

**THE IRS, THE PRESIDENT'S FISCAL YEAR 2023
BUDGET, AND THE 2022 FILING SEASON**

HEARING

BEFORE THE

**COMMITTEE ON FINANCE
UNITED STATES SENATE**

ONE HUNDRED SEVENTEENTH CONGRESS

SECOND SESSION

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APRIL 7, 2022
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THE IRS, THE PRESIDENT'S FISCAL YEAR 2023 BUDGET, AND THE 2022 FILING SEASON

THURSDAY, APRIL 7, 2022

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 10:15 a.m., via Webex, in Room SD-215, Dirksen Senate Office Building, Hon. Ron Wyden (chairman of the committee), presiding.

Present: Senators Menendez, Carper, Cardin, Brown, Casey, Warner, Whitehouse, Cortez Masto, Crapo, Thune, Portman, Toomey, Lankford, and Daines.

Also present: Democratic staff: Eric LoPresti, Detailee; Joshua Sheinkman, Staff Director; and Tiffany Smith, Chief Tax Counsel. Republican staff: Michael Quickel, Policy Director; Gregg Richard, Staff Director; Don Snyder, Tax Counsel; and Jeffrey Wrase, Deputy Staff Director and Chief Economist.

OPENING STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM OREGON, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. Around the country are millions and millions of families who are feeling the pressure of rising prices. This year in particular, people are counting on getting their tax refunds to help cover the bills.

I'll cut right to the heart of the matter for those families whose refunds might be delayed due to IRS backlogs. If you are frustrated by poor customer service from the IRS, you can blame years and years of Republican cuts that have contributed mightily to the ability of the agency to meet your expectations.

And from all the talk about running government more like a business, an awful lot of Republicans want to turn the government into the kind of dysfunctional business that never gets repeat customers. The fact is, Republicans had an opportunity when they passed their big tax law in 2017 to fix the Internal Revenue Service comprehensively, and they could have included efforts to reduce backlogs and improve service.

That just was not done. In fact, more complexity was added to the tax code, and it made the tax system more difficult to manage. This came after a long period of Republicans squeezing the IRS budget. It was clear at the time that Republicans were steering into a train wreck, and you are seeing the effects today.

The number of revenue agents at the IRS—and these are the people who audit tax returns—is currently a third of what it was a decade ago. The officers who collect unpaid taxes are down by

nearly a half. The agency has the same number of employees it did in 1970 when the country's population and the economy were a fraction of the size they are today.

As of late March, the IRS was facing a backlog of 12 million tax returns. Service agents struggle to keep up with the phone calls. So far this year, they have been able to answer only 11 percent of them. The IRS has recently been on a hiring mission, and that is thanks to funding and hiring authority passed by Democrats.

The agency is making progress on the backlog and targeting resources to customer service and phone lines. But in the meantime, law-abiding taxpayers dealing with the after-effects of the Republican cuts are left with the impression that the government cannot manage a two-car parade.

With that said, not everybody is pained by what is happening at the IRS. Customer service has fallen off, but tax enforcement is in even worse shape, which means that these are high and good times for wealthy tax cheats. The IRS is just totally outmanned against the tax cheats who use these complexity-driven loopholes to cheat their way out of paying their fair share. There are fewer revenue agents today than at any point since World War II, and the challenge they are up against is much bigger.

One of the murkiest, most loop-hole-ridden parts of America's totally busted tax code is partnership income. It is a thicket of super-complicated rules that are supposed to apply to a third of all business income in America. It is a big and growing percentage.

In Fiscal Year 2020, the IRS managed to audit a little more than one-tenth of 1 percent of partnership tax returns, the tiniest sliver. Meanwhile, new research from UC Berkeley found that the working poor are 12 times more likely to face an audit.

So, look at the big picture. As a result of years of Republican budget cuts, IRS customer service is struggling, while wealthy tax cheats get away with breaking the law, and the burden of tax enforcement gets shifted onto working people who spend every day walking a tightrope.

Now Democrats have begun to reinvest in taxpayer service and enforcement to crack down on the cheats. It made tax filing season less of a headache for everybody else. Part of that ongoing process, in my view, ought to be making it easier for Americans to file their tax returns directly online for free. Give them that option. Taxpayers are paying huge sums to file their taxes through private companies, and some of those companies, in deeply deceptive practices, steer them away from free options that they have a legal right to use.

I have been a long-time supporter of the right to file directly with the Internal Revenue Service online. Again, it would be your right, your option, and you would use a simple return in which the forms are completed and all you've got to do is check the numbers. It is past time for Congress to tell these prep companies they no longer have a free pass to turn rip-offs and deception into profit.

Wrapping up, Commissioner, I want to thank you and your front-line staff, specifically this morning. They have been putting in some long, long hours this filing season to particularly get these refunds out in a timely way. The people are not thinking about politics. They are thinking about helping people. And the people need

those refunds, particularly right now when we are dealing with this inflation challenge. My view is, the job for those front-line folks has been made a lot harder than it had to be. It could have been easier with additional resources and additional assistance. We are going to be pursuing that, as you know, in the days ahead. We look forward to your views.

[The prepared statement of Chairman Wyden appears in the appendix.]

The CHAIRMAN. And let me recognize my friend, Senator Crapo. And as we said, we are going to be running back and forth, and we are used to it, but most other people will think it is a little bit odd to have everybody running a shuttle program, but we have to go to handle this vote.

Senator Crapo?

**OPENING STATEMENT OF HON. MIKE CRAPO,
A U.S. SENATOR FROM IDAHO**

Senator CRAPO. Well, thank you, Senator Wyden. And I agree with your observations. We will make this work. And, Commissioner Rettig, we appreciate having you with us. And I know you can cover it, so I appreciate that.

Thank you, Commissioner, for being here to testify today, and thank you for your service. I appreciate your efforts to make the IRS a more customer-focused place and understand that it is hard to change the course of an institution like this in just the few years that most of us have to work at it when we get the opportunity. And you have done a good job.

There is a need to change course, but I do not believe the administration's outsized partisan approach is the solution. For the third filing season in a row, taxpayers find vexing customer service challenges as they attempt to fulfill their tax filing obligations. With tens of millions of 2021 tax returns still to be filed, the most recent data we have on this year's tax season is concerning, highlighting longstanding issues that the IRS has not yet adequately addressed.

For example, more than 60 percent of the millions of items of taxpayer correspondence and amended returns have sat in storage for more than 3 months, an increase of nearly 30 percent over the last year. Average hold times for the lucky few taxpayers who reach the IRS by phone are 28 minutes, an increase of nearly 50 percent over the last year. And scores of taxpayers have seen refunds delayed while their return is suspended for various reasons. Millions of prior-year tax returns await processing. The IRS's management of paper-filed returns is a persistent problem that the National Taxpayer Advocate recently noted goes back decades. By tax day this year, millions of paper-filed 2020 tax returns will not have been processed, while millions of current-year tax returns will likewise gather dust.

Steps to prevent or minimize this disruption were not taken by the IRS, and in some cases still have not been taken. For example, many people may not be aware that in order for the IRS to process a paper-filed return, each entry on the return is manually inputted by an IRS employee. These taxpayer-funded employees would be better able to serve taxpayers by answering phones or responding to correspondence.

This is not simply a problem of taxpayers choosing to deluge the IRS with paper-filed returns. In many cases, IRS forms and schedules simply cannot be electronically filed, including where a taxpayer could e-file and attempts to do so but is rejected by the IRS's confusing digital signature process.

This is not a funding issue. Solutions to these challenges have existed for years, but to date have not been implemented. The IRS can further transition away from mandating any return or form to be paper filed. With respect to rejected e-filings, which I understand to be often caused by taxpayers being unable to locate or recall one of two possible e-filing PINs, the IRS could implement additional means to e-sign a return. And I am aware that the IRS, under your leadership, Commissioner, is working on this.

The so-called 2D bar codes, much like the supermarket bar codes that have been used for decades, could eliminate the IRS's need to transcribe paper returns at all. Solutions like these have been held up for years with no clear reason why, leading to results that the current National Taxpayer Advocate, Erin Collins, called "crazy." And I agree.

Now to the question that has been raised by a number of my colleagues on the other side, trying to blame Republicans and the budget of the IRS for this. Some say that the IRS budgets are to blame for all that ails the IRS. But this misdirection distracts from real issues at the IRS. It also cherry-picks data to paint a misleading portrait. Many begin their analysis of the IRS budgets beginning only with Fiscal Year 2010, which was a 30-plus-year high-water mark for the IRS's budget, and an outlier. Viewed in the longer run, the IRS's average inflation-adjusted budget is much lower, and it is in line with recent years that meet this average. The efforts to try to claim that Republicans have slashed the IRS budget are simply not accurate.

Budget arguments are also often invoked in attempts to justify massive IRS funding for things that do not address the customer experience problems plaguing the IRS. For example, some advocate for increased IRS funding to generate revenue through heavy-handed enforcement. This year's presidential budget request seeks a large enforcement funding boost, and its reserve fund placeholder for the reckless Build Back Better legislation would provide a truly massive \$80-billion infusion of mandatory funding, primarily focused on enforcement. The reserve fund could also accommodate the administration's chilling proposal to monitor Americans' bank account flows of as little as \$600. I strongly oppose forcing community banks and credit unions to report sensitive and private customer data of law-abiding taxpayers to the IRS in order to raise more money by snooping through customers' accounts, and I will continue to aggressively push back on any attempts to add this reporting scheme to the legislation.

I remain concerned about huge funding boosts that would increase audits on small businesses and middle-class Americans, rather than prioritizing taxpayer services. Our hearing in February had a positive dialogue spotlighting IRS customer service challenges and solutions, and I have a number of questions about ways to address the longstanding IRS problems that I think we can

agree on, such as outdated IT and ways to ensure the next filing season will be much better than the last several.

Given your stated commitment to making these improvements, Commissioner, which I not only appreciate but accept, I look forward to continuing to work with you on this.

Thank you, Mr. Chairman.

[The prepared statement of Senator Crapo appears in the appendix.]

The CHAIRMAN. I thank my colleague. And he and I often, after we hear each other's statements, go back and forth a little bit, and I am only going to say one very quick thing. I think Senator Crapo has a very good point with respect to the bar codes and ideas like that. But I also feel that the agency is being asked to do more with less. And at some point, when you try to do more with less, you simply get less with less. And I think that is what all these people waiting for refunds and the like are dealing with.

So, we will have this back and forth for decades. You can tell both of us feel strongly about these issues.

Our witness today is Charles P. Rettig. He is the 49th Commissioner for the IRS. He previously was a highly respected law partner for 35 years, representing thousands of taxpayers before the IRS at the Department of Justice Tax Division, Federal and State courts, and State taxing officials. He served as past chair and member of the IRS Advisory Council. He also served as chair of the Taxation Section of the State Bar of California, and has served on the Advisory Board of both the Franchise Tax Board and the Board of Equalization in his home State of California.

Please go ahead, Commissioner.

**STATEMENT OF HON. CHARLES P. RETTIG, COMMISSIONER,
INTERNAL REVENUE SERVICE, WASHINGTON, DC**

Commissioner RETTIG. Thank you very much, Chairman Wyden, Ranking Member Crapo, and members of the committee. Thank you for the opportunity to discuss the President's Fiscal Year 2023 IRS budget, as well as the current status of the 2022 filing season.

As you know, for Fiscal Year 2021, gross receipts to the Internal Revenue Service were approximately \$4.1 trillion, representing approximately 96 percent of the gross receipts in the United States of America. A successful, fully functioning IRS is important to the continued success of our country. We have been at the forefront of successfully providing rapid economic relief to taxpayers, issuing more than \$1.5 trillion in combined economic relief and individual refunds during the pandemic.

The President's Fiscal 2023 budget is a proposal for \$14.1 billion, representing an increase of \$2.2 billion. The budget would allow the agency to take important steps forward in improving taxpayer service, modernizing our systems, and ensuring fairness in the imposition and enforcement of tax law. The President's budget proposal also supports oversight of high-wealth individuals, that we stay current with our paper inventories, and that we accelerate the development of digital tools, which would obviously reduce the paper inventories and the processing that you have described.

The President's legislative proposals also provide for oversight of paid tax return preparers. This has been an issue since about 2013.

Personally, I would say it is critical for us to receive some form of oversight with respect to return preparers. There are other legislative proposals in there that are important that we can certainly discuss at another point.

With the signing of the recent omnibus legislation on March 15th providing the IRS with a Fiscal 2022 budget of \$12.6 billion, we are adjusting our spending plan, which we previously delivered to members of the committee on February 12th, and we will adjust with respect to the funds that we have, the movement of those funds, implementation projects that were referenced in the plan that we provided, and we will be moving other funds to cover other remaining short- and long-term shortfalls.

As of April 5th, we have obligated \$911 million of these 3-year funds to maximize taxpayer service, and it has been eventful. Taxpayer service remains the most significant IRS priority, and funds provided by Congress, including ARP, have allowed us to implement many new innovative strategies to reduce our unprecedented current and projected inventories, and to get healthy, which is our commitment by the end of Calendar Year 2022, and before the beginning of filing season 2023.

With respect to our current 2022 filing season, we are off to a healthy start in terms of tax processing and the operation of our IT systems. Through April 1st, we have processed more than 89 million returns, issued more than 63 million refunds, totaling more than \$204 billion. However, there are essentially two distinct filing seasons. Taxpayers who choose to electronically file who request a direct deposit are receiving their refunds within approximately 21 days. Many individuals have received those refunds within 3 or 4 days of the submission of their electronic filing.

With respect to taxpayers who submit paper returns, our processing is first in, first out. We are processing approximately 2.7 million returns still that were received in Calendar Year 2021. And so taxpayers who, during this filing season, choose to file a paper return end up at the end of that particular stack. And I am sure we will be discussing that.

I want everyone to know that the employees of the IRS, including myself, but specifically our employees, are doing the best we can. We may not always have gotten it right, but we have tried our best. We have put taxpayers first as the number one priority, and I believe that following my term, the agency will continue to head in that direction.

Our mitigation efforts as to our inventories are working. They are making a difference. We are trending in a very good direction that will allow us, and allow me, to commit that we will be healthy by the end of Calendar Year 2022. We are working to make sure that these inventories are addressed as quickly as possible, and have implemented many new innovative strategies never before used within the Internal Revenue Service.

I believe that almost every Commissioner over the past decades has stated that inconsistent funding is among the most frustrating experiences for the Federal agency that touches and serves more Americans than any other government or private-sector organization. Modernized technology would significantly improve our ability to respond to a crisis, pandemic-related or otherwise. It is simply

unacceptable for us to remain largely a paper-based organization operating in a digital world environment.

Chairman Wyden, Ranking Member Crapo, and members of the committee, this concludes my statement. I am happy to take questions.

[The prepared statement of Commissioner Rettig appears in the appendix.]

The CHAIRMAN. Thank you very much.

Commissioner, last year I asked you about the current tax gap. And I was concerned, and still am, that it is higher than the official estimate, which always seems to be outdated. When I asked about it last year, you said the tax gap could be a trillion dollars a year. Nobody needs to go over that again.

So the Congress needs updated information about the size of the tax gap. Who is cheating? What is the agency doing about the problem? So, my first question to you picks up on last year's question. Is the IRS going to start producing more up-to-date tax gap estimates to give us more information about who is cheating?

Commissioner RETTIG. Yes, sir. When I got on board in 2018, we released the tax gap estimates for 2011 to 2013, which was more of a paper world. Virtual currencies did not exist. And so, we then began implementing the ability to be more current, and to actually be more engaging with respect to emerging issues.

This summer we will issue tax gap data for 2014 to 2016, which I would submit is also somewhat dated in 2022, but we will also be submitting—

The CHAIRMAN. It is certainly dated, Commissioner. Please go ahead and tell us what else you are doing.

Commissioner RETTIG. We will also be submitting projections for 2019. Know that the tax gap estimates that we submit for 2014 to 2016 and the projections will again not include information with respect to virtual currencies and certain foreign-source income. We are working to get that information. We are not where we need to be.

The CHAIRMAN. Is there anything that we can do, working with you, that can get us more updated projections? Because I think that is essential for a lot of the debates that we are having here: wealthy tax cheats, a variety of others.

What else could we do, this committee, in a bipartisan kind of way, to get better data through these updates?

Commissioner RETTIG. In working with the Department of Justice on John Doe summons activity with respect to a variety of different exchanges, we are aware of a significant noncompliance from the reporting perspective in the virtual currency world. Information reporting in the virtual currency world is improving. It is definitely not where it needs to be. And there is a huge question as to what the aspect of it is. There were \$14 trillion in transactions last year in that space, and the U.S. represents somewhere between 30 and 40 percent of that, if you compare our GDP to the world.

The CHAIRMAN. So you want additional resources to go after scams and rip-offs and the like, because I had made the point when we had the debate about cryptocurrency last year. I am all in in the fight against wealthy cheats and people who are money-

laundering. I just do not want to go after the innovators, the coders, and the like.

So we can talk offline about this, but I just want to make sure that we get better and more current updates, because that is what this committee needs to deal with major policy questions.

The timeline to eliminate backlogs—we talked a bit about this, and I think I would really like to get your sense here. In your view, what is a reasonable level of phone service? And when will the agency reach that level?

Commissioner RETTIG. The President's budget proposal for Fiscal 2023 requests \$389 million, with a target level of service of 85 percent—so, answering 8½ out of 10 calls. Every IRS employee would like to answer 10 out of 10 calls. And the surge in the incoming volume of phone calls has obviously had a huge impact. And I think you all are aware that at one point we were seeing phone calls at the rate of 1,500 per second. One thousand five hundred calls per second. And that builds up such an inventory and a backlog, and we have never recovered from that.

The CHAIRMAN. So what is a reasonable expectation for Americans on phone service?

Commissioner RETTIG. We need to crush our inventories, our paper inventories. We need to crush our return backlogs, because the folks who answer the phones also process paper. So, when we can get through the paper, we can get all those folks full-time back onto the phones to handle it. And we are committed to getting into that position by the end of Calendar Year 2022.

The CHAIRMAN. Thank you.

One other one that you and I have talked about: technology policy. And this has been a focus of my work. I showed up in a Senate where basically nobody was using a computer. And I understand the backlog is due, to a great extent, to the fact that the IRS employees have to transcribe paper returns manually.

So when, in your view, can we expect the IRS to start using scanning technology to transcribe individual tax returns? And how does the President's budget affect that?

Commissioner RETTIG. The President's budget supports our ability to scan and electronically convert paper into something that we can have actually machine-readable and hopefully process automatically. I should say, with respect to the 2D bar code, the congressional budget justification for each year between 2013 and 2017 requested funding for 2D bar codes, and that funding was never provided. And the agency then pivoted into focusing on electronic filing. And we are currently running around 96 percent of e-filed income tax returns in our current filing season.

The CHAIRMAN. Thank you very much, Commissioner.

Let's go to Senator Grassley next.

Senator GRASSLEY. You know that all over the country taxpayers are at their wit's end this time of the year. I think there have been some improvements, from the cases that my staff in Iowa forward to the IRS, because in 2021, it took 570 days to get an answer, on average, and it is down now to 245 days. But this brings up the question about IRS employees working remotely.

We have had the National Taxpayer Advocate say something along the lines that it is time for IRS to require all hands on deck.

And I appreciate that the IRS recently unveiled a return-to-work policy, but you know, for Iowans who have been back to work for a long time, probably for a year and a half, why have—the IRS will not be fully back until the end of June.

Could you explain why that cannot be right now?

Commissioner RETTIG. I certainly can. That is not accurate. Ninety-nine percent of our employees have been working since June of 2020—

Senator GRASSLEY. At their office?

Commissioner RETTIG. Sir, before the pandemic, a significant percent of IRS employees were teleworking, and we have a union contract with NTEU, and we negotiate that contract every 6 years. And we follow the terms of that contract. And it requires telework-eligible positions to be teleworking.

Senator GRASSLEY. You may be right in regard to the 99 percent, but your plan says that it is not going to be fully deployed until the end of June.

Commissioner RETTIG. Can I address that?

Senator GRASSLEY. What?

Commissioner RETTIG. Can I address that?

Senator GRASSLEY. Yes, go ahead.

Commissioner RETTIG. So, 53 percent of the employees are in a full-time telework capacity. The rest of the employees either have a blended capacity or they are on-site. Every employee who has interaction with respect to what are the major issues—the inventories, submission processing, and accounts management—they came back in June 2020 in a socially distanced environment, and on principal campuses in Ogden, Kansas City, and Austin, TX.

There were occasions where, because of COVID spikes and following the CDC, we needed to shut down briefly. But our front-line processing employees have been on-site in place since June of 2020.

