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United States Senate

COMMITTEE ON FINANCE
WASHINGTON, DC 20510-6200

October 4, 2022

The Honorable Janet Yellen
Secretary, Department of Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

The Honorable Charles P. Rettig
Commissioner, Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Dear Secretary Yellen and Commissioner Rettig:

I write to clarify my expectations about how the Internal Revenue Service (IRS) will use its recent funding increase.

The *Inflation Reduction Act* (IRA) makes a historic investment of nearly \$80 billion in the IRS over a 10-year period. As you have explained, the funds will not be used to increase the audit rate relative to historical levels for those making less than \$400,000.¹ In addition to implementing the clean energy tax credits, healthcare, and other provisions of the IRA, I expect the IRS and the Treasury Department will use the funds to:

- **Improve customer service.** In my September 13 letter, I urged the IRS to ensure that by the next filing season it does not have a backlog of returns, letters, or unanswered calls. With IRA funding, it should invest in infrastructure to ensure these backlogs do not return. It should also reduce other backlogs -- such as the backlog of requests for appeals, offers in compromise, and assistance from the Taxpayer Advocate Service -- and fully staff its Taxpayer Assistance Centers. IRS should also invest more money in services that promote retirement plan and individual retirement account compliance, such as the determination letter program and the Employee Plans Compliance Resolution System (EPCRS).
- **Invest in technology to improve service and enforcement.** The IRS receives information from third parties (e.g., information about passthrough income, capital gains,

¹ Charles Rettig, IRS Commissioner, *IRS sets the record straight: We're going after tax evaders, not honest Americans: Op-Ed*, Yahoo News, Aug. 25, 2022, <https://news.yahoo.com/irs-sets-the-record-straight-130049197.html>; Treasury Press Release, *Secretary of the Treasury Janet L. Yellen Sends Letter to IRS Commissioner in Support of Funding for IRS to Improve Taxpayer Service & Combat Evasion By High Income Earners and Corporations*, Aug. 10, 2022, <https://home.treasury.gov/news/press-releases/jy0918>.

credit card receipts, and foreign assets) that it has not been able to use because of lack of technology funding. System upgrades should help the IRS use this data to catch tax cheats and reduce the likelihood that it will question accurate returns. These upgrades should also allow the IRS to flag errors and begin audits quickly after a return is filed -- rather than months or years later -- and eliminate the need for the IRS to ask taxpayers for information it already has.

- **Rebalance audit rates.** Since 2010 the IRS has lost more than 40 percent of its revenue agents -- the highly-skilled agents who audit high-income taxpayers and businesses.² By tax year 2017, low-income taxpayers who claim the earned income tax credit (EITC) were more likely to be audited than those earning between \$500,000 and \$1 million -- and over ten times more likely to be audited than partnerships.³ The IRS should hire enough revenue agents to audit wealthy taxpayers (including passthroughs) at a significantly higher rate than EITC claimants. I will continue to work on getting “direct hire” authority for the IRS so it can hire agents more quickly.
- **Crack down on offshore tax evasion.** A recent investigation by my staff exposed how the IRS’s failure to enforce the Foreign Account Tax Compliance Act (FATCA) has created an alarmingly permissive environment for offshore tax evasion and money laundering.⁴ Due to persistent budget cuts, it has conducted virtually no oversight of hundreds of thousands of shell companies in offshore tax havens that it approved as financial institutions under FATCA. As IRS-approved financial institutions, they can self-certify that they are accurately reporting income held in offshore accounts. This “shell bank” loophole significantly increases the risk that wealthy taxpayers underreport offshore income. I expect IRA funding to be used to monitor whether offshore entities are properly reporting accounts belonging to U.S. persons, and to take enforcement action against foreign banks and other intermediaries who help conceal income.

As part of these efforts, the IRS should develop a more robust whistleblower program. Whistleblowers have delivered a huge return on investment and can serve as effective partners for the federal government to unpack sophisticated schemes used by wealthy taxpayers and large corporations.

