions include IT constraints, data limitations, and the complexity of an account.



Operational Condition	Count
Individual Master File (IMF) Balance Due and Sole Proprietorship BMF assigned at IRS (not inactive)	37,688
Earliest Collection Statute Expiration Date is zero, incorrect, or about to expire	246,819
Financial Classification is write-off	104,214
IRS/Federal Employee	36
Restricted Interest	170,961
Complex IMF-Spousal Split Assessments; Additional Tax on Qualified Retirement Plans	23,865
IMF Joint liability and Spouse has also Separate Balance Due at IRS (not inactive)	51,877
Non-Master File Account	5,647
Individual Taxpayer Identification Number (ITIN) (Primary or Spouse)	145,487
Foreign Address/International	14,220
Invalid TIN	699
Private Collection Agency (PCA) Block (Cases returned from PCA)	1,732
Private Debt Collection/Caution Upon Contact Indicator	362
Active Passport Program	1,243
Taxpayer Advocate Service	29
Sole Proprietor Business Master File with IMF account at IRS (not inactive)	11,015
Total	815,894

---

QUESTION SUBMITTED BY HON. MAGGIE HASSAN

*Question.* The American Rescue Plan contained the Recovery Startup Assistance Act, my bipartisan bill with Senator Braun to provide assistance, through the Employee Retention Credit, to new businesses that started during the pandemic. Startups will be eligible to start receiving this assistance in July. When do you expect that the IRS will issue guidance around this assistance for new businesses?

*Answer.* We are working with the Department of Treasury on additional guidance on the Employee Retention Credit, specifically with regard to the changes made to the credit by the American Rescue Plan Act of 2021. We understand that employers will need guidance in advance of taking the employee retention credit under the American Rescue Plan Act beginning with the third quarter of 2021. In addition, employers who are eligible due to a full or partial suspension of business operations or a decline in gross receipts may still claim the credit based on existing applicable employee retention credit guidance found in Notice 2021-20 and Notice 2021-23, relating to calendar quarters in 2020 and the first and second calendar quarters of 2021, respectively.

---

QUESTION SUBMITTED BY HON. ROBERT MENENDEZ

*Question.* Section 2201 of The Taxpayer First Act requires the IRS to modernize the disclosure of taxpayer information for third party income verification. Third party income verification is crucial for consumers to access many financial products and services, including home mortgages. The modification of this process is intended

to increase speed, accuracy, and taxpayer data privacy. This process is funded by transaction fees charged to users of the system, which often times are residential lenders. Congress requires the solution to be fully automated and accomplished in as close to real time as practicable.

Will you please provide us an update on the status of attaining a real time automated process for the Income Verification Express Service (IVES) Program?

Answer. TFA section 2201 requires an Internet platform and automation of the current Income Verification Express Service (IVES) by January 1, 2023. This automation will reduce IVES request processing time from 3 days to “as close to real time as possible” and will be compliant with applicable security standards and guidelines. The IRS is on track to deliver the solution by January 1, 2023.

---

QUESTIONS SUBMITTED BY HON. ROB PORTMAN

*Question.* My bipartisan legislation with Senator Cardin, the Protecting Taxpayers Act, included many provisions that were incorporated in the 2019 law, the Taxpayer First Act. One of these provisions provided that the IRS establish an Independent Office of Appeals and strengthen taxpayers’ right to an appeals. As you are working to implement the law, it seems that there are still challenges to ensuring taxpayers feel the Independent Office of Appeals is truly independent—in that not only are the reviews fair, but that they appear fair and free from conflict of interest.

First, many Appeals officers were former IRS examiners and this often provides an implicit bias (if not explicit) for making a determination. Second, Appeals officers could benefit from training with the Taxpayer Advocate Office to better understand the issues taxpayers are facing. Next, transparency is key. While the pandemic has provided challenges for all of us, I understand Appeals conferences are often over the phone or if they are by videoconference, most IRS participants do not utilize the camera. This leads to a sense of distrust as taxpayers do not know who is in the room, the reaction of the Appeals officer to the argument, and whether others are being consulted to make the decision. Finally, as many IRS employees are still working from home, there’s a challenge for ensuring taxpayers data is being protected.

What additional steps will the IRS take to ensure taxpayers feel Appeals is truly independent? How is the IRS protecting taxpayer data as employees work at home? What technology is the IRS using to allow IRS employees to review, but not retain, protected taxpayer data such as trade secrets?

Answer. Since passage of the Taxpayer First Act, the Independent Office of Appeals (“Appeals”) has taken various steps to reinforce our (actual and perceived) independence. For example:

- Appeals held a series of all-employee continuing education sessions to focus on the independence-related provisions of the Taxpayer First Act and to reemphasize our role as impartial arbiters who listen to taxpayers and seek to resolve cases without litigation. We will continue to emphasize these themes with existing employees, and we are incorporating these themes into mandatory training for new hires as well.
- Appeals is working with IRS Chief Counsel and the Department of Treasury to issue regulations clarifying the broad scope of access to an independent Appeals review contemplated by the Act and also is working with the IRS Chief Taxpayer Experience Officer to increase awareness of Appeals among unrepresented taxpayers.
- Appeals developed recruiting materials this year that are directed toward encouraging professionals outside of the IRS to consider a career in Appeals. We currently are recruiting applicants from private industry and public accounting on the theory that an independent Appeals should have a workforce with a diversity of professional backgrounds.
- Following passage of the Taxpayer First Act, Appeals leadership began a series of discussions with tax practitioners to identify their concerns with Appeals and to seek their views on ensuring the best taxpayer experience in Appeals. We also met with the IRS Advisory Council (IRSAC) and solicited their input specifically on the Taxpayer First Act and any Appeals policies or procedures that should be reconsidered to better meet the letter and spirit of Appeals independence in the Act. These conversations are helping to promote policies and procedures that ensure fair and impartial hearings for taxpayers.

An independent Appeals as contemplated by the Taxpayer First Act requires a continual focus by Appeals leadership on ensuring that Appeals employees treat taxpayers fairly and with respect, and that they endeavor to settle cases in a manner that reflects the litigating hazards that would be faced by each side (taxpayer and government) were the case to proceed to court. We are proud of the professionalism and the expertise of our employees; we will continue to emphasize the importance of impartiality, fairness, and taxpayer rights; and we will continue to review our internal policies and procedures to ensure they adequately protect Appeals' independence.

The IRS has strict data protection standards to ensure taxpayer data is protected from loss and to protect against unauthorized disclosure of taxpayer information. IRS employees approved for telework must complete required telework security training. IRS security measures cover all aspects of the information systems, including paper files, storage devices, and telecommunications equipment (laptops, PDAs, and cell phones). These security measures include:

- Equipment, data, files, and other information must be secured under lock and key when not in an employee's possession.
- Sensitive information must be disposed of in accordance with established procedures.
- Trade secrets and other protected taxpayer data must be safeguarded in accordance with established procedures.
- IRS laptop computers have a special folder to encrypt sensitive but unclassified data.
- Employees must connect to the IRS network from home over a secure virtual private network using their HSPD12-Smart ID government identification badges.
- COVID-19 emergency procedures allow Appeals' employees to email taxpayers using Secure Zip to encrypt data, while IRS data loss prevention technology stops attempts to email sensitive unencrypted data.
- The Taxpayer Digital Communications system, secured by the IRS eAuthorization process, is used for secure messaging with taxpayers.
- Virtual conferencing software used to interact with taxpayers and review documents is configured to prevent any downloading of protected taxpayer data displayed during the conference.

It also is important to note that Appeals employees are not investigators. Appeals' access to taxpayer records is limited to material included in the casefile compiled by the IRS Compliance person who conducted the audit or collection action.

Finally, Appeals has made significant strides in our ability to offer videoconferences to taxpayers who want to meet with us "face to face" but cannot do so during the pandemic. Appeals proactively negotiated a Memorandum of Understanding with the National Treasury Employees Union that requires Appeals employees use the full capabilities of the videoconference equipment and software when holding "virtual" conferences with taxpayers. We provided comprehensive training to employees about how to conduct a virtual conference and Appeals leadership promotes virtual conferencing efforts in each of our outreach events to tax practitioners. We will continue to offer virtual taxpayer conferences, as well as in-person and telephonic conferences, when the IRS returns to more normal business operations.

*Question.* Additionally, what steps has the IRS taken to ensure greater uniformity in the taxpayer experience with Appeals? Is there guidance from the Appeals Team Case Leaders on the number of attendees from Compliance at an Appeals Conference? What procedures does Appeals follow to ensure that a taxpayer's settlement discussions only begin after the Compliance team is excused from the meeting?

*Answer.* All Appeals employees receive training and continuing professional education about the importance of providing high-quality taxpayer service and adhering to internal procedures. Appeals leadership also holds interactive employee town hall meetings to discuss important issues, including consistent treatment of taxpayers, and we reinforce these points throughout Appeals' training. In addition, Appeals maintains its own internal staff of technical tax guidance specialists who serve as issue specialists to advise Appeals Officers on the consistent application of the law to taxpayers.

Regarding IRS Compliance attendance at Appeals conferences, Appeals has concluded the Appeals Team Case Leader (ATCL) conferencing pilot that was intended to test the mandatory inclusion of Compliance employees in Appeals conferences.

Following the pilot, ATCLs reverted to the longstanding Appeals policy under which they retain the discretion, but are not required, to invite Compliance personnel to the non-settlement portion of the conference. While there is no formal guidance limiting the number of attendees at Appeals conferences, the expectation for any conference attended by Compliance is that Compliance attendees should have been involved with the case before it came to Appeals or will provide some value to the process by attending. If Compliance personnel accept an invitation to attend a virtual conference, they, along with Appeals personnel, are expected to fully identify themselves and use their cameras.

Appeals policy has consistently been that, when invited, Compliance may attend only the non-settlement discussion portion of a conference unless the taxpayer consents to mediation. In response to external feedback received during the ATCL conferencing pilot, Appeals published a series of policy statements and FAQs to clarify and reinforce that settlement discussions for pilot cases were to be held solely between the ATCL, the taxpayer and their authorized representatives. Appeals continues to assess whether changes to IRM policy are needed to ensure impartial and fair hearings for taxpayers.

Although the ATCL conferencing pilot has ended, Appeals leadership believes that it is critical to our ATCLs' understanding of the case that they retain the discretion to include Compliance personnel in the non-settlement portion of the conference in appropriate cases. For example, in complex transfer pricing or valuation cases where both sides rely on expert reports, each side may seek to challenge the other side's report. Our ATCLs find it helps significantly to be able to hear each side respond to challenges raised by the other side. This discussion can lead the ATCL to understand the essence of the dispute more fully and thus better assess the litigating hazards faced by each side. In all cases, however, settlement discussions must be between only Appeals personnel and the taxpayer and must not include Compliance personnel. Our guidance is clear on this point.

*Question.* What guidance does the IRS provide to its Appeals Officers to ensure they remain independent, consider the facts and the law, exercise their own judgment, and do not merely concede their decision-making authority to other segments of the IRS?

*Answer.* Appeals is dedicated to resolving tax controversies, without litigation, in a manner that is fair and impartial to both the taxpayer and the Government. The core values of independence, impartiality and quality decision-making are reflected in employee training and continuing professional education, as well as a variety of IRS policy statements, administrative guidance and IRM policies. In particular, Appeals training focuses on key competencies, including fair and effective case resolution, relevant tax law changes, independent decision-making, taxpayer service, etc. Appeals Officers do not concede decision-making authority to other segments of the IRS. Sole authority to settle a case remains in Appeals' jurisdiction. If technical guidance is needed on specialized issues in a case, Appeals retains its own cadre of issue specialists who provide this advice. Appeals does not rely on IRS Compliance specialists to advise on our settlements. These policies help to promote Appeals independence and encourage independent judgment of our Appeals Officers and their managers.

*Question.* Thank you for your response to my letter and for the March 8th guidance which clarified (as Congress intended) that ADA-accessible wheelchair ramps are permitted as an exterior modification on buildings where historic preservation easements are claimed. On a related issue, both in the letter and in questions to Secretary Yellen and Deputy Secretary Adeyemo, I requested that the IRS issue guidance on conservation easements and provide sample deed language for taxpayers looking to utilize this program appropriately.

Can you please provide an update on the status of that guidance? Will you commit to engaging stakeholders including land and historic preservationist to develop this guidance?