Senator GRASSLEY. Okay.

The IRS has spent \$5.4 billion on IT modernization since 1999, yet we are still using systems that go back to the 1960s. In 1999, the IRS started working on what they called a CADE system, which was intended to replace one such system, the Individual Master File, IMF. However, after spending \$400 million, IRS abandoned this project in 2009. In its place, IRS began CADE 2 with plans to replace the legacy IMF system by 2014. According to GAO, after spending \$1.5 billion, CADE 2 is now expected to replace core functions of the IMF only and not get that completed until 2013.

So given this history, how can Congress have any confidence that additional funds will result in the IRS successfully replacing its 1960-era systems?

Commissioner RETTIG. As you know, I came onboard in 2018. In 2019 we launched our Business Modernization Plan, actually April 16th of 2019. That was a 6-year plan—\$2.3 to \$2.7 billion—at the same time that major financial institutions were spending \$10 to \$14 billion per year to modernize their systems.

As of today, we have only received 57 percent of the funding of that plan. And that plan was actually reviewed by outside consultants McKinsey. Our initial plan was revised and adjusted in accordance with the comments from McKinsey, and they continue to be involved. And we have, and we welcome oversight. I have al-

ways welcomed oversight and interactions with every member on the Hill during my term, and I am convinced whoever would follow me as Commissioner later this year would do the same. As to how people can have confidence in the Internal Revenue Service, we were the agency called upon to issue the three rounds of the Economic Impact Payments and at least six payments on the Advance Child Tax Credit.

We issued \$1.5 trillion during the pandemic, more than \$200 billion in Advance Child Tax Credit payments, and I think if you look at what we were able to do—and we were able to process electronically filed returns during this same period of time—I think people should have confidence in us. We were the agency that stood up for this country and supported Americans who for the first time were either unemployed, had health issues, and the rest. And our employees are very proud, and we were privileged to have that opportunity, as am I to be on board with our employees. But if you look at what we have done recently, I think that people would be impressed.

I am not saying that IRS should be funded and then Congress goes away. I am saying that IRS should be funded as and where Congress approves, and bring us oversight.

The CHAIRMAN. The time of the gentleman has expired.

Senator GRASSLEY. I will submit questions for the record.

[The questions appear in the appendix.]

The CHAIRMAN. Then I am going to submit something as well, because this point that my colleague from Iowa has offered up—that the agency cannot be trusted with an increase because, in his view, they have wasted billions of dollars of IT funding—is not in line with what the Government Accountability Office has said. The Government Accountability Office has said that between 2019 and 2020, a lack of funding delayed IT upgrades five times. This is not by people in politics and all the rest. This is according to the Government Accountability Office. And I am going to put that document into the record at this point.

[The document appears in the appendix on p. 124.]

The CHAIRMAN. All right.

Next will be Senator Carper, who I believe is online.

Senator CARPER. I am right here. Can you hear me, Mr. Chairman?

The CHAIRMAN. Yes. And after Senator Carper, we will go to, in order of appearance, Senator Menendez.

Senator Carper?

Senator CARPER. Mr. Chairman, I could not agree more on what you just said about GAO. We ought to listen to GAO on this front. They got it right, and we should take their advice and counsel.

I have a couple of questions. Commissioner Rettig, welcome. We are delighted you are here before us. And our thanks to you and your team for all that you do for our country.

My first question deals with multiyear funding for the IRS. A decade ago, I sounded the alarm on the need for greater investments for the IRS. Today, you rely on a depleted workforce and generations-old technology, causing frustration and confusion for taxpayers. These challenges are a direct result of Congress neglecting our duty to fund you to do collections. The result is a growing

tax gap that allows wealthy individuals and corporations to, in many cases, avoid paying the taxes that they legally owe.

I believe that the Fiscal Year 2023 budget request will help ensure that the IRS can keep its head above water. What the agency really needs is the certainty of multiyear funding to address some of the significant challenges.

My question, Commissioner Rettig, is how would long-term funding for the IRS help address the agency's systemic workforce and occupational challenges, and how would this funding improve taxpayer services and efficient tax collection?

Commissioner RETTIG. The agency, like every other Federal agency, has been in more than 100 continuing resolutions since Calendar Year 2001. We received our funding a year ago with ARP on March 11th. We received funding this year on March 15th. It is impossible to build a robust, meaningful technology infrastructure for any agency, or any private-sector organization, when we do not have consistent, timely multiyear funding. It is simply not the way to do that. The start and stop that this agency receives from a funding perspective—and I am focused on the technology side of the house—means we continually have to push projects off based on limitations and figure out how we can do something in—like I said, for this year and for last year, we got our omnibus funding with 6 months left in the year, and it is really impossible to do anything.

Senator CARPER. I agree. I agree.

Workforce challenges and direct hiring authority is my second question. In recent years, the IRS has faced tremendous difficulty—as you know, Mr. Commissioner—in attracting and retaining a robust workforce. Fortunately, the recent omnibus appropriations bill provides direct hiring authority for the IRS to expedite the hiring process for qualified applicants, especially those needed to address the backlogged tax returns.

The question: how will the IRS implement this new authority? What impact will this have on the long-term recruitment challenges facing the IRS?

Commissioner RETTIG. Congress rescued the Internal Revenue Service by including direct hiring authority in that omnibus budget for us. And that passed on, I think it was March 11th, March 15th. The next day we started holding job fairs in our three key processing centers—Kansas City, Ogden, and Austin, TX. A lot of press, individuals showing up to these job fairs with resumes. Over 90 percent received job offers on the spot from us.

Senator CARPER. That is great.

Commissioner RETTIG. And we can bring them onboard between 30 and 45 days. And we are doing so. We have over—I think the current count as of this week is over 2,200 people through these job fairs, which is a direct result of getting direct hire authority. Over 2,200 people with offers, and we are continuing to hold these job fairs. We also hold job fairs virtually, and those require a little more follow-up, but we anticipate a similarly high rate of offers. And this is critical to help us with our surge teams, our contractors, and everything else we are doing to get onto the inventories.

Senator CARPER. Thank you.

My third and last question, Mr. Commissioner, deals with Economic Impact Payments. My casework team back in Delaware continues to hear from constituents who have not received their full Economic Impact Payments. And while the Recovery Rebate Credit is intended, as you know, to solve this issue, many of my constituents, and I would guess constituents of my colleagues across the country, do not know this credit exists, or if they do, how to claim it.

It is especially challenging for our elderly or vulnerable taxpayers who have difficulty accessing, in many cases, online resources and information related to the question. What steps has the IRS taken or does it plan to take to provide critical information about the Recovery Rebate Credit to vulnerable taxpayers as part of the current filing season?

Commissioner RETTIG. We provide that information in multiple languages, and importantly this Saturday, April 9th, and on the second Saturday in May, we will have open houses at our Taxpayer Assistance Centers for people to walk in, no appointment needed, walk in on any issue. And anybody who has these issues should certainly come in to one of our Taxpayer Assistance Centers, and we should be able to resolve it.

In many cases, when people did not get it, or they got a reduced amount, there were offsets, or it went to another location. But I will say that TIGTA, the Treasury Inspector General, issued a report about 2 weeks ago saying that, I think on the EIP3, we got it 99-percent accurate. And in May of 2020, they issued a report that we were 98-percent accurate. And I think that speaks to the quality of the people.

Senator CARPER. That is great. Commissioner Rettig, thank you very much to you and your team.

The CHAIRMAN. I thank my colleague.

Senator Menendez?

Senator MENENDEZ. Thank you, Mr. Chairman. Let me follow up by thanking the employees of the IRS who have been working around the clock to assist taxpayers, during exceptionally challenging times over the last 2 years. And, Commissioner Rettig, thank you for responding to my and my colleagues', including Senator Cassidy's, bicameral, bipartisan calls to suspend notices, allow employees to join surge teams, and implement mandatory overtime at the IRS in order to work down the backlog.

Right now, as I understand it, the IRS has two main issues when it comes to working down the backlog. And until we address these issues, we are going to have more of the same next year. The first issue is staffing—some of that has been talked about here—and that we need more IRS employees. The second is that the IRS still relies on paper. And this paper needs to be opened, sorted, and also manually entered into the IRS systems.

It seems to me, Commissioner, one of the ways to decrease the backlog is to hire more customer service representatives, or CSRs, at the IRS, especially the submissions processors. Both the National Taxpayer Advocate and the National Treasury Employees Union have identified that these employees are making less than \$37,000 a year, and that, quote, "this is competing with the fast-food industry with high stress and unreasonable expectations," and

this is why applicants, quote, “are not beating a path to the IRS’s doors.”

How many submissions processing CSRs is the IRS seeking to hire this year? And how many have you hired?

Commissioner RETTIG. Between this year and next year, we expect to onboard 10,000. And we have more—before that hiring, we have more CSRs onboard than we have ever had in history. And normally a lot of them come onboard as seasonal. And a year ago, we extended them to permanent. And we brought on an additional 1,000 about—

Senator MENENDEZ. So you are looking to hire 10,000?

Commissioner RETTIG. Ten thousand.

Senator MENENDEZ. And at this point, what do you have onboard?

Commissioner RETTIG. All total? There are different categories for them.

Senator MENENDEZ. Of this 10,000 that you are seeking to hire, is that still “to be filled”?

Commissioner RETTIG. No. It is two 5,000 tranches. And I talked about—I think you were here when I talked about the hiring events we are having around the country, and we have made offers for 2,000 of that 5,000. We expect to fill that 5,000 shortly. We are having quite a bit of success at our job fairs.

Senator MENENDEZ. I will look forward to hearing about that.

Let me talk about the second issue, which is paper. The IRS is stuck in the 1960s, before the information age. Last year, IRS employees were expected to open the envelopes of over 21 million paper returns that were filed. They were expected to manually process the returns, like this one [holding up a paper return]—this one may be a simpler one—but meaning that they had to enter in all of the numbers that a taxpayer writes on this form.

This all takes time. It is the reason why the IRS is a year behind on working down the backlog. Just how do we fix this? Last week, the National Taxpayer Advocate issued a directive that asked the IRS to work with the tax software industry to implement bar coding and scanning technology for next year’s tax season. This would speed up processing of returns, reduce errors, and allow the IRS to reassign employees where they are needed the most, such as answering the phone.

Commissioner, does the current budget request include funding to accommodate implementing bar codes and scanning technology for next year’s filing season?

Commissioner RETTIG. First, I would ask you to look at—we will issue our response to that directive, and I would ask you to look at that. And we will be available to discuss it with you in person.

Second, I would say with respect to 2D bar coding, in our congressional budget justification for each year, 2013 to 2017, we specifically requested but did not receive funding for 2D bar coding.

And then the third answer is, yes, the President’s budget does provide for this. We absolutely need to do better. Absent a pandemic, we would have been in a lot better place with the paper. But we have to balance—the same individuals answer phones and do the paper. And the phones—as you know, we received over 400 percent more calls than ever before.

Senator MENENDEZ. So the bottom line—

Commissioner RETTIG. But we are headed—and we have had pilots, and have run pilots, and you will see this in our response in this space. There are some technological problems associated with us using the 2D bar code, but we need to get there.

Senator MENENDEZ. Okay.

And then lastly, on February 15th, Senators Booker, Cortez Masto, Padilla, and myself sent you a letter expressing concerns about how the IRS implemented facial recognition technology. In this letter, we expressed concerns about whether taxpayers—especially last-minute filers, like the millions of Americans who will be filing their taxes this week and next—would have a meaningful choice whether they wanted to use facial recognition or how their biometric data would be protected.

Despite requesting a response to the letter by February 25th, we received a response from the IRS yesterday in time for this hearing. And even though the IRS has allowed taxpayers to opt out of the video selfie and to instead conduct a live chat with an ID.me agent, I am still concerned that taxpayers do not have a meaningful choice here, as many have waited long times in trying to reach an agent. I am also extremely concerned about the amount of information ID.me collects and stores for every taxpayer who uses this website. As a matter of fact, as ID.me tells me, according to this California disclosure in its notice for residents, it includes things like age, gender, military veteran status, taxpayer's location, and maybe their citizenship status, and where they access the ID.me website.

Even though tax returns and tax identity information including a taxpayer's name, address, and taxpayer ID number are protected from disclosure, or potential disclosure, by the Internal Revenue Code, the information disclosed in ID.me is not protected.

So the congressional intent, it seems to me, was to prevent the erosion of trust in our tax system and encourage taxpayer compliance. So I look forward to working with colleagues on both sides of the aisle to update this outdated provision of the tax code.

The CHAIRMAN. And, Senator Menendez, those of us who consider ourselves privacy hawks pretty much agree with you. So I look forward to working with you and with the committee.

Senator MENENDEZ. You are the ultimate privacy hawk, Mr. Chairman, so I look forward to working with you.

The CHAIRMAN. Okay.

Senator Whitehouse, we are dealing with a little bit of the logistics of the Senate. I would just ask my colleague, did you have a chance to vote on the second measure?

Senator WHITEHOUSE. Yes.

The CHAIRMAN. Great. We do not have anyone online. Why don't you go ahead with your questions for the Commissioner? I am going to get over there as fast as I can. I think Senator Crapo may have to stay a few more minutes. I am going to return, and I think I can get here by the end of your 5 minutes.

Senator WHITEHOUSE. Great. Thank you very much. If necessary, I will filibuster.

The CHAIRMAN. Wonderful. Thank you.

Senator WHITEHOUSE. Thanks, Commissioner. Thank you for being here. My questions all relate to solving the bad problems of secrecy, which are particularly germane right now as we see international oligarchs stashing their loot in secrecy-providing jurisdictions.

One of the ways we have cleaned this up, in terms of the United States being one of the worst jurisdictions for that kind of evil, was with the passage of the beneficial ownership law which Ranking Member Crapo had such an important role in, along with Senator Graham, Senator Grassley, and others.

Are you comfortable with the input that you have been able to have into the Treasury regulation process? And do you feel that you will be able to use it effectively to find tax cheats and people who are hiding, against the law?

Commissioner RETTIG. It is critical that we receive information for what are often referred to as bad actors, both in a civil and a criminal context. The beneficial ownership rules and regulations are really a Treasury primary issue, supported by FinCEN, which is another bureau of Treasury, as IRS is. And we are hugely supportive, and we have been engaged.

Senator WHITEHOUSE. Good. And you are comfortable with the way Treasury is going about it? You are getting your needs met?

Commissioner RETTIG. They are my boss. Yes. [Laughter.]

Senator WHITEHOUSE. That is different than getting your needs met.

Commissioner RETTIG. I am not shy, and you know that.

Senator WHITEHOUSE. Good.

Second, with respect to the reciprocal FATCA bill, setting aside the staffing concerns that it creates for you with the additional workload, do you support the passage of reciprocal FATCA, and why?

Commissioner RETTIG. Absolutely. And when FATCA was passed, we committed to our partners, exchange partners around the world, that we would pass a similar provision with respect to reciprocal FATCA. And it has not occurred yet, and so we are receiving information from them, but U.S. institutions are not providing that information.

And so—you know, I am a believer in transparency, where transparency is appropriate, and in the FATCA arena, I think it has proved that.

Senator WHITEHOUSE. Great. And then with respect to 501(c)s, I have three questions. First, where 501(c) organizations are allowed to obscure the donors behind political influence efforts, what prevents Putin's influence effort from deploying itself through that vector into our politics?

Commissioner RETTIG. I honestly cannot speak as to any specific individual country or otherwise—

Senator WHITEHOUSE. Putin, generically. Foreign influence efforts from penetrating our political space using that device.

Commissioner RETTIG. Yes. The IRS needs transparency in this arena. This is an issue that predated me coming onboard, as many of you are aware and control votes in this room. So you know, we are supportive for getting the information we can, and processing that information—

Senator WHITEHOUSE. Is the answer a simple one, that if there is secrecy behind political spending, then foreign actors can take advantage of that secrecy just as readily as domestic actors?

Commissioner RETTIG. That is what I was going to say. Domestic people could do the same.

Senator WHITEHOUSE. Yes, but foreign actors can as well, correct?

Commissioner RETTIG. Correct.

Senator WHITEHOUSE. Okay.

Second, the IRS has a so-called 50-percent rule about how much a 501(c) organization can spend in politics. I want to hypothesize a not-very-remote hypothetical, which is that you have four affiliated entities, just picking that number. They share the same office. They share the same staff. They share the same board. And one of them gets a check, let's call it, for round numbers, a million bucks. It can spend 50 percent of that on politics, correct?

Commissioner RETTIG. That is the principal, primary rule as far as the funding. Correct.

Senator WHITEHOUSE. And then the other 50 percent, let's say it gives it to the second affiliate in the same office with the same staff. And it can spend 50 percent of that on politics, correct?

Commissioner RETTIG. There is a point in time where I would believe that the agency's tax-exempt governmental entities agents would consolidate, if it is really a money circle.

Senator WHITEHOUSE. Could you tell me—

Commissioner RETTIG. We would have to be able to identify that there is a relationship—

Senator WHITEHOUSE. Could you tell me if that has ever happened? That is a question for the record. Because what I think is that they are organizing so that you get 50 percent in the first bite, 25 percent in the second bite, 12.5 percent in the third bite, 6-point-whatever it is, in the fourth bite. And when you add it all up, 90 percent of the money has gone into politics in plain violation of the spirit of the rule, and the IRS, I don't think, looks at that.

So please look at that.

Commissioner RETTIG. I could not tell you where it happens. I will certainly make those inquiries and make sure that it does not happen.

Senator WHITEHOUSE. Because if it never happens, then I would like to know that.

Commissioner RETTIG. In the income tax context, it is the step transaction rule as it goes through a whole bunch of steps. Those steps are not independent—

Senator WHITEHOUSE. And the last piece is that it appears that, when there is an evidently false statement in a filing made under the 501(c) rules, *i.e.*, a plain discrepancy between a filing under oath at the Federal Election Commission and a filing under oath at the IRS, that the IRS has never referred that question to the DOJ to inquire into whether a false statement has been made. And DOJ in return has always insisted on there being a referral. So that is 100 balls dropped between the second baseman and the shortstop here, and everybody is just pointing at each other. Could you address that, please?

Commissioner RETTIG. Yes. We talked about this yesterday, and I would have to be able to confirm “never.” My belief would be never, but I could not for the record say never, sitting here. But it is a difficult arena to get those cases—

Senator WHITEHOUSE. It is really easy, actually. You just make the referral to DOJ. They put the two statements next to each other. They send it into a grand jury. People ask questions. And if there is a case, they proceed.

Commissioner RETTIG. DOJ—we interact with DOJ Tax. They are more resource-constrained than we are. And they are very selective on what we do refer—

Senator WHITEHOUSE. False statement cases are easy. We have heard that from DOJ themselves. It is bread and butter stuff.

Commissioner RETTIG. Bring them in, and let’s have a hearing together.

Senator WHITEHOUSE. Great. Let’s do that. Because it is preposterous the way this is working right now.

Commissioner RETTIG. I am with you. I agree with you.

Senator WHITEHOUSE. Thank you. I am hearing you agreeing.

Commissioner RETTIG. To earn the trust and respect of everybody, we need to be present in all of these issues.

Senator WHITEHOUSE. And if it is obvious that the two numbers do not add up, and they are both under oath, the obvious predication of somebody lying is right in front of everybody’s face in public filings. And I think it demeans government when government does not act on public information like that, that is presumptively false.

Senator CRAPO [presiding]. Thank you. And, Commissioner, I am back, and Senator Wyden is now over voting.

Senator WHITEHOUSE. I took the liberty while you were away, our ranking member, acting chairman, to appreciate the work that you did on beneficial ownership. That was our first topic. So, I just wanted to mention that, that the Commissioner was very appreciative of what we had done and how that will help him in his work.

Senator CRAPO. Well, thank you. And I appreciate your referencing that. It shows there is bipartisan work that goes on around here, notwithstanding what may appear to the public.

One of the other issues that is a bipartisan effort is one that I just voted on, and Senator Wyden is voting on—actually two of them; the first vote has already occurred. It was a vote on denying Russia permanent normal trade relations. We passed that with a vote of 100 to 0. And so now, at least the Senate has gone on record, and we expect the House to pick this bill up, even today possibly, putting Russia in the same pariah trade status as Iran and North Korea. So at least some other bipartisan good things are happening as well.

The bill that we are voting on now—which, when Senator Wyden gets back, I will leave again to go do—is one to put into statute the ban on U.S. purchases of Russian oil until Russia ceases its aggression.

