

HEARING WITH COMMISSIONER OF THE
INTERNAL REVENUE SERVICE, DANIEL WERFEL

HEARING
BEFORE THE
COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES
ONE HUNDRED EIGHTEENTH CONGRESS

SECOND SESSION

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FEBRUARY 15, 2024
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United States House Committee on
Ways & Means
CHAIRMAN JASON SMITH

FOR IMMEDIATE RELEASE
February 8, 2024
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CONTACT: 202-225-3625

Chairman Smith Announces Hearing with Commissioner of the Internal Revenue Service, Daniel Werfel

House Committee on Ways and Means Chairman Jason Smith (MO-08) announced today that the Committee will hold its annual hearing with the Commissioner of the Internal Revenue Service (IRS), Daniel Werfel. The hearing will take place on **Thursday, February 15, 2024, at 10:00 AM in 1100 Longworth House Office Building.**

In view of the limited time available to hear the witnesses, oral testimony at this hearing will be from invited witnesses only. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

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Please ATTACH your submission as a Microsoft Word document in compliance with the formatting requirements listed below, **by the close of business on Thursday, February 29, 2024**. For questions, or if you encounter technical problems, please call (202) 225-3625.

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**HEARING WITH COMMISSIONER OF THE
INTERNAL REVENUE SERVICE,
DANIEL WERFEL**

THURSDAY, FEBRUARY 15, 2024

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC.

The committee met, pursuant to call, at 10:01 a.m. in Room 1100, Longworth House Office Building, Hon. Jason T. Smith [chairman of the committee] presiding.

Chairman SMITH. The committee will come to order.

Before we begin, I know I speak for everyone here when I wish our ranking member a belated happy birthday yesterday. And we are supposed to have some cake later, so we have to celebrate.

Mr. NEAL. I want a roll call vote on that. [Laughter.]

Chairman SMITH. But a late happy birthday.

Mr. NEAL. Thank you.

Chairman SMITH. We appreciate serving with you, sir.

Thank you, Commissioner Werfel, for appearing before the Ways and Means Committee a little earlier than usual this year. We have a lot to go over with you, so I appreciate you answering the request of our members to come before the committee early this year.

First, as it pertains to the current 2023 tax filing season, I want to thank you and your team for the technical work to ensure the quick and without-delay implementations of provisions of the Tax Relief for American Families and Workers Act. We particularly appreciate the steps the agency is taking right now to be ready to immediately implement the legislation once the Senate passes the bill and it is signed into law, especially with regard to adjustments to the Child Tax Credit.

I think we are also largely aligned on the importance of rooting out fraud in the Employee Retention Tax Credit program. We look forward to hearing about your efforts not just in eliminating that fraud, but also making sure that small businesses across America who filed legitimate claims receive their credits as soon as possible.

While I am grateful for your partnership in these efforts, it won't surprise you that I also have a number of concerns about the Biden Administration's approach to the IRS and about the IRS's handling of several important issues.

The last time you were before this committee the IRS had chosen to delay a provision of a law crafted by the Biden Administration and congressional Democrats that would send tax forms to 44 mil-

lion Americans just for engaging in transactions over \$600 in a year. This includes transactions like simply selling a used couch or a concert ticket through a third-party payment platform. Once again, the IRS unilaterally chose to delay implementing the law or sending these forms—this time in an election year.

To be clear, Republicans are united behind repealing this terrible policy, and I want to thank Representative Carol Miller for her leadership on the repeal effort. But the way to fix this terrible law is to repeal it, not to use the IRS to shield the Biden Administration from the consequences of its own policies.

Also, last time you were before this committee, you said the IRS would not retaliate against whistleblowers. One of the IRS whistleblowers who has appeared before this committee has since alleged the IRS retaliated against him for exposing the truth about the DoJ's preferential treatment of Hunter Biden. I hope you will share what steps have been taken to protect whistleblowers.

And just a couple of weeks ago a judge sentenced an IRS contractor to five years in prison for the greatest theft of taxpayer information in American history. I think the Department of Justice woefully, woefully undercharged this individual, but I am pleased the judge applied the maximum sentence available to her.

But this story doesn't end with that case. The IRS must be accountable for allowing this theft to have ever happened and must ensure that it fixes security vulnerabilities at the agency. A recent report from the inspector general described alarming details about how—current IRS security flaws that demonstrate the problem has not—and has not been resolved. I hope that you will commit today to address their findings quickly for the sake of millions of taxpayers.

We have serious questions about numerous other issues, such as the implementation of an IRS direct file scheme that the American people didn't ask for, how the IRS is spending its windfall of \$80 billion, and Fantasyland claims about how much revenue the agency thinks it will generate from increased audits.

Frankly, more of the IRS's time and resources should be directed toward improving its customer service for its existing duties, not spending money and resources on new systems no one has asked for. Part of that focus should be on deploying new technology to make the IRS more efficient. Proper use of technology can help avoid the need to hire thousands and thousands of new employees.

I want to thank Representative Schweikert for leading the charge to ensure that the IRS is taking advantage of new technology to help taxpayers.

Clearly, there is a lot the IRS needs to answer for, and I look forward to hearing how your agency plans to follow the law and protect taxpayers moving forward.

Chairman SMITH. I am pleased to recognize Ranking Member Neal for his opening statement.

Mr. NEAL. Thank you, Chairman. So, we want to welcome the commissioner back to the Committee on Ways and Means.

As always, it is delightful to have you with us in the middle of what promises to be another record-breaking filing season. The dedication of the employees of the Internal Revenue Service is remarkable. We want to thank them for their commitment to our tax-

payers and fair tax administration—emphasis on the word fair—and for the swift implementation of the Inflation Reduction Act.

Last filing season was the first impacted by the Democrats' multi-year investment from this historic legislation. While taxpayer service was dramatically improved, it was merely the consequence of a well-laid, well-funded plan. The results have been quite remarkable. In this era of service to America's taxpayers, the IRS beat Secretary Yellen's goal and delivered an 87 percent quality level of service, 3 million more phone calls were answered, while wait times were cut from 28 minutes to 3 minutes. Over 140,000 additional taxpayers were served in person. The 2022 backlog was eliminated, and many new digital tools were introduced to make taxpayer experiences even easier.

A reminder to our Republican colleagues: many of the recommendations that we entertain and discuss this morning came from Commissioner Rettig, a Republican who worked with all of us to ensure quality service. We know that expectations have been increased based on the success that the IRS has had so far.

It was just last year that we discussed the future of the IRS's ability to hold the top 1 percent of tax cheats accountable, and in a matter of months over \$500 million has been recovered from 1,600 wealthy tax avoiders.

Another major victory is taxpayer fairness and a victory for the IRS. A reminder: If the revenue is not collected in a fair manner, that means the rest of us pay more.

Yet the biggest threat to the IRS right now is the extremism of some of our colleagues. From the government shutdown that looms in just five legislative days to our colleagues' attempt to gut our investments every chance they have gotten, not only would this end up costing taxpayers money and adding to the deficit, but how can you argue with the success?

I find myself wondering out loud about who wins when the IRS is starved for its resources. Perhaps our colleagues will have a chance to answer that this morning.

Under Republican funding cuts, the audit rate on millionaires fell by more than 70 percent from 2010 to 2019. Those are numbers from Commissioner Rettig. And the audit rate on large corporations fell by more than 50 percent. That was a request from Commissioner Rettig. Workers and their families pay their fair share, and the American people can count on us to ensure that wealthy and well-connected people are paying their fair share, too.

While the promise of direct file draws near and I am optimistic about some prospects, I am disappointed it wasn't all ready in time for the public to take advantage of it.

We want to thank the commissioner for his diligence in being here today. We look forward to continuing work on behalf of the American people.

Mr. NEAL. And with that I yield back the balance of my time, Mr. Chairman.

Chairman SMITH. Thank you, Ranking Member Neal.

Today's sole witness is the commissioner of the Internal Revenue Service, Daniel Werfel.

The committee has received your written statement, and it will be made part of the formal hearing record.

Commissioner Werfel, you may begin when you are ready.

**STATEMENT OF THE HON. DANIEL I. WERFEL,
COMMISSIONER, INTERNAL REVENUE SERVICE**

Mr. WERFEL. Chairman Smith, Ranking Member Neal, and members of the committee, thank you for the opportunity to testify on the filing season and IRS operations.

I am pleased to report that the 2024 filing season opened on schedule on January 29 and has gone smoothly so far. Along with filing season and other day-to-day operations, we continue to make important progress in our efforts to transform our agency through implementation of the Inflation Reduction Act.

Using IRA funding, our work is centered on three fundamental themes: first, ensuring taxpayers can easily contact the IRS whether in person, on the phone, or online; we want them to get help navigating complex tax laws and accessing the credits they deserve; second, identifying the growing number of taxpayers with complex returns, including certain wealthy individuals, large corporations, and complex partnerships who are shielding income to evade their tax responsibility, we want to collect from them what is owed; and third, addressing the growing risk of tax scams and schemes by protecting honest taxpayers from them, we want to root out the nefarious actors that perpetrate them. These investments allow us to strengthen the overall effectiveness of IRS operations.

As commissioner, I want people to know that the IRS is on the side of taxpayers, and we are working to reflect that in every aspect of our operations while administering the nation's tax law. The IRS has been working hard to build on the accomplishments of last year. Our transformation goals for this filing season include providing an 85 percent level of service on our main toll-free phone line during the filing season.

On the compliance side, we continue to increase scrutiny on those who evade taxes. We are working to reverse the historically low audit rates for large corporations, complex partnerships, and high-wealth individuals. During the past year, the IRS has also taken dramatic steps to strengthen our internal systems, protocols, and procedures by putting in place numerous improvements to bolster how we protect key systems and information. Our recent steps, enabled with new funding, have sharply reduced risks for taxpayers and the tax system.

While taxpayers should rightfully be concerned about recent reports of the unauthorized access and disclosure that occurred in the 2017 to 2021 timeframe, the data security environment at the IRS is dramatically improved today. We have worked tirelessly this past year to close gaps that allowed this unfortunate event to transpire. However, there is always more work to do in this area, and we will continue our laser focus on strengthening data security.

Another important aspect of our mission is implementing the tax laws fairly and justly. A key part of this involves making sure everyone pays the taxes they owe. But we also have a responsibility to protect taxpayers from being overly burdened in fulfilling their tax obligations. We work continuously to balance these two sides of the mission. This is the issue we faced in implementing the \$600 threshold for 1099-K reporting that Congress passed in 2021.

While it is important for us to have the information provided under the lower threshold, we must also consider the burden placed on taxpayers in meeting this requirement. Our administration of tax laws should be guided by what is best for taxpayers. In this situation, we delayed imposing the lower threshold because we realized that immediate implementation posed a high risk of taxpayers being confused and, given the complexities of the 1099 reporting, some potentially paying taxes they didn't actually owe. That is something we take very seriously, and we will do everything in our power to avoid.

So the IRS is continuing to work to reduce that risk before imposing the \$600 standard for business transactions. We will continue working this and getting feedback from key groups.

I also want to assure the committee that the IRS is paying close attention to the potential passage of the Child Tax Credit legislation. If Congress acts, the IRS is poised to move quickly to implement it. Building off our experience with economic impact payments during the pandemic, we may be able to start implementation as early as 6 to 12 weeks after passage, depending on the bill's final language. But taxpayers should not wait for this legislation to file their returns. We will take care of getting any additional refunds to taxpayers who have already filed. They won't need to take additional steps.

Chairman Smith, Ranking Member Neal, and members of the committee, that concludes my statement. I am happy to take your questions.

[The statement of Mr. Werfel follows:]

**WRITTEN TESTIMONY OF
DANIEL WERFEL
COMMISSIONER
INTERNAL REVENUE SERVICE
BEFORE THE
HOUSE WAYS AND MEANS COMMITTEE
ON THE FILING SEASON AND IRS OPERATIONS
FEBRUARY 15, 2024**

INTRODUCTION

Chairman Smith, Ranking Member Neal and members of the Committee, thank you for the opportunity to discuss the 2024 filing season and IRS operations.

After nearly a year as IRS Commissioner, it remains an honor for me to lead this great institution. My respect for the agency's role and admiration for its workforce continue to grow. I'm pleased to report the 2024 tax filing season opened on schedule on January 29, and is going smoothly so far. Through February 2, the IRS received more than 15.3 million individual income tax returns and issued more than 2.6 million refunds for approximately \$3.65 billion.

Along with delivering the filing season and other day-to-day activities, we have a tremendous amount of transformation work taking place at the IRS. These changes, which are made possible by the Inflation Reduction Act (IRA) funding, touch every part of our operations, from taxpayer service to tax enforcement to information technology and data security.

We have a unique opportunity – a once-in-a-generation chance – to envision and realize a future of tax administration that meets the evolving needs of taxpayers and the nation. Using IRA funding, there are three central themes I've been reminding taxpayers about this filing season:

- Ensuring taxpayers can easily contact the IRS – whether in person, on the phone or online – and get help navigating complex tax laws and accessing the credits they deserve;
- Identifying the growing number of taxpayers with complex returns – including certain wealthy individuals, large corporations and complex partnerships – who are shielding income to evade their tax responsibility and collect from them what is owed; and
- Addressing the growing risk of tax scams and schemes by protecting honest taxpayers from them and rooting out the nefarious actors that perpetrate them.

The IRS has many other goals and objectives supporting this effort as part of our Strategic Operating Plan. This includes making dramatic improvements to our Information Technology (IT) infrastructure and design, and delivering modern

technology platforms that center around data and applications. These efforts will support all our transformation work.

Achieving this ambitious transformation agenda requires us to rebuild areas in the IRS that have suffered from more than a decade of underfunding that preceded the IRA. A critical change we are making involves providing our IRS workforce with the right tools – including training, technology and smarter processes – so we are ready now and in the future to meet our core mission of supporting taxpayers and the nation.

IRA investments are allowing us to strengthen the overall effectiveness of IRS operations to deliver results for taxpayers. The difference between the pandemic-era filing seasons, where the IRS struggled to meet basic taxpayer service needs, and the post-IRA funding is dramatic. For example, last filing season, IRA resources – on top of the IRS discretionary budget – allowed us to meet our goal of an 85% level of service, up from just 15% the prior filing season, and during 2023 we answered more than 18 million calls. We opened or reopened 54 Taxpayer Assistance Centers to provide more in-person help to taxpayers. We have also expanded digital options to save taxpayers time and money, begun work to improve fairness in our enforcement activities, enhanced data security, and completed key milestones of foundational technology changes to retire and replace our outdated legacy systems.

While we have made important progress so far, many more changes are on the horizon. Some changes will be seen in the current filing season – as described in more detail later in this testimony – and others in the months and years ahead. For these improvements to continue and accelerate, however, a consistent, reliable funding stream remains critical for the agency – both in regard to our annual appropriations and maintaining the IRA funding.

The decision about whether to adequately fund the agency comes down to a fundamental choice: Whether or not we will have an IRS that:

- taxpayers can easily interact with to meet their tax responsibilities or resolve issues if they arise,
- ensures fairness in the tax system through its enforcement activities,
- quickly and effectively addresses tax scams that exploit vulnerable populations, and
- has updated IT infrastructure and modern technology platforms capable of supporting our transformation work.

For the IRS to be able to do all these things, adequate annual discretionary funding and complementary long term mandatory funding is essential.

UPDATE ON THE FILING SEASON AND TRANSFORMATION EFFORTS

The IRS remains focused on improving service to taxpayers, offering them more in-person and online resources as part of our effort to deliver another successful tax season this year. Taxpayers and tax professionals will see additional improvements in our operations and service that will make it easier for them to prepare and file taxes.

The IRS has been working hard to ensure this filing season builds on the accomplishments of last year. We have several transformation goals for this filing season, including:

- Again committing to an 85 percent level of service on our main toll-free phone line during the filing season, meaning the vast majority of callers routed to live assistors will connect and get support.
- Committing to an average call wait time of 5 minutes or less on the agency's main taxpayer helpline.
- Giving taxpayers the ability to opt for a call back from the IRS if their wait time on the phone is more than 15 minutes.
- Increasing self-service support in a number of areas, such as the Where's My Refund and Where's My Amended Return tools, which will use conversational voice bot technology for the first time to help taxpayers get answers on the status of their refund or amended return more quickly.
- Providing more in-person help at our Taxpayer Assistance Centers (TAC). The goal is to provide over 8,500 more hours of in-person assistance than we did last filing season. We are expanding hours at nearly 250 TACs around the country during the filing season; again offering special Saturday hours at certain TAC locations; and opening more pop-up centers to reach taxpayers who do not live near a TAC.

These goals are ambitious, but I am confident this IRS workforce is up to the challenge. The progress we made last year using IRA funding shows what is possible in the upcoming filing season and the years ahead.

I'll speak about our efforts to provide world class service, but first I'll turn to enforcement, where we've seen early success in ensuring the wealthiest Americans with ongoing issues pay what they owe.

On the compliance side we continue to take swift and aggressive action to ensure that high-income taxpayers who evade taxes play by the same rules as everyone else. We are increasing scrutiny of these taxpayers as we work to reverse the historically low audit rates for large corporations, complex partnerships, and high-wealth individuals that existed since before the IRA was passed.

As an example, we have concentrated our revenue officers' work on those taxpayers with more than \$1 million in income and more than \$250,000 in

recognized tax debt. Over the past year, the total we have recovered through these new initiatives is \$520 million. **That's half a billion dollars recovered from fewer than 1,000 millionaires and billionaires.** That is just the beginning: Our revenue officers continue to work on hundreds of these cases to recover more back taxes from delinquent high-wealth individuals.

We are also closely examining potential noncompliance among the largest U.S. corporations and partnerships that were identified as higher risk for tax noncompliance with the help of new artificial intelligence tools. As of December, the IRS had open audits of 76 of the largest U.S. partnerships. On average, they each have more than **\$10 billion** in assets and represent a cross-section of industries that include hedge funds, real estate investment partnerships, publicly traded partnerships, large law firms and other industries. IRA funding is also helping us expand our Large Corporate Compliance Program, which covers entities with average assets of more than **\$24 billion** and average taxable income of about \$526 million per year, and our hiring of new staff has allowed us to open 60 new audits of taxpayers in this group.

In all its compliance work, the IRS's focus is on those posing the greatest risk to our nation's tax system in terms of ensuring fairness. As I have previously stated, we remain committed to following the Secretary of the Treasury's directive not to increase audit rates relative to historical levels for small businesses and households earning less than \$400,000 per year. All of this work will be with an eye toward fairness and always respecting taxpayer rights. Although focusing on these types of complex issues will be resource intensive, achieving our goals will result not only in a fairer tax system, but also in benefits for taxpayers and the nation, because detecting and stopping noncompliance in these areas will result in significant additional revenues and reduce the deficit.

Launching the Direct File Pilot

As part of our effort to deliver significantly improved taxpayer services, this filing season, the IRS is conducting a limited-scope pilot of a system that would allow taxpayers to prepare and file a tax return for free, online, directly with the IRS, called Direct File. This year, eligible taxpayers in 12 participating states will have the option to file their return this way. The pilot will allow us to assess customer and technology needs, so we can evaluate and develop solutions and make a recommendation about the future of a Direct File system.

Our work on Direct File is an important innovation in our ongoing efforts to transform the IRS and lead the agency into a digital, taxpayer-focused future.

A core part of the IRS's mission is to meet taxpayers where they are and ensure they have options to fulfill their tax obligations that meet their needs. I want to emphasize that taxpayers will always have choices for how they file their taxes. They can file using a trusted tax professional, our Free File program, tax

software, or free tax preparation services such as the Volunteer Income Tax Assistance and Tax Counseling for the Elderly programs, or they can file a paper return. Taxpayers should use the filing option that works best for them and their personal financial situation. Direct File is designed to be an additional option for some taxpayers this year that is simple, secure, accurate and free.

Progress on Transformation

IRA resources have been fundamental in our efforts to modernize our operations. The IRS is using this funding to upgrade our information technology infrastructure and improve the experience for those who choose to interact with us online. By utilizing technology, we are making the IRS more efficient while meeting taxpayers where they are.

Along those lines, we continue to enhance our online offerings. We have expanded the capabilities of the IRS Online Account and Tax Pro Account so this filing season taxpayers and tax professionals will be able to perform more types of transactions in their accounts. We also launched a Business Tax Account to make interacting with us easier for small business owners as well.

We have also made critical progress on our Paperless Processing Initiative. While online options for taxpayers have increased, the IRS has continued to be flooded with paper, including tax returns and correspondence. We had been working toward digital scanning of paper forms and returns for some time, but the IRA funding has allowed us to greatly accelerate these efforts. For example, during Calendar Year 2023, we scanned more than 1.5 million forms and returns we received on paper.

Additionally, we are making progress toward our five-year goal of giving taxpayers the ability to securely file all documents and respond to all notices online and securely access and download their data and account history. We met our first goal of this initiative three months ahead of schedule. Taxpayers are now able to digitally submit all correspondence and responses to notices.

Complementing these efforts, the IRS last month announced a sweeping initiative to simplify and clarify about 170 million letters sent annually to taxpayers. The Simple Notice Initiative builds on notice-redesign efforts already in place for the 2024 tax season and expands on a recent successful pilot involving identity theft letters. The redesign work will accelerate during the 2025 and 2026 filing seasons, improving common IRS letters going out to individual taxpayers and then expanding into notices going to businesses.

The IRS also made significant progress in bringing our paper inventory back to manageable levels after COVID-related interruptions in our operations resulted in historic backlogs. Inventory challenges involving original returns have been completely resolved.

Taken together, these initiatives will make it easier for taxpayers to respond to notices from the IRS. They have the option to go paperless and conveniently submit necessary responses online, and they will receive clearer and more concise IRS notices, so they can better understand the actions they need to take.

ENHANCING DATA SECURITY

The IRS works continuously to preserve taxpayer privacy and protect our computer systems from cybersecurity incidents through a combination of preventative and detective controls. IRS systems withstand well over 1 billion cyberattacks annually (including denial-of-service attacks, unsuccessful intrusion attempts, probes or scans, and other unauthorized connectivity attempts). Since I became Commissioner, I have seen teams across the IRS make amazing progress to improve our security posture, permanently closing gaps utilizing IRA funding to make needed updates, and we continuously work to ensure that taxpayers and our own systems are protected.

We continue to strengthen our systems, training and overall infrastructure under the Strategic Operating Plan, funded by the IRA. Measures we have taken include (but are not limited to):

- **Further restricting user access.** We restructured our operations to reduce the number of people with access to the most sensitive taxpayer datasets.
- **More robust protective security controls.** We updated data protection mechanisms (e.g., encryption, anonymization) to better protect taxpayer information.
- **Improved firewalls.** We have added additional firewalls between key taxpayer information and the rest of the IRS, providing additional monitoring capabilities.
- **Stronger 24/7 monitoring.** We have expanded advanced analytics to detect and prevent risky data usage, providing improved insight into suspicious activities around the clock.
- **New tools.** We are adding new analytical tools and dashboards to monitor user activity involving sensitive data. These tools will help to improve the detection of potential data misuse.

The bottom line is that as Commissioner I have made it a priority to improve the data security protections at the IRS against internal and external threats. Taxpayer data must always be protected and safeguarded, and any unauthorized disclosure will not be tolerated. We've made remarkable progress and have dramatically reduced risk in all aspects of data security, and we will remain focused on this in the future.

COMBATTING FRAUD: EMPLOYEE RETENTION CREDIT

The IRS is committed to protecting hard-working people and small businesses from scammers and fraudsters who try to use the tax system for their schemes. Along those lines, we continue to face a major challenge related to scams involving the Employee Retention Credit (ERC).

The ERC provided a financial lifeline to millions of businesses and exempt organizations during the pandemic. The IRS has worked hard to implement this credit, and we have processed about 3.6 million ERC claims worth approximately \$230 billion to businesses. However, promoters have been aggressively misleading people and businesses that are not eligible into claiming the ERC, even though they do not qualify.

The IRS has been flooded with ERC claims, and we are concerned that many of these claims are not being filed by businesses that qualify. We appreciate the patience of businesses and tax professionals as we continue our effort to protect against fraud. Since last fall we have been intensifying our compliance work in this area.

To combat this problem, we have taken a number of actions:

- Last September, as we were being inundated by questionable ERC claims, we announced a moratorium on processing new ERC claims to allow us time to make adjustments and add taxpayer protection provisions into the program, including options for businesses that may have been unduly pressed by a promoter.
- In December we sent letters to more than 20,000 businesses notifying them of disallowed claims.
- We are offering a withdrawal option for businesses with a pending ERC claim. This gives them a chance to withdraw their claim if they are concerned it may not be legitimate – for instance, if they were pushed into applying due to false promises by a promoter. This withdrawal option allows certain employers that filed an ERC claim – but have not yet received a refund – the ability to withdraw their submission and avoid future repayment, interest and civil penalties on a refund for which they are ineligible. Claims that are withdrawn will be treated as if they were never filed.
- We have a special ERC Voluntary Disclosure Program running through March 22, 2024, that allows voluntary repayments by businesses that received an improper ERC payment. Those accepted into the program need to repay only 80 percent of the credit they received.

During this period, we have processed some ERC claims, but at a much slower rate than before our approach changed in the summer and fall. While we continue to process ERC applications received prior to the moratorium, our progress is hampered by the fact that all amended returns come in on paper and

require time-sensitive manual processing. We are developing a scanning process for both pre- and post-moratorium paper returns so that we can digitize the information from other pending claims and expect that process to be completed this spring.

This current situation is an excellent example of where IRA funding will make a difference in the future. These claims are all being filed on paper. The IRA funding will give us improved capability to receive digital information, whether on amended returns or other information such as taxpayer correspondence. In turn, this will help us more rapidly identify risks and develop response strategies – the exact issue that we have confronted with the ERC claims.

Additionally, the IRS remains very serious about tracking down unscrupulous promoters of the ERC. We have specially trained auditors examining ERC claims that pose the greatest risk. Also, our Criminal Investigation Division is working to identify fraud and those who promote fraudulent claims, with more than 350 criminal investigations being worked that involve claims worth nearly \$3 billion.

As we have worked through this issue, I want to acknowledge the House Ways and Means Committee's action that would change the deadline for submitting ERC claims. We believe this will be helpful for our tax administration work. We also appreciate the assistance provided by the House Ways and Means Oversight Subcommittee at its hearing on the ERC on July 27, 2023. The discussion and insights at this hearing helped us calibrate the right approach to this problem, and contributed to our decisions on the ERC.

IMPLEMENTING FORM 1099-K CHANGES

Form 1099-K, *Payment Card and Third Party Network Transactions*, first issued more than 10 years ago, is used to report payments from payment apps or online marketplaces and from credit, debit or stored-value cards. Congress passed legislation in 2021 lowering the 1099-K annual reporting threshold. The new threshold is \$600 per year, changed from the previous threshold of more than 200 transactions per year when those transactions exceed an aggregate amount of \$20,000. Reporting requirements do not apply to personal transactions such as giving birthday or holiday gifts, sharing the cost of a car ride or meal, or paying a family member or another for a household bill.

The IRS delayed the effective date for the new threshold in November 2023, for a second time, in response to continuing concerns from taxpayers, tax professionals, and payments processors. The additional time is necessary to help reduce confusion among taxpayers and provide more time for taxpayers to prepare for and understand the new reporting requirements.

It will also allow the IRS to make the necessary updates to the tax forms for 2024 that will make the reporting process easier for taxpayers. For tax year 2024, the

IRS plans for a threshold of \$5,000 as part of a phased-in implementation of the \$600 reporting requirement. As we go forward, we will work closely with third-party groups, tax professionals and others to find the smoothest path to ensure compliance with the law.

CONCLUSION

Chairman Smith, Ranking Member Neal and members of the Committee, thank you again for the opportunity to update you on the filing season and IRS operations. The 2024 filing season is off to a strong start, and, assuming the agency receives adequate funding going forward, the future holds great promise for the agency and the taxpayers we serve. As Commissioner, I remain committed to leading the IRS's transformation efforts in close collaboration with your Committee, and I look forward to working with you to achieve a more modern and high-performing IRS, which will better serve taxpayers and our nation.

Chairman SMITH. Thank you, Commissioner. We will now proceed to the question-and-answer session.

Commissioner Werfel, as you know, the House-passed the Tax Relief for American Families and Workers Act included adjustments to Child Tax Credit. You just briefly touched on that. I want to ask some additional questions to make the record reflect appropriately. But the bill passed through this committee by a vote of 40 to 3, and it received 357 votes on the House floor. As I mentioned in my opening statement, I appreciate the work your—you and your team have done to help ensure that the bill can be implemented as quickly as possible. I just want to confirm a few details with you.

The overwhelming majority of American taxpayers are guaranteed to have no adjustment to their tax liability due to the Child Tax Credit changes in this bill. In fact, can you confirm that only roughly 10 percent of households will be affected and will receive just modest adjustments to their tax refunds?

Mr. WERFEL. Yes. In fact, in looking at the numbers, if you look at the same eligible population in fiscal year 2022, it was about 22.5 million people. So that metric that you offered is in line with our understanding of how it is going to impact taxpayers going forward.

Chairman SMITH. Thank you. We worked with your team to make sure the bill did not place a new burden on taxpayers and can be implemented without delay. Can you confirm that taxpayers do not need to file amended returns to obtain the adjustments the bill makes, further speeding things up?

Mr. WERFEL. Yes.

Chairman SMITH. Thank you. There is language in the legislation requiring the IRS to process any additional returns without delay. As a matter of fact, that was language we added during the markup in this room. If the bill is passed by the Senate and signed into law, how quickly will you be able to make the Child Tax Credit adjustments for this filing season?

In other words, how long will it take after bill signage for the IRS to send out any additional refunds?

Mr. WERFEL. Well, we gave you a range of 6 to 12 weeks required for implementation from the point of enactment. The reason we give a range is because we need to see the final language. But I am committed to work diligently to make sure we are closer to the 6-week end of that range than the 12-week.

Chairman SMITH. I appreciate hearing that, Commissioner. So just to be clear, we have your commitment that the IRS will move as quickly as possible.

Mr. WERFEL. It will be a top priority to make sure that this gets done.

Chairman SMITH. Thank you, sir. In the past, Congress has asked the IRS to make changes during tax filing season. In fact, Congress has asked the IRS to make much larger changes than this bill does, like sending stimulus checks to hundreds of millions of taxpayers or creating a monthly check-sending system for the Child Tax Credit on the fly. The number of taxpayers affected here is a fraction of those affected in those other programs.

Given that, can you confirm the administrative adjustments needed to implement the Tax Relief for American Families and Workers Act are a much lighter lift for the IRS than for those other programs?

Mr. WERFEL. Yes. And Mr. Chairman, the work that we did to implement the payments that you referred allowed us to build additional capacity to make us even more ready for this change.

Chairman SMITH. Thank you, sir. Commissioner Werfel, the individual who stole and disclosed the tax information of thousands of Americans has now been punished with a sentence of five years in prison. While I am glad the judge in the case sentenced him to the maximum available to her, I was surprised that the Department of Justice only charged the individual with one count, one count of unauthorized disclosure, and no other crimes.

Did you make a recommendation to the Department of Justice on how to charge in this case?

Mr. WERFEL. No, that is not the role of the IRS commissioner. We allow and defer to the Department of Justice on prosecutorial decisions.

Chairman SMITH. Do you think one count of disclosure matches the crime committed?

Mr. WERFEL. I think that protecting taxpayer information from unauthorized access is an absolute solemn responsibility of the IRS, and I also believe that this individual betrayed the trust. He betrayed his own commitments, he betrayed IRS employees, and he betrayed the American tax people. And based—and that type of betrayal should not be tolerated. And based on what is playing out in court, it is not being tolerated because this person is being brought to justice and, as I understand it, is going to spend years in prison.

Chairman SMITH. Five years. Do you think the penalty should have been higher for this individual?

Mr. WERFEL. I don't have a judgment on that, Mr. Chairman. I rely on the court and the judicial process to play out, and I trust that the judicial process will get the right answer.

Chairman SMITH. I was looking at more of the legislative process of whether Congress should change and increase the penalties for someone who abuses taxpayer information like this situation.

I now recognize the ranking member for any questions he might have.

Mr. NEAL. Thank you, Chairman.

Commissioner, what has the IRS done to restore an element of fairness to the tax system?

And are there any new compliance pushes that you are aware of to audit high-income earners and big corporations?

Mr. WERFEL. Yes, thank you for the question.

So what happened in the period before the Inflation Reduction Act, when IRS funding was low and we weren't making the appropriate investments, is there is a variety of different areas we fell behind. And one of the key areas we fell behind is the ability to assess complex returns.

So, in situations where taxpayers had the means to hire an army of lawyers or accountants to create a lot of complexity in their return and potentially shield income, we weren't making the appro-

ropriate investments to track that, assess it, and collect it. And now we are doing just that. With the Inflation Reduction Act resources, we are focused on building our capacity around how to deal with complex returns and how to make sure there is fairness. Because if you are a taxpayer who can't afford to hire a lawyer or an accountant to help you create complexity and shield your income, then you would likely be very frustrated if those that did have the resources could do that and evade what they owe. And we have to close that gap, and we are making really important progress already in closing that gap.

Mr. NEAL. Thanks. And, Commissioner, let's talk about data security. I thought your answer in your introductory comments was on target. You want to talk about data security and the improvements that have been made in your time as commissioner?

Mr. WERFEL. Yes. I mentioned how important, in the answer to Mr. Chairman's question, data security is to the IRS. It is fundamental to what we do in ensuring the public trust.

When I got to the IRS, one of the first things I did in March of 2023 was pull the team in together and ask, what is the state of our data security environment? And what I learned was there were a lot of gaps. And one of the primary causes of those gaps was lack of investment. The under-funding that had occurred for many years at the IRS, I said, decreased our capacity in a variety of different ways, and one of those ways was to keep pace with investing in the type of technology, process change, controls to make sure that our environment was secure.

And we have spent the last year working diligently to close those gaps, and there is a long laundry list of steps we have taken to completely, dramatically change our environment, and I will point out one important one.

The inspector general, in evaluating our security environment, pointed specifically to a lack of audit trails in our system so that we can see how data is moving throughout the organization, and we can track and see if it is moving in an inappropriate way. I required, and it has now been implemented, that every sensitive system in the IRS has the very robust audit trails that the inspector general required.

Again, before the Inflation Reduction Act, we didn't have the resources to put in the work to close these gaps. And that is why it is so important that the IRS be funded adequately for its operations, not just so that we can answer the phone when people call us, not so that we can keep pace with complex returns, but we need to invest in our infrastructure and invest in our data security so events like what happened in 2017 to 2020—that that doesn't happen again.

Mr. NEAL. Yes, I don't understand the logic that sometimes is offered that, if we cut the IRS, then somehow we are going to improve compliance. The logic escapes me.

So let me give you some time here. You have got a minute and 15 seconds to talk about some of the other additions to your testimony that you might like to offer.

Mr. WERFEL. Absolutely. So I really want to amplify this point about what a funded IRS means versus what it doesn't. And we have all the evidence we need in looking at the state of the IRS

before the Inflation Reduction Act was passed versus where it is today.

And, before the Inflation Reduction Act was passed, our walk-in centers around the country were closed or understaffed with lines around the block. And now, just a few years later, we have opened 50 new walk-in centers. They are fully staffed. We are extending hours to Saturday for people who can't get to us during the week, and we are implementing what we call pop-up walk-in centers going to remote populations. So, if people want to see us in person, they now can.

A second example is with the phones. We were under-staffed by thousands of phone assisters because of under-funding. What did we do with the funding? We hired 5,000 phone assisters, put them in the call center, and, between before the Inflation Reduction Act and after, there was a dramatic change in our ability to answer the phone and help taxpayers with their questions. And the same is true for digital.

We have a whole generation of taxpayers that is going to expect, as they should, to be able to do everything they ever wanted to do with the IRS without calling us, without going into our walk-in centers. And before we were funded, our technology tools were stagnant. They weren't being updated in the way you would see either other tax jurisdictions around the world or in the financial services sector, in the retail sector. That is all changing now.

We have work to do, but now every time taxpayers come to be with the IRS and filling out their taxes or answering a question when they go to our website each filing season, they are going to see a new set of tools, new functionality, new things that they can do without ever calling us or walking into a walk-in center because we are investing and focusing our investments on how do we best serve taxpayers.

Mr. NEAL. Thank you.

Thank you, Mr. Chairman.

Chairman SMITH. Thank you. Mr. Buchanan is recognized.

Mr. BUCHANAN. Thank you, Mr. Chairman. I want to thank the commissioner for being here today.

I chaired the Florida Chamber. We had 130,000 businesses in the federation across Florida. One of the biggest issues—and I mentioned this to you a little bit earlier—is dispute resolution. And I am talking about companies with 50 employees or less, the cost of hiring accountants, and maybe you have to get an attorney and go through that whole process. It is very time consuming. Many times it will put them out of business, some of them.

But I think it has got a little bit better, but what is your mindset of where we are at in terms of—it seems like we want to get a fair deal for the IRS, for the country, but then resolve as many of these disputes as we can. Some of them claim they are out there a year, six months, eight months. It ties up their energy, their time, and their enterprise. And you mentioned that, you know, the big corporation is one thing, but small business and individuals, as well, but I am just focused right now on small business.

Mr. WERFEL. Yes, I really appreciate the question, Congressman.

I haven't mentioned it yet, but one of the things that guides me in the job is the taxpayer bill of rights. I have it framed above my desk. I have it with me today. It is kind of like—some people carry around their pocket constitution; I carry around the taxpayer bill of rights because it is so important that in everything we do we are guided by it.

And one of those rights is the right to speedily resolve your issues. And I want to make the right investments so that we are doing that. And that is a multi-pronged set of solutions. It is, for example, having clearer notices, clearer guidance. So, if the law is complicated, the IRS is translating it clearly so there—we never get to a dispute. It is doing outreach to small businesses with training and webinars. We are investing to what are your questions and how can we help you. And then it is hiring more people and working to make sure that there is no dispute resolution that is taking too long.

Mr. BUCHANAN. I only got a few minutes.

Mr. WERFEL. Yes.

Mr. BUCHANAN. I got a couple of things I want to get through. Identity theft—

Mr. WERFEL. Yes.

Mr. BUCHANAN. It was a huge issue. Again, it seems like it is organized groups and stuff is still out there. Where are we at with identity theft now? Because I had a lot of people in our region in Florida where their identity was stolen, the tax returns were filed on behalf of the thief or whatever, or some organized group. Where do you—what is your sense of where that is at?

Mr. WERFEL. Well, it is critical, and it is a top priority. I mentioned top three things we want to do under the Inflation Reduction Act, and one is prevent people from being victimized.

And this is a mixed story. I wish it was all good. We have made significant progress in preventing identity theft, working with private sector partners in what we call our security summit. We now prevent 98 percent of identity theft attacks, if you will. But, in the case where there is a victim, as was recently pointed out by a taxpayer advocate report, we are not resolving those issues quick enough. And so it is a priority going forward that—not only to continue our strong performance in preventing identity theft, but also when it happens and there is a victim, to raise our game and make sure that we are providing that victim assistance in a much more robust way.

Mr. BUCHANAN. Yes, let me ask you one other thing. In terms of customer service, I know you touched on that, just talking to accountants and things locally. And it does seem like—I want to give you a little credit—it seems like things have gotten a little bit better. But still, they are on the phone for an over an hour, they are aggravated. You know, being someone that is in business, you want to take care of those folks as quickly as you can, at least in terms of answering the phone, get their questions answered.

And you touched on it in your early testimony, but where is your sense of where that—we are going to get to a point where we can answer the phone quicker and try to get them—

Mr. WERFEL. Yes.

Mr. BUCHANAN [continuing]. A little bit more help from a quicker stance?

Mr. WERFEL. So on our main phone line, which is where most of the volume comes, we are at an 85 percent level of service. But there is more to do. There are other phone lines that we need to continue to work on and improve. And let me give you an important example of what we are doing.

I don't ever want to hear about someone waiting on the phone for an hour. That is heartbreaking, frustrating, but it is also a rallying cry for us. One of the things we have done this year is we have instituted a call-back option. And what that means is that—the way we are engineering our call center now, if your wait time is going to be longer than 15 minutes, we will introduce into the phone, hey, you can—we can schedule a call-back option so you can hang up, no longer listen to elevator music, and we will call you back.

These are the types of improvements—I know this happens in your everyday life when you are on any other call center in the retail industry and otherwise, banking industry. We have some catching up to do. But because we have funding, we can make these investments. And these are really helpful to taxpayers because now, if they have got a baby crying or something, they can hang up and get a call-back option.

Mr. BUCHANAN. Thank you, and I yield back.

Chairman SMITH. Mr. Doggett is recognized.

Mr. DOGGETT. Thank you very much.

And thank you, Commissioner, for the efforts that you and your team have made to address many of the problems that have been created over the last decade, prior to the last Congress, by those who seemed intent on ensuring that IRS would fail by cutting the budget again and again, and continually attacking and stirring public dissatisfaction with the IRS.

As I understand your testimony, we have gone from a low of 15 percent satisfaction to 85 percent satisfaction, is that right?

Mr. WERFEL. That is correct.

Mr. DOGGETT. I remember having not only complaints from constituents before we provided these funds, but even from CPAs and tax preparers that had a special line that—kept holding in the very way you said they are not today. And you could not have had these successes and your team could not have had these successes without the additional funding you were provided by the last Congress. Is that correct?

Mr. WERFEL. That is correct.

Mr. DOGGETT. Of course, the other area that is very important to me is enforcing our tax laws so that the many people that are out there that are paying their fair share are not abused by those who refuse to do so.

And the data that I have seen suggests that audit rates for large corporations in the decade prior to the last Congress were cut in half, and that the audit rates for those who earned over \$1 million per year were cut by about 70 percent, that the top 1 percent was getting away with not paying an estimated \$160 billion in taxes each year.

I know that you reported progress being made on tax enforcement earlier this year and a significant increase in revenue as a result. Were the people that you were after, were they the kind we hear about in some of these campaign speeches that, you know, just had honest mistakes and left a little off their return, or were they true tax cheats?

And can you give us some examples?

Mr. WERFEL. Yes. I can't emphasize this enough, Congressman: Our focus, our priority, and our agenda under the Inflation Reduction Act is to increase scrutiny for complex filers, wealthy individuals, large corporations, and complex partnerships that are evading their tax responsibility. It is not our intent to increase scrutiny and invest this money on a new wave of audits for middle and low income. That is not going to happen under my watch, and we will be able to publicly report that so that you can hold me accountable for that.

With respect to high wealth, there are a lot of different things we are doing to start to catch up and close the gap that has been there for too many years. And one of the things that we can report immediate results on—because often these enforcement actions take time. But there are some things we are doing that should give the American people confidence that we are using this money smartly and in a way that is creating fairness, and that is going after millionaires and billionaires who are delinquent on owed taxes. And this is—this should frustrate people. These are millionaires and billionaires who have been assessed a tax due and are delinquent in paying it. And we have so many honest Americans who pay their taxes on time, and these millionaires and billionaires are not.

So we have created this high-risk list of 1,600 of these individuals, and we have started to go get the money back. And, so far, in the early stages of this effort, we have already collected a half-a-billion dollars. And that is just scratching the surface. So that should give you a sense of how much inequity there is and how much, if we stay on this path, we are going to be able to close that inequity gap.

Mr. DOGGETT. And, if I understand, to stay on this path you have indicated that you need about another \$800 million this year.

Mr. WERFEL. Yes, and that is an important point about our budget. And I will just—if I could just say it briefly, we are—we have a base budget to fund our ongoing operations, keep the lights on, and then we have the Inflation Reduction Act, which is modernizing and helping us build capacities.

Our base budget is insufficient to run the daily train schedules. And what that means is we have to borrow from the modernization fund just to keep the lights on. And, if we keep doing that, we won't modernize. We will keep the lights on, but we won't build these capacities that are so important to help taxpayers.

Mr. DOGGETT. And I believe the Treasury, just within the last two weeks, has estimated that as much as \$561 billion could be collected over the next decade from wealthy and corporate tax cheats that you are focused on. And yet, unfortunately, our Republican colleagues on this committee and elsewhere seem to have no higher priority, as indicated by the first bill they passed in this Congress

and their efforts at every time we get up to the brink of disaster here, that they want to cut the very funding you are relying on to see that these corporate and high-wealth tax cheats are treated the same way and pay their taxes the way most Americans do.

I just want to thank you for your efforts, and we will do all we can to resist the efforts to undermine the progress that you are making.

Chairman SMITH. Mr. Smith is recognized.

Mr. SMITH of Nebraska. Thank you, Mr. Chairman.

Thank you, Commissioner, for being here today. I want to certainly register the fact that my office continues to receive input from constituents that they are not getting their questions answered from the IRS. I realize you are touting an 85 percent efficiency level and that everything is just amazing at the IRS.

I continue to have concerns that the \$80 billion in IRA funding is not giving us the results, perhaps, that were promised.

Also, certainly there is a lack of candor, I believe, from the Administration about how the funds are actually being utilized. I am particularly troubled that the Administration continues to implement policies across numerous agencies, regardless of whether it is legislated authority or not. Student loan forgiveness, critical mineral agreements, and the recent changes to the 1099-K requirement from ARPA are all examples of this kind of executive overreach.

The development of the IRS's direct e-file system also appears to fit that description. While IRA, the BIL, so-called Inflation Reduction Act provided \$15 million to conduct a study of direct e-file and enumerated the study's parameters, it provided funding for only nine months and said nothing about actually implementing that system. The nine months authorized for that study have now lapsed, as I am sure you are aware.

Can you tell me explicitly what authority the IRS relied on to create an entirely new government-run system of filing taxes, since the law only provided authority to conduct a study on direct e-file—on the direct e-file system?

And I am not looking for other examples of the IRS helping people file their taxes. I get that. I want specific language from the Federal code authorizing the particular pilot.

Mr. WERFEL. Yes, absolutely, Congressman, I appreciate the question.

So we do have a responsibility and an authority to offer taxpayers different approaches for how to meet their tax obligation. I can give you the exact statutory cite for that. What is critical about the direct file solution is that it is an option. There is no mandate for anyone to use this solution, should they choose.

Mr. SMITH of Nebraska. But you are saying there is direct authority to do so?

Mr. WERFEL. There is direct authority to implement the tax system in a way that provides tools and solutions for taxpayers to meet their tax responsibility.

Mr. SMITH of Nebraska. Generically speaking, but—

Mr. WERFEL. Yes, well, paper, electronic, calling us on the telephone. Not everything is delineated precisely in law.

So, for example, if we create an Adobe version of the tax form that you can fill in online, we have done that. There is not a specific legal authority to do that, but there is a legal description of the commissioner's responsibilities. And one of those responsibilities is to provide taxpayers with avenues for how they can meet their tax obligation. And this is just one avenue. It is not a mandate, it is an option.

Mr. SMITH of Nebraska. Well, I understand that, which—may not be a mandate, but does not always mean there is the authority to do so. And I would argue that that is the case right now. I am specifically troubled by the claim that there is that authority there when I don't believe that there is.

But let's go back to the topic I have discussed with you and Secretary Yellen previously on multiple occasions, and that is audits targeting families earning less than \$400,000. I continue to have concerns that, despite the claims from Secretary Yellen and others, that the Administration cannot and will not fulfill its promise about audit targets and also meet its claims about increased revenue.

Last year you said, in response to a question for the record, that the IRS is committed to ensuring that none of the funds provided by the IRA will be used to increase audit rates for small businesses and households making less than \$400,000 annually, "relative to historical levels," and that is a quote. The phrase "historical levels" means something higher than the current audit rates. Is that accurate?

Mr. WERFEL. No, it is not accurate. We have been public—I don't think. Let me tell you what the current situation is.

Tax year 2018 will be the base year that we will utilize to make sure that the audit rate—

Mr. SMITH of Nebraska. Okay.

Mr. WERFEL [continuing]. For those that earn less than 400,000 does—

Mr. SMITH of Nebraska. Okay—

Mr. WERFEL [continuing]. Not exceed that—

Mr. SMITH of Nebraska. Reclaiming my time, because time is—

Mr. WERFEL. Sorry.

Mr. SMITH of Nebraska [continuing]. Of the essence here, I would like to learn more about that.

But I would also like to know if the IRS can provide us with a distributional table for the \$561 billion and the \$851 billion estimates of revenue generation, and do you know when we could plan to see that?

Mr. WERFEL. Well, we have a public report on that. So I would be happy to engage with your staff to understand what are the specific questions or additional layers of information beyond the public report.

Mr. SMITH of Nebraska. How did you decide to choose 2018 as the year to establish the historical rate levels of audits?

Mr. WERFEL. Well, in large measure because it is a historically low rate, and we wanted to assure the taxpaying community that the Inflation Reduction Act would not be used to increase the audit rate among middle and low income. And so we chose 2018 as a his-

toric low rate to provide additional assurances. And we wanted to be specific so that we can be transparent and hold me to account and the IRS to account because each year we publish our audit rate in our data book.

So you can go into our data book right now and see exactly what the audit rate is for 2018. And then, when we finish with tax year 2023 and the audit rates are complete, you will say, oh, let me see, did they meet their mandate? And it should be all public.

Mr. SMITH of Nebraska. Okay. You mentioned earlier that you have generated about \$500 million—half-a-billion, I think, in your words—of revenue from about 1,600 targeted taxpayers. That would be, on average, just over \$300,000 per taxpayer. How many resources, the dollar figure of the IRS, taxpayer dollars do you think it would take on average to reach that level?

Mr. WERFEL. I would have to get back to you on a specific, but it certainly has a very positive ROI in general, and this is something that the Congressional Budget Office has publicly reported, that in general we returned \$6 for every \$1 invested. So, on average, you should expect about a one-to-six ratio. So we spent a sixth of those resources to get the job done.

Mr. SMITH of Nebraska. Thank you.

Mr. WERFEL. On average.

Mr. SMITH of Nebraska. Thank you.

Chairman SMITH. Thank you.

Mr. Thompson.

Mr. THOMPSON. Thank you, Mr. Chairman.

Commissioner, thank you for being here. First, congratulations for the work the IRS has done over the past several months.

As the ranking member, Chairman [sic] Neal mentioned, Democrats on this committee made an historic investment in the IRS last year when we passed the Inflation Reduction Act. Since then, I can tell you I have heard from my staff in all three of my district offices how well they are working with the IRS. They have contact with your office hundreds, if not thousands, of times a year. And they tell me that the IRS is noticeably, significantly smoother than they have ever been before. You are responding faster. Your responses are better. People answer the phones. My staff find the taxpayer advocates to be reliable and helpful partners as we try and work with our constituents.

I have personally worked with you and with your team on specific issues, and I want to thank you. I have always found you to be helpful and your team to be professional and very well prepared.

Unfortunately, the majority seems to think that the IRS budget is a slush fund to pay for every program that they want to pass and put into law, and I have lost track of how many times they have tried to use the IRS budget to offset spending, despite reams of evidence proving that IRS cuts actually increase the deficit. I believe the only reason to work to cut the IRS budget is to either make consumer services worse or to make cheating on your taxes easier.

I understand people don't like paying taxes, but this is how we fund our civilized society and the many programs that our constituents care about. So, while we can disagree about tax policy, on the

specifics, we ought to all agree that—on a bipartisan basis, that people should follow the law and pay the taxes that they owe.

Commissioner, when IRS funding is cut, what happens to our deficit?

Mr. WERFEL. It goes up. In fact, for every \$100 million taken from the IRS, the deficit grows by 600 million over 10 years, and that is because—

Mr. THOMPSON. Six hundred million.

Mr. WERFEL. Six hundred million.

Mr. THOMPSON. Increase in our deficit.

Mr. WERFEL. For every 100 million cut—

Mr. THOMPSON. Right.

Mr. WERFEL [continuing]. It is a \$600 million increase in our deficit.

Mr. THOMPSON. So, when the IRS funding is cut, is it harder or is it easier for people to cheat on their taxes?

Mr. WERFEL. It is easier. And let me just—if I can go through, \$100 million, what that buys you at the IRS, 700 audits of high-income taxpayers, millionaires and billionaires; 200 audits of complex partnerships; 100 audits of large corporations; 32,000 collection cases of wealthy individuals; and on and on. And that is just from the 100 million. So clearly, it has an impact.

Mr. THOMPSON. Thank you. One thing that hopefully we can agree on on both sides of the dais is modernization. Can you talk a little bit more about how you have used Inflation Reduction Act investments to modernize?

Mr. WERFEL. Yes, absolutely. There is—you know, one of the things that inspires me, Congressman, is before the Inflation Reduction Act there was a famous picture in the Washington Post of our cafeteria in Austin, Texas filled with unreviewed returns in paper. That cafeteria is now clean, people are eating in it rather than us storing tax returns. That is because we are aggressively digitizing and scanning all of our paper as part of our initiative to go paperless.

This is important not because it is more efficient and more secure, but it means that we are going to process more quickly. And one of the things that is going on due to our modernization is we have significantly reduced the ongoing backlog of returns and correspondences.

Mr. THOMPSON. Thank you. I would like to just take a moment to talk about the investment in climate change in the IRA. This was the biggest investment in climate work in the history of our country. How would you describe the rollout so far, and how would you characterize the uptake on tax credits like EV or solar credits?