*Answer.* The Treasury Department and the Internal Revenue Service recognize the importance of providing guidance that will create certainty for taxpayers who make conservation contributions, guidance and advice that helps those taxpayers ensure that their contributions comply with the law and conserve historic structures and other significant conservation interests in perpetuity, as Congress intended. As such, we are committed to developing, and encourage members of the public to suggest topics for, such guidance and advice.

We are currently formulating this year's Priority Guidance Plan that focuses our resources for guidance items that are the most important to taxpayers and tax administration. We encourage the public, and other stakeholders to engage us in developing the Priority Guidance Plan by submitting items for consideration, pursuant to Notice 2021-28 (*irs.gov*).

*Question.* Under §41(h), qualified small businesses (QSBs) are authorized to elect to apply up to \$250,000 of an R&D tax credit claimed under IRC 41 against its payroll tax obligations. To receive this credit, QSBs must first calculate and claim the credit on their corporate income tax return. Many QSBs use Professional Employer Organizations (PEOs) for payroll tax services and other services that are important to small businesses and their employees, such as human resources assistance and access to quality health insurance, retirement plans and other employee benefits. PEOs report and remit QSB payroll on an aggregate basis on the PEO's quarterly Forms 941 and other payroll tax returns, including applying any R&D tax credits that a QSB elects to apply against its payroll tax obligations. In accordance with IRS guidance, PEOs report quarterly each QSB that is applying R&D tax credits against its payroll tax obligations. We understand that the IRS may seek reimbursement from the PEO for disallowed R&D payroll tax credits applied by these PEOs on behalf of their small business clients. PEOs are a service provided and have no way to determine if a client's tax credit is accurate.

Given that a QSB's R&D tax credit is claimed on the QSB's corporate income tax return, does the IRS plan to examine these credits on the QSB's return? Or on the PEO's aggregate payroll return?

*Answer.* A QSB may claim the credit on their income tax or their employment tax return and either of these returns may be selected for examination. If a taxpayer utilizes a Professional Employer Organization, the research credit could be claimed on the PEO's aggregate payroll return; thus the PEO's aggregate payroll return may be examined as well.

*Question.* If the IRS plans to examine these credits on the PEO's aggregate return, how will the IRS ensure that R&D tax credits for unrelated QSBs that were applied on the PEO's aggregate payroll tax return are not delayed?

*Answer.* When the Service conducts an examination of a Form 941 filed by these types of third-party providers, the Service is examining the aggregated amount of the line item claimed by the third-party, using the client by client allocation information provided on Schedule R as part of the examination. The Service does not issue refunds or make credit adjustments to the client entities themselves, but rather any allowable credits/refunds are paid to the third-party provider.

---

QUESTION SUBMITTED BY HON. PATRICK J. TOOMEY

*Question.* Improper payments continue to be a pressing and expensive issue. One specific area of concern is the Advance Premium Tax Credit (APTC). When an individual enrolls in marketplace coverage, he or she must provide his or her household income estimate. The self-reported income estimate is then used to calculate the APTC. If income is underestimated, a taxpayer will receive a higher APTC than eligible for. However, required repayment of any excess credit received is limited based on income level. Further, the American Rescue Plan of 2021 (Pub. L. 117-2) eliminated all required repayments for the 2020 plan year regardless of income level.

In Fiscal Year 2015, the Office of Management and Budget established an inter-agency working group to assess the risk of improper payments across all payments made from the Premium Tax Credit (PTC) budget fund, including APTCs, and to define the improper payment rate, which is necessary to determine if any additional controls are needed. The working group included representatives from the Internal Revenue Service, the Treasury Department, the Centers for Medicare and Medicaid Services, and the Department of Health and Human Services. However, to date, an improper payment rate has not been reported.

Can you provide an update on the improper payment rate determination and a timeline for completion?

*Answer.* The IRS and the Centers for Medicare and Medicaid Services, with the support of the Department of the Treasury and the Department of Health and Human Services, have been collaborating to develop error rates and to ensure there are no gaps or overlaps in reporting. The Department of the Treasury provided notification to the Office of Management and Budget (OMB) that it will delay the an-

nual reporting, within Treasury's Agency Financial Report (AFR) for Fiscal Year (FY) 2020 and 2021, of improper payment estimates for the net PTC program pursuant to the Affordable Care Act. This delay stems from significant new and persistent demands placed upon Treasury and IRS in connection with the Coronavirus Disease 2019 (COVID-19) crisis. Consistent with the OMB's guidance on prioritizing work based on risk, issued via a June 17, 2020 memorandum, Risk Based Financial Audits and Reporting Activities in Response to COVID-19, we have given top priority to implementing the COVID-19 programs under both the American Rescue Plan Act of 2021 and the Consolidated Appropriations Act of 2021.

---

QUESTION SUBMITTED BY HON. MARK R. WARNER

*Question.* The pandemic highlighted the need for safe digital services, like remote online notarization, which is one of the reasons I introduced the SECURE Notarization Act last Congress with Senator Cramer. The bipartisan legislation would permit nationwide use of Remote Online Notarizations, a type of electronic notarization where the notary and signer are in different physical locations (provided they have a multi-layered process to prevent fraud). Moving forward, bringing the notarization process into the 21st century seems like the right direction to move in. During the pandemic, the IRS allowed people to use remote online notarization for things like spousal waivers under qualified retirement plans.

Does the IRS have plans to extend or make permanent access to make digital services, like remote online notarization?

*Answer.* Yes, although the IRS does not make extensive use of notary services (in-person or remote), extending, improving and launching new digital services is a core part of our IRS Integrated Modernization Business Plan as well as the Taxpayer First Act (TFA) Report to Congress. Subject to available resources, the IRS plans to make great strides towards providing taxpayers with permanent access to new digital services with robust fraud prevention, including additional Online Account functionality that will continue to enhance the customer experience with the Service seamlessly and securely.

TFA section 2302 mandates that the IRS publish guidance to establish uniform standards and procedures for the acceptance of taxpayers' electronic signatures on Forms 2448 and 8821, which authorize disclosure granted by a taxpayer to a practitioner or power of attorney. The IRS successfully launched a new online capability on January 25, 2021, allowing tax professionals to remotely obtain signatures from individual and business clients in different physical locations and submit authorization forms electronically.

The "Submit Forms 2848 and 8821 Online" option is part of a broader IRS effort to expand options for electronic signatures on authorization forms as required by TFA. In the summer of 2021, the IRS plans to launch the initial release of additional Online Account functionality, which consists of two parts: a new application tax professionals can use to initiate authorization requests for taxpayers to sign, and new functionality within the individual Online Account, called Authorizations, to be used by taxpayers to sign and manage their authorizations. The IRS expects this new digital service will dramatically speed authorization processing and allow for almost immediate access to transcripts and other services.

Additionally, in response to industry concerns about face-to-face interactions during the COVID-19 pandemic, the IRS issued interim guidance allowing taxpayers and representatives to use electronic or digital signatures when signing certain forms. The Service has also issued similar interim guidance to permit electronic transmittal of documents and acceptance of digital signatures on documents related to the determination or collection of tax liability. This guidance has been extended through December 31, 2021.

The Secure Access Digital Identity (SADI) effort addresses the IRS's need to conform with National Institute of Standards and Technology (NIST) Special Publication 800-63-3 Digital Identity Guidelines and consider additional technology, customer experience, and security drivers to provide taxpayers with a seamless and secure user experience when interacting with the IRS online. Launched in late June of this year, SADI implements updated digital identity proofing and authentication solutions that better protect taxpayer data while enhancing access to safe digital services.

## QUESTIONS SUBMITTED BY HON. SHELDON WHITEHOUSE

*Question.* During the hearing, you asserted “high income taxpayers are audited more than any other taxpayer,” noting that the audit rate is “over 8 percent of the people over \$10 million.” You cited table 17a of the IRS Data Book. This table also shows that in tax year 2014, and each subsequent year, taxpayers earning between \$500,000 and \$1,000,000, a range that includes taxpayers in the top 1 percent of income earners, were audited at a lower rate than recipients of the Earned Income Tax Credit.

How do you justify auditing low-income EITC taxpayers at higher rates than those earning in the upper six-figures?

*Answer.* Examinations are a critical piece of our compliance efforts and help ensure fairness in the tax system. The Service takes pride in ensuring our examination selection process is fair and impartial. As reported in the IRS’s most recently published Data Book (2019), the exam coverage rate (closed and in-process) for Tax Year 2015 of taxpayers with incomes of \$10 million or more is about 8.16 percent. The coverage rate for taxpayers with incomes between \$5–10 million was 4.39 percent; for those with income between \$1–5 million was about 2.39 percent; and for those with income between \$500,000–\$1 million was about 1.13 percent. The IRS receives more third-party information (Forms W–2, 1099, etc.) for taxpayers with income between \$200,000 and \$1 million than for those above \$1 million. These audit rates are higher than for any other category of individual filers, and we expect to see that trend continue with Tax Years 2016, 2017, and 2018. Tax Year 2015 is the last year for which we had the actual audit rates when I testified, because the IRS could still open audits for more recent years, and the data for more recent years was not yet complete.

The IRS averages a little less than 300,000 EITC audits per year out of the universe of 27 million, which is a rate somewhat smaller than 1.11 percent. The challenge with auditing fewer lower-income taxpayers claiming EITC is that around 50 percent of the returns claiming EITC have overclaimed the credit, and individuals claiming more EITC than allowed make up 11 percent of the individual income tax underreporting gap, contributing \$27B or more of the overall tax gap each year. There are several factors behind why the EITC is such a large component of the individual income tax underreporting tax gap. Despite significant guidance provided by the IRS and others, some people (including tax preparers) simply misunderstand the complex EITC rules; other people misreport income. Each year, at the start of the tax filing season, the IRS participates in EITC Awareness Day events throughout the country in an effort to increase participation by eligible people and enhance the rate of compliance.

The IRS fully appreciates the importance of the refundable EITC and the significant difference it makes for people. More than 25 million people claim EITC per year, generating more than \$63 billion each year to people in need. This program lifts millions of Americans out of poverty, and the IRS is proud to work hard each year to raise awareness about the program since many, many EITC-eligible people simply overlook claiming this important refundable credit.

*Question.* The Treasury Inspector General for Tax Administration has found the IRS defines “high income,” for the purposes of identifying taxpayers for potential examination, as earning above \$200,000. It has suggested increasing that threshold, since focusing audit resources on higher-income taxpayers yields more revenue per audit hour spent.

Has the IRS considered increasing the annual income level used to identify “high-income” taxpayers for potential examination? Why or why not?

*Answer.* Although the current definition of “high-income” references “above \$200,000,” that has not precluded the Service from increasing our focus on those taxpayers in higher income ranges, well above \$200,000. Audit rates for taxpayers with income greater than \$1 million are higher than for any other category of individual filers. We have also initiated a Compliance Initiative Project to ensure that we maintain a high audit coverage of taxpayers at the highest income category.

*Question.* You explained during the hearings that the annual tax gap—the difference between what is owed and what the IRS collects—may be as high as \$1 trillion per year, which is more than double the most recent IRS estimate. You cited foreign-source income as one potential reason why the gap may be significantly higher than prior estimates.

In 2010, Congress enacted the bipartisan Foreign Account Tax Compliance Act (FATCA) to crack down on offshore tax cheats who hide their wealth in foreign bank accounts. A 2018 TIGTA audit found that eight years after the law's enactment, the IRS "ha[d] yet to begin holding taxpayers and [foreign financial institutions] accountable for noncompliance." The IRS accepted a number of TIGTA's recommendations.

What progress has the IRS made in accomplishing the objectives set out in its FATCA Compliance Roadmap? What challenges does the IRS face in meeting these objectives?

Answer. Since the 2018 TIGTA report (2018–30–040), the IRS has made significant progress with its compliance enforcement efforts surrounding the Foreign Account Tax Compliance Act (Act). While the TIGTA audit report focused on the FATCA Compliance Roadmap as a means to measure compliance enforcement efforts, the roadmap was not intended to be a static comprehensive plan and was superseded by myriad compliance efforts and task-specific documents that address changing circumstances to identify and combat individual and foreign financial institution non-compliance. The roadmap served as an initial framework to create an infrastructure that could support compliance efforts and could not envision future policy changes and/or potential information technology or human resource constraints.