So anyway, let’s get back to the IRS. As you know, Commissioner Rettig, I am interested in examining updates necessary to bring the IRS’s outdated technology into the 21st century so taxpayers can

get some better service. In April of 2019, the IRS issued its most recent 6-year IT modernization plan, which had a top-line estimate of \$2.3 to \$2.7 billion. As background, from Fiscal Year 1996 through Fiscal Year 2021, actual IRS budgets have included nearly \$5.6 billion in IT modernization spending. Just a couple of questions I have about this.

Is the IRS certain that its 2019 6-year IT modernization plan, if implemented, would bring the IRS IT up to date without the need for further funding?

Commissioner RETTIG. That plan in 2019, as I may have indicated earlier, was reviewed by McKinsey—outside consultants. We were asked to do so. We did so. We actually modified the plan. What was released was the modified plan. Know that the 2.3 to 2.7 at that point, two of the largest financial institutions in the United States had announced that they were putting in between \$12 and \$14 billion per year to modernize their systems, and they interact with fewer people, obviously, than we do.

It was a current plan at the time. As of today, we have only received 57 percent of the funding requested in the plan. We have taken resources from elsewhere for the priorities.

Senator CRAPO. Right.

Commissioner RETTIG. I would be remiss if I said that it will get us where you want us to be, where we want to be, and where every American deserves. It will not. We need more.

Senator CRAPO. You may have already covered this, and I apologize for that, but if you could give us an updated plan for what you expect we need today, given what you have already seen develop, that would be very helpful.

Commissioner RETTIG. And technology advances faster than maybe any other lane that is out there.

Senator CRAPO. Yes.

Commissioner RETTIG. And so, the idea of this 6 years—you know, at the time I made comments, I believe here, that by year 3 we should be looking at something different in year 6. By year 6, we should be—

Senator CRAPO. Build that into your analysis. But I would love—and I understand that. I can totally accept what you are saying there. But I would like to just see a plan so that we here can understand what it is we need to fight for in order to get that.

Commissioner RETTIG. And we would invite everybody. I have made some tours in certain areas asking people to help us—not necessarily just Congress, but public statements to help us help others. Help us. Let us know what the technology is. And we use a lot of contractors, and obviously we have about 7,000 internal IT folks, and about 6,000 outside contractors.

So the hope is that we are cutting-edge for our layers. But you know, undoubtedly people come in with ideas every day.

Senator CRAPO. All right. Good. I appreciate your attention to this. And I just have time for maybe one more question. And it is sort of on data as well as on biometric data.

As you and I have talked about, I am focused on the IRS's announcement of migration of all existing IRS accounts to requiring further authentication, including with biometric data. And I have two questions.

I have received mixed messages about the IRS's plan for the migration of existing account holders that have been verified using the enhanced authentication. For the record, at what point will an existing IRS account holder be required to move to a newly authenticated account in order to retain access?

Commissioner RETTIG. We have no plan at present to require anybody to move to the current version. And importantly, as I think we discussed yesterday, we have two options available on ID.me. We are looking at other options on a go-forward basis, including *login.gov*, which right now cannot handle our capacity.

And so, if we—and we are working with *login.gov*. We need about 1,500 transactions per second. They can handle less than 30. So, if we can get them up, and we can get their authentication levels up—it is critical that we are at authentication level 2 so that we can actually start to open up and provide meaningful online services, self-service, for people. Otherwise, if we cannot get to that authentication level, we are forced to provide fewer services, because security is our number one priority in that space.

Senator CRAPO. I just have one quick follow-up on that. I am already over time, and I would just alert Senator Portman, if you are online, to be ready. You are next. And Senator Toomey, I understand, is the next in line after that.

My quick follow-up on that is, you referenced that you were looking at possibly *login.gov*. And as I understand it, *login.gov* is powered by LexisNexis, which is a foreign data broker and requires the use of personally identifiable information.

What is the IRS doing in that context to ensure that any new options will not themselves raise privacy and security issues?

Commissioner RETTIG. I couldn't address that today because we are with ID.me, not with *login.gov*. We cannot even get to our enhanced capacity, let alone the rest of the issues.

Senator CRAPO. Understood. I just alert you to the kind of issues that I am going to have.

Commissioner RETTIG. Our options in the space are pretty limited. The desire is strong to be able to have self-service portals so those who want to use them can use them for a lot of different transactions.

Senator CRAPO. I agree with that, by the way. I think you should expand the number of transactions that people can do with you in that way.

Senator Portman, are you there?

Senator PORTMAN. Yes, I am. Thank you. And congratulations to you, Ranking Member Crapo, for the great vote we just had on making sure that Russia does not have access to our market. It is a privilege, not a right, the lower tariffs that they can get under PNTR. It was a 100-to-nothing vote, and it was a vote in favor of the people of Ukraine, and to crank up the sanctions on Russia. And I know, although it looks easy, in the end it was not. So, congratulations.

Senator CRAPO. Thank you for that.

Senator PORTMAN. Commissioner, thank you for being with us today. You and I had a good conversation prior to this hearing about one of my major concerns, which is the fact that we have so many unprocessed returns out there. I think we have gone from

76.5 million returns that have not been processed, to a backlog of about 11 million returns—11.5 million as of March 25th. That is progress since our last meeting, but obviously we have a huge backlog. And as you know, you and I have talked about it, and I know others have raised it as well.

We have small businesses in Ohio, as an example, that are still waiting for their refunds from a year and a half ago. And we have people, individuals telling me, “I can’t get a loan because I have to be able to show I have a processed tax return in order to get a loan.”

So this is having a real-world impact out there. And obviously, we all have deep concerns about this backlog. As you know, Senator Cardin and I have worked with you and your predecessors on IRS reform, actually for the last decade and a half, or almost 2 decades. And our latest one is the Protecting Taxpayers Act, which is included in the text of the first act.

We have another bill we are now looking at to provide additional funding for customer service from the IRS that I think American taxpayers deserve, as well as an overhaul of the Individual Master File and to begin revamping the Business Master File as well.

We would require 2D scanning of paper returns to help prevent future backlogs. It is basically just putting a bar code on the returns so you can process them much more quickly. Increase the amount of funding for these Low-Income Taxpayer Clinics that are over-utilized now. Provide direct hiring authority to help get employees onboard more efficiently, which I know you value.

We also, as you know, have revamped the Oversight Board, which was in our first legislation on IRS oversight, and we require regular reporting to Congress and to the Inspector General—and a recommendation for IT audit trails on IRS applications to increase the protection of taxpayer data.

Anyway, talk to us about what that would mean. Do you think this would help in terms of addressing the backlog and preventing future ones? And a specific question for you: does the current budget proposal include funding to completely update the Individual Master File?

Commissioner RETTIG. The current budget proposal does not include sufficient funding to update the Master File entirely, and it has been, as all of you are aware, a long-term project for the agency. We want to and need to get there.

We are, myself included—every employee in the Internal Revenue Service, and I think every American, is supportive of funding and bringing oversight over IRS in the technology space to be able to provide the services that every American deserves. I think the vote you all had today shows that we are the greatest country in the world. We should provide that level of service to our people. And a blend between employees—who I think in the IRS are spectacular, and I cannot say enough about the quality of the people and the desire—but we need to provide them the right tools and training and technology. The technology will change the skill sets, so the direct hiring authority, what we use it for, will change as we bring on technology.

We are going to ask, in the direct hiring authority arena, for direct hiring authority beyond what we just received, which is in

some of our specialist-type positions—more sophisticated examiners. We have a very difficult time bringing those people onboard when they are told it is going to take 6 to 9 months, or something, to get them onboard. So one of the comments, Senator, that you made about direct hiring authority in this space—and as we discussed prior to today, it will get you what we believe would be critical to be able to do what we need to do.

Senator PORTMAN. Yes, as we talked about, we need the specific positions that you need direct hiring for, what your priorities are. And I guess if you could, just answer my initial question also, Commissioner: do these various reforms I talked about—including the customer service funding increases, but also the scanning of paper returns and overhauling the Individual Master File—will this help in terms of the backlogs?

Commissioner RETTIG. They will absolutely help in terms of the backlog, and numerous other functions within the Service. It is critical that we receive them.

Senator PORTMAN. Well, thank you for that. And thank you for giving us the additional information on the specific positions for which you need direct hires that are so important. We want to help you. And as you said, it is all about the taxpayer.

My time has expired. I am going to give you a question for the record on foreign tax credits. I know you just released your final regulations on that. I have some concerns about it, and I will be following up with you on that. Thank you, Commissioner. I appreciate it. Good luck with the filings.

Commissioner RETTIG. Thank you.

[The question appears in the appendix.]

Senator CRAPO. Thank you, Senator Portman.

Next is Senator Toomey, and he will be followed by Senator Cardin.

Senator Toomey?

Senator TOOMEY. Thank you, Senator Crapo. And I would also like to congratulate you on the work that you did to get us to this vote this morning. So, well done on that.

Commissioner Rettig, I appreciate the conversation we had, I guess it was earlier this week. I do want to follow up on the issue that Senator Portman raised, which is the backlog, because as you know, this is a really big problem. And I am concerned about whether it is going to be solved, and how long it is going to take. I am concerned about how well-defined a plan is to get this wrapped up, to catch up, to get back to a normal steady state. And I have to tell you, one of the real frustrating problems for so many of my constituents is the combination of the backlog, the fact that their return has not been processed, and they cannot get through on the phone to any human being. That is a very, very frustrating situation.

My understanding is that for 2021, only 11 percent of the calls that were made by taxpayers to the IRS actually were completed. That is obviously just a huge problem. And I have all kinds of letters from constituents complaining about not getting their tax refund for 2020, even after filing in 2021.

I have a letter here from a constituent who said—and this is January 24th of this year: “I received a letter from the IRS claim-

ing they did not receive my 2020 tax return, but I mailed my return, a voucher, and my check, all in one envelope, and they cashed the check on April 27, 2021. Now they claim they do not have the return that was with the check.” So, okay, I understand mistakes will happen, but you can imagine how frustrating it is when this person then tries to call and has like a 1-in-10 chance of getting through to any human being they can talk to.

So I know you are very aware of this problem, but I would like to just have a little discussion with you about what is in the works. What is going to change? How quickly are we going to be able to catch up both on the backlog, but also on the ability to actually have a human being pick up the phone when a taxpayer calls?

Commissioner RETTIG. Let me give you some current numbers.

Senator TOOMEY. Okay.

Commissioner RETTIG. As of March 31st, individual returns that were received in calendar year 2021, we have 2.7 million; individual returns received in calendar year 2022, we have 2.3 million. So in total, we have just about 5 million individual returns waiting to be processed.

When returns fall out, and they fall out for a variety of reasons—failure to reconcile Economic Impact Payment, Advance Child Tax Credit payment, mismatches, and whatnot—they move over to our error resolution cases. Last year at this point, we had 7.7 million returns in error resolution. As of March 31st, we have 741,000 returns in error resolution, less than 10 percent. Our efforts are working. We are trending in the right direction.

We will—you know, during the summer, you will start seeing the impact of this. And many people, beyond a telephone call with a live IRS employee—and I keep trying to make the point that the same employee in other times is processing paper returns, inventories, things that we get in that context—

Senator TOOMEY. So, can I just follow up on that, because I am trying to understand? What you just said there invokes, in my mind, the image of a person who is processing tax returns in some form. And then a phone rings, and they have to drop what they are doing to pick up the phone? I assume it does not happen that way, right?

Commissioner RETTIG. Not at all. They are taken off the phones and moved to the paper.

Senator TOOMEY. And so that would obviously suggest that we do not have enough people on the phones. How much does that relate—

Commissioner RETTIG. These are the areas where we are hiring: 5,000 this year, and 5,000 next year, and 2,500 contractors. We have automated the processing in error resolution. We automated the processing with the ARP money, and we have cleared 7.1 million return recovery credits—

Senator TOOMEY. That sounds like a tremendous amount, and I fully acknowledge—I realize that legislation that was passed made the work much more difficult and complex and added to the backlog.

What do you think the goals should be regarding the ability of people to speak on the phone? And when do you anticipate a really

significant improvement in the ability of constituents to get through?

Commissioner RETTIG. I am old-school, so I am more of an in-person rather than an online person, and the President's budget proposal provides funding to have the telephone level of service be at 85 percent, and we would answer 8½ out of 10 calls. I think that is a respectable figure. We would like to be at 100 percent. Every 10 percent in a normal year, non-pandemic, every 10 percent is another \$100 million. It is an appropriated item. We get X dollars for Y amount of people on the phone. So there is a direct relationship.

Senator TOOMEY. So, my time has expired. If I could just, with one final question—and I appreciate your answers, Commissioner. If you got the full budget request appropriated in this next cycle, how long would it be before you are able to answer the 85 percent of the calls that, as I understand it, your request conforms with?

Commissioner RETTIG. That budget request is for Fiscal 2023. I expect us to get to answering a meaningful percentage of the calls—which I have to hedge because, if we go into another spike in the pandemic, it changes our situation. But I expect us to be at normal, which we refer to as healthy, which is viewed through the eyes of the taxpayer, and the taxpayer's experience, during Calendar Year 2022. We cannot carry this into Calendar Year 2023.

Senator TOOMEY. Will that be above 50 percent in Calendar 2022 in terms of phone calls going through?

Commissioner RETTIG. Historically, and as you are aware, IRS comes up with a budget. It goes to Treasury. It goes to OMB. And so, what comes out of the building and what Congress passes does not necessarily always look the same. Sometimes we are told what numbers to put in there. But I think historically, the target has been right around 70 percent, and so that would be the mark that we would try to get up to.

Where I would caution is—we operate on a fiscal year—not to use our annual level of service, but as you see our trends improving, look to what we will have on a monthly or a weekly basis. Because the denominator here is so big that we will never get off the mark. And we are currently running around 19 to 20 percent level of service.

Senator TOOMEY. Okay. Thank you very much.

Thanks, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Toomey.

Next will be Senator Cardin, and then Senator Cassidy.

Senator CARDIN. Thank you, Mr. Chairman.

Commissioner Rettig, let me start by just saying “thank you” to you for your willingness to stay with this challenge. We have put so many additional responsibilities on your plate. We can talk about the 2017 tax bill. We can talk about the American Rescue Plan. We are asking you to do more and more. At the same time, your budgets have not at all kept up with inflation, let alone modernization, which is critically important for a longer period of time than just 2017.

So I want to first acknowledge that. In addition, Congress, when it does not pass a full-year appropriation, you go into a continuing resolution, how can you possibly make the type of investments and

planning that you need to in order to deal with the types of questions that we are asking you? So my first point is to say “thank you.” And I have been with the workforce at IRS. They are dedicated professionals, and I thank them for what they do every day in public service on the front line. And we appreciate that.

Which leads me to the legislation that you already talked about with Senator Portman. I just want to concur in his comments. The legislation that we have introduced would provide enhancement of IRS resources, because you need resources. A multiyear operational plan, because we need to have longer-term planning on reaching the level that we want to in the modern tax collecting agency. IT upgrades and increased customer service, that is something that has grown and grown and grown as far as the consumer expectations; you have to have the IT that can meet that. Oversight is critically important so that the taxpayer gets the right return from the investments they make in regards to the IRS. Strategic Transformation Office, so that we can understand what the strategic strategies are moving forward. Hiring flexibility, which is something we have given you some help with. We need to give you more. Low-Income Taxpayer Clinics—they are critically important. And then the last thing: reinstating the authority to regulate paid tax return preparers.

All we have to do is listen to the ads we hear every day where people are being told they can get something that is too good to believe, and many of them have bought into that. And your authority to regulate paid providers was compromised in 2014, and to this day, we still have not responded. I know the chairman has been working on that, and I hope we can get our legislation moving forward, along with the paid preparer provisions.

I am going to ask a question, though, about concerns—I know it is on your radar screen, but I want to do it in this forum. I also am the chair of the Small Business Committee, and we have provisions in the tax code to help small businesses. Very frankly, I think we need to examine the tax code as to its impact on small companies that generally use the individual tax rates rather than the corporate returns in order to carry out their business transactions.

I do not think the individual tax return has been updated to deal with the realities of smaller business entities. And I think that is something we need to deal with. But in the meantime, we have the Employee Retention Credits, and we have heard from a large number of our small companies that have told us they just have not been able to get this credit in a timely manner.

I would just ask, among the other priorities you have, to recognize that small businesses are at a crisis level as a result of COVID-19, and these Employee Retention Credits are critically important to their survival. If you could make that a priority, I would certainly appreciate it.

Commissioner RETTIG. Let me first address your opening comment and express my personal appreciation to you and every member of the committee for the appreciation that you have expressed for the IRS employees. This has been a very difficult few years, and it has been my privilege to be here with them during this period of time.

The second part—what was going through my mind as you were making the appreciation to me personally is, not only do our employees watch these hearings, but my wife is watching this hearing. So I will have fewer critiques when I get home tonight, because I can say, “Well, you know, the Senator said we are doing okay,” right? So I appreciate you helping me out on the home front there. But she is on this journey with me and a significant part of my world, my life. My experiences are not only mine, but also hers.

Small business—as you know, I come from a small business environment. My dad had a truck, and as we used to say, two big boys had to get in the truck when it was dark, and we got home when it was dark. And our reward was we got to eat dinner, as my mom explained to us, and that kind of thing. So small businesses, I believe, are the backbone of this country. They provide valuable services to real people in real situations, in real communities and local communities, that are just not otherwise available.

So, the 941s and amended 941s, we have actually about 1.9 million in inventory of 941s. We have 324,000 of 941-Xs, and those are current figures. We are working those on a priority basis. And you are right: we have a number of priorities. So within the priorities, obviously we have to make decisions. And they are at the top of the list, with a couple of others. But they are at the top of the list. And we need to earn that trust and respect of everyone, including the small businesses. We are aware of that.

Senator CARDIN. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Cardin. And before you go, I just want to make it clear, I so appreciate what you are talking about with respect to small businesses. Oregon is just overwhelmingly a small business State. You can almost count our larger businesses on both hands. We only have a small number of larger businesses, and so many smaller businesses. In the last few days, I have been struck by how many people are just coming up to me and saying they really want to see this Employee Retention Credit, because they like the fact that this is a kind of win/win arrangement that creates an incentive for people to pitch in and work together at a very challenging time.

So I want you to know I am all in with you. We have talked about this often, and your leadership is much appreciated.

Okay, let's see. Senator Cassidy, and then, because we are going back and forth, I think after Senator Cassidy will be Senator Casey, who is online. We are just going to do our best to keep this going.

Senator Cassidy?

Senator CASSIDY. Yes, sir. Thank you for being here.

Last week the IRS and Treasury announced a proposal to fix the so-called “family glitch” in Obamacare. Now the IRS had looked at this in the past, and in fact finalized a rule in 2013 that determined that whether an employer's offer of coverage is, quote, “affordable” is determined based only on the employee-only rather than family coverage.

Now the law has not changed, but why is the IRS suddenly interpreting the law differently? Frankly, it seems more like this is

what we wish the law to read, as opposed to this is what the law was interpreted as being in 2013. So, thoughts on that?

Commissioner RETTIG. Yes. I cannot speak to that. My guess is that came from Treasury more so than IRS. Treasury does policy. IRS does administration. But if you will submit a question for the record, I will get back to you on that. I do not have that information.

Senator CASSIDY. So let me ask. I find that almost kind of, whoa! Because there is an article in *Health Affairs* which goes through all the considerations that IRS gave in 2013. This was clearly an IRS decision. So what I think I am hearing from you is that Treasury has gone this way without consulting IRS?

Commissioner RETTIG. I cannot confirm that Treasury—I do not have the personal knowledge. I will confirm what the thinking was and who did the thinking, whether it was IRS or Treasury. But know that Treasury is usually significantly involved, and they are the jurisdiction, if you will, for tax policy issues. So, if there has been a shift in policy, Treasury would have been involved. I will have to get back to you. I just do not have the personal knowledge.

Senator CASSIDY. I am just a little dumbfounded. I would have thought that this would have risen to your level, since this is such a significant reversal of previous IRS decisions.

Okay. Let me ask about something which is near and dear, unfortunately, to my heart: disaster retirement legislation with penalty-free withdrawals. My State has been disproportionately affected by natural disasters. I could give you a list, but I think you are probably very familiar with them. Now one thing Congress has done in the past to help disaster victims is to allow penalty-free withdrawals from qualifying retirement plans. And so, since many Americans' big chunk of savings is in these plans, we can help them with penalty-free withdrawals. Now we typically enact this relief along with enhanced casualty loss deductions and other measures.

But, despite recent disasters in Louisiana, New Jersey, New York, Pennsylvania, and other States, to date Americans have not received tax relief for disasters in 2021, which I do not think is a policy concern but a timing issue.

