

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

COMMITTEE ON WAYS AND MEANS,  
UNITED STATES HOUSE OF REPRESENTATIVES,  
1102 Longworth House Office Building  
Washington, D.C. 20515,

*Plaintiff,*

v.

UNITED STATES DEPARTMENT OF  
THE TREASURY,  
1500 Pennsylvania Avenue N.W.  
Washington, D.C. 20220, *et al.*,

*Defendants.*

Case No. 1:19-cv-1974

**Exhibit O**



COMMISSIONER

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

May 17, 2019

The Honorable Richard E. Neal  
Chairman  
Committee on Ways and Means  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Neal:

I write in response to your letter dated May 10, 2019, transmitting a subpoena for returns and return information of specific individual and business taxpayers. Based on advice received from the Department of Justice, as explained in the Secretary's letter sent to you earlier today, we are precluded by law from providing the requested returns and return information.

Although we cannot provide the documents requested by the subpoena, we have offered to provide additional information to accommodate the Committee's stated interest in understanding how the IRS audits and enforces the tax laws against a President, and we remain committed to providing such information if the Committee requests it.

Your letter expresses a concern that IRS employees could be subject to undue influence when conducting mandatory audits of a President's tax returns. More specifically, your letter references a concern that "employees who determine the scope of the President's audit, or who determine whether to continue previously-initiated audits, are protected in the course of their work." That concern is unfounded for the reasons described below.

The IRS strives to treat all taxpayers with the highest degree of impartiality. Procedures implemented by the IRS in 1977 strongly protect the integrity of the mandatory audit process set forth in Internal Revenue Manual (IRM) 3.28.3 and 4.2.1.11. These procedures were implemented, and have been maintained in largely the same form for over 40 years in order to insulate the IRS's examination process from any bias or appearance of bias. Under the procedures, within 10 days of receiving a copy of a President or Vice President's return, a manager in one of the IRS's operating divisions assigns the examination to a revenue agent who is instructed to follow the IRM's general audit procedure guidelines. IRM 4.2.1.11(5) and IRM 4.2.1.11(3)(d). Under those guidelines, the scope and depth of the examination is determined by the revenue

agent, based on established risk protocols. IRM 4.10.3.2. In accordance with normal examination procedures, where warranted, the mandatory examination of a President or Vice President's return can be expanded to include related or prior year returns. IRM 4.2.1.11(6).

From start to finish, all aspects of the processing and examination of a President or Vice President's returns are conducted by experienced, career IRS employees. As with any examination, if any IRS or Treasury official other than the career employees responsible for the examination attempts to influence its outcome or direction, procedures are in place to notify the Treasury Inspector General for Tax Administration. These procedures play a critical role in ensuring the integrity and impartiality of the examination process. No political appointee has to our knowledge had any involvement in any examination of a President or Vice President's tax returns at any time since the mandatory procedures were put in place in 1977.

If you would like additional information regarding the IRS's mandatory examination procedures, please contact me directly, or a member of your staff may contact Leonard Oursler, Director, Legislative Affairs, at (202) 317-6985.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chuck Rettig", with a stylized flourish at the end.

Charles P. Rettig

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Case No. 1:19-cv-1974

**Exhibit P**

RICHARD E. NEAL,  
MASSACHUSETTS,  
CHAIRMAN

## Congress of the United States

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RANKING MEMBER

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STEVEN HORSFORD, NEVADA

### U.S. House of Representatives

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RON ESTES, KANSAS

GARY ANDRES,  
MINORITY STAFF DIRECTOR

June 28, 2019

BRANDON CASEY,  
MAJORITY STAFF DIRECTOR

The Honorable Steven T. Mnuchin  
Secretary  
Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

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

Dear Secretary Mnuchin and Commissioner Rettig,

The Committee on Ways and Means (“Committee”) has oversight and legislative authority over the Internal Revenue Service (“IRS”) and the Federal tax laws. Consistent with this authority and the Committee’s longstanding practice under section 6103(f) of the Internal Revenue Code (“Code”), I requested six years of President Trump’s individual tax returns and certain related returns and return information. Upon the denial of that section 6103(f) request, I issued subpoenas for the information. To date, you have not complied with those subpoenas.

As you are aware, on June 10, 2019—in response to your offers to provide the Committee with additional information on the mandatory Presidential audit process outlined in the Internal Revenue Manual (IRM)—a briefing was provided by officials from the IRS and the Department of the Treasury (“Treasury”). It included a walk-through of the applicable IRM provisions and a high-level description of some ways in which current audit practices diverge from the IRM because, as Treasury and IRS officials noted, the provisions are four decades old and are now “outdated” in numerous respects.

Regrettably, of the eight Treasury and IRS officials sent to the briefing, none had ever been involved in a mandatory Presidential audit. Further, despite letters I sent specifically authorizing Majority and Minority Committee staff to receive return and return information in connection with the briefing, the IRS and Treasury declined to answer *any* questions asked by Committee staff related to the actual audits of multiple prior Presidents



Secretary Mnuchin  
Commissioner Rettig  
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across both political parties, including basic questions about whether Presidential returns have ever been filed electronically, how long Presidential audits generally take, whether there ever have been any assessments made to Presidential returns, or whether any President-taxpayers have ever gone to IRS Appeals from a mandatory audit. In total, Majority and Minority Committee staff raised a few hundred questions, most of which Treasury and IRS declined to answer.

The June 10 briefing only reinforced the Committee's need to review the actual return information as part of our oversight duties. For example, the briefing highlighted the substantial discretion a single IRS revenue agent possesses in conducting an audit of a President's tax returns, raising serious concerns about the absence of safeguards protecting both the individual auditor as well as the entire audit process from improper influence. The briefing also raised concerns uniquely and directly relevant to the thoroughness of the Presidential audit process as applied to this President, including how related-entity returns and returns previously under audit have been considered and how highly complex returns are examined. The officials at the briefing reported that there are no specific mandatory audit procedures for a President's grantor trusts. This Committee is charged with conducting oversight of precisely these types of questions, and the answers can only be determined by reviewing the returns and audit file information that the IRS and Treasury have thus far refused to provide.

The limited information conveyed at the briefing is not a replacement for the actual return and return information that the Committee requested under section 6103(f) and now has subpoenaed. As I have explained in our prior correspondence, the Committee is conducting oversight of the IRS's handling of Presidential tax returns and enforcement of tax laws involving the President. As part of that investigation, the Committee is examining the IRS's administration of the mandatory Presidential audit process and the application of that audit process to the tax returns of President Trump and certain related entities. Indeed, the President himself repeatedly has called into question the integrity of the IRS's audit system, including by criticizing the mandatory audit process as "extremely unfair." The Committee is also considering the adequacy of the IRS's review of particular provisions of the Code that testimony before the Oversight Subcommittee has indicated may be relevant to President Trump's returns.

Without studying the returns and the documentation of the agent's decisions that were requested, the Committee cannot evaluate the accuracy of the President's claims about the audit system, assess the fairness and effectiveness of the audit program and the scope of the audits being performed on the President's returns, or understand how particular provisions of the Code are being enforced as part of the IRS's review. Each of these will inform the Committee's legislative judgment of whether and how to amend the Code to respond to issues concerning the audit process or that are otherwise implicated by the President's returns.

Secretary Mnuchin  
Commissioner Rettig  
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The subpoenas issued to the IRS and Treasury on May 10 remain pending, and you remain under a legal obligation to provide this information to the Committee. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink, reading "Richard E. Neal". The signature is written in a cursive style with a large, stylized "R" and "N".

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The Honorable Richard E. Neal, *Chairman*