Over the past several years, the IRS has continued and initiated new compliance activities and has developed campaigns that use automated risk assessment processes to identify potential tax noncompliance related to a taxpayer's failure to report the proper income and tax and or failure to properly submit required information returns associated with these offshore accounts. One component of the campaigns is cross referencing information reported on Form 8966, FATCA Report, with what is reported on Form 8938, Statement of Specified Foreign Financial Assets. Significant discrepancies of both individuals and Foreign Financial Institutions (FFIs) are identified for compliance follow-up. Additionally, FATCA data are associated with individual exam cases involving identified offshore-related issues. Third-party FATCA information received is also reconciled in numerous compliance activities on an ad hoc basis. Automated risk assessment processes are also in place to identify those entities that have FATCA Reporting obligations but do not meet all their compliance responsibilities. The Service's business operating divisions address non-compliance and errors through a variety of treatment streams, such as soft letters, examinations and termination of an entity's FATCA status.

While the Service has significantly increased its compliance efforts in recent years, compliance efforts continue to be limited by technological and human resource limitations in light of budgetary constraints.

---

#### QUESTIONS SUBMITTED BY HON. TODD YOUNG

*Question.* I am interested in the ongoing improvements to the IRS process for distributing the Economic Impact Payments. It is not uncommon for constituents to have had no issues receiving one or two rounds of payment, then have issues with a later round. While the EIP portal is a step in the right direction, there is still a wide variation in timeliness and accuracy of responses.

How has the IRS changed its systems or protocols for the distribution of these payments during each round?

Answer. The IRS continues to build on programming improvements and changes that we have made since the first round of Economic Impact Payments (EIPs). Indeed, by leveraging these upgrades, the IRS successfully issued the majority of the EIP2s through a single payment file in late December before the opening of the 2021 tax filing season.

Building on our success, the IRS sent out the first round of EIP3 payments the Friday after the enactment of the American Rescue Plan Act. This first round included those individuals with 2020 or 2019 tax return and where the IRS has direct deposit information. It also included EIP3 payments to non-filers who used the Non-Filers Tool in 2020. The IRS issued a second round of EIPs the next week for those recipients with a 2020 or 2019 tax return but where the IRS did not have direct deposit information (such as those returns where a taxpayer received a paper check for their refunds, where the taxpayer did not owe tax, or where the taxpayer owed tax). It also included payments to recipients with newly processed 2020 or 2019 re-



turns with direct deposit information. As of May 26, 2021, we have distributed approximately 167 million EIP3s worth more than \$391 billion.

The IRS initiated and led a cross-agency coordination effort to accelerate EIP3 disbursement to certain Federal benefit recipients who are not tax filers. We coordinated with the Social Security Administration, Railroad Retirement Board, and Department of Veterans Affairs to issue automatic payments to their recipients who have not already received an EIP3 based on a tax return (or use of the Non-Filers Tool in 2020).

On Friday, April 2nd, we started making the first round of ongoing supplemental payments for people who earlier in March received payments based on their 2019 tax returns but are eligible for a new or larger payment based on their recently processed 2020 tax returns. These “plus-up” payments could include a situation where a person’s income dropped in 2020 compared to 2019, or a person had a new child or dependent on their 2020 tax return, and other situations. As of June 4, we have distributed approximately 338,416 of these payments totaling more than \$609 million.

To ensure that the public remains informed throughout the disbursement of EIP3, the IRS continues to issue frequent news releases to share current volumes of EIP3 disbursements and the populations included in each week’s distribution. To better manage tax refund and EIP3 issuance, the IRS has worked diligently with the Bureau of the Fiscal Service to eliminate any potential disruption to the tax refund process.

*Question.* What challenges persist, and what is the IRS doing to address those challenges?

*Answer.* To increase the success of this third round of Economic Impact Payments (EIP3), the IRS and Bureau of the Fiscal Service (BFS) continue to work collaboratively to reduce the volume of paper checks and the number of direct deposits rejected by designated financial institutions. A direct deposit may be rejected for a variety of reasons, including because the eligible recipient’s account is closed or otherwise is invalid. Despite this, EIPs sent electronically are far more likely to be successfully delivered than both paper checks and debit cards sent by mail. As of March 30, 2021, the rate of return for direct deposits issued during EIP3 is 2.0 percent, which is lower than for the first two rounds of EIPs.

By leveraging our experience gained during the first two rounds of Economic Impact Payments (EIP1 and EIP2), the IRS and BFS evaluated all eligible individuals who previously received a paper check or a debit card. Specifically, BFS performed an analysis of these paper check and debit card populations to locate available direct deposit information from recent payments made to or from the Social Security Administration, Railroad Retirement Board, and Department of Veterans Affairs that could be used to increase disbursements of EIP3 through a direct deposit. As part of this process, BFS leveraged an account verification service as appropriate to confirm account validation and ownership. As a result, the IRS was able to issue direct deposits of EIP3s to more than 12 million recipients who would have otherwise received a mailed payment. This significantly expedited payment delivery for these recipients including many who receive benefits from the Social Security Administration and Department of Veterans Affairs. It also helped ensure that those who receive Federal benefits payments on a Direct Express card would be more likely to receive their EIPs on their cards, instead of by check or a newly issued EIP Card. Less than one-half of 1 percent of these payments have been returned as undeliverable by financial institutions as of March 30, 2021. In addition, the IRS issued millions of additional electronic payments to Social Security, RRB, and VA recipients who do not normally file a tax return and for whom direct deposit information would otherwise be unavailable. The majority of these beneficiaries have received their EIPs.

In preparation for EIP3, the IRS worked with the financial and tax industries to validate banking information provided on tax returns. The IRS undertook these efforts to prevent unsuccessful disbursements of EIP3 to temporary accounts used for tax refund purposes. By validating this banking information, the IRS has dramatically reduced EIP3 disbursement to temporary accounts. Prior to the enactment of the American Rescue Plan Act of 2021, we had intended to leverage the account verification service available through BFS to test this data in advance of EIP3 disbursements. However, to comply with that legislation’s directive to disburse these payments “as rapidly as possible,” we used our validation efforts instead and began disbursing EIP3 within days of the legislation’s enactment. We continue to work

with BFS on options to validate account information, while following all disclosure provisions and legislative authority for EIPs, tax refunds, and other non-tax payments from the IRS.

*Question.* You had referenced a few metrics in our discussion during the hearing of the backlog of 2019 returns which I would like to revisit. You stated that your mail processing is “current, not a backlog” of 1 million parcels, which is the amount you can process in a week. I find this troubling, as we continue to hear from the Taxpayer Advocate Service that the Kansas City facility is continuing to open mail from June 2020.

Can you please identify exactly how many parcels of mail remain unopened that were delivered to the IRS within the last 6 months? Within the last 9 months?

*Answer.* All mail that remains unopened in our four Submission Processing (SP) centers was received in 2021. As of June 5, 2021, there were approximately 120,000 pieces of mail waiting to be processed, with the oldest work received on June 1, 2021. Although TAS identified work from our Kansas City SP center being received from June 2020, this was an anomaly. SP has requested any additional feedback of instances TAS may see of this issue. As of June 11, 2021, we have not received any.

*Question.* Exactly how many parcels is the IRS able to process per week, and how are these being prioritized if not by date of delivery to the IRS?

*Answer.* Over the past 4 weeks, we have averaged opening 1.8 million pieces of mail per week. All mail is being opened on a First In/First Out (FIFO) basis. We are opening mail within normal timeframes.

*Question.* Can you please identify the exact number of 2019 tax returns that have yet to be processed? If a taxpayer has not received any communication from the IRS regarding their 2019 tax return filed over six months ago, should they now file a duplicate return?

*Answer.* The backlog of all individual returns received in 2020 has been cleared and they are now in the processing pipeline. We do not recommend filing a duplicate return.

*Question.* There have been a wide variety of problems in the distribution of stimulus checks that I understand arise from the IRS’s usage of outdated information. While annual updates to personal information via tax returns makes sense, this process alone is simply inadequate to ensure urgently needed stimulus payments are accurately directed to the correct recipient.

During a year in which so much has changed for so many people, what processes has the IRS been able to set up in order to quickly update individual records?

*Answer.* The Coronavirus Aid, Relief, and Economic Security (CARES) Act, the COVID-Related Tax Relief (CRTR) Act, and the American Rescue Plan (ARP) Act were the largest economic rescue packages in U.S. history. Legislation directed the IRS to issue payments as rapidly as possible to provide relief to U.S. citizens. Implementing these Acts was an extraordinary test of IRS’s core mission and function which presented numerous challenges requiring rapid delivery timeframe, unprecedented coordination, taxpayer outreach, and increased risk tolerance.

Though implementing these laws was a challenge, the IRS built on prior lessons learned and recognized the need to establish customer facing tools that did not require a phone call or face-to-face contact. Working with our external partners to help facilitate payments and share information with the public, we quickly launched two innovate web-based tools. This included the Non-Filers: Enter Payment Info Here tool for individuals who did not have a filing obligation so they could quickly and easily provide relevant information to receive their EIPs. Additionally, to help individuals who had not previously provided their bank information, we collaborated with our external partners to develop the Get My Payment tool which allowed many individuals to receive their EIPs quicker through direct deposit into their bank account. We also quickly established a dedicated webpage with evolving Frequently Asked Questions where customers could, find information about EIP payments and get answers to their questions.

*Question.* What factors have you seen in the past year that have prevented the IRS from more quickly updated such records?

*Answer.* The IRS performed an internal review that included the following lessons learned:

1. Coordination across agencies was imperative and will be further enhanced for future tax legislation packages, including that associated with EIP3.
2. Payment files were prepared using IRS's IT infrastructure with input(s) from other Federal agencies' databases. Opportunities exist for more similar formatting of data to allow for smoother ingestion of data.
3. The IRS leveraged industry partnerships and has identified opportunities while beginning to broaden and expand these relationships.
4. Continue to expand virtual infrastructure to facilitate virtual workforce in multiple locations.

We recognize that when appropriate, we will begin IT planning while legislation is being finalized. We will also introduce standardized processes for data intake from external delivery partner agencies (*i.e.*, SSA, SSI, VA, RRB) to reduce the need for heavy manual "perfection" of data.

*Question.* The Taxpayer Advocate Service plays an important role in assisting Hoosiers and resolving issues with the IRS. Given the added challenges faced by the IRS in the past year, I am wondering how individuals working in this crucial role are best empowered to address the needs of Hoosiers. a. In the past year, have taxpayer advocates been granted any additional roles or responsibilities in order to speed up the processing of cases?

*Answer.* In 2020, we agreed with Taxpayer Advocate Service (TAS) to expand authorities to resolve one Error Code (EC) in our Error Resolution System (ERS). TAS secures needed documentation and resolves the error, allowing the return to continue processing. We plan to work with TAS further to review authorities to allow TAS to resolve more taxpayer cases. In addition, TAS and the IRS collaborated extensively over the past year to develop and implement strategies to resolve the backlog of cases that resulted from the shutdown of our service centers and subsequent reduced onsite staffing in response to the COVID-19 pandemic.

*Question.* What concerns do you have with granting advocates limited administrative rights, including updating addresses or unlocking files for surviving spouses?

*Answer.* The actions TAS takes are routine and follow very specific instructions not exercising any judgement on these cases while resolving certain EC and ERS taxpayer account cases. It is not a substitute for authorities performed by IRS operating divisions and functions. This collaboration is mutually beneficial to TAS and the IRS, as it allows TAS to actively assist some taxpayers whose returns and associated refunds have been delayed due to the COVID-19 pandemic. This also allows IRS functions to reallocate resources to resolving other outstanding matters. We plan to work with TAS further to review authorities to allow TAS to resolve more taxpayer cases.

*Question.* Commissioner, I appreciate you addressing the issue of the tax gap during the hearing, and I am interested in continuing to understand the nature, causes, and potential solutions for the tax gap in this country. During your testimony, you shared your estimate that the tax gap could approach \$1 trillion per year.

How does the tax gap in the U.S. compare to the tax gaps in other advanced countries?

*Answer.* Tax law, tax administration, the size of an economy, and many other factors that affect the nature and extent of tax noncompliance differ across countries. The data and estimation methods used for estimating tax gaps also differ. For these reasons, the U.S. tax gap estimates are not comparable to the estimates of other countries.

The Organisation for Economic Co-operation and Development (OECD) biennially issues a tax administration comparison covering OECD and other economies. These documents include comparative information about tax administration characteristics including summary information about countries producing and/or issuing tax gap estimates. Below are links to recent documents.

