



U.S. House of Representatives

COMMITTEE ON WAYS AND MEANS
1139 LONGWORTH HOUSE OFFICE BUILDING
Washington, DC 20515

July 25, 2023

The Honorable Daniel Werfel
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, D.C. 20224

Dear Commissioner Werfel,

We write to reiterate and renew the Committee's multiple requests that the Internal Revenue Service (IRS) provide to the Committee on Ways and Means a copy of the decision memorandum detailing the recommendation to destroy 30 million unprocessed, paper-filed informational returns in March 2021. Committee Republicans repeatedly sought this document and information from your predecessor. The Biden Administration's refusal to respond to the Committee, engage in a substantive discussion with staff about the request, and ultimately deny access to the decision memorandum obstructs Congress's ability to conduct our important oversight responsibilities. As Chairman of the Committee on Ways and Means and Chairman of the Committee's Oversight Subcommittee, we write to renew the request and ask that you reconsider the agency's handling of this issue under prior leadership.

The Committee first learned of the decision memorandum in a briefing with the Treasury Inspector General for Tax Administration (TIGTA) to discuss a published report¹ documenting the IRS' operations. That report made the following statement: "The continued inability to process backlogs of paper-filed tax returns contributed to management's decision to destroy an estimated 30 million paper-filed information return documents in March 2021."² TIGTA claimed to have reviewed a memorandum detailing the IRS decision to destroy the returns and, seeing no concerns with sharing the memorandum, offered to provide the decision memorandum to the Committee once it obtained approval from the IRS. The IRS, however, denied the request.

The decision to destroy information returns diligently prepared by millions of American taxpayers demands congressional oversight. The destruction of these returns raises the question of whether information reporting should be scaled back to reduce the burden placed on taxpayers

¹ Treasury Inspector General for Tax Administration, *A Service-Wide Strategy Is Needed to Address Challenges Limiting Growth in Business Tax Return Electronic Filing*, Report No. 2022-40-036 (May 4, 2022), available at <https://www.treasury.gov/tigta/auditreports/2022reports/202240036fr.pdf>.

² *Id.* at 2.

in reporting information the IRS does not even use. Thus, on May 17, 2022, Committee staff requested a copy of the memorandum via e-mail. The IRS responded on May 18, 2022, indicating that it would not release the decision memorandum claiming that such a release would pose a “significant risk to the agency.” This alarming, blanket refusal from the IRS based on a perceived risk to the agency is unacceptable. Congressional oversight does not stop whenever the executive branch identifies a perceived risk. The IRS should have engaged in a discussion with the Committee about how it could best accommodate congressional oversight while still addressing the agency’s concerns. The IRS, however, made no offer of an accommodation, nor did it offer to discuss a possible resolution to the matter.

On June 13, 2022, Ways and Means Committee Ranking Member Kevin Brady sent a letter reiterating the Committee’s request for the decision memorandum.³ The letter also included questions about how the agency’s document destruction will affect taxpayers and what steps the IRS is taking to improve its processing of paper-filed returns.

In yet another effort to gain transparency on this issue, Ways and Means Committee Republicans filed a Congressional Resolution of Inquiry (ROI), H. Res. 1283, on July 26, 2022.⁴ The ROI directed the Secretary of Treasury to provide to the U.S. House of Representatives a copy of the IRS Small Business/Self Employed Division Decision Memorandum regarding the decision to destroy approximately 30 million paper information returns around the time of March 2021, and any other memorandum related to the decision to destroy those information returns. Although Democrats voted to unfavorably report the ROI out of the Ways and Means Committee, Republicans remain committed to our duty to conduct oversight of the agency’s processing and destruction of the paper-filed returns.

On October 20, 2022, Ways and Means Committee Republicans sent another letter instructing the IRS to preserve all documents and communications in the agency’s custody relating to the IRS decision memorandum, and to reiterate the Committee’s request that the IRS produce a copy of the decision memorandum to the Committee.⁵ To date, the agency has not provided the decision memorandum, nor has it responded to questions in previous letters.

Despite the Administration’s inadequate response to our initial requests, we expect the IRS to provide a response to the questions and respond to the request for the IRS decision memorandum previously requested by the Committee.

³ Letter from H. Comm on Ways and Means Republican Leader Kevin Brady to Internal Revenue Service Commissioner Charles P. Rettig (June 13, 2022).

⁴ H. Res. 1283, 117th Cong. (2022), *available at* <https://gop-waysandmeans.house.gov/wp-content/uploads/2022/09/H.-RES.-1283.pdf>.


⁵ Letter from H. Comm on Ways and Means Republican Leader Kevin Brady and H. Comm on Ways and Means Sub. Comm. on Oversight Ranking Member Tom Rice, to Internal Revenue Service Commissioner Charles P. Rettig (October 20, 2022). <https://waysandmeans.house.gov/wp-content/uploads/2022/10/10.20.22-IRS-Doc-Destruction.pdf>.

The Honorable Daniel Werfel
July 25, 2023
Page 3


Please provide a copy of the decision memorandum and respond to the questions that were previously submitted to the agency as soon as possible, but no later than 5:00 p.m. on August 8, 2023.

The Committee has legislative and oversight jurisdiction over the IRS pursuant to Rule X of the U.S. House of Representatives.⁶ If you have any questions or wish to discuss the request, please contact the Majority Staff of the Ways and Means Committee at (202) 225-3625.

Sincerely,



Jason Smith
Chairman
Committee on Ways and Means



David Schweikert
Chairman
Subcommittee on Oversight
Committee on Ways and Means

⁶ Rules of the U.S. House of Representatives, R. X, 118th Cong. (2023).