

Congress of the United States
Washington, DC 20515

November 3, 2022

The Honorable Janet L. Yellen
Secretary
U.S. 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, DC 20224

Dear Secretary Yellen and Commissioner Rettig,

The American Rescue Plan Act (ARPA) made numerous ill-advised changes to the Child Tax Credit (CTC). One such change included changing the distribution to an Advance CTC paid monthly. In May 2021 the Biden Administration rolled out in haste an online portal created by the Internal Revenue Service (IRS) and financed by American taxpayers to assist taxpayers in accessing their Advance CTC payments. That effort ignored the serious concerns raised by Ways and Means Committee Republicans about the risk of improper and missed payments, glitches in the payment system, and the predictable frustration taxpayers would face when having to reconcile their advanced payments during filing season. True to form, the portal was unreliable and did not work for hardworking Americans trying to access their CTC payments. Four months later, in an effort to fix its own mistakes, the White House and Treasury Department decided to promote a different third-party online portal developed by Code for America, without even consulting with the IRS.

We now write to seek an accounting of (1) the improper payments issued under the Advance CTC program; (2) the challenges taxpayers faced because of the rushed actions with both the IRS and the Code for America portals; and (3) how and why the Administration – after spending significant taxpayer resources to develop an internal IRS portal – decided to abandon that project and instead promote a new Code for America portal.

During debate over the Advance CTC program, IRS employees indicated that it would likely take the agency 12 to 18 months to successfully standup a new CTC portal. Not fitting its timeline, the Administration urged the agency to act quickly, and so the IRS opened a portal within a matter of months of ARPA being signed into law. This rushed portal failed to deliver the services promised and led the Administration to shift course toward a third-party resource. Over the course of 2021, Ways and Means Committee Republicans sent multiple letters to the IRS expressing the following concerns:

- April 11, 2021: “Our concern focuses on the problem of improper payments and the IRS’s ability to create a secure and effective payment system in such a short period of time, given that this program expires at the end of 2021.”¹
- July 1, 2021: “[T]he IRS has launched a partial portal with limited functionality, yet it will still [begin] to send out payments. This rushed portal will lead to major headaches for American families.”²
- November 1, 2021: “The results of a rushed IRS process have led to numerous glitches and massive frustration for taxpayers. Lawmakers and our constituents deserve answers, especially as there are efforts in Congress to extend this troubled program.”³

American taxpayers continue to deal with the consequences of this hastily implemented policy. For example, we have reports from taxpayers who received payments in some months but not in others. This created a problem for those taxpayers when they needed to reconcile the proper amount of the payments they received on their tax returns because the IRS claims to have sent payments that the taxpayers never received. As a result, many tax returns were suspended in processing for further review and tax refunds were delayed even when the taxpayer did nothing wrong. We similarly heard reports from families who received payments for which they were not eligible, asking what they should do to correct this error.

At our request the U.S. Treasury Inspector General for Tax Administration (TIGTA) conducted an initial review of the Advance CTC program and issued a report on September 21, 2022. This report found that:

- “3.3 million payments, totaling over \$1.1 billion, were sent to 1.5 million taxpayers who should not have received them.”⁴
- “[T]he IRS did not send 8.3 million payments totaling about \$3.7 billion to 4.1 million eligible taxpayers.”⁵

¹ Letter from H. Comm. on Ways and Means Ranking Member Kevin Brady and H. Comm. on Ways and Means Sub. Comm. on Oversight Ranking Member Mike Kelly to The Hon. Charles P. Rettig, Commissioner, Internal Revenue Service (Apr. 11, 2021), <https://gop-waysandmeans.house.gov/wp-content/uploads/2021/04/2021.04.11-WMR-to-IRS.pdf>.

² Letter from H. Comm. on Ways and Means Ranking Member Kevin Brady and H. Comm. on Ways and Means Sub. Comm. on Oversight Ranking Member Mike Kelly to The Hon. Charles P. Rettig, Commissioner, Internal Revenue Service (July 1, 2021) (underlining in original removed here).