Tax Administration 2019: Comparative Information on OECD and Other Advanced and Emerging Economies ([oecd-ilibrary.org](https://oecd-ilibrary.org))

Data tables ([oecd-ilibrary.org](https://oecd-ilibrary.org))

Tax Administration 2017: Comparative Information on OECD and Other Advanced and Emerging Economies ([oecd-ilibrary.org](https://oecd-ilibrary.org))

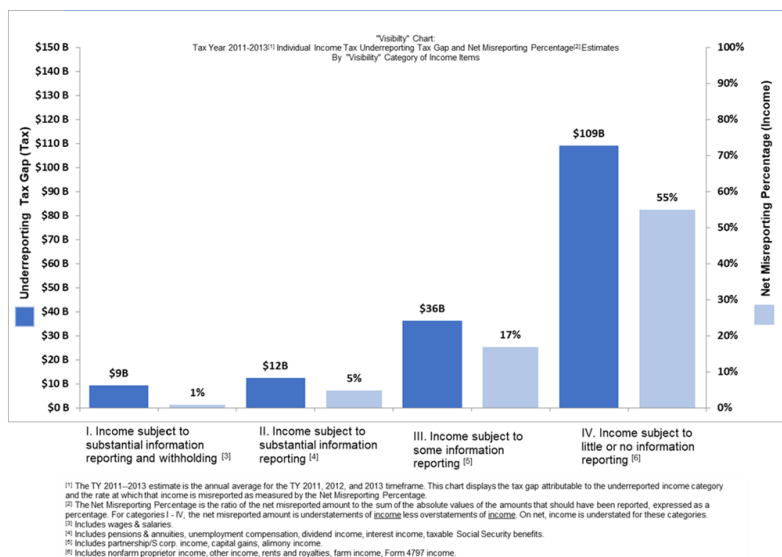
*Question.* I understand that workers get W-2s or 1099s from their employers and from their banks and other financial institutions, and that those employers and fi-

financial institutions report that information to the IRS, which enables the IRS to easily confirm those tax filers' income and other information. As you mentioned during the hearing, there are certain sources of income that do not have that kind of third-party reporting.

How does compliance with tax laws differ between income that is also reported by a third party and income that is not?

Answer. Our research on the compliance of filers of individual income tax returns indicates that income subject to substantial information reporting and withholding has the least amount of misreporting with a net misreporting percentage of 1 percent. Income subject to substantial information reporting but not withholding also has high voluntary reporting with a net misreporting percentage of about 5 percent.

The "visibility" chart below shows the relationship between information reporting/withholding and reporting compliance.



**Question.** When we left off in our hearing conversation, you acknowledged that most of the tax gap is due to high-income taxpayers.

Is it accurate that high-income taxpayers are more likely to have income sources that are not subject to third party reporting?

Answer. Although high-income taxpayers account for a significant portion of the tax gap, taxpayers at all income levels underreport their taxes. High-income taxpayers are more likely to have income sources that the IRS classifies as subject to little or no information reporting. High income taxpayers are also more likely to have flow-through and capital gains income. Although these sources of income are covered by some information reporting, the extent and completeness of the reporting is likely less than other types of income, such as wages, interest, or dividend income.

**Question.** Given that audits are useful tools but inadequate to capture all lost revenue, how does the IRS make sure taxpayers with income that is not reported by others are paying the taxes that the tax laws require?

Answer. Examinations are a critical element of tax administration, and during audits our examiners utilize various analytical tools to identify other sources of income not reported by third parties, such as interviewing the taxpayer/representative, conducting a tour of the business, probing for additional sources of income, and reviewing related returns (*i.e.*, corporate, partnership, employment tax, and excise tax returns). Since 2018, we have shifted significant examination resources and technology to increase our focus on high-income taxpayers. With technological advances,

we are now able to identify instances of evasion that would not have been possible just a few years ago. Our Examination personnel are conducting audits of high-income taxpayers identified with a risk of non-compliance at an examination rate higher than any other category of individual filers. We have also initiated a Compliance Initiative Project to ensure that we maintain a high audit coverage of taxpayers at the highest income category. Examiners across our operating divisions are assigned work to cover this important category of taxpayers.

In addition to examinations, the Service utilizes other approaches to address taxpayer noncompliance. In our Collection division, high-income taxpayers are also a focus of our work. High-income taxpayers with balances due receive high prioritization for enforcement action. For high-income taxpayers who fail to file a return, we have programs that address their compliance through notices as well as field presence.

Within the past 2 years, we launched our Office of Fraud Enforcement (OFE) where technical advisors provide fraud policy and operations support to all IRS operations. A robust fraud program is an essential deterrent to all type of taxpayers who may consider engaging in non-compliance. OFE is currently engaged in a project focused on the development of various signatures associated with the hidden ownership of virtual currencies to better enable the IRS to pursue undisclosed taxable transactions. Within the past year, we have created an Office of Promoter Investigations (OPI) focused on taxpayers and the promoters of abusive tax avoidance transactions, including abusive Syndicated Conservation Easements, abusive Micro-Captive insurance arrangements, and other transactions. Many of these transactions involve income or deductions not subject to third party reporting.

Most investigations conducted by our Criminal Investigation division (IRS-CI) involve high-income individuals and their advisors. Our Nationally Coordinated Investigations Unit (NCIU) supplements case development by identifying, promoting, and supporting innovative investigations, delivering high-impact investigations, and addressing emerging issues to advance the mission of the IRS and IRS-CI. During the past year, IRS-CI has conducted approximately 450 undercover investigations, many focused on high-income individuals and their advisors. If completion of a criminal investigation leads to an indictment by the Department of Justice, the publicity surrounding the indictment often has a deterrent effect helpful to tax administration.

The IRS's Global High Wealth (GHW) enterprise approach is another way that the IRS seeks to ensure compliance of high-income taxpayers where there is not a lot of third-party reporting. GHW uses a holistic look at a taxpayer's entire sphere of financial activities with which they are involved. This would include related/controlled pass-through entities, charitable entities and gifting. The information is found through in-depth requests for information and detailed interviews.

*Question.* What impact do you think the Biden administration's proposed increase of the corporate tax rate to 28 percent will have on total taxes collected?

*Answer.* The Biden administration's proposed increase of the corporate tax rate to 28 percent is expected to raise corporate tax revenues dramatically. Together with the other provisions of the American Jobs Plan, according to the Treasury, the package is expected to raise about \$1.7 trillion over the coming 10 years.

*Question.* Could this rate, which as I understand it, would be among the highest of all OECD member countries, actually contribute to increasing the tax gap over the next decade?

*Answer.* Any change in tax rates must be viewed holistically, alongside changes to the tax base. The administration's full tax plan includes many provisions that tighten loopholes, including provisions that address the discrepancy between the tax treatment of foreign and domestic income. In addition, the administration's tax plan proposes to direct resources to the IRS in order to improve tax compliance. Thus, we'd expect the package to reduce the tax gap.

*Question.* During our conversation, you had indicated that the most optimistic analyses of the tax gap showed that at most 20 percent of the loss could be recaptured through increased enforcement mechanisms. Further, you expressed your own view that more could be recaptured under a so-called "modern IRS."

What are some of the major structural or process changes that the IRS should make in order to meet the needs of 21st-century taxpayers while addressing the threats posed by 21st-century tax evaders?

Answer. There's no single solution to achieving a meaningful reduction in the tax gap or one type of taxpayer responsible for it. Reducing the tax gap requires a comprehensive, multi-faceted strategy and effective execution from the IRS coupled with appropriate safeguards and accountability to taxpayers. Investment in our service, enforcement and compliance efforts is extremely important. Multi-year, consistent, timely and adequate funding helps us deliver meaningful services to taxpayers, conduct critical enforcement initiatives, and support long term IT modernization efforts that help improve compliance. Greater investments in technology can help us properly assist compliant taxpayers. Modernization of our systems coupled with technological advances in artificial intelligence, data and analytics will continue to enhance services to compliant taxpayers and make tax avoidance by others more visible and more difficult.

In January, we delivered our Taxpayer First Act Report to Congress detailing how the IRS intends to modernize our structure and processes to provide a better taxpayer experience, increase efficiencies and improve operations. Our modernized organizational structure will better align operations with our mission, increase agency-wide collaboration, and deconstruct operational silos. Key elements include:

- Realigning the IRS's organizational structure to increase consistency across compliance functions and improve our ability to address the more complex areas of non-compliance through multi-discipline teams.
- Improved services through broader line of sight across the entire taxpayer experience.
- Improving the leadership structure, reducing organizational redundancies, and removing silos.
- Providing solutions to best position the IRS to combat cybersecurity and other threats.

Our Organizational Redesign Strategy focuses on the following key areas:

- Improve the Taxpayer Experience and Provide a Continued Emphasis on Taxpayer Rights
  - In January, we appointed IRS's first Chief Taxpayer Experience Officer (CTXO). Leading our new Taxpayer Experience Office (TXO), this Senior Executive will drive strategic direction for improving the taxpayer experience across the IRS-including both service and compliance interactions.
  - The TXO provides an enterprise level holistic view of the taxpayer experience. This Office will identify opportunities to modernize service delivery, increase access and drive continuous improvements in real time.
  - The new structure combines and centralizes taxpayer-facing program offices to streamline responses to taxpayer inquiries and increase coordination across the agency.
  - The CTXO reports directly to the IRS Commissioner and plays a key role in our senior leadership team to ensure continued focus on improving the taxpayer experience and protecting rights.
- Improve Operational Efficiencies
  - The modernized structure consolidates previously segmented examination operations into one function to reduce internal duplication and fragmentation of activities and provide consistent outcomes for resolving taxpayer compliance issues;
  - Our new Relationships and Services Division operationalizes the taxpayer experience; and
    - Consolidates all toll-free telephone and taxpayer assistance center operations under one, "Assisted Services" organization.
    - Combines all outreach activities under one organization.
    - Combines all third-party partnership activities within one division.
  - By establishing Data Office and an Enterprise Digitalization and Case Management Office we will improve our use of data to reduce manual processes, reliance on paper, and improve compliance operations and taxpayer service initiatives.
- Enhance Innovation
  - Establish a direct line from the Commissioner to the Information Technology Division to enhance critical focus on cutting-edge business processes and technology.
  - Continue our emphasis on innovation in existing offices that are already driving or enabling creative taxpayer approaches across the IRS, such as Procurement and Information Technology, to build an even more innovative culture throughout the organization.

While tax enforcement is necessary and, from a financial perspective, worthwhile, significant mitigation of the tax gap will also require policy and other changes. Proposals for legislative expansions of IRS authority, reduced complexity, increased information reporting, as well as policy changes that improve the IRS's access to relevant data, have historically included:

- Giving the IRS clear statutory authority to regulating return preparers and require they have a minimum knowledge of the tax code, to improve the accuracy of the returns they prepare.
- Expanded electronic filing for individuals, corporations, partnerships, and tax exempt organizations to provide tax return information in a more uniform electronic form, which will enhance the ability of the IRS to more productively focus its audit activities, lessening audits of compliant taxpayers and overall taxpayer burden.
- Expanding the scope of information returns.
- Requiring early filing and electronic submission of all information returns.
- Requiring withholding on certain Form 1099 income, especially 1099-MISC and 1099-NEC (non-employee compensation).
- Providing the IRS with greater flexibility to correct specific errors on taxpayer returns, such as math errors or taxpayer identification numbers, with appropriate safeguards, where information doesn't match information in government databases would also avoid burdensome audits.
- Requiring all payers to obtain and maintain TINs (Form W-9) for all information documents subject to back-up withholding and expand TIN matching.
- Clarifying and strengthening worker classification rules.
- Making repeated willful failure to file a tax return a felony.

*Question.* When the IRS verifies information and processes tax returns, how much is still done manually, and how much is automated?

*Answer.* On average, a little less than 10 percent of individual returns and over 25 percent of business returns received are paper returns and have to be manually processed. In addition, electronic or paper filed returns that fall out to Error Resolution System (ERS), Rejects, or Unpostables might require a manual touch. Some Unpostables are not related to return processing and some are systemically closed and do not require manual intervention.

2020 and 2021 production was affected by Submission Processing Center closures and the subsequent backlog experienced as a result of those closures. ERS fallout has been especially high for electronic returns this year due to legislative changes.

*Question.* Compared to other countries and to the States, how do we compare on the use of modern technology?

The IRS's tax ecosystem is among the most complex in the world requiring a vast technology environment to support it. When the IRS's information technology is compared to other countries or those of our Nation's States, the IRS's technology environment is much larger, generally older and more complex, and incumbered by legacy software, hardware, and a complex, ever-changing tax code.