Mr. WERFEL. Yes, we have had a successful launch. In January, we launched our portal, our IT solution that allows those that are eligible for credits related to the manufacturing and the transactions associated with electronic vehicles. And, like any new solution, there are certain things that we could do to make it better and improve the customer experience. But overall, it has been robust participation, and the system has performed as expected.

Mr. THOMPSON. Thank you.

I yield back.

Chairman SMITH. Mr. Kelly.

Mr. KELLY. Thank you, Mr. Chairman, and thank you for conducting the hearing today.

Mr. Werfel, it is good to see you again.

Mr. WERFEL. Good to see you.

Mr. KELLY. I think some of the questions revolve around this. We do telephone town halls, and we did one a little bit over a week ago. And, when we do IRS town halls, it just seems like we can't be on the phone long enough. And the IRS provides people, and the taxpayer advocate is there on the phone with us.

But I don't think there is anything more complicated than what we are talking about today when it comes to the IRS, and the rules, and how it works, and who is paying fairly, and who is taking advantage, and it goes back and forth. I wish we could just get to a situation of is this a program, is this an agency that runs in the best interest of the people who fund it and the same people who fund everything else in our government? And that is hard-working American taxpayers.

I have got to tell you, from a standpoint of formerly being in the private sector, and have—while I was present, I was not in the operation at the time of going through the early days of the pandemic. And one of the things that came out, which was a really good idea, was the Employee Retention Tax Credit program.

However, we continue to look at programs and we tend to look at hold-ups in it. My son runs our business, and I talk to him on the phone about it quite a bit. He said, "I think the biggest thing would have been had employers been able to get some help or some counsel on how that was working, or how it was supposed to work, how they could do that." But we look back on it now and we are trying to find out what is going on with that program?

And, while there is all kind of different figures floating around about what it has cost, I would just caution people to say, you know, any time we say it costs the government, we keep in mind that it actually then gave taxpayers a break on what comes out of their wallet, knowing that they provide every single penny, either with their wages or by cosigning a loan to fund this incredible operation.

So, when it comes to the IRS right now, and ensuring that small businesses receive their ERTCs, how—what is the oversight in that, and how can you help us with that? Because I have a number of friends, and I met with our former representative, Billy Long, the other day, who is concerned for a lot of the people that he still works with—is the fact that there is confusion on what quarter is being funded, and what is the timeline, and what is ending, and what is still in operation. And where should we go from here?

Mr. WERFEL. Well, first of all, I appreciate the question and the way you worded it, because—how you can help.

One of the things I have learned early in my tenure here at the IRS is that we can't do this alone. Implementing the tax system is a partnership. It is a partnership with IRS and tax professionals, tax payers, Congress.

The ERC is an incredibly complicated program. It was critical and played a critical role. We issued 3.6 million ERCs to date, and it was an economic lifeline for people that that needed it.

What happened is the further we got away from the period of eligibility—because the demonstrated loss that you have in order to claim eligibility ended on December 31, 2021. The further we got away from it, the more aggressive promoters and marketers started, in my opinion, taking advantage of honest small businesses and getting them to believe that they were eligible for a credit they truly weren't eligible for.

So 18 months, 19 months, 20 months after that period of eligibility, the number of ERC credits coming in to the IRS was actually increasing 50,000 a week, 60,000 a week, 70,000 a week. And we started to realize that there were so many ineligible claims in what was coming in, it was getting harder and harder to separate what is ineligible from eligible. And that is why we issued the moratorium in September of 2023, because we wanted to slow the flow of these credits coming in, and make sure that we were not paying out fraudulent claims.

And so what we announced is we are going to have to slow the process down to protect taxpayers—not just taxpayers—the financial bottom line, taxpayers don't want us spending out fraudulent claims,—but also protect small businesses who may have been taken advantage of by these aggressive promoters.

Mr. KELLY. Well, I appreciate that, but the guidance is the key to all these things as we go through it, and these are very complicated issues. But there are people who filed believing that this was going to be taken care of. And it is—you are on hold, you are on hold, you are on hold, and you don't know. It makes it very difficult for people then to actually file their claims at the end of every year.

Just one thing, cover it real quickly. The direct file program. So we have had people in the private sector running this, and I think we have had great success with it. Why did the IRS get involved in this?

Mr. WERFEL. Yes.

Mr. KELLY. And what is it that we are trying to achieve?

And listen, you are down to one second. I don't expect an answer that quickly. But if you could get back to me on that—

Mr. WERFEL. Absolutely.

Mr. KELLY. because I think it is a legitimate question of if we have all these available already through the private sector, and we are talking about being—money being well spent, well, I think it is already there for people. I don't understand what role the IRS would have in that. And I question—

Mr. WERFEL. I am happy to—

Mr. KELLY. I don't question the fact that you think you could help. It is already there.

Mr. KELLY. Thank you. I yield back, sir.

Chairman SMITH. Thank you.

Mr. Pascrell.

Mr. PASCRELL. Good morning, Mr. Chairman. A lovely day in the neighborhood. [Laughter.]

Mr. PASCRELL. Commissioner Werfel, you have been a breath of fresh air to me. We had some problems with the last guy who sat in your seat. Welcome back.

After years of chaos, a very new day at the IRS. Last month—you already talked about it—the IRS announced it had recovered \$485 million from only 1,600 millionaires. The question of fairness in the tax system is at hand. We all have different opinions about it. But I believe—or else I wouldn't say it—I believe that you are there to oversee fairness.

The guy next door to me, where I live in my house in New Jersey, if he doesn't pay his property taxes and the guy on the next block from us doesn't pay his property taxes, people understand now that we are going to have to pay higher property taxes unless some other kind of revenue was found. It is tax fairness. Pay what you are supposed to pay, and people will complain less.

People believe many times, Mr. Werfel, Commissioner, that they are being shafted when it comes to figuring out tax policy. And I think you and I have an obligation to address that day in and day out. The tip of the iceberg. Last week, we learned that we will recover at least \$560 billion from rich tax cheats after the next decade.

So you have been portrayed—the group, the agency you work for, has been portrayed as, oh, they are coming after you. See, create fear that you are the bad guys. And Lincoln dealt with that during the Civil War very honestly. If money was going to be used for the war, how would the towns throughout the America, you know, build their roads, their hospitals, their schools et cetera, et cetera? That is why we have a big argument over SALT.

I hear from my own neighbors you are now answering our calls. Refund checks are going out faster. These successes are because of, I think, your leadership and because of historic funding passed by Democrats, mostly, to make the IRS work for regular Americans. Wow.

I remind everyone every single Republican in Congress voted against the Inflation Reduction Act and against funding for the IRS to do its job. I mean, the facts are the facts. As Tom Suozzi would say, the facts are the facts. Members of the other side have made IRS funding their white whale to be harpooned at any cost. They have clawed back one quarter of the historic funding. Like the shark in Jaws, they want another bite. The Congressional Budget Office has estimated that that funding that I believe Republicans stole away will cost the American people double, nearly 400 billion—nearly \$40 billion, excuse me.

So I have a question for you. Millionaires and billionaires need to pay their fair share. I think everybody will agree up here. I think; I am not sure. What is the IRS doing to audit high-net-worth individuals and tax cheats?

Mr. WERFEL. Congressman, it is where we are focused, and we are taking multiple different steps.

First of all, we are hiring additional accountants, auditors, and where they are being deployed. And where we are shifting our audit workforce is to make sure that we are focusing efforts on high-wealth individuals, because that is where we think we have a growing problem of tax evasion, and we need to address it.

We are deploying technology differently. We are using analytics and AI to better understand how money moves in these very complicated arrangements. You know, whole—you know, companies

with subsidiaries and subsidiaries to those subsidiaries, money moving across international jurisdictions, understating their profits in the U.S., doing all of these things that are difficult to track. And we are investing in subject matter, expertise, people, technology, analytics, all so that we can catch up and make this fair because we should be able to have equal ability to assess the guy down the street's taxes as your taxes.

And if you're middle and low income, mostly your taxes are fairly simple, and we have the means and the capacity to assess it. Where we have lost the capacity is for the complicated situations. And, when we are underfunded, that gap grows. And so, as long as I am commissioner and the funding is available, where I am going to focus is on the gap where the tax returns are complicated and where the evasion is expanding.

Mr. PASCARELL. Thank you, Mr. Chairman.

Chairman SMITH. Mr. Schweikert.

Mr. SCHWEIKERT. Thank you, Mr. Chairman.

Mr. Commissioner—and forgive me, because I am assembling some of the numbers right in front of me because, as the chairman spoke—I have a fixation that the adoption of technology is the ultimate solution here. It is the solution for the left that wants more tax receipts, and for those of us who want a friendlier, more efficient and, you know, effective IRS.

You before made a comment that, hey, it is six to one, but I am looking at—and this is even from the preliminary data from—Representative Pascrell actually asked for a CBO report, and your press release that you took in 520 million, but I am looking at your cost. I actually see you—for every dollar it costs you \$10.96. Now, I accept there is capital expenditures in there, and over time they will be amortized out. But most of the IRA funding looks like it has gone towards operations and consultants.

In the conversations you and I have had, my fixation is the only way you get that—because that is completely opposite than our discussion before. Right now, costs are actually fairly high for those additional dollars. The adoption and the purchase of technology, the use of commercial databases to ping off to [inaudible] something—should dramatically lower your cost of collections and make your collections much more efficient, fair, open.

Tell me the story. Am I off base? Is it we have to hire armies of people, or is technology my nirvana?

Mr. WERFEL. Well, first of all, I can assure you that investment in exam and audit has a positive return on investment.

Mr. SCHWEIKERT. Well, Mr. Commissioner, I am looking at the CBO's numbers—

Mr. WERFEL. We should—

Mr. SCHWEIKERT [continuing]. And your own press release numbers.

Mr. WERFEL. We should—

Mr. SCHWEIKERT. And they—I am getting—basic division I am pretty good at.

Mr. WERFEL. I am happy to—

Mr. SCHWEIKERT. So I would be happy to have—

Mr. WERFEL [continuing]. To walk through the math with you.

Mr. SCHWEIKERT. I would be happy to get your report.

Mr. WERFEL. To answer your question on the technology, it is essential. The whole effort underway is really about modernization, and that—it is at every level. Technology is going to help us process quicker and more efficiently, more accurately, and more securely. Technology is going to help taxpayers have an easier time with—

Mr. SCHWEIKERT. So—

Mr. WERFEL. It is going to take them less time to do their taxes. It is—and hopefully be less expensive.

Mr. SCHWEIKERT. In my—so what can I do, as the person here on this panel who is absolutely fixated, what do I do to help you get there?

Mr. WERFEL. Well, first of all, we would appreciate your peer review of our technology plans. And I know my team has already briefed your team.

Mr. SCHWEIKERT. Yes.

Mr. WERFEL. But we should regularly—

Mr. SCHWEIKERT. And I have to—and I can't believe I am saying this—your team has actually been great in communicating with me.

Mr. WERFEL. That doesn't surprise me, but my point is that we have a lot of different opportunities to advance technology at every level: our website, the tools that taxpayers have—

Mr. SCHWEIKERT. The chat for call-ins.

Mr. WERFEL. The chat function, yes.

Mr. SCHWEIKERT. And I wish—at some point I would love you to talk about your experiment last cycle and the expansion of that this tax season.

Mr. WERFEL. Yes, we are adding chat functionality, whether it is automated chat so you are talking to a computer and then it advances, if the computer can't answer it goes to live chat, these are just—these are standard activities in the private sector and in many other public sector call centers. We are just catching up, and we are catching up because we now have the funding to modernize versus just keep the lights on.

Mr. SCHWEIKERT. Is there—and, if I am wrong, don't tell me, everyone else tells me I am wrong—but that adoption of technology should dramatically change your structural cost of collections.

Mr. WERFEL. Correct.

Mr. SCHWEIKERT. And that is my hope because, you know, on our side we fret over the 80 billion, and was that going to be hiring people or was it going to be hiring efficiencies. And, you know, for my Democratic colleagues it is going after wealthy people. But—and I do look forward to your staff providing me, because you have taken in, in your own press release, 520 million. And I see a cost from, actually, that press release and the Pascrell preliminary CBO audit, of 5.7.

The last thing I am going to ask you, just because we get a lot of inbound on this, on the employer retention—

Mr. WERFEL. Yes.

Mr. SCHWEIKERT. I accept that has been just what it is. Please, guidance as fast as you can so—whether it be the small business, whether it even be the promoters, everyone sort of knows what the rules are, knows what the timing is, and knows how to

close this out. And I know you have to run things by armies of lawyers and those things. Buy them caffeine. Get it done.

Mr. WERFEL. Let me just, if I could, we have a special section on Irs.gov just on ERC, what to look out for, do's and don'ts, why you might be ineligible. We did a webinar on February 8 that had 8,000 registered participants, and we are running an educational series all over the country. We are doing as—we are doing a lot. We obviously could be doing more, and so we are willing to, obviously, listen to ideas about how we get out there and talk to people about this program and make the entire process clearer.

Mr. SCHWEIKERT. Yes, I think the question is also the processing time of what is eligible—

Mr. WERFEL. Yes.

Mr. SCHWEIKERT [continuing]. Not eligible, and just when does it sort of get there.

And with that, Mr. Chairman, thank you.

Chairman SMITH. Thank you.

Mr. Davis.

Mr. DAVIS. Thank you, Mr. Chairman.

First of all, Commissioner, let me welcome and thank you and the Internal Revenue Services for its outstanding success in ensuring a fairer tax system in which the wealthy and well-connected pay their fair share.

I want to make you aware of the outstanding work of the Chicago taxpayer advocate service. I am grateful for [inaudible], Katrina Britt, Arlene Merritt, Fred Tavarez, and the rest of the Chicago team who have used their expertise to help my constituents. I also thank Robert Chapman with the D.C. Legislative Affairs team for his assistance.

As you may know, I helped champion many of the key 2021 EITC and CDCTC enhancements like lowering the EITC age to 19 for all workers, or 18 for foster or homeless youth, and giving working parents up to \$8,000 for child care expenses. I would like to work with you to better understand the patterns and the use of those credits to inform efforts to restore them.

For example, how many younger workers got the EITC in 2021 who are excluded under current law? Or how many foster homeless youth used their provisions? Or how many more working parents benefitted from the refundable CDCTC who would not under current law?

Do you have any updates you can share with us about who benefitted and how from the 2021 Earned Income Tax Credit and CDCTC enhancements compared to other years?

I am proud that I helped to lead the effort to make the VITA program permanent. I know that the Internal Revenue Service's IRA Strategic Operating Plan Initiative 1.9 includes the goal of expanding the coverage and scope of the VITA and TCE free tax preparation programs. Have any specific strategies been identified for accomplishing that goal?

And how has the IRS involved VITA and TCE organizations in developing those strategies?

Mr. WERFEL. Well, thank you for those questions, Congressman.

On your data question, we have now awareness of that question, and our research and analytics team is working to get you an answer as quickly as possible.

I will say—and I will connect your first question to your second question—we know that there are people eligible for Earned Income Tax Credit that are not claiming eligibility. They are not claiming eligibility because they may not know about it, they might not be claiming eligibility because they are intimidated by the complexity of the eligibility formula. They just need help. And so we can do more outreach and working with community partners to make sure that people are aware of this benefit and are getting the help they need.

You mentioned our volunteers for both underserved populations and the elderly. I would love to grow those programs, working with local communities on what we call Taxpayer Experience Days, having more and more of those around the country with an educational campaign around what you may be eligible for, and then with free help available to sit with you and walk you through. I have been to one of these volunteer sites in Baltimore, and it is an amazing experience to witness these volunteers there with taxpayers who would have not otherwise gotten the help they needed. And they are just very appreciative, and the volunteers are passionate about helping people get the benefits they are eligible for.

Mr. DAVIS. Thank you very much, and I look forward to working with you.

I yield back, Mr. Chairman.

Chairman SMITH. Thank you.

Mr. LaHood.

Mr. LAHOOD. Thank you, Mr. Chairman.

I want to thank you, Commissioner Werfel, for being here today and for your service.

I am the chair of our Subcommittee on Work and Welfare that oversees a number of different Federal programs. One of those is child support. And I want to focus my questions on child support enforcement. And, as you know, the CSE program works with the IRS on collecting child support for non-custodial parents to help children and families to get the money that they deserve through your program, which is the Federal Tax Refund Offset program. This is a vital source of income for millions of families across the country.

In my home state of Illinois, 44,000 families and children depend on and receive \$65 million through the Federal Tax Refund Offset program. To service these families—participate in this program, many states—42 states in particular—rely on the Federal tax information through third-party contractors. And that is the way it has been done since 2004.

A year ago, without consultation to Congress and without giving us an opportunity to work with you on that, the IRS made the decision abruptly to change this policy, and this has caused a shift. Now all states and CSE programs that use contractors will be in non-compliance as of October.

So we did a bipartisan hearing in November. And across the board, people were frustrated. They were extremely—you know, there were lots of questions on why the IRS did this, and why they

are putting states in jeopardy on this. I will give you an example. The Illinois administrator of child support services, Bryan Tribble, testified right where you are at to our subcommittee that this policy change by the IRS will cost Illinois hundreds of millions of dollars to implement new systems and hire employees.

And furthermore, if states are unable to come into compliance in time by this October, their entire CSE program could be in jeopardy of losing Federal matching funds, resulting in millions of families and children losing their child support payments.

So what I am trying to figure out, Commissioner—and I would love your explanation on it—why this was done without consultation to Congress to put an equitable solution in place and possibly legislation to remedy this; and why was this sudden change done.

If you can—and by the way, the stress and anxiety this is putting these 42 states through is immense.

Mr. WERFEL. Yes, I appreciate the question. And this was an issue that was brought to my attention very early in my tenure back in March of 2023. And I, like you, had a lot of questions about the policy itself, and why we had issued it, and I immediately engaged with the Department of Health and Human Services, who runs the child support program, to understand what the IRS could do to reset the expectation across states, contractors, and others.

At this moment, that policy announcement is paused. We are not moving forward. And now we have the opportunity to do the very engagement that you are suggesting. So we have told HHS that we are going to take more time to make sure that the—that we have heard from stakeholders appropriately before we finalize any such policy.

Mr. LAHOOD. So just to clarify, the pause that you just referenced, does that affect the October 24 deadline?

Mr. WERFEL. I believe it does, but I want to get back to you with more specifics.

Mr. LAHOOD. Well, that is, obviously, very important—

Mr. WERFEL. Very important, yes.

Mr. LAHOOD [continuing]. As people are coming into compliance. I mean, do you have an estimate of how much this will cost states to come into compliance with this new policy?

Mr. WERFEL. I don't have it at my fingertips, but this is why it is so important to get this right.

Mr. LAHOOD. I mean, and just another issue that is part of the collateral damage is there are 60 federally-recognized Native American tribes that also fall into this category, too. And they are in a much more tougher position because of some of the financial and economic issues there because of this IRS policy. And so they are in jeopardy of losing access to critical child support enforcement tools, those tribes. So I want to mention that to you, and this needs to take—needs to be a priority for you and your department.

Mr. WERFEL. Yes. I want to make this commitment to the extent—and I need to go back to the office and make sure that I have the details. We did pause. To the extent it is intending to go back in October of 2024, as you mentioned, I want to talk to you about the implications of that, and I am happy to revisit that with you to make sure we are getting all the right data and feedback before we move forward.

Mr. LAHOOD. I look forward to it, thank you.

Mr. WERFEL. Thank you.

Chairman SMITH. Ms. Sánchez.

Ms. SANCHEZ. Thank you, Mr. Chairman.

And thank you, Mr. Werfel, for testifying today. I want to join my colleagues in recognizing the hard work that the IRS employees, the taxpayer advocate service, and other Federal workers put in every day to help American workers, seniors, and families file their tax returns and claim the Federal benefits that they have all earned.

I also appreciate that many Members of Congress share Democratic tax-writers' commitment to specifically improving the Child Tax Credit. Most of us recognize that the CTC is one of the most powerful tools for fighting poverty in this country, but we can all agree that the devil is in the details where that is concerned.

Unfortunately, my colleagues on the other side of the dais disagree with congressional Democrats on how generous relief for working families should be. But as a mom and a legislator, I am going to continue to fight to ensure that our nation's tax code benefits all households with children, and that means even parents or caregivers who don't even earn enough to owe and pay Federal income taxes, I believe that they also deserve some financial relief.

I was disappointed when my Republican tax-writing colleagues killed the good faith amendment that Mr. Davis and I offered on the Wyden-Smith tax bill just a few weeks ago. Our amendment would have strengthened the bill by restoring full refundability for the Child Tax Credit.

We have all seen data showing that millions of children across the U.S. could benefit from even a modest expansion of the Child Tax Credit, and I am specifically looking out for those families who earn so little that they can't claim this tax relief at all, even though they are raising children.

Commissioner, I want to thank you again for answering our questions today, and I want to talk a little bit about something that was raised earlier about the deadbeat millionaires and billionaires who are cheating on their taxes and evading their responsibility to pay their fair share.

I would say that I don't think anybody loves paying their taxes, but I think people do it if they feel like the system is fair and everybody pays their fair share. What would happen if middle-income and low-income Americans didn't pay their taxes or cheated on their taxes at the same rate that these millionaires and billionaires did? What would happen?

Mr. WERFEL. Well, I mean, the deficit would grow. I mean, the IRS—and you are right, paying your taxes isn't the—isn't your favorite activity of the year, for sure. But we fund virtually the entire government through those tax collections. And, in order to have a functioning government, whether you want that government big or small, the IRS needs to function effectively.

And there needs to be equity in our tax system. Otherwise, people will lose trust, and trust is what our tax system is built on.

Ms. SANCHEZ. Now, when you say the revenues you get fund government, that means our defense, our national defense, correct?

Mr. WERFEL. It is everything that the government does: keeping our skies safe, so your air traffic controllers; your food safe when you go to the restaurant, and you have confidence that your children are eating food that is not going to make them sick. That is all government funding, and that is all made possible if we have a functioning tax system.

Ms. SANCHEZ. Now, if the IRS could collect what these dead-beat millionaires and billionaires and huge corporations actually owe, might we be able to pay for the Child Tax Credit to be expanded, or perhaps even fully refundable?

Mr. WERFEL. There is absolutely money being left on the table in terms of what is owed versus what is paid. And this is particularly an area of focus for high-wealth taxpayers and complicated situations.

And as I mentioned, when I arrived at the IRS my question was, what are the gaps we need to close? Where are the gaps most problematic? And one of them was during our period of under-funding we had lost pace with keeping up with these complex returns, and the risk of evasion had grown.

Ms. SANCHEZ. So, if we could get these complex tax filers to pay their fair share, which I am assuming are a lot of these big corporations that have different subsidiaries and different companies and they move the money around, and these millionaires and billionaires that have sophisticated accountants and tax attorneys that could help them evade taxes, if we could collect what they owe, we could potentially expand or even make the Child Tax Credit fully refundable so that kids and babies who go to bed hungry every night in this country would be lifted out of that hunger and lifted out of that poverty?

Mr. WERFEL. I leave it to the wisdom of Congress to decide how to use the money. I just want to make sure that tax returns are complete, accurate, and what is owed is what is paid.

Ms. SANCHEZ. I appreciate your testimony today, and I thank you for your answers.

And I yield back.

Chairman SMITH. Thank you.

Mr. HERN.

Mr. HERN. Thank you, Mr. Chairman, for holding this important hearing today.

Mr. Werfel, last November two Democrat Senators in press releases bragged about the pressure they put on you and the IRS to delay implementation of the new 1099-K threshold that passed in the partisan American Rescue Plan. Both of these Senators previously voted in favor of the change. The Democrat Senators also bragged about the IRS decision to change the threshold to \$5,000, which it would seem to not have the authority to do so.

With all due respect, Mr. Werfel, and I know you are in a tough job, but this looks like you are blatantly not enforcing the law and are also unilaterally changing the law because Senate Democrats in the current Administration are having second thoughts about just how terrible this policy is that has been enacted. It is my job to provide oversight on this, and the American people do not trust this Administration. And why would they, when this Administration does not enforce a law that passed through a Democrat-con-

trolled Congress and was signed by a Democrat President? Now that we are in an election year, President Biden's Administration refuses to implement the law, and unilaterally changed the law in favor—because the law on the books is politically unfavorable and punitive to the average American.

My colleagues will touch on this, have touched on this for you, but I want to ask you a question regarding the direct e-file program that has just been recently implemented. Isn't it true that private sectors provide free return preparation services outside of the government free file program?

Mr. WERFEL. Yes.

Mr. HERN. How many—what is that estimate of how many they have done, based on your data?

Mr. WERFEL. I don't know the exact number, but the free file program has been one of the central staples of how we provide free help to taxpayers.

Mr. HERN. But it is—when you say it is free, we are actually having to fund that from your side, right? I mean, you don't—you are not—you don't have this just technology-driven, it is not AI-driven. It is driven with people in your office, offices that are actually administering this, that are—

Mr. WERFEL. You are talking about the free file program or the direct file program? So the free file—

Mr. HERN. The free file. So the—

Mr. WERFEL. Yes.

Mr. HERN. Yes.

Mr. WERFEL. Well, we work with the Free File Alliance. These are commercial software providers that have signed on to help provide a path for eligible taxpayers to use their product for free to file their taxes. That is something—and, you know, there is resources that the IRS does to ensure that partnership is as successful as possible.

Mr. HERN. So on the direct e-file program that you are doing—

Mr. WERFEL. Yes.

Mr. HERN [continuing]. You are competing directly with those corporations.

Mr. WERFEL. I don't see it as a competition. I see it as another option for taxpayers.

Mr. HERN. So you are saying that these services are provided by corporations free, and others that are doing business. So we have it there. And so when you say it is free to the American people, you are saying you are providing these services internally. It doesn't cost you anything? There is no taxpayer dollars used in your organization for administrative costs to do this?

Mr. WERFEL. No, there is a cost, and we have been public about what the potential and—cost would be.

The goal is to provide taxpayers with options and to help the taxpayers pick the solution for filing taxes that is best for them. Some will file in paper. We encourage them to file electronically. Some will hire an accountant. Some will go to the commercial software and pay. Some will go to the commercial software and try to work that in—for free.

And what we heard from taxpayers, and we heard it pretty loudly, was that there was an interest in having an option where they could file directly with the IRS for free, and we wanted to test—

Mr. HERN. But—

Mr. WERFEL [continuing]. Whether that option was viable, and that is what—

Mr. HERN. Mr. Werfel, with all due respect, isn't that the sort of the old phrase that Ronald Reagan used, "We are from the government, we are just here to help?" I mean, it is not free.

I mean, listen, we have given you billions of dollars. This is not free, for you to provide this service to the American people when—I know it might be shocking, but from the data we have gotten from these commercial companies that you have described, some were 29 million tax returns have been filed through the direct—for the free file program that they have out there, and so I just—or the direct e-file program, rather.

I just want to make sure that, you know, again, everybody thinks if the government does it, it is free. It is not free if the government provides these services. It is costing taxpayer dollars to provide that.

Mr. WERFEL. Yes. So here is how I would answer that. I would change the President Reagan statement a little bit. We are from the government, and here is an option. And if you don't want to use the option, you don't need to.

And we are just piloting it this year, a small-scale pilot. So what is going to happen is we will evaluate. What was the cost? What was the experience? Is there a demand for taxpayers? Do taxpayers want the IRS to provide this option?

Mr. HERN. Yes, Mr. Werfel, with all due respect, you know, I have only been up here five-and-a-half years, and this is the age-old thought—and this is long before you got into government and I got into government—everybody wants to talk about the Federal Government having money that it really doesn't. It has taxpayer dollars that funds our government. I think we would agree with that.

So we are using—I think it ought to be described—it is not free, it is funded by other taxpayers. And them, as well, if they are using the service, if they qualify, my guess is—I don't know what the criteria is, but my guess is to qualify for that program is that they are probably not paying taxes, and it is a refundable credit that they are getting in many cases. But I am just saying it is not free, and we should say it is paid for by taxpayer dollars.

And, you know, this misnomer that we get government services for free is just not true. It is disingenuous.

I yield back.

Chairman SMITH. Ms. Sewell.

Ms. SEWELL. Thank you, Mr. Chairman.

And thank you, Commissioner, for being here today so that we can talk about the very important relationship between taxpayers and the IRS.

Tax seasons can be very stressful for millions of American families and small businesses, and I am happy that we are taking important steps today to highlight tax filing experiences that have resulted in a more sensible, fair, and more efficient process.

The road to this point has been a long one. The IRS has had their work cut out for them, with a very long list of major implementation issues over the last decade. But today I am glad to hear that the IRS, through the passage of the Inflation Reduction Act, is improving its interactions with the public.

Last year, in this very same setting, you and I were able to discuss the well-documented reports over the last few filing seasons that recipients of the Earned Income Tax Credit faced significantly higher audit rates than other taxpayers. These findings were discussed in detail, and I appreciate our colloquy.

EITC audits are more heavily concentrated in the southeast of the United States, including many of the counties that I represent in Alabama's rural and underserved black belt. In fact, Greene County, Alabama in my district was among the 10 most audited counties in the country for EITC recipients. And I venture to guess that the median income for a family of 4 in Greene County is less than \$30,000 a year.

Since our conversation last year, you penned a letter to Congress in September of 2023 mentioning the administration of additional steps and an initial round of changes that have been made regarding the audit process for EITC. I do believe accountability is a direct result of transparency. And with that, the opportunity to ask you whether or not this initial round of changes that you highlighted in the letter to Congress has resulted in less audits on underserved communities.

Mr. WERFEL. It will. I want to start by saying it is—you know, there are certain solemn responsibilities that the IRS has that we have to meet our mission. We have to meet our mission in a way that avoids disparate impact. And, in this case, there was evidence that our audits in Earned Income Tax Credit was having a disparate impact on Black taxpayers. And we have to first acknowledge it, and now we have to fix it.

And one of the significant things that that independent study reported was driving the disparity was the volume of EITC audits. So one of the key things we have announced is a significant and dramatic reduction in the number of EITC audits planned for this coming tax year as a way to address it.

We also are testing changes in the audit selection algorithm that—we have a hypothesis will remediate the disparate impact that has been occurring, and it will take a little bit of time to validate that. We hope to update that, you know, maybe in the fall, where we have more data to make sure that we are reporting publicly that the steps we took had the impact that we wanted it to have.

Ms. SEWELL. Well, I will definitely be awaiting such a report. I think it is really important that we don't target certain populations, especially those that are underserved populations, and for something as important but not often claimed, like the Earned Income Tax Credit.

So I look forward to working with you in any way I can to help address this issue. As you rightfully said, it is a—it is disproportionately affecting African American taxpayers, and it really is unacceptable in this day and age. So I thank you for your candor, and

I look forward to working with you to see if we can reduce those numbers.

Mr. WERFEL. Thank you, Congresswoman.

Chairman SMITH. Mr. Smucker.

Mr. SMUCKER. Thank you, Mr. Chairman.

Good morning, Mr. Werfel, Commissioner.

I am actually okay with audits. We want people to pay their taxes, and there should be a random way of selecting some tax returns to ensure that there is an incentive for people to comply.

I do want to, however, get your thinking about some statements that you made this morning. You have multiple times talked about high-income earners, you have talked about millionaires and billionaires, you have talked about complex tax returns in the same sentence as tax avoidance and tax evasion. Do you believe that millionaires and billionaires are all tax cheats?

Mr. WERFEL. I do not.

Mr. SMUCKER. Do you believe that there is a reason for complex returns, rather—other than to avoid taxes?

Mr. WERFEL. Absolutely, there is.

Mr. SMUCKER. What would be some of those reasons?

Mr. WERFEL. Well, here is my understanding, that CFOs of major companies, they have a responsibility to their board and to their shareholders to find the most tax advantaged status. The concern—and they should.

Mr. SMUCKER. So it would be a problem for you if they took a legitimate tax deduction?

Mr. WERFEL. Never, no. If their return is accurate and complete and legitimate, great. But that is not the concern that we have, that is not the issue.

The issue was that, because the IRS was not auditing at—our audit rates were anemic because we weren't investing in keeping pace, that these efforts in certain cases got to aggressive avoidance and then even evasion. And I can give you examples of where it is more prolific. And that is really where we want to focus, where—

Mr. SMUCKER. Well, it is just—

Mr. WERFEL [continuing]. These efforts have been—

Mr. SMUCKER. It is troubling to me when you keep using those terms in the same sentence, as if all high-income earners—who, by the way, are paying most of our taxes—are all looking to avoid taxes, because that is not my experience with business owners, with corporate leaders. They want to do what is right. And so, you know, it concerns me.

Going into an audit, you know, everyone is innocent until proven guilty. And, if your entire organization is taking the approach that you are taking today, you are actually feeling that people are guilty before the audit is even done.

Mr. WERFEL. It was not my intention. My intention is to make sure we are increasing scrutiny on complex returns, where there is a high risk of evasion.

Mr. SMUCKER. Do you have any information on what percentage of returns on high-income earners result in no change?

Mr. WERFEL. I can get that information for you. I don't have that at my fingertips.

Mr. SMUCKER. Do you have any information regarding the change rate after audits in all income earners' levels?

For instance, you know, we know there has been fraud in those who received the Child Tax Credit. What percentage of individuals who have filed for the Child Tax Credit have done so fraudulently, compared to high-income earners? Do you have that information?

Mr. WERFEL. I believe we have that and can get that to you.

Mr. SMUCKER. Yes, could you share that with all of us?

And I just—again, I want to caution you. You know, I have a lot of people who do very well and are proud to be part of America and proud to pay their taxes. And they don't want to hear from the IRS commissioner that he thinks that all of them are cheats. So I would caution you in the language that you use.

Mr. WERFEL. Well, I would love to go on the record and say I do not believe all of them are cheats.

Mr. SMUCKER. Thank you.

Mr. WERFEL. But I do get bothered when we see evidence of evasion—

Mr. SMUCKER. In your testimony you have also characterized partnerships in the same way. That is deeply disturbing. You have said increased audits of partnerships is important because it—apparently in your mind, partnerships for some reason are a category that is cheating more than others.

Mr. WERFEL. Congressman, what we are trying to do, actually, is bring our audit rate back to historical norms. It has been anemic. And I do believe that when we are not doing the requisite amount of audits, when we are not showing that we are ready to enforce, that that does increase the risk of evasion, and that is what we are focused on.

Mr. SMUCKER. I don't—you know, Congressman Sewell just mentioned targeting specific populations. I think that should go across the board.

Mr. WERFEL. I agree.

Mr. SMUCKER. I don't want IRS to target any population. I think in all categories most people want to pay their taxes and are doing their best to comply with the law. And so I hope—

Mr. WERFEL. I agree with that.

Mr. SMUCKER. I hope what you are doing is a randomized targeting, a randomized looking at audits or at returns to ensure that everyone is complying to the best of your [sic] ability.

Mr. WERFEL. We are looking for spaces where we think evasion is proliferating and trying to hold people accountable for what they owe. A lot of—too many of these organizations are shielding their income. That doesn't mean they all are. That means that there is more work to do for the IRS to make sure people are paying what they owe.

Mr. SMUCKER. Thank you. I am out of time.

Chairman SMITH. Thank you.

Mr. Ferguson.

Mr. FERGUSON. Thank you, Mr. Chairman.

And Mr. Werfel, thank you for being here today. I want to start with doing something that we probably don't do a lot on this side, and I want to thank you for your help. When you were here last time you gave us—you gave me your word that, if we sent some

tough cases that had had no movement, that you would help with those. And thank you for doing that. I have another long list that I may just send your way, because when you speak, the rank and file under you seem to move. So I just want to say thank you for the help on those other cases.

Two things I want to touch on. Number one, the problems in the Employee Retention Tax Credit have been well documented and well discussed here today. This committee, in a bipartisan way, along with the House, passed a pretty significant piece of legislation the other day. And at the heart of it was dealing with the Employee Retention Tax Credit. Can you speak to how important that legislation was into preventing the fraud and helping the IRS work through the legitimate claims on that? Can you speak to that, please?

Mr. WERFEL. Yes, I mean, it is—the legislation that is under consideration, for example, that would prohibit ERC claims from coming in after a date certain.

And one of the things that impacts our ability to make sure that we are getting to the eligible claims amongst the ineligible is the size of the inventory. And the more our inventory is flooded with ineligible claims—and right now we are still—like, we—once we issued the moratorium, the influx of claims dropped in half. But it is still—I think we got 17 to 20,000 last week. So we are still—that inventory is growing, and it is growing with a lot of ineligibility.

So we are—putting a—helping us pause the incoming at this point so we can find those that have submitted that are eligible, we need that help.

Mr. FERGUSON. And so, again, stating that the legislation that we passed could provide a significant savings to the American taxpayer—

Mr. WERFEL. Absolutely, I believe that.

Mr. FERGUSON. Thank you for that.

The next item—and my colleague from Pennsylvania, Mr. Smucker, touched on this, and, as he was talking about it, I said I think he looked over and looked at my notes—you know, we talk an awful lot on this committee about—and we debate going back and forth with these complex corporate tax returns and high-income earners, but we know that there is a tremendous amount of fraud in the Earned Income Tax Credit space, Child Tax Credit space. If you had to look at what you think the corporate fraud is versus the total dollar amount on the Earned Income Tax Credit and Child Tax Credit, either through improper payments or fraud, how do those two numbers compare?

Mr. WERFEL. Well, I actually think they are both important. I don't have the side-by-side ledger in front of me.

Mr. FERGUSON. Okay, all right, but they are both important.

Mr. WERFEL. Both material.

Mr. FERGUSON. All right. So you have said that you need money to beef up audits for partnerships, complex tax cases where evasion is more likely. Right?

Mr. WERFEL. Yes.

Mr. FERGUSON. Okay. How much effort are you putting into—and would you recommend that we look at reforming the tax pre-

parer space, and going after the folks that actually are committing fraud at the lower end of the income spectrum?

Mr. WERFEL. Yes, I—

Mr. FERGUSON. If they are both there—I haven't heard my colleagues on the other side of the aisle—they have been railing against corporate America and high-income earners, but they lack the same religion when it comes to going after people that cheat the system in the Earned Income Tax Credit space.

Mr. WERFEL. I will tell you, Congressman, what is very motivating—and I mentioned it in my opening remarks—protecting honest taxpayers who are being victimized and the tax system using them to victimize.

So the example that drives me crazy, and I want to make sure that we address it, is a nefarious preparer who coaxes an innocent taxpayer in, promises them an Earned Income Tax Credit quickly, whereas they could get it just as quickly from us, and then rips them off in some way, shape, or form.

Mr. FERGUSON. Sure, the predatory lending practices that go along with this are pretty grotesque. And you know, I would love to work with our colleagues on the other side of the aisle on a really meaningful piece of bipartisan legislation that goes after the folks—

Mr. WERFEL. Yes.

Mr. FERGUSON [continuing]. That really are committing the fraud at the lower end of the spectrum. It is important.

Look, I am sort of like my friend from Pennsylvania here. We want the IRS to do its job. We believe that audits are important, and—but they should be fair, and they should be non-discriminatory, and they should be at both ends of the spectrum.

Mr. WERFEL. Yes, understood.

Mr. FERGUSON. So with that—

Mr. WERFEL. And that is the first principle we have. We want—just like with the high income—where there is nefarious activity, for sure, where there is blatant disregard and purposeful evasion, for sure. And, at the lower end of the income bracket, when we have nefarious actors like the one I just described, that is where I would like to focus, rather than an audit program that impacts too many honest taxpayers.

With—and I will go back to this—with the right investments, we can be more surgical.

Mr. FERGUSON. Look, what you just said—excuse me, Mr. Chairman, I know my time—I am over my time.

But when you—you have got to have a program that is fair for everybody.

Mr. WERFEL. Right.

Mr. FERGUSON. You talk about just going after the preparers. You have to also go after the individuals that are knowingly defrauding the system.

And, with that, Mr. Chairman, my time has expired. Thank you for the indulgence.

Chairman SMITH. Thank you.

Ms. DelBene.

Ms. DELBENE. Thank you, Mr. Chairman, and thank you, Commissioner, for being with us today.

After years of neglect through decreased appropriations, the IRS finally received the influx of resources it needed to improve and update its operations. In the year and a half since the Inflation Reduction Act was signed into law, we have seen the impact of these resources. Some of these successes include call time responses decreasing from 28 minutes to 3 minutes, the backlog of 2022 individual returns now cleared, and launching new digital tools to help taxpayers. Yet, unfortunately, Republicans want to continue gutting the agency's funding. So we should be ensuring the IRS has multi-year, sustained funding to continue building on these successes.

Mr. Commissioner, I wanted to know if you could speak to the IRS's enhanced enforcement efforts, and specifically how the use of AI is helping to identify non-compliant taxpayers.

Mr. WERFEL. Yes, so this—thank you for the question.

And we have to make investments to make sure that we are precisely finding where the evasion is most problematic, and in particular in these complex situations—for example, with money moving across international jurisdictions, money moving into wholly-owned subsidiaries—it can be tough to find where the evasion is. And we can invest in AI-powered analytics to really better understand and increase the likelihood that we are seeing the evasion and selecting the right cases for audit. And so that is where these investments are going, into making more sophisticated models to make sure we are selecting the right cases and finding the evasion where it is.

Ms. DELBENE. Thank you.

One of the issues I have heard about from my constituents is about the lack of clarity on IRS notices that are sent to taxpayers. Often the notices are very complex. They are from the IRS, so people are very concerned about them. They leave taxpayers confused about how to resolve the issue.

So what are some of the changes the IRS is implementing to the notices and letters that are sent to taxpayers?

How can these changes benefit taxpayers—

Mr. WERFEL. Yes.

Ms. DELBENE [continuing]. And how has IRA funding facilitated these reforms, if it has?

Mr. WERFEL. Yes, I mean, this is such an important piece of the puzzle.

We have launched what we call the Simple Notice Initiative. We send about 170 million letters or notices to taxpayers each year. And, if you look at them, they need a lot of improvement in terms of their clarity. And we have run a program, we have—in the last year we took 31 high-volume notices, redesigned them, you know, and they are significantly better, and we are getting very positive results on these. And now, heading into 2025, we are now scaling.

And so by next filing season—so when I am sitting here next year, if we are successful—90 percent of the total volume of notices will have gone through this effort and be redesigned and simplified. And we anticipate that is going to be very beneficial for taxpayers.

In some of the early results that we are seeing, taxpayers are going to our online tools and using them more than calling in the call center. That means they are getting faster responses. So very

positive results just from clarifying what we are asking taxpayers to do in these notices.

Ms. DELBENE. No, hugely important, and so thank you for that.

Also, Federal and state laws require professionals like doctors and lawyers to not only obtain licenses or certifications, but also to pass competency tests. And, while some tax return preparers must meet licensing requirements, many tax return preparers do not have minimum competency requirements, and therefore are not credentialed.

Commissioner, I was wondering how taxpayers who use non-credentialed preparers are harmed by doing so, and how would establishing minimum competency standards help protect taxpayers?

Mr. WERFEL. Yes, this has come up a few times in the hearing. You know, we do have a risk with preparers that are not serving their clients well or their customers well. In some cases, just not providing appropriate and suitable tax advice; in some cases, actually stealing from them; or, in some cases, leaving them with a financial mess on their hands. And so more can be done.

And we have—the Administration has put into the President's budget previously changes that would allow us to require more credentialing of these preparers before they would be able to provide tax advice or preparation services. I think it is an important thing because people are being victimized.

And, as I said earlier, one step the IRS can take in partnership with Congress to show that we are on the side of taxpayers is disrupting those moments of victimization. And this is an idea and an initiative that could do just that.

Ms. DELBENE. Thank you. My time is expired.

I yield back, Mr. Chairman.

Chairman SMITH. Thank you.

Mr. Estes.

Mr. ESTES. Thank you, Mr. Chairman, and thank you to Commissioner Werfel for joining us today.

We are 60 days out from Tax Day 2024. The Kansans I represent are working through their tax season tasks, whether it is preparing to file their individual tax returns or filing business forms. I mean, the fact is everybody has to interact with the IRS. And the agency really should have a customer-focused prerogative that puts American people first, and not their own interests within the agency.

I am also concerned about, like my colleagues here, about some of the inflammatory accusations that certain groups of Americans are automatically considered to be tax cheats. My career prior to running for office was looking at how do we provide good customer service, how do we make business operations more efficient. And, unfortunately, it seems like a lot of the D.C. bureaucracies focus more on how to make things easier to push paper or work from Johnny's desk to Sally's desk, instead of focusing on how to be more efficient and meet the needs of American taxpayers and any constituents, and provide that quality, timely service.

Mr. Commissioner, I am sure this doesn't surprise you, but my office in Wichita receives calls each year from constituents who have issues with IRS. I mean, just this month, I received a letter from a small car dealership in Cheney, Kansas that faced issues e-

filing their 1099 NECs by the January 31 deadline through the Information Retrieval Intake System, or the IRIS.

Mr. Chairman, I would like to submit this letter from Lubbers Cars for the record.

Chairman SMITH. Without objection.

[The information follows:]



February 2, 2024

Office of Congressman Ron Estes
7701 E. Kellogg, Ste 510
Wichita, KS 67207

Thank you, Kiersten La Rue and Congressman Estes, for taking the time to respond to my request for assistance with an E-filing extension or penalty waiver for the E-filing of 1099-NECs due January 31, 2024. As I explained to Kiersten in our phone conversation, I was able to file the 1099-NEC for our companies by accessing the portal at 6 a.m. on January 31st. I contacted your office the afternoon of January 30th, at a point of complete frustration with the Information Return Intake System (IRIS) portal. The deadline for 1099-NEC forms was the following day, January 31st. The portal was overloaded and not functioning for myself and two assistants. Like many businesses this year, we are new to E-filing our 1099's. We received access mid-month to the IRIS portal and began the process of preparing our 1099's soon after. Initially, the portal was slow yet manageable and I submitted a 1099-MISC (January 23rd) and 1099-NEC (January 26th) for one of our companies. After that, it became impossible for the three of us to submit 1099-NEC forms for our remaining companies. Many attempts were made during workdays. I even tried several times the evening of Monday, January 29th. From late morning January 26th on, we experienced a combination of issues accessing the dashboard or the website indicated "loading" but returned an error message. Many times, we reached the submitting point only to be kicked back to the dashboard or receive another error message. One of our companies requires only one 1099-NEC, so I tried to send that thinking perhaps our other larger files (with mandatory E-file requirements) were the problem. The portal responded in the same manner with the single form. On the morning of January 30th, I tried to log in and request an extension to file, but could not gain access to the portal to make the request. Consequently, I called the IRIS help desk multiple times but could not get through.

Given the barriers we faced E-filing and the next day deadline, I reached out to our St. Louis-based CPA at CliftonLarsonAllen, to see if he knew of any possible extended deadline. He was unaware of any. He mentioned fielding multiple calls from clients dealing with the same problem. I then emailed Don McNeely, President of the Kansas Automobile Dealers Association. He quickly responded that several dealers had already contacted him about this issue, and he had requested NADA's assistance. He also explained NADA was extremely busy with clean vehicle reporting issues and the IRIS portal was not getting any attention. I posted on the GM Business Account Managers bulletin board and heard from a California dealer experiencing the same problem and hoping for an extension as well. I reached out to Senator Moran's office and received a call from one of his assistants the morning of the 31st. He told me they spoke to someone in Washington the previous day and were given credentials to log in to the portal and were able to do so after 5 p.m. I explained to him I was able to file ours at 6 a.m. that morning but assured him the problems we were facing were not unique to us nor were they due to a lack of effort on our end. I also shared with him that by

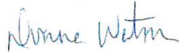


mid-morning of the 31st the system was stalling again. I was attempting to submit other 1099's with a later deadline. I encouraged him to ask Senator Moran for more resources for the IRIS portal and a waiver of penalty for any 1099-NEC forms filed late.

Our company uses fiber gigabit internet with gigabit speed. So, even though we are in a Kansas small town, please know we had sufficient resources implemented on our end to E-file our 1099's. When I spoke to our IT Specialist about the situation, he suggested the IRS invest in better webservers and load balancers to manage the influx of users. I hope they act quickly as we have more 1099's to E-file by March 31, 2024.

Again, thank you for taking the time to address our complaint and call for action regarding the IRIS portal. Under the circumstances, we believe it is unfair to be penalized for late 1099 filings. Hopefully, the information shared here can be used to improve the portal. We look forward to a better experience with it moving forward.

Sincerely,



Donna Watson

Controller

Mr. ESTES. You know, the comptroller at Lubbers Car told my office that, while they started in the middle of the month, the e-filing and IRIS portal continued to crash, causing major delays and pushing them right up to the deadline.

But the situation was not unique to Lubbers Cars, who assured me that they have the top-of-the-line high-speed Internet. They reached out to the Kansas Automobile Dealers Association, who informed them it was a widespread issue. Lubbers tried the portal at multiple times during the workday and evening, with no avail. The CPA indicated that they were receiving calls, as well. Finally, around 6:00 a.m. on January 31, the deadline, they successfully were able to submit the required 1099 NECs.

Commissioner, as you know, the next deadline is March 31. Are you aware of these issues with the IRS portal?

And what are you doing to make sure that this critical tool is ready for the upcoming heavy usage as more small businesses file, now that you have got this money to—

Mr. WERFEL. Absolutely.

Mr. ESTES [continuing]. Have these upgraded systems?

Mr. WERFEL. It is a great question, and it is definitely on my radar screen. It was concerning while it was going on.

This is—you know, we have a lot of different portals, tools, technology out there. And you know, anyone who is involved in running these systems will let you know that they don't always perform perfectly. The key is what your reaction time, your speed, your troubleshooting is. And when it happens, do you learn from it so that you prevent that type of mistake from happening in the future?

And that is what I am trying to instill in the IRS. And so we were working the problem, are working the problem, made the necessary adjustments to allow these information returns to be submitted successfully. We are monitoring it very closely because of what you said, and I am cautiously optimistic that the changes and the updates that we made will allow for a much more stable platform as we get to the busy season.

Mr. ESTES. Well, the Lubbers's comptroller called the IRIS help desk multiple times and couldn't get through. You said earlier you have hired 5,000 new call agents to help with that. And so this letter is just two—less than two weeks ago. And so have all IRS agencies—employees returned to the office for five-day work weeks since COVID?

I know the GAO issued a report this fall that high percentages of offices across all agencies, not just the IRS—

Mr. WERFEL. Yes.

Mr. ESTES [continuing]. Had not returned to the office. And what are you going to do, or what are you doing to help make sure that taxpayers who are trying to do the right thing can get through to work with your agents and other employees?

Mr. WERFEL. Yes. So first, to clarify, all IRS employees are working.

The objective is to make sure that we are getting the mission done. And, when you tell me that someone didn't get through on the phone line, I want to learn more about that and figure out what we need to do.

There is a government-wide standard out there in terms of where we stand today, what should be the percentage of in-office work versus remote work. The IRS is generally consistent with that government-wide standard, but we are constantly evaluating any steps that we can take—

Mr. ESTES. Sorry to interrupt, but what is that—before I run out of time, what is that governmental standard for the IRS for the number of employees—

Mr. WERFEL. Well, the governmental standard is—

Mr. ESTES [continuing]. To be in the office, working?

Mr. WERFEL [continuing]. 50 percent is the government-wide standard. So—

Mr. ESTES. So 60 percent of employees coming to the office—

Mr. WERFEL. Everyone is working, it is 50 percent on site versus 50 percent working in some remote location.

Mr. ESTES. So how can somebody in a remote location be handling these tax returns? That just seems to me that it is not doing the job that needs to be done to help service American constituents.

Mr. WERFEL. Well, I am happy to walk you through in greater detail, but we have many, many employees on site doing the exact work that you described. And, you know, in our campuses, where a lot of our processing of taxes goes, that is where we have a heavy, heavy presence of IRS employees.

Mr. ESTES. Thank you, and my time has run out.

Mr. Chairman, I will yield back.

Chairman SMITH. Mrs. Miller.

Mrs. MILLER. Thank you, Chairman Smith and Ranking Member Neal.

And thank you, Commissioner, for agreeing to appear here today. I have been looking forward to discussing the IRS's actions with you for some time.

I am extremely concerned that the IRS has been just a little too focused on following political directions of the Biden Administration, instead of fulfilling its congressionally-mandated duties. The continued delay of the 1099-K threshold and announcement of a new threshold is an illegal overreach that is not found anywhere in law.

Unfortunately, this is just another step in a long string of illegal and questionably legal actions taken by the IRS and the Department of Treasury to either willfully ignore the change or misinterpret the laws that have been passed by Congress.

Why was the IRS unable to implement the \$600 1099-K threshold passed in the American Rescue Act?

Mr. WERFEL. I am really glad I have an opportunity to respond to this question, Congresswoman.

I believe the IRS commissioner has the authority to implement laws in a manner that ensures taxpayer rights. This means that at times implementation is delayed or ramped up over time in order to make sure that we are achieving that balance, that we are implementing the law that was enacted by Congress, but also abiding by another responsibility we have under the law, and that is to protect taxpayer rights.

In this situation, this outcome of delay or ramped implementation was strongly recommended by a diverse set of stakeholders

across the tax industry, commercial industry. From every direction we were hearing calls to—that there was risk.