- **Reduce the tax gap.** The tax gap is estimated at \$600 billion per year, with the top 1 percent accounting for the single largest share.⁵ For those with opaque sources of

² Compare IRS Data Book, Table 30 (May 2022), <https://www.irs.gov/pub/irs-pdf/p555b.pdf>, with IRS Data Book, Table 30 (Mar. 2011), <https://www.irs.gov/pub/irs-soi/10databk.pdf>.

³ Government Accountability Office (GAO), GAO-22-104960, *Tax Compliance: Trends of IRS Audit Rates and Results for Individual Taxpayers by Income* 7 (May 2022), <https://www.gao.gov/assets/gao-22-104960.pdf>; IRS Data Book, Table 17 (May 2022), <https://www.irs.gov/pub/irs-pdf/p555b.pdf>.

⁴ *Wyden Investigation Uncovers Major Loophole in Offshore Account Reporting*, Press Release (Aug. 24, 2022), <https://www.finance.senate.gov/chairmans-news/wyden-investigation-uncovers-major-loophole-in-offshore-account-reporting>.

⁵ Natasha Sarin, Deputy Assistant Secretary for Economic Policy, *The Case for a Robust Attack on the Tax Gap* (Sept. 7, 2021), <https://home.treasury.gov/news/featured-stories/the-case-for-a-robust-attack-on-the-tax-gap>.

income, noncompliance can reach 55 percent.⁶ As the IRS ramps up its audits, it should start with these high-income taxpayers, including multi-tiered partnerships and those who use crypto and offshore accounts to hide money overseas.

In addition, wealthy taxpayers who fail to file returns owe billions, but due to budget cuts the IRS was unable to pursue hundreds of them.⁷ With IRA funding, the IRS should pursue high-income non-filers instead of giving them a free pass.

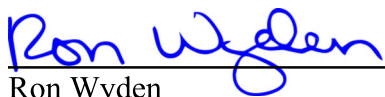
At the same time, the IRS should work with Treasury to issue guidance that makes compliance easier, and set ambitious goals for improving voluntary tax compliance. Its goals should include increasing the uptake of credits such as the EITC.

- **Rebuild the IRS Criminal Investigation Division (CI).** CI special agents are the only IRS employees authorized to conduct criminal investigations, carry guns, and execute arrest warrants. CI recently worked with the FBI and DOJ to take down a child pornography ring, dismantle terrorist financing operations, and recover billions in stolen cryptocurrency. CI's work also led to the indictment of Robert Brockman who used shell banks to evade taxes on over \$2 billion in income. Widely-publicized criminal tax prosecutions provide a strong deterrent to would-be tax evaders.

CI has lost about a quarter of its workforce since 2010, leaving it with 2,046 special agents as of FY 2021.⁸ Indictments for tax violations dropped by 43 percent.⁹ IRA funding should help CI hire more agents to investigate high-income tax evaders. I would like to see IRS civil functions refer more egregious high-income tax evasion cases to CI, and for CI to pursue them.

By November 7, 2022, please provide an update on whether and when you plan to implement these recommendations.

Sincerely,


Ron Wyden
United States Senator
Chairman, Committee on
Finance

⁶ *Id.*

⁷ Treasury Inspector General for Tax Administration (TIGTA), Ref. No. 2020-30-015, *High-Income Nonfilers Owing Billions of Dollars Are Not Being Worked by the Internal Revenue Service* (May 29, 2020), <https://www.treasury.gov/tigta/auditreports/2020reports/202030015fr.pdf>. According to data provided by the IRS to the Committee in February, just 195 wealthy non-filers owed at least \$690 million in assessed taxes.

⁸ *IRS: CI, Our Division at a Glance*, Pub. 5422 (June 2022).

⁹ Robert Warren and Timothy Fogarty, *Re-Funding the IRS Will Make It Functional Again*, 176 Tax Notes Federal 1717 (Sept. 12, 2022).