In addition, the IRS must also be strategically aligned and compliant with Federal mandates and guidelines that ensure the IRS not only protects the security of taxpayer data, but also ensures information and communication technology is accessible to the public. To maintain the public trust, the IRS must remain ahead of its adversaries and expanding cyber-threats that risk the confidentiality, integrity, and availability of taxpayer data.

The IRS has already begun to embrace modern technologies. Nevertheless, IT modernization requires consistent and available funding to be maintained. We remain committed to modernizing our technology as it plays a critical role in protecting the integrity of the tax system and enabling taxpayers and their representatives to voluntarily meet their tax obligations.

*Question.* How could modernizing the IRS's information technology infrastructure to better identify errors in tax returns help close the tax gap?

*Answer.* Many of the tools and technologies described in the IRS Modernization Plan and Taxpayer First Act Taxpayer Experience Strategy are intended to improve voluntary compliance—when taxpayers timely file, report, and pay the correct amount of tax with no or minimal assistance from the IRS. This frees up assistors to address more complex cases versus simple inquiries that could be resolved online or with better information and awareness of the tax law. For example digital tools, like the IRS's online account, transparently provide an up-to-date account balance,

payment options and payment history, copies of notices, and options to respond to the IRS. While some of these services exist today, as resources allow, the IRS will expand and better integrate options for taxpayers to seamlessly upload documents in response to a notice, securely email or chat with an agent or assistor, and authorize tax professionals to assist with tax matters. This expansion will allow the IRS to work more cases, more productive cases, and work more efficiently to help narrow the tax gap.

*Question.* Is our tax system unusually complex by global standards, and if so, does it make technological adoption and use more difficult?

*Answer.* The IRS believes this question is better addressed by Treasury's Office of Tax Policy.

---

PREPARED STATEMENT OF HON. RON WYDEN,  
A U.S. SENATOR FROM OREGON

This morning the Finance Committee is joined by IRS Commissioner Rettig for our annual hearing that typically marks the end of tax filing season. However, 2021 is no typical year. There's a lot for us to talk about, so I'll start with the tax gap, the difference between taxes owed and what's collected.

Even the most conservative estimates of the annual tax gap put it in the hundreds of billions of dollars a year. My view is, the annual tax gap is at least double the official estimate and growing. The most recent official estimate pegs the tax gap at \$381 billion per year, but it looks all the way back to data from 2011 through 2013. That means these estimates are out of date as soon as they're released.

The fact is, our economy has changed and expanded. In 2011, one Bitcoin couldn't buy you a ham sandwich. Today cryptocurrencies and other technologies create huge new opportunities for tax cheats to rip off the American people.

More and more wealth is building up in the hands of the fortunate few and big corporations. They've got the high-priced lawyers and accountants who specialize in concealing income with sketchy bookkeeping, money laundering, and shell companies.

I'm coming off 10 town halls in Oregon. When I hold those meetings—especially the ones during tax season—lots of Oregon taxpayers tell me they have a gut feeling they're being cheated. They hear about the massive tax gap, and they're rightfully ticked off. Close even a portion of the tax gap, and you're better able to fund care for seniors at home, assistance to needy children, and affordable housing.

The IRS needs more resources to tackle this challenge, but it's only just beginning to recover from a decade of Republican budget cuts. Those cuts hobbled our ability to root out cheating by high flyers and their high-priced accountants. Criminal tax evasion cases have fallen nearly by half. The number of IRS tax enforcement staff—the experts who know how to break down tax evasion cases—has fallen by nearly a third.

Wealthy tax cheats have proven that with enough attack dog lawyering, they can litigate the IRS into submission and rip off working taxpayers for big money. Meanwhile, the burden of tax audits shifted unfairly onto working people. That's because it's a lot cheaper and easier to hassle a working mom over a tax credit overpayment than it is to decipher the latest money laundering schemes.

Bottom line, it's time to throw out business as usual on this issue. Business as usual is a rainmaker for cheaters and criminals and unfair to everybody else. The IRS needs more highly skilled investigators and better technology to keep up with these modern crooks. The Biden administration's new budget proposal calls for a 10-percent increase in IRS funding. That's a good start. I believe there's room for a more comprehensive strategy that'll lower the tax gap.

This committee will kick off a new policy today. On my watch, this annual filing season hearing will put a special focus on what the IRS has done over the previous year to catch the cheats and close the gap. There's a lot of catching up to do.

Wrapping up, we appreciate Commissioner Rettig and the staff at IRS for working long hours during this pandemic to get three rounds of relief payments to the American people. Millions and millions of hurting families got desperately needed relief payments, and our country got an economic boost. This committee also led the effort



to make sure that Americans who got unemployment benefits didn't get a painful tax surprise this year.

Finally, we'll want to hear about getting the new Child Tax Credit payments up and running. It's a big job, and millions of families are counting on the IRS to get it done.

---



## COMMUNICATIONS

---

CENTER FOR FISCAL EQUITY  
14448 Parkvale Road, Suite 6  
Rockville, MD 20853  
fiscalequitycenter@yahoo.com

### **Statement of Michael Bindner**

Chairman Wyden and Ranking Member Crapo, thank you for the opportunity to address this issue. This tax season raises four issues. The first is dealing with the pandemic.

The 2021 tax filing season has been overcome by the signing of the American Recovery Act. Families that would have relied on their refunds because of the overpayment of taxes and using the Earned Income Tax Credit to catch up on their bills and spend money on a few luxuries are receiving stimulus payments, many this week. Those who, for whatever reason, do not usually file will do so this year. There is simply too much money on the table to do otherwise.

Many who simply do not know how to go about getting help in filing taxes need direction on where to find it. The President, members of Congress, the IRS, state and local government, (especially social services agencies) and community institutions can all help with this effort. Even members who did not support the legislation will be eager to be part of this solution. Politics is both the art of the possible and the stage of the ironic.

As the pandemic recedes (there are only so many possible vectors for the virus remaining), the IRS can begin to bring people back to work. Contractors, including former revenue agents, can be helpful in clearing the backlog. Such relationships should continue so that the portion of the tax gap due to non-compliance can be closed. As more well off individuals face enforcement, others will do a better job of paying what they owe under the law.

IRS funding is not adequate at present to meet the immediate challenge. The recent change in government should bring about more of a willingness to spend the necessary funds.

The second issue is distributing the increased child tax credit to eligible families. For middle income taxpayers whose increased credits are less than their annual tax obligation, a simple change in withholding tables is adequate. Procedures are already in place to deliver refundable credits to larger families. For the coming year, they merely need to be expanded to all families with children. This fact was likely already included in Mr. Rettig's testimony. If not, I am sure he can easily confirm that this is the case.

Employers can work with their bankers to increase funds for payroll throughout the year while requiring less money for their quarterly tax payments (or estimated taxes) to the IRS. The main issue is working out those situations where employers owe less than they payout. This is especially true for labor intensive industries and even more so for low wage employers. A higher minimum wage would make negative quarterly tax bills less likely. Indeed, no one should have to subsist mainly on their child tax payments.

A further challenge is fraud. I am not speaking of fictional dependents, but of hiring more employees than workload demands in order to reduce tax payments. Once the American Relief Act expires, any permanent increase to and refundability of the child tax credit (and ideally an even more generous credit) will require permanent tax reform. At that point, the issue of possible fraud must be addressed. Even without comprehensive reform, corrective legislative language will be necessary.

Senior committee members and staff are likely familiar with the Center's proposals for tax reform which, as usual, are included as an attachment. A summary of individual policy changes has been added. As the reader has likely surmised, tax reform is the third issue.

Allow me to highlight five points.

First, the difference between changing quarterly withholding and enacting a subtraction VAT is six of one and a half dozen of the other.

The reason for this is that the proposed subtraction VAT is based on the notion that employers would be responsible for paying and reconciling the taxes now filed by employees. This would add little additional burden to employers (especially the self-employed) but end the burden of filing for all but the highest salaried employees.

The second is that this debate has gone on so long that the numbers have changed. What used to be proposed at \$75,000 per year should now be delivered at \$84,000. Proposals should always be indexed.

Third, for the sake of parity, the minimum wage should be set to \$10 per hour immediately, with a phase in to \$12 per hour to restore wages to the level of productivity found in 1965. \$15 should be treated as either a bargaining chip or as the inflationary position to reach the same buying power \$12 wage would provide now.

Fourth, enacting an asset VAT allows for higher tiered subtraction VAT (as proposed by Lawrence B. Lindsey) to replace some or all taxation of higher incomes at progressive, rather than proportional rates. The only advantages of keeping filing in place for high income individuals (rather than households) are that keeping the highest salary rate and the Asset VAT rate the same will reduce the incentive to game income streams to avoid taxes and to allow higher income individuals to purchase tax prepayment bonds, thus reducing the national debt sooner than later.

Fifth is that in reality, explicit and implicit value added taxes are already in force. Individuals and firms that collect retail sales taxes receive a rebate for taxes paid in their federal income taxes.

Tax withheld by employers for the income and payroll taxes of their labor force is an implicit VAT. A goods and services tax simply makes these taxes visible.

A second attachment on tax fairness and the third on tax administration details the impact of tax reform on federal and state governments.

Thank you, again, for the opportunity to add our comments to the debate. Please contact us if we can be of any assistance or contribute direct testimony.

#### **Attachment One—Tax Reform, Center for Fiscal Equity, March 5, 2021**

**Individual payroll taxes.** These are optional taxes for Old-Age and Survivors Insurance after age 60 for widows or 62 for retirees. We say optional because the collection of these taxes occurs if an income sensitive retirement income is deemed necessary for program acceptance. Higher incomes for most seniors would result if an employer contribution funded by the Subtraction VAT described below were credited on an equal dollar basis to all workers. If employee taxes are retained, the ceiling should be lowered to \$85,000 to reduce benefits paid to wealthier individuals and a \$16,000 floor should be established so that Earned Income Tax Credits are no longer needed. Subsidies for single workers should be abandoned in favor of radically higher minimum wages.

**Wage Surtaxes.** Individual income taxes on salaries, which exclude business taxes, above an individual standard deduction of \$85,000 per year, will range from 6.5% to 26%. This tax will fund net interest on the debt (which will no longer be rolled over into new borrowing), redemption of the Social Security Trust Fund, strategic, sea and non-continental U.S. military deployments, veterans' health benefits as the result of battlefield injuries, including mental health and addiction and eventual debt reduction. Transferring OASDI employer funding from existing payroll taxes would increase the rate but would allow it to decline over time. So would peace.

**Asset Value-Added Tax (A-VAT).** A replacement for capital gains taxes, dividend taxes, and the estate tax. It will apply to asset sales, dividend distributions, exercised options, rental income, inherited and gifted assets and the profits from short sales. Tax payments for option exercises and inherited assets will be reset, with prior tax payments for that asset eliminated so that the seller gets no benefit from them. In this perspective, it is the owner's increase in value that is taxed.

As with any sale of liquid or real assets, sales to a qualified broad-based Employee Stock Ownership Plan will be tax free. These taxes will fund the same spending items as income or S-VAT surtaxes. This tax will end Tax Gap issues owed by high income individuals. A 26% rate is between the GOP 24% rate (including ACA-SM and Pease surtaxes) and the Democratic 28% rate. It's time to quit playing football with tax rates to attract side bets.

**Subtraction Value-Added Tax (S-VAT).** These are employer paid Net Business Receipts Taxes. S-VAT is a vehicle for tax benefits, including

- Health insurance or direct care, including veterans' health care for non-battlefield injuries and long term care.
- Employer paid educational costs in lieu of taxes are provided as either employee-directed contributions to the public or private unionized school of their choice or direct tuition payments for employee children or for workers (including ESL and remedial skills). Wages will be paid to students to meet opportunity costs.
- Most importantly, a refundable child tax credit at median income levels (with inflation adjustments) distributed with pay.

Subsistence level benefits force the poor into servile labor. Wages and benefits must be high enough to provide justice and human dignity. This allows the ending of state administered subsidy programs and discourages abortions, and as such enactment must be scored as a must pass in voting rankings by pro-life organizations (and feminist organizations as well). To assure child subsidies are distributed, S-VAT will not be border adjustable.

The S-VAT is also used for personal accounts in Social Security, provided that these accounts are insured through an insurance fund for all such accounts, that accounts go toward employee-ownership rather than for a subsidy for the investment industry. Both employers and employees must consent to a shift to these accounts, which will occur if corporate democracy in existing ESOPs is given a thorough test. So far it has not. S-VAT funded retirement accounts will be equal-dollar credited for every worker. They also have the advantage of drawing on both payroll and profit, making it less regressive.