What was—

Mrs. MILLER. Well, I can understand why.

Mr. WERFEL. Yes.

Mrs. MILLER. I mean, given the three-year extended delay, does the IRS believe it will ever be able to comply with this law?

Mr. WERFEL. We are working with stakeholders on a path that will get it done. And, in particular, that is why we are intending to begin implementation next year.

Again, the focus that I have and we have at the IRS is how do we do this in the best interest of taxpayers. We don't want taxpayers over paying their taxes. We don't want them confused. We don't want them bombarded with forms and paper they shouldn't be receiving. And, if we go forward with implementation without being able to adequately protect against that risk, then I am not meeting my legal responsibility as commissioner to help taxpayers and to help protect their rights.

Mrs. MILLER. Well, in November of 2023 you announced plans for a threshold of \$5,000 in 2024.

Mr. WERFEL. Yes.

Mrs. MILLER. Who specifically made that decision to set this new threshold?

Mr. WERFEL. That was a strong recommendation from the stakeholders we reached out to across a variety of stakeholders: taxpayers, these companies that are third-party payment platforms. The reason why there seemed to be consensus on \$5,000 was because that—if you had looked at the analysis and the model, \$5,000 would ensure the most revenue would be impacted, while also protecting the most taxpayers from unnecessary paperwork and sending them things that they didn't actually need.

And so—

Mrs. MILLER. Well, I have to reclaim my time because, I mean, what authority does the IRS have to set the new threshold? The authority.

Mr. WERFEL. So we have an authority under the code to administer laws consistent with taxpayer rights. And so this happens from time to time. Our goal and our objective is to implement the laws on day one.

Mrs. MILLER. Yes, because—

Mr. WERFEL. There are many—

Mrs. MILLER [continuing]. We write the laws.

Mr. WERFEL. Yes—

Mrs. MILLER. Congress writes the laws, you don't.

Mr. WERFEL. But there are a variety of examples throughout history where the IRS, in order to protect taxpayers from undue burden or from potentially being overtaxed, where we have either delayed implementation or ramped implementation. This is not the first time, and I am not the first commissioner that has confronted this tension—

Mrs. MILLER. But they are still illegal. Your actions are still illegal.

Mr. WERFEL. It is not illegal to take a step to protect taxpayer rights.

Mrs. MILLER. Well, anyway, I will move on from this.

Another concerning action I have that the IRS has taken is the implementation of the so-called Free File program. I mean, you have got to be kidding me. Nothing is free. Everything the U.S. Government does is paid by taxpayer dollars, so nothing is ever free. And I don't think you should be wasting your millions of dollars when the private industry is doing a good job.

But I do want to give you credit where credit is due. I commend the IRS where credit—for the ERTC claims, for processing them. I understand that the system was devastated by fraud and abuse, which is why the committee and the House recently passed the Tax Relief for American Families and Workers Act in an overwhelmingly bipartisan manner. And I also want to urge my Senate colleagues to similarly follow suit so that the IRS can focus on credible ERTC claims so that good American small businesses can swiftly access the benefits that have been promised by Congress.

Thank you, sir.

Mr. WERFEL. Thank you, Congresswoman.

Mr. STEUBE [presiding]. The gentlelady yields back. I yield to Ms. Moore from Wisconsin.

You are recognized.

Ms. MOORE of Wisconsin. Thank you so much, Mr. Chairman, and thank you, Commissioner, for joining us today.

We have heard a lot of discussion today about the Earned Income Tax Credit and the audits and perhaps fraud that has been committed. And you were unable to sort of monetize the amount of fraud that that was, as compared to corporate fraud and loss of revenue. I guess we have had estimates that there is, like, at minimum, close to maybe 600 billion to \$1 trillion worth of lost income from corporations. even though you can't nail it down to the penny, is that anything close to what you are experiencing with the Earned Income Tax Credit?

Just a sort of a back-of-the-envelope sort of assessment.

Mr. WERFEL. So we have a tax gap analysis, where we can evaluate where the differences are between what is paid versus what is owed. And the last estimate that we provided estimated a roughly \$650 billion a year—

Ms. MOORE of Wisconsin. Yes.

Mr. WERFEL [continuing]. In this gap.

Ms. MOORE of Wisconsin. So are you guessing that maybe the Earned Income Tax Credit fraud—I am sure you can recover all of it, since it is not very complicated to catch it, an earned income tax problem. You don't even need a person. Probably the machine will find that. Am I right or wrong about—

Mr. WERFEL. Well, Congresswoman, for me it is about priorities.

Ms. MOORE of Wisconsin. Yes, okay, so—

Mr. WERFEL. And what are our priorities within earned income tax credit program integrity, and what are our priorities in terms of tax evasion amongst the wealthy, and that is what I am seeking to establish.

Ms. MOORE of Wisconsin. Okay, so let me go on because I hadn't really planned to talk about this, it is just that my colleagues have raised it.

What would you say that the fraud rate for the Earned Income Tax Credit is, as compared to the low uptake of it, the numbers of people who deserve it and could use it and don't apply for it? Yes, what is that number?

Mr. WERFEL. Yes, and again, I don't have the specific fraud rate.

Ms. MOORE of Wisconsin. Okay.

Mr. WERFEL. It is not something that we measure—

Ms. MOORE of Wisconsin. It is not fraud. I am talking about the people who don't even—

Mr. WERFEL. Exactly.

Ms. MOORE of Wisconsin [continuing]. Claim it.

Mr. WERFEL. And this is part of the challenge. We believe that there is a material gap in the number—

Ms. MOORE of Wisconsin. I mean, there is millions of dollars left on the table—

Mr. WERFEL. Agreed.

Ms. MOORE of Wisconsin [continuing]. I think, that families and kids need, particularly since we have such a stingy Child Tax Credit, we have harsh requirements for TANF, and people are leaving money on the table with the Earned Income Tax Credit.

You know I think—I believe it was my good colleague that asked you a question about child support. And I think that, in the absence of an adequate Child Tax Credit and Earned Income Tax Credit, a low uptake in that, that it is really important that we do child support tax collections.

And I understand that these contractors have to be 6103 compliant. But we found this problem even with states that administer the Child Tax Credit for tribes. And so I am wondering, you know, they are subject to these audits, and I am wondering how long that is going to go on. It is really hurting tribal communities, not getting these monies. Can you quickly comment?

Mr. WERFEL. I want to work with tribal communities directly. I know that tribal communities face unique challenges in terms of meeting their tax responsibilities or getting access to tax benefits. So, if I can learn more about the specific issue, I will—

Ms. MOORE of Wisconsin. That is right, yes, learn about sovereignty, and that will help you figure it out.

Let me ask you some questions before my time expires, very quick questions. I am not asking you to opine on policy, okay?

Mr. WERFEL. Yes.

Ms. MOORE of Wisconsin. I am just asking you to affirm some things that I think I already know.

This essential government function test, is that an impediment to tribal nations' use of government bonds? Yes or no.

Mr. WERFEL. It is something that is more in a policy shop, but I do believe—

Ms. MOORE of Wisconsin. No, I am just saying—

Mr. WERFEL. This is what we have heard from tribal communities, and that is why it is important to engage with them on solutions to the issues—

Ms. MOORE of Wisconsin. So same thing, because they are going to cut me off, I guarantee you.

The New Market Tax Credit set aside for tribes, the Low-Income Housing Tax Credits, and, you know, setting aside a housing tax credit program, would that increase the effectiveness and administrability of these programs from the perspective of the IRS?

Mr. WERFEL. It is something that I want to work with and coordinate with Treasury and the tribal outreach programs that they do and get back to you on that.

Ms. MOORE of Wisconsin. Well, Commissioner, just let me join the chairman, the ranking member, all of my colleagues in thanking you for being here and being very patient. As you can see, we are all coming back and forth for lunch and bathroom breaks and everything. So you have been very good.

Mr. WERFEL. Yes—

Ms. MOORE of Wisconsin. And I want to appreciate you for—

Mr. WERFEL [continuing]. And Congresswoman, I do now know that 20 percent of eligible taxpayers don't claim the Earned Income Tax Credit. So that means one in five. And that is something we have to address.

Ms. MOORE of Wisconsin. That is a lot of money—

Mr. WERFEL. Yes.

Ms. MOORE of Wisconsin [continuing]. That is left on the table.

Mr. WERFEL. Absolutely.

Ms. MOORE of Wisconsin. Versus how many frauds that you find. And of course, you could collect every dime of that money, because it is not hard to audit an EITC recipient versus someone who has 500 corporations and billions of dollars.

Thank you for your indulgence, Mr. Chairman.

Mr. STEUBE. I gave you an extra 53 seconds. You just remember that. [Laughter.]

Ms. MOORE of Wisconsin. I am going to remember that.

Mr. STEUBE. Helping you out. All right, the gentlelady yields back.

Mr. Murphy from North Carolina, you are recognized for five minutes.

Mr. MURPHY. Thank you, Mr. Chairman.

And thank you, Commissioner, for coming today. I was just looking at your CV. I saw you went to Duke and to UNC.

Mr. WERFEL. I did.

Mr. MURPHY. So, if you could answer one question today, Duke or UNC?

Mr. WERFEL. Duke.

Mr. MURPHY. All right. Well, I got no more to say to you. [Laughter.]

Mr. MURPHY. No, all right, all right, let's get down to it actually. So, questions.

California and North Carolina—excuse me, New York have the most billionaires. And you are saying that is a high rate of cheating. Have you ever correlated any of them with the—are they paying the California taxes and the New York taxes?

Mr. WERFEL. I don't have that analysis at my fingertips. We are focusing—

Mr. MURPHY. No, no, what I am saying is—because we are talking—you know, we are talking about a lot of folks not paying their taxes. Look, I am 100 percent people need to pay their taxes,

period. I don't care what income bracket you are in. But if we are talking about millionaires and billionaires not paying their fair share, which is what we hear the President say a lot, those are—the two biggest states are in California and New York.

So it would be nice to know—you don't have to answer this, but it would be nice to know, are they doing that for New York and California?

And are their particular revenue departments going after them? Fair question.

Mr. WERFEL. It is a fair question. And I would want to coordinate a response to that after talking to those states.

We are not necessarily focused regionally. We are focused on the types of evasions—

Mr. MURPHY. I get it.

Mr. WERFEL [continuing]. That corporations are engaged in. Many of them are maybe operating in California, incorporated in Delaware. The reality is that—

Mr. MURPHY. Yes.

Mr. WERFEL. The question is the underlying behavior.

Mr. MURPHY. Okay, all right, thanks. Were you aware that the Biden Administration has said that TikTok is not to be allowed on government devices?

Mr. WERFEL. I am aware of that, yes.

Mr. MURPHY. All right. So this is just very troubling to me.

So the office of—the OMB issued guidance on February 27, 2023 that agencies were—how to implement this law. TIGTA found that 23 devices used by IRS still had access to TikTok. And this is still troubling. It took the IRS—this thing was issued—TIGTA issued this to the IRS in May. The IRS did not take action until August of 2023. Why?

Mr. WERFEL. I am not sure of the facts of that, but that does seem unacceptable, and I will get to the bottom of it.

Mr. MURPHY. Do you personally believe—I think there are many Members of Congress, especially over in the Senate, Democratic Senator—intelligence, Dr.—Senator Warner believes that TikTok is a security risk to this country.

Mr. WERFEL. Yes—

Mr. MURPHY. I am just saying—this is his words, “It is generally considered a risk.” And I just, to the life of me, don't understand why these are still on devices.

What really bothers me—we are talking about folks working from home—is that the bring-your-own-device policy for the IRS is still not enforcing this ban on TikTok. Can you speak to that?

Mr. WERFEL. Well, I want to make sure I understand the TIGTA recommendation and where we are in closing it out, but I absolutely agree. Whether people are working remotely or working on site, we have to abide by these security standards, and any lapse is—cannot be tolerated. So we need to be—

Mr. MURPHY. It took eight months for the IRS to really update this policy. That is not acceptable. It wouldn't be acceptable in business. It shouldn't be acceptable in any government agency.

Let me ask you about the Criminal Investigation Unit and their access to TikTok, because it seems that they are kind of trying to get a waiver for this. Are you aware of any of that?

Mr. WERFEL. I am aware of the fact that in certain cases, when our investigative—our law enforcement division is working to impede, disrupt, and hold accountable criminal enterprises, sometimes they have to use tools that—to understand and solve those crimes. So it is not—it is a kind of an apple and an orange versus an IRS employee who should not have TikTok on their device versus a law enforcement official who is using—

Mr. MURPHY. Are you aware of that requisite, of that asking for this—for the Criminal Investigation Unit to have a waiver?

Mr. WERFEL. I am—I would want to get—before I get into more detail, I would want to go back and get more detail—

Mr. MURPHY. Would you mind—

Mr. WERFEL. But I am aware of that, yes.

Mr. MURPHY. Yes, would you mind getting back to my office about that?

Mr. WERFEL. Yes.

Mr. MURPHY. It is Murphy from North Carolina, who is a big Tar Heel fan. And by the way—

Mr. WERFEL. Yes, I really am going to regret that answer, right? You know, I just was at UNC speaking, and I feel affinity there. But it is a long story.

Mr. MURPHY. I am messing with you. I am messing with you.

Just one last question. Artificial intelligence. You know, this is the gold rush for this country and the world, for that matter. Bias, absolute bias will be a thing we are going to have to fight. And I hope that, given the, you know, some of the biases that have been stated by the Department and some individuals, that we are going to—that I have your commitment to do your very, very best that the IRS does not have any biases when using artificial intelligence and looking at who to audit, who not to audit, because we saw that. We saw that going after Republicans before, we saw some real problems with who were audited. And artificial intelligence is a tool, but it should not be used as a political weapon in the IRS.

Mr. WERFEL. You have my commitment.

Mr. MURPHY. All right. Thank you, Mr. Chairman, I will yield back.

Mr. STEUBE. The gentleman yields back next.

Next. Mr. Kustoff, you are recognized for five minutes.

Mr. KUSTOFF. Thank you, Mr. Chairman, and thank you, Commissioner, for appearing today.

I would like to go back, if I can, please, to the GAO report that Congressman Estes was asking about. This is the one dated July 13, 2023. The title of it is, “Preliminary Results Show Federal Buildings Remain Underutilized Due to Longstanding Challenges in Increased Telework.” If I can, just let me read maybe two sentences.

“Seventeen of the twenty-four Federal agencies in GAO’s review used an estimated average twenty-five percent or less of their headquarters building capacity in a three-week sample period across January, February, and March of twenty-twenty-three. On the higher range, agencies used an estimated 39 to 49 percent of the capacity of their headquarters on average.”

Do you know, on an average day, Commissioner, how much of your headquarters building is being used?

Mr. WERFEL. In Washington? I don't have that number at my fingertips.

Mr. KUSTOFF. Would you say it is less than 50 percent?

Mr. WERFEL. It may be, because the—as I mentioned earlier, overall, the IRS is roughly in line with the government-wide standard of 50 percent. So because it is an average, it may be under.

Mr. KUSTOFF. We have heard different things and questions today to you from members. Anecdotally, subjectively, what I hear from my staff and from CPAs and practitioners that have to reach the IRS is that it is a real struggle to get a hold of somebody. And you talked about earlier some of the challenges with the phone, the call-back, which I appreciate.

Mr. WERFEL. Yes.

Mr. KUSTOFF. I would contend, respectfully, that not having employees in the office and having them work remotely presents challenges not only to your agency, but to the people that have to interact with it. Would you agree with that?

Mr. WERFEL. I would agree that it depends on what the function is. There are moments, for example, when, whether it is a weather event, streets are shut down, we don't want to lose productivity. So we set people up to be able to work remotely where they can.

I would also—

Mr. KUSTOFF. I get if there is a weather situation. But, if we are talking about a day where the weather is fine, wouldn't it make more sense from a productivity standpoint to have employees physically present at the IRS than working remotely?

Mr. WERFEL. In some cases, yes. In other cases, it is less relevant. I can give you examples of where it is highly relevant.

Mr. KUSTOFF. Well—

Mr. WERFEL. For example, in our taxpayer assistance centers, those are our walk-in centers, and those are fully staffed five days a week. Everyone is there at all times.

Also, if you visited—and you are all invited to come to one of our campus locations—and you will see those campuses teeming with employees that are opening envelopes and doing other things to manage the tax system. And those individuals have to be on site, and they are on site.

Mr. KUSTOFF. Well, Commissioner—

Mr. WERFEL. For me, what I look at is—

Mr. KUSTOFF [continuing]. We have got a number of questions here about security, and we are all concerned about it.

Mr. WERFEL. Yes.

Mr. KUSTOFF. I know you are you are concerned about it, whether it is—

Mr. WERFEL. I am.

Mr. KUSTOFF [continuing]. Mr. Littlejohn or whatever, as it relates to taxpayer information.

From a security standpoint, wouldn't it be safer and more secure to have taxpayer information accessed at an IRS office versus an IRS employee's home?

Mr. WERFEL. There are steps that you can take to ensure appropriate security, whether the tax—whether the employee is in a SCIF, in a non-SCIF, or remote. And we have to make sure that

we are securing because there may be situations, whether it is a weather event or otherwise or a pandemic, where we have to ensure the right level of security, regardless of where the employee is.

Mr. KUSTOFF. Can I—it is a true statement that IRS employees, when they are working remotely from home, can access taxpayer information, right?

Mr. WERFEL. Certain employees, depending on the need, yes.

Mr. KUSTOFF. Nothing to prevent the employee's 19-year-old son walking behind the screen from taking a screenshot of whatever is on the screen. Correct?

Mr. WERFEL. That would be a violation of that employee's responsibility to protect information. There would be significant consequences for that. And therefore, virtually all IRS employees are very rigid in how taxpayer information is handled, whether it is handled on their computer screen in a remote location or on an IRS site.

Mr. KUSTOFF. But it is true that that situation wouldn't occur if that employee were in the office, right?

Mr. WERFEL. That—I don't want to engage in hypotheticals, but that—yes, that doesn't make sense.

Mr. KUSTOFF. That employee's—

Mr. WERFEL. Yes.

Mr. KUSTOFF [continuing]. 19-Year-old son would not be physically—

Mr. WERFEL. Correct.

Mr. KUSTOFF. Right?

Mr. WERFEL. But there could be a visitor in the building, and that is why it is so important that, whether you are on site or you are at home, that you are extraordinarily careful about who has visibility to information that you only—you are the only person who should have visibility—

Mr. KUSTOFF. I mean, I can cite other examples, just like I did about the 19-year-old son in the home. There is no doubt, though, that situation wouldn't occur if that employee were in the office, in the IRS office. Correct?

Mr. WERFEL. What I am suggesting is, hypothetically—

Mr. KUSTOFF. Can you—

Mr. WERFEL. I don't want to engage in hypotheticals—

Mr. KUSTOFF. Could you answer yes or no, and then I will allow you to finish the—

Mr. WERFEL. I feel like it is dangerous to go into hypotheticals because then someone is going to—

Mr. KUSTOFF. It is not a hypothetical.

Mr. WERFEL [continuing]. Turn around and ask me, what if someone has a Take Your Daughter to Work Day, and they are walking through the office? So there are all these situations.

My common denominator, bottom line, is that each employee must rigidly and relentlessly protect that information from unauthorized access from any 19-year-old, whether they are visiting their parent in the office or whether they are at home.

Mr. KUSTOFF. Let the record show that you were non-responsive. Thank you, Commissioner.

Mr. WERFEL. Fair enough.

Mr. KUSTOFF. The gentleman yields back, and Mr. Schneider is recognized for five minutes.

Mr. SCHNEIDER. Thank you, Mr. Chairman.

And thank you, Commissioner Werfel, for joining us today. I want to start by saying I have appreciated working with you and your staff, who have been very helpful with us in dealing with our constituent questions.

Before I go to a question, let me touch briefly on casework. We have been in touch with your team on a handful of IRS cases that we have been unable to make headway as we were hoping. Can I just get a commitment that we will continue to work on these—

Mr. WERFEL. Absolutely.

Mr. SCHNEIDER [continuing]. To try to get them done?

And I will go back to the previous question—my kids are now 29 and 30, but—and I worked in a space—before coming to Congress with a lot of confidential client information. Whether my kids were visiting me in the office, as they often did, or I was working at home, as I often did, it was imperative that I kept that information confidential, and I think what I heard you saying is that that is the expectation of IRS employees, that information is—

Mr. WERFEL. Yes.

Mr. SCHNEIDER [continuing]. Kept confidential, irrespective of where they are, who might be visiting.

Mr. WERFEL. One of the reasons why I was struggling with the question in the hypothetical is I don't want to signal to any IRS employee that they can let their guard down, no matter where they are, whether they are at home, whether they are at the office. It is absolutely critical that we have rigid policies and procedures in place to prevent unauthorized access.

Mr. SCHNEIDER. Right.

Mr. WERFEL. And that is what I really want to emphasize.

Mr. SCHNEIDER. Thank you. I just wanted to make that clear.

I will take another minute. We have talked about the IRA and the impact it has had, and you have touched on some of the things. But you know, the handful of things—I will let you reiterate them, the progress made, there has been discussion up here saying it is not quite perfect. But I am going to focus on progress, not perfection. Where is the progress we have made over the last—

Mr. WERFEL. Yes, things are trending in the right direction. I don't think there is any way that I will rest and come up to this table and say we are done. We are not done. And I want to hear about the taxpayer concerns.

But I also want to recognize the before and after of a funded tax agency versus a non-funded tax agency. And the before and after is stark in terms of what we are able to deliver in terms of taxpayer service. And that means, if we are funded, our walk-in centers are open, we can have Saturday hours, we can have special events where we are training people about how to use their—how to get free assistance, webinars are in place, all these different resources that we can invest in, reaching out to taxpayers and helping them meet their tax responsibility.

Mr. SCHNEIDER. Is the difference of 85 percent of calls going unanswered and 85 percent of calls now being answered—

Mr. WERFEL. Exactly, exactly. And the other thing that I haven't had a chance to emphasize as much as I would like to is the before and after of being funded in terms of what we can do, too, to protect honest payers against scams and the perpetrators that are involved in that. And, if we are not funded, we are on our heels.

The tax system remains complicated, it remains a playground for scam artists to exploit honest taxpayers, scare them, call up someone who is elderly, pretend they are the IRS, convince them to take out their credit card and pay a phantom debt. An underfunded agency, an underfunded IRS means that that can be exploited more and more. A funded IRS means we can work to disrupt those types of scams, we can increase our education, we can work with local partners, and we can put tools on the web so that you can either help your elderly parent or that elderly parent can have access to figure out, is this really the IRS?

These are tools that other tax jurisdictions are putting in place and we absolutely have to, in order to protect taxpayers from these risks, put these tools in place. And, if we don't have the funding, we can't do it. So these are the choices that we make.

Mr. SCHNEIDER. Thank you. So, if we don't fund and we can't protect those taxpayers, they are at the short end of the stick. They are put at risk.

Mr. WERFEL. Exactly.

Mr. SCHNEIDER. At the same time, you have said there is a \$650 billion—estimated \$650 billion per-year tax gap, taxes not being paid. Who really suffers when people cheat on their taxes, don't pay what they owe?

Mr. WERFEL. It is the people who pay their taxes, because they are shouldering the broader load for funding the government and its critical operations.

Mr. SCHNEIDER. So—

Mr. WERFEL. So that is why it is so important to have equity, and that is why it is important to prioritize our enforcement efforts for where we think evasion is most problematic.

And the point that I have been making today is, when I arrived at the IRS after years of under-funding, I asked the team, "Where are we most exposed? Where are the risks the highest? Where has this under-funding caused the most damage?" And one of the key areas was our ability to keep pace with complex tax situations where evasion was a risk.

There are complex tax situations where evasion is not a risk, and that is a place that we will not focus on. But it is the place where there is a risk of—

Mr. SCHNEIDER. Yes, and I am at the end of my time, so I will ask the question—and actually, I would appreciate an answer in writing—is what is it that makes a complex return?

And why does that complexity increase the likelihood or the ability of people to avoid paying taxes that are owed?

Mr. WERFEL. Yes.

Mr. SCHNEIDER. And I would like to be able to share that with—

Mr. WERFEL. Well, just a quick example would be if you are operating in multiple countries—

Mr. SCHNEIDER. Right.

Mr. WERFEL [continuing]. And they have different tax laws, and you are shielding your profits in the U.S. to get a lower tax, when the reality is that your economic activity is in the U.S., and you actually owe, and you shouldn't be moving and making it look like to the IRS that your activity is elsewhere in a more tax-advantaged jurisdiction. That means that those that are accurately reporting their profits, the companies that are, are paying a larger share than those that are cheating the system.

Mr. SCHNEIDER. And it is not just companies, it is wealthy individuals who are able to shelter money—

Mr. WERFEL. Exactly.

Mr. SCHNEIDER [continuing]. In other jurisdictions.

Mr. WERFEL. And that is what we are trying to close the gap on.

Mr. SCHNEIDER. All right.

Thank you, and I yield back.

Mr. STEUBE. The gentleman yields back. I yield myself five minutes.

Mr. WERFEL. Sorry about that.

Mr. STEUBE. Commissioner Werfel—

Mr. WERFEL. Yes, sorry about that, yes.

Mr. STEUBE. No, I am up here. I am normally down there.

Mr. WERFEL. Oh, yes, okay. Oh, it was the chairman. Okay, got it.

Mr. STEUBE. An IRS consultant named Charles Littlejohn stole a trove of tax return data, including returns from President Donald Trump and a host of other prominent American taxpayers, and released them to multiple media outlets in 2020 and 2021. Last month I was pleased to see that Mr. Littlejohn received the maximum sentence of five years in Federal prison for his crime.

In addition to criticizing the Biden Administration's DoJ for only bringing one criminal count against Mr. Littlejohn, Judge Ana Reyes told Mr. Littlejohn at his sentencing that his crusade to violate President Trump's rights was an attack on our constitutional democracy, and I could not agree more.

What troubles me even more is that the IRS has taken far too long to implement the corrective actions necessary to ensure that other American taxpayers do not become victims of a rogue IRS employee like Mr. Littlejohn.

The Treasury inspector general for tax administration recently reported that the IRS failed to ensure that all its sensitive systems provide accurate audit trail logs to monitor and identify unauthorized access. Essentially, TIGTA is saying that you did not know when sensitive taxpayer information was illegally accessed.

I understand Mr. Neal asked you about this, and you said that you guys have taken corrective actions since that report came out—what was it, last week, February 6? What specific actions have you taken, and have you taken all three of the recommendations that TIGTA made in their report?

Mr. WERFEL. Yes, we have taken a bunch of actions. I will be very quick, just to kind of give you a flavor of them: we have reduced the number of users; we have put more robust encryption in place; we have strengthened our oversight; we have improved our

access logs; we have eliminated more movable—removable media; we put in place tighter email controls, new printer controls; and on and on and on.

And on this point—this is such a critical point on the audit trails in our systems—TIGTA had identified, I think it was, somewhere between 300 and 400 systems in the IRS that had sensitive data that didn't have the appropriate audit trails.

I required the team—I think it was almost like my third or fourth day at the IRS. I said, “I want audit trails in every one of those systems consistent with TIGTA's requirements.” Those have now been done. We shared that with TIGTA, but TIGTA didn't have sufficient time to validate that we did everything we said we did—

Mr. STEUBE. So when was all that completed?

Mr. WERFEL. That was completed by the end of the fiscal year, so around September 30.

Mr. STEUBE. So all of the three recommendations that—

Mr. WERFEL. Yes.

Mr. STEUBE [continuing]. TIGTA, is that how you responded to—

Mr. WERFEL. Yes, they are evaluating. We have said we agree, we are making the changes. We have made the changes, here they are. And TIGTA is now, “Thank you, we are going to evaluate and see if you have done it exactly the way we want you to do it.”

So they are reexamining whether, for example, our audit trails are as robust as we believe they are now.

Mr. STEUBE. So they are reexamining. So I am just trying to understand when—because their report just came out.

Mr. WERFEL. Yes.

Mr. STEUBE. So, like, you have been there a year.

Mr. WERFEL. Yes.

Mr. STEUBE. When did you—and, I mean, this goes back to—the returns were leaked in 2019, it was published in 2020. Then Mr. Littlejohn leaked a second batch in 2020 to ProPublica—

Mr. WERFEL. Yes.

Mr. STEUBE [continuing]. Which was published in 2021. Obviously, you weren't there, so I am not asking you to vie [sic] for what happened during that period of time. But you have been there a year.

So is it your testimony today that, since you have been there, this is obviously happened and you have started taking corrective actions on these audit trails?

Mr. WERFEL. Yes.

Mr. STEUBE. When has that been complete? Like, is that—you are telling—your testimony before the committee today is that is done and complete?

Mr. WERFEL. It is complete. Now, we were getting a peer review or an oversight review from TIGTA. We said it is—it is like we have handed in our assignment. We have put in all the audit trails to the systems that you have identified needed audit trails, and they are reviewing that to ensure that we didn't miss any.

Mr. STEUBE. So I want to make it clear to the American people today. So the three recommendations that were in the report last week that they made, you are stating under oath today that those

have been made by the IRS, all of the recommendations in the report.

Mr. WERFEL. We have agreed with all the recommendations. I am stating for the record that the audit trails recommendation has been done. I want to double, triple confirm that we are completed with the other recommendations, but they are all underway.

Mr. STEUBE. Can you let the committee know?

Mr. WERFEL. Absolutely.

Mr. STEUBE. When can we expect that information?

Mr. WERFEL. I can probably get back to you by tomorrow or Monday—or Monday is holiday—Tuesday.

Mr. STEUBE. If you could give that to the chair to disseminate to the committee—

Mr. WERFEL. Absolutely.

Mr. STEUBE. I would appreciate it.

In the 30 seconds I have left—

Mr. WERFEL. Please.

Mr. STEUBE [continuing]. We have—and my district was decimated by Hurricane Ian. In the tax package we just sent to the Senate, which obviously isn't going to pass by today, the extension deadline, all of the people in my district for the 2022 tax year are now going to be forced to, by today, file their extension and then have to do an amended return. It is my understanding that it is taking about 20 weeks to process amended returns.

What assurances can you give all of the Americans in 45 states who have been affected by a natural disaster, who are now going to have to file an amended return, that it is not going to take 20 weeks to get their money back from the IRS?

Mr. WERFEL. This is a challenging issue, Mr. Chairman. The reason it is challenging—and this is not about making excuses, this is about just sharing the facts—is that our systems, while we are more modern and effective with original returns, we are still on outdated systems on amended returns. And it is more manual. And that is why, if you file an original return electronically and select direct deposit, we can get your refund in under 21 days. But if you file an amended return, that is a paper manual process. It takes a lot longer. And it is unfortunate.

Mr. STEUBE. Since I gave Ms. Moore a little bit of extra time, I will take a little extra time.

So what are you guys doing to remediate that? Like, why does it require a paper return? Is there efforts in place to—

Mr. WERFEL. Absolutely, yes. We are doing a bunch of different things.

First of all, looking at our—leaning out our process to see if we can close the gap on those 20 weeks, and also taking the steps to automate our entire infrastructure. This is one of the reasons why the modernization effort is so important.

We are also doing a lot more scanning of all of these paper forms, because in a machine-readable format we can move more quickly.

Mr. STEUBE. Thank you for being here today. My time has expired. I now would like to recognize Mr. Fitzpatrick for five minutes.

Mr. FITZPATRICK. Thank you, Mr. Chairman.

Commissioner, thank you for being here today. Sir, as you are aware, the IRS placed a moratorium on processing of new Employee Retention Credit claims through the year's end to allow the IRS to add more safeguards to prevent future abuse and to protect businesses from predatory tactics.

In my district, I have many businesses that are impacted by this and are reliant on the ERC. In fact, we have businesses that say they could not meet their payroll because their ERC had not been processed. Specifically, my office has constituent inquiries where businesses are owed in excess of \$1 million, preventing them from meeting their own payroll for their employees.

It is my understanding that in October of 2023 the IRS issued a bulk taxpayer assistance order on hundreds of current cases involving ERC claims, but that was months ago. So could you just give us an update on where that stands?

Mr. WERFEL. Yes, we are working hard to make sure that we can separate eligible from ineligible claims in the inventory that we have.

As I mentioned earlier, it is challenging because we have a lot of inventory and a lot of ineligibility, and we have to figure out what is eligible and what is ineligible. We are making progress. In fact, since we issued the moratorium in September, we are averaging between 1,000 and 2,000 processing a week. So we are getting the eligible ones out the door. And I think, since the moratorium, we are nearing \$1 billion of ERCs issued.

So I think we are meeting our promise to make sure that the moratorium didn't stop us from processing claims that were received before the moratorium, but it is challenging because it is a very complicated program. Eligibility is tough to weed out from ineligible. But it is a focus point, for sure.

Mr. FITZPATRICK. I want to jump to the direct file system that the IRS has put in place. This committee has asked many times before what the costs of that program would be. At least as far as I am aware, it is still unknown at this point.

First, why did the IRS and Treasury feel it was necessary to create a direct file system when industry already provides many of these options for free to taxpayers?

And secondly, could you explain how you concluded and how the IRS concluded that they were authorized to do this, to create, maintain, and update a direct file tax preparation platform?

Mr. WERFEL. Yes. So we have, we believe, a responsibility and an authority under the law to make the tax filing process easier and more beneficial for taxpayers.

As an example, if you will allow, I mentioned earlier we provide a call-back option now. If you call in—and that took some technology. It wasn't rocket science technology, but we had to implement technology. We didn't have to go to the Code and determine was there specific language in the tax code that says, IRS Commissioner, you have the authority to offer a call-back option in the call center.

So there is a whole set of different things that we can do for taxpayers to give them more options. It is not a mandate. I think it is a much different bar if I were up here saying I, as IRS commis-

sioner, and mandating something. What we are saying is it is another option on the menu.

And when we look at all the things we have offered to taxpayers over the years as the world has changed, we—at one point it was TeleFile, file your returns on the telephone. Now it is file electronically. There has always been this desire to evolve and understand how to meet taxpayers where they are and give them as many options as possible. And that is what this is, it is just an option.

Mr. FITZPATRICK. Do we know what the cost of developing and maintaining this platform is?

Mr. WERFEL. We do. We have—in our public report that we were required under the Inflation Reduction Act we included a cost chart that explained the cost and with different assumptions—if 5 million taxpayers were to use it, if 10 million taxpayers. But this year, this is really just a pilot. We are still studying it, and it is available in 13 states. It is going to be a relatively small pilot to assess whether this is something that actually should be added to the menu.

Mr. FITZPATRICK. Thank you.

I yield back, Mr. Chairman.

Chairman SMITH [presiding]. Mr. Larson.

Mr. LARSON. Thank you, Mr. Chairman.

And thank you, Commissioner. Thank you so much for your candor. It is always refreshing, given the enormous responsibility that you have, and just how important revenue is for the functioning of our government. That is why, of course, we were very much alarmed when this committee voted to cut 80 billion out of funding to the IRS.

What kind of an impact would a cut like that have, especially at this time when we are concerned about the Federal deficit?

What kind of a cut would that have, especially—you have articulated very well trying to keep pace with all the technological changes that you are going to, while at the same time humanizing the IRS through your call centers and the ability for people to have direct contact with a human being.

Mr. WERFEL. Yes. I mean, between—our budget was cut year over year between 2010 and 2022. If you add all that up, it is a 25 percent cut. Our staffing size shrunk to the same size it was in the 1970s.

But over those same 12 years the tax system grew and got a lot more complicated, and we have a lot more to do. The tens of millions of more filers, thousands of changes to the tax codes, new programs, new activities, and a very different world, you know, a gig economy where we used to not have a gig economy, and more globalization, movement of money, new currencies. I mean, it is just a dramatically different world.

So, when you take those two together, and you under-invest over a period of 12 years, while at the same time the job to manage the tax system grows, it is not a good formula. It leads to under-performance. And what I am trying to emphasize here is the people that suffer are taxpayers. They suffer because the tax laws still exist, they still have these responsibilities, and it is a stressful experience. And, when a problem emerges, if they can't get clarity from the IRS, if they can't get through to us, if they can't get their

tax issue resolved, it weighs on them, it is burdensome for them, and it is stressful for them.

And that is what is so heartbreaking about an underfunded tax agency. It means that we are not answering the phone. It means that our walk-in centers are shuttered, and it means that our digital tools are stagnating. And that is what it means when you describe let's pull back the IRS funding. It means that the IRS won't be able to function and help you. If you are not pulling back the tax laws and the tax responsibilities but you are pulling back the ability for the IRS to serve taxpayers, then the ultimate harm is to the taxpayers themselves.

And that is my impassioned plea to make sure that we don't harm taxpayers by making it harder for the IRS to help them.

Mr. LARSON. I think you have articulated that very well. What I am interested in, as well, is because of the sophistication as we go forward, what is the IRS up against when you are dealing with major corporations or people with great wealth? what does it look like inside the IRS when you are dealing with a battery of attorneys, accountants, and—

Mr. WERFEL. Yes.

Mr. LARSON [continuing]. Consultants that are going up against government employees?

Mr. WERFEL. It is—well, I start with the volume, right? When you look at the number of audit personnel we had the day the Inflation Reduction Act was passed versus the number of the highest-wealth filers in the United States—and I am not talking about just above 400,000, I am talking about the millionaires, the corporations with \$250 million in assets. We break it into cohorts. And the moment the Inflation Reduction Act was passed, we had 1 auditor for every 150 of the wealthiest taxpayers in the U.S.

And these tax returns are long and complicated, thousands of pages, sometimes hundreds of thousands of pages. So I like people to picture—like, picture that one IRS auditor or examiner backing in 150 truckloads of paper, saying, "I will review all that. That is my job." So it is a real volume challenge.

So we had to hire more personnel, you know, to evaluate these returns, but also the complicated financial structures, the introduction of new currencies, the—more movement of money into international tax jurisdictions, the proliferation of tax havens, all of it, we have to keep up with it.

Mr. LARSON. Exactly.

Mr. WERFEL. It is an investment that we have to make in our subject matter expertise. It is investment that we have to make in our analytics and our predictive modeling, because here is the other issue. If we don't invest smartly, we just start pulling audits, we are going to end up pulling audits from people that are following the laws more regularly, and then adding burden to them when they are doing what they are supposed to do.

So precision is actually very important here, and you have to invest to get that precision.

Mr. LARSON. Mr. Chairman, I think we should do a hearing at some point, too, on what artificial intelligence means, and what it will mean to our agencies, especially those that are guarding our privacy issues, as well.

But thank you—

Mr. WERFEL. Thank you.

Mr. LARSON [continuing]. Commissioner, thank you for your integrity and your candor.

Chairman SMITH. Mr. Larson, that is a great idea.

So Mr. Arrington.

Mr. ARRINGTON. Thank you, Mr. Chairman.

Commissioner, thanks for being here. A couple things.

One, I would like to have a conversation—we don't have to do it now—with your team responsible for the donor advisory fund regulations. I want to understand them better. They may be right, they may not be. I have concerns about what you all would think are conflicts of interest that I think the market would—has already considered and already manages, if you will. So it is something I would like—

Mr. WERFEL. Yes, you have my commitment on that.

Mr. ARRINGTON. Thank you.

So I am sure you have been briefed about the question I have, which is the question I asked you a year ago. I think you have got a lot to keep up with. You did respond in a letter. I referenced in our conversation a New York Post article that talked about the number of firearms and munitions that you all have at the IRS, and the number of armed agents. And it went through specific numbers: 3,832 handguns, 600 shotguns, 439 rifles, 15 fully automatic weapons. So it was very detailed. I don't know where they got their information.

And I think an appropriate oversight role for us is to, as a check and balance, and for the purpose of transparency to the taxpayers and to the people that we report to in the people's house, that they ought to have some confirmation of whether or not those numbers are right or if they are different.

You responded with a letter and said the inventory of guns and ammunition is consistent with other law enforcement agencies. I find that an inadequate response. I think if the American people, who we all work for, ask as a check and as a point of accountability on agencies with tremendous power—and with tremendous power, comes, I think, great responsibility and oversight and accountability—they deserve a specific answer. What is in the inventory? How many armed IRS agents?

I am not suggesting that there might not be some level of appropriateness, but just saying we keep up with the same standards—the same standards of who, the FBI, the ATF, the Border Patrol?

So I am going to ask you again. Do you have the specifics of firearms, the number of armed IRS agents, and the inventory of munitions? I think the American people ought to know that. And then we can discuss why you have it, and why they exist, and for what purpose. And again, there may be an appropriate need.

Mr. WERFEL. Yes, I would love to answer this question. First of all, I do recall the letter. I believe the letter that we sent you had a link to a public report that has the information you requested. If it did not, then we will get you that public link.

I added the point that it was consistent with other law enforcement—

Mr. ARRINGTON. Okay—

Mr. WERFEL [continuing]. After providing the data.

If I could, though, I think it is so important, if you could allow me to just address some myths about IRS and guns.

Mr. ARRINGTON. Please, please.

Mr. WERFEL. First, the vast majority of IRS employees are unarmed and will never be armed. Most IRS employees are customer service reps. I like to say they are armed only with headsets, phone headsets, and are—most of our accountants armed—all of our accountants armed only with calculators.

Mr. ARRINGTON. And 50 percent of them are at home doing it instead of in their offices, but that is a different issue.

Mr. WERFEL. Second, the only people in the IRS that would ever be armed are Federal law enforcement officials who investigate crimes in the context of very dangerous scenarios: organized crimes, criminals operating on the dark web, narcotics trafficking, human trafficking, terror financing, money laundering. The idea of sending these law enforcement officials to go execute a search warrant or an arrest warrant without being armed along with our other law enforcement colleagues, is not something that would ever be a smart or a prudent thing to do.

Third—and this is about our inventory, I think it is an important context—the actual discharge of any weapon by an IRS law enforcement official is extremely rare. But under Federal regulations we are required to maintain a minimum amount of ammunition for training purposes in order for them to be able to hold a firearm when they are executing a search warrant on a dangerous criminal.

And so, when you see the ammunition numbers in that public site, don't assume that that is ammunition that is used by the IRS ever.

Mr. ARRINGTON. My time—

Mr. WERFEL. It is really just for training.

Mr. ARRINGTON. I have got five seconds left.

Mr. WERFEL. Yes.

Mr. ARRINGTON. I appreciate all that. I will look at that link.

Mr. WERFEL. Please.

Mr. ARRINGTON. If it is in there, then I may have missed it.

Mr. WERFEL. Yes.

Mr. ARRINGTON. If it is not in there—

Mr. WERFEL. I will get you the data.

Mr. ARRINGTON. You will get me the specifics—

Mr. WERFEL. Absolutely.

Mr. ARRINGTON [continuing]. So we can share with the American people—

Mr. WERFEL. Yes.

Mr. ARRINGTON [continuing]. So we can, you know—okay, that is good. That is all I need. I appreciate it.

Mr. WERFEL. Thank you.

Chairman SMITH. Thank you.

Ms. Tenney.

Ms. TENNEY. Thank you, Mr. Chairman, and I see the ranking member is up there, too. And thank you both for holding this hearing.

And thank you, Commissioner. I know this is a long, long morning and afternoon for you. And I just want to jump into a couple of quick things.

So Commissioner Werfel, as Israel continues to fight the war that Hamas started with a vicious attack on civilians on October 7, 2023, which includes the efforts to recover hostages that continue to be held underground in Gaza, disturbing demonstrations have swept through our college campuses and around our nation and here at home. Many of these demonstrations have been explicitly anti-Semitic, and some have called for the death of the Jewish people.

This committee held a hearing in November where we heard from witnesses that explained how certain groups behind many of the events calling for violence against the Jewish people are funded through tax-exempt organizations. Multiple witnesses raised concerns that tax-exempt groups in the United States have ties to and may be providing material support to Hamas, a terrorist organization.

Do you share my concern about the shocking rise of anti-Semitism on college campuses particularly, and across our society?

Mr. WERFEL. Well, first, thank you for this question. It is a tough question and a tough issue. And I do share concerns. I find calls for hate, I find anti-Semitism, I find Islamophobia abhorrent, reprehensible, heartbreaking.

As I put on my commissioner hat and run the process of determining whether an organization is exempt or whether an organization should be revoked of their exempt status, we have a process that we run. And what I want to make sure is that we run that process robustly and effectively to make sure the right outcome happens.

Ms. TENNEY. Right, I understand that. And also, our—along with my other Ways and Means colleagues, we sent you a letter along with Secretary Yellen, as you know—

Mr. WERFEL. Yes.

Ms. TENNEY [continuing]. Asking for a briefing on what the IRS and the Treasury are doing regarding the funding of anti-Semitism, and particularly the funding of calls for violence against Jewish people and using tax-exempt organizations. And I understand that you are in the process of doing that and putting a briefing—

Mr. WERFEL. Yes.

Ms. TENNEY [continuing]. Together for us.

Mr. WERFEL. That briefing is happening, yes.

Ms. TENNEY. Which we greatly appreciate. But do you share our concern that there could be money flowing, particularly potentially international money that we can't track, flowing to—tax free for these horrific purposes?

Mr. WERFEL. I want to make sure that exempt organizations are meeting their responsibility to operate for exempt purposes. And there are certain activities that could mean that their exempt purpose or their exempt activities are—should be revoked. Those typically orient around illegal activity. And what I want to make sure is that we have a very robust process in place. We get a lot of referrals. I want to make sure that we are running those refer-

rals down and having a good assessment and a good process to figure out what the right outcome is.

Ms. TENNEY. Well, can you share with us any information about what the IRS and Treasury are doing about considering penalties, for example, revoking their tax-exempt status for these groups that are engaged in this kind of violent conduct?

Obviously, many of these organizations and many of these so-called grassroots efforts look very astroturf. They have assets well beyond what they should have or could have possibly in a spontaneous way. What can we see in terms of taking that status away?

Mr. WERFEL. I think this is an important moment in time, Congresswoman, for the IRS, Treasury, and other Federal agencies to come to this committee and others and lay out exactly what today's process is, what the current law and regulations say, and to determine whether we have both a sufficient framework, and is it being implemented effectively. And that is a conversation that absolutely needs to happen right now.

Ms. TENNEY. Thank you. We appreciate that.

And I want to just jump on one other topic that my colleague, Mr. Fitzpatrick, touched on, and that is I have serious concerns about the direct file program. And my constituents fear, and I think rightly so, the IRS being the judge, jury, and executioner of their personal finances.

Additionally, this program presents a clear conflict of interest, I believe, for the IRS, who should not be in charge of preparing taxes while performing other duties simultaneously, such as audits.

And, as you know, my home state of New York is already participating in this program, and another concern of mine is New York taxpayers could struggle to navigate between the two disparate systems, and ultimately fail to file in the state or the Federal.

And I don't know—I want to know, what are you doing to—I know you only have a few seconds left, but what are we doing to address this issue and this potential problem, especially as we are seeing issues in New York State?

Mr. WERFEL. So it is—we are certainly not preparing taxes. This is—I want—you should let your constituents know they are under no obligation to use this solution if they don't want to use this solution. We will determine, through this pilot, the pros and cons of such a solution, and I will be back before this committee to report on that.

Ms. TENNEY. Thank you. We just want to make sure it doesn't become a mandate. Thanks so much.

I appreciate your time today, and thank you so much for the response and also action on this really important issue with Israel and Hamas. Thank you.

Mr. WERFEL. Thank you.

Chairman SMITH. Mr. Kildee.

Mr. KILDEE. Thank you, Mr. Chairman, for recognizing me and to you and the ranking member for holding this hearing.

And thank you, Commissioner Werfel, for your testimony. I just want to start out by thanking you and, if you wouldn't mind, conveying to your staff my gratitude. And, when I mention your staff, I don't just mean your senior team that we most often interact with, but with every one of those IRS employees in all the field of-

fices around the country who do a really tough job under difficult circumstances.

In one of my past careers, I was the county treasurer, the tax collector for my county. And I know that, typically, when we are interacting with customers who are paying their taxes, they are not always having their best day. And I know it is a difficult job, and I just want you to convey my gratitude to them for the difficult work that they do and the fact that, in some cases, they have to face, I think, unfair characterizations from some of the people that I work with here in this building. And I just want to express to you that I appreciate their work.

I would also like to thank you for the difficult work that you did during the pandemic. Your team—

Mr. WERFEL. Absolutely.

Mr. KILDEE [continuing]. Because, obviously, you were not in that position.

My constituents in Michigan needed help getting in contact with the IRS just to deal with very simple issues. And I know we had some struggles there. And I think, thankfully, because of the investments that we have been able to make with the leadership of President Biden and congressional Democrats, the IRS is in a better position, much better prepared to provide the level of customer service that the American people deserve. And I know you are continuing to work to improve that, and I appreciate that very much.

I would also like to acknowledge the steps that you have taken to make this tax filing season easier for the people I represent by delaying the lower 1099-K reporting requirement. This delay will cut red tape for many taxpayers and allow the IRS to focus on ensuring that those wealthiest individuals that you have referred to a few times in this hearing and those largest corporations can no longer avoid paying the taxes that they owe.

The investments that President Biden and Democrats made under the Inflation Reduction Act are also helping expand access to filing, and you have addressed this. I know it has been raised by a number of members. But as has been mentioned, this includes expanding the Volunteer Income Tax Assistance and the Tax Counseling for the Elderly programs, which for years have helped the working families that I represent get their taxes filed without having to pay a fee.

I understand the point my colleague makes, but I think the point that you make is that we don't ask people to pay a fee for access to those. They are supported by taxpayer dollars, but not an out-of-pocket fee in the moment that that need is made. Those programs are operated locally by United Way back home for me.

Mr. WERFEL. Yes.

Mr. KILDEE. So the VITA and TCE programs are really important to me. And I wonder, particularly as—helping people access the benefits that they deserve, the EITC and Child Tax Credit—and I wonder if you can describe the IRS plan to expand VITA and TCE, and what effect you think this will have for the people I represent.

Mr. WERFEL. Yes, I appreciate the question. I think there is a concerted effort under our modernization plan—we call it our strategic operating plan—to meet taxpayers where they are and, in

particular, to figure out how we can connect with vulnerable populations to provide them assistance, often volunteer assistance, so that they have a better understanding of their tax obligations, but also what credits they may be eligible for that they are not receiving.

How do we do that? First of all, I think it is absolutely important that we are on the ground. And so we are using new funding to open more walk-in centers, to extend the hours of those walk-in centers, to have Saturday hours, to have special events and Taxpayer Experience Days. In those moments, we can really promote with other local leaders the presence of this opportunity to have a volunteer, and then other tax preparers to know that they can volunteer and be a part of our cadre of volunteers that are doing such important work.

I had mentioned earlier in the hearing I participated in one such local event in Baltimore, Maryland, where you had local leaders, taxpayers, volunteers all talking about the role of these VITA and TCE individuals in that organization, and the impact that it is having. And we had taxpayers stand up and tell their stories and how life-changing it was to get the help. And we need to do more of that. Local news was there covering it. That means that we are getting more visibility into these services.

Simple things that we can do, like, just for example, we have recently created a new page on our website called Free Help, where we are trying to highlight and make it as easy as possible for taxpayers to learn more about these clinics and these volunteers. So there is a big investment and push to reach out to communities and make sure that the IRS is there.

And I also mentioned protecting from scams, because it is typically—what is so heartbreaking about these scams and schemes is it is very often the vulnerable population that are exploited, those that get that phone call from someone pretending to be the IRS, and they don't have an accountant to call to look into it, and they are scared. And I want an IRS that can be there for them to help them understand that this is a scam, and you need to be protected from it. And we want to be there to do that.

Mr. KILDEE. Well, thank you, Commissioner. I appreciate your testimony. I appreciate the chairman's indulgence. You have a tough job. The people at the IRS all have a difficult job. We have a difficult job, too. But at the end of the day, we all work for the same people, and I think, if we can continue to collaborate on ways to improve our service to them, I think we are all better off.

Mr. WERFEL. Yes, and I don't think I have given enough credit in this hearing to the amazing workforce the IRS—and you mentioned it, the work they did during the pandemic was—you know, I would say for them—they would say it is all in the brochure of being there when taxpayers need them.

I think there are a lot of myths about the IRS. One that I learned as soon as I got there, IRS employees care deeply about serving taxpayers. They are passionate about it, and it is inspiring me every day.

Mr. KILDEE. Thank you.

And with that, Mr.—I really appreciate the indulgence. I yield back.

Chairman SMITH. Mrs. Fischbach.

Mrs. FISCHBACH. Thank you, Mr. Chair.

And Commissioner, thank you for being here today. I just wanted to talk a little bit about a report. And according to a recently released report from the Treasury inspector general for tax administration—there are lots of long titles—

Mr. WERFEL. Yes.

Mrs. FISCHBACH [continuing]. Entitled, “Quarterly Snapshot with IRS’s IRA Spending Through September 30, 2023.” But according to that, the IRS has spent 3.5 billion of the IRA funds.

Of the 3.5 billion of IRA funds expended in fiscal year 2023, approximately 1.6 billion occurred in the fourth quarter of fiscal year 2023. This includes approximately \$464,000 expended in fiscal year 2023 for the direct e-file, and I know that that has been mentioned before about the e-file return system.