Now, Commissioner, we have a bill, 2583, with Senator Menendez and Representatives Thompson and Kelly, that would make penalty-free withdrawals from retirement accounts automatic after the President issues a disaster declaration. I am hoping to get this included in retirement legislation that may move through this committee. As a Commissioner, giving you the certainty as to the implementation of this policy, and as regards timing, do you think that would be a good way to go?

Commissioner RETTIG. Absolutely.

Senator CASSIDY. Sounds great. And just to echo that, the Taxpayer Advocate Erin Collins talked on February 17th about how these last-minute tax law changes present challenges for IRS and for tax software companies.

So again, in your last statement, I think you would agree with this, but is permanent legislation generally preferable from a tax administration standpoint?

Commissioner RETTIG. We are currently programming for filing season 2023. We are in 2022, so we begin preparation that far out. We got caught here with respect to the March legislation on unemployment compensation and a variety of other provisions that we did not have the ability to automate in our systems. And as a result, it led to more than 20 million returns being pushed into a manual processing.

Senator CASSIDY. You've got 20 million returns in manual processing?

Commissioner RETTIG. Correct. And then that led to inventories that led to delays in refunds, and the rest. There is a connection between all of this. And I am not saying it started there—that was one of the issues—but we had more than 20 million. We had 11.2 million return Recovery Rebate reconciliations, Earned Income Tax Credits, ability to use 2019 instead of 2020. We could not automate that. And the unemployment compensation we could not automate.

Senator CASSIDY. So many of the questions here, or many of the comments thank the IRS employees for their hard work, and thank you, and express concern about staffing, and express concern about backlogs.

What I just heard from you is that if we made permanent this legislation that almost always passes when there is a disaster, we do something positive for the employees, positive for productivity, and positive for backlogs?

Commissioner RETTIG. And we would implement it automatically. There are other provisions that key off of national emergency declarations. We do not need to consult anybody. We implement immediately. Like delaying in filing a tax return, for example.

Senator CASSIDY. Sounds great.

So, Mr. Chairman, just for the record, I think we have a solution that Congress always passes, but if we made permanent would help the IRS tremendously, and in turn help other taxpayers as regards any backlogs that may occur. So, knowing that all States—and this is a Menendez-Cassidy bill. So just to put that in your kind of front of brain as maybe something we could include in future legislation.

The CHAIRMAN. We will have the staff follow up with you on that, Senator Cassidy. And I noted that you and Senator Menendez had teamed up in that kind of bipartisanship.

Senator CASSIDY. Thank you.

The CHAIRMAN. Okay, Commissioner, I have to go be part of an effort to make some wonderful history and vote for Judge Jackson. So, we now have the good fortune of having our colleague from Nevada, who is willing to chair. And then we have a number of Senators, a colleague I think already on the phone. I think Senator Casey may be next. But we will work closely with you.

And finally, Commissioner, because I am not sure I am going to be able to make it back, I want to thank you particularly for your candor, for your willingness to work with us, and to do it in a hands-on kind of way. That is really the litmus test here: whether people are really going to be hands-on, talk about where we ought to go, follow through, and you have clearly met that test. And I really look forward to talking with you in the days ahead.

Commissioner RETTIG. Thank you. I very much appreciate that.

The CHAIRMAN. Thank you.

Senator Cortez Masto, to run the hearing.

Senator CORTEZ MASTO [presiding]. Thank you. I believe, Commissioner—excuse me, is Senator Casey online?

Senator CASEY. Yes.

Senator CORTEZ MASTO. All right; Senator Casey?

Senator CASEY. Thanks very much.

Commissioner, thanks for your time today and for your public service. I am glad we had a chance to chat yesterday. I really only have one question, in the interest of time, so I should take less than my 5 minutes. But it is true what you and I have talked about, and our teams have worked together on, is letting people know that in the next couple of days, if they have not already filed their taxes, there are a lot of families that can take advantage of a greatly enhanced Child and Dependent Care Credit. That is the long version of the name, but most people know it as the Child Care Credit—to be distinguished from the Child Tax Credit—a separate, individual tax credit just for child care and related expenses.

So as you know, that is available to families now because of the American Rescue Plan. So, in the next couple of days, I hope that we keep promoting and talking about it, and that families will take advantage of it.

By some estimates, families can have a tax credit that will be seven times more generous than the tax credit under the current version of the credit. And at a time when families are paying so much for the price of food, or gasoline, or so much else, this tax credit can be enormously helpful. Because one of those big costs, as you know, is the cost of child care that has exploded over the last 10 to 15 years.

So here is my question. It is just one that you and I have talked about, but one of the frustrations we had was that we thought the IRS, as well as the administration more broadly, was not doing enough to promote this credit. And you and your team responded to that, and we appreciate that.

I wrote a letter, with 13 Democratic Senators, to Vice President Harris and Secretary Yellen, urging them as well to be more aggressive on the outreach so that people know about this as a one-time-only opportunity on this particular tax credit before it goes back to the original version of it.

So can you tell me what steps the IRS has taken already to make sure that families know about the credit and can claim the credit as they deserve on this year's tax forms?

Commissioner RETTIG. Certainly. And I appreciate the opportunity, and we are very supportive of the credit, and we are doing our best. I would agree that we are later than we should have been in getting the word out in as many channels as we have, but we issued an information release on March 8th that covered a lot of issues. We have frequently asked questions. But importantly, we have been very aggressive with social media, YouTube, both in English and in Spanish. And we have Taxpayer Assistance Centers open on Saturdays, this coming Saturday, and the second Saturday in May.

We have relationships with community organizations, over 18,000 community organizations around the country. When we

were going into the pandemic, we only had relationships with about 3,000. We are now at 18,000. We have relationships with 13,000 public school districts in the country. Obviously that translates into millions of individual children that it can be impactful for. And we use all of the channels that we have. And we did not have those public school relationships either, before the pandemic. But I think it is a tribute to the IRS employees getting out there and figuring out how to get in the communities, get the word out, and we are using all the channels that are available on this, as well as the other ones.

Senator CASEY. Well, Commissioner, thanks. We look forward to continuing to work with you in the days ahead—literally now, we are down to days.

And the last thing—I will just make a statement, because I know you and I have already talked about it. I look forward to working with you and the chairman to pass the President's budget request so that Pennsylvanians can get the level of service that they expect and deserve from the IRS. And I know that there are concerns about falling levels of service, and I know you are trying to work on that, but you need a budget to do it. So, thank you for your work.

And, Madam Chair, I will turn it back over to you. Thank you very much.

Commissioner RETTIG. Thank you, sir.

Senator CORTEZ MASTO. Thank you.

Senator Lankford?

Senator LANKFORD. Thank you very much. It is good to see you again. Thanks for coming in. And let me give you one piece of positive news on this, because we are asking you all kinds of questions on the issues. I typically file my taxes, like millions of other Americans. I have already done that for my Federal return. Typically when I e-file, I will wait hours or a couple of days to be able to get the confirmation back that it has all been received. That took seconds this year. So the change in your system was pretty dramatic from what we have seen in the past. Literally after I e-filed, it came back within seconds, said "confirmation done" and that everything went through. So that part of it is working faster. I know we still have a lot of issues in the call center and being able to answer calls.

I want to ask about the personnel issues and to zero in on this. You were given direct hiring authority. This has been an issue I have talked about in my other committees and in this committee as well. You have been given access for 10,000 of those, but I do not know yet what positions you are using those for.

So, I do not need the exact type of position you are looking for in that direct hiring authority, but how are you using it?

Commissioner RETTIG. We are going to come back and ask for an expansion of that, so I always believe in transparency—

Senator LANKFORD. That's good. That's fair.

Commissioner RETTIG. The first level is where we have our inventories, which is submission processing and accounts management. And the legislation limits direct hiring authority to essentially the clerks in those positions. They are lower-graded individuals, if you will, on a pay grade. And that is what we have author-

ity for. We have authority for 10,000, which is 5,000 this year and 5,000 next year. We have been holding job fairs around the country. We have been very successful in those job fairs. We fully expect to bring onboard the 5,000, which will make a difference. We also have other avenues.

Senator LANKFORD. Do you have individuals who are in the processing center or answering phones? Is that in your direct hire authority, or are those not in your direct hiring authority?

Commissioner RETTIG. It is. Where we are hiring is Kansas City, Austin, and Ogden. And that is where our three big processing centers are. And we have direct hiring authority—Congress rescued us; there is no question about it. We were able to onboard folks in those facilities within 30 to 45 days. We needed them in December, but without direct hiring authority, we are competing with Walmart. We are competing with Target, which is onboarding at \$20 an hour. Our folks are at \$15. And we are competing with Amazon. And then, without direct hiring authority, we have to tell these individuals it may be 6 to 8 months before we can bring you onboard.

For these folks, they need that job now. There was a news release recently, a press release out of Ogden. A lady got laid off on Friday and came to our Saturday hiring event and got hired. We were able to move that fast.

Senator LANKFORD. Yes, that makes a big difference. So the onboarding process itself, once you have actually made the hire—before they can actually get engaged to actually doing the task, how long is that onboarding process?

Commissioner RETTIG. Thirty to 45 days. Individuals are showing up in person at these job fairs with resumes. We are also doing virtual job fairs, and it takes a little more follow-up to get some of their information. We do the background checks within that 30 to 45 days, but we can do everything else we need in person at the site. And it has been really superb.

Senator LANKFORD. Terrific. You and I have talked before about the attrition rate in certain areas of the IRS, and then also the number of retirees that are out there. So, two questions on this. You have seen the high attrition rate in the processing centers before. How is that going? And the other side of it is, there are a lot of folks at IRS who are eligible to retire this year. Have you seen a lot of retirements this year?

Commissioner RETTIG. So, attrition—you know, we had a hiring freeze from 2011 to 2018, so we have a more experienced workforce on average than probably most other agencies. Attrition is holding true. I will say that the majority of our folks stayed during this period of time. We are seeing basically a 5- to 7-percent attrition rate on about 80,000 employees. And some of our avenues are a little higher, 10 or 11 percent, and we are addressing that. Although I will also say that I had been contacted by a number of folks before I came onboard at the IRS who were career IRS employees who retired, who have come back as retired annuitants.

And so we are getting a sense of, if you will, the IRS community understands that they need to pitch in and help us out, and they have been doing that. So we are not where we need to be, not where you want us to be, but we are getting in a better position every day. And, you know—

Senator LANKFORD. Do you have data at this point for individuals who chose not to get the COVID vaccine who retired early, or who left the IRS, what that number is, or a percentage of the workforce?

Commissioner RETTIG. We have that. I believe that we were among the leaders in Federal service in terms of the percentage of employees who were fully vaccinated. And I could not tell you whether that is or is not for folks who are leaving now. We do not have that requirement.

Senator LANKFORD. Right. So there is no way to be able to know how many folks did leave before, based on that?

Commissioner RETTIG. We did not—to my knowledge, we did not see a noticeable spike in leaving, although it was in the hallways.

Senator LANKFORD. We had lots of phone calls that came into our office saying, “Hey, I already had COVID. Why am I doing this?” We are grateful the pause is there at this point. We would love long-term clarification from OPM on what direction they are planning to go on that, because that is still hanging over some folks’ heads who have had COVID three times since then.

Commissioner RETTIG. That is all beyond my pay grade.

Senator LANKFORD. I get it. I get it. I just did not know if you all were tracking that number. Thank you very much.

Commissioner RETTIG. Thank you.

Senator CORTEZ MASTO. I believe Senator Warner is available virtually. Senator, are you there?

Senator WARNER. Yes, Senator Cortez Masto. Thank you so much. And Commissioner Rettig, it is good to see you again, at least remotely. And let me start, like so many of my other colleagues did, by thanking you and all of the IRS employees for their really diligent hard work during COVID. And it has to have been, I know, just brutal, and like Senator Lankford was talking about, what it has done to some of the workforce.

Let me also move, as many of my other colleagues have, from the thanks to the enormous burden that so many Virginians are feeling by not getting their 2020 taxes processed. And that has obviously hurt in terms of child tax payments getting out, to getting their returns on a timely basis. And we are really going to need to put as much attention and focus there as possible.

I want, in my first question, at least to start on something that I do not think has been raised yet, and that is the EIDL loan process. EIDL, as I am sure you know, Commissioner, is an SBA program that was utilized a great deal during the pandemic in conjunction with programs like PPP and others. Part of the EIDL process is a company that is going for an EIDL loan from the SBA has to, in effect, give permission to the IRS for the IRS to release their tax returns to the SBA so the SBA can process the application.

And unfortunately, the SBA has been receiving either no returns, or in many cases partial returns. Our office has contacted the IRS. Our office has contacted the Taxpayer Advocate. And the Taxpayer Advocate has said, oftentimes, the applicant’s tax returns cannot even be found in the IRS system. If this is the case, we have businesses that are in all likelihood eligible for these critical EIDL SBA loans that are not getting them because of this snag at the IRS.

Are you aware of this problem? Is there anything that can be done? And can we have some kind of flagging system within the IRS process to make sure that there is at least some review done, or if a partial transcript is sent over to the SBA, that there is some ability to kind of work that out?

Commissioner RETTIG. If you have current situations on this, we should talk offline, because we created a work-around for this with the SBA, and with taxpayers, where they verify a current filing. And then we verify with the SBA. So if you have people who are hung up in that, we—

Senator WARNER. We have a number of people, and we have been in regular touch with the IRS. We have been, obviously, in regular touch with the Taxpayer Advocate. But I will definitely take you up on that. There are an awful lot of Virginia companies that are kind of lost in the ether at this point. And if there is a work-around that is actually working, I would love to engage with you on that. So, I appreciate that, Commissioner.

In the last couple of minutes, I want to raise the issue of cyber-attacks. I know you indicated, I think at your Ways and Means hearing, that IRS is the victim of at least over a billion and a half cyber-attacks a year. And obviously many of those—most of those do not get through. So I commend you on that.

But as chair of the Intel Committee, I can tell you, with the war in Ukraine, my expectation is quite high that we will see increased numbers of cyber-attacks. And I still do not believe we have seen Russia's full-on A game. And clearly, in addition to sectors like energy and financial, causing more disruption in a governmental entity like the IRS would be high on the Russians' hit list.

I know the President's budget increased a bit here, but how do you feel you are doing in terms of cyber-protections, and even beyond the President's budget, what else should we be doing to give you the assistance you need?

Commissioner RETTIG. I am proud of our employees, and we receive about 2.5 million sophisticated cyber-attacks, which generally speaking are nation-states, a day—2.5 million a day. And we receive about 1.6 to 1.8 billion per year.

We are ever-mindful of events that occur not only inside the United States, but certainly outside of the United States. Cyber, I think every Commissioner would say, is the primary thing that keeps them awake at night. It is not only protecting the data, which is obviously hugely significant, but I think that if we got hit in that space, it would be an emotional constraint on the country and the people of the country. They trust us, and we need to be there.

I am hugely proud of our cyber folks and our IT folks, and I think you may know that, actually this week, there was a take-down of a very large dark-money site announced by the Department of Justice. That was an IRS co-led case. We identified it and led it and worked with the German Government for the seizure.

And we have been doing those, been announcing those, about every 6 months or so when they become public. That is our cyber people. But like every agency—and I am speaking on behalf of IRS and Treasury at this point, to the extent I can speak on behalf of Treasury as a bureau head: we need resources in the cyber space.

There are more than 470,000 cyber positions available in the United States of America, with a zero-percent unemployment rate. And we need not only to keep the people we have, but we need to continue getting new people. So, it is a high alert for us, as I think it is for every American.

Senator WARNER. As we go offline—I know my time is up—on the EIDL program, I want to visit with you more on this. I would point out, as you know—this is not your area, but the kind of psychic and emotional hit when OPM was hit a number of years ago by the Chinese—and we have not seen their full utilization of that, but it was really important. And then also, because of all the members in the Senate, we did pass finally cybersecurity reporting legislation. It is the law of the land now. So at least CISA will have that information.

But thank you, Commissioner, and thank you, Senator.

Senator CORTEZ MASTO. Senator Daines?

Senator DAINES. Madam Chair, thank you.

I want to, first of all, start off by thanking the hardworking men and women at the Internal Revenue Service for their tireless efforts. This has been one of the most challenging times, I think, in the agency's history. Your work is incredibly important and is very appreciated. With that said, Montana taxpayers remain frustrated with unanswered calls, delayed refunds, and inadequate customer service.

Commissioner Rettig, as you know, Montana is a very rural State, with Internet service and cell coverage sparse in many parts of the State. Montanans rely on in-person Taxpayer Assistance Centers to get help with their tax issues. Currently, half of Montana's Taxpayer Assistance Centers remain closed, and I hope that does change in the near future.

Moving to some questions. Commissioner Rettig, there are several States that have been successfully implementing IT modernization plans, including partnering with industry to adopt modern practices, state-of-the-art methods. For example, partnering with private industry in the State of Rhode Island, they were able to, over a period of years, nearly fully integrate their tax systems on time and on budget.

The question is, after billions of dollars being spent by the IRS to modernize the system, why have we not achieved the equivalent results or something close to it? Presumably the States are under the same pressures of budget and hiring the IRS operates under, even if on a smaller scale.

The IRS has yet to close dozens of outstanding and unfilled recommendations from GAO and TIGTA. So, what are your thoughts around how we can get modernized here?

Commissioner RETTIG. First, many of the recommendations from GAO are historic, and they are ones that the IRS completely disagrees with. So, there is a disagreement whether we should go into that space. They are not being ignored, but they are ones that we have looked at.

Second, we have been in, like every Federal agency, over a hundred continuing resolutions since 2001. It is virtually impossible—last year we got our budget March 11th. This year we got it March 15th. It is virtually impossible to build out a viable, realistic tech-

nology space when right now we have 6 months to do it. So it is start and stop. And you know, if you were to see our IT priority list, it is like 2-point font, 60 pages, and we are trying in that space.

So that is our continued ask: for consistent multiyear funding. Give us a target so we can build out the target. We will come up and show you what we want to do. But we cannot do it in 6 months. The start-stop just really is not the way it should be for us, or anyone else.

Senator DAINES. I completely agree with your frustrations. This is the most broken—and it should be the most fundamental process in building a budget prior to the start of the fiscal year.

Commissioner RETTIG. We spend billions a year just on operations maintenance. We have got to get there to not be spending that much.

Senator DAINES. I want to talk about conservation easements, Commissioner. You and I have had many conversations about the abusive easement syndications. You know how I feel, because I entered legislation with Senator Stabenow to outlaw the most egregious transactions.

As you are aware, criminal indictments were recently handed down related to some of these syndicated conservation deals, and the IRS is auditing hundreds of other syndicated transactions.

Mr. Commissioner, just help my understanding of the state of play here. When looking at syndicated easements, either those referenced in indictments or those you continue to review through the audit process, are there structural differences in the way a syndicated easement is designed, or are they similar?

Commissioner RETTIG. We are—the IRS is very supportive of the purpose of the legislation with respect to issues in conservation easements. And what has happened is, the abuse of syndicated easements has taken those and essentially created a situation where you can pay X dollars to avoid multiple X of tax.

Senator DAINES. So, to get back to that, what are some of the characteristics of those transactions? Can you name two or three of them?

Commissioner RETTIG. Enter and leave the transaction in less than 3 years. So I buy in, and often within a single year—and they are targeted toward, if I need to save this amount of tax I buy in, I buy this percentage, and I can save this amount of tax.

Senator Grassley and Senator Wyden held a hearing on conservation easements, and I think if you see some of the information that came out associated with that hearing, public information, you would share our concerns as to why we need to devote significant resources to that space. It is not something that will generate trust and reliance of the people on the streets that other people can basically go buy a tax deduction.

We are supportive of conservation easements. It is the abusive syndicated easements that I think Congress needs to consider legislation for.

Senator DAINES. So, with those comments in mind—and Chairman Wyden, I know, had to go vote—but I want to wrap up by looking back and applauding the investigative report that came out on this issue with Senator Grassley that Senator Wyden did. It

really exposed the egregious nature of many of these transactions. And that was part of the indictments as well that came out. And these are indictments—and I encourage members of the committee to go look at these indictments on the fraud and abuse that are going on in some of these easements.

Your report identifies some very troubling issues that DOJ is now highlighting as well. I think enough has happened on this issue that perhaps the Finance Committee should schedule a hearing to dig deeper into your reports and figure out, as a committee, what is going on here, and how we can stop it.

And again, as you just articulated, and I want to reinforce, there are so many very legitimate conservation easements—Montana is one of the leaders in that regard, doing it the right way—but there are others, based on the indictments here, that are fraudulent. And we will let the courts decide what is going to happen there.

I know the chairman has stepped out, but I guess I want to thank Senator Wyden for his support here, and I hope we can get a hearing on this issue.