A multi-tier S-VAT could replace income surtaxes in the same range. Some will use corporations to avoid these taxes, but that corporation would then pay all invoice and subtraction VAT payments (which would distribute tax benefits. Distributions from such corporations will be considered salary, not dividends.

**Invoice Value-Added Tax (I-VAT).** Border adjustable taxes will appear on purchase invoices. The rate varies according to what is being financed. If Medicare for All does not contain offsets for employers who fund their own medical personnel or for personal retirement accounts, both of which would otherwise be funded by an S-VAT, then they would be funded by the I-VAT to take advantage of border adjustability. I-VAT also forces everyone, from the working poor to the beneficiaries of inherited wealth, to pay taxes and share in the cost of government. Enactment of both the A-VAT and I-VAT ends the need for capital gains and inheritance taxes (apart from any initial payout). This tax would take care of the low-income Tax Gap.

I-VAT will fund domestic discretionary spending, equal dollar employer OASI contributions, and non-nuclear, non-deployed military spending, possibly on a regional basis. Regional I-VAT would both require a constitutional amendment to change the requirement that all excises be national and to discourage unnecessary spending, especially when allocated for electoral reasons rather than program needs. The latter could also be funded by the asset VAT (decreasing the rate by from 19.5% to 13%).

As part of enactment, gross wages will be reduced to take into account the shift to S-VAT and I-VAT, however net income will be increased by the same percentage as the I-VAT. Adoption of S-VAT and I-VAT will replace pass-through and proprietary business and corporate income taxes.

**Carbon Value-Added Tax (C-VAT).** A Carbon tax with receipt visibility, which allows comparison shopping based on carbon content, even if it means a more expensive item with lower carbon is purchased. C-VAT would also replace fuel taxes. It will fund transportation costs, including mass transit, and research into alternative fuels (including fusion). This tax would not be border adjustable.

### Summary

This plan can be summarized as a list of specific actions:

1. Increase the standard deduction to workers making salaried income of \$425,001 and over, shifting business filing to a separate tax on employers and eliminating all credits and deductions - starting at 6.5%, going up to 26%, in \$85,000 brackets.
2. Shift special rate taxes on capital income and gains from the income tax to an asset VAT. Expand the exclusion for sales to an ESOP to cooperatives and include sales of common and preferred stock. Mark option exercise and the first sale after inheritance, gift or donation to market.
3. End personal filing for incomes under \$425,000.
4. Employers distribute the child tax credit with wages as an offset to their quarterly tax filing (ending annual filings).
5. Employers collect and pay lower tier income taxes, starting at \$85,000 at 6.5%, with an increase to 13% for all salary payments over \$170,000 going up 6.5% for every \$85,000- up to \$340,000.
6. Shift payment of HI, DI, SM (ACA) payroll taxes employee taxes to employers, remove caps on employer payroll taxes and credit them to workers on an equal dollar basis.
7. Employer paid taxes could as easily be called a subtraction VAT, abolishing corporate income taxes. These should not be zero rated at the border.
8. Expand current state/federal intergovernmental subtraction VAT to a full GST with limited exclusions (food would be taxed) and add a federal portion, which would also be collected by the states. Make these taxes zero rated at the border. Rate should be 19.5% and replace employer OASI contributions. Credit workers on an equal dollar basis.
9. Change employee OASI of 6.5% from \$18,000 to \$85,000 income.

#### **Attachment Two—Taxpayer Fairness, October 13, 2020**

To start, we must distinguish between fairness and justice. Fairness is having your say. Justice is getting or paying what is due to or for you.

Lower income taxpayers depend on the fairness of the system, rather than individual fairness. It is costly to make one's case to the IRS when disputes arise. To an extent, they must pay and obey. As long as they can provide information when it is lacking or work out payment arrangements when they do not have funds available the system is fair. Generally, they do, although currently the unopened mail resulting from the pandemic stretches that fairness, as Chairman Neal noted in August (2020).

Higher income taxpayers have more room to argue, as well as more to argue about. Sometimes their attempts to hide income are too clever by half. If they succeed in beating the system, the result for all of us is both less fair and unjust. A wealth tax, because the elements are both debatable and gameable, compound the problems inherent in current capital gains taxation.

The tax rate on capital gains is seen as unfair because it is lower than the rate for labor. This is technically true, however it is only the richest taxpayers who face a marginal rate problem. For most households, the marginal rate for wages is less than that for capital gains. Higher income workers are, as the saying goes, crying all the way to the bank.

The injustice in the system is baked in by the maldistribution of income in the economy at large. Prior to the Kennedy-Johnson tax cuts, high marginal rates prevented the extraction of economic rent from workers. Any labor cost savings went to the government, so gains in the economy were shared by all. In 1981, the problem got worse and in 1986, higher marginal rates were traded for reduced tax benefits, with corporations taking the hit. The class warfare which began in 1965 was over twenty years later. Labor lost, both organized and otherwise.

Recently, tax rates for corporations and pass-through income were reduced, generally, to capital gains and capital income levels. This is only fair and may or may not be just. The field of battle has narrowed between the parties. The current marginal and capital rates are seeking a center point, as most as if the recent tax law was based on negotiations, even as arguments flared publicly. Of course, that would never happen in Washington. Never, ever.

Compromise on rates makes compromise on form possible. If the Pease and Affordable Care Act provisions are repealed, a rate of 26% is a good stopping point for

pass-through, corporate, capital gains and capital income. A single rate also makes conversion from self-reporting to automatic collection through an asset value added tax levied at point of sale or distribution possible. This would be both just and fair, although absolute fairness is absolute unfairness, because there would be little room to argue about what is due and when.

Ending the machinery of self-reporting also puts an end to the Quixotic campaign to enact a wealth tax. Out of fairness, if the revenue committees do give its proponents and opportunity to testify, it must hear from me as well. It would only be fair.

**Attachment Three—Tax Administration, Treasury Budget, February 12, 2020**

Shifting to a single system for all business taxation, particularly enacting invoice value added taxes to collect revenue and employer-based subtraction value-added taxes to distribute benefits to workers will end the need for filing for most, if not all, households. Any remaining high salary surtax would be free of any deductions and credits and could as easily be collected by enacting higher tiers to a subtraction VAT.

Subtraction VAT collection will closely duplicate the collection of payroll and income taxes—as well as employment taxes—but without households having to file an annual reconciliation except to verify the number of dependents receiving benefits.

Tax reform will simplify tax administration on all levels. Firms will submit electronic receipts for I-VAT and C-VAT credit, leaving a compliance trail. S-VAT payments to providers, wages and child credits to verify that what is paid and what is claimed match and that children are not double credited from separate employers.

A-VAT transactions are recorded by brokers, employers for option exercise and closing agents for real property. With ADP, reporting burdens are equal to those in any VAT system for I-VAT and A-VAT and current payroll and income tax reporting by employers.

Employees with children will annually verify information provided by employers and IRS, responding by a postcard if reports do not match, triggering collection actions. The cliché will thus be made real.

High salary employees who use corporations to reduce salary surtax and pay I-VAT and S-VAT for personal staff. Distributions from such corporations to owners are considered salary, not dividends.

Transaction based A-VAT payments end the complexity and tax avoidance experienced with income tax collection. Tax units with income under \$84,000 or only one employer need not file high salary surtax returns. Separate gift and inheritance tax returns will no longer be required.

State governments will collect federal and state I-VAT, C-VAT, S-VAT payments, audit collection systems, real property A-VAT and conduct enforcement actions. IRS collects individual payroll and salary surtax payments, performs electronic data matching and receive payments and ADP data from states. SEC collects A-VAT receipts.

I-VAT gives all citizens the responsibility to fund the government. C-VAT invoices encourage lower carbon consumption, mass transit, research and infrastructure development. A-VAT taxation will slow market volatility and encourage employee ownership, while preserving family businesses and farms. Very little IRS Administration will be required once reform is fully implemented. All IRS employees could fit in a bathtub with room for Grover Norquist.

---

LETTER SUBMITTED BY ANAND DESAI

Re: Transparency on challenges and results no less essential than funding to a “21st-Century IRS”

Dear U.S. Senate Committee on Finance:

Thank you for addressing “The 2021 Filing Season and 21st-Century IRS” on April 13, 2021. As a citizen (and writing only for myself), I’d like to share these recommendations for the hearing record.

Chairman Wyden’s prepared opening statement posits that the “tax gap, the difference between taxes owed and what’s collected” is several hundred billion dollars

a year; that “the fortunate few and big corporations [have] high-priced lawyers and accountants who specialize in concealing income with sketchy bookkeeping, money laundering and shell companies;” and that “wealthy tax cheats have proven that with enough attack dog lawyering, they can litigate the IRS into submission and rip off working taxpayers for big money.”

I urge the Committee to consider *more* litigation—which simply means the government preparing and explaining its side of a tax dispute for a court to resolve openly—and overall publicity as part of the tax-gap solution. As remote access to Tax Court and others’ hearings should now help demonstrate, the process is reasonably orderly, even-handed, and standardized in a way that professionals soon pick up. Along with finding one’s voice amid a fast-paced environment, respected authorities, and occasional bluster—much like in politics.

If a case turns out as the IRS expects, it’ll apply more clearly to similarly situated taxpayers, who can at least be content that paying won’t put them at a competitive disadvantage. And if it isn’t, the bureau is on notice to reconsider its practices or update its regulations, and Congress, to debate the relevant tax laws and IRS funding levels. This is fairer to the average taxpayer and can make government more responsive than under patterns of small settlements on large matters (but generally not the underlying demands or rationales for compromise) occasionally spotlighted by internal-watchdog investigations years after insiders must be able to figure out the general situation.

To this end, I specifically suggest the Committee (1) balance the requirement of section 7803(e)(5) of the Internal Revenue Code (26 U.S.C.) to tell Congress about any “designation” of cases for litigation rather than internal settlement, with an expectation to report persistent challenges that might need a more robust approach; (2) amend IRC 6110(b)(2) for release of major settlement “closing” agreements in anonymized form to mitigate “secret law” problems, as the section already does for other kinds of “written determinations;” and (3) request more comprehensive and granular statistics under IRC 6108 on efficiency and results throughout the tax reporting and controversy process.

As many Americans’ most noticeable point of contact with the federal government, an effective, responsive IRS can build confidence that other parts’ budgets are worthwhile too. Skeptics of spending levels and particular tax laws stand to benefit as well: who better to point out a policy’s costs and incentive issues than a large, sophisticated business with no choice but to confront them head on?

Respectfully submitted,

Anand Desai

---

LETTER SUBMITTED BY NICHOLAS MATTHEW LEE

U.S. Senate  
Committee on Finance

Dear Senators,

While I appreciate the sentiments expressed by Ranking Member Senator Wyden about closing the tax gap and holding tax cheats accountable, I find it necessary to draw attention to the Committee’s failure to respond to and prioritize recommendations that are necessary to provide a reasonable, fair, and just tax filing experience to the 9 million overseas U.S. citizens that are obliged to file in, pay into, and conform to a tax system that is from their perspective foreign.

This comment will contain three sections:

1. Comments on specific discussion items in the hearing.
2. Reminders of previous National Taxpayer Advocate recommendations to Congress that have not been substantively responded to.
3. Raising additional concerns not covered by those other two.

I emphasize that if the United States wishes to *uniquely* assert this extraterritorial tax on nonresident citizens, it has a strong moral and practical obligation to provide adequate taxpayer services to overseas taxpayers.



### **Commenting on Specific Aspects of the Hearing:**

#### ***Unacceptable Hold Times***

The Senate Finance Committee lambasted the IRS for what it considered to be unacceptably long hold times to talk to a human at the IRS.

In the context of non-resident taxpayers, this is *particularly* damaging.

I am fortunate in that I have the technical know-how to maintain an affordable international calling setup using Voice over IP (VoIP). Without it, I would be paying €0.65 (\$0.75) per minute via my Dutch phone provider.

I have needed to contact two IRS help lines in recent months—the general help line, and the Taxpayer Advocate Service intake line. In the former case, I spent approximately 30 minutes on hold. In the latter case, I spent 6 hours on hold before eventually reaching an intake advocate that accepted my case and assigned a case number. These two international calls to the IRS would have respectively cost \$22.50 and \$270 respectively.

It is unacceptable that the IRS provides no easy or affordable means of contact to international taxpayers. If the United States asserts that it has a right to tax overseas citizens, contrary to global norms, it has a moral and practical obligation to provide international toll-free numbers in *each and every country* that overseas taxpayers reside in.