Now, maybe—so you don’t have to look up everything, but what I really want to know is how the IRS is deciding what to spend the money on, and why has only 4.5 percent of the funds been spent, yet the IRS keeps asking for more money?

Mr. WERFEL. Yes, I am glad—well, first of all, here is an update. We are at 4.7 billion spent to date.

We are spending it, in particular, early on on taxpayer service, hiring more phone assisters, hiring more live assisters in our walk-in centers. We are updating our technology in our call center, adding more voice bots and automated solutions to our call center. We are purchasing more scanning, modern scanning equipment, so we are moving paperless. I mentioned we are simplifying all of our notices, and we are doing outreach to taxpayers in underserved populations.

Mrs. FISCHBACH. And so, Commissioner, that is all covered in that 4.5 percent, or the 4.7—

Mr. WERFEL. Four point five billion, yes. I mean, there are other things going on, in particular—and I spent a fair amount of time in this hearing—investing in our infrastructure.

Mrs. FISCHBACH. But are you going to—

Mr. WERFEL. And—yes.

Mrs. FISCHBACH. Are you planning on expanding those IRA funds on that? Because you keep asking for money, but yet—

Mr. WERFEL. Here is—

Mrs. FISCHBACH [continuing]. Only 4.7 is what I believe—

Mr. WERFEL. Here is the issue, and why we are asking for money. I mentioned it earlier, but it is really important if you would allow.

Our base budget, there are two parts of the IRS budget. We have a base budget to run our day-to-day train schedule, as I like to say, and then the IRA money, which is all about modernization, closing gaps, improving taxpayer services. That base budget is under-funding the cost that it is to run the nation’s tax system on a day-to-day basis.

But we have to keep the lights on, so we borrow from the modernization fund in order to pay. And, when we borrow from the modernization fund to keep our lights on, it means we are not modernizing. We are keeping the lights on, but we are not modernizing.

So, when I am asking for more money, what I am asking for for the IRS is fund our base budget, help us keep the lights on so that we can use those modernization funds to build the tools that taxpayers want. They want a call center that has a call-back option. They want a call center that has more voice bot technology so they can get to—things done more quickly. They want web functionality that works like their favorite online bank account so that they can do all their transactions with us without having to call—

Mrs. FISCHBACH. Commissioner?

Mr. WERFEL. Yes.

Mrs. FISCHBACH. I just wanted—in response to Mr. Kildee's question—

Mr. WERFEL. Yes.

Mrs. FISCHBACH [continuing]. I believe you mentioned the strategic operating plan. And maybe, as you go on and on about all of those things that you are doing, maybe you could help me understand how that fits in there, and how the spending fits with the operating plan.

Mr. WERFEL. I am sorry. With the operating plan?

Mrs. FISCHBACH. Well, you mentioned a strategic operating plan.

Mr. WERFEL. Yes, strategic operating plan, yes. That lays out our—what I call our public to-do list. And there are numerous items in there arrayed by various objectives to both modernize the taxpayer experience, to improve our equity in enforcement, and, in particular, to make sure that we are closing the gap on evasion in complex tax situations, and that we are investing in modern technology so that we avoid unauthorized accesses in the future.

Mrs. FISCHBACH. All right. Well, and thank you, Commissioner, and I may follow up with some other questions in writing, but I do have one last question.

Mr. WERFEL. Please.

Mrs. FISCHBACH. Last year, you responded to a question that I submitted on the record regarding your agency's ability to use the funds that Congress has given you to transition to new technology. Your response noted that—the progress the IRS was making with the paperless processing initiative.

However, I have recently heard repeatedly from a company that has been trying to find a solution that would allow them to submit thousands of forms electronically instead of submitting these forms in paper copies. Yet, after over a year of trying to work with your agency, they have continued to struggle to make meaningful progress on this issue.

And how is the IRS using its funds to proactively transition to a more efficient and technologically-advanced system for processing taxpayer information? Because that is not showing, they—

Mr. WERFEL. I will give you the 10-second answer. By this filing season, we committed to making every correspondence response digitally uploadable. We achieved that. By next filing season, we are moving to the types of returns and forms that your taxpayer is struggling with. We are making the investments to make this a reality.

Mrs. FISCHBACH. Okay, and we may end up following up with that because it—you know, given that they have been trying to

work with the IRS to make things happen, and it has been very difficult for them, so we may follow up with another letter.

But with that, I yield back, Mr. Chair.

Chairman SMITH. Thank you.

Mr. Wenstrup.

Mr. WENSTRUP. Thank you, Mr. Chairman.

And, Mr. Werfel, thank you for being here today, I appreciate it. I would like to focus my time today on an issue brought to me by constituents who are encountering issues with the Employee Retention Tax Credit.

I do want to say that over the years my IRS advocate to my office, they have been outstanding. So I do want to applaud that. Always responsive and helpful. I wish we didn't have to call as often as we do, but this is what we are talking about, these issues.

But recently, I was contacted by a constituent who tells me that their business is really in imminent jeopardy and will close, go out of business if they don't receive the ERTC funds that they had applied for. And, while this constituent applied for the ERTC before the IRS moratorium, the backlog, I understand, of the ERTC returns that has been created results in this claim being trapped in limbo. And for him, he sees no end in sight as far as—and trying as hard as he can.

Another constituent of mine has been waiting nearly two years. And yet, while the IRS will not process his \$14 million ERTC claim, they will process an intent to levy taxes on his business. And you can understand the conundrum there.

So it is kind of hard for the IRS to attempt to collect on this constituent's taxes when the balance would have been wiped out already if their ERTC claims were processed in a timely manner.

Mr. WERFEL. Yes.

Mr. WENSTRUP. So one thing is holding the other.

So I understand that this program has become rife with fraud and abuse, and I agree that enforcement action must be taken against bad actors, and I sympathize with you there. But I would like to ask a couple questions about what IRS is doing, can do to solve the issue for my constituents, and what steps Congress can take to be helpful, as well. So I will kind of bundle these three questions, if you will.

What is the status of the IRS's ERTC moratorium?

How many claims are in the pipeline?

And do you have a timeline for those claims filed before the moratorium?

Mr. WERFEL. Yes. So, first of all, I appreciate you raising it.

It is important that we understand where there is a constituent or a taxpayer—in particular, where there is a potential hardship. They are sitting, they are waiting on an eligible claim, and they are facing an emerging hardship. That is why we work with our taxpayer advocate to try to bump up to the front of the line those that are in more of a crisis situation, and we have had some success with that. I think there has been some reference to that here.

Plus, I want to learn more about every—these types of situations because other taxpayers may be experiencing them, and maybe there is some scaled solutions we can do.

As I mentioned earlier, we are making slow, steady progress. Since the moratorium has been issued, we have approved nearly \$1 billion in ERCs. The challenge that we have is that there is a lot more in the inventory as we are looking to piece out which are eligible and which are ineligible.

I would expect that by this spring we would have finished the work necessary to really kind of separate into the right buckets, and we will be able to lift the moratorium in that timeframe.

Mr. WENSTRUP. Well, if there is anything that Congress can do or, in particular, congressional office can do, we would appreciate that.

And I was wondering if passing the American Families and Jobs Act would help alleviate the—

Mr. WERFEL. It absolutely would for a variety of different reasons.

The situation that we have has a lot of unique challenges in terms of the inventory, ineligibility, incentives that are being provided to certain promoters that are clogging the system and harming honest taxpayers. The bill that has been passed by this committee and the House addresses a lot of that, and we are appreciative.

Mr. WENSTRUP. Thank you, I yield back.

And again, feel free to reach out to Members of Congress if there are things we can do on our end or within our district offices.

Mr. WERFEL. I appreciate that.

Mr. WENSTRUP. I yield back.

Chairman SMITH. Thank you.

Mr. Panetta.

Mr. PANETTA. Thank you, Mr. Chairman.

Mr. PANETTA. Commissioner Werfel, thanks for being here. It almost seems like you are enjoying answering the questions, which I think demonstrates that you are pretty good at your job. So thank you very much, I appreciate it.

As you know, we in Congress provided the IRS with historic funding to help close that tax gap, the hundreds of billions of taxes that are owed but not paid. We also provided billions to modernize the IRS and improve customer service, which has already reduced call times, as we have talked about today, and helped more taxpayers and professionals settle tax issues. Now, thanks to this funding, the IRS has already collected over a half \$1 billion in overdue taxes from delinquent taxpayers.

I want to remind all of my colleagues that tax collection isn't a tax hike. It is about enforcing the law.

Now, the vast majority of middle-class family constituents with W-2s and simple incomes pay what they owe, and so should everybody else at all levels. So thank you, and we are encouraged by the IRS efforts to recoup unpaid taxes and improve taxpayer service. So I appreciate your work and your leadership at this point, Mr. Commissioner.

I want to narrow down my line of questioning to paid preparer regulations. Suzan DelBene already hit on this, but let me delve a little bit more into it.

The IRS Taxpayer Advocates Purple Book, which I am sure you are aware of, has stated that over half of all returns are done by

paid preparers who don't have any credentials to do so. I have a bipartisan bill, the Taxpayer Protection and Paid Preparer Proficiency Act—try saying that fast—that would ensure that paid preparers meet minimum competency standards. It would exempt credentialed professionals like CPAs and enrolled agents or preparers that meet minimum standards from state education councils from any new standards. It is sort of the—that is the focus of the bill, is on the worst actors, as you know.

While I know that the IRS would ideally be given full legal authority to regulate all preparers, would you support a compromise that mandated minimum competency standards targeted at those with no credentials at all?

Mr. WERFEL. Yes. Well, I don't have the authority sitting up here to support a particular legislative provision. I would have to get with my Treasury colleagues to do that.

As a general principle—

Mr. PANETTA. Please.

Mr. WERFEL [continuing]. We lack authorities today to hold preparers accountable, whether it is credentialing, whether it is when they harm taxpayers. And the President's budget each year has included an array of different legislative changes that would enhance our ability to crack down on nefarious actors that are doing these things or to improve the overall quality of taxpayer service that they—that people get from private tax professionals.

So, yes, we would love to work with you on the right set of legislation.

Mr. PANETTA. I appreciate that, thank you.

One of the—I will call it penalties, I guess, as a former prosecutor I can say this—one of the penalties I think that the IRS should have is the authority to revoke a preparer tax identification number, or PTIN, as it is called—

Mr. WERFEL. Yes.

Mr. PANETTA [continuing]. When there has been misconduct. However, there have been some due process concerns that have been raised. Would the—do you think you—I guess you can opine—whether or not the IRS would support a system of due process for preparers who are facing PTIN revocation?

Mr. WERFEL. Yes, there is—the legislative proposals that I have mentioned earlier that were in the President's budget last year have new penalties for when there is an appropriation of a PTIN and tackles the issue. Whether that president's budget proposal aligns directly with yours, I am not sure without getting into the details, but I think it is a great starting point to have that conversation.

Mr. PANETTA. Thank you. Okay, moving on to tax credits, obviously we in this committee passed legislation that would reduce our carbon output by 40 percent by 2030. However, some of the credits, including those from microgrids, fuel cells, and linear generators expire at the end of this year. And, unfortunately, we are still waiting for final guidance on those credits, and that is leading to some taxpayers and constituents of mine being reluctant to make investments.

Myself and Representative Tenney, have been pushing to extend these new energy credits so that they encourage, not discourage,

more clean energy and resilient energy system deployment. So, in a blatant effort to garner evidence and support for my bipartisan legislation, does the IRS see greater utilization in tax credits when they have had clear guidance for a longer period of time?

Mr. WERFEL. Oh, absolutely, yes.

Mr. PANETTA. Thank you.

I yield back.

Mr. WERFEL. Thank you.

Chairman SMITH. Mrs. Steel.

Mrs. STEEL. Thank you, Commissioner, for being here, and I really appreciate it that you have been here answering all these questions.

You know, the United States tax system, IRS—and I know California, because I came from California tax agency—and plus all other states, I know their systems are really different than Justice Department because when taxpayers—as soon as audit starts, taxpayers are guilty and they have to prove that they are not guilty.

But, you know, the report from 2023 found that no-change audits were 13 percent of audits for those making between 100 to \$200,000; 25 percent of those making between 1 million to \$5 million resulted in no changes; and then 50 percent of audits making over \$10 million result no change.

And then you just mentioned one of the question that you are—one of your first priority is, like, you are going after millions and billions, you know, making wealthy individuals—and your specific mention that about 1,600 people. I just want to know that you are targeting those people, or they have been assessed but they are not paying taxes?

Mr. WERFEL. They are—have been assessed a balance due that is now delinquent.

Mrs. STEEL. So those are—

Mr. WERFEL. Millionaires and billionaires that have a delinquent tax debt.

Mrs. STEEL [continuing]. All the wealthy individuals that you are talking about.

Mr. WERFEL. Yes.

Mrs. STEEL. So those are including—not including those no result. I mean, no changes. You know, when—after they did the audit. But these—

Mr. WERFEL. No, these are individuals that have had—

Mrs. STEEL [continuing]. Are already audits—

Mr. WERFEL [continuing]. Do have a balance due. It might not have been after an audit, but there is a balance due that is now late, and they are not paying unless we go and enforce that they must pay.

Mrs. STEEL. I am glad that you are not targeting certain people out there. So thank you.

Mr. WERFEL. Yes.

Mrs. STEEL. And we have spoken extensively about your drive to increase the number of audits, searching for evasion.

Mr. WERFEL. Yes.

Mrs. STEEL. And that is good. People have to pay taxes if they owe.

But what steps are you taking to reduce this fishing expedition, no-change audits that burden taxpayers and cost the IRS time and money for no result?

Mr. WERFEL. Yes, that is a concern. We want to—we don't want to have a situation in which we are selecting cases for audits where we should not have because the tax—we want to leave those taxpayers alone. They should continue to do what they are doing, which is filing complete and accurate taxes.

This is about making investments in subject matter expertise and analytics to make sure that we are selecting the right cases. And then, when we select them, when we have the return in front of us, that we can identify where there might be pockets or systemic evasion. And we have to get better at it. We have to become more precise. And to do that, it is about investing, as I said, in subject matter expertise, technology, analytics, some AI solutions we have already put in place.

Mrs. STEEL. So then let's go back to this. The IRS must safeguard taxpayer information.

A recent letter you sent Chairman Smith notes that IRS conducts background checks on employees and contractors.

Mr. WERFEL. Correct.

Mrs. STEEL. But the February 2024 Treasury Inspector General for Tax Administration Report notes that the IRS did not always remove contractors' access to sensitive systems when background investigations were not favorable, especially 19 contractors' most recent background investigations were not favorable as of July 13, 2023, yet they still retain their access to one or more sensitive systems because the IRS did not take an action to suspend or disable the contractors from the IRS systems, as required.

So why should the fact that the IRS conduct background checks on employees and contractors serve as comfort if IRS does not take necessary actions to limit the access of those who failed background checks?

Mr. WERFEL. Yes, I really appreciate the question, and it is absolutely critical that only those employees or contractors who require or are eligible for access have access.

And we are—first of all, with respect to those 19 contractors, we have resolved the issues with those 19 contractors. Issues came up during their routine background investigations. I can state unequivocally that there is no evidence that they—that those 19 contractors compromised sensitive information of any kind.

The other key point is that when we eliminate network access, there is no more access to sensitive data. And systemically we have been able to eliminate network access. The issue is sometimes these employees still appear on a registry, like a time—like for time keeping. And so it gets confusing. That individual can't access sensitive data, but they are on some type of list somewhere. And when TIGTA saw that, they rightfully called us out: "These people shouldn't be on this list." But they don't have network access.

That doesn't mean I am resting on any of this. We have to be as diligent as possible to make sure that only employees with applicable and timely access can have that access, and we are working that issue right now.

Mrs. STEEL. Mr. Chairman, I have one more question on IT modernization following up that question. But, you know, what? My time is up. So I am going to submit in writing.

Mrs. STEEL. Thank you.

Mr. WERFEL. Thank you.

Chairman SMITH. Thank you.

Ms. Van Duyne.

Ms. VAN DUYNE. Thank you very much, Mr. Chairman. I want to concur with all of the comments that were made earlier about the ERTC. And for the sake of argument or for the sake of time, I don't want to be repetitive, but I published an op-ed piece that I would ask for unanimous consent to enter into the record.

Chairman SMITH. Without objection.

[The information follows:]

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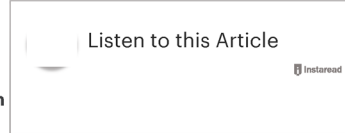
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Retention Credit, a pandemic-era tax credit, until 2024 due to rising concerns that an influx of applications are fraudulent. The IRS said Thursday, Sept. 14, 2023, that hundreds of criminal cases have been started and thousands of ERC claims have been referred for audit. (AP Photo/Patrick Semansky, File)

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Gil Bonifaz has been through a lot.

As a 4th generation restaurateur, his family restaurant has been employing dozens of Texans at Herrera's Tex-Mex and serving delicious fajitas since 1971 in the heart of Texas's 24th District.

After pandemic-era restrictions reduced his restaurant's revenue, he could not keep up with rising rents, accountant fees and medical bills brought on by his wife's fight with cancer.

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In 2020, Gil was projected to generate \$1 million in revenue, but, through no fault of his own, brought in only \$400,000. As he stretched to keep his 15 employees on the payroll, the \$100,000 loan he received through the Paycheck Protection Program was not enough to cover the impact of the pandemic. Gil called it “a Band-Aid on a bullet wound.” After waiting months for the Internal Revenue Service (IRS) to disburse [Employee Retention Credit \(ERC\)](#) funds, Gil and his family were forced to close their doors. In Gil’s words, “It’s safe to say I would still be in business if the ERC had gone through.” Ironically, this is what the ERC was created to prevent in the first place.

Gil’s situation is quite common. Many small businesses still haven’t received the Employee Retention Credit relief promised to them for tax years 2020 and 2021. The ERC was [designed to be a lifeline](#) for small businesses devastated by the pandemic and subsequent government mandates, allowing eligible job creators who kept workers on the payroll during COVID-19 to claim a tax credit to offset some of their payroll costs.

As a result of the IRS’s failure to process ERC claims, not only are more than 1 million business owners left waiting, but it also delays identifying

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and denying fraudulent claims. That's despite the 90,000 employees currently at the IRS's disposal — more employees than Customs and Border Protection and the FBI.

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For mom-and-pop business owners like Gil, who kept paychecks flowing to their employees when there were no customers, the recovery from the pandemic is ongoing. As champions for pro-growth policies empowering our job creators, Republicans must ensure the tax relief promised to these entrepreneurs is finally delivered.

We shouldn't punish small business owners who did the right thing and kept people on their payroll. Equally, we cannot allow the IRS to fail once again to go after fraudsters.

As a member of the House Small Business Committee and the House Ways and Means Committee with

jurisdiction over the IRS, I am working to hold the IRS accountable on behalf of constituents like Gil, and all small business owners who are wrongfully punished by the IRS's incompetence.

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While Gil's doors are closed for now, he still hopes to receive the funds to repay his back rent, reopen Herrera's doors, and "pass the business on to the 5th generation of Bonifaz's."

We must not leave Gil and the other 1 million impacted job creators behind. The IRS must finish delivering the relief promised to small businesses like Gil's nationwide while identifying and preventing fraud.

Beth Van Duyn represents the 24th District of Texas and is a member of the Ways and Means Committee and Small Business Committee.

TAGS EMPLOYEE RETENTION CREDIT IRS SMALL BUSINESS

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Ms. VAN DUYNE. So one of the new taxes that is included in the new tax on chemicals is to fund a new superfund, and I have introduced legislation to repeal this. The excise taxes were last imposed and collected in 1995, and there appears to be a lack of historic knowledge within the Treasury and the IRS as to the refund and credit process.

I have heard from constituents that the IRS substantially delays processing refund claims and has initiated audits for each claim. For tax credit claims we understand the IRS is denying the credit, requiring payment for the full superfund tax amount with no credit offset, and assessing penalties and interest for failure to pay, even though an offset or credit is allowed by law.

The IRS released proposed regulations on March 21 of last year, yet to this day the regulations have not been finalized. When will the rule be made, and what will the agency do to rectify these problems?

Mr. WERFEL. Congresswoman, I appreciate the question. If you will allow, I would like to go back and make sure that—

Ms. VAN DUYNE. I don't have a lot—I don't need a history, I am just wondering when are you going to be able to finalize the rule, and what are you going to be able to do to—

Mr. WERFEL. I will get back to you with a response on that.

Ms. VAN DUYNE. So we don't—

Mr. WERFEL. I don't have a date.

Ms. VAN DUYNE. It has been over a year, right?

Mr. WERFEL. Yes.

Ms. VAN DUYNE. Okay. We don't have a—

Mr. WERFEL. I will—I want to get back to you with a specific timeframe.

Ms. VAN DUYNE. Okay. Chairman Smith and the Oversight Subcommittee Chairman Schweikert wrote a letter on July 25, 2023 requesting a copy of the decision memorandum detailing the recommendation to destroy 30 million unprocessed, paper-filled informational returns in March of 2021. The destruction of these returns raises the question of whether information reporting should be scaled back to reduce the burden placed on taxpayers in reporting information that the IRS does not even use.

We still haven't received a response from you, and the original response was requested by August 8, 2023. That is 129—I am sorry, 192 days overdue. So, Mr. Werfel, will the IRS ever provide this documentation voluntarily, or should we consider other means to obtain it?

Mr. WERFEL. Oh, I apologize. Look, it is very important that we are responsive to all congressional requests for documents or information from this committee.

Ms. VAN DUYNE. So it has been 192 days.

Mr. WERFEL. Yes.

Ms. VAN DUYNE. Tell me, will we be seeing that forthcoming, or do we have to issue a subpoena?

Mr. WERFEL. I will go back and make sure that it is forthcoming.

Ms. VAN DUYNE. So that is yes.

Mr. WERFEL. Yes.

Ms. VAN DUYNE. Do we have a date on which we can respect to have—expect to have a response?

Mr. WERFEL. I will get back to you with a firm date.

Ms. VAN DUYNE. Okay, so when will—I am sorry, earlier, the chairman's questions, it seemed that you dodged some of them on sentencing of the IRS employee who stole the tax information of thousands of Americans.

Thankfully, that individual is going to jail, but for a much shorter period of time than they should. How many individuals and entities had their information stolen?

Mr. WERFEL. I don't want to quote an exact figure. It is way too many, but it is in the tens of thousands.

Ms. VAN DUYNE. Do we know for each, for entities and for individuals?

Mr. WERFEL. We have all the detail. Yes, TIGTA has shared us the information because we have a responsibility to reach out to the impacted taxpayers so that they have notice on the situation.

Ms. VAN DUYNE. So can you get us that information?

Mr. WERFEL. Yes.

Ms. VAN DUYNE. And then have you ever asked ProPublica to return the stolen information?

Mr. WERFEL. I believe that the Justice Department and TIGTA have done that.

Ms. VAN DUYNE. Do you know what has happened as a result?

Mr. WERFEL. I don't have up-to-date information on that.

Ms. VAN DUYNE. So, according to the inspector general, for some sensitive systems the IRS does not have adequate controls to detect or prevent the unauthorized removal of data by users. How is it possible that the IRS did not know the quantity of sensitive data systems under its purview?

Mr. WERFEL. Yes, that was the situation in 2017 when this unfortunate incident occurred. That is no longer the case.

Ms. VAN DUYNE. So what steps have been made to rectify that?

Mr. WERFEL. We have invested significant time, energy, and resources in dramatically changing our data security profile. We have hardened, basically, our security posture, including introducing and implementing all the necessary audit trails so that if this type of activity happened today, the risk of it succeeding is much, much, much lower, the probability of it succeeding is much, much lower.

Ms. VAN DUYNE. So, at this point, we can expect that those—all of those safeguards have been put into—not just talked about, but have actually been implemented.

Mr. WERFEL. There is a long to-do list, and we have made our way through most of it, but the to-do list keeps growing because the risks evolve. But yes, I would say that—

Ms. VAN DUYNE. Do you think the risks involved by having people work with their own devices and working from home [sic]?

Mr. WERFEL. As I have mentioned earlier, I think the risk is both when they are in the office, when they are at home. There is always risk, and that is why we have to constantly focus on training—

Ms. VAN DUYNE. All right. Thank you—

Mr. WERFEL [continuing]. Controls, et cetera.

Ms. VAN DUYNE [continuing]. And I yield back.

Chairman SMITH. Mr. Feenstra is recognized.

Mr. FEENSTRA. Thank you, Mr. Chairman, and thank you, Commissioner Werfel, for being here today.

In April, you and I had a great discussion about the modernization of the computer system at the IRS. We know that this is a, you know, significant challenge. I think 33 percent of your applications are still on a legacy system and, you know, we continue to look at our—create policy—I am thinking of book tax and stuff like that—are very complicated. So I just want to update a little bit.

You know, the IRS noted that removing sensitive systems to a cloud environment will allow IRS to better monitor and use accessed data. I am just wondering, where are we at on moving to a cloud system? Can you extrapolate on that?

Mr. WERFEL. Yes, so there are two fundamental—or two main systems that underlie the IRS infrastructure: the individual master file and the business master file. So that is where all the returns, when they come in, that is our transaction record. We are close on the individual master file. We are months away—I would say probably April, May, June timeframe—of moving it into a fully modern environment, which is the final step—

Mr. FEENSTRA. Yes.

Mr. WERFEL [continuing]. Before it would go to the cloud. So it is kind of like—

Mr. FEENSTRA. So—

Mr. WERFEL [continuing]. On the to-do list to get it to the cloud. We have one more step. That will make it cloud ready, and then it will move to the cloud.

Mr. FEENSTRA. So you are prognosticating here. When could we be cloud based, do you think?

Mr. WERFEL. I want to get back to you on that. I know that the next key milestone is in the April/May timeframe. How long from that point to a cloud environment, I have to get back to you on that specific—

Mr. FEENSTRA. Okay. And, you know, I think about digitizing our data and going paperless on a lot of these things. Once we go to cloud, will we then go paperless?

Mr. WERFEL. We are going paperless in concert with going to cloud. But yes, my—we have to still allow taxpayers the option to file on paper if they so choose, but we want to turn—convert that into machine-readable before it leaves our mailroom. And that is the—we are both purchasing the scanning equipment for that and updating our processes to make sure that we don't have paper anymore throughout the IRS.

Mr. FEENSTRA. Got you, got you. So can you—do you have metrics that we are trying to follow here saying, all right, we—and you just sort of mentioned it, right, we are going A, B—

Mr. WERFEL. Yes.

Mr. FEENSTRA. I mean, that we are trying to meet these metrics as we move forward.

Mr. WERFEL. Yes. We have the kind of what I call a critical path with our milestones, absolutely.

Mr. FEENSTRA. Okay. Would you—can you commit to me and the committee that you can get us that information? Maybe quar-

terly statistics on the progression of the various IT projects underway in the IRS?

I mean, this is sort of the first time we are hearing where this is going, and I would love to know, all right—you know, just—again, it is accountability. Hey, you know, this is where we are at. This is—

Mr. WERFEL. Yes.

Mr. FEENSTRA [continuing]. Where we are at this quarter, next quarter, and so forth. Can you—

Mr. WERFEL. Yes, I would love to do that. Not only what path we are on to get to the cloud, but also, as important if not more important, what does that mean for taxpayers?

Mr. FEENSTRA. Yes.

Mr. WERFEL. What does it mean that we are on the cloud?

Mr. FEENSTRA. Correct.

Mr. WERFEL. I mean, there are a lot of benefits coming when we get there.

Mr. FEENSTRA. And there is going to be a lot of education. I mean, I think—and what I think of all these online tax companies that are doing taxes as we speak right now, I mean, if it is online I think we could be so much more efficient. I think it would be—serve the customer so much more. That is why I am pressing about it issue. I just look at customer service in today's world. When you are on the cloud, there are so many benefits. And we see that in the private sector. And that is why I really push this.

And, just finally with that, I mean, what goes along with this, right, once we get to a cloud-based system, then we can also do more with AI. We talked about that many—I was talking about it earlier. Can you discuss how you are using more AI for assistance in enforcement, and what does that look—how can we look forward to using that when we get to a cloud system?

Mr. WERFEL. I will start by saying we are being very careful with our deployment of AI, making sure that we are following the right ethics and ensuring that, as was mentioned earlier in this hearing, that no bias would be introduced. So we are doing it very methodically. Here are a couple of the key places where we are introducing AI.

First, in our call center so that we are kind of using, for example, chat bots, so that when you are asking a question—

Mr. FEENSTRA. Okay.

Mr. WERFEL [continuing]. Before you get to a live assister, they are using language recognition to answer your question, and then you resolve the question—

Mr. FEENSTRA. Yes.

Mr. WERFEL [continuing]. And then they are done, and they are done more quickly. So that is one example.

Also—and going back to this point of making sure that we are selecting the right cases for audit—

Mr. FEENSTRA. Got you.

Mr. WERFEL [continuing]. There is very sophisticated modeling that uses advanced math, advanced data science that means that we are more likely to pull a case where there is evasion versus not. That means the honest taxpayer doesn't get burdened—

Mr. FEENSTRA. Right.

Mr. WERFEL [continuing]. And that means the dishonest taxpayer gets accountability.

Mr. FEENSTRA. That sounds great. And again, I am just pressuring as much as possible to modernize.

I mean, this is—it should be, you know, 20 years in the coming that this all happens, and hopefully we can get it done in the next 12 months. Thank you.

And I yield back.

Mr. WERFEL. Thank you.

Chairman SMITH. Mr. Moore is recognized.

Mr. MOORE of Utah. Thank you, Chairman.

Commissioner, thanks for being here. We are getting down to the lower dais, down to the last little bit. This is where the real work gets done.

Mr. WERFEL. It is.

Mr. MOORE of Utah. And this is where we actually solve problems.

Mr. WERFEL. We are just getting started.

Mr. MOORE of Utah. Yes, just getting started.

No, sincerely, I represent Ogden, Utah.

Mr. WERFEL. I know.

Mr. MOORE of Utah. Right, a wonderfully strong workforce for the IRS. It has been—you know, I have known it my whole life, and have many colleagues and friends and everybody that have been there. I visited there as a Member of Congress. I actually look at my time before Congress, when I was a management consultant. And I actually wish that I could be working on this project in that sphere, instead of even in a congressional role because, to me, it would be very simple.

You have a bipartisan, strong agreement about modernization. And my colleague from Iowa just spoke a lot to it, so I won't rehash too much of it, but there is commitment there. And we should be doubling down and we should be tripling our efforts to make this happen. And at that point, we then assess what workforce needs are, right?

And so I opposed the Democrats' bill, IRA, that would have been a huge expansion. But then, when we pulled it back, we wanted to keep the focus on the modernization piece. And then we reassess and we try to go about figuring out where the workforce needs to be. And that is the way I hope we can continue forward, realizing—finding the areas of common ground, because that is the only time you get anything done in this place is if there is common ground, and we make moves in the right direction.

For my constituents, this is a pain point for them.

Mr. WERFEL. Yes.

Mr. MOORE of Utah. Your offices, they—we share the same Federal building. When we reach out, we do a—we have an excellent relationship. So thank you again for that, and I echo what my friend from Georgia said.

But this is an area we can actually improve on, and we need to double down on those efforts. So thanks for the comments you made on modernization and digitizing and getting us to this point. Members of this committee, you know, have raised many important

points on that. Can you discuss how the agency is truly prioritizing these initiatives?

What is immediately—something you are immediately working on, something that you want to get accomplished that might be a few months to years down the road, but you could probably—you know, we could maybe make it happen quicker if you get more collaboration from us?

I am concerned about the level of attention the IRS has placed on programs like the direct e-file program, which was not authorized by Congress. Could you give some—share some thoughts on that?

Mr. WERFEL. Yes. In terms of—you know, we want to have big impact for taxpayers that benefit them. And so, you know, I start with the call center. This is a place where there has been historic attention. I think a lot of taxpayers end up coming to the call center hoping for a smooth and better experience. I think we, that call center, certainly faltered in the 2022 tax season.

And the changes we can make are not just about hiring additional phone assistants, it is about modernizing our call center. Because you look at call centers in other industries and around—and in other public-sector organizations, there are both AI and technology solutions that can make the whole operation operate more smoothly.

And then I go to our web tools. We have online accounts now, where individuals and businesses can register and have their own personal account with the IRS. And so think about it in terms of what that account functionality is today versus your experience with your online bank account, and we have a gap. There are certain things you can do with the IRS online account, but not nearly as much as you can do with your favorite bank online account. And the goal is to close that gap.

Now, that is not just about fixing the website. There is the entire technology infrastructure underneath that also has to enable a more modern experience for taxpayers. That is where the focus should be.

I think there should be a bipartisan agreement that we want to lean in to give taxpayers the tools to make this entire taxpaying process easier.

Mr. MOORE of Utah. Excellent. I agree, and I believe that that motivation is there, and we need to double those efforts.

Regarding the Employee Retention Tax Credit, you saw the tax package that this committee just came together on to pass in an overwhelming fashion. Can you give me a sense—I have heard from a lot of small businesses that are anxiously awaiting for their ERTC claims to be processed. How is the IRS working with reputable tax preparers in the greater tax community to ensure that these ERTC payments continue to be processed, the legitimate ones and everything?

There is a big backlog here.

Mr. WERFEL. There is, there is. I get this question a lot. Work with your taxpayer, the taxpayer advocate, if you have a hardship. We are working with the taxpayer advocate to try to prioritize our significant inventory to those that face the biggest hardships.

It is an unfortunate situation. The promoters and the marketers that essentially tricked a lot of small businesses that weren't eligible into applying have clogged—

Mr. MOORE of Utah. Have clogged the system.

Mr. WERFEL [continuing]. The system, and we are working through it.

I mentioned we are coming up on nearly \$1 billion in ERC issuances that have occurred since we announced the moratorium, and most of that is working with the taxpayer advocate and Congress and others to prioritize those that are the most urgent because they are hardship cases. That doesn't mean they are going to get approved, because sometimes we work on it, and we realize you are actually not eligible. But we are focused on it, and we are making sure they get resolution.

Mr. MOORE of Utah. I got a request earlier today, so I may even be calling you myself. Thank you very much.

Mr. WERFEL. Yes.

Chairman SMITH. Thank you, Mr. Moore. I don't believe the top dais would agree with your inaccurate statements earlier.

Mr. Gomez.

Mr. NEAL. Mr. Chairman.

Chairman SMITH. Yes.

Mr. NEAL. That is unanimous. [Laughter.]

Mr. GOMEZ. Thank you, Mr. Chairman.

And Commissioner Werfel, thank you for being here today. I call the lower part of the dais the part of the dais that is closest to the people. So—and I am proud that we are all here fighting for our constituents.

I want to talk about the Child Tax Credit. In 2021, we saw child poverty cut by nearly half in a single year, thanks to the Child Tax Credit. By increasing the credit, making it fully refundable, and authorizing monthly payments we used the tax code to deliver relief directly to American families. Three million children were lifted out of poverty.

But despite our policies giving working and middle-class Americans more money in their pockets, which all my Republican colleagues claim is their goal, every Republican Congress let these vital provisions expire. We did see some progress from Republicans last month when we passed a bipartisan package to strengthen the CTC. But ultimately, Republicans refused to support the provisions that have been proven to dramatically reduce child poverty, provisions like increasing the maximum credit and ensuring full refundability to help kids and families who need the credit the most.

But I want to focus on an equally important but often overlooked provision that made the CTC so effective: monthly checks. Parents know kids need diapers, formula, food, clothes, and they need it not once a year, but they need it every single day, every single week, and every single month. You can't pay down your child's hunger once at the end of each year. By giving families the money they are entitled to in monthly payments, we boosted monthly income and put their money back in their pockets. Making payments monthly instead of annually has the power to change the lives of working people all over the country. That sounds like something the Repub-

licans should support if you listen to what they want from the tax code.

Commissioner, given the progress made and lessons learned in 2021, does the IRS already have much of the infrastructure and knowledge to quickly roll out advance payments of the Child Tax Credit if Congress acts?

Mr. WERFEL. It certainly was a beneficial moment for us to re-engineer our systems, update our processes, and go through the effort and resolve it successfully. I like to say we now have the muscle memory and should be able to implement something like that easier than if we were trying it for the first time.

Mr. GOMEZ. I appreciate that. And one of the things that I was informed about is that it also wouldn't cost that much. So it is something that I know would make a difference.

You know, some people say it is only 250 to 500, or even 700 bucks a month, but to working people that is a lot of money—

Mr. WERFEL. Absolutely.

Mr. GOMEZ [continuing]. That can make a difference when it comes to making basic ends meet.

Another aspect of making the Child Tax Credit effective is ensuring that taxpayers claiming the credit are treated equitably. Last year, I wrote a letter requesting the IRS to further analyze and report existing data by race and gender to help us better understand how other historically marginalized communities may be impacted by racial disparities in the—in audit selection. I appreciate your leadership announcing that the IRS is taking meaningful steps to address these disparities, especially for refundable credits like the EITC and the CTC.

Commissioner, can you please update us on this work, including any information about the case selection practices driving these disparities and steps being taken to address the disparities I just mentioned?

Mr. WERFEL. Yes. The big takeaways you should have are the following: one, we are significantly reducing the number of EITC audits because audit volume was identified in the independent report as being one of the main drivers of disparate impact.

Second, we have changed the case selection algorithm with an intent specifically to reduce the disparities that were existing in our case selection. We will be able to report in the fall of 2024 time-frame whether the changes that we made are having the intended impact of eliminating the disparity.

Furthermore, we now want to work to make sure that we are constantly evaluating disparate impact in IRS operations, and we are working on the best way to do that. And, in particular, it is often important to work with external stakeholders. This whole issue surfaced by an independent report, so partnering with various stakeholders who can evaluate the impact of IRS operations along with us is critical. So strengthening those partnerships is another part of the plan.

Mr. GOMEZ. Thank you, Commissioner. When Chairman Neal established the Racial Economic Equity Working Group when we were in the majority, it is an issue that we feel is important. Because if Americans feel like the tax system is fair, they are more likely to comply.

So, with that, I yield back, Mr. Chairman.

Mr. WERFEL. Thank you.

Chairman SMITH. Ms. Malliotakis.

Ms. MALLIOTAKIS. Thank you, Mr. Chairman, and Commissioner, thank you for your time here today. My colleagues have asked a wide range of questions and concerns, but today I really want to talk about the casework in my district office we are faced with on a regular basis.

First, I want to commend your team of tax advocates. In particular, George Aggete has worked very closely with my district office. He is a tremendous asset, does a fantastic job.

And it is my understanding that the New York delegation has a total of 1,688 open cases with the IRS, 81 of those being from my office. The number-one issue my office deals with, unfortunately, is stolen returns. I believe we have 14 current cases with the IRS totaling over \$1 million in stolen returns, where criminals have removed and replaced the name and the address on the check. And theft is made easy by the envelopes that the Department of Treasury uses, making it blatantly obviously—obvious that there is a check inside.

The issue worsens when the IRS does not allow those individuals to then opt for a direct deposit. So a new check gets issued. And we are in this kind of endless cycle, with one of my constituents having a check needing to be replaced three times.

It is also my understanding that the IRS does not allow direct deposits for amounts over \$20,000, or \$25,000.

So I understand that these thefts are not solely confined to IRS checks, but every check issued by the Department of Treasury. So I just had a few questions on how, you know, we can possibly work together to rectify this issue.

And what is theft in check—first of all, do you know the cost of what this is costing the United States taxpayers, the fact that these checks are being stolen?

Mr. WERFEL. I don't have a metric on that.

I do think you have identified the right set of people to come together: me—the head of the Bureau of Fiscal Service at Treasury that operates our payment platforms either sends the checks or executes the direct deposit, and I do have a lot of motivation around these open cases.

I mean, I have referenced it a few times, the taxpayer bill of rights affords the taxpayer quick resolution. And, if they are waiting and having to receive a check three times, and we are not meeting that responsibility—

Ms. MALLIOTAKIS. On the issue of tackling theft itself, are you working with the U.S. Postal Service to try to address this issue?

Mr. WERFEL. I am not aware that we are, but I want to get back to you on that.

Ms. MALLIOTAKIS. Okay. And, since the issue is for all Treasury-issued checks, has anyone discussed the—changing the envelope to—so it is not so obvious that there is a check inside?

Mr. WERFEL. As you are sitting here saying this, it is very intuitive. But I do want to check with the Bureau of Fiscal Service leadership on this.

Ms. MALLIOTAKIS. What options do you think are available to constituents that are victims of this tax return theft, other than getting a reissued paper check?

And is revisiting the direct deposit issue—can you do this, can you do that, in terms of—

Mr. WERFEL. Yes, I want to look into why that is not—

Ms. MALLIOTAKIS. Yes.

Mr. WERFEL [continuing]. Currently feasible.

Ms. MALLIOTAKIS. Yes, it should be an option, certainly, if they had the first check stolen and they want to move to direct deposit.

Mr. WERFEL. Yes.

Ms. MALLIOTAKIS. That should be an option.

And then, if you could, look at the thresholds, if there is truly a cut-off at \$20,000, \$25,000, which I had not heard about prior. So look, I really want to work with you on this issue.

Mr. WERFEL. Absolutely.

Ms. MALLIOTAKIS. I really hope that you will follow up, your staff, with my team so we can try to get to the bottom of this, and maybe there is a follow-up meeting that we can have with somebody from Treasury to really discuss this. Because, if it is \$1 million that is being stolen from constituents in my district—there is 435 Members, right? And so, we—that is a lot of money.

Mr. WERFEL. That is a lot of money.

Ms. MALLIOTAKIS. That is a lot of money, so we want to try to get to the bottom of this. And unfortunately, there are bad people in the world that are trying to take advantage of our constituents and the American taxpayer, and we have got to, I guess, modernize our system to keep up with this type of fraud.

Mr. WERFEL. It is the smart place to make investments. Where people are being victimized is the exact place where the government needs to step in and prevent and be helpful.

Ms. MALLIOTAKIS. Okay. Well, thank you very much for your time.

Mr. WERFEL. Thank you.

Chairman SMITH. Mr. Carey?

Mr. CAREY. Thank you, Mr. Chairman and the ranking member. I am reminded of that phrase, “Where you are now, I once was then,” and I do appreciate the comments and the leadership that is behind me.

I just want to say that because I am number 25 on this dais here. [Laughter.]

Mr. CAREY. I do want to talk a couple of issues, and I am going to start with—because I think one is important to the future of our country, which is digital asset brokers, but then I also want to talk about what I think is preserving the history of our country. It is the conversation that you and I had the last time you were here, Commissioner, which is historic tax credits and historic preservation easements.

Mr. WERFEL. Yes.

Mr. CAREY. So to give you just a minute to think about those things, I would also like to echo the comments from my colleague from Illinois as it relates to child support, because that October 24

deadline is looming, and I would like—our office will work with you on that.

I also would like to follow up with the—I heard my colleague from Georgia say that you were very helpful in some constituent cases that that he had. I will probably revisit you with that.

So, with that, Commissioner, I trust you are familiar with the recent release proposed rule regarding tax reporting requirements for digital asset brokers.

Mr. WERFEL. Yes, I am.

Mr. CAREY. So then you know that the rule, as finalized, as currently proposed, the IRS, by their own admissions, will receive an estimated eight billion information returns from just this one rule. So, to put that in perspective, for 2022, the IRS received 5.45 billion information returns, total. With this new proposed rule, the amount of the reports the IRS will receive will increase by about 150 percent.

We were talking about the amount of employees you have. Is the IRS equipped to handle this significant increase in the data?

Mr. WERFEL. There are a lot of moving pieces on these issues. We have issued the proposed regulations. We have got hundreds of thousands of comments and that we are working through. I feel like we are at an inflection point in terms of digital currency and how to approach it along a lot of different perspectives of government, but in particular tax.

We have to be prepared to—whatever the outcome of that regulatory process is, to have the technology and the process to execute those regulations fulsomely. So we will only propose in final regulations things that we have confidence we can execute on.

Mr. CAREY. And I thank you for that. Personally, I support amending the rule to ensure that there is parity between the traditional finance industry. And I understand these rules go beyond the traditional—what traditional finance requires. If the rule did create a more level playing field between the two, the number of reportable transactions would decrease, freeing up IRS's time to focus on their current mission and not shifting all through the unnecessary data.

It probably looks like I am not going to get to historic preservation, but we will follow up in written testimony on that.

Mr. CAREY. What timeline of implementing the recently released proposed rule regarding tax reporting requirements and assets for brokers do you think it would—do you think is a realistic timeframe?

Mr. WERFEL. The challenge that I have is that I—it is really my counterparts at Treasury that I co-lead this with. And so I would want to make sure that we are aligned on the timeframe.

I think we got over 400,000 comments on the regulation. And so figuring out—you know, this is a complicated issue, and we certainly don't want to get out in front before we have given those comments fair vetting. So I don't have a specific date for you, but I can work with Treasury to get you one.

Mr. CAREY. And I would appreciate that. Now, it is my understanding that there is a much shorter window for compliance than traditional finance brokers, and, to comply when they were imple-

menting this rule for—the traditional being 5 years, the digital asset exchanges only got 16 months. Is there any reason for that?

Mr. WERFEL. I don't at my fingertips have the full explanation and basis for it, but we will give you the underlying basis for that.

Mr. CAREY. Well, and I appreciate that again, Mr. Commissioner.

Given this new industry, it is a new industry with new technologies and innovation, I would recommend that you reevaluate the timeline to give the stakeholders enough time to comply, just as the traditional financial market did.

We are voting, and I will get back with you on the historic tax credits and historic preservation easements because they are very important to me, but I do appreciate your time, and it is good to see you again.

Mr. WERFEL. Thank you.

Mr. CAREY. With that, I yield back.

Chairman SMITH. Thank you.

Thank you, Commissioner Werfel, for appearing before us today. We look forward to the follow-up answers from the requests of our members.

Please be advised that members have two weeks to submit written questions to be answered later in writing. Those questions and your answers will be made part of the formal hearing record today.

With that, the committee stands adjourned.

[Whereupon, at 1:50 p.m., the committee was adjourned.]

MEMBER QUESTIONS FOR THE RECORD

NOTE: DATA IS CURRENT AS OF THE HEARING

Questions for the Record
U.S. House of Representatives Committee on Ways and Means
Hearing on the Filing Season and IRS Operations
February 15, 2024
Witness Daniel Werfel, Commissioner of Internal Revenue

Chairman Jason Smith

Please see below for the following questions for the record following your testimony to the House Committee on Ways and Means on February 15, 2024.

- 1. Please provide the most recent data regarding how much money has been spent, directly or indirectly, on the IRS Direct File program? Please include details on any work provided by other agencies, including but not limited to U.S. Digital Services, 13F, and the U.S. Department of the Treasury.**

We released a report on May 3, 2024, IRS Direct File Pilot Program: Filing Season 2024 After Action Report ([Publication 5969 \(5-2024\) \(irs.gov\)](#)), that provides information about the cost of the Direct File pilot.

- 2. What is the most recent figure totaling how many taxpayers have used the Direct File program? How many of those returns were successfully accepted by the IRS through the Direct File program?**

We released a report on May 3, 2024, IRS Direct File Pilot Program: Filing Season 2024 After Action Report ([Publication 5969 \(5-2024\) \(irs.gov\)](#)), that provides information about participation in the Direct File pilot.

- 3. What is the most recent figure totaling how many people can simultaneously use the Direct File platform at the same time?**

There is no limit to the number of taxpayers who can simultaneously use Direct File at the same time.

- 4. The Committee is aware of certain restrictions on who can file their taxes via Direct File. For example, the Committee learned that taxpayers in at least one state must be a full-year resident of the state and have no out-of-state income to use Direct File to file their taxes.**

- a. How are taxpayers made aware of restrictions that apply to them before using Direct File to file their taxes?**

An eligibility section on [directfile.irs.gov](#) helps taxpayers determine if they are eligible to use Direct File. Taxpayers who are not eligible to use Direct File are presented with alternate filing options.

NOTE: DATA IS CURRENT AS OF THE HEARING

- b. What happens if a taxpayer is not made aware of such restrictions and files their tax return with the Direct File platform? For example, will the IRS notify the taxpayer and help them reconcile any issues created by the restrictions Direct File imposes?**

Additional checks are built into the Direct File tool to identify cases in which a user has a tax situation that is not supported. For example, if a taxpayer answers that the taxpayer lived in more than one state in tax year 2023, then Direct File alerts the taxpayer that their tax situation is unsupported and prevents them from moving forward with filing a return.

If a taxpayer files their return through Direct File and fails to include all necessary information, their return would be treated like other incomplete or inaccurate returns filed by taxpayers using other means. In some circumstances it may be rejected, in which case the taxpayer will need to file using another method. In other circumstances the return may be accepted, in which case the taxpayer may later receive a letter from the IRS notifying them of the need to address any identified issues.

- 5. Do you guarantee 100 percent accuracy for taxpayers who use the Direct File platform to file their taxes?**

Please see responses to 5a and 5b (below).

- a. How does Direct File accuracy compare to commercial companies that participate in the IRS Free File program where accuracy is guaranteed?**

As we move forward, we will be conducting ongoing evaluative work, including looking at the accuracy of Direct File.

- b. What happens to a taxpayer's return if there is an accuracy issue made by the Direct File platform or the IRS when someone uses the Direct File platform to file their taxes?**

Direct File has been extensively tested to prevent errors; this matter is a key motivation for limiting the tax scope of the pilot. If there is an error in calculations in Direct File, the IRS will remedy the situation.

Representative Adrian Smith

On February 21, 2024, the Internal Revenue Service (IRS) issued a press release about its intention to begin using Inflation Reduction Act (IRA) funding to "begin dozens of audits on business aircraft involving personal use." The press release goes on to say that the audits "will be focused on aircraft usage by large corporations, large partnerships, and high-income taxpayers and whether for tax purposes the use of jets is being properly allocated between business and personal reasons."

Please see below for the following questions for the record following your testimony to the House Committee on Ways and Means on February 15, 2024.

NOTE: DATA IS CURRENT AS OF THE HEARING**1. What is the IRS's basis for this initiative?**

The IRS Large Business and International Division (LB&I) approved this campaign as part of its compliance campaign process that addresses issue-specific compliance across our filing population to ensure balanced coverage. A listing of the various active LB&I campaigns is available at [LB&I active campaigns | Internal Revenue Service \(irs.gov\)](#).

This campaign also supports the IRS's Strategic Operating Plan Objectives with respect to improving and promoting voluntary compliance for large corporations, large partnerships, and high-income and high-wealth individuals.

2. What is the IRS's scope and focus in conducting audits on business aircraft being used for personal reasons?

The primary focus of business aircraft audits will be ensuring compliance with the applicable provisions of the Internal Revenue Code (I.R.C.), namely sections 280F with respect to Qualified Business Use, 274 with respect to Substantiation and Personal Use Disallowance, and 61 dealing with the Fringe Benefit Inclusion.

In addition to conducting examinations, the IRS plans to use what it learns from the campaign to evaluate the need for education and outreach, as well as potential form changes, to support compliance in this area. We recognize that this is a complex area of tax law, and record-keeping can be challenging.

3. The press release states that the IRS is going to begin conducting "dozens of audits" on business aircraft being used for personal reasons. What is the IRS's expected audit rate of taxpayers who own aircraft(s) for business purposes? Additionally, what is the IRS's expected return on investment from these audits?

The IRS does not have an expected audit rate for this issue, and our compliance efforts aim to improve voluntary compliance rather than achieve a certain return on investment. One of the benefits of announcing campaign efforts publicly is that there is a positive effect on voluntary compliance that extends beyond the population that will be examined on any given issue, as taxpayers and their preparers are often prompted by such announcements to evaluate and improve documentation and recordkeeping on the issues covered by a campaign.

4. How many resources does the IRS expect to use in pursuing audits on business aircraft being used for personal reasons?

The IRS estimates that initially approximately 12-15 employees could be needed to conduct these various examinations. However, we will have a better sense of resource needs once we are further along the examination process.

5. How will the IRS be making audit selection decisions related to business aircraft being used for personal reasons? Will the audits be randomly selected, chosen using artificial

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The IRS developed the Business Aircraft Campaign in accordance with LB&I's Campaign Development Process, as set forth in Internal Revenue Manual 4.50.1. Campaigns involve a thorough analysis of data to support the identification and evaluation of potential compliance risk within the LB&I filing population through the development of filters. The checks and balances that are part of that process ensure fairness and integrity are the foundation of the Campaign Development Process, consistent with IRS Policy Statement 1-236.

- 6. As you may know, in rural areas such as the Third District of Nebraska, aircraft ownership can be a cost effective way to bridge long distances for families, farmers, ranchers, and small business owners. Will the IRS be selecting taxpayers earning less than \$400,000 per year for audits based on their usage of aircraft for business purposes as part of this effort?**

The Business Aircraft Campaign will be focused on large corporations, large partnerships, high-income and high-wealth taxpayers. We will adhere to the Secretary's directive to not increase audits below \$400,000.

Representative Jodey C. Arrington

In your testimony to the Ways and Means Committee, you made clear that stopping identity theft is one of his top priorities. Unfortunately, one tool at the IRS' disposal, the IVES program, has been restricted by recent policy changes.

