

United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

January 11, 2019

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

Dear Commissioner Rettig:

As I write you this letter, the President's shutdown of the federal government has entered its 21st day. My constituents in Oregon are growing increasingly concerned that there may be no resolution in sight. One of many issues I have been hearing about from them is how an extended shutdown will affect the 2019 tax filing season and the ability of the Internal Revenue Service (IRS) to process their tax returns and issue timely refunds.

Front and center, some 800,000 federal employees nationally,¹ including an estimated 70,000 at IRS,² have been furloughed without pay as a result of this needless shutdown. They will be forced to make difficult sacrifices this winter just to provide basic necessities like food, shelter, and heating for their families. Still, tens of millions more taxpayers fear they will be greatly inconvenienced or pushed into drawing down needed savings as they wait for IRS to send along their tax refunds.

In conversations with IRS and Treasury, we have been informed that the Administration believes they have the legal authority to summon IRS employees back to work without pay to process taxpayers' tax returns and issue tax refunds. We are told we should expect a revised IRS shutdown contingency plan either late this week or next week. Assuming this is accurate, I have the following questions for IRS, for which I would like responses in writing:

- (1) Will taxpayers' refunds be delayed as a result of the shutdown? If so, by how many days or weeks on average?
- (2) Will IRS be able to hire seasonal employees to help with the timely processing of tax returns? If not – or if the shutdown limits how many seasonal employees IRS can hire – what measures will be taken to ensure delays do not occur?

¹ National Public Radio. January 1, 2019. "Federal Workers, Burdened By Shutdown, Face Trump-Ordered Pay Freeze."

<https://www.npr.org/2019/01/01/681361905/federal-workers-burdened-by-shutdown-face-trump-ordered-pay-freeze>

² Internal Revenue Service Fiscal Year 2019 Lapsed Appropriations Contingency Plan (p.9). https://home.treasury.gov/system/files/266/IRS-Lapse-in-Appropriations-Contingency-Plan_Nonfiling-Season_2018-12-03.pdf

- (3) Will IRS be able to process paper returns and issue tax refunds without a delay for taxpayers, like seniors and low-income families, without access to electronic filing?
- (4) Will taxpayers who require IRS call assistance to complete their returns get to speak to a live person to have their questions answered in a timely way?
- (5) Is there increased risk of taxpayer ID theft if IRS tries to maintain normal operations during a shutdown? For example, if IRS is working with a skeleton staff as a result of the shutdown, is there an elevated risk that cyber criminals filing fraudulent returns with stolen taxpayer identities will be able to steal taxpayers' refunds? Will IRS be able to detect, let alone thwart, these fraudulent attempts?
- (6) What about fraudulent tax return preparers who attempt to over-claim tax benefits on behalf of their clients? Or unscrupulous preparers who attempt to charge their clients usurious rates of interest in return for receiving their tax refunds right away? Will the shutdown hurt IRS efforts to police such practices?
- (7) Will the IRS continue to send automatic computer-generated collection and audit notices to taxpayers? How will the IRS alleviate the concerns of taxpayers who have responded to collection and audit notices but, due to the shutdown, not received any notification from the IRS? Further, how will the IRS adjust the deadlines imposed on taxpayers for responding to collection and audit notices, to ensure taxpayers are not penalized only because the shutdown is preventing the IRS from processing their responses?

I certainly appreciate that IRS and Treasury are scrambling to develop a contingency plan that may help millions of Americans to eventually receive their tax refunds. However, I would be remiss if I did not point out one obvious fact – that this entire tax filing season fiasco, putting so many millions of American taxpayers at financial risk, could have been avoided had the President kept the government open by simply signing the bipartisan continuing resolution that the Senate passed by voice vote, without a single Senator objecting, at the end of last year.

Sincerely,



Ron Wyden
Ranking Member
Committee on Finance, U.S. Senate