#### ***Lack of Online Access***

During the pandemic, the IRS switched to reliance on its online account system to reduce the burden on its phone lines and mailed processing facilities.

Per the norm, this left overseas taxpayers in the cold. The online account system explicitly does not work for any taxpayer with a foreign address on file. For a number of months, it was impossible to request tax transcripts because the only means of requesting them were via overloaded phone lines or via mailed forms that were not being processed.

According to some reports, the IRS hopes to add online account support for overseas taxpayers sometime between 2025 and 2030, though funding has not been procured or allocated for this.

This lack of urgency is astounding, given that the United States asserts a global right to tax, when it very clearly lacks a basic capability to offer tax payment related services outside of U.S. borders.

#### ***COVID Stimulus Checks***

In 2020, it was well documented that overseas American taxpayers had immense difficulty in obtaining their COVID stimulus payments, for three key reasons:

1. The web page for checking status and providing direct deposit information did not support foreign addresses until after many checks were mailed, sometimes to incorrect addresses.
2. International postal systems were severely affected by travel restrictions. To illustrate this, I was receiving letters sent from the U.S. in *March 2020 in October 2020*.
3. Many overseas citizens lack U.S. bank accounts, leaving them unable to receive a direct deposit or to cash a check. The last bank cashing checks in the Netherlands stopped processing them in February this year, preventing the third stimulus payment from being received by many.

Furthermore, in the context of the cost and complexity of overseas American tax preparation, the stimulus checks were a slap in the face. I can say that not a penny of the received check has gone towards necessary living expenses—it has instead gone towards covering a fraction of my tax preparation costs, which are inordinately expensive compared to those by resident U.S. citizens.

While I appreciate the taxpayer funded discount towards my 2021 filing costs, it goes back to one of my fundamental complaints regarding the U.S. extraterritorial tax regime—it lines the pockets of accountants more than it provides funding for the government.

Ordinary Americans, in ordinary living situations, with ordinary incomes, paying higher than ordinary (in the U.S.) taxes to the governments of the countries they live in, often have to spend hundreds to thousands of dollars to stay compliant on their U.S. tax obligations—while also not owing any money to the government. I would rather pay taxes to the IRS than to pay fees to my accountant.

## **The Tax Gap**

### ***Foreign Sourced Income***

Chairman Wyden and Commissioner Rettig asserted that part of the tax gap consists of overseas tax cheats hiding foreign source income.

While I do not deny that there are most likely overseas Americans that have failed to pay their taxes, please be aware that by failing to acknowledge the existence of ordinary, tax-paying overseas Americans unfairly stigmatizes us and conflates us with bad actors in an emotionally charged discussion.

For more information about how we are unfairly lumped in with tax cheats, I encourage you to read *The Criminalization of the American Emigrant*, written by Laura Snyder, a member of the IRS Taxpayer Advocacy Panel. It can be located and read for free here: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3655145](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3655145).

### ***Previous National Taxpayer Advocate Recommendations not Acted Upon***

All recommendations here can be located in the “NTA Purple Book” reports that are submitted on an annual basis to Congress.

None of the following recommendations pertaining to overseas taxpayers have been acted on by Congress, even when raised repeatedly on an annual basis:

2020:

- Adjust the Filing Threshold for Taxpayers Filing as Married Filing Separately and Nonresident Alien Individuals
- Harmonize Reporting Requirements for Taxpayers Subject to Both the Report of Foreign Bank and Financial Accounts and the Foreign Account Tax Compliance Act by Eliminating Duplication and Excluding Accounts a U.S. Person Maintains in the Country Where He or She Is a Bona Fide Resident

2019:

- Harmonize Reporting Requirements for Taxpayers Subject to Both the Report of Foreign Bank and Financial Accounts and the Foreign Account Tax Compliance Act by Eliminating Duplication and Excluding Accounts a U.S. Person Maintains in the Country Where He or She Is a Bona Fide Resident
- Allow a Period of Notice and Comment on New Intergovernmental Agreements and Require That the IRS Notify Taxpayers Before Their Data Is Transferred to a Foreign Jurisdiction

2018:

- Harmonize Reporting Requirements for Taxpayers Subject to Both the Report of Foreign Bank and Financial Accounts and the Foreign Account Tax Compliance Act by Eliminating Duplication and Excluding Accounts a U.S. Person Maintains in the Country Where He or She Is a Bona Fide Resident

2017 (First Purple Book Report):

- Harmonize Reporting Requirements for Taxpayers Subject to Both the Report of Foreign Bank and Financial Accounts and the Foreign Account Tax Compliance Act by Eliminating Duplication and Excluding Accounts a U.S. Person Maintains in the Country Where He or She Is a Bona Fide Resident

Please note that these recommendations by the National Taxpayer Advocate, not acted upon, are purely those that directly fall under the scope of Congress. The more general “Annual Report to Congress” has numerous recommendations that have similarly been neglected over the years.

There, we see many items under “Most Serious Problems” that are similarly ignored.

- (2011) Numerous International Issues raised in the 2011 report, available here: [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/2011\\_ARC\\_MSP-7-12.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/2011_ARC_MSP-7-12.pdf).
- (2012) The IRS’s Offshore Voluntary Disclosure Programs Discourage Voluntary Compliance by Those Who Inadvertently Failed to Report Foreign Accounts.
- (2012) Challenges Persist for International Taxpayers as the IRS Moves Slowly to Address Their Needs.
- (2013) REPORTING REQUIREMENTS: The Foreign Account Tax Compliance Act Has the Potential to Be Burdensome, Overly Broad, and Detrimental to Taxpayer Rights.

- (2014) FOREIGN ACCOUNT REPORTING: Legislative Recommendations to Reduce the Burden of Filing a Report of Foreign Bank and Financial Accounts (FBAR) and Improve the Civil Penalty Structure.
- (2015) FOREIGN ACCOUNT REPORTING: Eliminate Duplicative Reporting of Certain Foreign Financial Assets and Adopt a Same-Country Exception for Reporting Financial Assets Held in the Country in Which a U.S. Taxpayer Is a Bona Fide Resident.
- (2015) INTERNATIONAL TAXPAYER SERVICE: The IRS's Strategy for Service on Demand Fails to Compensate for the Closure of International Tax Attaché Offices and Does Not Sufficiently Address the Unique Needs of International Taxpayers.
- (2016) PASSPORT DENIAL AND REVOCATION: The IRS's Plans for Certifying Seriously Delinquent Tax Debts Will Lead to Taxpayers Being Deprived of a Passport Without Regard to Taxpayer Rights.
- (2016) TAXPAYER RIGHTS: The IRS Does Not Effectively Evaluate and Measure its Adherence to the Taxpayer's Right to a Fair and Just Tax System.
- (2016) FOREIGN ACCOUNT TAX COMPLIANCE ACT (FATCA): The IRS's Approach to International Tax Administration Unnecessarily Burdens Impacted Parties, Wastes Resources, and Fails to Protect Taxpayer Rights.
- (2017) INTERNATIONAL PENALTIES: Provide Uniformity for the Reasonable Cause Exception to Initial and Continuation Penalties for the Failure to File Information Returns Under IRC §§ 6038, 6038A, 6038D, 6677, and 6679.
- (2018) FOREIGN ACCOUNT REPORTING: Authorize the IRS to Compromise Assessed FBAR Penalties It Administers.
- (2019) MULTILINGUAL NOTICES: The IRS Undermines Taxpayer Rights When It Does Not Provide Notices in Foreign Languages.
- (2020) INTERNATIONAL: The IRS's Assessment of International Penalties Under IRC §§ 6038 and 6038A Is Not Supported by Statute, and Systemic Assessments Burden Both Taxpayers and the IRS

The lack of improvement in this area shows an appalling neglect to address the needs and respect the rights of international taxpayers.

Without improvement in this area, discussion of the issue, or acknowledgement that there is even a problem, the United States continually erodes its relationship with overseas U.S. citizens. Where most countries recognize the “soft power” value of a diaspora that loves its country, the United States broadly vilifies its emigrant population, merely regarding it as a source of revenue.

#### **Other Issues:**

##### ***Administrative Complexity:***

The complexity, and therefore cost, of preparing a non-resident citizen tax return is disproportionately expensive compared to that of a resident.

IRS Forms 5471 and 8621 are particularly egregious examples of this, not being supported by any mainstream tax preparation tools and requiring substantive and expensive accountant support.

For foreign retirement accounts held by or small businesses run by overseas U.S. Persons, the sheer complexity of compliant filing is problematic. Often, it forces individuals to choose between excessive filing costs and non-compliance.

##### ***Poor Quality of IRS Literature:***

Much of the aforementioned complexity stems from tax filing requirements that are unclear in relation to how the U.S. Tax Code maps onto 180 different foreign jurisdiction.

Understanding how to report a foreign retirement account in a compliant manner according to instructions on various IRS forms requires an understanding and reading of:

- The U.S. tax code.
- International tax treaties.
- Updates to tax treaties.
- Auxiliary documents related to the tax treaties.
- IRS Revenue Procedures.
- Foreign laws and tax codes.

Furthermore, the IRS does not publish a “current” reading of the tax treaties that includes all amendments made—it is instead necessary to “layer” documents over each other to understand the current state of affairs.

As this is all related to *classification* and *how to interpret* something, tax filing software and instructions associated with forms are woefully inadequate. The complexity *obligates* overseas Americans to seek professional help, at great expense.

***Inadequate Access to Assistance Interpreting Tax Treaties***

Continuing in the same vein, the IRS provides no affordable means of consulting it to determine how it would interpret an international tax situation. All such procedures for doing this are applicable only to international business entities, but not individuals.

The position of the IRS appears to be “we will interpret foreign situations as we see fit and fine individuals for non-compliance if we disagree with their interpretation, but we will not provide individuals any way of proactively understanding their tax situation in the eyes of the IRS.”

Should the United States wish to subject individuals to this inordinate complexity, it must provide ways of managing and resolving that tax complexity for individuals.

There are many countries in which the average net annual income is not sufficient to cover the cost of qualified tax advice and preparation. Residents of these countries are put in impossible situations with regards to their U.S. tax obligations.

**Conclusion:**

It is vitally necessary for the Senate Finance Committee to schedule a hearing to discuss the problems and challenges faced by overseas taxpayers. The situation with regards to Non-Resident Citizen U.S. taxpayers has continually worsened in the past decade, and we are in urgent need of reform.

The United States tax experience imposes separate, more punitive, and more complicated tax obligations on overseas U.S. citizens. On the basis of nationality, U.S. Citizens are not afforded the favourable tax treatment granted to Non-Resident Alien taxpayers. In an international context, this is discussed as a violation of fundamental rights.

It is unthinkable that in discussing ways in which the IRS must change, there is zero thought given towards heeding advice that was already given, issues that were raised by the citizens this tax code is meant to serve, and concerns raised by foreign governments about a lack of respect by the U.S., for U.S. citizens. To date, there has been more sympathy and understanding expressed by foreign governments than the United States Congress—a truly distressing situation.

The U.S. treatment of its non-resident taxpayers is an aberration that must be recognized and corrected. Previous discussion on this topic, by some members of the Senate Finance Committee, shows a myopic view that fails to consider how exceptional this poor treatment is.

It is American Exceptionalism in all the worst ways, ranking up there with our approach to gun violence and unaffordable health care.

**Hold a hearing on tax issues faced by overseas Americans, and correct the injustices.**

---

PROFESSIONAL MANAGERS ASSOCIATION  
700 12th St., NW, Ste. 700, PMB 95968  
Washington, DC 20005  
202-793-6262  
<https://www.promanager.org/>

April 13, 2021

Hon. Ron Wyden  
Chairman  
U.S. Senate  
Committee on Finance  
Washington, DC 20510

Hon. Mike Crapo  
Ranking Member  
U.S. Senate  
Committee on Finance  
Washington, DC 20510

**RE: Professional Managers Association Statement for Committee Hearing on “The 2021 Filing Season and 21st-Century IRS” held on April 13, 2021**

Dear Chairman Wyden, Ranking Member Crapo, and Members of the Committee:

On behalf of the Professional Managers Association—the non-profit professional association that has, since 1981, represented professional managers, management officials, and non-bargaining unit employees at the Internal Revenue Service (IRS)—

I write to provide a statement regarding the April 13, 2021 hearing, “The 2021 Filing Season and 21st-Century IRS.”