The IVES program allows loan providers to verify a consumer's W2 form electronically, allowing a firm to verify a consumer's self-reported income. This is an incredibly useful tool for both loan underwriting and fraud prevention. The IRS then announced that this program would be limited to only mortgages over privacy concerns, even though this is explicitly consumer permissioned data.

Following your testimony before the Ways and Means Committee on February 15, 2024, I write to request a written answer to the following question:

- 1. As fraud concerns continue to grow in the AI age, will the IRS commit to making as many tools available as possible, including the IVES program, to help lenders, creditors, employers, and other businesses combat fraud?**

The IRS provides tools, such as the ability for taxpayers to review their accounts using the Online Account tool, to ensure taxpayers can view and correct incorrect or fraudulent data, and to monitor how their data is used. Other planned modernization efforts will expand these opportunities. The confidentiality and authorized use of Federal Tax Information (FTI) is defined by I.R.C. § 6103. Making FTI and tools available to third parties to combat non-tax fraud is not an authorized use; however, the IRS is working to make it easier for taxpayers to monitor and share their own data when appropriate. The return information available in IRS transcripts and through the IVES program is precisely the kind of sensitive information that

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scammers and other criminals desire to perpetrate fraud, and the IRS must and will follow statutory and regulatory controls on the disclosure of that information. Taxpayers may obtain and release their own tax information, but the IRS will not be able to protect them, or their data, when they do so. Often taxpayers are asked to provide their tax data unnecessarily and do not know they can opt out of providing their FTI or are not fully informed about its intended use or given alternatives or due process rights when tax data are not required. The IRS must be cautious about providing easier access to this critical information to broader groups of third parties. We are committed to combating fraud and do not want to unwittingly abet it.

We also note that due to concerns received from IVES third-party participants, industry, and our stakeholders, the IRS paused the January 2, 2024, policy change. This pause will allow us time to engage meaningfully with our stakeholders to determine a path forward that protects taxpayer data and privacy, while providing the essential elements of return data the industry requires for loan or financial purposes.

Representative Mike Carey

As I have mentioned in previous hearings, historic preservation is very important to me. Many historic buildings throughout my district and across Columbus and the State of Ohio have been saved by using federal programs like Historic Tax Credits and Historic Preservation Easements. Still, many more are currently at risk due to development pressures. Unfortunately, while there has been a significant amount of guidance on HTC's, the IRS seems quite intent on issuing what some on your staff have described as "guidance through litigation" when it comes to Historic Preservation Easements. Court trials are the most expensive way for the taxpayers and the government to interact.

- 1. Do you think "guidance through litigation" is the appropriate way for the IRS to provide ground rules to historic building owners, taxpayers and the preservation community on the use of historic preservation easements?**

The IRS is committed to providing guidance that is useful for all taxpayers, including issuing guidance under section 170. On December 29, 2022, Congress enacted section 605 of the SECURE 2.0 Act of 2022 (SECURE 2.0 Act), dealing with conservation easements, a subset of which is historic preservation easements. Prior to the enactment of the SECURE 2.0 Act, the IRS coordinated with the Treasury Department to issue proposed regulations addressing reporting requirements for syndicated conservation easement transactions. Since the enactment of the SECURE 2.0 Act, the IRS has been committed to providing guidance under section 605. The IRS has worked with the Treasury Department to issue safe harbor guidance and proposed regulations in direct response to the legislation. Taxpayers and the preservation community have provided comments on these proposed regulations, which the IRS and Treasury Department are considering as the regulations are finalized.

- 2. The IRS previously stated that they had a 100% audit rate on conservation easements, including historic preservation easements. Is that still the case, and does it sound**

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The IRS is committed to continuing to administer the Code in a way that encourages preservation of historic buildings and open space while curbing the abuse that has overshadowed the true purpose of the law. The 100% audit rate applies only to transactions the IRS designated as listed transactions due to the abuse that has been identified by the IRS.

3. Are you keeping tabs on how many historic preservation easement audits are heading to tax court, and if so, what are those numbers?

For tax years after 2016, we are aware of at least 109 examinations that may be related to charitable contribution deductions for historic preservation. There are approximately 40 historic preservation cases (including pre-2016 cases) docketed in the United States Tax Court.

4. Wouldn't a reasonable settlement initiative make more sense for taxpayers and the government?

The Office of Chief Counsel has initiated settlement offers in docketed syndicated conservation easements cases, and the IRS continues to explore the feasibility of a settlement that makes the most sense for taxpayers and the government.

5. Will you commit to directing leadership in the IRS Counsel's office and other divisions to have good faith discussions with the historic preservation community and building owners in my district on how to resolve examinations and litigation?

The IRS has engaged with the historic preservation community and building owners multiple times including through speaker engagements, scheduled comment periods on guidance, and listening sessions. We will continue to be engaged with this community.

6. Last Congress, as part of the SECURE 2.0 legislation in the omnibus, we codified new limitations on land conservation easements and new reporting requirements for historic preservation easements. My hope was that with these new tools, the IRS would crack down on abusive land conservation easements and provide additional substantive guidance to the historic preservation community. To date, that has not happened. Conversely, I have heard from historic building owners and developers in Columbus, who I greatly respect, that they have largely curtailed their use of historic preservation easements due to uncertainty around the program and the looming threat of years of controversy with the IRS. This is very unfortunate and disappointing to me, as the program has been proven to work and to be an economic driver across my district.

Will you commit to having your staff engage with the historic preservation community and with historic building owners to ensure they have the guidance they need to use this important preservation program as Congress intended?

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Yes, the IRS will continue to engage the historic preservation community as guidance is considered. Last year, the IRS issued proposed regulations related to section 605(d) of the SECURE 2.0 Act and also issued safe harbor guidance. The IRS has welcomed comments from taxpayers, including the preservation community, and is considering the suggestions and concerns of these stakeholders as the regulations are finalized. The IRS has also updated forms, publications, and instructions to provide guidance to taxpayers on the requirements of the new legislation.

- 7. Will you work with my office to ensure that historic building owners and preservationists are not being deterred from utilizing easements to protect historic buildings out of fear of audit or years of expensive litigation?**

Yes, the IRS will continue to work with your office on this issue while ensuring compliance with the Internal Revenue Code.

- 8. The national housing crisis is of great concern to me. Columbus, Ohio is consistently ranked one of the fastest growing cities in the Midwest. The adaptive reuse of historic office and industrial buildings into residential housing has been a huge driver helping to meet demand from additional residents in Columbus. Using Historic Tax Credits and Historic Preservation Easements, building owners and developers utilize tax incentives as part of the economic return to investors to help raise capital, referred to as syndication, and offset the cost of saving and rehabilitating historic buildings up to National Park Service and Secretary of the Interior Standards. The programs work and economic impact reports illustrate that they are some of the few incentive programs that pay themselves back in the form of new tax revenues generated.**

Will you please ask your team to refrain from using "syndication" as a bad word, since virtually all real estate transactions involve syndication?

The IRS's use of the term syndicated is intended to describe the structure of the transaction (i.e., several investors forming an entity to purchase or invest in the property). Its use alone is not intended to suggest that a syndicate is improper.

- 9. Will you commit to designating a point person on your leadership team to meet with historic building owners, developers, and preservationists from my district to ensure that they can confidently use both HTC's and easements to protect historic buildings without fear of excessive IRS tax controversy?**

The IRS will continue to engage with the historic preservation community as well as other stakeholders. The IRS has engaged multiple times including through speaker engagements, scheduled comment periods on guidance, and listening sessions. The IRS is committed to continuing to administer the Tax Code in a way that encourages preservation of historic buildings and open space while curbing the abuse that has overshadowed the true purpose of the law.

- 10. There is widespread recognition that one intent of Congress in passing the Inflation**

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Reduction Act (IRA) was to incentivize the onshoring of the critical mineral supply chain. In fact, the recently released 2024 Mineral Commodity Summaries Report by the United States Geologic Survey shows that the U.S. is reliant on imports for more than one-half of the country's consumption of 49 minerals and 100% import-dependent on 15 of them.

However, the proposed regulations on the implementation of the 45X Advanced Manufacturing Production Tax Credit within the IRA released in December, as proposed, would deny the 45X credit for direct or indirect raw materials costs or costs related to the extraction or acquisition of raw materials, including minerals. The Department of Treasury and the IRS cited concerns about duplicate credit claims for the same costs. However, the mining industry believes that parties incurring extraction costs can be made eligible for the 45X tax credit without resulting duplication.

Direct and indirect materials costs and the costs related to the domestic extraction of raw materials are value added activities and should be eligible to claim the 45X credit. Doing so would help stimulate domestic production of much-needed critical minerals and reduce the USA's reliance on imported minerals. As such, will you commit to working with the mining industry and other professionals on a path forward for making direct and indirect material costs and costs related to the domestic extraction of raw materials eligible for the 45X tax credit?

Expanding production of critical minerals in the United States is an Administration priority. As enacted by the Inflation Reduction Act (IRA), the section 45X credit incentivizes producers of critical minerals to invest in the United States.

Recognizing the importance of the domestic extraction industry and that a wide range of costs are incurred in the production of electrode active materials and critical minerals, the Treasury Department and the IRS have requested comments on whether and how extraction costs and other similar value-added activities in the production of raw materials used in critical minerals and electrode active materials should be taken into account. We are committed to carefully considering feedback on the proposed regulations before issuing final rules.

- 11. Deputy Secretary of the Treasury Adeyemo articulated the need to ensure that "foreign minerals" cannot benefit from the 45X tax credit. Could a possible "Buy American" proposal for adding raw material extraction cost to the calculation of production cost within the 45X tax credit -- therefore covering the full U.S. sourced mineral supply chain required to produce eligible applicable critical minerals -- be not only easily administrable, but consistent with Congressional intent in enacting the 45X tax credit as applied to critical minerals and also address Deputy Secretary Adeyemo's concern?**

We are open to exploring proposals to implement the section 45X tax credit consistent with the statute while addressing administrability concerns. We are committed to carefully considering feedback on the proposed regulations before issuing final rules.

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- 12. Dozens of companies representing the entire supply chain for renewable energy and EV technologies have stated that to make the section 45X credit work in the real world, it must permit each party in the U.S. supply chain from extraction through refining to claim a tax credit on the value-added costs the party incurs, provided the mineral ultimately reaches the requisite purity.**

Couldn't a reasonable method for tracing through the supply chain ensure adequate transparency and reduce duplicate credits? Such as receiving certification from refiners that the minerals a U.S. producer has extracted were refined to the requisite purity and sold to an unrelated party?

See answer to Question 11 (above).

- 13. President Biden has emphasized the importance of his Future is Made in America by All of America's Workers executive order and has launched a whole-of-government initiative to support American manufacturing. As proposed, the 45X guidance would prohibit access to domestic mining – the beginning of the supply chain for renewable energy technologies, and which is responsible for millions of direct and indirect high paying jobs throughout the United States.**

Will IRS commit to working with the administration, the mining industry, and the unions to ensure the intent of Congress is reflected in the final guidance and supports a domestic mining workforce and communities they operate in?

See answer to Question 10 (above).

- 14. The 45X credit was created in part to help increase domestic critical minerals production. However, Treasury guidance currently disallows mining and extraction costs. Please explain why the IRS believes that a tax credit meant to increase domestic critical mineral production cannot be used for mining activities.**

Expanding production of critical minerals in the United States is an Administration priority. As enacted by the IRA, the section 45X credit incentivizes producers of critical minerals to invest in the United States. The proposed regulations issued in December 2023 would require taxpayers to perform the key activities in the production of critical minerals in the United States or a United States territory to claim the section 45X credit. Specifically, these activities would include the processing, conversion, refinement, or purification of source materials, such as brines, ores, or waste streams, to derive a distinct critical mineral. Because the raw materials used in these key activities may be either from United States or non-United States sources, crediting a portion of raw material costs could indirectly benefit foreign raw material suppliers.

Recognizing the importance of the domestic extraction industry and that a wide range of costs are incurred in the production of electrode active materials and critical minerals, the Treasury Department and the IRS have requested comments on whether and how extraction costs and other similar value-added activities in the production of raw materials used in

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critical minerals and electrode active materials should be taken into account. We are committed to carefully considering feedback on the proposed regulations before issuing final rules.

- 15. The 45X credit is 10% of the production cost of the critical minerals it produces. Please explain why only the final processes of critical mineral production may claim the 45X credit, rather than the extraction itself.**

See answer to Question 14 (above).

- 16. The Treasury Department has stated that it is awaiting stakeholder input before moving forward on guidance for critical mineral mining and extraction. Proposed guidance in the Federal Register stated that Treasury and the IRS are trying to protect against companies using the 45X credit to support mining in other countries. However, I am concerned this is being used as an excuse, as Treasury has had over a year to collect stakeholder input and further, clarifying whether a company seeking the 45X credit is mining domestically or internationally does not seem like a hard issue to verify. Will you commit to quickly finalizing guidance on the 45X credit that promotes domestic mineral mining and extraction so that the United States can build jobs and reduce our dependence on China for these minerals?**

The Treasury Department and the IRS have been working expeditiously to consider stakeholder feedback on all the provisions of the IRA. Treasury and the IRS have already issued over 60 pieces of guidance on the IRA's energy security provisions and will continue to work toward issuing guidance expeditiously, including for the section 45X credit.

Representative Judy Chu

Filing Relief for Natural Disasters Act

In early February, California was hit by another severe storm system that impacted much of the State, including Los Angeles County, and led the Governor to declare a state of emergency.

Californians had our federal filing deadline extended last year because of severe storms, but when a serious disaster strikes during filing season, the IRS cannot grant this flexibility before the President declares a federal disaster, a process which could take days or weeks. That is why Representative David Kustoff and I introduced H.R. 3861, the Filing Relief for Natural Disasters Act, which would give the IRS the authority to extend filing deadlines after a Governor declares a state disaster. Sometimes, even a difference of a few weeks or days can make an impact for taxpayers, especially when disaster strikes during filing season.

- 1. Can you talk more about why the IRS's authority to extend deadlines is important, and describe the challenges that taxpayers face when they suffer a disaster just before a tax deadline? How might this bill help?**

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The IRS has the authority to postpone filing deadlines in the event of a presidentially declared federal disaster, but this does not extend to state-level disasters declared by governors. The Federal Emergency Management Agency (FEMA) identifies the counties that are included in the presidentially declared federal disaster. The IRS converts the identified counties into zip codes so the taxpayer's account can be marked as having the extended deadline. Thus, affected taxpayers do not have to take any action or file any information with the IRS to get the extended deadline.

Taxpayers generally must file a refund claim by the later of three years from the date such return was filed or two years from the date the tax was paid. Thus, taxpayers who file their tax returns by the April 15 filing deadline ordinarily have until April 15 three years later to file a refund claim to receive a credit or refund of any overpayments of tax. The IRS is only allowed to provide credits or refunds for overpayments of tax paid within a lookback period. For claims filed within three years of the return's filing, the lookback period is for taxes paid within three years of filing the claim, plus extensions of time for filing the return. Separately, the IRS is authorized under section 7508A to postpone (or disregard) the tax return filing deadline due to certain disasters, but unlike an extension such relief does not automatically extend the three-year deadline to claim a credit or refund under section 6511. Consequently, some taxpayers who file refund claims within three years from the date they filed their returns may be surprised that their claims are rejected as untimely simply because they took advantage of a postponed filing deadline for the year in question. Similarly, the IRS is required by section 6303 to demand payment within 60 days of an assessment, even if the payment deadline is postponed. As a result, the IRS may send letters requesting payments that have been postponed.

Simplifying the Automatic Filing Extensions (SAFE) Act of 2023

Last May, I introduced H.R. 3566, the Simplify Automatic Filing Extensions (SAFE) Act, with Representative Mike Carey. This bipartisan bill would help both taxpayers and the IRS by creating a streamlined process for those who need a filing extension. Specifically, our bill would give taxpayers certainty that they will not owe underpayment penalties so long as they pay 125% of their prior year's tax liability when filing for an extension. This can help more taxpayers stay in compliance with the law and make the process much easier to administer for the IRS.

- 2. Can you talk about how this contrasts with existing requirements for taxpayers who file for an extension, and whether this proposal could free up resources for the IRS while streamlining the extension process for taxpayers?**

We are happy to discuss this proposal further with you. Generally, taxpayers and tax professionals often request extensions of time to file tax returns. These extensions allow individuals an additional six months – from April 15 to October 15 – to prepare the tax return, but do not extend the payment deadline. A failure to pay penalty applies to amounts not paid by April 15, even if the taxpayer needs a filing extension because they do not have the information they need to compute their tax liability.

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Republican Efforts to Cut IRS Funding and IRS Taxpayer Assistance Centers

Passage of the Inflation Reduction Act represented a historic investment in the IRS to not only ensure the wealthiest pay their fair share, but also to comprehensively improve services for everyday taxpayers. These services include IRS Taxpayer Assistance Centers, which offer in-person assistance during the filing season and serve many low-income, non-English-speaking, and older taxpayers. In fact, the IRS just announced that, through funds secured in the IRA, it would be extending its office hours at Taxpayer Assistance Centers until April 16th so that more people can receive services outside of normal business hours. These extended hours are especially important because many states only have one Center and, in 2023, 73% of TACs were less than fully staffed, limiting available appointments.

These extended services are yet more evidence that IRA investments in the IRS are already greatly paying off. But Republicans continue to demand further disinvestment in the IRS. They even reneged on the debt limit deal they made with the President by demanding \$20 billion be cut from IRA funding to the IRS in one year, rather than \$10 billion over two years.

3. Commissioner, if Republicans continue to succeed in slashing IRA funds from the IRS, what impact will this have on the IRS's ability to maintain proper staffing and implement flexible hours during filing season at Taxpayer Assistance Centers?

IRA funds are crucial to the IRS's ability to maintain proper staffing and implement flexible hours during filing season at Taxpayer Assistance Centers (TACs). A decrease in funding in our Taxpayer Services account would affect our ability and commitments to fully staff our TACs. It would also impact Taxpayer Experience Days, Extended TAC Hours, and Community Assistance Visits as well as our ability to maintain appropriate levels of service on our telephone lines.

We have dedicated the \$3.2 billion in Taxpayer Service funds that we received in IRA to ensuring that we can meet taxpayers where they are, including the TACs. However, we face a funding cliff when these funds run out as soon as FY 2026 as our underlying discretionary budget for Taxpayer Services is not sufficient to maintain these activities and we are limited from transferring other IRA funding to these activities. The FY 2025 budget includes a mandatory proposal to fund IRS in the outyears that would allow us to continue to provide the excellent levels of support in our TACs and on our toll-free lines.

With the funding currently appropriated to the IRS, the agency can maintain the taxpayer services workforce at the level required to deliver exceptional service in FY 2025, but will not be able to support these efforts through FY 2026. Currently it is estimated that the 85% level of service target for the 2025 filing season will necessarily drop to less than 30% in FY 2026 as Taxpayer Services staff needed to support taxpayers who need help will be underfunded by more than 33% meaning that less than three out of every 10 taxpayers will get through to the IRS when they call.

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The \$20.2 billion rescission that was enacted as part of the FY 2024 budget you noted only affected our IRA Enforcement appropriation, so there was no direct effect to our TACs, which are funded out of our Taxpayer Services appropriation. However, ongoing efforts to reduce the IRS's IRA funding will have a cumulative effect on IRS efforts to improve IRS service and associated technology.

Direct File Pilot Program Language Access

Commissioner Werfel, the Direct File program is available in both English and Spanish to millions of Americans this filing season, including to California taxpayers. Direct File will soon allow participants to file their federal taxes directly with the IRS for free, instead of using third-party companies that charge high fees even to file simple returns.

- 4. My district in the San Gabriel Valley of Southern California includes many limited English proficient taxpayers who speak languages including Tagalog, Korean, Chinese, Japanese, and Vietnamese. If the pilot is found to be successful, can you talk about how the IRS could expand Direct File to even more languages?**

One of the things we wanted to test during the pilot was the ability to successfully offer Direct File in both English and Spanish and understand the user experience of taxpayers whose primary language is not English. As Direct File moves beyond the pilot, the IRS will explore options for expanding Direct File to additional languages.

- 5. Additionally, while IRS Direct File is the first time the federal government has provided taxpayers with a free public e-file tool, many states already have successful public e-filing tools, like CalFile in California. Can you talk about how the IRS is working to connect taxpayers using the IRS Direct File program with these existing state-level tools?**

One of our goals for the pilot was prioritizing a high-quality, seamless taxpayer experience. Where taxpayers have state or local tax obligations, eligibility is limited to states that are actively partnering with IRS on the pilot. Direct File does not prepare state tax returns; however, for taxpayers who live in Arizona, California, Massachusetts, or New York, after filing a federal return, Direct File guides taxpayers to a state-supported tool to prepare and file a state tax return. For taxpayers in Arizona, New York, and Massachusetts, taxpayers could transfer their federal return information to the state tool to assist in the preparation of a state return. As we move forward with additional states, we will continue to prioritize a seamless taxpayer experience.

Representative Lloyd Doggett

- 1. In 2020, the Treasury Inspector General for Tax Administration (TIGTA) found that of the 10 taxpayers receiving over \$1 million in 45Q credits from 2010-2019, only 3 submitted plans for the Environmental Protection Agency (EPA)'s monitoring, reporting, and verification (MRV) requirements. The Inspector General found that 87% of the credits claimed from 2010-2019 were out of compliance, which largely**

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stemmed from these claimants receiving over \$1 million.

- (a) Since TIGTA identified these claimants four years ago, what steps has the IRS taken to prevent such discrepancies between claims of captured CO₂ to the IRS and MRV reports?**
- (b) What actions to ensure accountability for the 45Q credit has the IRS since established and enforced?**
- (c) Has the IRS identified deficiencies in reporting related to the 45Q credit since 2020?**

Please see responses to Question 2 (below).

- 2. The deficiencies identified in the 2020 inspection resulted in almost \$1 billion in lost revenue due to claimed credits lacking proper MRV plans and reports.**

- (a) Have the 10 taxpayers identified in the 2020 inspection since submitted and adhered to compliant MRV plans?**
- (b) What enforcement action has the IRS taken against claimants that submitted without proper documentation?**
- (c) Do you agree with this calculation of lost revenue?**
- (d) What amount has been recovered by the IRS?**

Below responds to all parts of Questions 1 and 2.

In 2020, TIGTA asked the IRS about section 45Q during a research phase for a potential audit. The audit was never initiated. TIGTA's letter considered the differences between the amount of carbon dioxide claimed as qualified for section 45Q tax credits on federal tax returns and the amount of sequestered carbon dioxide reported to the Environmental Protection Agency (EPA).

Subpart RR of the EPA's Greenhouse Gas Reporting Program requires owners of facilities that inject carbon dioxide underground for geologic sequestration to report greenhouse gases (GHGs). Under the EPA's rules, the owners of these facilities must maintain an EPA-approved, site-specific Monitoring, Reporting, and Verification Plan (MRV Plan).

The TIGTA found that for tax years 2010 through 2019, taxpayers claimed approximately \$894 million of section 45Q tax credits even though they did not have an EPA-approved MRV plan in place at the time they claimed the credit. TIGTA also indicated that IRS examiners consistently denied the credit when taxpayers failed to comply with the EPA's MRV Plan requirements and that the IRS had pursued enforcement against some of those taxpayers, disallowing approximately \$531 million of those credits, and was continuing to examine other taxpayers in this group. These audits addressed the majority of the section 45Q credits taxpayers claimed for that time period.

In addition, the EPA did not implement subpart RR until 2011. Because TIGTA's inquiry involved tax years beginning in 2010, taxpayers would have claimed credits attributable to periods before those taxpayers were subject to subpart RR.

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The Treasury Department and the IRS, in consultation with the EPA, the Department of Energy (DOE), and the Interior Department, published regulations in 2021 to implement changes to the section 45Q credit Congress enacted in the Bipartisan Budget Act of 2018. A significant part of the regulations addresses the requirements for the secure geological storage of captured carbon dioxide that claimants must satisfy to claim the credit.

Congress extended the section 45Q tax credit under the IRA and the IRS is working diligently to implement all IRA provisions, including changes to section 45Q. The IRS is committed to enforcing compliance with section 45Q and all other energy related credits. Taxpayers report the section 45Q credit to the IRS as one part of an income tax return. The IRS reviews the credit in connection with a broader examination of the taxpayer's return to verify compliance with law and regulations.

3. The 45Q credit currently allows claimants to self-certify or use a third-party verifier to report the amount of sequestered CO₂ to the IRS.

- (a) What standards does the IRS use to verify these submitted claims?**
- (b) To what extent are these verifiers using direct measurements and monitoring of CO₂ injection wells to ensure compliance with reporting standards?**
- (c) If they are not using direct measurements and monitoring, what methodology are they using?**

Below responds to all parts of Question 3.

Facilities must receive approval from the EPA for all MRV plans and report the information that the EPA requires. Taxpayers must report to the IRS that they have complied with the EPA requirements under penalties of perjury.

Initial guidance under section 45Q required a taxpayer to comply with a predecessor to Subpart RR of the EPA's GHG Reporting Program. In 2021, the Treasury Department and the IRS published regulations under section 45Q that require a taxpayer claiming a section 45Q credit for capturing carbon dioxide and disposing of it in secure geological storage to comply with either Subpart RR or the International Organization for Standardization (ISO) standard 27916:2019 (ISO 27916:2019).

The EPA developed Subpart RR Reporting for Class VI wells (wells used for injection of carbon dioxide (CO₂) into underground subsurface rock formations for long-term storage, or geologic sequestration). Reporting under Subpart RR requires the EPA approve a MRV plan, which uses mass balance accounting, has established reporting and documentation requirements, and includes requirements for documenting a monitoring program and a containment assurance plan. A taxpayer subject to the requirements of Subpart RR must submit annual reports that undergo EPA verification. The EPA publishes non-confidential data from these reports on its website. A taxpayer that reported volumes of carbon dioxide to the EPA may self-certify the volume of carbon dioxide claimed for purposes of section 45Q, and the IRS can verify this reporting with published EPA data.

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A taxpayer sequestering carbon dioxide in association with enhanced oil recovery (EOR) may instead comply with ISO 27916:2019 as an alternative to Subpart RR. The American National Standards Institute (ANSI) and the CSA Group (CSA) endorsed this standard, which was developed for the purpose of quantifying and documenting the total carbon dioxide stored in association with EOR. In general, reporting under ISO 27916:2019 uses mass balance accounting, has established reporting and documentation requirements, and includes requirements for documenting a monitoring program and a containment assurance plan.

If a taxpayer determines volumes pursuant to ISO 27916:2019, the taxpayer may prepare documentation as outlined in ISO 27916:2019 internally. However, such documentation must be provided to a qualified independent engineer or geologist, who then must certify that the documentation provided, including the mass balance calculations as well as information regarding monitoring and containment assurance, is accurate and complete. The engineer or geologist must be state-registered or certified, provide an affidavit confirming their independence from the taxpayer, and provide such certifications annually and under penalties of perjury. These documentation and independent certification requirements allow for verification of the taxpayer's carbon dioxide storage information.

In November 2022, Treasury and IRS requested public comments on the changes made by the IRA to section 45Q in order to inform future guidance on the credit. As part of that guidance process, we will consult with the EPA and other federal agencies to determine whether the current reporting requirements for secure geological storage should be revised.

Representative Randy Feenstra

- 1. During the hearing, Commissioner Werfel stated that the IRS would be able to complete its transition of the Individual Master File to a cloud based system in the next few months of this year, specifically in the "April, May, June timeframe", but that it may take additional time to fully transition to operating on a cloud based system.**

The February 9th report from TIGTA indicated that IRS agency management noted that this transition to a cloud environment will allow the IRS to better monitor user access to data.

Can you describe how the completion of the transition of the Individual Master File to a cloud based system will help the IRS monitor access to data and protect private taxpayer information from leaks like that which occurred with ex-IRS contractor Charles Littlejohn?

Migration of IRS systems to the cloud offers security benefits that can be implemented more rapidly, and adjusted more quickly, than traditional, on-premise service delivery models. These benefits include:

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- **Data Encryption:** Cloud providers often employ robust encryption techniques to protect data both in transit and at rest, enhancing overall data security.
- **Access Control and Authentication:** Cloud platforms typically offer robust access control mechanisms and multi-factor authentication options to prevent unauthorized access to sensitive data and resources.
- **Granular Auditing:** Cloud platforms provide us with the opportunity to perform detailed logging of user activity, including the date/time they logged into systems, the applications they used, and the data they accessed. These capabilities are native to cloud platforms and are functionally easier to administer.
- **Scalability:** Cloud services can scale security measures as needed, ensuring that resources are allocated efficiently to address evolving security threats.
- **Regular Updates and Patching:** Cloud providers typically handle system updates and security patches automatically, reducing the burden on users and ensuring systems are up to date against known vulnerabilities.

Overall, leveraging a cloud-based delivery model can enhance security posture by providing access to advanced security features and expertise while offloading many operational security responsibilities to the cloud provider.

In addition to cloud migrations, in 2023, the IRS achieved drastic improvements in its longstanding challenge to collect and analyze audit trails. Specifically, the IRS Cybersecurity organization now has centralized access to audit trails data for 100% of the 319 applications providing access to sensitive information, which represents a 786% increase from the 36 applications TIGTA reported in July 2020. As of September 2023, the IRS has modernized and significantly expanded the IRS enterprise security audit trails program capabilities by consolidating all audit trails into a centralized monitoring tool hosted by the Department of the Treasury's Workplace Community Cloud with the highest FISMA/FedRAMP certification. This was only possible because Congress provided substantial new resources in the IRA.

In addition, the IRS has taken steps to restrict the movement of data outside the IRS network. The IRS dramatically reduced the ability for users to save IRS information to removable media, such as thumb drives. The new protocol requires executive approval of users who have legitimate business needs to save to removable media (e.g., for producing documents responsive to Freedom of Information Act requests and discovery requests in litigation), and the protocol requires closely monitoring user activity to detect and address potentially risky behavior. We have implemented new email restrictions for contractors and enhanced our email surveillance and protections to block risky emails. Additionally, we deployed automated printing restrictions across the IRS. Now, documents from any source, including the cloud, that are printed by any IRS user, including those working remotely, are logged and monitored for detection of policy violations and leveraged to support investigations of suspected wrongdoing.

2. **Commissioner Werfel described in his written testimony and during his testimony before the committee how the IRS is utilizing Artificial Intelligence in various circumstances, including in selecting enforcement cases for audit and in call centers**

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with chatbots. As we have recently seen with the Employee Retention Tax Credit, and as the IRS tries to make clear to taxpayers through its "Dirty Dozen" tax scams, tax fraud risk remains high. Flagging potentially fraudulent filings for further review seems like a clear use case of artificial intelligence, and an opportunity to protect taxpayer dollars from scammers.

Has the IRS considered the application of artificial intelligence tools for reducing fraud risk, and what steps would the agency need to take in order to make artificial intelligence an effective tool for its fraud fighting efforts?

Yes. The IRS has been using machine learning in our selection processes since 2018. Recently, we conducted an Artificial Intelligence (AI) Environmental Scan with IRS Security Summit partners (software developers and financial institutions, initially) to identify the risks that AI poses to the tax ecosystem and potential mitigations to those risks. The scan identified opportunities to make AI part of the solution – improve filters and learn from fraud– to identify bad actors moving through the system, speed up current processes, and make them better and smarter. While bad actors are leveraging AI as a weapon to attack the tax ecosystem, the ecosystem can use AI to prevent or detect those attacks. The same technologies that are used to mimic taxpayers are also tools to help protect against fraud, requiring discipline and coordination to make them effective. We will continue to explore expanded opportunities to apply AI in responsible ways to improve fraud detection, consistent with EO 14110 and OMB M-24-10.

- 3. In response to questions submitted by Sen. Cornyn last year, the IRS reported that it has settled 546 section 831(b) cases that previously were before the Tax Court. Of those cases, 27% were settled for 10% or less of the claimed deficiency, including penalties. Not only is that a significant percentage of cases, but it is important to note that all of the small business taxpayers that settled those cases were forced to expend huge sums (these cases are very expensive to litigate because they involve massive amounts of documentation and require lots of expert testimony), and sometimes spend several years, fighting wildly overstated tax assessments. With respect to the 546 cases resolved through settlement, will you please provide information on concessions related to the captive insurance deductions and concessions relating to captive insurance premium income.**

Please provide me with information on the total amount of money that the IRS has collected from IRS section 831(b) cases before the US Tax Court that were resolved, either via judgment or settlement, and the total amount of deficiency initially claimed by the IRS in that group of cases, broken down year-by-year over the past ten years.

Last year the IRS reported that there were 546 I.R.C. § 831(b) micro-captive insurance cases that were settled which had been formerly docketed in the United States Tax Court. At such time we explained that a case family consists of related cases, such as the captive company which received the income and the insured which claimed a deduction. There are approximately 189 case families across the 546 cases. While the government settled 150 cases where the sustained tax deficiencies and penalties combined was equal to or less than

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10% of the original amounts in the IRS issued tax determination notices, these cases likewise involved significant concessions by related taxpayers. The total combined tax deficiencies reflected in the tax determination notices of these 189 case families is about \$203,636,593 and the taxpayers within the same case families conceded total tax deficiencies in the amount of approximately \$94,749,225.

The government settled 546 docketed cases in various manners. The IRS Office of Chief Counsel or the Independent Office of Appeals settled many pursuant to a settlement initiative or similar terms. The government settled these cases with the purposes of preserving the resources of both parties, including the Tax Court, while balancing our mission to determine the correct tax liability, enforcing the federal tax laws, and promoting tax compliance. The government made these concessions in the interest of sound tax administration, rather than with the intent of maximizing the tax liabilities that were likely to be recovered for the government through costly trials. The government settled additional cases for other reasons such as jurisdictional defects.

Approximately 443 of the 546 settled cases involved operating companies or shareholders of passthrough operating companies that reported tax deductions for purported insurance premiums. The government asserted about \$165,598,010 in total tax deficiencies in the notices issued to these taxpayers, and taxpayers agreed to approximately \$92,682,818 through settlements. Approximately 103 cases involved captive companies which received those premiums as income but did not report tax on them. About \$38,038,583 in tax deficiencies were asserted in the notices issued to these captive companies, and approximately \$2,066,407 was agreed to by them through settlements.

The IRS did not gather “collection” information for every settled case or those resolved by judgment. That information would require scrutinizing the tax accounts of every taxpayer. Moreover, like the settlements described above, nearly all of the cases settled over the last 10 years required taxpayers to pay the tax liabilities which they agreed to as a condition of settlement.

As previously described, in each of the I.R.C. § 831(b) micro-captive insurance cases decided on the merits, the Tax Court held that the transactions at issue did not meet the requirements for treatment as insurance for federal income tax purposes and denied the claimed deductions.^[1] Subsequently, the Tax Court issued more opinions favorable to the government: Keating v. Commissioner, T.C. Memo 2024-2; Swift v. Commissioner, T.C. Memo 2024-13, and Patel v. Commissioner, T.C. Memo 2024-34. The total amount of tax deficiencies asserted in the tax determination notices at issue in these cases decided on the merits is about \$8,009,339, and the total amount sustained by court judgment is approximately \$7,402,472 (a 92.4% sustention rate).

^[1] See Avrahami v. Commissioner, 149 T.C. 144 (2017); Caylor Land & Development, Inc. v. Commissioner, T.C. Memo. 2021-30 (accuracy-related penalty sustained); Szygy Ins. Co., Inc. v. Commissioner, T.C. Memo. 2019-34 (company required to recognize the premiums it received as income); see also Reserve Mechanical Corp. v. Commissioner, 34 F.4th 881 (10th Cir. 2022) (concluding transactions entered into by Reserve, which filed as an insurance company exempt under I.R.C. section 501(c)(15), did not meet the requirements for treatment as insurance for Federal income tax purposes for a number of reasons, including that the arrangement with the pool was a sham, and imposing withholding on amounts Reserve received from domestic entities), aff'd, T.C. Memo. 2018-86.

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Regarding the settled cases, our current count is that approximately 626 cases have settled in the same manner and with the same intent as described above. The total amount of tax deficiencies asserted in the notices for these cases either settled or tried, and the amounts determined by settlement or judgment, over the last 10 calendar years, is as follows:

Calendar Year	Total Per Notices	Total Per Settlement/Judgement
2014	\$ 3,164,710	\$ 1,605,817
2015	\$ 3,082,927	\$ 1,171,149
2016	\$ 807,860	\$ 251,560
2017	\$ 16,384,126	\$ 7,885,743
2018	\$ 18,544,420	\$ 11,187,884
2019	\$ 48,565,232	\$ 23,069,715
2020	\$ 77,056,184	\$ 22,668,620
2021	\$ 33,536,925	\$ 13,432,807
2022	\$ 23,288,930	\$ 11,877,370
2023	\$ 41,766,379	\$ 16,735,662
2024 (as of 2/29)	\$ 7,437,853	\$ 5,158,919

Representative A. Drew Ferguson, IV

- 1. Taxing staking reward tokens at the time of block creation would be an administrative nightmare for millions of taxpayers and results in over taxation because it overstates taxpayers' economic gain from staking. Recent guidance states that general property principles apply to cryptocurrency taxation. But the guidance concludes that, under existing law, such tokens are taxable at creation. Would you please elaborate on the reasoning behind this guidance, as it appears to violate the principle that new property is first taxable upon sale or other disposition?**

The IRS considered the income tax treatment of staking rewards in Rev. Rul. 2023-14. This revenue ruling concluded that the receipt of staking rewards by a taxpayer results in an accession to wealth that is taxable as gross income under section 61 at the time the taxpayer has dominion and control over the staking rewards. There is no tax principle that property received as a reward is not taxable until a sale or disposition occurs.

- 2. As anyone who has used tax preparation software is aware, after a taxpayer inputs their information for their federal return, that information simultaneously self populates in their respective state returns and both returns are then filed simultaneously. The IRS when asked by the IG stated, "State tax return filing ... will not be an option for Direct File pilot." This is in stark contrast to every other free file option that exists today. In a study commissioned by the IRS, only 15 percent of respondents indicated they would potentially utilize IRS direct file while a majority indicated they would continue to utilize their commercial tax preparation software. The IRS has a current backlog of 2.8 million returns and only 29 percent of incoming customer service calls reach a live person. Why are scarce resources not being spent on**

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bettering current operations at the IRS like improving customer service, converting current paper forms to electronic versions, and compliance with programs like the EITC, and instead wrongly prioritizing replicating services that are widely available from other trusted sources?

The IRS has an obligation to help taxpayers meet their filing obligations and to make that process as easy as possible. That responsibility is part of the core mission of the IRS. Increasing filing options for taxpayers is providing taxpayer service. The Direct File pilot was a new option taxpayers have in how they prepare and file their returns with the IRS, and usage is voluntary. Initial feedback on the pilot has been positive and we have heard from many taxpayers who wish that Direct File was available to them. Our goal with the pilot was to learn – about the taxpayer experience, the IRS’s ability to deliver this service without affecting filing season, and many other things. Like you, our goal is to deliver quality service to taxpayers and to ensure we are meeting our core mission.

One of our goals for the pilot was prioritizing a high-quality, seamless taxpayer experience. Where taxpayers have state or local tax obligations, eligibility is limited to states that are actively partnering with IRS on the pilot. Direct File will not prepare state tax returns; however, for taxpayers that live in Arizona, California, Massachusetts, or New York, after filing a federal return, Direct File guides taxpayers to a state-supported tool to prepare and file a state tax return. For taxpayers in Arizona, New York, and Massachusetts, taxpayers can transfer their federal return information to the state tool to assist in the preparation of a state return.

Representative Jimmy Gomez

1. **Last year, California faced unprecedented storms which required extensive disaster declarations and significant federal support, prompting the IRS to extend filing deadlines for 99% of California tax filers in 55 of California’s 58 counties.**

While relief for these filers affected by historic floods was necessary and welcome, due to the necessary synchronization of federal and state tax filing deadlines, the breadth and length of this extension had the unintended consequence of significantly delaying the collection of a large share of California’s state tax revenue until the fourth quarter of 2023. This substantially hindered the ability of California’s Governor and Legislature to accurately calculate and utilize revenue estimates for essential legislative functions like enacting the state budget and adjusting spending for revenue shortfalls.

The unintended result of this extension masked significant revenue shortfalls, which would have otherwise been detected in April/May of 2023, from being known until nearly the beginning of 2024. The delay in revenue collection also forced the State Legislature to use emergency resources to temporarily fund normal state government operations.

In the case that future natural disasters cause the IRS to authorize similar filing deadline extensions, what preemptive measures can IRS implement to enhance

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communication between the IRS and relevant state authorities? Can the IRS commit to working with state authorities to analyze the potential effects long extensions may have on state budgeting/revenue estimates, collaborate on appropriate extension timelines, and execute a more coordinated response?

The IRS has a communication and outreach plan to improve how we engage with external stakeholders on federal tax disaster relief. As part of this plan, we expect to hold annual meetings with every state to explain the IRS's approach to providing filing and payment relief to affected taxpayers after the FEMA declares a state of disaster. We want states to know what relief they can expect if a federally declared disaster impacts their residents. These meetings will also serve as an opportunity for state revenue agencies and authorities to ask questions and share concerns.

Currently, the IRS's Office of Privacy, Governmental Liaison, and Disclosure serves as the direct point of contact for states to ask questions and provide feedback. Thanks to this liaison function, the IRS's Disaster Program Office meets with states upon request to discuss available tax relief for active FEMA declarations impacting their residents and identify additional opportunities for collaboration.

Representative Daniel T. Kildee

- 1. The Section 48D advanced manufacturing investment tax credit was enacted by the CHIPS and Science Act to provide an incentive for domestic semiconductor manufacturing. On March 21, 2023, Treasury issued a notice of proposed rulemaking (NPRM) on the credit's eligibility requirements. The NPRM defines "semiconductor" as semiconductor devices only, excluding semiconductive substances such as semiconductor-grade polysilicon. However, the NPRM requested comments on the scope of the definition of semiconductor, specifically asking whether semiconductive substances, such as polysilicon, should be included.**

Securing and expanding the U.S. supply chain for semiconductors starts with polysilicon. While the U.S. has a technological advantage on polysilicon production, China, and other countries, are catching up. Without support for domestic polysilicon production, the U.S. will become dependent on foreign sources.

Will the Internal Revenue Service (IRS) allow investments in manufacturing of domestic semiconductor-grade polysilicon to qualify for the investment tax credit under final rules for 48D?

The Treasury Department and the IRS are continuing to consider comments and testimony received in response to the March 21, 2023, NPRM and are working to publish final regulations. The Department of Commerce and Treasury are coordinating closely on the investment tax credit to ensure that incentives are complementary and advance our shared economic and national security goals.

- 2. The Inflation Reduction Act included new tax credits to support American solar panel**

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production and installation. These tax credits included a Domestic Content Bonus, intended to spur domestic solar manufacturing. However, the guidance released by IRS on May 12, 2023 for the Domestic Content Bonus falls short of congressional intent by allowing solar-grade polysilicon and wafers from China or Chinese-controlled supply chains to count toward the Domestic Content Bonus.

Will IRS update this guidance to address these “Buy America” gaps and ensure American-made solar- grade polysilicon and wafer production count toward the Domestic Content Bonus?

We welcome input on the guidance for the Domestic Content Bonus Credit under sections 45, 45Y, 48, and 48E. While we cannot comment on the specific contents of future guidance, we understand the interest in solar-grade polysilicon and wafers, and we are committed to carefully considering all input as we work on future guidance.

3. **Fannie Mae and Freddie Mac, the Government Sponsored Enterprises (GSEs), are important rural Low- Income Housing Tax Credit (LIHTC) investors, commonly investing in rural affordable housing projects through multi-investor funds. Some investors that use LIHTC have raised concerns that the GSEs may be considered tax-exempt controlled entities (TECEs) because of the federal government’s conservatorship of them, a status which would make them unable to use LIHTC. Uncertainty about the tax status of the GSEs has led Fannie Mae to pull out of rural multi-investor funds for LIHTC projects and may further threaten investments in rural affordable housing.**

I wrote to the U.S. Department of Treasury (Treasury) on this matter on November 3, 2023, urging Treasury to produce written guidance clarifying the GSEs are not TECEs. I received a response on January 29, 2024, stating that “Treasury and the Internal Revenue Service (IRS) have spent considerable time analyzing the technical issues that have been raised” but “have not yet been able to develop viable administrative solutions that would address this issue in the manner that has been requested, particularly as potential administrative actions that address the issue from a federal tax perspective may have significant collateral consequences for the GSEs in other areas [emphasis added].”

Can you please describe what “significant collateral consequences” would stem from clarifying that the GSEs are not TECEs, to support more investments in rural affordable housing?

Under current law, a “tax-exempt controlled entity” is defined as any corporation if 50% or more (in value) of the stock in such corporation is held by 1 or more tax-exempt entities. See 26 U.S.C. § 168(h)(6)(F)(iii). The statutory definition of “tax-exempt entity” includes the United States and all of its agencies and instrumentalities. 26 U.S.C. § 168(h)(2)(A)(i). If a tax-exempt controlled entity invests alongside taxable investors in a partnership that does not use “qualified allocations,” then current law generally prevents the partnership from using accelerated and bonus depreciation and investment tax credits.

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Current law allows a tax-exempt controlled entity to make an election under 26 U.S.C. § 168(h)(6)(F)(ii) to not be treated as a tax-exempt entity. This election would enable taxable investors to invest in partnerships alongside a tax-exempt controlled entity without foregoing federal tax benefits like accelerated and bonus depreciation and investment tax credits. However, the election would also carry significant collateral consequences for the electing tax-exempt controlled entity and its own investors. In particular, if this election is made, then any interest received or accrued by a tax-exempt entity (e.g., a pension or endowment fund) from the electing tax-exempt controlled entity would become taxable as unrelated business taxable income, as would any gain recognized by a tax-exempt entity on the disposition of an interest in the electing entity. See 26 U.S.C. § 168(h)(6)(F)(ii)(II). These collateral consequences would likely lead pension and endowment funds and other tax-exempt entities to avoid investments in any debt or equity of the electing tax-exempt controlled entity, making it much more difficult and expensive for the electing entity to raise capital.

- 4. I understand that your IRS Advisory Committee has recommended taking administrative action to update W-2G reporting thresholds. I know this would benefit many tribal nations across the country.**

Can you provide information about when IRS will initiate the administrative action to make this update?

In its November 2023 public report, the IRS Advisory Council (IRSAC) recommended increasing the W-2G reporting threshold for slot machine jackpot winnings. Specifically, the report recommended:

- (1) Pursuit of an addition to the IRS Priority Guidance Plan to increase the tax reporting threshold for slot machine jackpot winnings to \$5,000.
- (2) For calendar years beginning after the first year of a \$5,000 threshold, consideration of periodic increases to increase the threshold to a dollar amount multiplied by the cost-of-living adjustment.

The IRSAC plays an important role in improving taxpayer compliance and service. As such, the IRS closely considers its recommendations.

A legislative amendment that specifically grants the IRS the authority to raise the slot machine information reporting threshold would provide greater clarity. Legislation to raise the existing threshold of \$1,200 from slot machine play could also lead to IRSAC's recommended changes directly.

While the IRSAC has recommended a \$5,000 reporting threshold that is tied to inflation for future years, legislation would provide greater clarity on the appropriate information reporting threshold and whether that threshold should be tied to inflation.

- 5. The Inflation Reduction Act created a new 45W Commercial Clean Vehicle Credit to incentivize clean vehicles and mobile machinery. Under 45W, businesses and tax-exempt organizations that purchase a qualified commercial clean vehicle may qualify**

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for the credit.

Can you provide an update on the IRS Clean Vehicles Team's work to approve manufacturers as manufacturers of qualified clean vehicles for the purpose of 45W?

The IRS generally reviews requests by manufacturers to be considered qualified manufacturers for purposes of sections 30D, 25E, and 45W within one to three days of receipt. This review includes ensuring that the manufacturer meets applicable requirements and has agreed to the Qualified Manufacturer agreement in Revenue Procedure 2022-42. To date, the IRS has entered into an agreement with 68 manufacturers and those qualified manufacturers are now listed on IRS.gov at www.irs.gov/credits-deductions/manufacturers-for-qualified-commercial-clean-vehicle-credit.

Representative David Kustoff

1. **The IRS intends to make themselves a tax preparer with the roll out of the Direct File pilot program. Fraud is one thing that concerns me each tax season. Will you commit to sharing fraud rates within the program after the tax filing season?**

One of the things we want to learn from the Direct File pilot is our ability to identify fraud. I commit to sharing information about what we learn.

2. **The below questions pertain to the proposed IRS regulation REG- I 09309-22, specifically in relation to community banks' utilization of captive insurance companies that make the 831(b) election.**

- a. **Basis for the Proposed 65% Average Loss Ratio:**

What is the IRS's rationale behind the proposed 65% average loss ratio over a 10-year period? Various risks and insurance coverages exhibit expected average loss ratios that deviate significantly from the ratio stipulated in the draft regulations. Please provide the logical basis for selecting this specific ratio.

As described in the preamble to the proposed IRS regulation REG-109309-22, the 65% loss ratio factor was informed by, but is less burdensome than, the statutory 85% medical loss ratio test in section 833(c)(5), and by the national averages for loss ratios reported by the National Association of Insurance Commissioners. To ensure non-abusive transactions are not required to be reported under the proposed regulations, the proposed regulations lower the loss ratio factor for both the micro-captive transactions identified in proposed §1.6011-10(a) as listed transactions (Micro-captive Listed Transactions) and the micro-captive transactions identified in proposed §1.6011-11(a) as transactions of interest (Micro-captive Transactions of Interest) from 70% in Notice 2016-66, 2016-47 I.R.B. 745, to 65%. Additionally, the computation period used to determine the loss ratio factor is extended from the computation period of up to five taxable years used in Notice 2016-66 to a computation period of up to nine taxable years for the Micro-captive Transaction of Interest and a computation period of ten taxable years for the Micro-captive Listed Transaction. The

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Treasury Department and the IRS have determined that extending the computation period by five taxable years to a computation period of ten taxable years allows a captive significant time to develop a reasonable loss history that supports the use of a captive for legitimate insurance purposes, and a loss ratio that remains below 65% for a computation period of ten taxable years indicates a tax avoidance transaction.

b. Impact of Regulation on Community Banks:

The 831(b) election underwent congressional scrutiny and modifications with the enactment of the 2015 PATH Act. However, it appears that this regulation may predominantly curtail the ability of companies, including community banks, to utilize 831(b) captives. Can the IRS provide insights into the intended impact of this regulation on community banks?

The proposed regulations are focused on transactions known to be abusive (in the case of listed transactions) or transactions having the potential for abuse (in the case of transactions of interest). While the election under section 831(b) is one of the factors used to identify the transactions described in the proposed regulations, there are several other factors that must be met. The regulations identify a specific fact pattern, in which a taxpayer attempts to reduce the aggregate taxable income of the taxpayer, related persons, or both, using contracts that the parties treat as insurance contracts and a related company that the parties treat as an insurance company. However, the manner in which the contracts are interpreted, administered, and applied is inconsistent with arm's length transactions and sound business practices. These fact patterns are consistently present in cases decided by the Tax Court to date with respect to which the IRS has determined that a micro-captive transaction at issue lacked the necessary characteristics, based on the specific facts in each case, to qualify as insurance for Federal tax purposes under existing caselaw. See Avrahami v. Commissioner, 149 T.C. 144 (2017); Szygy v. Commissioner, T.C. Memo. 2019-34; Caylor v. Commissioner, T.C. Memo. 2021-30; Keating v. Commissioner, T.C. Memo. 2024-2; and Swift v. Commissioner, T.C. Memo. 2024-13; see also Reserve Mechanical Corp. v. Commissioner, 34 F.4th 881 (10th Cir. 2022) (concluding transactions entered into by company filing as a tax-exempt entity under section 501(c)(15) did not meet the requirements for treatment as insurance for Federal income tax purposes using similar analysis). The regulations are intended to identify participants in these abusive or potentially abusive transactions, irrespective of the participants' industry.

c. Treatment of Audited 831(b) Captives:

Despite numerous audits/reviews conducted by the IRS on 831(b) captive insurance companies owned by community banks, where documentation was provided as requested, the IRS concluded that no adjustments were necessary (resulting in a no-change audit outcome). Why should these previously audited 831(b) captives be automatically classified as "listed transactions" under the proposed regulation?

The IRS cannot discuss the particulars of audits, as section 6103 prohibits the public disclosure of returns and return information absent express authorization of the affected

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taxpayer; however, generally, each examination related to an entity that has elected to be treated as a section 831(b) insurance company (the “section 831(b) company”) and involves a “family” of related cases. These related cases may include the following taxpayers:

- The entity (or entities) that claimed deductions for amounts characterized as premiums due to the section 831(b) company (the insured entity);
- The partners or shareholders of each insured entity that is a partnership or S corporation for Federal income tax purposes;
- The section 831(b) company; and
- The owners of the section 831(b) company.

