Congress of the United States
Washington, DC 20515

May 17, 2017

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

Dear Commissioner Koskinen:

In the United States Congress, the Senate Committee on Finance and the House Committee on Ways and Means have an exclusive jurisdiction over federal revenue measures. Under Senate and House rules, the Committees have corresponding authority to conduct oversight of activities within their jurisdiction. As such, the Committees have a responsibility to examine Internal Revenue Service (IRS) actions in emerging areas of tax administration, including digital currencies. We write today to request information about the IRS's digital currency strategy as well as recent events surrounding the IRS's summons to Coinbase, a digital asset exchange company.[1]

In March 2014, the IRS began working to clarify tax issues related to digital currencies by issuing guidance indicating that digital currencies would be treated as property for tax purposes.[2] However, in September of 2016, the Treasury Inspector General for Tax Administration (TIGTA) reported that the IRS had yet to develop a comprehensive digital currency tax strategy, citing a need for the IRS to update its initial guidance to reflect the various uses of digital currencies. To date, no such update has appeared.

Despite the absence of a comprehensive strategy, on December 6, 2016, the IRS issued a summons to Coinbase requiring the records of all American Coinbase customers who conducted transactions in convertible digital currency between January 1, 2013 and December 31, 2015. The summons is estimated to affect 500,000 active Coinbase customers and would result in the production of millions of pages of associated records, many of which contain personally-identifiable information. However, 90 percent of these customers engaged in less than $10,000 in cumulative, gross transactions during the entire period requested.

According to the Internal Revenue Code (IRC), the issuance of this type of summons – called a John Doe Summons – requires the government to establish that the summons pertains to an

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[1] Coinbase is an American company that serves as a digital currency wallet where merchants and consumers can transact new digital currencies such bitcoin and ethereum.
[2] IRS, *IRS Virtual Currency Guidance*, Notice 2014-21 (March 25, 2014).

ascertainable class of persons, whose identity is unknown, and with respect to whom the IRS has a "reasonable basis" for the belief that the individuals have failed to comply with tax laws.[3] However, we strongly question whether the IRS has actually established a reasonable basis to support the mass production of records for half of a million people, the vast majority of whom appear to not be conducting the volume of transactions needed to report them to the IRS. Based on the information before us, this summons seems overly broad, extremely burdensome, and highly intrusive to a large population of individuals. The IRS's actions in this case also set a dangerous precedent for companies facilitating virtual currency transactions that could be subject to a similar summons. To assist the Committees in better understanding the IRS's actions in this case, please provide the following information:

1. Please describe the IRS's current digital currency strategy and provide any existing policies and procedures.
    a. What efforts has the IRS made to conduct industry outreach or coordination on its digital currency strategy?
    b. What, if any, industry concerns have been raised and what actions is the IRS taking to address these?
    c. How does the John Doe summons issued to Coinbase fit into the larger IRS digital currency strategy?
2. As mentioned earlier, to issue a John Doe summons, the IRS must first establish that it has a reasonable basis to believe that the individuals may fail or may have failed to comply with internal revenue law. What is the justification for the IRS's position that *all* Coinbase customer records are needed for this timeframe?
    a. When seeking this summons, what provision(s) of the IRC did the IRS believe Coinbase customers not to be in compliance with?
    b. Did the IRS consider issuing a more narrowly tailored summons? If so, what impediments existed to the IRS issuing a more narrowly tailored summons?
3. TIGTA made three recommendations in its 2016 report referenced above. What is the current status of the IRS's implementation of each of these recommendations and what actions have been taken to address each one?
4. How has or will the IRS assess and take into account the compliance burdens on start-up financial technology companies as well as digital currency users (especially those engaging in light to moderate transactional use) when developing and refining its digital currency strategy?
5. Will the IRS consider a de minimis exemption or other action to remove practical obstacles to such moderate, transactional use of digital currencies?

In addition, we ask that you, at your earliest convenience, provide a briefing to the staff of both Committees on this topic. Thank you in advance for your prompt response to this request. We ask that you provide this information to the Committee no later than June 7, 2017. As always, we also ask that you answer the questions on a question by question basis, indicating which questions that you are answering.

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[3] 26 U.S. Code § 7609(f) – *Additional Requirement in the Case of a John Doe Summons.*

If you have any questions or concerns, please contact Christopher Armstrong of the Senate Finance Committee at (202) 224-4515 or Lindsay Steward of the House Ways and Means Committee at (202) 225-9263.

Sincerely,

Orrin G. Hatch
Chairman
Senate Committee on Finance

Kevin Brady
Chairman
House Committee on Ways and Means

Vern Buchanan
Chairman
House Committee on Ways and Means
Oversight Subcommittee