PMA appreciates this Committee’s focus on the IRS. As our nation’s revenue collector, the success of the IRS is critical to the success of our entire federal government. IRS employees have been administering an extended 2021 filing season while grappling with retroactive tax law changes, expanding credits, delivering nearly a half billion economic impact payments, and continuing to manage dozens of complications impacting both the 2021 and the still-ongoing 2020 tax filing seasons. These conflicting missions call upon the IRS to be far more than just a tax administration agency. The IRS now also serves as a benefits administrator and an emergency relief agency.

This phenomenon did not originate during the pandemic. Since 1993, the Congressional mandates falling on the IRS, outside the traditional filing season and tax administration roles, have dramatically increased. The IRS has been called upon to manage healthcare expansions and alternative energy credits. During the 2008 economic crisis, the Congress called on the IRS to stabilize the housing market but did not provide tools for the IRS to independently research land deeds and titles resulting in the widespread burden falling on taxpayers to provide documentation. Unlike the Department of Housing and Urban Development (HUD), the IRS is not equipped to interpret deed and title recording practices varying from county to county, or town to town.

In order to administer the Individual Taxpayer Identification Number program, which provides SSN-type numbers to non-citizen taxpayers, the IRS needed to learn how to examine foreign passports, foreign medical records, and foreign birth certificates, among others. Unlike Immigration and Customs Enforcement (ICE), IRS employees are not forensic examiners for foreign documents.

To administer generous, refundable tax credits for families, the IRS must determine legal parentage and navigate complex custody issues. There is no centralized database the IRS can rely upon to independently verify custody. As a result, taxpayers are burdened and must provide extensive documentation demonstrating legal custody. Because 50/50 custody arrangements are popular in family court, this can become an absurd exercise where the IRS must ask parents for calendars marking each night their child slept in their home.

PMA needs the Congress to understand how difficult it is to administer these types of credits and programs.

Despite expanding mandates, the IRS has not seen a commensurate increase in funding. In 2019, the National Taxpayer Advocate<sup>1</sup> highlighted this conflict in noting the IRS is neither funded nor staffed to serve as a benefits agency. This hinders the IRS’s ability to perform critical functions such as collecting \$3.5 trillion in revenue, processing 253 million tax returns, and issuing \$452 billion in tax refunds.

If Congress wishes to continue expanding the IRS mission, it must provide the resources and funding to support this new, reimaged Federal agency. Instead, Congress has consistently cut funding while criticizing the IRS for its perceived poor performance in administering these programs. From a peak in FY 2010 to FY 2019, the IRS budget was reduced by 20 percent adjusting for inflation and the IRS workforce lost 29,000 full-time positions. Budget increases in the last two years, while appreciated, still fail to return the IRS to FY 2010 levels let alone enable the IRS to meet all current requirements.

Funding issues underlie almost every tax administration challenge the IRS faces. When the IRS lacks mission resources, it is unable fully execute its mission. The Congressional Budget Office<sup>2</sup> (CBO) estimates increasing the IRS’s funding for examinations and collections by \$20 billion over 10 years would increase revenues by \$61 billion, and increasing funding \$40 billion over 10 years would increase revenues by \$103 billion. No other agency can boast such a return on investment. The research is clear—consistent, robust funding will enable the IRS to collect all the revenues due by law to be collected.

<sup>1</sup> <https://www.irs.gov/newsroom/national-taxpayer-advocate-nina-olson-releases-comprehensive-report-intended-to-improve-etc-administration-publishes-subway-map-of-taxpayers-journey-through-the-tax-system>.

<sup>2</sup> <https://www.cbo.gov/system/files/2020-07/56422-CBO-IRS-enforcement.pdf>.

The President's FY 2022 Budget Request<sup>3</sup> of \$13.2 billion for the IRS includes a modest \$0.9 billion increase in resources for tax enforcement, including welcomed multiyear funding. While better than years of budget cuts, this single increase, if enacted, will not provide the IRS the stability it needs to ensure a fair and equitable tax system. PMA commends President Biden for requesting a 10.4-percent increase above the 2021 enacted funding level. However, PMA believes this amount will also prove insufficient for modernizing the capacity of the IRS. As previously mentioned, the IRS remains a long way from FY 2010 levels, and will require the ongoing investment of billions to effectively close the tax gap to collect a potential of \$1.4 trillion in unpaid taxes.<sup>4</sup>

The IRS must upgrade and integrate its 60+ overlapping taxpayer databases, used by more than five generations of IRS employees. The Individual and Business Master Files are the oldest computing systems still in use within the Federal government. These systems were developed with appropriations under President Eisenhower and implemented in the Kennedy administration. The IRS cannot be expected to meet modern needs with archaic technology. IRS systems face unique risks due to a continued reliance on legacy programming languages, outdated hardware, and a shortage of staff with critical skills needed to maintain these systems.

The Department of Treasury Inspector General<sup>5</sup> recently found that in FY 2019, the IRS spent over \$2.86 billion to operate its current information technology infrastructure, nearly \$2.04 billion (71 percent) of which was on operations and maintenance. In other words, the IRS spends nearly 20% of its annual budget merely trying to stabilize its outdated systems, and this does not include the additional costs incurred due to losses in productivity as employees experience IT-related work stoppages. Until the IRS is able to dedicate consistent time and funding to update its technology, the IRS will continue spending more to maintain legacy systems than to modernize them.

Without robust, multiyear funding the IRS will continue to struggle to undertake the necessary long-term transformation envisioned by the Taxpayer First Act to enter the 21st Century and meet modern taxpayer needs. PMA strongly supports the IRS request for \$4.1 billion in dedicated funding over a five-year period to allow full implementation of TFA. Without this sustained funding, the IRS continues to struggle with improving taxpayer experience, coordinating Service-wide initiatives, and reaching traditionally underserved communities.

As the Committee dedicated to tax policy, we urge Members to appreciate the additional strain placed on the IRS and assist the IRS by clarifying and then appropriately funding its core mission. IRS employees consistently display their dedication to serve the American people in every way requested of them. However, it is unfair to taxpayers and employees alike to continue placing additional burdens on the Service without providing the requisite support. Only by adequately investing in its workforce and technology can the IRS be transformed into a 21st-Century tax administration agency.

In summary, PMA calls on the Congress to provide multiyear budgets for both IT Modernization and for Taxpayer First Act implementation so this crucial work can be completed without being undermined in the annual appropriations process. We request the Congress provide the IRS with Correctable Error Authority so that we can serve taxpayers efficiently, correct errors as we identify them, and proactively stop improper payments. We also ask that the Congress pass legislation giving the IRS authority to regulate tax return preparers so that we can protect taxpayers from economic harm caused by bad actors in our tax system.

Thank you for your consideration of PMA's perspective. Please contact PMA Washington Representative Natalia Castro ([ncastro@shawbransford.com](mailto:ncastro@shawbransford.com)) if we can be of further assistance.

Sincerely,

Chad Hooper  
Executive Director  
Professional Managers Association

<sup>3</sup> <https://www.whitehouse.gov/wp-content/uploads/2021/04/FY2022-Discretionary-Request.pdf>.

<sup>4</sup> <https://www.nytimes.com/2021/03/20/opinion/sunday/unpaid-tax-evasion-IRS.html>.

<sup>5</sup> <https://www.treasury.gov/tigta/auditreports/2020reports/202020044fr.pdf>.

## LETTER SUBMITTED BY U.S. CITIZEN

The Honorable Ron Wyden  
 Chairman  
 U.S. Senate  
 Committee on Finance  
 219 Dirksen Senate Office Building  
 Washington, DC 20510

The Honorable Mike Crapo  
 Ranking Member  
 U.S. Senate  
 Committee on Finance  
 219 Dirksen Senate Office Building  
 Washington, DC 20510

April 19, 2021

**RE: Hearing 2021 Filing Season and 21st-Century IRS, April 13, 2021**

Honorable Committee Members,

I write today for your consideration on the serious matter of taxation recently discussed during the hearing with IRS Commissioner, Mr. Charles Rettig on April 13, 2021.

In the hearing, Mr. Rettig stated a priority for ensuring tax compliance, delinquencies and collections.

Please be reminded of the most devastating financial crisis the United States has ever experienced beginning in 4Q 2008 thru 2009. The *trillion dollar* Financial Crisis left many small business owners (myself included), investors, low and high-earning individuals without the ability to pay ordinary tax liabilities incurred prior to the free-fall crash. For some, the devastation of this financial crash is easily forgotten now in the shadows of COVID payouts and, a decade passed with now, all-time high equity markets. If any staff members need a reminder of the devastation to taxpayers, they can always conduct the most cursory search of the Internet for; "Financial Crisis" or, read the US Department of Treasury's own writing, "The Financial Crisis Response in Charts" April 2012. It is easy to play Monday morning quarterback now and assume that everyone has recovered from those debilitating losses and simply, turned the page with a, "buy the dip" mentality.

Unfortunately, there are tens of thousands of individuals and entities that have never recovered from this event; psychologically or financially. Some without any financial ability to return or rebuild. A risk event of this magnitude scars for life. As a small, closely held corporation actively involved in real estate, livestock, and automotive finance during the relevant years and prior thereto; I recall the losses as if they occurred yesterday. They haunt us daily. Literally, we witnessed all of the ordinary earnings and capital holdings from the same year 1Q-3Q 2008 and prior years, completely disappear in a few weeks in the 4Q of 2008! It felt like just a few minutes as everything was in free-fall and capital evaporated from the accounts daily. Every telephone call we received at the office during that turbulent time was to inform us that projects were being shelved, lines of credit frozen, demand for curtailments and capital calls, etc. We attempted to hold on with financial investments however, they were too volatile and remained in free-fall. We were diluted from all projects requiring capital contributions.

Most of us, unsophisticated taxpayers would assume that those losses could be deducted and off set against the same year earned income. Sadly, this was not the case. According to our experienced tax preparer, taxpayers could not deduct these "capital" losses against *ordinary* income in that year or anytime thereafter (\$3K/year is unpalatable). In our case, this involved a small seven figure amount of ordinary income and seven figure amount of capital loss. This created an immediate insolvent position for the entity. There was no way for the entity to continue. It would never recover without any working capital, frozen debt markets, depreciating assets that had to be liquidated in fire-sales and, a significant six-figure tax liability. Never mind the capital loss carry-forward. That is a worthless proposition when you can't pay the rent or keep the lights on the next month. Our tax advisor and preparer *repeatedly* reminded us that the IRS would *never* accept a 165 *extraordinary* loss deduction that generated from the *most* severe, trillion dollar financial crisis recession of all time. If the financial crisis of 2009 doesn't align with the legislative intent of 165 casualty loss stated by the 88th Congress in 1963, "the most fundamental purpose of the deduction was to minimize the financial hardships of extraor-

dinary losses" (HR Rep. 749, 88th Congress, 1963); what could possibly be a more appropriate application of this extraordinary loss event?

Please be further reminded, during the trillion dollar financial crisis, no relief was afforded to small businesses or taxpayers. As you know, there was also an administration change in the middle of this crisis that added to the inefficiency of any purported relief. No consideration whatsoever was extended for these described tax liability situations. Only the large, too big to fail corporations and banks were saved. The worst financial crisis in history and not even a foreclosure moratorium. This created a gross inequity among taxpayers and further eliminated thousands of entrepreneurs. Further, TARP never provided the promised, "shovel-ready" jobs for small businesses to recover.

Pursuant to IRS collection and assessment limits, it is precisely now that all, or most of those 2008 and 2009 filed tax delinquencies would presumably appear on the commissioner's delinquency reports. Likely making up a significant amount of the growing delinquency that Mr. Rettig referenced in the hearing.

Sadly, I did not hear mention or read any subsequent comments from any committee members inquiring about the cause and effect of the largest financial crisis recession in U.S. history contributing to the overall delinquency.

As a committee, you now have an opportunity to repair some of the short falls from the prior handling of this devastating financial crisis. A crisis far greater damaging than COVID with far less relief. Please consider reminding Commissioner Rettig of the scenarios outlined herein and request that he forego collection of these years before releasing aggressive collection agents to further attack financial crisis victims or target small business owner.

The committee has an opportunity to extend some small relief to those taxpayers that were devastated by this crisis a decade prior.

Out of fear of retaliation and future, on-going targeting from the agency, I would request that the committee please accept this anonymous writing as a synopsis and allow serious consideration for all taxpayers that find themselves in a similar situation.

U.S. Citizen  
Taxpayer  
Small Business owner  
Financial Crisis Victim