A no-change audit for one or more of these cases may not reflect a conclusion by the IRS that the amounts paid are for insurance. For example, the IRS may disallow the claimed deductions by insured entities for amounts characterized as premiums and no-change the section 831(b) company for administrative reasons. The IRS must balance the use of its resources in administering and enforcing the Tax Code and may concede cases for reasons beyond a determination on the merits. In certain circumstances, the IRS has settled a number of these cases in the interest of sound tax administration. Such settlements have resulted in a no-change audit for certain taxpayers.

d. Retroactive Designation of Captives as "Listed Transactions":

Many captives formed by community banks were structured to comply with existing statutes, provisions of the 2015 PATH Act, and relevant Revenue Rulings on 83 I (b) captives. Moreover, these captives adhered to the filing requirements outlined in IRS Notice 2016-66. Why would these captives now retroactively face classification as "listed transactions," subjecting them to retrospective scrutiny and review for current and prior (but open) tax years?

The proposed regulations are focused on transactions known to be abusive (in the case of listed transactions) or transactions having the potential for abuse (in the case of transactions of interest). These transactions have been identified as potentially abusive since 2015. See, e.g., IR-2015-19 (IRS’s “Dirty Dozen” discussing characteristics of an abusive micro-captive insurance structure); Notice 2016-66, 2016-47 I.R.B. 745. Taxpayers use these transactions to attempt to reduce the aggregate taxable income of the taxpayer, related persons, or both, using contracts that the parties treat as insurance contracts and a related company that the parties treat as an insurance company. However, the manner in which the contracts are interpreted, administered, and applied is inconsistent with arm’s length transactions and sound business practices.

If the transaction does not constitute insurance, taxpayers are not entitled to take deductions under section 162 for amounts treated as insurance premiums. In addition, if the section 831(b) entity does not actually provide insurance, it does not qualify as an insurance company and its elections to be taxed only on its taxable investment income under section 831(b), and (if applicable) to be treated as a domestic insurance company under section 953(d), are invalid. The proposed regulations would identify the transactions described

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therein as listed transactions or transactions of interest as of the date of publication in the Federal Register of a Treasury decision adopting these regulations as final regulations.

Under the proposed regulations, disclosure requirements would differ for taxpayers who participate in micro-captive transactions that are listed transactions (“Micro-captive Listed Transactions”) and those that are transactions of interest (“Micro-captive Transactions of Interest”). Taxpayers who participate in Micro-captive Transactions of Interest who have filed a disclosure statement pursuant to Notice 2016–66 would be treated as having made the disclosure pursuant to the final regulations for the taxable years for which the taxpayer filed returns before the final regulations are published in the Federal Register. Taxpayers who participate in Micro-captive Listed Transactions would need to file disclosure statements regardless of whether they have previously disclosed the transaction pursuant to Notice 2016-66. This additional disclosure for listed transactions is needed because Notice 2016-66 only identified transactions of interest, so disclosure pursuant to Notice 2016-66 does not disclose that a transaction meets the threshold for listed transactions under the proposed regulations. Furthermore, for both Micro-captive Listed Transactions and Micro-captive Transactions of Interest, there are differences between the proposed regulations and Notice 2016-66 in both the scope of transactions identified and the information required to be disclosed. As a result, the proposed regulations would not create unnecessary duplicative reporting requirements. Under section 6501(c)(10), the time for assessment of tax does not expire until one year after a taxpayer discloses their participation in a listed transaction.

Representative Darin LaHood

- 1. During the question-and-answer period of our hearing, I asked you why the IRS made the sudden policy change to disallow states from using third-party contractors to manage their Federal Tax Refund Offset Programs. This is affecting at least 42 states and is putting millions of families at risk of losing vital Child Support resources. In your answer, you indicated that the IRS has put a "pause" on this policy, but it was unclear if this pause is for the October 2024 compliance deadline or if the IRS is providing additional time beyond that date. I am continuing to hear from states and tribes with concerns about the October 1, 2024, deadline and timeline for states to submit mitigation plans. Attached are the most recent state survey results from National Council of Child Support Directors indicating their estimated costs of compliance. Any additional time that can be provided would help assuage these concerns while Congress considers a legislative solution. Could you please confirm when states must come into compliance with this new policy and if you are open to extending the current pause to provide states more time and allow for a federal legislative fix?**

Indian tribal governments’ access to federal tax offsets through the states has not been cut off. Tribes are continuing to work through the states and sending them information that can be shared with the IRS. The IRS has not made any changes in this area. The IRS understands the importance of child support payments in helping families make ends meet, and we continue to work hard to prevent any disruption to these vital payments related to Federal tax

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refund offsets. The IRS will remain focused on not disrupting child-support collections, while respecting the current taxpayer privacy laws.

I.R.C. § 6103 prescribes the circumstances under which the IRS may share return information with Federal, State, and Local agencies, and portions of I.R.C. § 6103 further limit which information those recipients may share with their contractors. Certain return information is needed for implementation of agencies' programs, and I.R.C. § 6103 authorizes the IRS to share the information with those agencies. However, I.R.C. § 6103 does not always permit those agencies to redisclose some or all of the information to their contractors.

The IRS implemented policy changes to address non-compliance with redisclosures to contractors, but as you note, we have paused enforcement of these redisclosure limitations in recognition of the many challenges our partner agencies face, including costs of compliance. In an effort to work with our partner agencies to create compliant programs with the least amount of imposition, we have asked our partners to submit mitigation plans for coming into compliance by October 2024. The IRS is open to extending the current pause, including to allow time for a federal legislative fix.

2. **Further, I also asked if you have an estimate on how much it will cost states to come into compliance with this new IRS policy. You indicated that you had this information, just not on hand while you were testifying. My understanding is that the IRS has asked states to submit mitigation plans that contain this information. You also indicated you would share with me your full understanding on the implications of this policy change. Could you please provide the estimated costs and full implications to states associated with this policy change that the IRS calculated?**

Thank you for your time and effort on this important issue, and I look forward to working with you to find a solution to protect taxpayer information and deliver these vital Child Support Enforcement resources to millions of families.

The IRS is receiving information about how much it will cost states to come into compliance. We expect to have a better understanding and estimate of costs, as well as other implications to state agencies, after we have reviewed the mitigation plans the states have been asked to submit by October 2024.

Representative Carol D. Miller

1. **During my questioning during the hearing, you consistently cited the need to "protect taxpayer rights" as the authority allowing the IRS to delay and change the 1099-K threshold from what Congress mandated in the American Rescue Plan. Can you explain the process the IRS goes through to determine when the protection of taxpayer rights overrides the clear direction of Congress?**

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The IRS announced in November 2023 that it would phase in implementation of the reporting threshold for Forms 1099-K enacted in the American Rescue Plan, treating 2023 as another transition year and planning for a \$5,000 threshold in 2024.

I.R.C. § 7803(a)(2)(A) gives the Commissioner discretion to “administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws, or related statutes and tax conventions to which the United States is a party.” I.R.C. § 7803(a)(3) requires the Commissioner, in the discharge of his duties, to act in accord with the taxpayer rights.

The IRS conducted outreach sessions with major industry vendors and payment platforms as well as key external stakeholders, including the Internal Revenue Service Advisory Council, National Public Liaison practitioners, Electronic Tax Administration Advisory Committee, Council for Electronic Revenue Communication Advancement, and the Taxpayers Advisory Panel. A prevailing theme across all of the sessions was concern that immediate implementation would lead to taxpayer confusion and burden, in that taxpayers will not understand the reporting requirement, what to do with the information, or how to fix errors and reconcile the information on their income tax returns. The IRS determined that this concern warranted the phased implementation announced in November 2023.

2. **Charitable organizations provide critical services and programs in all communities, especially in my district in West Virginia. These charities receive funding from a variety of sources, the fastest growing of which are donor-advised funds (DAFs). DAFs have incredibly efficient giving models, with low overhead costs and impressive payout rates that have remained above 20 percent for every year on record. In states like West Virginia, the DAFs at community foundations and national charities provide reliable and consistent support in both rural and urban areas.**
 - a. **Considering the support these giving vehicles provide to our communities, can you provide the estimated impact on dollars of charitable giving from DAFs that recent proposed regulations restricting the vehicle would have?**
 - b. **If this analysis hasn't been performed, will you commit to conducting it before moving forward with a final rule to ensure the regulation will not diminish charitable giving via DAFs?**

The following responds to parts a and b of Question 2.

I.R.C. § 4966, which was enacted by the Pension Protection Act of 2006, imposes an excise tax on certain distributions made by a sponsoring organization from a donor advised fund and on the agreement of certain fund managers to the making of such distributions. The Treasury Department and the IRS do not have data regarding the effect of section 4966 on charitable giving. The Treasury Department and the IRS published proposed regulations under section 4966 on November 14, 2023. The proposed regulations primarily provide guidance to taxpayers on the definitions of key terms in the statute.

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The public comment period on the proposed regulations closed on February 15, 2024, and the Department and the IRS received over 200 comments. A public hearing on the proposed regulations was held on May 6 and 7, 2024, at which 44 persons provided testimony. The Treasury Department and the IRS appreciate the importance of public participation in the rulemaking process and will give careful consideration to any concerns raised by commenters on the potential effect of the proposed regulations on charitable giving. The Treasury Department and the IRS are committed to implementing section 4966, as enacted by Congress, and will consider all comments in developing the final regulations.

- 3. There is widespread recognition that one intent of Congress in passing the Inflation Reduction Act (IRA) was to incentivize the onshoring of the critical mineral supply chain. In fact, the recently released 2024 Mineral Commodity Summaries Report by the United States Geologic Survey shows that the U.S. is reliant on imports for more than one-half of the country's consumption of 49 minerals and 100% import-dependent on 15 of them. However, the proposed regulations on the implementation of the 45X Advanced Manufacturing Production Tax Credit within the IRA released in December, as proposed, would deny the 45X credit for direct or indirect raw materials costs or costs related to the extraction or acquisition of raw materials, including minerals. The Department of Treasury and the IRS cited concerns about duplicate credit claims for the same costs. However, the mining industry believes that parties incurring extraction costs can be made eligible for the 45X tax credit without resulting duplication. Direct and indirect materials costs and costs related to the domestic extraction of raw materials are value-added activities and should be eligible to claim the 45X credit. Doing so would help stimulate domestic production of much-needed critical minerals and reduce the U.S.' reliance on imported minerals.**

- a. Can you commit to working with the mining industry and other professionals on a path forward for making direct and indirect material costs and costs related to the domestic extraction of raw materials eligible for the 45X tax credit?**

Expanding production of critical minerals in the United States is an Administration priority. As enacted by the IRA, the section 45X credit incentivizes producers of critical minerals to invest in the United States.

Recognizing the importance of the domestic extraction industry and that a wide range of costs are incurred in the production of electrode active materials and critical minerals, the Treasury Department and the IRS have requested comments on whether and how extraction costs and other similar value-added activities in the production of raw materials used in critical minerals and electrode active materials should be taken into account. We are committed to carefully considering feedback on the proposed regulations before issuing final rules.

- 4. Could a possible "Buy American" proposal for adding raw materials extraction cost to the calculation of production cost to cover the full U.S. sourced supply chain required to produce eligible applicable critical minerals is easily administrable, addresses the concern that Deputy Secretary Adeyemo articulated regarding the need to ensure that**

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"foreign minerals" cannot benefit from the 45X tax credit, and is consistent with the intent of Congress in enacting 45X as applied to critical minerals?

We are open to exploring proposals to implement the section 45X tax credit consistent with the statute while addressing administrability concerns. We are committed to carefully considering feedback on the proposed regulations before issuing final rules.

5. **Dozens of companies representing the entire supply chain for renewable energy and EV technologies have stated that to make the section 45X credit work in the real world, it must permit each party in the U.S. supply chain from extraction through refining to claim a tax credit on the value-added costs the party incurs, provided the mineral ultimately reaches the requisite purity.**
- a. **Couldn't a reasonable method for tracing through the supply chain ensure adequate transparency and reduce duplicate credits? Such as receiving certification from refiners that the minerals a U.S. producer has extracted were refined to the requisite purity and sold to an unrelated party?**

See answer to Question 4 (above).

6. **President Biden has emphasized the importance a Future is Made in America by All of America's Workers, and has launched a whole-of-government initiative to support American manufacturing. As proposed, the 45X guidance would prohibit access to domestic mining - the beginning of the supply chain for renewable energy technologies, and which is responsible for millions of direct and indirect high paying jobs throughout the United States.**
- a. **Will IRS commit to working with the Administration, the mining industry, and unions to ensure the intent of Congress is reflected in the final guidance and supports a domestic mining workforce and communities they operate in?**

See answer to Question 3 (above).

7. **The 45X credit was created in part to help increase domestic critical minerals production. However, Treasury guidance currently disallows mining and extraction costs. Please explain why the IRS believes that a tax credit meant to increase domestic critical mineral production cannot be used for mining activities?**

Expanding production of critical minerals in the United States is an Administration priority. As enacted by the IRA, the section 45X credit incentivizes producers of critical minerals to invest in the United States. The proposed regulations issued by Treasury in December 2023 would require taxpayers to perform the key activities in the production of critical minerals in the United States or a United States territory to claim the section 45X credit. Specifically, these activities would include the processing, conversion, refinement, or purification of source materials, such as brines, ores, or waste streams, to derive a distinct critical mineral. Because the raw materials used in these key activities may be either from United States or

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non-United States sources, crediting a portion of raw material costs could indirectly benefit foreign raw material suppliers.

Recognizing the importance of the domestic extraction industry and that a wide range of costs are incurred in the production of electrode active materials and critical minerals, the Treasury Department and the IRS have requested comments on whether and how extraction costs and other similar value-added activities in the production of raw materials used in critical minerals and electrode active materials should be taken into account. We are committed to carefully considering feedback on the proposed regulations before issuing final rules.

8. **The 45X credit is 10% of the production cost of the critical minerals it produces. Please explain why only the final processes of critical mineral production may claim the 45X credit, rather than the extraction itself?**

See answer to Question 7 (above).

9. **The Treasury Department has stated that it is awaiting stakeholder input before moving forward on guidance for critical mineral mining and extraction. Proposed guidance in the Federal Register stated that Treasury and the IRS is trying to protect against companies using the 45X credit to support mining in other countries. However, I am concerned this is being used as an excuse as Treasury has had over a year to collect stakeholder input and further, clarifying whether a company seeking the 45X credit is mining domestically or internationally does not seem like a hard issue to verify. Will you commit to quickly finalizing guidance on the 45X credit that promotes domestic mineral mining and extraction so that the United States can build jobs and reduce our dependence on China for these minerals?**

The Treasury Department and the IRS have been working expeditiously to consider stakeholder feedback on all the provisions of the IRA. Treasury and the IRS have already issued over 60 pieces of guidance on the IRA's energy security provisions and will continue to work toward issuing guidance expeditiously, including for the section 45X credit.

Representative Blake D. Moore

1. **Commissioner Werfel, please provide an updated list of all section 831(b) cases currently docketed in the U.S. Tax Court, any U.S. District Court, and the U.S. Circuit Court, with captions and docket numbers.**

Please see attached.

Representative Gwen Moore

1. **I understand that Tribes are waiting for the IRS to issue guidance on the tax status of Tribally-owned companies. Without guidance, Tribal Nations face uncertainty and the threat of a potential audit. One of the objectives of the IRS Strategic Operating Plan**

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which was issued last year, shortly after you became Commissioner, was to “Provide earlier legal certainty: Taxpayers will have greater upfront clarity and certainty through additional guidance on tax issues.” So, you recognize the value of providing taxpayers legal certainty and doing so “upfront.” Please provide me with an update status on your deliberations and a timeline for when the IRS anticipates releasing guidance on the tax status of tribally-owned companies. Do you plan to release guidance this year?

The IRS and Treasury Department have included guidance regarding the status of tribally chartered corporations in the 2023-24 Priority Guidance Plan, which identifies projects that are priorities for allocating Treasury Department and IRS resources during the 12-month period from July 1, 2023, through June 30, 2024. The Treasury Department and the IRS are actively working to issue guidance on tribally chartered corporations.

- 2. Regarding the IRS’ recruitment and retention efforts, I know some individuals who may be interested in joining the IRS. One question that has arisen concerns workplace flexibility. For example, are part-time jobs available? What is the IRS doing to ensure the positions are competitive with private sector jobs, particularly given the fact that the starting salary is often quite low?**

The IRS offers a variety of work schedules, including some part-time opportunities, flexibilities, and other benefits to attract applicants and retain employees. In addition to work-life flexibilities, such as telework and alternative work schedules, the IRS offers comprehensive benefits. The IRS is limited to offering compensation as outlined in the General Schedule, but we strive to be competitive with the private sector by offering a host of incentives including recruitment incentives, superior qualification appointments, student loan repayment, tuition assistance, and childcare and public transportation subsidies.

- 3. I know a lot of Americans contemplating starting a small business find the tax compliance aspects daunting. The federal government offers low-income taxpayers assistance through Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) programs. Yes, even if a business is structured as a pass-through entity, that taxpayer may not receive any federally funded free tax assistance regarding their business, to file a Form 1040 Schedule C, for example.**

- a. Has the IRS considered offering new businesses tax preparation assistance targeted or geared towards small businesses?**

VITA does prepare returns for self-employed individuals who are required to report their income on a Schedule C; however, there are certain limitations and the scope is limited as it relates to Schedule C. We are currently piloting free tax preparation services at our partner sites for self-employed taxpayers known as the “Gig Economy Pilot.” Gig Economy filers are individual taxpayers who are freelancers, independent contractors or project-based workers who typically do not have employees.

- b. The IRS publications can be daunting. Besides publications, what else is the IRS**

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In addition to publications, the IRS offers a range of resources and initiatives to assist new businesses in determining their tax compliance requirements and navigating basic tax questions. The IRS supports new businesses by, among other things, offering the following resources:

Dedicated Webpages:

- Small Business and Self-Employed Tax Center: Provides comprehensive information, resources, and tools tailored to small businesses and self-employed individuals.
- Gig Economy Tax Center: Offers guidance and resources specifically designed for individuals working in the gig economy.
- Starting a business: Provides basic tax information to people starting a business and includes such topics as “Selecting a Business Structure” and “Recordkeeping.”

Webinars and Workshops:

- Small Business Tax Workshops, Meetings, and Seminars: Small business workshops, seminars and meetings, designed to help the small business owner understand and fulfill their federal tax responsibilities, are held at various locations throughout the country. Topics vary from a general overview of taxes to more specific topics such as recordkeeping and retirement plans.
- Small business online learning: Resources for small business owners, including a link to Small Business Association’s digital learning platform.
- Online Tax Calendar: Helps businesses stay organized by providing important tax deadlines and events.

Social Media Engagement:

- @IRSmallbiz on X: Shares updates, tips, and resources for small businesses, including cross-channel messages supporting events like Small Business Week and addressing topics like the gig economy and Employee Retention Tax Credit.

Tax Tips: Provides targeted tips and guidance for small businesses and new businesses on various tax-related topics, such as the Work Opportunity Tax Credit, distinguishing between hobbies and businesses, online learning opportunities, and warnings about potential scams or schemes. Examples include:

- The Work Opportunity Tax Credit helps businesses that hire from eligible groups | Internal Revenue Service (irs.gov)
- Hobby or business: here’s what to know about that side hustle | Internal Revenue Service (irs.gov)
- Online learning opportunity for small business owners | Internal Revenue Service

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[irs.gov](https://www.irs.gov))

- [Employers: Watch out for Employee Retention Credit schemes | Internal Revenue Service \(irs.gov\)](#)

Outreach Bundles: Multiple outreach bundles containing small business information are shared with outreach partners, ensuring that relevant resources reach the intended audience, including multilingual materials.

Videos:

- [Small Business Tax Workshop Videos](#): Available on the IRS Video Portal, covering essential tax information and guidance tailored to small business owners.

These resources collectively aim to empower new businesses with the knowledge and support necessary to navigate their tax obligations effectively and make informed decisions about their tax compliance requirements.

c. What types of assistance is available to these entrepreneurs when they call customer service.

Assistors in our Accounts Management function would refer taxpayers to self-help options found on IRS.gov. Taxpayers can obtain a significant amount of knowledge from utilizing the resources available and links to basic federal tax information for people starting a business. The [Starting a Business](#) page on IRS.gov also provides information to assist taxpayers in making basic business decisions.

d. In your testimony, you note that Business Tax Account was created to make interacting with the IRS easier for small business owners. Can you describe what taxpayers can do with a Business Tax Account? Does it offer any guidance related to their tax filing? What's a "a tax compliance check" that sole proprietors can request?

Available at [IRS.gov/businessaccount](https://www.irs.gov/businessaccount), the new business tax account is a key part of the agency's continuing service improvement initiative. Over time, it will become a one-stop application that provides business taxpayers a suite of digital products and services, including access to viewing letters or notices, requesting tax transcripts, adding third parties for power of attorney or tax information authorization, and storing bank account information to manage tax payments.

Currently, sole proprietors who file business tax returns with an employer identification number (EIN) can access the following four capabilities:

1. Profile: View business information on file. Manage business users;
2. Account Balance: View balance due;
3. Tax Records: View and download tax account transcripts. View and download tax compliance report. View and download tax certificate for award use, and

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4. Notices and Letters: View digital notices.

Individual members of a partnership who have a Social Security number or an individual tax identification number (ITIN) and a Schedule K-1 from between 2017-2022 on file can access the following two capabilities in Business Tax Account:

1. Profile: View limited business information on file
2. Account Balance: View balance due for the year(s) they received a Schedule K-1

Individual shareholders of a S-corporation who have a Social Security number or an ITIN and a Schedule K-1 from between 2017-2022 on file can access the following two capabilities in Business Tax Account:

1. Profile: View limited business information on file
2. Account Balance: View balance due for the year(s) they received a Schedule K-1

In addition, the Business Tax Compliance Report (BTCR) is available to all authenticated users of business tax account as part of IRS modernization efforts to transform tax administration and expand digital services to taxpayers. The IRS designed the BTCR to protect taxpayer privacy by replacing the use of tax transcripts and related unnecessary exposure of tax data with a streamlined report noting whether a taxpayer is compliant with their federal tax obligations. An automated tax compliance check reviews the tax account and reports on the BTCR that the taxpayer is compliant or lists each tax period with a balance due and any delinquent return for the last six years. The BTCR shows whether the taxpayer is paying a tax debt timely through an installment agreement or is resolving the matter with the IRS administratively.

e. Does Congress need to pass legislation to enable the IRS to provide tax preparation assistance to small businesses?

Legislation is not needed at this time. VITA does prepare returns for self-employed individuals who are required to report their income on Schedule C; however, there are certain limitations and the scope is limited as it relates to Schedule C. We are currently piloting free tax services at our partner sites for self-employed taxpayers known as the “Gig Economy Pilot.” Gig economy filers are individual taxpayers who are freelancers, independent contractors or project-based workers who typically do not have employees.

4. Can you describe the taxpayer experience associated with receiving the Child Tax Credit (CTC) on a monthly basis? What were some of the most common challenges reported both on the IRS side and the taxpayer end? Did the American Rescue Plan Act (ARPA) CTC enhancements result in higher rates of error or audits for eligible filers? Would you envision any administrative concerns with making the EITC available on a monthly basis?

The agency-wide effort to deliver the advance CTC program resulted in over 200 million payments issued totaling \$93 billion, 129 million letters sent, 40 million portal visits, and 4.6

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million calls. The historic expansion of the CTC meant that millions more low-income families were able to access this assistance, and the Census Bureau found that the American Rescue Plan Act (ARPA) expansions of the CTC helped lift more than 2 million children out of poverty in 2021. Treasury, the IRS, and the Bureau of the Fiscal Service applied lessons learned from delivering prior rounds of Economic Impact Payments to the advance CTC payments. Importantly for the taxpayer experience, the advance CTC payments were made in such a way that the payments landed in bank accounts and mailboxes, in general, on the 15th of the month, and this date was communicated in advance of payments being made. Knowing that funds would be available on a specific date made it easier for families to plan. Having the payments delivered in the middle of the month helped families that received benefits that were paid at the beginning of the month to worry less about bills that were due at the end of the month. Temporarily eliminating the phase-in for the CTC at lower incomes likely also reduced errors by reducing taxpayer challenges in determining the correct CTC amount.

Challenges:

- **Extremely short timeline to deliver** – Implementation required significant coordination with limited resources and herculean efforts to expedite analysis and reprogramming of systems to administer 6 monthly payments and create an online portal. The IRS began issuing payments on July 1, 2021, just 3 months after the passage of the American Rescue Plan Act (ARP). The IRS launched the Child Tax Credit Update Portal June 22, 2021. During this time, the IRS was also rolling out other benefits in ARP, mid-filing season changes in processing of Tax Year (TY) 2020 returns (systems, forms, pubs, instructions, letters, and notices) due to the retroactive effect of some ARP’s provisions and implementing digitalization efforts to mitigate the impact of COVID on in-person processes.
 - **Risks given novelty of program** – Creating a temporary advance payment program required the IRS to estimate the TY 2021 annual credit using a TY 2019 or TY 2020 return. Furthermore, ARP required the IRS to develop an online portal whereby taxpayers could affect the monthly payment. It also required taxpayers to file a future tax year return to reconcile payments and obtain the other 50% of the credit. Also, the IRS could only validate assertions made in the online portal when the taxpayer filed TY 2021 return.
 - **Non-filers** – Disbursement of payments to non-filers presented challenges and required significant coordination with stakeholders such as the software industry and Treasury to quickly develop a “Child Tax Credit Sign Up Tool.” The IRS made the tool available to taxpayers June 21, 2021, less than 3 months after the law was enacted. Furthermore, the IRS worked with partners across government and local organizations to reach underserved communities, educating about the availability of these payment and encouraging use of the available tools.
5. **Can you quantify the extent by which the ARPA EITC and CTC enhancements increased the number of taxpayers filing to claim the credits?**

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There was an increase in both Additional Child Tax Credit (ACTC) and Earned Income Tax Credit (EITC) claims for the tax year covered by the ARPA for TY 2021. See Table 2 for more information.

Table 2

ACTC and EITC Returns Filed: Tax Years 2021-2022				
	ACTC		EITC	
Tax Year	Total Claims	Dollars Claimed	Total Claims	Dollars Claimed
2021	37,355,499	\$115,191,021,447	31,381,599	\$64,121,142,237
2022	16,997,597	\$31,514,321,806	22,646,816	\$57,537,481,512
Difference between Tax Years	20,357,902	\$83,676,699,641	8,734,783	\$6,583,660,725
% of Change between Tax Years	54.5%	72.6%	27.8%	10.3%

Source: CDWIRTF_F1040 Table

6. **To distribute the ARPA monthly CTC payments, the IRS established a Child Tax Credit Update Portal so that individuals could view and manage their advance Child Tax Credit Payments. Can you tell me about the taxpayer and IRS' experience with that portal? What worked well, where were there issues?**

The agency-wide effort to deliver the advance CTC program resulted in over 200 million payments issued, totaling \$93 billion, 129 million letters sent, 40 million portal visits and 4.6 million calls. Importantly for the taxpayer experience, the advance CTC payments were made in such a way that the payments landed in bank accounts and mailboxes, in general, on the 15th of the month, and this date was communicated in advance of payments being made. Knowing that funds would be available on a specific date made it easier for families to plan. Having the payments delivered in the middle of the month helped families that received benefits that were paid at the beginning of the month to worry less about bills that were due at the end of the month. Temporarily eliminating the phase-in for the CTC at lower income also likely also reduced errors by reducing taxpayer challenges in determining the correct CTC amount. Disbursement of payments to non-filers presented challenges and required significant coordination with stakeholders such as the software industry and Treasury to quickly develop a "Child Tax Credit Sign Up Tool." The IRS made the tool available to taxpayers June 21, 2021, less than three months after the law was enacted. Furthermore, the IRS worked with partners across government and local organizations to reach underserved communities, educating about the availability of these payments and encouraging use of available tools.

The Child Tax Credit Update Portal had 5 releases that provided taxpayers with various functionality:

- **June 22, 2021** – Ability to unenroll from the automatic advance payments that would begin in July and eligibility determination based on TY 2019 or TY 2020 processed

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- returns (including non-filer tool streamlined returns).
- **June 3, 2021** – Ability to add or update bank account information.
 - **August 20, 2021** – Ability to update mailing address and payment history.
 - **November 1, 2021** – Ability to update income.
 - **November 23, 2021** – Spanish functionality.

As each functionality rolled out, the IRS updated the Child Tax Credit App on IRS.gov with new FAQs and other content disseminated news releases and key messages through community partners and provided information to IRS employees to answer questions.

7. **To distribute the Economic Impact Payments during the pandemic, the IRS established a taxpayer portal that taxpayers were able to use to provide the IRS with their banking information to have the cash directly deposited into their bank accounts rather than receive a check. Can you describe what worked well and whether there were any issues with this portal? How is the IRS looking at the experience with that portal in improving taxpayer experience going forward?**

To assist in quickly distributing Economic Impact Payments (EIPs) to eligible individuals, the IRS developed the Get My Payment Tool. The purpose of the tool was two-fold:

1. Provide taxpayers with the ability to track when and how their payment was being dispersed, and
2. When IRS did not already have banking information on file, it allowed the taxpayer to provide their banking information.

The COVID-19 pandemic left a series of new challenges in its wake, and the IRS was called upon to distribute emergency resources to millions of struggling families. The IRS developed the Get My Payment Tool during the early stages of the pandemic when most of the country was under various restrictions from gathering and many IRS phone operations were unavailable. The IRS recognized that taxpayers would be anxious to receive information about their economic relief. Working around the clock and in person, the IRS distributed three rounds of stimulus checks in needed relief to the American people. With those three rounds of EIPs that were distributed, the Get My Payment tool had approximately 1.29 billion visitors, 548 million users who checked the status of their payments, and 14.9 million users who provided banking information.

Specific Lessons Learned:

1. Because the IRS created the Get My Payment Tool at a lower level of authentication, there were some limitations.
 - a. The tool was limited in the information that could be displayed to the user. The tool could not provide information about which tax return was used to compute the taxpayer's payment because even acknowledging a tax return was filed would have been a disclosure of return information.

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- b. The tool was also limited in who could provide updated banking information since fraudsters may have been able to misdirect payments.
2. Most taxpayers interact with the IRS only at the time they file their return and only need to provide their banking information at the point of filing a return; however, in some situations, taxpayers would want to be able to update their banking information from what they provided on their most recent tax return.

As part of IRS modernization efforts and in support of the Treasury Agency Priority Goal to Improve the Payment Experience, the IRS has plans to modernize the intake of banking information from various sources and to store that information in a repository of taxpayer elected methods for receiving payments (refunds) from the IRS. Features such as Online Account will add the ability to intake and store banking information and allow authenticated taxpayers the ability to provide updates as needed.

Representative Jimmy Panetta

As part of the 2019 Taxpayer First Act, the IRS was directed to modernize its antiquated fax- based Income Verification Express Service (IVES) system, which is used by financial institutions to obtain tax transcript data on applicants for a wide variety of use cases (homebuyers, small business owners, and more), by converting it into a real-time API-based system. In implementing this mandate, the IRS is now requiring that borrowers validate their identity and provide consent directly with the Service, rather than with regulated financial institution users of the system, as the existing IVES system works today. Further, on January 2, 2024, IRS released two policy bulletins that announced the Service's intent to 1) limit use of IVES to verification of tax transcript data for mortgages only, and 2) prohibit use of the system by other government agencies, both effective in June 2024. Taken collectively, I believe these changes not only run counter to the clear Congressional intent of the original Taxpayer First Act provision, but also will cut off important access to small business lenders, auto lenders, credit card issuers, insurance firms, education lenders, the SBA, the Department of Education, and countless state and local agencies that use or were planning to use the IVES system. Access to this system is vital to ensure the integrity of the financial system by limiting fraud, and to assist in efficient and secure underwriting of various financial products. Stakeholders have engaged IRS for the last 24 months regarding their operational concerns with the system, and most recently with the new policy changes to limit access. This feedback is critical to ensure the system meets the needs of both the user community and IRS. However, none of this feedback has been incorporated into the "eIVES" API-based system called for by the Taxpayer First Act. Given these feedback concerns, I ask:

1. **To what extent did IRS consult with Treasury both during development of the API-based "eIVES" system, especially regarding the changes to the customer identity verification requirements of the system, and the January 2, 2024 policy announcements?**

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There is no change to the identify verification requirements; the modernized IVES application was built to comply with the National Institute of Standards and Technology Special Publication (SP 800-63 Digital Identity Guidelines) and government electronic transaction requirements to obtain valid electronic signatures from the right taxpayer before releasing their tax data to a third party. This requirement was a statutory mandate of the Taxpayer First Act of 2019, section 2201(c)(a), which required the IRS to ensure the new system “complies with applicable security standards and guidelines”. Moreover, third parties may not process disclosure authorizations on behalf of the IRS. See 26 CFR § 301.6103(c)-1.

I also note that the existing IVES system is used by many financial firms for non-mortgage use cases, and is used by many state, federal and local governments to support a variety of programs. IRS's own Form 13803, used to enroll entities into the IVES system, contemplates a variety of different use cases for this important system.

2. Given these examples, how does the IRS justify restricting the system to mortgages only, as outlined in the policy announcements from this January?

The IRS planned the mortgage only policy decision based on I.R.C. § 6103(c). Due to concerns received from IVES third-party participants, industry, and our stakeholders, the IRS paused the January 2, 2024, policy change. This pause will allow us time to engage meaningfully with our stakeholders to determine a path forward that protects taxpayer data and privacy, while providing the essential elements of return data the industry requires for loan or financial purposes.

Representative Bradley S. Schneider

Thank you for joining us for an informative hearing about the work the Internal Revenue Service (IRS) is doing on behalf of American taxpayers. I have one follow-up question that I am submitting for the record:

On September 11, 2023, several of my Illinois delegation colleagues and I sent a letter to commend the IRS for investing in improving taxpayer service and creating jobs in central Illinois through a new Taxpayer Correspondence print and mail management facility in Bloomington. I am writing today to respectfully request an update on the current status of the Bloomington project, including a timeline for when the agency expects it to be fully operational and serving taxpayers.

Thank you for your attention to this question, and for your team’s speedy assistance with the casework issues I raised during the hearing. I look forward to continuing our work together, thank you for your public service.

The IRS expects the third Correspondence Production Services site located in Bloomington, Illinois, to be open and operational in late 2024. The IRS received a signed notice to proceed on February 27, 2024. The IRS held a construction kick-off meeting the week of March 11, 2024.

Representative Claudia Tenney

NOTE: DATA IS CURRENT AS OF THE HEARING

1. **Commissioner Werfel, at the outset of the pandemic, the IRS provided temporary relief from in-person requirements for spousal consent waivers by allowing Americans to satisfy notarization requirements on these important documents through remote online notarization. This has been particularly important for the people in my district who live in rural areas or have jobs with nontraditional hours.**

Additionally, the use of remote online notarization has extra protections by ensuring the true identity of an individual and also provides a video record of the notarization. The IRS is now proposing to make remote online notarization permanent.

- a. **Commissioner Werfel, are you committed to finalizing this proposal?**
- b. **What timeline are you targeting?**

The Treasury Department and the IRS issued a proposed regulation relating to the use of an electronic medium for participant elections and spousal consents in the Federal Register (87 FR 80501) on December 30, 2022. The proposed regulation would provide an alternative to in-person witnessing of spousal consents required to be witnessed by a notary public or a plan representative in certain qualified retirement plans and clarifies that certain special rules for the use of an electronic medium for participant elections also apply to spousal consents. The regulation is proposed to apply beginning on the date that is six months after publication of a final regulation on electronic witnessing in the Federal Register. Prior to the applicability date provided under a final regulation, taxpayers are permitted to rely on the rules set forth in the proposed regulation.

The Treasury Department and IRS are in the process of reviewing public comments and drafting a final regulation that will consider the comments received in response to the proposed regulation, as well as the testimony provided at the hearing. While taxpayers are permitted to rely on the proposed regulation, which permits the use of an electronic medium for participant elections and spousal consents, the Treasury Department and the IRS are committed to finalizing the regulation. The timing of the publication of this final regulation will be determined in light of other guidance priorities, such as the issuance of guidance relating to SECURE 2.0 Act. The final regulation is currently on the 2023-2024 Priority Guidance Plan, issued on September 29, 2023, as item 7, under the heading Employee Benefits, Retirement Benefits.

Representative Beth Van Duvne

1. **How many ERTC claims are in the IRS pipeline as of January 31, 2024?**

IRS processing pipeline numbers are calculated on a week-ending basis (Sunday to Saturday). As of January 27, 2024, there were just under 1.2 million ERTC cases in our week-ending inventory. As of week-ending February 3, 2024, there were a little over 1.2 million ERTC cases.

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As of January 31, 2024, we had approximately 1.2 million claims for ERC filed on amended 940 series returns.

2. **Mr. Werfel the IRS claims this credit is ridden with fraud. If that is the case wouldn't it be best to find out who is committing this fraud by processing and denying these claims?**

We observed aggressive suggestions from marketers urging businesses to submit a claim and implying implicitly or explicitly to businesses that there is nothing to lose. Amid rising concerns about a flood of improper ERTC claims, the IRS announced a moratorium on processing new claims for the pandemic-era relief program to protect honest small business owners from scams. During the moratorium, we are working to transcribe the amended paper returns with the help of digitalization and deploy new risk analysis strategies to identify additional compliance work.

We continue to process ERTC claims submitted before the moratorium, but with additional scrutiny and at a much slower rate than before the agency's approach changed in the summer and fall. Enhanced compliance reviews of the claims submitted before the moratorium are critical to combat fraud and abuse and protect businesses and organizations from facing penalties or interest payments stemming from bad claims pushed by promoters. We've taken additional steps to protect honest taxpayers from scams including programs such as (1) the withdrawal program, (2) the Voluntary Disclosure Program (VDP), (3) the ERTC website which details eligibility, withdrawal program, VDP, and contains FAQs.

We are also serious about tracking down unscrupulous promoters. We have specially trained auditors examining ERTC claims that pose the greatest risk. Our Criminal Investigation Division is working to identify fraud and those who promote fraudulent claims. Additionally, leveraging the data we are transcribing during the moratorium, we are increasing our audit and investigative activities against both the promoters as well as the businesses filing dubious claims.

3. **Can taxpayers who have legitimate claims expect to have any relief anytime soon?**

We are committed to processing legitimate ERTC claims. As stated above, we continue to process ERTC claims submitted before the moratorium, but with additional scrutiny and at a much slower rate than before the agency's approach changed in the summer and fall. Our enhanced compliance reviews are critical to protect businesses and organizations from facing penalties or interest payments stemming from bad claims pushed by promoters.

4. **Superfund excise taxes were reinstated in July 2022 and are collected on taxable chemicals and taxable substances. The excise taxes were last imposed and collected in 1995, and there appears to be a lack of historical knowledge within the Treasury and the IRS as to the refund and credit process. Two types of superfund claims exist: 1) tax credit claims and 2) tax refund claims. The IRS Has substantially delayed processing either category of claims, and some claimants have just received refund checks in January of 2024. For tax credit claims, the IRS is (1) denying the credit; (2) requiring**

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payment for the full superfund tax amount with no credit offset; and (3) assessing penalties and interest for failure to pay even though an offset or credit is claimed per the law. For refund claims, the IRS is not processing and paying claims for refund, while commencing audits of the refund claims.

When Senator Bill Cassidy submitted a QFR for the nomination hearing of Marjorie Rollinson as Chief Counsel of the IRS on September 29, 2023, on exactly these same issues, he asked if she would "pledge to get to the bottom of why the IRS is not applying current law as written at the time of the expiration of the superfund excise tax in 1995 to credit claims and refund claims made since the reinstatement of the tax? If yes, will keep me updated on your findings?" Her answer was that "[j]f I am confirmed, my focus across all of the Office of Chief Counsel's work will be ensuring that the IRS is administering the tax laws passed by Congress fairly, impartially, and in line with statutory text and congressional intent. As I am not privy to information about how the IRS is applying this provision of the Tax Code right now, I look forward to learning about these issues, if confirmed, and engaging with you and your staff on your concerns."

The IRS released proposed regulations on March 21, 2023, with extensive guidance on the reinstated Superfund chemical excise taxes, including clarifying the definition of importer and providing refund procedures for exports and exempt sales and uses. To this day, the regulations have not been finalized.

In addition, my constituent's report the same problems continuing to take place as identified by Senator Cassidy is his question to Ms. Rollinson of last September. May you please tell the Committee when the rule will be made final and what the agency will do to rectify these problems?

Final regulations regarding the Superfund chemical taxes are included on the Treasury Department and IRS's 2023-24 Priority Guidance Plan, which identifies guidance projects that are priorities for allocating Treasury Department and IRS resources during the 12-month period from July 1, 2023, through June 30, 2024. The IRS and Treasury Department published Superfund proposed regulations on March 29, 2023, and held a public hearing on October 25, 2023. The Treasury Department and the IRS are actively working to finalize the Superfund regulations.

The IRS is committed to working with taxpayers to address their specific concerns. A team from the Small Business/Self-Employed is actively looking into these concerns by reviewing the excise tax claim and selection procedures for issues impacting processing.

5. **In regards to stolen tax information, one individual was recent sentenced to 5 years in prison. How many individuals and entities had their information stolen? What is the exact number of each?**

The information the IRS can disclose with respect to this case is subject to the restrictions of I.R.C. § 6103. Further, we note the investigative law enforcement agency in this matter was

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not a component of IRS but rather of TIGTA. It is our understanding that TIGTA previously provided this information to the Ways and Means Committee based on a 6103(f) request from Chairman Jason Smith to TIGTA.

6. And was this sufficient sentence.

TIGTA conducts investigations regarding the unauthorized disclosure of return information under I.R.C. § 7213. TIGTA then refers these cases to the Department of Justice (DOJ) and, if accepted, the cases are prosecuted by the DOJ. We defer to the DOJ on questions regarding this prosecution.

7. Have you asked ProPublica to return the stolen information?

The IRS immediately referred this matter to TIGTA when it became aware of the potential disclosure of return information, placing all aspects of the investigation, including any request for the return of the information, within the purview of TIGTA. In turn, when federal litigation arose from this investigation, these questions came within the purview of the DOJ. Accordingly, the IRS defers to these agencies.

8. According to the Inspector General: "For some sensitive systems, the IRS does not have adequate controls to detect or prevent the unauthorized removal of data by users." How is it possible that the IRS did not know the quantity of sensitive data systems under its purview? Why did you drag your feet with the Inspector General?

The IRS is aware of the quantity of sensitive data systems under its purview and fully cooperated with TIGTA. Sensitive data systems that collect personally identifiable information, and their related Privacy Impact Assessments, are publicly posted on IRS.gov. Further, the IRS does respectfully disagree with certain of TIGTA's findings regarding our information controls. We are happy to further discuss our controls, but for information security reasons it would not be prudent to do so in a public forum. We are happy to brief you or your staff as to the details of our information controls, including the improvements we have made with the critical help of IRA funding to ensure that unlawful data access of the sort undertaken in the above matter does not recur.

List of all section 831(b) cases currently docketed

Tax Court Cases

Docket Number	Case Name
14970-23	3B CAPITAL LLC
14969-23	3B CAPITAL LLC FKA EASTPARK DR LLC
14728-23	909 INLAND LLC
17362-23	ABDELJABER RAMI & MUNA
12227-23	ABSOLUTE ASSURANCE COMPANY INC
25368-22	ABSOLUTE ASSURANCE COMPANY INC
12913-20	ABSOLUTE PARAMOUNT INSURANCE
25070-22	ADAM AMERICA CONDOS LLC
12240-23	ADAM AMERICA LLC
16127-23	ADEDIPE HELLEN
13804-20	ADS INDEMNITY INC
24700-18	ADS INDEMNITY INC
20562-19	ADS INDEMNITY INC
12090-18	AERO INSURANCE GROUP INC
1341-21	AERO INSURANCE GROUP INC
23964-17	AERO INSURANCE GROUP INC
27686-16	AERO INSURANCE GROUP INC
6610-19	AERO INSURANCE GROUP INC
12088-21	AERO INVESTMENT GROUP INC
22143-22	AERO INVESTMENT GROUP INC
24409-16	AIRBORNE SERIES OF FORTRESS/
5032-23	ALINK INSURANCE SERVICES LLC
23191-16	ALKADRI AMJAD & SAHAR TAHRANI
5304-18	ALVA D ONEILL DYNASTY ESBT
19659-23	ALVA D O'NEILL DYNASTY ESBT FBO DOR
5305-18	ALVA D ONEILL DYNASTY ESBT, JOHN T/
21085-18	ALVA D O'NEILL DYNASTY ESBY

5303-18	ALVA D ONEILL DYNASTY SIMPLE TRUST
21088-18	ALVA D O'NEILL DYNASTY SIMPLE TRUST
21087-18	ALVA D O'NEILL DYNASTY TRUST
5306-18	ALVA D ONEILL-TRUST/
11946-20	AMAYA INSURANCE COMPANY INC
30022-21	AMERICAN BREAD COMPANY LLC
3446-21	AMERICAN BREAD COMPANY LLC
12232-23	ANDERSON HEART HOLDINGS INC
24217-22	ANDERSON HEART INS CO INC
21528-18	ANDERSON JOHN & SHIRLEY
13017-20	ANDERSON JOHN J & SHIRLEY
29138-21	ANDERSON JOHN JOSEPH & SHIRLEY
19926-17	ANTIQUITY SERIES OF FORTRESS LLC
21091-16	ANTIQUITY SERIES OF FORTRESS/
2635-19	ARAGON ANTONIO V & KATHLEEN
15619-18	ARAGON ANTONIO V & KATHLEEN CLARK II
18014-23	ARAGON ANTONIO V II & KATHLEEN
17241-21	ARAGON ANTONIO V II & KATHLEEN CLARK
19935-22	ASHFORD GYPSUM SERVICES INC
185-24	ASHTON JOHN H & KIMBERLY F
10612-16	ASPENMARK ROOFING SOLUTIONS LLC
25265-17	ASPENMARK ROOFING SOLUTIONS LLC
9241-17	ASPENMARK ROOFING SOLUTIONS LLC
17998-23	AVERISK INSURANCE COMPANY INC
15403-22	B & D INSURANCE COMPANY INC
21752-16	B&A SERIES OF FORTRESS INS LLC
11903-23	B&D INSURANCE COMPANY INC
13543-16	B&D INSURANCE COMPANY INC
1803-16	B&D INSURANCE COMPANY INC
17419-18	BAKER ALLISON A
17418-18	BAKER JEFFREY A & HALEY J
17206-19	BALLEW CHRIS

21197-18	BAMBOO INSURANCE COMPANY INC
19467-19	BARAKHSHAN KAVEH R & JESSIE
18332-23	BARGE CHARLES A
22142-22	BARGE CHARLES A
12089-21	BARGE CHARLES ALAN
12092-18	BARGE CHARLES ALAN
1348-21	BARGE CHARLES ALAN
23965-17	BARGE CHARLES ALAN
27685-16	BARGE CHARLES ALAN
6611-19	BARGE CHARLES ALAN
23839-22	BARISH DAVID A & LINDA S JAYARAM
23849-22	BARISH LEON J & TERRY MCGINTY
11783-22	BARRETT THOMAS J & KERRI A
9065-19	BARTO CRAIG C
27569-15	BARTO CRAIG C & GISELE M
4391-19	BARTO JERREL C
27570-15	BARTO JERREL C & JANICE D
24411-16	BATES MATTHEW & MARY S
12908-18	BATLINER LINDA
11048-19	BATLINER LINDA M
16016-16	BAUSCHER RANDY & MARY
27233-15	BAYSHORE INSURANCE COMPANY INC
8336-20	BEAR ARBOR BURLINGTON LLC
17127-23	BELL EDWARD F & PAMELA J
24537-22	BELL EDWARD F & PAMELA J
13666-19	BELMONT INSURANCE COMPANY INC
15705-17	BELMONT INSURANCE COMPANY INC
6791-19	BELMONT INSURANCE COMPANY INC
19046-23	BENAMY INTERNATIONAL INC&SUBSI
26763-22	BENBOW BRYCE & TANYA
14897-22	BENNETT LESLIE R
17565-23	BENTZ MARK S & SHARI L

26111-22	BENTZ MARK S & SHARIL
17567-23	BENTZ SUZANNE
26110-22	BENTZ SUZANNE
14386-23	BERRY RICHARD A & JANET A
23699-22	BERRY RICHARD A & JANET A
19821-16	BEVELED EDGE INSURANCE COMPANY INC
10427-23	BIERMAN ANTHONY J & CHERIE C
25420-22	BIERMAN ANTHONY J & CHERIE C
10426-23	BIERMAN JAMES M
25426-22	BIERMAN JAMES M
10425-23	BIERMAN JOSEPH P & JANA S
25429-22	BIERMAN JOSEPH P & JANA S
23788-17	BINIG TONYA
23184-16	BLEZA MAXIMO V & SANDRA
19894-16	BOEHLE JAMES O & DEBORAH L
11694-23	BOULDER INSURANCE COMPANY INC
16822-22	BOULDER INSURANCE COMPANY, INC
22360-17	BOWSER HAROLD R JR & DEBRA L
13487-23	BOYCE STEPHEN G & COURTNEY K
4681-19	BOYDS EQUIPMENT CO INC
7686-22	BOYD'S EQUIPMENT CO., INC
9965-23	BRADLEY III JOEL F & ELLEN B
10168-18	BRANCH VERNON R & GRETA
18325-17	BRAR HARBINDER S & BARBARA P
19657-18	BRAR HARBINDER S & BARBARA P
21908-19	BRAR HARBINDER S & BARBARA P
13758-22	BRAR HARBINDER S & BARBARA P
12187-20	BRAR HARBINDER S. & BARBARA P.
12091-18	BRIDGEWORKS INSURANCE GROUP INC
1346-21	BRIDGEWORKS INSURANCE GROUP INC
23966-17	BRIDGEWORKS INSURANCE GROUP INC
6608-19	BRIDGEWORKS INSURANCE GROUP INC

12090-21	BRIDGEWORKS INVESTMENT GROUP INC
22141-22	BRIDGEWORKS INVESTMENT GROUP INC
6935-19	BROCK G MATTHEW & NICOLE M
12460-22	BROWN II EDWIN & MAUREEN BROWN
13612-23	BUCHANAN KEVIN M & CRISTALLEA K
20136-23	BUCKLEY POWDER CO
21548-22	BUCKLEY TIMOTHY P & JENNIFER J
19149-23	BULLER ANNA R
18324-23	BULLER ELIZABETH
25010-22	BULLER ELIZABETH
18322-23	BULLER MARK & SARAH BEATTY
25011-22	BULLER MARK & SARAH BEATTY
14348-22	BURNS JAY O & LORI L
26560-22	BURT KELLY D & LAURIE J
19744-23	BURT KELLY D & LAURIE J
8390-19	BUSA ANTHONY J & REBECCA S
8407-19	BUSA ROME P JR & MARGARET F
11043-19	BUSH JEFFREY L & DIANE L
12903-18	BUSH JEFFREY L & DIANE L
17999-23	BWRISK INSUARNCE COMPANY INC
10251-20	CADWELL CARLTON & LYNDA
19281-18	CADWELL CARLTON & LYNDA
25667-16	CADWELL CARLTON & LYNDA
19533-19	CADWELL CARLTON & LYNDA
7753-21	CADWELL CARLTON & LYNDA C
22855-17	CADWELL CARLTON & LYNDA CADWELL
22853-17	CADWELL ERIC & BRIANNA L
10252-20	CADWELL JOHN & PRISCILLA
25668-16	CADWELL JOHN & PRISCILLA
19282-18	CADWELL JOHN & PRISCILLA
7760-21	CADWELL JOHN & PRISCILLA C
19534-19	CADWELL JOHN& PRISCILLA

22854-17	CALDWELL JOHN & PRISCILLA
13829-23	CALLICUTT CHRISTOPHER S & TINA T
13823-23	CAMPBELL WILLARD B
15068-18	CANDLAND ARTHUR D & MICHELLE M
19194-23	CAPITOL RISK MANAGEMENT GROUP INC
25000-22	CAPITOL RISK MANAGEMENT GROUP INC
193-23	CARLTON MATTHEW W & ELLEN N
20062-23	CARLTON MATTHEW W & ELLEN N
12000-20	CARSON JOHN & LANETTE C
10258-20	CARSON JOHN B & LANETTE
13158-20	CARSON JOHN B & LANETTE CARSON
11931-20	CAVALLO NERO INSURANCE INC
19824-16	CAVALLO NERO INSURANCE INC
20159-19	CAVALLO NERO INSURANCE INC
13251-20	CC CLARK INC & SUBSIDIARIES
14357-22	CC CLARK INC & SUBSIDIARIES
11369-16	CD LISTENING BAR INC
3429-19	CD LISTENING BAR INC
10703-19	CFM INSURANCE INC
6793-19	CH AG LLC
15707-17	CHAMBERLAIN CONSULTING GROUP LP
8050-19	CHAMBERLAIN CONSULTING GROUP LP
5239-20	CHAMBERS THOMAS M MATHESON CHAMBER
11434-18	CHARARA MARINA
24591-18	CHARARA MARINA
16938-19	CHARIKER MARK & JULIA
14769-22	CHARLES L DIETZEK DO PC
17201-19	CHASE JEFFREY D & LISA R
1248-23	CHIAWANA ORCHARDS LLC
18154-23	CHIAWANA ORCHARDS LLC
18156-23	CHIAWANA ORCHARDS LLC
15131-19	CHRISTOU REGAS S