Commissioner RETTIG. And you know the hearing would be, obviously, the prerogative of the chair and ranking member, but we would support that. And not only would I encourage you to look at the information that is in the investigative report, but also in the indictments. You know, we are in litigation with many transactions, and we have taken to amending our pleadings to assert civil fraud penalties in certain of these transactions. That should telegraph where the IRS believes many of these transactions are. The abuse in the syndicated transactions needs to stop. And our efforts have not been impactful, from what we have seen.

Senator DAINES. As you and I have talked about, it seems like, even though the indictments are coming out with that warning, and there was clear guidance given out here—

Senator CORTEZ MASTO. Thank you, Senator Daines. We need to wrap it up. Thank you.

Senator Thune?

Senator THUNE. Thank you, Madam Chair. Commissioner, nice to have you here. Welcome.

Since last year's IRS data breach, or leak of private taxpayer information in which the left-leaning ProPublica publicized confidential taxpayer details, there has been no meaningful follow-up from the administration. In your March 8th response letter to Finance Republicans, you pointed to Secretary Yellen's testimony that said the Department of Treasury, the Office of the Inspector General, the FBI, and the Department of Justice are conducting independent investigations into this matter.

This apparent leak or hack of private taxpayer information is a serious breach of trust between taxpayers and their government. And it is simply inexcusable that the administration hasn't provided any accountability.

So my question, Commissioner, because I think it is a fundamental one, is, when taxpayers' private information is stolen from the IRS and then shared by a partisan media outlet, how do you think that impacts trust in the agency?

Commissioner RETTIG. I do not believe it has been indicated that it was actually stolen from the IRS. I do not think there has been

anything on that. I think the Treasury Inspector General for Tax Administration is the authority at the IRS that has the jurisdiction. So the investigation—and they announced that there has been an investigation, so they would be the people to talk to.

Hypothetically, any data breach, I think, causes significant reputational risk, at a minimum, for the U.S. Government, and specifically the Internal Revenue Service, on a go-forward basis.

We need to protect. We need to confirm to people that the information that they give us is safe, and information that they are required to give us is safe, and the security of taxpayer information is among the highest priorities, not only of myself, but I think any Commissioner who has been here, and any Commissioner who will follow me.

Senator THUNE. I am glad to hear you say that. And so, as a follow-up, when do you expect, based on what you just said, the administration to provide accountability regarding the unauthorized disclosure of taxpayer information?

Commissioner RETTIG. I can speak generally that, as most people, I get frustrated when investigations go on without public acknowledgment of what is there. You know, the timing is not helpful for maybe an agency to say what did or did not happen, and to rebuild the trust. But we do not control the timeline of the Treasury Inspector General.

Senator THUNE. I would hope that you would urge them to complete it in as quick a way as possible—as thorough a way as possible, but obviously so there is some accountability.

I hear from a lot of South Dakotans who are frustrated with the IRS. Many are reaching out to my offices. Their returns are over 6 months behind. Not only are they frustrated with the delay, but with the lack of assistance, as it feels impossible sometimes to reach an IRS representative.

When can taxpayers who are still waiting on their 2020 and 2021 tax returns expect to receive a completed return?

Commissioner RETTIG. We have 2.7 million paper returns that were filed in Calendar Year 2021 in inventory. We have 2.3 million paper returns filed in 2022 that are in inventory. Those are not necessarily dated, because that is our current system. The outdated are clearly the ones we received in 2021, and there are paper returns that are being processed.

The over 95–98 percent of electronically filed returns are being processed quickly, timely, within 21 days. People who are entitled to refunds get the refunds. The ones that fall out—the statistics I gave earlier—they fall out for a variety of reasons. Typically it is a non-matching of two Economic Impact Payments that do not add up, or something like that—a math error.

They fall into our error resolution service. Last year at this time, we had 7.7 million returns in error resolution service. Today we have 741,000. So that has been less than 10 percent there.

A lot of the statistics that I could go through—and I will not necessarily belabor the point—but a lot of the statistics confirm that our decisions that we have been making in the last 6 to 8 months are correct and accurate, and that we are trending in the right direction.

I will also say we have tried innovative, creative things that were never tried by this agency before. We are a very risk-averse agency. We did not assume risk to get here. But we took really educated moves to put us there, and I will be the first to say that every suggestion—I will put it on myself—of how we can get through this did not work as intended. So we had to come back.

But I will say that to the extent that that occurred, it was with the intent to get this right, and to get it right quickly. And so the effort and desire really was there. We get the importance, and appreciate the importance, of getting refunds out to individuals as quickly and as accurately as possible.

Senator THUNE. Well, I appreciate your attention on clearing the backlog, and I urge you to prioritize improving customer service. As you know, the timely, as you mentioned, processing of returns and the ability to talk with an IRS representative are cornerstones to good tax administration. And many taxpayers are trying to comply with the tax laws, and they deserve a responsive IRS.

So, keep pressing in that area, because I think it is critical, as we talked about earlier, along with the other issue of the leaks of information, to establish that trust with the American people. And having a responsive tax collection service is key to that.

So my time has expired. Thank you.

Senator CORTEZ MASTO. Senator Hassan?

Senator HASSAN. Thank you. I want to thank the chair and ranking member for this hearing. And, Commissioner, thank you for being here.

I want to follow up on an issue that Senator Cardin talked about. I am hearing from small business owners, including an owner of many Dunkin' locations in New Hampshire, who are still waiting for their Employee Retention Tax Credit payment.

Small businesses need this relief. And now, with the tax filing deadline approaching, many employers are facing higher taxes due to the delay in payments of these tax credits. What is the IRS doing to provide relief from higher taxes for small businesses still waiting for their Employee Retention Tax Credit?

Commissioner RETTIG. We have prioritized the processing of the related forms for that, which are the 941s, and in some cases 940-Xes. We have, in our inventory currently, 1.9 million 941s and 324,000 940-Xes. We are moving through those quickly, and we have put a lot of employees there. We have mandatory overtime. We have authorized overtime. We just expanded mandatory overtime to another group to be able to move through that.

Also, a logical question is, "Well, okay, you gave me the numbers, but what is the date? When can I tell people that they are going to get this?"

I do not have that for you yet, because we have some uncertainties that we are facing. We are bringing people onboard. We are training people. We are getting them in those lanes as quickly as possible. And I always hedge, if we get another COVID, or this or that. So we are careful—

Senator HASSAN. Right. So I understand that—

Commissioner RETTIG. Another comment, if I could actually interject—this is not IRS-Commissioner-speak—but some folks might want to put their individual return on extension until Octo-

ber 15th. We should be able to get this done before then, and then they could match it at that point.

Senator HASSAN. But the other possibility is that the IRS, of course, has the authority to waive penalties in certain circumstances so that you could provide that relief, because even with an extension, people have to pay their taxes, right? So that is the question: whether they will be penalized.

Commissioner RETTIG. After 36 years on the outside, I thought IRS was extremely easy to work with from a penalty perspective, pre-pandemic. I never really had—if I thought I had a case—

Senator HASSAN. Right. But look—I want to move on to other questions, but here's the thing. I think it would be very helpful for small businesses that have navigated through so much during the pandemic, to actually know ahead of time, not to have to negotiate on an individual basis about penalties. But if they have not gotten their Employee Retention Tax Credit yet, they should be able to know that their penalties would be waived if they did the calculation as if they got the tax credit that they are owed. So that is just a suggestion, and I look forward—

Commissioner RETTIG. We have a number of penalty provisions—

Senator HASSAN. Thank you.

Last week—I am going to come around to an issue that Senator Daines was talking about too, about legacy IT. But last week, the Homeland Security and Governmental Affairs Committee passed my bipartisan Legacy IT Reduction Act, which requires agencies to identify their outdated and obsolete technology and publish robust modernization plans to dispose of, or update those systems—systems such as the 62-year-old processing system at IRS and its paper-based filing systems. Modernizing these systems could help reduce improper refund payments and address the current backlog of unprocessed tax returns, which has been significantly worsened by the IRS's outdated IT systems.

How would IRS use the \$310 million that it requested in the President's Fiscal Year 2023 budget to modernize this legacy tax processing system to reduce improper payments, while also working to get taxpayers their refunds more quickly?

Commissioner RETTIG. Currently, only about 16 percent of our systems are outdated. And going back to the 1960s—we do not use systems from the 1960s, but we do use COBOL language, which, you know, people say there are three people on the planet who understand it. I have not met the other two; one works for us.

That is not an official IRS response. [Laughter.]

Senator HASSAN. We understand that: the challenge and frustration. That is what I was trying to get at. So how would you use—

Commissioner RETTIG. And let me just answer your question, which is what we will do, which is obviously increase our online presence, mostly focused on taxpayer service and taxpayer interactions, the portals. We will update our IMF systems so that they are actually workable among ourselves, as well as for taxpayers to come in. And it would be a noticeable improvement, and it is needed.

Senator HASSAN. Right. Thank you so much. I am running out of time as well. I have some additional questions, including about

the backlog that people talked to you about on the amended returns. But I will submit those for the record.

[The questions appear in the appendix.]

Senator HASSAN. Thank you so much.

Thank you, Madam Chair.

Senator CORTEZ MASTO. Senator Warren?

Senator WARREN. Thank you, Madam Chair.

Right now, millions of hardworking Americans are getting ready to file their taxes, but thanks to loopholes in our tax code for billionaires, paying taxes can be optional. This has to stop.

Now last week, President Biden proposed a new minimum tax to ensure that the very, very rich pay at least 20 percent in taxes every year on their income. I have long called for a tax on wealth, not just income, of ultra-millionaires and billionaires. The President's proposal is different, but it is a giant step forward.

Now, critics claim that the IRS just is not up to the task of administering a tax like this because it requires assessing the value of complicated assets and doing this calculation for many taxpayers. This is a question about your agency's competence, so I want to ask you about it, Commissioner.

In fact, the IRS already has a lot of experience examining the assets of the ultra-wealthy. For more than 100 years, the IRS has valued the property of multimillionaires in order to apply the estate tax. So, Commissioner Rettig, about how many estate tax returns have been filed with the IRS in the last 10 years?

Commissioner RETTIG. Just under 300,000.

Senator WARREN. Just under 300,000? All right. And do you know anything about the combined worth of those, offhand?

Commissioner RETTIG. I do not.

Senator WARREN. Okay. I think the estimate will be well over a trillion dollars. Does that make sense?

Commissioner RETTIG. Not from my private practice experience, but I'll go with it.

Senator WARREN. Okay. All right.

For comparison, the President's billionaire's tax would only apply to 20,000 taxpayers. Now, the estate tax has got to be generally harder to administer because, by definition, it applies to new taxpayers every time it is paid, because it is not triggered until someone dies and an asset is transferred to an heir. By comparison, the President's billionaire's tax would mostly apply to the same taxpayers year after year, making valuation much simpler. Some of the valuations that the IRS already does can be quite complex.

In 2020, the IRS completed 1,454 estate tax audits, including 770 estates valued at over \$10 million. So, Commissioner Rettig, what kinds of assets do the IRS investigators examine in these estate tax audits that they are performing every year?

Commissioner RETTIG. The examiners in that space are known as estate tax attorneys. They are sophisticated examiners. They are among our best. And the estate tax is based on a valuation at a point of time—date of death, or either 6 months after the date of death. And the examiners look to see if the values were appropriate, if the deductions were appropriate, et cetera, et cetera.

In appropriate cases, they may bring in engineers, which are really economists and valuation specialists.

Senator WARREN. What about the kind of property that they look at and value?

Commissioner RETTIG. The valuation of the assets and discounts people claim for the assets would be most of the issues.

Senator WARREN. So mansions, ownership of businesses—

Commissioner RETTIG. Cars, virtual currency—

Senator WARREN. There you go. There you go. So the IRS has lots of experience valuing assets like mansions, expensive art, and private companies—exactly the assets that would be subject to the President's billionaire's tax. But to make anything work, it is critical that we fund the IRS so that it has all the tools it needs to ensure that the ultra-wealthy pay the taxes that they owe.

And that is why President Biden and congressional Democrats have proposed \$80 billion in funding for the IRS. Commissioner Rettig, how would additional funding turbo-charge the IRS's ability to take on wealthy tax cheats, or to administer a new tax on billionaires like the kind that the President has proposed?

Commissioner RETTIG. We have the most sophisticated financial examiners on the planet, and they are also the most dedicated folks on the planet in this particular space. We need to support them by providing them meaningful tools, resources, and training. At some point in time, when I started in practice in 1981, the IRS was a place that people wanted to go and earn their stripes, if you will. And maybe some left for private practice; some certainly stayed.

We need to get back to that. And the funding would certainly help get to that level.

Senator WARREN. Well, thank you. Thank you for your leadership on this, Commissioner Rettig. We need to fund the IRS to make sure that wealthy tax cheats pay what they owe. But we also need to fix our broken tax rules.

Billionaires who pay a lower tax rate than public school teachers are freeloading, and we need to make it stop. The President's proposal for a minimum income tax on billionaires is about exactly that. And I am with him on this. The American people are with him on this. Let's get it done.

Thank you, Madam Chair.

Senator CORTEZ MASTO. Commissioner, Nevadans are facing higher costs at the pump as the global supply chain recovers from the COVID-19 pandemic and other global factors, as we know. I have fought for a comprehensive approach and pushed for critical legislation to alleviate supply chain bottlenecks, led the charge for investments in clean energy, and called for the Biden administration to develop a long-term government-wide strategy to lower gas prices.

Senator Bennet and I sent a letter to you requesting that the IRS increase the standard mileage rate to better reflect the recent shock in gas prices, and what businesses and some individuals are paying out of pocket every day. The letter was dated March 25th. And the reason being—and I know you are very aware of this—is that an increase in the per-mile reimbursement rate will offer some relief to Americans who use a personal vehicle for everyday needs like work travel or medical transport, by enabling independent contractors and businesses to adjust for increasing expenses. It will also offer relief to families in need, particularly in rural areas, as

well as help small businesses struggling with higher costs for transporting goods.

My question to you is, have you received the letter? And then, as requested in the letter, will the IRS take action in raising the standard mileage rate to better reflect the actual costs that businesses and consumers are currently paying at the pump?

Commissioner RETTIG. We did receive the letter. My first question was going to be if we responded, but when you said March 25th, I am confident we have not responded.

Senator CORTEZ MASTO. Okay.

Commissioner RETTIG. We have inventory in that as well, and so I apologize for that. Let me take a look at that and get back to you with the timing on that and see if we cannot also accelerate the letter.

Senator CORTEZ MASTO. If you would. Obviously, the sooner you act, the better for so many who are struggling right now and need the help because of the high prices that we are seeing.

So let me jump to another request that I have for you, and it is another letter, but this letter was sent to you on March 2nd by Senator Rosen and I. We, both of us, have really worked to provide relief for our hospitality and restaurant industry throughout the COVID pandemic and its recovery. And I was able to ensure that our hotels and live entertainment businesses were eligible for PPP loans, and I led on bipartisan legislation which is called the Hospitality and Commerce Jobs Recovery Act and a restaurants act to provide critical relief to these businesses and workers that were hardest hit by the pandemic.

We know, and I know the hospitality industry is really—and the leisure and travel industry—the last to come out of this. I want to acknowledge the IRS, the work that you did for reducing the tip allocation rate during the COVID-19 pandemic. You actually reduced it by an average of 60 percent to assist our service-sector businesses and tipped wages like those in the hospitality/travel/tourism industry, and in my home State of Nevada.

Unfortunately, I just recently learned from some of our workers at the Culinary Union, Local 226, that the IRS raised the tip allocation rate at the beginning of 2022 during the peak of the Omicron variant and while those in the food and beverage industry continue to face double the national unemployment rate, while this industry continues to safely recover.

So my question to you is, what was your reasoning for changing the tip allocation in January? And when you did so, did you take into account that many of the hardest-hit businesses and workers in the industry are still trying to recover?

Commissioner RETTIG. These agreements tend to be negotiated with individual employers, so I cannot speak to any specific individual employer. But I am sensitive to the fact that, if in fact in certain industries and certain communities, if we were—I find it hard to believe that our people on the ground who negotiate these agreements would not be sensitive to that. They do live in these communities.

Senator CORTEZ MASTO. Well, here is my concern—

Commissioner RETTIG. Well, let me—I need to personally look into it and get back to you.

Senator CORTEZ MASTO. Yes, please look at it, because here is my concern. Traditionally in the past, you consulted, the IRS consulted with employers, organized labor, and those affected in this industry with the impact because of COVID. But my understanding is, that was done in the past, but it was not done this time. There was no consultation. And that is my concern, that without the consultation, you do not realize that this industry is still hard-hit.

So, if you would, please, take a look at this and work with our offices, both mine and Senator Rosen's. I would really appreciate it.

Commissioner RETTIG. For sure.

Senator CORTEZ MASTO. Thank you. And I want to say "thank you" again. It has been a long morning for you. You are always here. You respond whether it is on Zoom or in person, Commissioner, so thank you so much for joining us today.

I believe that is it for the Senators appearing, so just thank you again for joining the committee. Thank you for this discussion.

I also want to remind my colleagues that questions for the record are due by close of business next Thursday, April 14th.

And this committee hearing is adjourned.

Commissioner RETTIG. Thank you very much.

[Whereupon, at 12:25 p.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF HON. MIKE CRAPO,
A U.S. SENATOR FROM IDAHO

Thank you, Mr. Chairman, and thank you to Commissioner Rettig for your willingness to testify today, and for your service. I appreciate your efforts to make the IRS more customer-focused, and I understand that it is hard to change course in large organizations like the IRS. There is a need to change course, but I do not believe the administration's outsized, partisan approach is the solution.

For the third filing season in a row, taxpayers confront vexing customer service challenges as they attempt to fulfill their tax filing obligations. With tens of millions of 2021 tax returns still to be filed, the most recent data we have on this year's season is concerning, highlighting longstanding issues the IRS has not adequately addressed.

For example, more than 60 percent of the millions of items of taxpayer correspondence and amended returns have sat in storage for more than 3 months, an increase of nearly 30 percent over last year. Average hold times for the lucky few taxpayers who reach the IRS by phone are 28 minutes, an increase of nearly 50 percent over last year. Scores of taxpayers have seen refunds delayed while their return is suspended for various reasons. Millions of prior-year tax returns await processing. The IRS's management of paper-filed returns is a persistent problem that the National Taxpayer Advocate recently noted goes back decades.

By tax day this year, millions of paper-filed 2020 tax returns will not have been processed, while millions of current-year returns will likewise gather dust. Steps to prevent or minimize this disruption were not taken by the IRS, and in some cases have still not been taken.

For example, many may not be aware that in order for the IRS to process a paper-filed return, each entry on the return is manually inputted by an IRS employee. These taxpayer-funded employees would better serve taxpayers by answering phones or responding to correspondence.

This is not simply a problem of taxpayers choosing to deluge the IRS with paper-filed returns. In many cases, IRS forms and schedules simply cannot be electronically filed, including where a taxpayer could e-file and attempts to do so but is rejected by the IRS's confusing digital signature process.

This is not a funding issue. Solutions to these challenges have existed for years, but to date have not been implemented. The IRS can further transition away from mandating any return or form to be paper filed.

With respect to rejected e-filings, which I understand to be often caused by a taxpayer being unable to locate or recall one of two possible e-filing PINs, the IRS could implement additional means to e-sign a return. I am aware that the IRS, with your leadership, Commissioner, is working on this. So-called "2D bar codes" much like the supermarket bar codes that have been used for decades, could eliminate the IRS's need to transcribe paper returns at all. Solutions like these have been held up for years with no clear reason why, leading to results the current National Taxpayer Advocate Erin Collins calls "crazy." I agree.

Some say that IRS budgets are to blame for all that ails the IRS, but this misdirection distracts from real issues at the IRS. It also cherry-picks data to paint a misleading portrait. Many begin their analysis of IRS budgets beginning only with

Fiscal Year 2010, which was a 30-plus year high-water mark for the IRS's budget and an outlier. Viewed in the longer-run, the IRS's average inflation-adjusted budget is much lower, with recent years aligning with this average. The efforts to try to claim that Republicans have slashed the IRS budget are simply not accurate.

Budget arguments are also often invoked in attempts to justify massive IRS funding for things that do not address the customer-experience problems plaguing the IRS. For example, some advocate for increased IRS funding to generate revenue through heavy-handed enforcement.

This year's presidential budget request seeks a large enforcement funding boost, and its "reserve fund" placeholder for the reckless Build Back Better legislation would provide a truly massive \$80-billion infusion of mandatory funding primarily focused on enforcement. The reserve fund could also accommodate the administration's chilling proposal to monitor Americans' bank account flows of as little as \$600.

