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August 17, 2017

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

Dear Commissioner Koskinen:

As you are aware, recent work by the Treasury Inspector General for Tax Administration (TIGTA) again raised “serious concerns” about the Internal Revenue Service (IRS) practice of rehiring certain former employees with conduct and performance issues.¹ Despite having instituted a revised process to address similar concerns raised in 2014,² TIGTA concluded that the IRS –nearly three years later—still does not have a process in place that fully and adequately considers past conduct and performance of rehired employees. We write today to voice our concern about the rehiring of such employees and to stress to you that the IRS must immediately stop rehiring employees who were previously involuntarily separated from service for misconduct.

In TIGTA’s recent audit, they determined that the IRS has not effectively updated hiring policies to fully consider past IRS conduct and performance issues³ prior to making a tentative decision to rehire an applicant. Specifically, past IRS employment history is not provided to the selecting official when making a tentative hiring decision. TIGTA warned that “the selecting official may select employees for hire from a list of similarly qualified applicants without knowing that certain applicants may pose a risk to the IRS and taxpayers based on prior conduct or performance.”

TIGTA also concluded that an issue such as the one cited in their 2014 report – the rehiring of an employee with conduct or performance issues whose personnel file was marked with “do not rehire” – would still occur today. Known issues such as this should not be possible at the IRS

¹ TIGTA, Ref. No. 2017-10-035, *The Internal Revenue Service Continues to Rehire Former Employees With Conduct and Performance Issues* (July 2017).

² TIGTA, Ref. No. 2015-10-006, *Additional Consideration of Prior Conduct and Performance Issues Is Needed When Hiring Former Employees* (Dec. 2014).

³ Examples of these issues include IRS employees who threatened their co-workers, those with excessive absences, those who falsified employment forms by omitting prior convictions or terminations, and those who failed to adequately perform in their jobs resulting in their termination.

years after they were first identified. And yet, the percentage of those rehired after having been terminated or separated while under investigation for a substantiated conduct or performance issue *has increased* from approximately 12 percent to 15 percent since the last time that TIGTA reviewed this issue. TIGTA also found that some employees repeat conduct or performance issues upon rehire, with at least seven percent repeating past violations once rehired.

Given these troubling findings, we are disheartened to see that the IRS responded to some of TIGTA's recommendations by agreeing only with their "intent." Such a response does not instill confidence among the members of this Committee that the IRS will fully implement all of the recommendations. Additionally, such a response does not serve the many hardworking and honest IRS employees. The IRS systematic failure to address this longstanding problem is a disservice to the men and women who serve at the IRS everyday.

Congress has repeatedly sought to signal to the IRS its concerns about this issue through legislation such the *IRS Restructuring and Reform Act of 1998* and the *IRS Consolidated Appropriations Act of 2016*, and yet the IRS still continues to struggle with this issue. While we do not believe that the desired outcome should require further clarification, TIGTA's most recent findings would suggest that further Congressional action is needed. However, we urge the IRS to better address this issue while ensuring that it hires the requisite number of employees. Failure to do so jeopardizes the internal workings of the IRS, the security of taxpayer records, and the service that a taxpayer receives. We look forward to working with you on this issue to fully address this problem.

Sincerely,



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House Committee on Ways and Means



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