23838-22	CLARK DISTRIBUTING COMP IN & SUB
17475-23	CLARK DISTRIBUTING COMP INC & SUB
17169-19	CLEAR SKY INSURANCE COMPANY INC
5916-18	CNE INSURANCE MANAGEMENT INC FKA CN
16904-23	COASTAL HOLDINGS INC
20303-23	COHEN ALISON M
22760-22	COHEN ALISON M
24812-22	COHEN BRADLEY
20304-23	COHEN LOUIS A & DEBORAH S
22758-22	COHEN LOUIS A & DEBORAH S
20305-23	COHEN MARC A & JAMIE M
22759-22	COHEN MARC A & JAMIE M
23848-22	COLLINS KENNTH G & MICHELLE WEISMAN
22318-22	COLONIAL INCORPORATED CELL INC
4621-23	COLORADO ESCROW & TITLE
13825-23	COLQUITT MARK A & MELONY J
19484-19	COLWELL JEFFERY T & LINDA R ALFERY
22639-22	CONNOLLY JAMES L & JESSICA
625-23	CONNOLLY JAMES L & JESSICA
10486-23	COOPER-BOOTH WHOLESALE CO LP
13313-23	COTANGENT INSURANCE COMPANY INC
12459-22	COUSINS ANDREW P & AMY L
13621-19	CRACKER LAKE ASSURANCE INC
22942-18	CRACKER LAKE ASSURANCE INC
25193-16	CRAVENS ROBERT B & KARRIE A
5672-18	CRAVENS ROBERT B & KARRIE A
9211-17	CRAVENS ROBERT B & KARRIE A
14341-22	CREATION INSURANCE COMPANY INC
9691-23	CREATION INSURANCE COMPANY INC
11935-20	CROWE MICHAEL J
19823-16	CROWE MICHAEL J & JULIE W
20158-19	CROWE MICHAEL J & JULIE W

11934-20	CROWE MICHAEL J & JULIE WERNER
9259-16	CUMMING FAMILY TRUST D
17600-23	CURRAN THOMAS J & MARGARET W
13442-23	CZERWINSKI FRANK & KAREN
20292-22	CZERWINSKI FRANK & KAREN C
13956-20	DAISY GARDEN INDEMNITY PROT CELL
19048-23	DAISY GARDEN INDEMNITY PROT CELL
21467-18	DAITCH JONATHAN S & BARBARA S R
22907-17	DAITCH JONATHAN S & BARBARA S R
25199-16	DAITCH JONATHAN S & BARBARA S R
17178-19	DALLAGO RAY & MARK P BUTZKO
14438-20	DANIEL SAJI T & LISA M
19089-23	DANIELS M GORDON & CAROLYN C
26371-22	DAVB INSURANCE COMPANY INC
14013-21	DAVIS HENRY A
12147-21	DAYKA & HACKET LLC
13605-20	DDPA INSURANCE INC
24701-18	DDPA INSURANCE INC
10680-23	DE MAJIA AGUIRRE JOSE L & LAULINA F
25194-16	DEAN ROBERT L & KAY C
5671-18	DEAN ROBERT L & KAY C
9210-17	DEAN ROBERT L & KAY C
10421-23	DEL DON DEBRA & LEROY III
25856-22	DERMSEA INSURANCE INC
22725-17	DESMOND MCGUIRE & CORY LYNNE
11882-18	DESMOND MCGUIRE E & CORY
15581-18	DESMOND MCGUIRE E & CORY
25461-16	DESMOND MCGUIRE & CORY LYNNE BRAME
5689-23	DESMOND MCGUIRE E & CORY BRAME
6288-18	DETWILER PAUL & A OLSSON AKA
6289-18	DETWILER PAUL & ALEKSANDRA O
6593-23	DEVAK RISK MANAGEMENT INC

33325-21	DEVAK RISK MANAGEMENT, INC
15377-22	DIALECTIC DISTRIBUTION LLC
16438-23	DIVERSIFIED SOLUTIONS RISK MGMT INC
3834-22	DJAVAHERI JONATHAN
18886-18	DODSON DOUGLAS & REBECCA
3657-22	DODSON DOUGLAS & REBECCA
12836-20	DODSON DOUGLAS & REBECCA D
13912-20	DOMINGUEZ FELIPE E & BERLIZA
5302-18	DOREEN ANN ZISKA FAMILY IRREV TRUST
19701-23	DOREEN ANN ZISKA FAMILY IRREV TRUST
19700-23	DOREEN ANN ZISKA FAMILY IRRV TRUST
21097-18	DOREEN ANN ZISKA FAMILY IRRVO TRUST
5301-18	DOREEN ANN ZISKA FAMILY IRRVOCABLE/
21100-18	DOREEN ANN ZISKA FAMILY IRVOC TRUST
15067-18	DOSS CHERYL L
13484-23	DUNN JASON L & HOLLY L
20313-23	DUPRAY DENNIS J & DEITRA A
11038-19	EDEN ROCK INSURANCE COMPANY
12722-18	EDEN ROCK INSURANCE COMPANY
4325-23	EMPIRE TITLE OF COLORADO SPRINGS
17840-23	EMPIRE TITLE OF COLORADO SPRINGSLLC
17842-23	EMPIRE WEST TITLE AGENCY LLC
5023-23	EMPIRE WEST TITLE AGENCY LLC
15422-18	ERIE FIONTAR INSURANCE INC
24181-16	ESTATE OF PETER N REUSSWIG DEC'D NE
15551-17	ESTATE OF PETER N REUSSWIG DECD NEI
4329-23	ET HOLDINGS LIMITED PARTNERSHIP
1925-24	ET INVESTMENTS LLC
1927-24	ET INVESTMENTS LLC
5033-23	ET INVESTMENTS LLC
5035-23	ET INVESTMENTS LLC
24410-16	EVANS ALBERT & JOSETTE

24407-16	EVANS ALBERT J & KIMBERLY A
19772-23	EVERGREEN INCORPORATED
21474-22	EVERGREEN INCORPORATED CELL INC
831-24	FARMERS AND MERCHANTS BANCSHARES
14596-23	FERRER JESSE F & CYNTHIA I
20149-23	FIRST TEK INC. & SUBSIDIARIES
23990-16	FISHER JARED & JENNIFER
8878-17	FISHER JARED & JENNIFER
26467-17	FISHER JARED & JENNIFER FISHER
32865-21	FISHER SHELLEY
15584-23	FITZSIMMONS ROBERT & MICHELE
23188-16	FORDE JAMES & DIANE
12027-16	FORDE JAMES & ESTATE OF DIANE
3342-22	FORTIS CAPTIVE INSURANCE CO INC
14613-23	FRANCIS JAY H & CHRISTINE A
26007-22	FRANCIS JAY H & CHRISTINE A
12842-20	FREEH ERIC
15523-18	FREEH ERIC
28528-21	FREEH ERIC
10071-23	FREEMAN SHONE R & JOSIE D
12958-23	FREEMAN SHONE R & JOSIE D
26878-16	FREIBERT DAVID L
26877-16	FREIBERT DONALD P & BARBARA B
24595-18	FRENKEL POLINA
12074-21	FRESH SELECT LLC
12151-21	FRESHPAC LLC
12153-21	FRESHPAC LLC
14730-23	FROEHLICH BRIAN J & CHRISTINE L
25390-22	FROEHLICH BRIAN J & CHRISTINE L
22641-22	GALLANT INCORPORATED CELL INC
626-23	GALLANT INCORPORATED CELL INC
15214-20	GARDEN INDEMNITY INC

19075-23	GARDEN INDEMNITY, INC
139-23	GASPARYAN DAVIT
10091-22	GATTIS THOMAS L & LORI
11199-18	GATTIS THOMAS L & LORI
1460-20	GATTIS THOMAS L & LORI
4475-19	GATTIS THOMAS L & LORI
8319-19	GAWORECKI WALTER III
24174-22	GENTRY JAMES B & MARILYN J
10593-23	GIBSON WILLIAM C & CAROLYN R
17331-18	GLEIXNER BARRETT & K HARRINGTON JR
12233-18	GLEIXNER BARRETT JR & HARRINGTON
14012-21	GO RISK MANAGEMENT INC
13785-23	GOLDENWEST INSURANCE COMPANY INC
22640-22	GOLDENWEST INSURANCE COMPANY INC
2413-23	GOLDENWHEAT PROPERTIES LLC
11823-17	GOLDFARB DAVID & LEONA
14445-16	GOLDFARB DAVID & LEONA
17382-18	GOLDFARB DAVID & LEONA
5151-18	GOLDFARB DAVID & LEONA
11824-17	GOLDFARB WARREN & JEANETTE
14444-16	GOLDFARB WARREN & JEANETTE
17381-18	GOLDFARB WARREN & JEANETTE
5150-18	GOLDFARB WARREN & JEANETTE
18488-19	GOLI VIJAY B & SONJA
19195-23	GORDON PAUL & ROSA PHILP
24999-22	GORDON PAUL V & ROSA PHILP
6290-18	GRAHM THOMAS & M DE LA GARZA
14001-16	GRAVBROT MARK V & ROBIN J
22273-17	GRAVBROT MARK V & ROBIN J
18489-19	GRIGORIEV VICTOR E
20064-23	GROOVER JAMES M & DEBORAH L
194-23	GROOVER JAMES M JR & DEBORAH L

24175-22	GRT INSURANCE COMPANY INC
5678-18	GST EXEMPT STURM FAMILY TRUST
14394-17	GST NON-EXEMPT STURM FAMILY TRUST
22643-22	GUILLOT JASON M & BETTY
629-23	GUILLOT JASON M & BETTY
12665-20	GUSTAFSON RYAN & SHANNON
6101-19	GUSTAFSON RYAN & SHANNON
10924-23	HACKETT AG MANAGEMENT INC
11577-21	HACKETT AG MANAGEMENT INC
19770-23	HALL JAMES L & WANDA
21477-22	HALL JAMES L & WANDA
16907-23	HALL NANCY C
24598-22	HANLON JOHN J & CATHY L
12038-18	HARBINDER S BRAR FLI IV
17776-19	HARBINDER S BRAR FLP I THE
12024-18	HARBINDER S BRAR FLP II NKA BOSH*
14800-17	HARBINDER S BRAR FLP II THE
12040-18	HARBINDER S BRAR FLP V THE
14812-17	HARBINDER S BRAR FLP V THE
12039-18	HARBINDER S BRAR FLP VI
17806-19	HARBINDER S BRAR FLP VI
11930-18	HARBINDER S BRAR FLP VIII NKA KSB
14664-17	HARBINDER S BRAR FLP VIII THE
14347-22	HARMON JAY M & CYNTHIA D
12404-23	HARRELL DAVID & LINSEY
5031-23	HAWKINSON JARED L & HEATHER
9082-19	HAWTHORNE VALLEY INSURANCE CO
16108-16	HAYNES THOMAS & SUSAN
19735-23	HBM HOLDINGS COMPANY
3881-24	HBM HOLDINGS COMPANY
19105-23	HEATHER GARDEN INDEMNITY PROTECTED
13899-20	HEATHER GARDEN INDEMNITY PROTECTED/

20423-23	HEC II ASSURANCE INC
26058-22	HENDI ALI & AZADEH
14759-22	HERRING JAMES H JR & MELINDA
10480-23	HERRING JAMES H JR & MELINDA
195-23	HIERS TIMOTHY P & KRYSTAL P
20063-23	HIERS TIMOTY F & KRYSTAL P
18538-23	HIGHLAND ASSURANCE COMP INC
23348-22	HIGHLAND ASSURANCE COMPANY INC
11908-23	HILL GILES A & NATALIE
13566-16	HILL GILES A III & NATALIE J
1804-16	HILL GILES A III & NATLIE J
15404-22	HILL III GILES A & NATALIE J
14729-23	HILLTOP INSURANCE COMPANY INC
25393-22	HILLTOP INSURANCE COMPANY INC
10577-19	HINNER RICK A & KATHLEEN M
15417-18	HINNER RICK A & KATHLEEN M
19977-16	HINNER RICK A & KATHLEEN M
10578-19	HINNER ROGER E & REBECCA ANN
11821-17	HINNER ROGER E & REBECCA ANN
15418-18	HINNER ROGER E & REBECCA ANN
19934-16	HINNER ROGER E & REBECCA ANN
13695-20	HOLLY GARDEN
19103-23	HOLLY GARDEN INDEMNITY PROTECTED
17177-19	HOOVER STEVEN C & SANDRA L MEDLIN
5026-23	HOVE DAVID S & HEIDI H
21911-19	HOYES CORNELIA-AKA JOYCE CORNELIA I
13848-19	HUND PAUL W II & CATHERINE C
1436-23	HUNT ADVANTAGE GROUP LLC
14263-23	HUNT ASSURANCE GROUP INC
4021-22	HUNT ASSURANCE GROUP, INC
8789-19	HUNT JAMES T & JULIA M
8842-19	HUNT JULIA M

23181-16	HUTH JEFFREY & NANCY
10186-23	INCLINE INSURANCE COMPANY INC
11646-19	INDUSTRIAL FURNACE COMPANY INC
2763-19	INTEGRATED CONSTRUCTION LLC
14007-20	IRIS GARDEN INDEMNITY PROTECTED
19062-23	IRIS GARDEN INDEMNITY PROTECTED
11041-19	JACKSON ANTHONY L & CHERYL A
12901-18	JACKSON ANTHONY L & CHERYL A
11049-16	JACKSON KEVIN G & BARBARA A
11907-15	JACKSON KEVIN G & BARBARA A
25437-16	JACKSON KEVIN G & BARBARA A
12509-22	JADHAV JALANDAR Y & KUNJLATA J
13728-23	JADHAV JALANDAR Y & KUNJLATA L
13637-19	JAGANNATH S & JAYA VENKATARAMAN
2370-19	JAMES BRYSON SHEPHERD TRUST
14775-22	JAMISON JAMES J
11993-20	JBS 2 BREE TRUST
11996-20	JBS 2 MICHAEL TRUST
23522-16	JCH INSURANCE COMPANY INC
3611-17	JCH INSURANCE COMPANY INC
13611-23	JENKINS ARTHUR R & SUNNI P
26060-22	JENKINS ARTHUR REX & SUNNI P
20796-22	JENKINS DAVID G
11873-23	JESAJ INSURANCE COMPANY INC
20428-22	JESAJ INSURANCE COMPANY INC
15327-23	JJAC LLC
25197-16	JMPD SERIES OF FORT INSURANCE LLC
22729-17	JMPD SERIES OF FORTRESS INSUR LLC
25868-16	JOHANNES RANDALL D & JENNIFER L
5312-18	JOHN ONEIL DYNASTY TRUST
19658-23	JOHN O'NEILL DYNASTY ESBT FBO DOREE
21091-18	JOHN O'NEILL DYNASTY ESBT TRUST

21092-18	JOHN O'NEILL DYNASTY ESBT TRUST
5313-18	JOHN ONEILL DYNASTY ESBT/
5314-18	JOHN ONEILL DYNASTY ESBT/
5311-18	JOHN ONEILL DYNASTY SIMPLE TRUST/
21089-18	JOHN O'NEILL DYNASTY TRUST
21090-18	JOHN O'NEILL DYNASTY TRUST
19698-23	JOHN T ONEILL FAMILY IRREV TRUST
19699-23	JOHN T ONEILL FAMILY IRREV TRUST
19702-23	JOHN T ONEILL FAMILY IRREV TRUST
21095-18	JOHN T O'NEILL FAMILY IRREVOC TRUST
5307-18	JOHN T ONEILL FAMILY IRREVOCABLE/
5308-18	JOHN T ONEILL FAMILY IRREVOCABLE/
5309-18	JOHN T ONEILL FAMILY IRREVOCABLE/
5310-18	JOHN T ONEILL FAMILY IRREVOCABLE/
21096-18	JOHN T O'NEILL FAMILY IRRVO TRUST
21094-18	JOHN T O'NEILL FAMILY IRRVOC TRUST
21093-18	JOHN T O'NEILL IRREVOC TRUST
17448-23	JOHNCOCK DARIN W & ALEXANDRA
17778-19	JOHNSON ROGER D & DEBRA
17165-19	JONES GENIE R
5920-18	JSM INVESTMENT MANAGEMENT INC
22785-22	JTCS CORPORATION INC
33331-21	JTCS CORPORATION, INC
18198-18	JUBA INSURANCE COMPANY
36959-21	JUBA INSURANCE COMPANY
4644-18	JUBA INSURANCE COMPANY
7379-19	JUBA INSURANCE COMPANY
18199-18	JUBA JOHN
4643-18	JUBA JOHN
7381-19	JUBA JOHN
286-21	KADAU CURTIS K & LORI A DECEASED
15044-23	KAPLAN HOWARD J & JANET M

26042-22	KAPLAN HOWARD JAY & JANET M SHIMER
20155-23	KARAKASHIAN GARY V
23989-16	KATHEIN ITAI & LITAL
13087-17	KATHEIN LITAL & ITAI
4465-19	KAUFMAN RANDALL J & CAROL J
793-20	KAUFMAN RANDALL J & CAROL J
11185-18	KAUFMAN RANDALL J & CAROL J K
12461-22	KAUFMANN ERIK L & JENNIFER M
18001-23	KDRISK INSURANCE COMPANY INC
15066-18	KEATING TERENCE J & JANET D
14191-22	KEMPER INSURANCE COMPANY INC
9910-23	KEMPER INSURANCE COMPANY INC
20429-22	KEYSTONE ASSURANCE COMPANY INC
15706-17	KFM FINANCIAL & INS SERVICES INC
13665-19	KFM FINANCIAL & INSURANCE SERVICES
6790-19	KFM FINANCIAL & INSURANCE SVCS INC
16825-22	KHAN MUKARRAM A & ZAIBA M
11693-23	KHAN MUKARRAM A & ZAIBA MALIK
13163-23	KIMSEY TROY F & BETHANY P
25713-22	KINETIC INCORPORATED CELL INC
17001-18	KING THOMAS N & LAURA J
23154-17	KING THOMAS N & LAURA J
24254-16	KING THOMAS N & LAURA J
25118-18	KING THOMAS N & LAURA J
10448-17	KINGS RIVER COMMODITIES LLC
20373-22	KNETSCHE ROBERT P & LISA T
13152-17	KNETSCHE ROBERT P & LISA TURNER
16423-19	KNETSCHE ROBERT P & LISA TURNER
2410-23	KNETSCHE ROBERT P & LISA TURNER
5561-18	KNETSCHE ROBERT P & LISA TURNER
3452-19	KNETSCHE ROBERT P&LISA TURNER
330-19	KNUDSEN ROBERT & SHARON - ESTATE

18290-18	KNUDSEN SHARON ESTATE OF -DECEASED
12078-21	KOOL KOUNTRY LLC
13540-22	KOTOK MICHAEL & JOANNE
25489-22	KOURY MICHAEL E & TRINI T
7735-20	KPRC LLC SMMFLP LP
13334-23	KRAUSE DALE M
19233-22	KRAUSE DALE M
13335-23	KRAUSE THOMAS R
10683-23	KROPILAK MICHAEL D & KIRSTIN
14415-23	KUHN CHARLES S & STACY E
20876-22	KUHN CHARLES S & STACY E
10980-16	KUPERSMITH LUKE D & SOPHIE N
26469-17	KUPERSMITH LUKE D & SOPHIE N
8876-17	KUPERSMITH LUKE D & SOPHIE N
21912-19	LAAKSO TODD C
21913-19	LAAKSO TODD C & SHERI L
9648-23	LANCET ASSOCIATES LLC
17733-23	LANCLOS JON C & SAMANTHA J ELLIOTT
15729-22	LANGEVELD ANTOINETTE
15728-22	LANGEVELD BERNARDUS & JILL
15727-22	LANGEVELD PETER & SOPHIE
15726-22	LANGEVELD THEODORUS
10134-20	LANGSTEIN MITCH & PAULA
10260-21	LANGSTEIN MITCH & PAULA
12155-17	LANGSTEIN MITCH & PAULA
14076-16	LANGSTEIN MITCH & PAULA
15764-23	LANGSTEIN MITCH & PAULA
5891-18	LANGSTEIN MITCH & PAULA
9998-19	LANGSTEIN MITCH & PAULA
11717-22	LANGSTEIN MITCH & PAULA L
7768-21	LAPICOLA FAMILY IRREVOCABLE TRUST
11998-20	LAPICOLA FAMILY IRREVOCABLE TRUST 2

19226-16	LAPICOLA JOHN J & SHIRLEY T
9181-17	LAPICOLA JOHN J & SHIRLEY T
14418-23	LAS VEGAS UROLOGY LLP
14450-19	LAS VEGAS UROLOGY LLP
23430-18	LAS VEGAS UROLOGY LLP
6293-18	LEDLIE JON T & ANDREA M
23186-16	LEE SANGYOUNG & ESTHER H LEE
21768-22	LEE YOUNG-JIK
25712-22	LEGACY INCORPORATED CELL INC
18004-23	LEGACY TITLE GROUP LLC
4618-23	LEGACY TITLE GROUP LLC
22328-22	LEONHARDT RONALD J JR
19408-23	LEVIN PAUL & EMMANUELLE
23148-22	LEVIN PAUL & EMMANUELLE
25854-22	LEVY ELLE & MIRIAM
17924-22	LEWIS KAUFMAN REID STUKEY GATTS & /
24373-18	LEWIS MARTIN & TRINA
3765-21	LEWIS MARTIN & TRINA
8819-22	LEWIS MARTIN & TRINA
9428-19	LEYTON COREY & LESLIE A
9304-19	LEYTON CORRIANNE N
9307-19	LEYTON TRAVIS
10085-20	LHEUREUX SUSAN
10086-20	LHEUREUX VERLYN
20146-14	L'HEUREUX VERLYN & SUSAN DECD
3102-20	LIFELINK INSURANCE COMPANY INC
11637-19	LILL JAMES M III
11645-19	LILL JASON K
12015-19	LILL KENNETH J & COURTNEY
11486-19	LILL KENNETH J JR
11644-19	LILL WILLIAM T & MEREDITH L JR
19057-23	LILY GARDEN INDEMNITY PROTECTED

13966-20	LILY GARDEN INDEMNITY PROTECTED CEL
25038-18	LIPMAN ROBERT B
3101-20	LIU PAULINE W
3103-20	LIU STEPHEN K
15081-19	LLOYD JR PAUL & SHANNON ANDREINI
22381-18	LLOYD PAUL & SHANNON ANDREINI JR
16436-23	LOMBOY BONNIE S & CARL T
24219-22	LOMBOY CARL T & BONNIE S
22074-17	LONGHORN SERIES OF FORTRESS
21029-16	LONGHORN SERIES OF FORTRESS INS LLC
2767-19	LOSBY MARK S & SARAH K
4091-18	LOSBY MARK S & SARAH K
12511-22	LUTER MICHAEL D & JUDY S
13121-23	LUTER MICHAEL D & JUDY S
21619-16	MACHINE SERIES OF FORTRESS INS/
22383-17	MACHINE SERIES OF FORTRESS INSUR /
25869-16	MACHOL JACQUES A III & PAMELA A
24594-18	MACKIE ROLAND L & MARIANNE T
12091-21	MADLOCK MICHAEL W & DONNA L
1344-21	MADLOCK MICHAEL W & DONNA L
18333-23	MADLOCK MICHAEL W & DONNA L
22140-22	MADLOCK MICHAEL W & DONNA L
23967-17	MADLOCK MICHAEL W & DONNA L
6609-19	MADLOCK MICHAEL W & DONNA L
19526-23	MAHANEY KEVIN P
14253-23	MAHANEY MASTER HOLDINGS LLC
15209-20	MALABAR INSURANCE COMPANY
10968-23	MALONEY CHRIS & SUSAN
15092-18	MALONEY CHRIS & SUSAN
22845-17	MALONEY CHRIS & SUSAN
25191-16	MALONEY CHRIS & SUSAN
17363-23	MARIN ROSA

27232-15	MARINE INSURANCE CO INC
5909-23	MARTINEZ CARLOS O
433-24	MASSEY BRIAN JEFF & JODIE LYNN
7292-18	MASTNY CHAD J
14382-23	MATTHEW MATTHEW T & DEBORAH F
13155-20	MAVERICK SERIES INC
19536-19	MAVERICK SERIES OF FORTRESS
22293-17	MAVERICK SERIES OF FORTRESS
19185-18	MAVERICK SERIES OF FORTRESS INS LLC
25670-16	MAVERICK SERIES OF FORTRESS/
17205-19	MAXSON ROBERT C & SHERRY A
33947-21	MAY CHRISTOPHER & SUSAN
21198-18	MCBEATH JOHN III
15679-18	MCCOLLUM MICHAEL SCOTT
21162-18	MCCOLLUM MICHAEL SCOTT
13620-19	MCCORMACK MATTHEW C & TIFFANY
22941-18	MCCORMACK MATTHEW C & TIFFANY
9074-19	MCGUIRE MICHAEL & TRACEY
24218-22	MCLAURIN BRENT T & SONYA R
16435-23	MCLAURIN SONYA R & BRENT T
3836-22	MEDFORD JOSH
26433-22	MEHLENBACHER LAWRENCE & ELIZABETH
10343-23	MERCURY INSURANCE COMPANY INC
25430-22	MERCURY INSURANCE COMPANY INC
18102-23	MESA INCORPORATED CELL INC
14439-16	MESCHKAT BODO & DEBORAH D
22384-17	MESCHKAT BODO & DEBORAH D
20160-19	MICRO CAP KY INSURANCE COMP INC
11932-20	MICRO CAP KY INSURANCE COMPANY INC
19825-16	MICRO CAP KY INSURANCE COMPANY INC
11701-23	MILLER BROS ASSURANCE INC
14104-23	MILLER HARRY B & RACHEL J

14102-23	MILLER MICHAEL T & JENNIFER N
7798-20	MILLS ELIZABETH J
7740-20	MILLS ENTERPRISES -PRAIRIE LLC
7737-20	MILLS HOTEL KENOSHA LLC
7689-20	MILLS HOTEL WYOMING LLC
7814-20	MILLS KATHLEEN F
7801-20	MILLS MARTHA L
7799-20	MILLS STEPHEN C
7841-20	MILLS STEPHEN R
23182-16	MISHRA VIVEK & SONALI SHUKLA
9957-23	MITCHELL CHARLES S & BRENDA K
26589-22	MOBLEY JASON A
20065-23	MOONEY RICHARD G IV & DEA
16169-18	MOUSHEGHIAN JOHN R & DANIELLE C
18882-18	MOUSHEGHIAN JOHN R & DANIELLE C
24406-16	MRAA SERIES OF FORTRESS INS LLC
8838-19	MYERS BEAU R & CHRISTIN F
5024-23	MYERS PHILLIP T & JAMIE L SOMMERS
17520-18	MYERS RICHARD III & INGELEIN S
22848-17	MYERS RICHARD III & INGELEIN S
8823-19	MYERS RICHARD III & INGELEIN S
8788-19	MYERS WALLIN H & LESLIE S
2210-20	NASIEK DARIUSZ J & SARA
12178-17	NASTANSKI FRANK C
12179-17	NASTANSKI FRANK C
2373-23	NASTANSKI FRANK C & JENNIFER L
5729-18	NASTANSKI FRANK C & JENNIFER L
6898-19	NASTANSKI FRANK C & JENNIFER L
4291-19	NATUVU SERIES OF FORTRESS/
13828-19	NELLIGAN RUSSELL & JULIE
11994-20	NEW MILLENNIUM CONCEPTS LTD
3427-19	NEW MILLENNIUM CONCEPTS LTD

9243-18	NEW MILLENNIUM CONCEPTS LTD
21562-22	NOBLE INSURANCE COMPANY INC
11368-20	NORTHTOWN AUTOMOTIVE COMPANIES INC
12181-17	NORTHWOODS INS COMPANY
10579-19	NORTHWOODS INSURANCE CO LTD
15415-18	NORTHWOODS INSURANCE COMP LTD
19904-16	NORTHWOODS INSURANCE COMPANY LTD
16984-23	NUGENT ASSURANCE INC
23509-22	NUGENT ASSURANCE INC
16986-23	NUGENT KENNETH S
23695-22	NUGENT KENNETH S
20024-22	OBRIEN SHEILAH A
16937-19	O'DANIEL THOMAS G & KELLY M
10904-17	OFFROAD SERIES OF FORTRESS
21749-16	OFFROAD SERIES OF FORTRESS
23180-16	OLTHOFF TIMOTHY D & BRENDA L
18326-23	ON POINT CAPTIVE INSURANCE CORP INC
20797-22	ON POINT CAPTIVE INSURANCE CORP INC
19654-23	ONEILL ALVA D DYNASTY SIMPLE TRUST
19640-23	ONEILL ALVA D DYNASTY TRUST ESBT
19642-23	ONEILL ALVA D DYNASTY TRUST FBO
21086-18	ONEILL ALVA D ESBT FBO
19643-23	ONEILL JOHN DYNASTY SIMPLE TRUST
19656-23	ONEILL JOHN DYNASTY ESBT TRUST
19641-23	ONEILL JOHN DYNASTY TRUST FBO
21098-18	ONEILL JOHN T & DEBORAH
5315-18	ONEILL JOHN T & DEBORAH F
18109-23	ONEILL JOHN T & DEBORAH F
7152-22	OPTIMA INSURANCE COMPANY, INC
15309-15	OROPEZA JESUS R
11871-18	OROPEZA JESUS R & FABIOLA ANAYA
22352-17	OROPEZA JESUS R & FABIOLA ANAYA

25462-16	OROPEZA JESUS R & FABIOLA ANAYA
9623-16	OROPEZA JESUS R & FABIOLA ANAYA
22755-22	ORTEGA THOMAS A & STACIA A
12911-20	ORTNER STEVEN A & COURTNEY M
11047-16	OSMAN KHIDIR & SIIDIGA ELMOSTAFA
11898-15	OSMAN KHIDIR & SIIDIGA ELMOSTAFA
25466-16	OSMAN KHIDIR & SIIDIGA ELMOSTAFA
15819-21	PAG INSURANCE COMPANY INC
23763-17	PAGE MILTON E & MARY S
6141-19	PAHL GREG & JULIE A
6128-19	PAHL JEFF J & TANA
23837-22	PALISADE SURETY INC
8391-19	PALLADIUM INSURANCE CO
11205-17	PAPPAS ROBERT S & BUFFI R
26888-16	PAPPAS ROBERT S & BUFFI R
27825-15	PARAGON OIL COMPANY - LTD PTNRSHIP
14892-22	PARIS DAVID C JR & GLENN H
16170-18	PARKER JAMES R
21158-18	PARKER JAMES R & CHELSIE
14764-22	PARKS BILLY S & ELIZABETH W
10508-23	PARKS BILLY S & ELIZABETH W
25195-16	PARRY DAVID A & HILARY P
5670-18	PARRY DAVID A & HILARY P
9212-17	PARRY DAVID A & HILARY P
23192-16	PATEL DIVYESH G & SHILPA M
11352-18	PATEL SUNIL S & LAURIE M MCANALLY-
24344-17	PATEL SUNIL S & LAURIE MCANALLY P
25268-18	PATEL SUNIL S & LAURIE MCANALLY-PATEL
19043-23	PBD INSURANCE COMPANY INC
5293-19	PECK JOHN W II & LEIGH
5028-23	PEDERSEN JEREMIAH T & LESLEY ANNE
4466-19	PELHAM JR JERRY & HAMMONDS STACIE

22448-16	PERLOW DAVID & JOAN
2256-18	PERLOW DAVID & JOAN
6298-20	PERLOW DAVID & JOAN
8360-21	PERLOW DAVID & JOAN
17497-17	PERLOW DAVID & JOAN P
2257-18	PERLOW INSURANCE CO II INC
6330-20	PERLOW INSURANCE CO II INC
17495-17	PERLOW INSURANCE COMPANY II
22447-16	PERLOW INSURANCE COMPANY II INC
8368-21	PERLOW INSURANCE COMPANY II, INC
23885-22	PETERS LUKE S & MARIELLA L
22075-17	PIPELINE SERIES OF FORTRESS
21027-16	PIPELINE SERIES OF FORTRESS/
10497-23	PREMIERE DATA LLC
10704-19	PRESTA ROBERTINO & ANTONELLA
22229-22	PRIMUS INSURANCE COMPANY INC
11413-20	PUNJAB INVESTMENTS LLC
13006-20	PURE MEDICAL DEVELOPMENT INC
28530-21	PURE MEDICAL DEVELOPMENT INC
12910-20	PURUS INDEMNITY GROUP INC
13603-20	PURUS INDEMNITY GROUP INC
15765-23	PUTTUS SERIES FORTRESS INS LLC
5890-18	PUTTUS SERIES OF FORTRESS
10262-21	PUTTUS SERIES OF FORTRESS INSURANCE
10133-20	PUTTUS SERIES OF FORTRESS INS LLC
12156-17	PUTTUS SERIES OF FORTRESS/
9997-19	PUTTUS SERIES OF FORTRESS/
14563-17	RADFORD PHILLIP
23223-16	RADIOLOGIC ASSOCIATES OF NW IND P.C
10576-19	RAJEK GARY A & KAREN L
15416-18	RAJEK GARY A & KAREN L
19965-16	RAJEK GARY A & KAREN L

10905-17	RAMELOT SCOTT & HANNAH
12026-16	RAMELOT STEVEN T
10906-17	RAMELOT STEVEN T & MICHELLE
19440-19	RATLIFF JOHN R
26129-22	RAVIJAYA INSURANCE COMPANY LLC
9969-23	RAY JONATHAN H & KAREN R
15238-17	REBEL OIL CO INC & SUBSIDIARIES
11880-18	REBEL OIL COMPANY INC&SUBSIDIARIES
1350-23	REDBARN PET PRODUCTS LLC
25100-22	REDWOOD CITY INSURANCE CO INC
11184-18	REID THAD K & AMY M
4469-19	REID THAD K & AMY M
692-20	REID THAD K & AMY M
6291-18	RENFRO MARK B
10861-19	REUSSWIG PETER N-DECD&EMY N EIBEN
11871-23	REWE STREET PARTNERS LP
15056-18	RHEE HENRY C & GRACE JUNGIMKI
15516-16	RHEE HENRY C & GRACE JUNGIMKI
16385-19	RHEE HENRY C & GRACE JUNGIMKI
3722-17	RHEE HENRY C & GRACE JUNGIMKI
33328-21	RHEUDE GARY & CATHLEEN A
6594-23	RHUEDE GARY & CATHLEEN A
26587-22	RICKERT SCOTT & LISA R
11537-23	RIESTER INSURANCE INC
22752-22	RIESTER INSURANCE INC
22753-22	RIESTER TIMOTHY W & MIRJA
17125-23	RIVEROS RAUL
18605-22	RIVEROS RAUL E
16870-16	RIVERVIEW HEALTH INSTITUTE LLC
5358-17	RIVERVIEW HEALTH INSTITUTE LLC
5765-18	RIVERVIEW HEALTH INSTITUTE LLC
6767-19	RIVERVIEW HEALTH INSTITUTE LLC

6768-19	RIVERVIEW HEALTH INSTITUTE LLC
8982-23	RMJ INVESTMENT HOLDINGS INC
11360-20	RMS INSURANCE COMPANY INC
12116-17	ROBERTS HENRY L & LINDA C
15047-18	ROBERTS HENRY L & LINDA C
21750-16	ROBERTS HENRY L & LINDA C
17773-19	ROCK BOTTOM II INC FKA ROCK BOTTOM
6506-23	RODIOLOGIC ASSOCIATES OF NORTHWEST
27828-15	ROSARIO SIGNAL LLC
13918-20	ROSE GARDEN INDEMNITY PROTECTED
19102-23	ROSE GARDEN INDEMNITY PROTECTED
3823-19	ROYALTY MANAGEMENT INSURANCE/
15672-23	RUTHERFORD INSURANCE COMPANY INC
25431-22	RUTHERFORD INSURANCE COMPANY INC
622-23	S R FREEMAN INC
17606-22	SAC INSURANCE INC
21748-16	SACKS DAVID B & RENEE M
22308-17	SACKS DAVID B & RENEE M
25278-22	SAGE INSURANCE COMPANY INC
20438-18	SAIEDY SAMER
12883-23	SAMADI SHARYAR D & ESTHER EZON
19707-23	SAN FERMIN INSURANCE COMPANY
14192-22	SANBORN ROGER W & MICHELLE M
11866-20	SAREYA STEVE & LORRIE
11020-20	SAREYKA ARMIN & LORETTA
18624-21	SAREYKA ARMIN & LORETTA
7761-21	SAREYKA ARMIN G & LORETTA A
11865-20	SAREYKA KYLE & TRACY
18628-21	SAREYKA KYLE & TRACY
7763-21	SAREYKA KYLE & TRACY
18629-21	SAREYKA STEVE & LORRIE
7765-21	SAREYKA STEVEN C & LORRIE A

13153-20	SCALINI FERNANDO
19183-18	SCALINI FERNANDO
21965-19	SCALINI FERNANDO
22295-17	SCALINI FERNANDO
25672-16	SCALINI FERNANDO
25718-22	SCALINI FERNANDO
31590-21	SCALINI FERNANDO
31591-21	SCALINI JAVIER
13154-20	SCALINI JAVIER M
19184-18	SCALINI JAVIER M
21966-19	SCALINI JAVIER M
22294-17	SCALINI JAVIER M
25671-16	SCALINI JAVIER M
25720-22	SCALINI JAVIER M
14350-22	SCHLEICH KURT & WANDA L
11046-19	SCHNELLER GEORGE F & RENEE L
12906-18	SCHNELLER GEORGE F & RENEE L
11040-19	SCHNELLER JAMES L & TANA S
12900-18	SCHNELLER JAMES L & TANA S
11044-19	SCHNELLER JEFFREY A & MICHELLE M
12904-18	SCHNELLER JEFFREY A & MICHELLE M
11039-19	SCHNELLER JEROME P
12899-18	SCHNELLER JEROME P
11047-19	SCHNELLER JOHN R & JULIE A
11050-19	SCHNELLER JOSEPH P & MARILYN S
12907-18	SCHNELLER JULIE A & JOHN R SR
11049-19	SCHNELLER KAREN L
11045-19	SCHNELLER MARY KAY
12905-18	SCHNELLER MARY KAY
33334-21	SCHULTZ CHRISTOPHER
14346-22	SCHUSTER DANIEL G & JEAN K
25714-22	SCIARETTA DONALD & DEBRA L

25715-22	SCIARETTA STEPHEN & SARAH TOEPFER
12463-22	SCIORTINO DAVID R & THERESA M
25369-22	SCODELLER PETER D & TERESA L
12228-23	SCODELLER TERESA L & PETER D
14765-22	SEDITA MARY ANN
10509-23	SEDITA MARY ANN W
26294-22	SERIES BV OF OXFORD INSURANCE LLC
26295-22	SERIES BW OF OXFORD INSURANCE LLC
26296-22	SERIES FF OF OXFORD INSURANCE LLC
23407-22	SERIES FZ OXFORD INS CO LLC
14987-20	SERIES IC OF OXFORD INSURANCE INC
23409-22	SERIES KP OF OXFORD INS CO LLC
826-24	SERIES PROTECTED CELL 188-A SERIES
22028-22	SERIES PROTECTED CELL 20-CS
19863-23	SERIES PROTECTED CELL 20-CS A
25324-22	SERIES PROTECTED CELL 40 OF
24972-22	SHAIFER PARTNERS LLC
19069-23	SHEMIA JEFFREY & AGNES
15180-20	SHEMIA JEFFREY AND AGNES
4421-19	SHEPERD JOHN B & ANDREA
9242-18	SHEPHERD JAMES B TRUST
8065-15	SHEPHERD JAMES BRYSON - TRUST
8331-19	SHIELDS RYAN P
12258-18	SHKAROVSKY IGOR & INNA
17332-18	SHKAROVSKY IGOR & INNA
17187-19	SHOR RICHARD J & THEODOSIA E
10941-23	SIERRA AGRIBUSINESS INC
27827-15	SIGNAL COMPANY - LTD PARTNERSHIP
27826-15	SIGNAL HILL WEST - LTD PARTNERSHIP
13152-20	SK YLAB SERIES INC
31593-21	SK YLAB SERIES INC
19186-18	SK YLAB SERIES OF FORTRESS INS LLC

19535-19	SKYLAB SERIES OF FORTRESS INSURANCE
22292-17	SKYLAB SERIES OF FORTRESS/
25669-16	SKYLAB SERIES OF FORTRESS/
11414-20	SOBOSI INVESTMENTS LLC
11265-19	SOUTHWEST EMERGENCY PHYSICIANS PLLC
13157-20	SOUTHWEST EMERGENCY PHYSICIANS PLLC
4523-21	SOUTHWEST EMERGENCY PHYSICIANS PLLC
8795-16	SOUTHWEST EMERGENCY PHYSICIANS PLLC
9161-17	SOUTHWEST EMERGENCY PHYSICIANS PLLC
20140-22	SOUTHWEST RETINA SPECIALIST LLP
428-19	SOUTHWEST RETINA SPECIALIST LLP
15697-18	SOUTHWEST RETINA SPECIALISTS LLP
2847-21	SOUTHWEST RETINA SPECIALISTS LLP
155-24	SOUTHWEST RETINA SPECIALISTS LLP
13005-20	SPENCER LOREN K & CLAIRE L
24165-22	SPORN JOEL & ALISON ROBIN INGBER
17717-23	ST LANDRY INDEMNITY INC
25095-22	ST LANDRY INDEMNITY INC
5029-23	STENNES TODD A & ANN MARIE
22221-22	STERLACCI MICHAEL T & HEIDI L
11042-19	STEVENS JEFFREY L & SUSAN E
12902-18	STEVENS JEFFREY L & SUSAN E
20066-23	STONE STEVEN W & ALLISON A
12458-22	STRICKLAND WILLIAM J & OKEMAH
25870-16	STRIDE SERIES OF FORTRESS INS LLC
13225-18	STROOT ERIC H & KRISTIL
11198-18	STUKEY KENNETH L & LEA
4473-19	STUKEY KENNETH L & LEA A
943-20	STUKEY KENNETH L & LEA A
8877-17	SUFRLINE SERIES OF FORTRESS INSUR /
23406-22	SULLO JOSEPH A & GIOVANNA
24941-22	SUMMERS INSURANCE COMPANY

14232-23	SUN DEVIL INSURANCE COMPANY INC
26006-22	SUN DEVIL INSURANCE COMPANY INC
13574-20	SUNCOAST PATHOLOGY ASSOCIATES INC
26468-17	SURFLINE SERIES OF FORTRESS
10982-16	SURFLINE SERIES OF FORTRESS INS LLC
6769-18	SUTHERLAND MARK L & SUSAN
13705-16	SWIFT BERNARD T JR & KATHY L
5354-18	SWIFT BERNARD T JR & KATHY L
20544-23	TALON SURETY COMPANY INC
26559-22	TALON SURETY COMPANY INC
19054-23	TANSY GARDEN INDEMNITY PROT CELL
13968-20	TANSY GARDEN INDEMNITY PROTECTED
10686-23	TAYLOR MICHAEL & CAROLYN
10156-20	TDS RENTALS & LEASING LLC
19231-16	TDS RENTALS & LEASING LLC
3454-19	TDS RENTALS & LEASING LLC
5919-18	TDS RENTALS & LEASING LLC
9184-17	TDS RENTALS & LEASING LLC
11366-20	TDS TESTING & START UP SERVICES LLC
19230-16	TDS TESTING & START UP SERVICES LLC
3453-19	TDS TESTING & START UP SERVICES LLC
9183-17	TDS TESTING & START UP SERVICES LLC
5917-18	TDS TESTING& STARTUP SERVICES LLC
6751-23	TECH DIAGNOSTIC MGMT & OPERATION
6752-23	TECH DIAGNOSTIC MGMT & OPERATIONS
19229-16	TECHNICAL DIAGNOSTIC MANAGEMENT & /
5918-18	TECHNICAL DIAGNOSTIC MANAGEMENT&
9182-17	TECHNICAL DIAGNOSTIC MANAGMENT & /
11995-20	TEXADO LTD
3426-19	TEXADO LTD
9244-18	TEXADO LTD
7734-20	TEXAS CITY VENTURE LTD

17765-19	THE HARBINDER S BRAR IV AKA BRAR
14695-17	THE HARBINDER S BRAR FLP I
12022-18	THE HARBINDER S BRAR FLP I A.K.A.
17763-19	THE HARBINDER S BRAR FLP II
14700-17	THE HARBINDER S BRAR FLP III
17766-19	THE HARBINDER S BRAR FLP III
12027-18	THE HARBINDER S BRAR FLP III A.K.A.
14688-17	THE HARBINDER S BRAR FLP IV
17767-19	THE HARBINDER S BRAR FLP V
14678-17	THE HARBINDER S BRAR FLP VII
12023-18	THE HARBINDER S BRAR FLP VII A.K.A.
17784-19	THE HARBINDER S BRAR FLP VIII KSB
14703-17	THE HARBINDER S BRAR FLPVI
17790-19	THE HARBINGER S BRAR FLP VII
11204-17	THE PAPPAS FAMILY TRUST
28525-21	THE PEOPLESERIES OF FORTRESS INSLLC
2783-23	THE SIEGFRIED GROUP LLC
17496-17	THOMPSON LAWSON III & SYLVIA
22449-16	THOMPSON LAWSON III & SYLVIA
2258-18	THOMPSON LAWSON III & SYLVIA
6331-20	THOMPSON LAWSON III&SYL VIA
13821-19	THOMPSON TODD P & KEVIN R
12861-22	TICORAS CHRIST J & HEATHER D
191-24	TIFFANY JR MICHAEL E & CHRISTEL M
28527-21	TIMBERLINE FISHERIES CORP
21554-22	TJB INSURANCE COMPANY INC
11430-20	TKS INVESTMENTS LLC
11572-21	TMAK INSURANCE COMPANY INC
138-23	TONOYAN ANNA
4292-19	TOOMA TOM S & MARTA KALBERMATTER
20789-22	TOP 1 PERCENT COACHING LLC
4619-23	TOWNSQUARE TITLE OF WYOMING LLC

17364-23	TRANSPORT CASUALTY CORPORATION
1183-22	TRANSTEC GLOBAL CORPORATION
434-23	TRANSTEC GLOBAL CORPORATION
15760-18	TRENK ABIGAIL S
15759-18	TRENK ALVIN
5027-23	TRINITY TITLE OF TEXAS LLC
11933-20	TRUETT ARTIS P & ALLISON H
19822-16	TRUETT ARTIS P & ALLISON H
20157-19	TRUETT ARTIS P & ALLISON H
22669-16	TTT SERIES OF FORTRESS INSUR LLC
17560-17	TTT SERIES OF FORTRESS INSURACE LLC
19741-17	TTT TRADING LP
19903-16	TTT TRADING LP
10972-23	TUCSON ENT ASSOCIATES PC
27008-16	TUCSON ENT ASSOCIATES PC
5673-18	TUCSON ENT ASSOCIATES PC
9213-17	TUCSON ENT ASSOCIATES PC
13885-20	TULIP GARDEN INDEMNITY PROTECTED
19078-23	TULIP GARDEN INDEMNITY PROTECTED
6292-18	TYLER NEUROSURGICAL ASSOCIATES PA
17041-19	U S SCREEN CORPARATION
5641-19	U. S SCREEN CORPORATION
4620-23	UNIFIED TITLE CO OF N COLORADO LLC
17843-23	UNIFIED TITLE COMPANY LLC
4326-23	UNIFIED TITLE COMPANY LLC
17845-23	UNIFIED TITLE COMPANY OF NORTHERN
6210-22	US SCREEN CORPORATION
6760-18	US SCREEN CORPORATION
24338-22	VASILOUDES KRITOS
24337-22	VASILOUDES PANAYIOTIS & HELEN
24339-22	VASILOUDES SOPHIA
24340-22	VASILOUDES THEODOROS

24341-22	VASILOUDES VASILIS
10603-22	VEKSLER ALEKSANDR & MARINA
11811-20	VEKSLER ALEKSANDR & MARINA AYZENZON
4429-19	VEKSLER ALEKSANDR & MARINA AYZENZON
14894-20	VERGHESE INDEMNITY INC
7301-19	VERTEX INSURANCE COMPANY INC
9961-23	VINSANT JESSICA L
13701-20	VIOLET GARDEN INDEMNITY PROTECTED
19072-23	VIOLET GARDEN INDEMNITY PROTECTED
17077-18	WADA ALBERT T & CHRISTINE
17339-19	WADA ALBERT T & CHRISTINE
20486-17	WADLEY ROBERT D & IRENE P
25115-16	WADLEY ROBERT D & IRENE P
16843-19	WAGNER MARK D & JENNIFER A
23891-21	WAGNER MARK D & JENNIFER A
24531-22	WAGNER MARK D & JENNIFER A
16830-19	WAGNER RICK A & ANGELA D
23894-21	WAGNER RICK A & ANGELA D
24532-22	WAGNER RICK A & ANGELA D
14762-22	WALKER CHARLES T & DONNA T
10504-23	WALKER CHARLES T & DONNA T
10506-23	WALKER JAMES A & CAMILLE S
24973-22	WANN KEVIN L & NICKI L
24657-18	WARREN MARK L & NORMA K REIN
14339-22	WATLEY ANDY M & SHEILA N
16025-18	WATLEY ANDY M & SHEILA N
21416-18	WATLEY ANDY M & SHEILA N
28740-21	WATLEY ANDY M & SHEILA N
7291-23	WATLEY ANDY M & SHEILA N
14342-22	WATLEY ENTERPRISES INC
16180-18	WATLEY ENTERPRISES INC
21415-18	WATLEY ENTERPRISES INC

7292-23	WATLEY ENTERPRISES INC
12223-21	WATSON FAMILY INSURANCE CO LTD
30613-21	WATSON FAMILY INSURANCE COMPANY LLC
17350-21	WATSON INSURANCE COMPANY LTD
30612-21	WATSON INSURANCE COMPANY LTD
12220-21	WATSON MICHAEL J & TRACEY L
30615-21	WATSON MICHAEL J & TRACEY L
12406-23	WEAST ROLAND B & TRISTINA N
12937-23	WEINBERGER AARON & BARI Z
24438-22	WEINBERGER AARON & BARI Z
23847-22	WEISMAN JOSEPH B
9630-23	WENGER ESTON & MINDY
24408-16	WESTERN AMERICAN SPECIALTIES INC
17846-23	WESTERN TILE COMPANY LLC
4327-23	WESTERN TITLE COMPANY LLC
35399-21	WESTOVER INVESTMENTS INC/
2414-23	WHEATLEY PROPERTIES LLC
17636-23	WHEATLEY ROBERT A & JULIANE
14345-22	WICKESSER III DONALD R & MAUREEN E
11804-22	WILBUR RICHARD G
21751-16	WILL MICHAEL J & DEBRA H
9609-16	WILL MICHAEL J & DEBRA H
23764-17	WILLIAMS GARY & KRISTA
15429-18	WILLIAMS GROUP HOLDINGS LLC
6820-19	WILLIAMS GROUP HOLDINGS LTD
23765-17	WILLIAMS JEB D & DESTINEE R
17607-22	WILLIAMS JEFFERY M & MARTHA R
15638-18	WILLIS DANIEL J & AMY M
14614-23	WILSON DAVID W & HOLLY F
26008-22	WILSON DAVID W & HOLLY F
13309-20	WILSON JOSHUA P
10681-23	WOODY YANCY & NORMA EDWARDS

14163-18	WORMAN JAMES
21161-18	WORMAN JAMES
14734-23	WORRALL MARC & SUE J
9631-23	WORTHINGTON JOSHUA A & ERIN
25277-22	WU SHIRLEY
22857-17	XR LLC
9174-16	XR LLC
9162-17	XR LLTHE ARI H SUSS REVOCABLE TRUST
13088-17	YECHZKELL EYAL & YIFAT
23896-16	YECHZKELL EYAL & YIFAT
14790-21	YSASAGA JASON E & STELLA D
15620-18	YSASAGA JASON E & STELLA D
17936-23	YSASAGA JASON E & STELLA D
5912-23	ZENITH ASSURANCE LLC
9053-19	ZINK JAMES H & KARIN M
18110-23	ZISKA JOHN C & DOREEN ONEILL
21099-18	ZISKA JOHN C & DOREEN O
12599-23	ZMZ GLOBAL INC

Refund Suits in District Court

Docket Number	Case Name
No. 9:21-CV-82056 (S.D. Fla.)	CELIA CLARK
No. 2:21-CV-0331-SPC-NPM (M.D. Fla.)	CJA & ASSOCIATES, INC.
No. 2:21-CV-0330-JES-NRM (M.D. Fla.)	RAYMOND ANKNER
No. 2:21-CV-0334-JLB-NPM (M.D. Fla.)	RMC CONSULTANTS, LTD.
No. 2:21-CV-00333-JLB-MRM (M.D. Fla.)	RMC PROPERTY & CASUALTY, LTD.
No. 5:23-CV-01162-G (W.D. Okl.)	WATSON METALS, LLC

PUBLIC SUBMISSIONS FOR THE RECORD



February 15, 2024

The Honorable Jason Smith, Chair
 The Honorable Richard Neal, Ranking Minority Member
 U.S. House Ways and Means Committee
 1100 Longworth House Office Building
 Washington, DC 20003

Dear Chairman Smith, Ranking Member Neal, and Members of the Committee,

On behalf of National Taxpayers Union Foundation (NTUF), I respectfully submit this statement for the record of the House and Ways and Means Committee's Hearing with Commissioner of the Internal Revenue Service Daniel Werfel. NTUF has been a leader in developing responsible tax administration for nearly five decades. We always strive to offer practical, actionable recommendations about how our tax system should function. Our experts and advocates engage in in-depth research projects and informative, scholarly work pertaining to taxation:

- Our annual **Tax Complexity** report highlights the increasing time burden and out-of-pocket filing expenses imposed on taxpayers as they comply with the tax code each year. In 2022, Americans spent 6.553 billion hours worth \$364 billion on the tax complexity burden, a 7 percent increase over the previous year.¹
- Our annual **Who Pays Income Taxes** report shows the burden of the federal income tax.² In 2021, the top 1 percent by income (\$682,577 and above) paid 46 percent of all income taxes, an all-time high (even above time periods when top income tax rate was 70 percent). 89 percent of income taxes were paid by the top 25 percent of filers; the bottom 50 percent by income (below \$46,637) paid just 2 percent of all income taxes.
- NTUF has testified on multiple recent proposed Treasury and IRS rules, including *Supervisory Approval of Penalties*, *IRS Dispute Resolution*, and *Gross Proceeds Reporting by Brokers and Determination of Amount Realized and Basis for Digital Transactions*.³

Given our policy expertise, outreach know-how, and true non-partisanship, we seek to build lasting consensus for impactful reforms.