I strongly oppose forcing community banks and credit unions to report sensitive and private customer data of law-abiding taxpayers to the IRS in order to raise more money by snooping through customer accounts, and I will continue to aggressively push back on any attempts to add this reporting scheme to legislation. I remain concerned about huge funding boosts that would increase audits on small businesses and middle-class Americans, rather than prioritize taxpayer services.

Our hearing in February had a positive dialogue spotlighting IRS customer service challenges and solutions, and I have a number of questions about ways to address the longstanding IRS problems we can agree on, such as outdated IT, and ways to ensure the next filing season will be much better than the last several.

Given your stated commitment to making these improvements, Commissioner, I look forward to continuing to work with you on this.

PREPARED STATEMENT OF HON. CHARLES P. RETTIG,
COMMISSIONER, INTERNAL REVENUE SERVICE

INTRODUCTION

Chairman Wyden, Ranking Member Crapo, and members of the committee, thank you for the opportunity to discuss the filing season and the President's Fiscal Year (FY) 2023 budget proposal for the IRS.

Taxpayer service remains the most significant IRS priority, and we have implemented many new, innovative strategies in an effort to improve our overall level of service and processing of our unprecedented current and projected inventories. The pandemic presented the IRS with a confluence of novel and critical demands at a time when we lacked the stable, long-term funding needed to appropriately serve the American people. Given these significant challenges, although we may not have always gotten it right or supported the important priorities of some, our employees have worked extremely hard to respond as best we could to a never-ending string of compounding challenges.

I am pleased to report the 2022 filing season got off to a strong start in terms of tax return processing and the operation of our information technology (IT) systems. Through April 1st, the IRS processed more than 89 million individual Federal tax returns and issued more than 63 million refunds totaling more than \$204 billion. We worked diligently to open the filing season earlier this year than last, on January 24, 2022, compared to February 12, 2021. A detailed discussion of the filing season is provided later in this testimony.

While the current filing season has so far presented no major disruptions or surprises, we know we have a great deal of work to do in many other areas of the IRS. The IRS continues to focus on working to reduce paper correspondence inventory and process paper tax returns from 2021 as well as improve our response to an unprecedented level of phone demand—situations that have been compounded by the pandemic and related issues. For example, in FY 2021, we received more than 15 million individual paper returns. We also had a significantly higher error rate on individual returns due in large part to challenges associated with reconciling funds received through important stimulus programs like Economic Impact Payments (EIPs). We received far more than 10 million returns where the taxpayer did not properly reconcile the two EIPs received in 2020 to the amount of the Recovery Rebate Credit (RRC) stated on their return filed in 2021. Similarly, more than 10 million individuals reported unemployment compensation on their return that was sub-

ject to the exclusion enacted during the 2021 filing season. In addition, millions of taxpayers elected to use 2019 rather than 2020 as the base year for determining their EITC (and the legislative change for that was enacted *after* our IT development for the 2021 filing season had been completed). Each of these returns required a manual review and resolution by an IRS employee.

We will continue to do our best as we face new challenges. Our workforce is strong and remains our most important resource, with substantially all of our employees engaged on a full-time basis. We have taken numerous steps to address these challenges, and we continue to look for other ways so that we can improve these operations and get healthy by the end of the year.

The IRS is serving more people and entities in a global environment than ever before, while handling new and bigger responsibilities. This was the case before the pandemic and has only increased since then. At the same time, we have experienced delays in updating our IT systems, which means the IRS and taxpayers must continue to use certain paper-based processes. This use of paper processes can result in significant delays, contributing to IRS inventories and limiting taxpayers' ability to know the status of their cases.

We are in this position because we have not had the sustained sufficient multiyear investment for IT modernization necessary to improve our technology and operating systems. I am here to tell you today that nothing is more important than having those resources in place to make it possible for us to appropriately serve the American people. Absent consistent, timely, multiyear funding, we have largely been a paper-based organization operating in a digital world environment. In 2022, IRS employees should not be transcribing paper returns by hand. Taxpayers should not have to wait and wait on the phone—often to no avail. I want to better serve the American people—and so do the dedicated employees at the IRS. They will finally be able to do so if you, and your colleagues, provide us the stable, multiyear funding we need.

Like all Federal agencies, the IRS is best able to accomplish our mission when we receive the resources necessary to do so. And that mission is vital to the functioning of our government. The fact that the IRS collects approximately \$4.1 trillion in gross revenue per year, representing about 96 percent of the gross revenue of the U.S., clearly shows that the success of our Nation is closely tied to the success of the IRS. The President's FY 2023 budget proposal, which provides \$14.1 billion for the IRS, will allow the agency to take important steps forward in improving taxpayer service, modernizing our systems and ensuring fairness in the tax system. But for the IRS to truly be able to deliver for the American people, it needs stable, multiyear funding to be in place to allow the agency to rebuild.

Over the course of the last decade, the IRS's budget has decreased by more than 15 percent in real terms. Because of this decrease, in FY 2021 we realized less than 79,000 full-time equivalents (FTEs), which is close to 1974 levels. Since 2010, IRS Enforcement FTEs have decreased by 30 percent, while the Nation's real Gross Domestic Product has increased by 29 percent, and the filing population has increased by 14 percent. Over the next 6 years, we estimate we will need to hire 52,000 employees just to maintain our current levels. Every measure that is important to effective tax administration has suffered tremendously in recent years, with profound deficiencies resulting from underinvestment in human capital and information technology.

Although the IRS appreciates the \$675-million increase to our budget in the FY 2022 Omnibus, sufficient funding remains a constraint to addressing the current paper inventory and supporting our IT operations adequately. For example, this year's funding left our Operations Support account, the account that funds all of the hiring, rent, laptops, and telecom for taxpayer services and enforcement employees, \$100 million short of our inflationary cost increases. Without shifting the funds to the appropriate accounts, we are left depleting resources from one less-visible program to pay for another essential program, which causes us to slow or stop work on updates to our systems that must be modernized to provide digital services that citizens expect from us. Mandatory multiyear, consistent funding would help us deliver meaningful services to taxpayers, conduct critical enforcement initiatives and support long-term modernization efforts to improve both service and compliance for the Nation.

When we are confronted with long-term Continuing Resolutions (CRs), we typically freeze nearly all external hiring. We take this action to ensure we have funds to pay all employees, including any applicable pay raises. Last fall, we increased

staffing despite the CR, hiring at risk without the funding in place to support these positions, but assuming future resources would be provided by the eventual enactment of the FY 2022 appropriation, to help address our inventory. The full Fiscal Year 2022 President's budget request would have allowed us to maintain current staffing levels and fund 4,200 additional full-time equivalent employees. The Omnibus increased our Taxpayer Services account by \$193 million from FY 2021, which covered the inflationary increases in Taxpayer Services (what we refer to as "maintaining current levels"), and about 42 percent of our requested program increases. We will now be required to use other funding sources to cover our remaining needs, including requesting an inter-appropriation transfer, redirecting user fees, and realigning American Rescue Plan (ARP) funds. Although the Omnibus reflects an important down payment on the necessary investments in the IRS, it is far, far from what the dedicated IRS employees need to serve the American people the way they deserve.

Even with appropriate funding, the IRS continues to experience significant challenges recruiting talent to support the critical work the agency does for taxpayers and our Nation, particularly in the current labor market. With our limited funding, we have been hard at work to do all we can to bring talent on board. For example, we have major processing center operations in Austin, TX, Kansas City, MO, and Ogden, UT, where we are working to attract eligible applicants for more than 5,000 vacant positions. We have been holding both in-person and virtual job fairs in Austin, TX, Kansas City, MO, and Ogden, UT where, using recently received Direct Hiring Authority (DHA), we have been able to make more than 2,500 conditional offers at the conclusion of the interviews.

IRS employees want to do more to help taxpayers. We want to be able to answer the phones and respond to questions. We want to be ready, whenever crisis hits, to deliver economic relief quickly—as our employees demonstrated repeatedly during the current pandemic, working long hours to deliver crucial programs. During this challenging period, the IRS has been operating in an "all-hands-on deck" approach, leaving nothing off the table for consideration to improve overall service.

Our employees continue to expend every effort to balance the confluence of multiple, unprecedented demands—including successfully starting the current filing season and working our inventory of unprocessed tax returns, as well as looking for additional ways to minimize burden for taxpayers, tax professionals and businesses. We will continue to rapidly adapt to changing circumstances when appropriate to do so. We remain committed to ensuring the tax system is administered fairly and impartially and that every American receives the nature and quality of services they deserve.

EFFECTS OF THE COVID-19 PANDEMIC AND THE IRS RESPONSE

This unprecedented pandemic illustrates the significant role that the IRS plays in the overall health of our country. We have been called to provide economic relief during this national crisis while also fulfilling our routine responsibilities of tax administration. The IRS's response to COVID-19 includes issuing more than \$1.5 trillion in combined historic economic relief and individual refunds over the past 2 years. This effort shows the level of dedication of our workforce and illustrates how important the IRS is to the functioning of our government and the success of the Nation.

IRS employees have worked hard since March 2020 to implement major provisions of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, ARP, and other COVID-related relief legislation. This work included delivering more than \$800 billion in EIPs to help Americans cope with the financial effects of COVID-19—which involved creating the internal processes to accomplish this effort. The Treasury Inspector General for Tax Administration (TIGTA) noted in a report released March 21, 2022, that the IRS computed the correct payment amount for more than 99 percent of the 175 million payments issued for the third round of EIPs. Our work also included delivering (and creating the internal processes for) more than 200 million advance payments of the Child Tax Credit totaling \$93 billion that were made to eligible families between July and December of last year.

Congress provided critical help to support our ability to implement the third round of EIPs and the advance CTC payments by appropriating \$1.86 billion in supplemental funding for the agency under the ARP. These funds represent important 3-year funding (expiring FY 2023) and have provided, and will continue to provide, critical assistance in our effort to better serve taxpayers. As of March 27, 2022, the IRS has obligated \$850 million of the total; we are continuing to use the funds over

the remaining 2 years of the expenditure window provided by Congress in ways that are intended to maximize taxpayer service, including responding to taxpayer questions about EIPs and advance CTC payments. As identified in our ARP Spending Projections provided to Congress in February 2022, these funds are allowing us to help taxpayers efficiently obtain the payments they are rightfully due, with additional front-line staffing, systems and technology improvements to create safe and secure platforms, and with investments in long-term modernization enhancements that will pave the way for long-needed system improvements going forward.

For both the third round of EIPs and the advance CTC payments, the IRS made an extensive effort to ensure we reached as many people as possible who might be eligible for these benefits. We worked with thousands of community groups, nonprofits, associations, education groups and anyone else with connections to people with children to share critical information about EIPs, the CTC and other important benefits. As noted above, we are continuing to work this filing season to ensure that anyone eligible who did not receive an EIP understands they can claim the RRC on their return, and we continue reminding recipients of the advance CTC of the need to reconcile those amounts on their returns.

Reducing Inventory of Paper Returns and Correspondence

The combination of the pandemic, new tax laws and numerous other factors led to an unprecedented amount of unprocessed tax returns and correspondence remaining in the IRS inventory during 2021.

The IRS pursued significant actions during the 2021 filing season to address the return and correspondence inventory. But due to resource issues and numerous unique factors tied to new legislation and the pandemic, we have entered the 2022 filing season with a significant inventory of unprocessed returns and correspondence and, to date, the inability to meet our hiring goals. We must continue pursuing innovative strategies to fulfill our commitment to return inventories to a healthy level before entering the 2023 filing season.

To reduce the current and projected inventory, we are taking aggressive actions that include:

- **Surge Teams.** We presently have more Customer Service Representatives (CSRs) onboard than ever before. We have retained temporary CSRs on a permanent basis to concentrate on the inventories. We took this risk in the context of an uncertain funding environment, hoping the annual appropriation process would deliver funding; however, this effort has not been sufficient to reduce the current and projected inventories. The IRS is deploying surge teams, which are groups of employees across the agency organized to temporarily assist with urgent issues. For example, we temporarily moved approximately 900 employees with previous relevant experience back into key areas from other organizations. In addition to this accounts management surge team, which is now in place, we are working to assemble a similar surge team for our submission processing area with 700 employees who will start on this critical work this month.
- **Direct Hire Authority (DHA).** Working with Treasury, the Office of Personnel Management, and the National Treasury Employees Union, the IRS recently secured direct hiring authority for a total of 10,000 positions—5,000 employees with the goal of onboarding them in the next several months, as well as an additional 5,000 new hires to be made over the course of the next year. Congress also helpfully provided hiring flexibilities in this month's Omnibus to further expedite hiring in critical positions. Due to the challenges of hiring during the pandemic and competition from other employers for the same talent, this environment is an exceptionally difficult one for hiring. DHA may improve our ability to be competitive in cities where these employees are most needed. We are extremely hopeful to satisfy our hiring goal over the coming months. Also, for the first time, we have partnered with the Military Spouse Employment Program and are engaging contractors while aggressively pursuing our hiring goals. We are grateful for the specific direct hiring authority language included in the recent Omnibus (Consolidated Appropriations Act, FY 2022) that will enable us to bring talent onboard more swiftly in needed locations.
- **Mandatory Overtime.** We have implemented mandatory overtime and are offering authorized overtime to certain employees to help with the reduction in inventory, and we are doing so for the first time in certain functions.

- **Increased access to online self-service tools.** Over the last 6 months, more than 10 million individuals have created their individual online account through *IRS.gov*. Reducing call volumes through increased online service allows us to devote more resources to the inventories.
- **EIP/CTC letters.** We sent more than 250 million letters to help taxpayers match IRS records to prevent delays in processing. IRS Letter 6475, *Your Third Economic Impact Payment*, and IRS Letter 6419, *2021 Advance Child Tax Credit*, set forth the amounts that individuals received in 2021. Individuals can also verify these amounts by accessing their individual online account through *IRS.gov*. Given that more than 10 million returns failed to properly reconcile two EIP payments received in 2020 on their returns filed during the 2021 filing season, it is critical that individuals (and their preparers) verify the possibly six to eight payments received in 2021 before submission of a 2021 return this year.
- **Innovating to expedite case closures.** We are employing new tools to help IRS employees review and process tax returns that include errors and manual reviews, a piece that is already helping taxpayers receive refunds quicker in 2022. These efforts have already demonstrated positive results.
- **Expanded Saturday openings of certain Taxpayer Assistance Centers (TACs)** to assist taxpayers this filing season in more than 90 cities¹ around the country. TACs provide important front-line, in-person taxpayer assistance. We maintain 358 TACs but, due to attrition and resource limitations, 39 are presently not staffed on a full-time basis (24 TACs presently provide a virtual service delivery alternative to an in-person visit). All staffed TACs offer appointments as well as the ability to walk in.
- **Enhanced the EITC Assistant tool** on *IRS.gov* to make it more user-friendly for individuals to determine their potential eligibility (intended to reduce resources being dedicated to erroneous EITC claims). This important tool serves taxpayers and reduces erroneous claims, freeing up resources to help process our inventories.
- **VITA/TCE.** We are also continuing to notify taxpayers about “Free Tax Return Preparation for Qualifying Taxpayers”² by encouraging use of the IRS’s Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) programs, which offer free basic tax return preparation to qualified individuals.
- **Created and expanded self-service portals** for taxpayers to implement an Online Payment Agreement, request payment transcripts, request an Identity Protection Personal Identification Number (IP PIN), update their personal information, etc. These efforts reduce call volume, which releases resources to help process our inventories.
- **Expanded “Customer Callback”** to approximately 70 percent of our toll-free telephone demand. During FY 2022, we have offered this option to more than 4 million taxpayers with an acceptance rate exceeding 57 percent. We estimate this feature has saved taxpayers more than 1.3 million hours.
- **Implemented Online Live Assistance, Voice Bots and Chat Bots (in English and Spanish)** to better enable taxpayers to interact with IRS. Online Live Assistance leverages limited employee resources allowing a single employee to respond to multiple taxpayers at a time. Our Advance CTC Voice Bot launched February 18, 2022 (delivered 6–8 weeks ahead of schedule) and handles the top 27 Advance CTC topics (English only at present, but the Spanish version is coming soon) to assist callers who need help reconciling the credits on their 2021 tax return. The IRS, in recent weeks, has deployed Voice and Chat Bots in English and Spanish for phone lines that assist taxpayers with tax payment issues or understanding an IRS notice they may have received. In addition to the payment lines, Voice Bots help people calling the EIP toll-free line, providing general procedural responses to the most frequently asked questions. Voice Bots are software powered by artificial intelligence (AI) that allow a caller to navigate an interactive voice response (IVR) system with their voice, generally using natural language. Chat Bots simulate human conversation through web-based text interaction, also using AI-powered software to respond to natural language prompts. Taxpayers who re-

¹ <https://www.irs.gov/help/irs-face-to-face-saturday-help>.

² <https://www.irs.gov/individuals/free-tax-return-preparation-for-qualifying-taxpayers>.

quest to speak with a CSR are placed in queue for English or Spanish telephone assistance. These efforts reduce call volume, releasing resources to help process our inventories.

- **Reduced the percentage of our outdated hardware** from more than 60 percent a few years ago to approximately 10 percent at present. Funding provided by Congress has allowed us to pursue these efforts, reducing the risk associated with an interruption to our delivery of meaningful services.

These steps are making a difference. Refunds for tax returns and amended tax returns in the inventory continue to flow out to taxpayers. We continue to consider and pursue additional relief measures while balancing the many other demands for our time and limited resources.

We also instituted additional relief measures for taxpayers, such as:

- On January 27th, we announced the suspension of notices in situations where we have credited taxpayers for payments but have no record of the tax return being filed. Given that in some situations the return is still waiting to be processed, suspending this notice will help avoid confusion.
- On February 9th, we announced the suspension of more than a dozen additional notices, including automated collection notices normally issued when a taxpayer owes additional tax or has no record of filing a tax return. Note that many other IRS notices are statutorily required to be issued within a certain time frame to be legally valid.

We are evaluating penalty relief options; however, we must also determine if systemic programming changes or manual intervention are required for the considered relief. Manual intervention would require re-direction of resources from processing original returns and amended tax returns, which complicates this area.

Other Taxpayer Assistance Offerings

Important Update Information Available at *IRS.gov*. The IRS workforce is working hard to reduce current and projected inventories, meet taxpayers' continuing needs and provide relief or assistance whenever possible. We have issued various announcements available on *IRS.gov* outlining important steps we're taking this filing season to assist taxpayers with the aim of reducing current and projected future inventories. On February 14th, we issued a news release titled, "IRS launches resource page on *IRS.gov* with latest details and information for taxpayers during filing season,"³ (IR-2022-32, February 14, 2022) with a link to this important resource page ("Help for taxpayers and tax professionals: Special filing season alerts").⁴

The IRS is continuing to assess other changes and system modifications to assist taxpayers on an array of issues. We have redeployed and reallocated resources throughout the IRS and have implemented innovative strategies in an ongoing effort to provide a meaningful reduction in our inventories. As we make additional adjustments, we will continue to make information available to taxpayers throughout the filing season and beyond.

Important Steps for Current Filers to Get Their Refund as Quickly as Possible. To prevent future inventory problems, the IRS has also worked diligently to encourage people to take extra precautions this year so they can get their refund quickly and avoid processing delays. During this filing season, refunds on error-free electronically filed returns continue to be processed within approximately 21 days. Requesting direct deposit accelerates receipt of the refund by the taxpayer. *There are three important steps people can take to get their refund as quickly as possible:*

- File electronically;
- File an accurate return (verify amounts reflected as received for the EIP and advance CTC payments); and
- Request a direct deposit of their refund.

These steps are critical to accelerating delivery of the refunds people deserve and the IRS employees want to get out as quickly as possible. We have engaged in extensive outreach with community-based and professional organizations to reduce the otherwise manual review of returns that fail to reconcile these amounts. We're also

³ <https://www.irs.gov/newsroom/irs-launches-resource-page-on-irsgov-with-latest-details-and-information-for-taxpayers-during-filing-season>.

⁴ <https://www.irs.gov/newsroom/help-for-taxpayers-and-tax-professionals>.

encouraging taxpayers with questions to turn first to online resources, since we anticipate a continued high call volume again this year.

Responding to Unprecedented Demand for Phone Assistance

The IRS provides phone service to individuals, businesses, tax professionals, and tax-exempt entities. We have specialty lines for the hearing impaired, identity theft victims, the taxpayer protection program, and for making appointments at our TACs. We also offer over-the-phone translation services in 350 languages.

Taxpayer Service Remains Our Top Priority. The long-term erosion of our budget has depleted every function of the IRS. Even though our Wage and Investment division—which is where the current and projected inventories exist—remains the *most well-staffed function of the entire IRS*, it is well below the levels necessary to deliver the service we aspire to achieve. We have implemented several approaches to reducing current and projected inventories and reducing call volumes which allows us to devote more resources to the inventories.