³ Letter from H. Comm. on Ways and Means Ranking Member Kevin Brady and H. Comm. on Ways and Means Sub. Comm. on Oversight Ranking Member Mike Kelly to The Hon. Charles P. Rettig, Commissioner, Internal Revenue Service (Nov. 1, 2021) (underlining in original removed here), <https://gop-waysandmeans.house.gov/wp-content/uploads/2021/11/2021.11.01-CTC-Problems.pdf>.

⁴ Treasury Inspector General for Tax Administration, *American Rescue Plan Act: Accuracy of Advance Child Tax Credit Periodic Payments*, Report No. 2022-47-070 (Sept. 21, 2022), <https://www.treasury.gov/tigta/auditreports/2022reports/202247070fr.pdf>.

⁵ *Id.*

This means that 5.6 million taxpayers had negative results from this program and, as a result, faced additional challenges during the tax filing season. Moreover, it should be noted that this figure only represents the number of taxpayers identified so far. TIGTA is continuing to monitor the program during the 2022 filing season, and we expect them to provide updated data in a subsequent report.

As a result of our request, TIGTA made a series of recommendations to the IRS that includes the need to “prevent taxpayers from receiving additional improper advance Child Tax Credit payments” and the need to “inform taxpayers of the possibility that their advance payments may have been sent to other accounts the taxpayers may own.”⁶

We remain concerned about the amount of taxpayer funds that were wasted on the online CTC portal built by the IRS only to have the White House and the Treasury Department later promote an alternative portal through Code for America. We also have questions about how and why Code for America was selected by the White House and the Treasury Department to create this alternative portal. Given these concerns, please answer the following questions:

1. How many tax returns were suspended during the 2022 tax filing season due to issues regarding the reconciliation of the advanced CTC payments?
 - a. How many of those returns remain suspended?
2. What actions has the Treasury Department taken to recover the 3.3 million improper payments totaling \$1.1 billion that TIGTA already identified?
3. What actions is the Treasury Department taking to identify additional improper payments?
4. What was the cost to the taxpayers for developing and operating the original, IRS built, online Advance CTC portal? In this cost estimate, please include the value of all resources expended on that effort, including but not limited to employee time.
5. Does Code for America have a contract with the Department of Treasury or the IRS to provide any type of services? If yes, please provide a copy of the relevant contract(s).
6. Did Code for America compete with other companies to build an alternative portal? If so, please describe that process, including why work was solicited for this project, how and when companies were made aware of this opportunity, and the evaluation process conducted to determine which company would be selected to build the alternative portal.
7. The White House and the Treasury Department have encouraged Americans to use Code for America’s portal. What does Code for America do with all the data it collects on people that use its portal? Does it sell that data for profit? Does the Treasury

⁶ *Id.*

Department have any agreements with Code for America that require it to protect the data of the Americans using Code for America's portal?

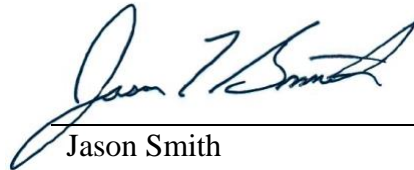
8. Code for America's CEO Amanda Renteria was recently named to the Treasury Department's Advisory Committee on Racial Equity. How was she selected for that position? What other government boards, commissions, or advisory committees does she sit on?

In connection with the topics raised in this letter, we ask that you preserve in complete, unredacted form all information, including but not limited to, all written correspondence, memoranda, documents, legal opinions, records, and any communication related to the issues discussed in this letter. Please respond to this letter by November 17, 2022. If you have any questions or wish to discuss the request, please contact Sean Clerget or Brittany Havens of the Ways and Means Committee staff at (202) 225-4021.

Sincerely,



Kevin Brady
Republican Leader
Committee on Ways and Means



Jason Smith
Republican Leader
Committee on the Budget