A. A Recent GAO Study Raises Questions About 2023 Tax Filing Season's Successes.

"A normal tax season," headlined the *Washington Post* in March 2023, citing that the IRS answered 90 percent of phone calls. "IRS answered 2.4 million more taxpayer calls due to new funding," wrote Reuters in April 2023. "Influx of \$80 billion has helped customer service" headlined the *New York Times*

¹ Demian Brady, "Complexity 2023: 6.5 Billion Hours, \$260 Billion: What Tax Complexity Costs Americans," National Taxpayers Union Foundation, <http://tinyurl.com/vvaxskem>.

² Demian Brady, "Who Pays Income Taxes: Tax year 2021," National Taxpayers Union Foundation, <http://tinyurl.com/47zp98mz>.

³ Pete Sepp, "NTU Comments on IRS Proposed Rule for Supervisory Approval of Penalties," National Taxpayers Union, Jul. 11, 2023, <http://tinyurl.com/3phhkud9>; Lindsey Carpenter, et al., "Comments on IRS's Dispute Resolution Program," National Taxpayers Union Foundation, Aug. 28, 2023, <http://tinyurl.com/3nrmrsf7>; Lindsey Carpenter, "NTUF's Comments on IRS Cryptocurrency Regulations," National Taxpayers Union Foundation, Nov. 14, 2023, <http://tinyurl.com/4u7l7k6n>.

in August 2023, again citing reduced hold times.⁴

We welcome the Commissioner’s focus on customer service initiatives and the desire to see demonstrable improvements in metrics such as call wait times, late correspondence, and number of taxpayers helped to a resolution. However, victory should not be declared prematurely. A new study from the Government Accountability Office (GAO) provides data that gives alarming context to these claims.⁵

While the IRS did answer more phone calls in 2023 (7.7 million) vs. 2022 (4.6 million), the volume remained below all recent previous years (see chart below). Total taxpayer attempts to contact the IRS by phone plummeted, from 63.7 million to 25.9 million. The percentage of phone calls answered did rise, from 32 percent to 62 percent (not “90 percent”), but mainly because the denominator fell as taxpayers gave up trying:

Table 1: Telephone Call Volume Answered by Customer Service Representative (CSR) or Automated Line, Filing Seasons 2017-2023

Number of calls in millions							
	2017	2018	2019	2020	2021	2022	2023
Received	41.1	40.0	39.3	61.1	195.1	63.7	25.9
Answered							
CSR	9.9	10.4	8.1	9.7	11.0	4.6	7.7
Automated line	18.0	17.1	17.0	25.4	24.3	15.9	8.4
Total answered	27.9	27.5	25.1	35.1	35.3	20.5	16.1
Percent answered	68	69	64	57	18	32	62

Source: GAO analysis of Internal Revenue Service (IRS) data. | GAO-24-106581

Note: Answered calls are the cumulative number of calls answered by an automated line or a customer service representative. Telephone call data for the filing season are cumulative from January 1 of each year to April 22, 2017; April 21, 2018; April 20, 2019; July 15, 2020; May 17, 2021; April 23, 2022; and April 22, 2023, respectively. Numbers may not sum to totals due to rounding. Data from 2019 do not include all calls answered by a customer service representative, those that received a busy signal, or calls disconnected because IRS was not answering calls due to a 5-week lapse in appropriations, which ended in January 2019. For 2020, live telephone assistance was unavailable between late March and late April due to IRS closing all processing and customer service sites during the COVID-19 pandemic.

The Commissioner should help the public understand why, despite the infusion of resources, various phone metrics are lower than the “starvation budget” level of 2017-2019:

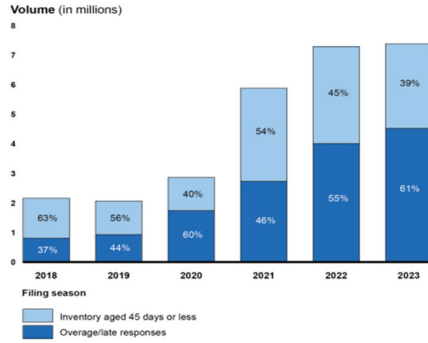
- Calls received was 25.9 million in 2023, but 39.3 to 41.1 million in 2017-2019.
- Calls answered was 7.7 million in 2023, but 8.1 to 10.4 million in 2017-2019.
- Percent calls answered was 62 percent in 2023, but was 64 to 68 percent in 2017-2019.

The GAO also found that the IRS correspondence backlog grew in 2023, with over 4 million late replies in 2022 rising to nearly 5 million in 2023. As the GAO notes, overall “correspondence inventories averaged 7.4 million compared to about 2 million in 2018 and 2019.” It should be noted that the IRS demands taxpayers respond to notices within 30 to 60 days, even while the Service takes over six months to do the same:

⁴ See Jacob Bobage, “The IRS braces for the unthinkable: A normal tax season,” *Washington Post*, Mar. 3, 2023; Reuters, “US IRS answered 2.4 million more taxpayer calls due to new funding,” Apr. 17, 2023; Alan Rappeport, “\$80 Billion Influx Has Helped Customer Service, I.R.S. Says,” *New York Times*, Aug. 16, 2023.

⁵ Government Accountability Office, “2023 Tax Filing: IRS Improved Customer Service, but Could Further Improve Processing and Evaluate Expedited Hiring,” Jan. 2024, <https://www.gao.gov/products/gao-24-106581>. The following charts appear on pages 25, 31, and 34 of the GAO report.

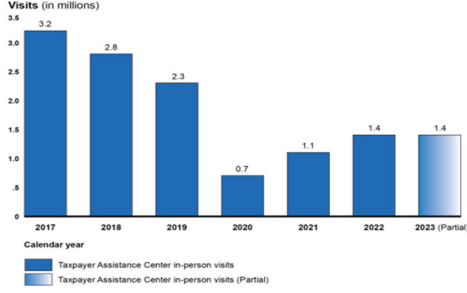
Figure 9: IRS Correspondence Inventory and Overage Rates (Late Responses), as of the End of the Filing Season, 2018-2023



Source: GAO analysis of Internal Revenue Service (IRS) data. | GAO-24-105581
 Note: IRS's policy is to generally respond to correspondence within 30 days of receipt, but it may take longer than that to respond to taxpayer correspondence depending on the type and complexity of the issue. IRS generally considers correspondence that is older than 45 days to be "overage." Data reflect individual and business-related correspondence in IRS's inventory as of the end of the filing seasons shown in the figure: April 21, 2018; April 20, 2019; July 18, 2020; May 22, 2021; April 23, 2022; April 22, 2023, respectively. Inventory reflects all paper and digital correspondence IRS received but had not yet provided a response. Note that 2020 inventory does not reflect all taxpayer correspondence IRS received during 2020 due to IRS's mail backlog (see GAO-21-251). As a result, some correspondence received in 2020 is reflected in the 2021 inventory.

In-person visits to Taxpayer Assistance Centers (TACs), while rising, remain below pre-pandemic levels:

Figure 10: In-person Visits to IRS Taxpayer Assistance Centers, Calendar Years 2017-2023



Source: GAO analysis of Internal Revenue Service (IRS) data. | GAO-24-105581

The Commissioner should explain the average and range time it takes the IRS to respond to taxpayer correspondence, and why correspondence backlog metrics worsened in 2023. The Commissioner should also explain IRS goals with taxpayer assistance centers and whether the goal is number of office locations, employees hired, or taxpayers helped.

B. The \$600 1099-K Reporting Threshold is Unworkable and Should Be Modified, but the IRS Does Not Have Authority to Set it at \$5,000.

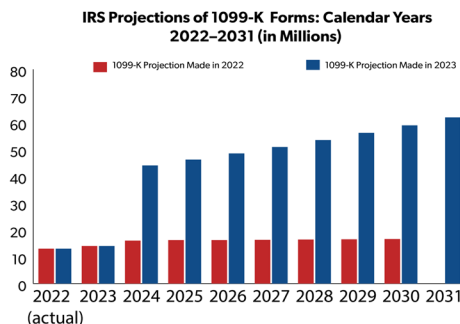
In the past, third-party payment platforms were not required to generate a Form 1099-K until a taxpayer exceeded \$20,000 in gross transactions and 200 transactions on the platform. The American Rescue Plan Act (ARPA) of 2021 changed that, setting the threshold at \$600 in gross transactions and doing away

entirely with the threshold for number of transactions. Under ARPA, this new threshold was set to go into effect in the beginning of 2022. In late December 2022, recognizing that this new threshold was unworkable and that taxpayers and third-party platforms (not to mention the IRS itself) were wholly unprepared to comply with this lower threshold, the IRS delayed its implementation by a year. That was the right move, and NTUF applauded the IRS at the time for its efforts to provide taxpayers with badly needed relief.⁶

There was, and remains, broad bipartisan support in Congress for raising the \$600 threshold. Despite this fact, a legislative solution has failed to materialize. Throughout 2023, we noted that all the reasons that forced the IRS to delay ARPA’s threshold remained unresolved. In November 2023, the Government Accountability Office (GAO) confirmed NTUF’s concerns, stating:

Many taxpayers will receive Form 1099-Ks who did not in the past, which may help some taxpayers comply. But, despite IRS communication efforts, it also may exacerbate confusion among some taxpayers, such as gig workers, who may not understand the taxability of their payments and taxes owed. For example, some of these taxpayers may not know how to calculate profit or loss and may not understand the information reported on the form. This puts them at risk of inaccurately reporting their incomes to the IRS or not meeting their tax obligations.⁷

In December 2023, the IRS again announced a one-year delay in implementation. This time, however, the IRS also announced a “phase-in” threshold of \$5,000 for tax year 2024. By doing this, the IRS exceeded its authority to determine the most appropriate means of enforcing Congressional directives and effectively took it upon itself to rewrite the statute at issue. If the IRS recognized that the \$600 threshold was not administrable, it only had one course available: a further delay. The idea that the IRS can unilaterally decide to make up a different threshold for Form 1099-K filing obligations from anything Congress had ever enacted is legally unfounded and sets a dangerous precedent for the future.



First, the IRS continues to underestimate the number of people who stand to receive a 1099-K. The IRS previously estimated that 16 million 1099-Ks would be distributed in 2024. NTUF warned that this estimate vastly undercounted the number of people who will be impacted.⁸ In October 2023, the IRS

⁶ Andrew Wilford, “IRS Delays Lower Form 1099-K Threshold By One Year,” National Taxpayers Union Foundation, Dec. 23, 2022, <http://tinyurl.com/3ar5vcmb>.

⁷ Government Accountability Office, “TAX ENFORCEMENT: IRS Can Improve Use of Information Returns to Enhance Compliance,” GAO-24-107095, Nov. 2023, <https://www.gao.gov/products/gao-24-107095>.

⁸ Damian Brady, “Taxpayers Aren’t Ready for the Coming 1099-K Deluge - And the IRS May Not Be Either,” National Taxpayers Union Foundation, Jul. 12, 2023, <http://tinyurl.com/vc6evu3c>.

dramatically revised its projection to 44 million 1099-K Forms in 2024 — three times higher than the amount it reported it received in 2023.⁹ A more accurate estimate earlier along in the process may have catalyzed more urgent action by Congress, and it raises the question of why the IRS did not update this figure far sooner. The day after the filing deadline in 2023, IRS Commissioner Daniel Werfel told the Senate Finance Committee that ARPA’s 1099-K threshold was paused because the agency was “not ready to administer in a way that provides taxpayers the clarity they need.” Later in that hearing he also said that the IRS would have a much easier time administering the threshold if it was changed. Additionally, news coverage throughout 2023 highlighted the persistent confusion of a person’s tax obligations for the transactions reported in the 1099-K.

Second, the Commissioner should provide a missing key metric: an estimate of the compliance burdens with the lower threshold. The compliance burden cost of a \$600 threshold is likely considerable. The lower threshold will drastically increase paperwork burdens on people to track the nature of all transactions conducted on third party platforms. Many will also spend out-of-pocket for tax advice. Under the federal Paperwork Reduction Act, federal agencies are supposed to calculate the time and out-of-pocket expense burden of all forms that the public is required to fill out. This information is published in a database managed by the Office of Information and Regulatory Affairs (OIRA). The currently available calculation for the 1099-K is out of date. The Supporting Statement the IRS published in January 2023 shows an estimate of only 10.4 million forms.¹⁰

Third, it is likely that the IRS acted unlawfully when it expanded the *de minimis* threshold. While the IRS may delay implementation of such a threshold, it may not legislate new terms. The IRS’s acts in this case exceed their authority and violate clear legal standards. Under current Supreme Court precedent, courts first examine whether “Congress has directly spoken to the precise question at issue.”¹¹ “If the intent of Congress is clear, that is the end of the matter[.]” and the agency “must give effect to the unambiguously expressed intent of Congress”¹² because “Congress knows to speak in plain terms when it wishes to circumscribe, and in capacious terms when it wishes to enlarge, agency discretion.”¹³ Here, the statute clearly states the minimum threshold to be \$600. It is possible that the IRS may claim that Congress did not explicitly prohibit the IRS from setting a higher *de minimis* threshold, but the Supreme Court is currently considering this very issue – agency authority in an area of alleged statutory silence – in *Loper Bright Enters v. Raimondo* this year. The IRS is on safer legal ground by simply delaying imposition of the \$600 threshold rather than creating a new threshold, however more desirable it may be than \$600.

C. The IRS Needs to Fully Comply with the Paperwork Reduction Act.

The Paperwork Reduction Act mandates that the IRS and other government bodies assess the time and financial expenses individuals will bear while completing their forms. These forms are categorized into “information collections” and can be reviewed on the Office of Information and Regulatory Affairs (OIRA) website.

In our most recent analysis of complexity in the tax code, NTUF discovered the IRS struggles to evaluate cost burdens for all its forms, with just 18 out of 465 forms including an out-of-pocket cost estimates.¹⁴

⁹ Demian Brady, “New IRS Data Still Vastly Underestimates the Increasing 1099-K Burden on Taxpayers,” National Taxpayers Union Foundation, Oct. 3, 2023, <http://tinyurl.com/2nsc4vu3>.

¹⁰ Office of Information and Regulatory Affairs, ICR Documents, Jan. 17, 2023, https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202301-1545-003.

¹¹ *Chevron, U.S.A., Inc. v. NRDC, Inc.*, 467 U.S. 837, 842 (1984).

¹² *Id.* at 842-43 (1984); see also *Mendez-Garcia v. Lynch*, 840 F.3d 655, 663 (9th Cir. 2016) (“If Congress has directly spoken to the precise question at issue, we must give effect to the unambiguously expressed intent of Congress.” (quotation omitted)); cf. *City of Arlington v. FCC*, 569 U.S. 290, 297 (2013) (explaining an agency’s “power to act and how they are to act are authoritatively prescribed by Congress” (cleaned up)).

¹³ *City of Arlington v. FCC*, 569 U.S. 290, 297 (2013).

¹⁴ Demian Brady, “Complexity 2023: 6.5 Billion Hours, \$260 Billion: What Tax Complexity Costs Americans,” National Taxpayers Union Foundation, Apr. 2023, <http://tinyurl.com/vyaxskem>.

For example, OIRA's dashboard shows Form 1099-B, widely considered by tax preparers as the worst tax form, as having no out-of-pocket cost. The IRS estimates that the form imposes 674 million burden hours, the third highest time burden across the Internal Revenue Code., but a deep dive into the Supporting Document associated with the form notes, "To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, the IRS will update this information collection to reflect a more precise estimate of burden and costs."¹⁵ This same stock language is used in the Supporting Statements for many other IRS forms.

First, the IRS should disaggregate burden into lines or instructions of that form which have required the most taxpayer time and effort. The Service could then issue guidance, in the form of a safe harbor, revenue procedure, or new instruction, designed to target and improve the comprehensibility of those lines or instructions. Then, controlling for other factors such as changes in economic circumstances of the filing population, or the tax laws themselves, the net effect of the guidance on reducing the taxpayer time and effort could be reasonably, if not perfectly, estimated.

Second, the IRS should distinguish information collections that have no actual cost from those where the cost is indeterminate. For example, in the Supporting Statement for the W-2 information collection, the IRS writes, "There were no estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services provided to respondents." This statement does not explain whether the forms impose no out-of-pocket expense or whether the IRS has not completed a calculation. The information on OIRA's paperwork burden database should specify that a cost is indeterminate instead of listing it as \$0.

D. The IRS Should Stop Attempting to Weaken the Requirement that IRS Supervisors Approve Penalties on Taxpayers.

The IRS has engaged in regulatory and litigation efforts to disregard 26 U.S.C. § 6751(b), which requires the IRS to obtain a supervisor's approval before issuing a penalty on a taxpayer.¹⁶ The IRS frequently does *not* comply with the statute's requirement, and the solution to this is not to water down the provision or backdate supervisor approvals during litigation, but to follow the law.

Section 6751(b) was enacted, in part, to be a first line of defense against maladministration, before penalties become a problem of contention between the taxpayer and the government.¹⁷ As NTU President Pete Sepp said at a recent IRS hearing, one side benefit of such a requirement is for the IRS: by going through the procedure, the Service's paper trail would be less susceptible to legal challenge in individual penalty cases, and so they would save potential litigation costs down the road.

But the IRS recently proposed regulations that would significantly undermine the supervisory approval requirement.¹⁸ For example, the proposed regulation would lengthen the timeframe for the IRS to obtain a supervisor's approval so long as it is any time before formal assessment—which is *after* the IRS has already communicated the proposed penalty to the taxpayer. Within the proposed regulation, the IRS steadily goes through the steps of communication with a taxpayer and concludes that a supervisor's pre-approval for a penalty is not required for any of them (information request, pre-assessment notice,

¹⁵ Internal Revenue Service, "Supporting Statement: (Form 1099-B) Proceeds From Broker and Barter Exchange Transactions OMB 1545-0715," Nov. 16, 2020, https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202007-1545-008.

¹⁶ 26 U.S.C. § 6751(b)(1) ("No penalty . . . shall be assessed unless the initial determination of such assessment is personally approved (in writing) by the immediate supervisor of the individual making such determination or such higher level officiate as the Secretary may designate."), enacted by Internal Revenue Service Restructuring and Reform Act of 1998, H.R. 2676 (1997-98).

¹⁷ See "National Taxpayers Union Comments and Request for Public Hearing on Proposed Rule for Supervisory Approval of Penalties," REG-121709-19, Jul. 11, 2023, p. 2, <https://www.regulations.gov/comment/IRS-2023-0016-0007>.

¹⁸ Proposed Rule for Supervisory Approval of Penalties, 88 Fed. Reg. 21564 (Apr. 11, 2023).

settlement discussion, even a Tax Court petition filing) except final, formal assessment.¹⁹ An IRS agent would therefore be able to threaten penalties on a taxpayer, wait to see if they engage tax professionals and attempt to decrease the penalty or simply pay it, and only after that point obtain a supervisor's approval, and it would all be a valid "approval." This cannot be what Congress meant.

Evidence that the IRS already improperly sidesteps this requirement emerged recently in *Lakepoint Land II, LLC v. Comm'r*, where documents showed (and the government attorneys acknowledged) that the IRS had backdated a supervisor's approval for penalties against Lakepoint, and then attempted to hide this fact from the Court in litigation.²⁰ Although the taxpayer in that case was able to uncover this during litigation, it is unlikely given the IRS's animus toward the provision that this was an isolated incident. Other taxpayers may have difficulty proving the IRS's noncompliance with section 6751(b).²¹

In 2021, the Joint Committee on Taxation calculated the revenue effect of watering down the supervisor approval requirement would be +\$1.4 billion over ten years, showing that IRS agents' failure to get supervisory approval is hardly a small problem. The Commissioner should commit to ceasing IRS regulatory and litigation efforts to evade the requirement that supervisors approve all penalties before they are communicated to the taxpayer.

E. The IRS's Legal Strategy Should Be Reassessed in Light of Continuing Losses in the Courts and the Disregard It Shows to Taxpayers.

The IRS has recently suffered two 9-0 losses in the U.S. Supreme Court, and a string of losses in Tax Court, raising serious questions about their legal strategy and litigation posture. The Commissioner and the incoming IRS Chief Counsel should take these reversals as an opportunity to consider redirecting the IRS's legal resources towards intentional evasion, and away from "gotcha" claims against taxpayers who have made honest mistakes navigating a confusing tax code. The Commissioner should also pledge to follow the Administrative Procedure Act (APA) for all binding guidance on taxpayers.

The Supreme Court rejected an IRS attempt to insulate its activities completely from taxpayer challenge in *CIC Services v. IRS*, in a unanimous opinion authored by Justice Kagan in May 2021. The case involved a notice issued by the IRS in November 2016 that any taxpayer engaging in certain micro-captive transactions (or their tax advisor) must comply with extensive and expensive reporting and record-keeping requirements or face \$100,000 in fines and one year imprisonment. *CIC Services LLC* challenged the requirements, pointing out that the agency issued them without advance notice or accepting public comments as required by the Administrative Procedure Act.²² The IRS took the

¹⁹ "A proposal of a penalty . . . to a taxpayer does not include mere requests for information relating to a possible penalty or inquiries of whether a taxpayer wants to participate in a general settlement initiative . . ." 88 Fed. Reg. 21564, 21570; "The requirements of section 6751(b)(1) and paragraph (a)(1) of this section are satisfied for a penalty that is not subject to pre-assessment review in the Tax Court if the immediate supervisor of the individual who first proposed the penalty personally approves the penalty in writing before the penalty is assessed." Id.; "The requirements of section 6751(b)(1) and paragraph (a)(1) of this section are satisfied for a penalty that is included in a pre-assessment notice that provides a basis for Tax Court jurisdiction upon timely petition if the immediate supervisor of the individual who first proposed the penalty personally approves the penalty in writing on or before the date the notice is mailed." Id. at 21571; "The requirements of section 6751(b)(1) and paragraph (a)(1) of this section are satisfied for a penalty that the Commissioner raises in the Tax Court after a petition . . . if the immediate supervisor of the individual who first proposed the penalty personally approves the penalty in writing no later than the date on which the Commissioner requests that the court determine the penalty. Id.; "[B]y allowing a supervisor to approve the initial determination of a penalty up until the time the IRS issues a pre-assessment notice subject to review by the Tax Court . . . the supervisor has the opportunity to consider a taxpayer's defense against a penalty, if applicable, and decide whether to approve the penalty." Id. at 21567.

²⁰ *Lakepoint Land II, LLC v. Comm'r*, T.C. No. 13925-17, T.C. Memo. 2023-111, at *2-3, 10-11 (Aug. 29, 2023) (Memorandum).

²¹ See, e.g., Tyler Martinez, "IRS Accused of Backdating and Lying to the Tax Court," National Taxpayers Union Foundation, Jun. 28, 2023, <http://tinyurl.com/vvv6umrj>.

²² Treasury and the IRS have a long-standing view that it need not fully comply with the APA. See, e.g., *CIC Services, LLC v. IRS*, 925 F.3d 247, 258 (6th Cir. 2019) ("Defendants do not have a great history of complying with APA procedures, having claimed for several decades that their rules and regulations are exempt from those requirements."); *Cohen v. United States*, 650 F.3d 717, 726 (D.C. Cir. 2011) (en banc) ("The IRS envisions a world in which no challenge to its actions is ever outside the closed loop of its taxing authority."); Kristin E. Hickman & Gerald Kerska, *Restoring the Lost Anti-Injunction Act*, 103 VA. L. REV. 1683, 1714 (2017) ("Even after the Supreme Court's pronouncement in Mayo

surprising position that the federal Anti-Injunction Act (AIA) prohibits taxpayers from challenging any IRS guidance that might conceivably impact revenue collection. The Court rejected this position, explaining that only lawsuits to stop tax collection itself fall under the AIA. As we wrote about the case: “It is no accident that the IRS set up a situation where they claimed their one-sided and burdensome regulation was both exempt from the Administrative Procedure Act and also unable to be challenged because of the Anti-Injunction Act. The IRS strongly resists efforts to subject its sweeping powers to even basic protections and safeguards.”

The IRS also lost their attempt to win by default when a taxpayer misses a deadline, in *Boechler v. Commissioner* in another unanimous opinion, authored by Justice Barrett in April 2022. The IRS argued that a taxpayer who was one day late submitting their appeal to the U.S. Tax Court had forfeited their case and could not appeal. This position was especially tone-deaf, coming at a time when the IRS was a year behind in opening mail and months behind in responding to taxpayer replies to information demands. The Court held that the statute, 26 U.S.C. § 6330(d)(1), could be read multiple ways but that denying jurisdiction to appeal should only occur if the statute clearly states so.

The IRS has also lost a string of cases in Tax Court (notably, *Hewitt v. Commissioner*, and *Green Valley Investors, LLC v. Commissioner*) relating to conservation easement deductions, because the IRS is litigating essentially 100 percent of cases but focusing on esoteric deed language (and denying its shifting regulatory posture) rather than valuation disputes. In its annual report, the Tax Court noted that its docket has been crowded with hundreds of conservation easement cases, and anecdotally we have heard that judges are nudging the IRS to be less inflexible in their position in these cases.²³ The IRS responded to these losses by adding 200 lawyers to litigate the same unproductive strategy in more cases.²⁴ In another case, the IRS has allegedly hired an appraisal expert to give a zero valuation but where that same expert was used by the plaintiffs, creating a clear conflict of interest and tainting the evidence the IRS was seeking to introduce.²⁵ Whatever one may think of the policy of conservation easement deductions, Congress has placed them in the tax code and therefore the IRS’s policy to litigate 100 percent of partnerships who take the deduction is inappropriate and overbroad.

Most taxpayers want to comply with the law. IRS legal positions, however, seem primarily motivated by the perspective that all taxpayers are suspect and thus deserve the full weight of enforcement authority used against them as a first resort, is unfortunate. Where law-abiding taxpayers who try to do the right thing are treated as wrongdoers by the IRS, this has negative attendant effects on compliance and respect

Foundation that both specific and general authority Treasury regulations carry the force of law, the government has continued to assert that many or even most Treasury regulations are exempt interpretative rules.”); Kristin E. Hickman, *A Problem of Remedy: Responding to Treasury’s (Lack of) Compliance with Administrative Procedure Act Rulemaking Requirements*, 76 GEO. WASH. L. REV. 1153, 1214 (2008) (“Despite Treasury’s claims to the contrary, the evidence is strong that Treasury has an APA compliance problem.”). The 1986 regulation was a product of this defiance, with Treasury using two pages of the Federal Register “to address more than 700 pages of timely comments and more than 200 pages of public testimony.” *Oakbrook Land Holdings, LLC v. Commissioner*, 154 T.C. 180, 221 (2020) (Toro, J., concurring in the result).

²³ In 2019 and 2020, the National Taxpayer Advocate recommended that the IRS “avoid litigation by providing model language taxpayers could use in deeds conveying conservation easements.” National Taxpayer Advocate, Annual Report to Congress 2020 at 218, citing National Taxpayer Advocate, Annual Report to Congress 2019 at 203. The IRS declined to do so, citing “other workload priorities.” See Pete Sepp & Joe Bishop-Henchman, “IRS Sends Settlement Offer Scare Tactic on Conservation Easements,” National Taxpayers Union Foundation, Jul. 1, 2020, <https://tinyurl.com/2jez8t6>. As the pandemic hit, the IRS did send settlement offers to those with pending conservation easement litigation, demanding that the deduction be disallowed in full, partnerships agree to pay full penalties and interest, and investor partners allowed to deduct costs but services partners allowed to deduct none. See id., citing IRS, IR-2020-130. Given the unfair terms, it is no surprise that “[i]t does not appear that many taxpayers have accepted the offer to date.” National Taxpayer Advocate, Annual Report to Congress 2020 at 217.

²⁴ See, e.g., Internal Revenue Service, “IRS Chief Counsel looking for 200 experienced attorneys to focus on abusive tax deals; job openings posted,” Jan. 21, 2022, <https://tinyurl.com/v4mmvx6b>; Theresa Schliep, “Tax Court Denies IRS Early Win In \$15M Easement Fight,” Aug. 29, 2022, *Law360*, <https://tinyurl.com/33xzhve7>; Emlyn Cameron, “Tax Court Denies IRS Win on Easement Purpose Protection Issue,” Jul. 20, 2022, *Law360*, <https://tinyurl.com/mvavc9ep>; Guinevere Moore, “Courts Are Deciding Some Conservation Easement Cases In Favor of Taxpayers – At Least In Part. Is It Time To Rethink Settlement?,” *Forbes*, Dec. 17, 2020, <https://tinyurl.com/3jtb3md>; Pete Sepp, “Shortsighted: How the IRS’s Campaign Against Conservation Easement Deductions Threatens Taxpayers and the Environment,” National Taxpayers Union, Nov. 29, 2018, <https://tinyurl.com/2z2cewd>.

²⁵ See Kristen A. Parillo, “Tax Court Easement Litigants Want To Impeach IRS Appraisal Expert,” 184 *Tax Notes* 367, Jan. 8, 2024.

for the law. These IRS abuses, while seemingly technical in nature, have real impacts. Given the chilly reception this approach has received in the U.S. Supreme Court and the Tax Court, and the considerable resources (IRS, judicial, and taxpayer) being wasted, the Commissioner and the incoming Chief Counsel should reassess the direction of their legal strategy.

F. The IRS Should Work to Improve the Free File Program Instead of Spending Funding on a Duplicative Program

The IRS recently announced that it is phasing in a pilot version of a direct tax filing program. As of January, only filers who resided in Arizona, California, Florida, Massachusetts, Nevada, New Hampshire, New York, South Dakota, Tennessee, Texas, Washington, and Wyoming during 2023 are able to file through the pilot. There are also limitations on sources of income and allowable credits and deductions.

This represents a concerning initial foray into that space by the IRS. Thanks to its length and complexity, many aspects of the tax code remain open to interpretation, especially by an IRS prone to land on the most narrow and restrictive interpretations possible. Private tax preparation services have an incentive to find all the deductions and credits a taxpayer could reasonably claim. The IRS has no such incentive — in fact, every signal it has received from Congress as of late has pointed it in the exact opposite direction. To properly verify the figures the IRS input into the form, filers would still need to keep track of all the necessary paperwork and be familiar with the forms and schedules. State leaders both inside and outside the Direct File pilot have expressed similar concerns.²⁶

Under the Inflation Reduction Act (IRA), the IRS received \$15 million to study how a direct filing program might work and the costs involved. An expanded direct filing program could have a significant administrative cost. Converting to a new ready return system would also impose significant compliance burdens on employers, financial institutions, and even governmental agencies that administer benefit payments. Any business or organization that writes a check to employees or beneficiaries would have to report that information to the IRS on a new time table so that the agency has time to reconcile all the data and turn around the forms to filers for review. Estimates of the third-party costs, ranging from \$500 million to \$5 billion, would outweigh the potential savings for the government and taxpayers. It is also debatable whether the IRS is up to the challenge of gathering, securing, and reporting the financial data necessary to complete the forms. The IRS has already been struggling to maintain and upgrade its existing technology and respond to taxpayers' correspondence in a timely manner.

No one should be deluded into believing that the IRS's Direct File program would be a "free service" from the IRS. The costs, which could be significant, would ultimately fall on taxpayers.²⁷ Instead of building a new system from scratch, the IRS should improve upon the Free File system that it already established with private sector firms. More than 71 million returns have been filed through Free File since it was started in 2003, saving eligible taxpayers time, and reducing administrative costs to the IRS.

G. The Commissioner (and the Committee) Should Consider Insights and Guidance from the Taxpayers FIRST Project.

NTU Foundation has launched a cross-ideological coalition, Taxpayers For IRS Transformation (Taxpayers FIRST), to provide constructive advice to the IRS as it spends the infusion of funding it received from Congress in the Inflation Reduction Act. Taxpayers FIRST convenes an expert group of non-governmental stakeholders with a diverse set of backgrounds and perspectives to assist officials and

²⁶ Letter from Montana Attorney General Austin Knudsen to U.S. Treasury Secretary Janet Yellen, Jan. 30, 2024, p. 4, <https://dojmt.gov/wp-content/uploads/IRS-Direct-File-Letter-Final.pdf>.

²⁷ Robert A. Boisture, Albert G. Lauber, and Holly O. Paz, "Policy Analysis of 'Return-Free' Tax System," Computer & Communications Industry Association, Apr. 2006, <https://ccianet.org/wp-content/uploads/library/Return-Free-WP.pdf>.

policymakers so that the new funding is spent effectively, improves taxpayer services, upgrades outdated technology, and helps efficiently reduce the tax gap while respecting and strengthening taxpayer rights and due process.

Over the coming year, Taxpayers FIRST will discuss and develop policy recommendations in collaboration with this expert group, produce papers to communicate these recommendations with policymakers at the IRS and in Congress, and share a vision for improved services and technology with taxpayers across the country.

Focus areas include:

- **Modernization of the IRS.** Outdated equipment and processes are longstanding problems at the IRS and ones that are often used as justification for funding increases. We will advocate for what it will take to achieve digitization of tax filing and processing of tax returns.
- **Measuring and assessing the tax gap.** Government estimates of unpaid taxes are often used to justify harsher enforcement practices. We will look at which estimates are most accurate and correct in determining the sources of the gap. We will also assess the root causes for taxpayer errors during filing.
- **Improvements to customer service.** The S in IRS stands for service, and improving customer service has long been a work in progress. Expanding funding and expediting deployment of long-promised taxpayer services, such as improved digital communications tools, the “Where’s My Refund” online tool, and online accounts would go a long way in improving how taxpayers interact with the IRS and ensuring citizens are paying what is required from them.
- **Enhancing taxpayer rights and privacy.** A more powerful IRS should be accompanied by stronger protections for taxpayers and their private information. We will look at expanding access to Tax Court, creating a firewall between the Independent Office of Appeals and IRS agents, requiring the IRS to comply with legally mandated notice-and-comment procedures, and making greater use of alternative dispute resolution procedures.

We welcome the opportunity to engage with the Commissioner, the Committee, and other stakeholders in sharing these insights in the near future.

Conclusion

We appreciate the opportunity to provide these views to the Committee. Should you have any questions on our comments or on other matters before you, NTUF is at your service. Thank you for your consideration.

Sincerely,

Joe Bishop-Henchman
Executive Vice President
National Taxpayers Union Foundation
jbh@ntu.org



American Citizens Abroad Statement for the Record to
House Ways and Means Committee
Hearing with Commissioner of the Internal Revenue Service, Daniel Werfel

February 29, 2024

American Citizens Abroad, Inc. and its sister organization, American Citizens Abroad Global Foundation hereby submit our Statement for the Record.

American Citizens Abroad, Inc. (ACA) is a leading advocacy organization representing Americans living and working overseas. Headquartered in Washington, DC, ACA is nonpartisan, non-profit (section 501(c)(4)), with a 40-plus-year history of advocating on behalf of the community of Americans living and working overseas. Alongside ACA is its sister charitable (section 501(c)(3)) research and educational organization, American Citizens Abroad Global Foundation (ACAGF).

ACA thanks the Ways and Means Committee for the February 15, 2024, hearing with IRS Commissioner Daniel Werfel. It was a great comfort to hear Commissioner Werfel state early in his oral testimony and include in his written witness statement that the first of three central themes guiding service provision by the IRS this filing season is “*ensuring taxpayers can easily contact the IRS – whether in person, on the phone or online – and get help navigating complex tax laws and accessing the credits they deserve.*” Aside from relief from filing generally, which we discuss herein, there isn’t anything more pressing to Americans abroad. Filing U.S. taxes from abroad is considerably more complex, expensive and time consuming. Taxpayers abroad, as noted in the National Taxpayer Advocate’s 2023 report to Congress continue to be underserved and face significant challenges in meeting their U.S. tax filing obligations.

Commissioner Werfel’s declaration, repeated on several occasions during the hearing, that the IRS has “*a responsibility to protect taxpayers from being overly burdened in fulfilling their tax filing obligations*” will continue to ring hollow until the IRS provides a great deal more support to U.S. citizens moving or living abroad.

IRS Service Expansion for Americans Abroad

In his discussion of the importance of identifying taxpayers with complex returns, Rep. Pascrell made this comment,

“If you’re middle or low income, mostly your taxes are fairly simple.”

There is little evidence of this for middle- or low-income Americans living and working abroad. Tax filing compliance for them involves the navigation of the convergence of the U.S. tax system and the tax system of the country where they reside. At a minimum the IRS can make it easier for them to maintain U.S. tax compliance by providing **filing advice in layman’s language with clear instructions to non-resident filers on how to declare non-U.S. income.**

E:file systems available from private providers under the Free File Program were discussed on several occasions, with Reps. Hern and Miller noting that their availability rendered the 9-month Direct E:file study an unnecessary waste of taxpayer funds. **Existing E:file systems do not satisfy the requirements of non-resident filers** and so force them to engage private market tax return preparers at a cost at least three times that paid by other Americans. Taxpayers abroad need the IRS to require E:file systems available from providers in the Free File program to:

- o include all forms commonly needed by non-resident filers;
- o enable filers to upload supporting documents and schedules; and
- o have an income eligibility threshold that matches the Foreign Earned Income Exclusion.

Rep. Del Bene discussed the need for “*tax preparer minimum competency requirements and more credentialing of professionals who offer their services to U.S. taxpayers.*” Those preparers who service Americans abroad require competency in the U.S. tax system as well as the tax systems of other nations. When the IRS introduces qualifying criteria for the profession, we ask that they also **introduce minimum standards for tax return preparers servicing U.S. citizens living abroad.**

Further, we recommend the IRS **re-establish Overseas Tax Assistance Centers** and/or IRS customer service offices inside the U.S. to perform these functions:

- o Support expat tax preparation professionals addressing matters on behalf of Americans abroad;
- o Provide training for tax preparation professionals who service Americans abroad;
- o Act as an expat taxation resource for DOS officials at embassies and consulates;
- o Relay non-resident filers’ issues to the IRS and National Taxpayer Advocate; and
- o Gather research on the experience of Americans abroad in their efforts to maintain compliance with U.S. tax filing obligations.

Chairman Smith and Reps Buchanan, Kelly, Schweikert and Davis made mention of tech tools that improve IRS filing assistance. These tools have yet to meet their potential for supporting filers living abroad. **Automated tax filing support for individual taxpayers abroad**, provided either out of Overseas Taxation Assistance Centers and/or out of IRS customer service offices located in the U.S., can facilitate:

- o Video-conferencing (Zoom) support for non-resident taxpayers;
- o Dedicated tele-helpline for non-resident taxpayers, accessible from most if not all countries and with customer call-back technology; and
- o Video-conference and tele-helpline operators expert in the process and issues of filing from abroad.

These IRS service enhancements would go a long way towards making filing from abroad as feasible as filing from the U.S. They would not, however, make the U.S. tax system more just in its relative treatment of Americans abroad. Non-resident filers continue to suffer policy-based discrimination, such as: some double-taxation; being taxed (Net Investment Income Tax) for programs they cannot access (Affordable Care Act); being excluded from full refundability of the child tax credit when they are otherwise eligible;

having offshore income treated as “untaxed income” in the Free Application for Federal Student Aid when it is subjected to taxation in the country where it is generated; barriers to U.S. investment vehicles which require U.S. residential addresses, as well as punitive treatment of investment vehicles available in our countries of residence; and more.

Residence-based taxation

ACA has long advocated that the real solution to the problems of overseas taxpayers is the adoption of Residence-based taxation (RBT) which would tax U.S. citizens overseas on the basis of where income is earned, therefore excluding foreign earned income from U.S. taxation and only taxing U.S. sourced income. ACA was the first organization to develop a [side-by-side analysis](#) and a [written description of that analysis](#) that indicates where in the current tax code changes could be made in a move to a system of taxation based on residence. ACA has fielded [two research projects](#) on the subject with District Economics Group (DEG), Washington, DC-based economic consulting firm – one in 2017 and one in 2022 - that provide valuable information on the income, asset and taxation of U.S. citizens living and working overseas. This data, one of a kind, supports our position that RBT can be adopted and be revenue neutral and tight against abuse.

ACA's research studies provide invaluable data on the community of U.S. citizens living and working abroad and most importantly, gives Congress an accurate number for the size of the community of U.S. citizens living and working outside the U.S. ACA estimates this figure at approximately 4 million (excluding US military). Unfortunately, many in Congress continue to reference the U.S. State Department figure of 9 million. In recent meetings with the U.S. State Department ACA has learnt the DOS will no longer be publishing this figure, citing the difficulty in accessing robust data to make these estimates. This acknowledges the inaccuracy in the 9 million estimate, a figure which has, firstly, distorted many of the government estimates for changes in tax policy that affect U.S. citizens living and working outside the U.S. and, further, has only cemented the false optic that U.S. citizens overseas are tax evaders.

Congressional Hearing on taxation and U.S. citizens abroad

ACA believes it is essential that Congress hold hearings on the issues affecting this very important group of U.S. citizens. ACA has presented our research and data to the Ways and Means Committee staff as well as the other Tax Writing Committees on Capitol Hill. But the time has come for our data and knowledge, and that of other organizations and individuals, be put on official record with Congress. There is Congressional interest in tax reform for U.S. citizens abroad, evidenced by the introduction of several pieces of legislation.

- [H.R.2729 - 118th Congress \(2023-2024\): Commission on Americans Living Abroad Act of 2023 | Congress.gov | Library of Congress](#) (The Commission on Americans Living Abroad Act) which would call for the creation of a commission to

begin investigating the concerns of this community. This Commission would be an excellent start to the process of holding hearings.

- [H.R.5432 - 118th Congress \(2023-2024\): Tax Simplification for Americans Abroad Act | Congress.gov | Library of Congress](#) The Tax Simplification for Americans Abroad Act calls on the Congress to mandate the IRS to create a simplified filing form (worksheet) for certain US citizens filing from overseas.
- [H.R.5799 - 117th Congress \(2021-2022\): Overseas Americans Financial Access Act | Congress.gov | Library of Congress](#) The Overseas Americans Financial Access Act would call for the use of a Same Country Exemption (safe harbor) for reporting of financial account held overseas.

In our meetings in November of 2023 many Congressional offices shared our opinion that the time for hearings on the subject of taxation of US citizens overseas has come, including Chairman Smith's office. The Congress owes it to the community of U.S. citizens overseas, as well as to the Congressional offices that support legislative and regulatory change, to make hearings a priority. It is imperative that the issues of U.S. citizens living overseas are put on record with the Committees and Congress. ACA can assist with the organization of witnesses and provide data, testimony and case studies. Please contact us at any time to discuss.

ACA would like to thank the House Ways & Means Subcommittee on Oversight for the opportunity to submit this testimony and commentary. For more information, please visit the ACA website www.americansabroad.org or telephone +1 202 322 8441 and/or email marylouise.serrato@americansabroad.org.



February 22, 2024

The Honorable Jason T. Smith	The Honorable Richard E. Neal
Chairman - Committee on Ways and Means	Ranking Member - Committee on Ways and Means
U.S. House of Representatives	U.S. House of Representatives
1139 Longworth House Office Building	1129 Longworth House Office Building
Washington, DC 20515	Washington, DC 20515

RE: February 15, 2024 Hearing entitled, "Hearing with Commissioner of the Internal Revenue Service, Daniel Werfel"

Dear Chairman Smith and Ranking Member Neal:

As the largest organization representing Americans abroad, Democrats Abroad would like to bring attention to the millions of citizens living abroad whose taxpayer rights face substantial infringement. The National Taxpayer Advocate's recent annual report to Congress dedicated not one but two Most Serious Problem sections to issues involving Americans abroad, providing a troubling view of how the U.S. taxes its expat population. Key issues with the extraterritorial nature of the U.S. tax system include:

- Ensnaring individuals who have little to no connection to the United States
- Extreme complexity, with virtually no support for taxpayers abroad
- Heavy reliance on potentially life-altering penalties rather than educational approaches for compliance
- Failure to consider individuals' life circumstances
- Lack of equity, due process, and access to judicial review
- Insurmountable compliance challenges driving citizenship renunciations

Taken together, these issues call into question what rational government interest the current citizenship-based tax system serves.¹ If pursuing education, employment, running a small business, marrying a non-US citizen, or starting a family outside the United States exposes citizens to these issues, one must wonder whether such policies are aligned with the principles

¹ See Snyder, Laura, Can Extraterritorial Taxation Be Rationalized? (June 15, 2023). 76 Tax Law 535 (2023). <https://ssrn.com/abstract=4466706> The author argues that US extraterritorial tax laws create a class of American citizens that is inherently suspect and violates the 5th and 14th Amendments.

of a free and democratic society.^{2,3} The increase in citizenship renunciations over the past decade suggests an answer.⁴

Democrats Abroad believes taxpayer rights would best be upheld by a revenue system that taxes based on income source and physical residency. We urge Congress and government officials to work with us in order to bring comprehensive relief to the overlooked and underserved non-resident citizens, aiming to ensure fair and equitable treatment for all.

Sincerely,

Martha McDevitt-Pugh
International Chair
Democrats Abroad
chair@democratsabroad.org

Rebecca Lammers
Chair, Taxation Task Force
Democrats Abroad
taxadvocacy@democratsabroad.org

² See Snyder, Laura, The Myths and Truths of Extraterritorial Taxation 32 Cornell J. L. Pub. Pol'y 185 (2022).

<https://ssrn.com/abstract=4628381> The author argues that the human right to leave and return to one's country is undermined by the fiscal restraints that US extraterritorial taxation imposes on citizens.

³ See Goulder, Robert, New FATCA Litigation: The Constitutionality of Renunciation Fees <https://www.fatcawatch.com/featured-analysis/new-fatca-litigation-constitutionality-renunciation-fees/2021/02/19/2zd> The author ponders to what extent a government in a free society may take measures to restrict the freedom of movement.

⁴ The State Department acknowledges that citizenship renunciations have increased in part due to FATCA. See Proposed I Schedule of Fees for Consular Services: Administrative Processing of Request for Certificate of Loss of Nationality Fee, <https://www.regulations.gov/document/2023-026-0001/>

Annex: Further Details

Key Points Raised in National Taxpayer Advocate's 2023 Annual Report to Congress

1. The U.S. tax system is overly broad, capturing individuals with little or no connection to the U.S.

The international standard for determining tax residency typically relies on physical presence and/or domicile. However, the United States uniquely considers citizenship as a basis for tax residency. The report underscores that individuals who depart the United States remain subject to U.S. taxation indefinitely, until they willingly renounce their citizenship. This includes those born in the U.S. who left at a young age and may not be aware of their U.S. citizenship, commonly referred to as "accidental Americans."⁵

2. The U.S. tax system for Americans abroad is extremely complex, and taxpayers receive little to no support

Taxpayers residing abroad face challenges navigating the intricacies of the tax code, with limited support from the IRS, leading to potential non-compliance risks. The absence of affordable and knowledgeable assistance compounds the issue, as the IRS lacks a comprehensive plan for addressing the unique needs of this taxpayer segment.⁶ Complicated filing requirements for international information returns add to the confusion, carrying substantial penalties for non-compliance. Additionally, access to reasonably priced and skilled tax-preparers for Americans abroad is limited, often forcing them to resort to costly specialized services, even when no tax liability exists.⁷ To exacerbate the situation, taxpayers abroad lack access to free preparation services, with no VITA or TCE sites available, and in-person IRS assistance remains unavailable.⁸

3. International reporting requirements rely heavily on potentially life-altering penalties rather than on educational approaches for compliance

The penalty systems associated with International Information Reporting (IIR) are intended to dissuade taxpayers from concealing income and assets overseas. However, for non-resident citizens, this translates to stringent international reporting requirements and disproportionately severe penalties for any failure to comply. These penalties are imposed automatically, without avenues for judicial review or the

⁵ NTA Annual Report to Congress 2023 page 117

⁶ NTA Annual Report to Congress 2023 page 117

⁷ NTA Annual Report to Congress 2023 pages 121

⁸ NTA Annual Report to Congress 2023 page 123

opportunity to establish reasonable cause. Starting at \$10,000, the penalties can escalate drastically, multiplying fivefold within just 8 months.⁹

4. IIR penalty assessments fail to consider one's life circumstances

The penalty systems associated with International Information Reporting (IIR) are automatic and disproportionate and – given the circumstances – often inappropriate, causing considerable hardship and denying taxpayers their right to an effective appeal. The National Taxpayer Advocate suggests that the IRS cease the automatic assessment and collection of IIR penalties until the taxpayer's specific facts and circumstances are established, with required review of any request for reasonable cause relief, and including first-time-abatement eligibility.¹⁰

5. IIR penalty assessments lack equity, due process, and access to judicial review

The systematic application of IIR penalties, coupled with restricted avenues for contesting assessments, establishes de facto strict liability. Taxpayers seeking judicial review of an imposed IIR penalty are obliged to make the payment upfront before challenging it in federal court. This necessitates out-of-pocket expenses that are often beyond the means of most taxpayers.¹¹ Given the substantial nature of IIR penalties, and limited recourse, this raises significant concerns regarding the rights of taxpayers.

6. Compliance challenges are insurmountable and are driving citizenship renunciations

On top of an ever-growing pile of evidence^{12, 13, 14, 15}, the National Taxpayer Advocate's annual report provides additional evidence that tax compliance challenges are driving citizenship renunciations.¹⁶ This decade-long trend is a cause for concern for Americans' constitutional right to citizenship. In *Afroyim v. Rusk*, the Supreme Court's majority opinion concluded: "We hold that the Fourteenth Amendment was designed to, and does, protect every citizen of this Nation against a congressional forcible destruction of

⁹ NTA Annual Report to Congress 2023 page 102

¹⁰ NTA Annual Report to Congress 2023 page 114

¹¹ NTA Annual Report to Congress 2023 page 112

¹² Greenback Expat Tax 2023 Survey shows that 20% of Americans are seriously considering renouncing and 42% have ruled out the possibility. <https://www.greenbacktaxservices.com/blog/2023-trends-survey/>

¹³ The Association of Accidental Americans sued the State Department over the increase in the renunciation fee which coincided with the passage of FATCA. <https://www.americansaccidentals.fr/page/1503406-suit-against-state-department>

¹⁴ Proposed Rule Oct 2, 2023: Schedule of Fees for Consular Services: Administrative Processing of Request for Certificate of Loss of Nationality. <https://www.regulations.gov/document/2023-026-0001/>

¹⁵ Rule August 25 2015: Schedule of Fees for Consular Services: Department of State and Overseas Embassies and Consulates. <https://www.regulations.gov/document/2015-0470001>

¹⁶ NTA Annual Report to Congress 2023 page 116

his citizenship, whatever his creed, color or race." Laws compelling citizens to renounce citizenship – due to insurmountable compliance challenges and financial discrimination – amount to forcible destruction of citizenship, a violation of the 14th Amendment.

A Proposal For Relief for Qualified Non-Residents

A proposed Relief Procedure for Qualified Non-Residents aims to provide an option for long-term non-residents to opt out of U.S. tax residence while maintaining citizenship. The procedure would discourage changes in residency for tax avoidance by implementing an immediate capital gain realization on the taxpayer's assets. It includes special transition rules exempting certain long-term residents abroad from the departure tax, as well as relief from annual filing requirements for future non-residents. The relief procedure involves filing a final tax return, payment of a "deemed sale" departure tax, and issuance of a certificate of non-residency. The proposal emphasizes that termination of tax residency is optional and consensual, agreed upon between the taxpayer and the IRS.