Our customer service representatives (CSRs) operate from 10 main campus sites and 14 smaller satellite locations across all mainland United States time zones, plus Puerto Rico. The CSRs work 7 a.m. to 7 p.m. shifts staggered nationally according to time zones. When we temporarily closed most of our facilities in March 2020 to protect employees from COVID-19, our IT operation worked rapidly—within weeks—to provide our CSRs with laptops, related equipment and training so they could work remotely in a virtual environment.

Against that backdrop, IRS phone operations have faced an unusually challenging environment over the past year, with an unprecedented level of phone assistance demand. *In 2021, we answered 4 million more taxpayer calls than the year before but had a lower level of service than prior years because demand was so high. In the first half of 2021 alone, we received more than 199 million calls—about 400 percent more calls than we get in an average year.* For comparison, we received a total of 42 million calls in all of 2018, 40 million calls in 2019, and 55 million calls in 2020. On March 15, 2021, we received 8.6 million calls on just that one day, which is an average of about 1,500 calls per second. The high call volume has significantly hampered our ability to manage telephone demand.

At the same time, the average duration of each call has also increased due to the complexity of COVID-related tax law changes and because taxpayers have personally endured a great deal throughout the pandemic. Our average time per call was 12 minutes for calendar year 2019. Thus far in 2022 (through February 26) the average time per call is 16 minutes. Spending more time on each call to provide the needed customer service limits the CSRs' ability to handle more calls during a shift.

We attempted to ease these challenges by starting the CSR hiring process for the 2021 filing season months earlier than normal. We repeated this approach for the 2022 filing season. During the pandemic, we transitioned into an entirely virtual recruiting and onboarding process for new employees to speed up the process. While we were able to hire an additional 3,800 CSRs, clerks and other support staff for the 2021 filing season, it was short of our goal of 5,000. While we did slightly better thus far in the 2022 filing season, we still have been able to hire just 3,805 of our overall goal of 5,000. The pandemic caused significant hiring challenges, including low applicant pools in some locations, delays in fingerprinting due to closed facilities, and delays in processing applicants virtually. And we routinely find ourselves being able to offer candidates significantly less than what the private sector can. We are trying innovative training approaches to get new CSRs ready to work the phones in less than the usual 14-week time frame. Working with NTEU, OPM, and congressional appropriators, we are also thrilled to have secured direct hire authority, discussed previously, which will allow us to be more successful in recruiting top talent by increasing the speed with which new employees can be onboarded.

UPDATE ON THE 2022 FILING SEASON

The IRS successfully opened the 2022 tax season on January 24th—2 weeks earlier than the year before—giving taxpayers more time to file returns and delivering more than 1 million refunds in the first days of processing. Getting underway in January has given taxpayers as much time as possible to meet the Federal tax filing deadline, which this year is April 18th for most taxpayers.

Due to many factors, the 2022 tax filing season is a complex and challenging one for taxpayers, tax professionals, and for the IRS as well. During this tax season, taxpayers face a number of issues resulting from critical tax law changes that took place in 2021, as well as ongoing challenges related to the pandemic. Our dedicated

workforce has done everything it can to prepare for the April 18th deadline, and our immediate focus is simplifying the taxpayer filing experience by streamlining the process, answering as many questions as possible and reducing the inventories mentioned earlier in this testimony.

Our system that allows electronic filing of returns, Modernized eFile (MeF), took a major step forward this filing season. We made the latest in a series of changes that over time have made MeF more efficient, standardized and robust. This latest change expanded the availability of MeF so that our external partners who transmit returns electronically can access the system 24 hours a day, 7 days a week. This upgrade is a win not only for the transmitters and ultimately taxpayers, but also for the IRS, because it allows us to perform MeF maintenance during the week, enabling more rapid deployment of critical updates.

Providing Help to Navigate a Challenging Filing Season

We continue to believe the filing season will go the smoothest for taxpayers who file electronically, file accurate tax returns and request direct deposit of their refund. In fact, filing electronically with direct deposit is more important than ever this year, given the additional complexities on many returns, such as those who were eligible for an EIP but did not receive it and are now claiming the RRC, as well as those who need to reconcile advance CTC payments on their return.

We also want families who added a dependent—such as a child, a parent, a nephew or niece, or a grandchild—on their 2021 income tax return who was not listed as a dependent on their 2020 income tax return to know they may be eligible to receive a 2021 RRC of up to \$1,400 for this dependent. Additionally, all eligible taxpayers with qualifying children born or welcomed through adoption or foster care in 2021 are encouraged to claim the CTC—worth up to \$3,600 per child—on their 2021 tax return.

Another important credit we've been highlighting is the Child and Dependent Care Credit, which was expanded for 2021. This means that more taxpayers will qualify this year than ever before, and the credit will be worth more. We've been working to remind people who pay expenses for the care of a qualifying person while working or looking for work that they may qualify for this important tax credit. Depending on their income, taxpayers can get a credit worth 50 percent of their qualifying child-care expenses. For tax year 2021, the maximum eligible expense for this credit is \$8,000 for one qualifying person and \$16,000 for two or more.

We realize that taxpayers who are still waiting for their 2020 return to be processed may be wondering whether they should wait to file their 2021 return. Our message to these individuals is that they can file their 2021 return when they are ready. If a taxpayer is electronically filing their 2021 tax return and we have not yet processed their 2020 tax return, they should validate their 2021 electronic tax return by entering \$0 (zero dollars) as their prior year adjusted gross income (AGI). If a taxpayer used the Non-filer Sign Up tool in 2021 to register for advance CTC payments or an EIP, they will instead enter \$1 as their prior year AGI.

Given that incredibly high call volume is continuing again this tax season, we understand the filing experience will be more difficult for taxpayers who need to interact with us. But we continue to make improvements and are confident this work will have us trending in the right direction. We are also encouraging taxpayers with questions to turn first to online resources. This area has been a huge focus for the IRS, and critical tools are available that people may overlook. These options range from the Where's My Refund? online tool to several other automated tools now available through the Online Account on *IRS.gov*. For many, there are ways to get help without calling.

Improving Service to Diverse Communities

Amid the challenges posed for the agency by the pandemic and new tax law changes, the IRS has continued to focus on improving service to diverse communities. An important way we serve these taxpayers is by communicating with them in their most comfortable language. We are committed to enhancing the experience of all taxpayers, including those who have limited English proficiency. We know that these taxpayers respond to our efforts—as just one example, there were nearly 90 million visits to non-English pages on *IRS.gov* last year. Already this year, through March 23rd, there have been about 14.3 million visits to non-English pages.

Since 2021, the IRS has taken important steps to further improve the amount of service we offer in multiple languages:

- Provided the Form 1040 in Spanish during the 2021 filing season for the first time.
- Gave taxpayers the opportunity to indicate on new Schedule LEP (Limited English Proficiency) whether they want to be contacted by us in a language other than English. This schedule, filed with the 1040, allows taxpayers to select one of 20 languages in which to receive communications from the IRS. During Calendar Year (CY) 2021, the IRS received approximately 326,000 Schedule LEPs.
- Made Publication 1, *Your Rights as a Taxpayer*, available in 20 languages.
- Issued a new, streamlined version of Publication 17, *Your Federal Income Tax*, that is available in seven languages.

These efforts continue this year. We've completed conversion of 34 Spanish notice inserts to Braille, text, audio, and large print as of January. We also recently converted Form 1040 and its main schedules, as well as Form 1040 NR, Form 1040 SR, Form W-4, and six publications, into Spanish Braille, text, and large print. We continue working to increase our communications and outreach materials—including information shared on social media channels—into additional languages. To ensure that taxpayers can easily provide their preferences in this area, we also released new Form 9000, *Alternative Media Preference*, this filing season. This form allows taxpayers to tell us they want to receive notices in Braille, large print, audio, or text, and can be filed alone or with the 1040.

While those steps are all important, the IRS is continuing to do more to enhance the taxpayer experience for those who are more comfortable using a language other than English. We are, for example:

- Pursuing efforts to translate website applications for these taxpayers. We have already identified 17 of the most frequently used applications for translation into additional languages.
- Exploring opportunities to employ machine translation to help us add more multilingual content. This is a significant challenge, given how complex many tax terms are. We will need to carefully evaluate automated translation tools, so we anticipate this effort will be ongoing for several years.

UPDATE ON MODERNIZATION EFFORTS

One of my highest priorities as Commissioner is ensuring the agency's IT infrastructure remains on a path toward modernization. Modernization is vital to all our core functions: successfully delivering the annual tax filing season, ensuring the health of the Nation's tax system and supporting the Federal Government's financial strength. Today, we do not have the steady, consistent multiyear funding to support these efforts the way we need to in order to deliver appropriately for the American people.

We have long sought levels of funding that would enable necessary IT investments. As noted above, absent consistent, timely, multiyear funding, we have largely been a paper-based organization operating in a digital environment. It is difficult to modernize a significant IT portfolio to improve processing and delivery of important taxpayer services when constantly funded through a CR.

Until recently, we were operating under a CR for FY 2022. This year's Omnibus (Pub. L. 117-103) represents the largest funding increase for the agency in 2 decades. But the agency's needs are much deeper. Unfortunately, because our budget has fallen so significantly in real terms over the course of the last decade, we have lost foundational staff at the agency and need to rebuild. From a modernization perspective, many of our priorities, including upgrading the Individual Master File, one of the oldest IT systems in the Federal Government, are multiyear efforts. This situation means we have not been able to invest in modernizing and integrating our technological infrastructure, which processes the more than 160 million returns we anticipate receiving during the current filing season. The situation also affects other important interests of tax administration. Modernized technology would significantly improve the ability of the IRS to respond to a crisis, pandemic-related or otherwise.

Since the initial release of our Modernization Plan in 2019, our operations and infrastructure have changed significantly. We have received only limited funding for our efforts: from FY 2019 through FY 2021, we received only 57 percent of the planned Business Systems Modernization funding. But within the funding received, we have delivered critical technology improvements and at the same time responded to unprecedented demand due to the pandemic. We accelerated the development of

our digital services. We expanded customer callback availability on our toll-free telephone lines. We created new web applications such as “Get My Payment” to track EIPs. We also created the Child Tax Credit Update Portal to help people manage advance CTC payments, a first-of-its-kind endeavor. And in another milestone, we also achieved the long-time goal of making it possible for individuals to e-file their amended tax return.

Another example of modernization at work involved creating a tool last year to help eliminate several steps in the process an IRS employee is required to do to reconcile RRC discrepancies between the two EIPs that were made in 2020 and what the taxpayer reported on their tax return. Prior to the automation, an employee could reconcile about 100 returns per day. Once we completed the modernization improvement, the employee can now process 600 per day. Not only does this improvement speed up the ability for the taxpayer to receive their refund, but it also avoids adding further to the backlog of inventory.

We continue to investigate new ways of doing business to optimize the important work of IRS employees and improve the taxpayer experience; for example, we hope to be able to scan in a paper form and file it electronically later this summer, which will help us identify the potential for this approach to be used for other forms in the future. We are also looking into our ability to leverage an approach that we call Scanning-as-a-Service, where we may be able to significantly increase the availability of digital images for IRS employees to use to perform their work without owning and maintaining expensive equipment or paying to store the paper records. Both efforts seem straightforward on the surface, and although we are cautiously optimistic of their progress to date, it is important to note that they are not a sure thing, and a significant amount of work remains to confirm the viability of these pilots, as well as their ability to scale to other use cases.

In addition to the above, we continue taking steps to safeguard taxpayer data while modernizing platforms to improve taxpayers’ experiences. Investments in cybersecurity are essential. In 2017, IRS was experiencing just over 1 million cyberattacks per day. Today, we sustain more than 1.5 billion attacks each year. While IRS network defenses mitigate threats and keep our core tax processing systems secure, we must continue to advance our cyber capabilities, so we stay one step ahead of the bad actors who are attacking IRS systems.

IRS Online Account

An important focus of our efforts has been the development of IRS Online Account, which allows taxpayers to interact with us online and perform various types of transactions in a secure environment. For example, they can view their payment history, make a payment online or request previous years’ tax information. Since the initial launch of IRS Online Account in 2016, we helped taxpayers securely access the information and services they need, with more than 23 million sessions and 8.37 million new users in FY 2021. We are continually working to expand the transactions taxpayers can conduct through the online account.

In July of last year, we launched a new online feature that allows individual taxpayers to authorize their tax practitioner to represent them before the IRS with a Power of Attorney (POA), and to view their tax accounts with a Tax Information Authorization (TIA). Tax professionals can go to the Tax Pro Account on *IRS.gov* to digitally initiate POAs and TIAs. Over time, we will continue building functionality so that other transactions involving tax professionals can be completed online in a secure digital environment.

As we expand our digital options, security is always an important consideration. For that reason, in February we announced steps to change the way taxpayers authenticate their identities when signing on to their online accounts. Specifically, we began transitioning away from using a third-party service for facial recognition. The IRS is working closely with partners across government to roll out *Login.Gov* as an authentication tool for us. The General Services Administration is currently working with the IRS to achieve the security standards and scale required of *Login.Gov*, with the goal of moving toward introducing this option later this year.

EFFORTS TO IMPROVE TAX COMPLIANCE

The IRS remains committed to doing everything we can, with our limited resources, to track down those who willfully refuse to fulfill their tax obligations or who commit tax fraud. We want to maintain a strong, visible, robust tax enforcement presence to appropriately support taxpayers who comply voluntarily. When

taxpayers file their returns, they should feel confident others are doing the right thing too.

Our efforts to ensure compliance with the tax laws cover a broad range of groups—individuals, small businesses, tax-exempt organizations and large entities. In our challenging resource environment, large entities are of particular concern because this group includes very sophisticated taxpayers—major U.S. corporations, multinational companies and complex multitiered partnerships—all of which require us to have highly trained, highly skilled enforcement personnel with special accounting and tax law skills, who can understand the issues raised by these returns, root out instances of noncompliance and litigate issues where necessary.

We will continue emphasizing a number of special areas in our enforcement activities. This strategy includes keeping a focus on high-income taxpayers engaged in offshore noncompliance, failure to file, unreported and improperly reported virtual currency transactions and abusive tax shelters, such as syndicated conservation easements and micro-captive insurance shelters, as well as monetized installment sales and Malta pension abuses.

In this challenging environment, the IRS continues working to improve coordination of enforcement activities across the agency. In fact, the IRS's Office of Fraud Enforcement (OFE), which we created in March 2020, is actively encouraging and ensuring this coordination across the IRS, promoting compliance, strengthening the IRS's response to fraud and working to mitigate emerging threats. The Office of Promoter Investigations (OPI), created last year, is helping us better identify issues that involve abusive tax shelters as well as individuals promoting abusive tax transactions.

It is vital that we improve our ability to identify and deter promoters, and that we do so more quickly—before they are able to widely market their transactions, as we have seen with syndicated conservation easements and micro-captive insurance. We are seeing many aggressive transactions being promoted on social media and the Internet, and we continually work to identify and evaluate potentially abusive trends and transactions to determine whether they need further enforcement actions. I have challenged OPI to lead our efforts against not only those who promote abusive tax avoidance transactions we know about, but to find the transactions that are being concocted today, and to coordinate our efforts to stop those promoters quickly and efficiently.

Recent Accomplishments

We have made progress in a number of enforcement areas. For example, over the past 2 years, we have shifted significant examination resources and technology to increase our focus on high-income and high-wealth taxpayers. As a result, examination coverage of the taxpayers in the highest income category (taxpayers with over \$10 million of total positive income) increased to over 8 percent coverage for Tax Year (TY) 2018, the most recent year for which complete statistics are available. This level is the highest coverage rate of this growing population since TY 2014, and we expect the TY 2019 numbers will show this level of coverage continued.

Substantially all experienced examiners—those who are the most highly trained with substantial accounting and tax law skills—are almost entirely focused on tax returns that include complex issues, such as high-income taxpayers, pass-through entities, multinational taxpayers involving international tax issues, large pension plans, private foundations and the most egregious situations. We also continue to focus on employment tax cases where employers have failed to pay over taxes withheld from employees or have failed to file their employment tax returns.

An IRS initiative announced in 2020 involves improving tax compliance by increasing visits to those generally with incomes above \$100,000 who failed to file tax returns. These Revenue Officer Compliance Sweeps (ROCS) focus on the most egregious non-filers. A partnership between our Field Collection operations, the OFE and our Criminal Investigation (CI) division also worked to identify common attributes of successful fraud referrals resulting in recommendations for criminal investigation for non-filers.

Another example of our accomplishments involves the development of a comprehensive, coordinated enforcement strategy to address abusive syndicated conservation easement transactions, and we have worked closely with the U.S. Department of Justice to shut down the promotion of them. Subsequently, the U.S. Tax Court held in the government's favor in a number of conservation easement cases, supporting the IRS's position on the abusive nature of the underlying deductions in these cases. While continuing to investigate these transactions, the IRS has also

made settlement offers to certain taxpayers with docketed cases at the Tax Court involving this type of transaction.

Our efforts have also borne fruit in another important area—employment tax fraud. Noncompliance in this area means employers cheat the system and their employees without consequence. In so doing, they gain an unfair advantage over their honest competitors. We continue to work with the Justice Department’s Tax Division to identify opportunities to better address noncompliance. These opportunities include using data analytics to identify egregious noncompliant employers. To cite one instance, we used our Innovation Lab’s Data Analytics Program to identify thousands of taxpayers who reported wages on their individual income tax returns where the employer who paid those wages did not file their W-2 forms with the Social Security Administration and neither filed employment tax returns nor remitted taxes withheld from their employees. Seriously noncompliant employers were further investigated by the IRS examination, collection and CI organizations. This agency-wide commitment ensures consistent treatment of taxpayers and fair application of the tax law.

The IRS’s enforcement efforts have extended to preserving COVID-related financial relief for those legitimately in need of financial support during this crisis. For example, the IRS has been working diligently to thwart scams related to COVID-19 by alerting taxpayers and tax professionals to these scams—especially calls and email phishing attempts tied to the EIPs. The IRS and our partners throughout the country have been publicizing these scams. Another example involves the OFE’s efforts to prevent ineligible claimants from obtaining \$1.2 billion in COVID-related employer credits. The credits were intended to help employers retain employees who would otherwise be unable to work during the pandemic, but bad actors saw an opportunity to exploit the program for their own financial gain. Working collaboratively with teams of seasoned enforcement employees who identified the questionable claims, OFE investigated the suspect claims and either administratively disallowed the claims and/or referred cases for further investigation.

In noting accomplishments on enforcement, I continue to be extremely proud of the investigative work done by CI. To take just one recent example, CI’s Cyber Crimes Unit played a key role in the *largest cryptocurrency seizure ever recorded for the Federal Government*, valued at more than \$3.6 billion. In February 2022, the Justice Department announced the arrest of two individuals in connection with an alleged conspiracy to launder cryptocurrency stolen during a 2016 hack of Bitfinex, a virtual currency exchange. IRS-CI Cyber Crimes Unit special agents were critical in unraveling a sophisticated laundering technique, enabling them to trace, access and seize the stolen funds. *As well as being the largest cryptocurrency seizure, this was also the largest single financial seizure recorded by the Federal Government.*

In regard to recent events, CI is prepared to support the U.S. Government’s efforts to impose sanctions on Russia. CI has a track record of successfully rooting out and stopping illegal kleptocracy money flowing into or through the U.S. CI’s special agents expertly target those who launder money, including active investigations involving Russian oligarchs and politicians, as well as those who facilitate the illicit movement of money on behalf of sanctioned individuals or organizations. Agents on the Global Illicit Financial Team and throughout CI are not only experts in tracing assets and understanding the complex global financial world; they also work seamlessly with our domestic and global law enforcement partners to ensure the integrity of the U.S. financial system on behalf of U.S. taxpayers.

Resource Challenges

Despite the progress we have made, our ability to enforce the tax laws against noncompliant taxpayers with complex returns continues to be hampered by a lack of resources. We can no longer audit a respectable percentage of large corporations, and we are often limited in the issues reviewed among those we do audit. These corporations can afford to spend large amounts on legal counsel, drag out proceedings and bury the government in paper. We are, quite simply, “outgunned” in our efforts to assure a high degree of compliance for these taxpayers. It is unacceptable for the Nation’s tax administrator to be outgunned when appropriately challenging the return positions of some of the most sophisticated taxpayers. We must receive the resources to hire and train more specialists across a wide range of complex areas to assist with audits of entities (taxable, pass-through, and tax-exempt) and individuals (financial products, engineering, digital assets, cross-border activities, estate and gift planning, family offices, foundations, and many others).

A lack of resources also threatens to reduce the effectiveness of our criminal investigative work. Much like other operating divisions in the IRS, CI is close to its

lowest staffing level in the past 30 years. With fewer agents, we have fewer cases and fewer successful convictions. A strong, robust criminal tax enforcement presence provides significant deterrence to those willing to evade their lawful obligations to our country. Without adequate resources, we risk sending a much less powerful message to would-be and active tax evaders.

Because of our current funding and staffing limitations across our enforcement functions, we are forced to make difficult decisions regarding priorities, the types of enforcement actions we employ, and the service we offer. Limited IT resources preclude us from building adequate solutions for efficiently matching or reconciling data from multiple sources. As a result, we are often left with manual processes to analyze reporting information we receive. Such is the case with data from the Foreign Account Tax Compliance Act (FATCA). Congress enacted FATCA in 2010, but we have yet to be appropriated any significant funding for its implementation. This situation is compounded by the fact that when we do detect potential noncompliance or fraudulent behavior through manually generated FATCA reports, we seldom have sufficient funding to pursue the information and ensure proper compliance. We have an acute need for additional personnel with specialized training to follow cross-border money flows. They will help ensure tax compliance by improving our capacity to detect unreported accounts and income generated by those accounts, as well as the sources of assets in offshore accounts.

In other programs, we have information but are unable to select all high-risk cases identified due to resource and funding constraints. In these situations, to the detriment of tax administration, we must make difficult enforcement decisions based on resources, return on investment, coverage of all types of taxpayers, and other high priority work. For example, our information document reporting programs are identifying potential discrepancies with taxpayers who have received Form 1099-K, *Payment Card and Third-Party Network Transactions* (including potential non-filers), but not all of these have been addressed due to resource constraints.

As we make enforcement decisions, we try to balance resource limitations across a number of factors, including evaluating overall compliance effect and focusing resources into special projects. For example, we currently have fewer than 2,000 revenue officers, the lowest number of field collection personnel since the 1970s, and we have over 100,000 collection cases in active inventory. In addition to our active inventory, we have over 1.5 million cases (more than 500,000 of which are considered high priority) awaiting assignment to these same 2,000 revenue officers. We have classified roughly 85 percent of those cases as high priority, many of which involve delinquent business employment taxes.

In discussing our resource situation, another major concern is our ability to investigate and take enforcement actions against abusive transactions. While we are doing our best with the resources available to us, it is important to point out that the lack of funds and staffing makes it increasingly difficult for us to keep up with—much less stay ahead of—those who promote abusive transactions and the tax evaders who engage in them. Shelter promoters continue to innovate and invent new ways of gaming the system. We continue working to find them and identify their methods, but in order to ensure we can take meaningful enforcement actions against them, it is critical that we receive adequate resources.

It is becoming easier for tax shelter promoters to pitch their wares to the wealthy, and we are concerned such pitches are taking hold. While we are doing what we can, we need more resources if we hope to keep these activities in check and continue our efforts to inform taxpayers about the problems with these transactions so they will be dissuaded from participating in them. These activities shift the required funding of our country onto the backs of wage earners. Everyone should pay their fair share, and no one should be able to inappropriately avoid their obligations.

LOOKING TO THE FUTURE: IRS TAXPAYER EXPERIENCE OFFICE

Along with our day-to-day efforts to help taxpayers and enforce the tax laws, our agency is also committed to delivering on the promise of a new IRS. We are continuing the work begun in 2019 with passage of the Taxpayer First Act (TFA) to develop an innovative approach to the future of tax administration that will better serve everyone, including those in underserved communities. The IRS is using the implementation of the TFA to make significant improvements in the way we serve taxpayers, enforce the tax laws in a fair and impartial manner, and ensure our workforce collaborates and is well-trained.

A key driver of these efforts is our Taxpayer Experience Office, launched last year to unify and expand the work being done across the agency to serve taxpayers. The Taxpayer Experience Office sets the strategic direction for improving the taxpayer experience and identifies opportunities to make continuous improvements in real time for taxpayers and the tax professional community.

The Taxpayer Experience Office will identify changing taxpayer expectations and industry trends, focus on customer service best practices, and promote a consistent voice and experience across all taxpayer segments by developing agency-wide taxpayer experience guidelines and expectations. The office will be adding staff in the coming months to help support the effort.

Some of the areas of improvement in the near term include expanding customer callback, expanded payment options, secure two-way messaging and more services for multilingual customers. These activities build on recent improvements such as digital tools to support EIPs and advance CTC payments, online chat, and the on-line tax professional account.

THE PRESIDENT'S FY 2023 BUDGET

The President's FY 2023 budget proposal for the IRS provides \$14.1 billion, an increase of \$2.2 billion, or 18 percent more than the FY 2022 Annualized Continuing Resolution level of \$11.9 billion, to administer the Nation's tax system fairly, collect more than \$4 trillion in gross taxes to fund the government, and strengthen tax compliance. Because the administration drafted the FY 2023 budget submission ahead of the enactment of the FY 2022 Omnibus, the submission was not able to reflect the final enacted FY 2022 funding levels. The budget includes initiatives to improve the taxpayer experience that should ultimately lead to increased voluntary tax compliance. The request also aims to ensure we stay current with the paper inventory and improve telephone and in-person service; facilitates better oversight of high-income and corporate tax returns; and accelerates the development of digital tools to enable smarter communication with taxpayers. In addition, the administration continues to support a multiyear investment in IRS enforcement to increase tax compliance. An appropriate level of funding for the IRS will allow the agency to continue enhancing the taxpayer experience, narrowing the tax gap to ensure equitable administration of the tax code, protecting IRS systems and taxpayer data, and modernizing our information technology systems.

Specific Funding Areas

The FY 2023 budget requests a total program increase of \$1.31 billion, including the following:

- **Putting Taxpayers First:** \$320.2 million to continue implementing the Taxpayer First Act (TFA), which requires the IRS to put in place a Taxpayer Experience Strategy to improve the taxpayer experience with the IRS. The IRS's Taxpayer Experience Office, in partnership with key internal and external stakeholders and subject matter experts, identified certain areas of focus to inform development and implementation. The FY 2023 request focuses on: continuing to protect taxpayer data, increasing outreach and taxpayer education efforts, developing strategies to reach underserved communities, and providing human resources support for implementing the TFA.
- **Enhancing Taxpayer Service:** \$389.1 million for increasing the telephone Level of Service (LOS) and enhancing information technologies to improve taxpayer services. This investment will build on the IRS's efforts to improve telephone services for the underserved, such as those who are deaf or hard of hearing, limited English proficiency communities, and victims of identity theft. This investment provides a projected LOS of 85 percent in FY 2023 assuming phone demand returns to pre-pandemic levels and the IRS can provide in-person services at pre-pandemic levels. The increase in funding also will improve the ways taxpayers interact with the IRS by enhancing and expanding the range of modern, digital tools provided by the IRS to deliver a service experience comparable to that available in the private sector. By empowering taxpayers to address certain needs without requiring live assistance, development of these tools is essential to the IRS's long-term success in satisfying taxpayer expectations and meeting the ongoing growth in demand for assistance.
- **Increasing Compliance to Ensure Fairness:** \$469.3 million to allow the IRS to continue improving upon its compliance strategies and enforcement activities—including examination, collection, and investigation—to ensure fairness in the tax system and narrow the tax gap. We continue to develop inno-

vative approaches to understanding, detecting, and resolving potential non-compliance, which helps to maintain taxpayer confidence in the tax system. It is important to note the IRS has an overall enforcement return on investment (ROI) of about \$5 for every \$1 invested compared to the IRS appropriated budget, not including significant deterrence effects.

- **Maintaining Critical IT Operations:** \$39.5 million to sustain these operations to maintain optimum network performance and functionality. The IRS continues to transform its technological landscape, and it has made progress on its modernization journey to provide taxpayers with a seamless customer experience, while empowering employees with the tools and systems needed to provide top quality services and enforce the tax law. These successes have increased the need to sustain critical IT operations to maintain optimum network performance and functionality. The IRS continues to deploy and incorporate new, modernized tools for taxpayers, tax professionals and employees. Taxpayer service improvements (additional digital services, up-to-the-minute account information, etc.), enterprise efficiency advances (automation, artificial intelligence, machine learning, etc.) and new employee tools (case management, collaboration, learning platforms, etc.) all require additional bandwidth to sustain a high volume of users processing digitalized capabilities.
- **Fostering Economic Development in Underserved Communities:** \$10.2 million to allow the IRS to cultivate new opportunities for adults and students in underserved communities. One focus of our efforts is the Mississippi delta region, which currently has the highest rate of poverty in the United States, excluding the U.S. territories. As an initial step, we are opening a new Automated Collection System (ACS) call site in Clarksdale, MS, and have announced plans to hire contact representatives to work at the call site. Initiatives in other regions are already underway, including a significant staffing increase for our ACS operation in Puerto Rico. We have increased staff at this site from approximately 79 employees in FY 2020 to more than 400 as of February 2022. We plan to add another ACS call site in Puerto Rico during 2022 that will accommodate an additional 400 employees. The expansion offers employment to Puerto Rico residents and allows for a significant increase in bilingual ACS employees to better serve taxpayers with limited English proficiency.

Structural Changes to IRS Appropriations to Improve Mission Delivery

The President's budget also proposes a change to the appropriations language that would allow Taxpayer Services and Enforcement funding to be used for certain associated support costs that are currently reserved for Operations Support funding. Currently, Taxpayer Services and Enforcement funding only pays for an employee's labor cost, not the cost to hire the employee nor the IT equipment and space needed to make them productive. There are significant benefits to this change: By including support costs, future IRS budgets would reflect the full cost of Taxpayer Services and Enforcement. The changes would also prompt IRS business units to be more efficient with their support costs because they would stand to directly benefit from savings.

In addition to the IRS's FY 2023 budget request, stable, multiyear funding for the IRS is necessary to facilitate the types of longer-term investments that the agency needs to make to adequately serve the American people and enforce the tax laws.

LEGISLATIVE PROPOSALS IN THE PRESIDENT'S FY 2023 BUDGET

Along with the funding requested in the President's FY 2023 budget request, we are also asking for Congress's help legislatively in several important areas that would improve tax administration, including the following:

- **Information reporting by financial institutions and digital asset brokers.** Over time, the U.S. has established a broad network of information exchange relationships with other jurisdictions based on established international standards. The information obtained through those relationships has been central to recent successful IRS enforcement efforts against offshore tax evasion. The ability to exchange information reciprocally is particularly important in connection with the implementation of the Foreign Account Tax Compliance Act (FATCA). Currently, however, the U.S. provides less information to foreign governments than we receive from them. The proposal would expand reporting by financial institutions and digital asset brokers in a number of ways—for example, by requiring financial institutions to report the account balance for all financial accounts maintained at a U.S. office and held by foreign persons. These new reporting requirements would enable the IRS

to provide equivalent levels of information to cooperative foreign governments in appropriate circumstances to support their efforts to address tax evasion by their residents. The proposal would be effective for returns to be filed after December 31, 2023.

- **Require reporting by certain taxpayers on foreign digital asset accounts.** Section 6038D(b) of the Internal Revenue Code contains an annual reporting requirement for individuals in regard to two categories of foreign financial assets, but there is no reporting requirement under this section for digital assets. Against this backdrop, tax compliance and enforcement with respect to digital assets is a rapidly growing problem. The global nature of the digital assets market offers opportunities for U.S. taxpayers to conceal assets and taxable income by using offshore digital asset exchanges and wallet providers. The proposal would amend section 6038D(b) to require reporting with respect to a new third category of asset: that is, any account that holds digital assets maintained by a foreign digital asset exchange or other foreign digital asset service provider. Reporting would be required only for taxpayers that hold an aggregate value of all three categories of assets in excess of \$50,000. The proposal would be effective for returns required to be filed after December 31, 2022.
- **Extend the statute of limitations for certain tax assessments.** Section 6501 of the Internal Revenue Code generally requires the IRS to assess a tax within 3 years after the filing of a return. But for complex audits in the largest cases, critical issues may not be identified until late in the process of an examination, and in many cases these issues cannot be pursued further due to time and resource constraints. The proposal would amend section 6501 to extend the 3-year statute of limitations to 6 years if a taxpayer omits from gross income more than \$100 million on a return. This change would give the IRS enhanced agility and flexibility in evaluating and staffing its case inventory and appropriately allocating its limited enforcement resources.
- **Increase oversight of paid tax return preparers.** Paid tax return preparers have an important role in tax administration because they assist taxpayers in complying with their obligations under the tax laws. The proposal would amend title 31, U.S. Code (Money and Finance) to provide the Secretary with explicit authority to regulate all paid preparers of Federal tax returns, including by establishing mandatory minimum competency standards. The proposal would be effective on the date of enactment.
- **Expand and increase penalties for return preparation and e-filing.** Inappropriate behavior by paid tax return preparers harms taxpayers through the filing of inaccurate returns, erroneous refunds and credits and personal tax return noncompliance. Tax return preparer misconduct continues, in part, because the amounts of the penalties under current law do not adequately promote voluntary compliance. The proposal would increase the amount of the tax penalties that apply to paid tax return preparers for willful, reckless or unreasonable understatements, as well as for forms of noncompliance that do not involve an understatement of tax.
- **Expand authority to require electronic filing for forms and returns.** Under this proposal, electronic filing would be required for returns filed by taxpayers reporting larger amounts or that are complex business entities, including: (1) income tax returns of individuals with gross income of \$400,000 or more; (2) income, estate, or gift tax returns of all related individuals, estates, and trusts with assets or gross income of \$400,000 or more in any of the 3 preceding years; (3) partnership returns for partnerships with assets or any item of income of more than \$10 million in any of the 3 preceding years; (4) partnership returns for partnerships with more than 10 partners; (5) returns of real estate investment trusts, real estate mortgage investment conduits, regulated investment companies and all insurance companies; and (6) corporate returns for corporations with \$10 million or more in assets or more than 10 shareholders. Further, electronic filing would be required for the following forms: (1) Forms 8918, "Material Advisor Disclosure Statement"; (2) Forms 8886, "Reportable Transaction Disclosure Statement"; (3) Forms 1042, "Annual Withholding Tax Return for U.S. Source Income of Foreign Persons"; (4) Forms 8038-CF, "Return for Credit Payments to Issuers of Qualified Bonds"; and (5) Forms 8300, "Report of Cash Payments Over \$10,000 Received in a Trade or Business." Return preparers that expect to prepare more than 10 corporation income tax returns or partnership returns would be required to file such returns electronically. The Secretary would also be authorized to determine which additional returns, statements, and other documents must be filed in electronic form in order to ensure the efficient administration

of the internal revenue laws without regard to the number of returns that a person files during a year.

- **Improve reporting for payments subject to backup withholding.** The proposal would treat all information returns subject to backup withholding similarly. Specifically, the IRS would be permitted to require payees of any reportable payments to furnish their TINs to payors under penalty of perjury. The proposal would be effective for payments made after December 31, 2021.

CONCLUSION

Chairman Wyden, Ranking Member Crapo, and members of the committee, thank you again for the opportunity to update you on the filing season and the President's FY 2023 budget proposal for the IRS.

We continue to balance multiple unprecedented demands, including continuing the filing season and work on important new tax provisions. We remain focused on numerous taxpayer-related issues, and we have pursued innovative ideas and processes not previously deployed by the IRS in an effort to make improvements to the current inventory and provide meaningful taxpayer services.

The reality at the IRS is that we know we need to do better; we're committed to doing better, and we are trending in a positive direction. We appreciate your patience and understanding and the many expressions of gratitude we have received for the efforts of our employees, who have consistently stepped forward despite their own health and safety concerns. Our employees are doing everything they can. But we need Congress to help us by providing adequate resources and a sustained, multiyear investment in the agency.

I continue to be extremely proud of our workforce and their dedication to helping American taxpayers fulfill their tax responsibilities and resolve tax issues.

QUESTIONS SUBMITTED FOR THE RECORD TO HON. CHARLES P. RETTIG

QUESTIONS SUBMITTED BY HON. RON WYDEN

Question. The IRS Criminal Investigation Division (CI) plays an important role in enforcing sanctions on Russia and tracing the financial holdings of Russian oligarchs. It's been made clear to me that CI needs more resources to tackle the sophisticated networks of opaque shell companies and nominees to identify Russian assets. Yet of all of the requests the administration made for the recently passed Ukraine supplemental funding package, the request for additional resources for CI to apply their expertise to Russian oligarchs was the only one rejected by our Republican colleagues.

Do you believe CI has all of the resources it needs to assist with investigations and enforce sanctions against Russian oligarchs?

If CI does not get the resources it needs in a timely fashion, do you believe that will give the oligarchs time to move their assets out of the reach of the United States government?

Answer. IRS Criminal Investigation's (CI) current investigative priorities cover three broad areas: traditional/core mission tax crimes, tax-related and other financial crimes, and narcotics related financial crimes. U.S. law enforcement agencies are encountering complex transnational organized crime conspiracies that involve a hybrid of criminal elements, including international money laundering, illicit use of virtual currency, cyber hacking, threat financing, prohibited technologies, and exploiting emerging payment systems to avoid detection and prosecution.

On March 2, 2022, Attorney General Merrick B. Garland announced the launch of Task Force KleptoCapture, an interagency law enforcement task force dedicated to enforcing the sanctions, export restrictions, and economic countermeasures. The task force is designed to isolate Russia from global markets and impose serious costs for this unjustified act of war, by targeting the crimes of Russian officials, government-aligned elites, and those who aid or conceal their unlawful conduct. CI is an integral member of this task force and plays a crucial role assisting Treasury bureaus and other government entities with sanctions enforcement.

CI is also currently working with OFAC and the Financial Crimes Enforcement Network to identify, develop, and add new individuals and entities to the Specially Designated Nationals and Blocked Persons List (SDN List) as part of Treasury's

Russian Elites, Proxies, and Oligarchs Task Force, which leads the Treasury effort to block or freeze sanctioned Russians' assets, freeze or seize sanctioned Russians' high-value goods, and heavily restrict sanctioned Russians' access to the international financial system. CI has analyzed cryptocurrency addresses associated with geographical regions of Joint Chiefs of Global Tax Enforcement (J5) by focusing on international enablers using a map which displays user activity and movement. This advanced capability can identify key users of cryptocurrencies (such as Oligarchs) and track their movement over time.

CI will continue to participate in the sanction efforts with our limited resources. This requires redeploying special agents from other enforcement efforts. Should additional funding become available, CI would use the funding for the following needs to continue to assist the government's collective sanctions enforcement efforts, while maintaining adequate coverage of the other mission focuses.

- Hiring additional special agents, analysts, and investigative staff.
- Direct investigative costs: travel, transcription and translation services, investigative data analytics, data management, enforcement costs, undercover operations, etc.
- Investigative technology: data storage and management systems, servers, information technology infrastructure, additional commercial licenses, and contractor support.
- Secure facility: secure storage and communication capabilities to handle sensitive and classified information.
- Additional investigative support at the above-mentioned taskforces would increase CI's ability to gather, analyze, and act on available intelligence related to sanctions enforcement, and other investigations targeting transnational criminal organizations.

These additional tools and software are instrumental for CI to identify and seize oligarchs' assets before they are out of the reach of the United States Government and identify the enablers and facilitators of illicit money on behalf of sanctioned individuals and entities. These much-needed tools and resources would help CI continue to make a significant impact in the area without diverting resources from other enforcement areas.

Question. There's nothing worse than calling the IRS, navigating the phone tree, and then sitting on hold. The IRS has started using customer callback technology, which allows callers to request a call back from the IRS when the next employee is available. This makes a lot of sense, but it is only available on some of the IRS's phone lines.

When will the IRS start using customer callback on all of its lines?

Answer. The IRS first offered callback services to approximately 300,000 callers in Fiscal Year 2019 as a pilot on one toll-free application.¹ In Fiscal Year 2020, the IRS expanded customer callback to five toll-free applications and offered callback services to more than 1 million callers. In Fiscal Year 2021, the IRS further expanded customer callback to 16 toll-free applications, offering services to approximately 7.3 million callers.

In January 2022, the IRS further expanded customer callback to 31 toll-free applications and through April 15, 2022, offered services to approximately 5.9 million callers and to 70 percent of viable toll-free live service demand. Cumulatively, the IRS has offered callback services in English and Spanish to nearly 14.8 million callers covering toll-free telephone services in the Wage and Investment, Small Business/Self-Employed, National Taxpayer Advocate, and Tax Exempt and Government Entities business operating divisions.

In April 2022, the IRS began transitioning to a long-term Enterprise Solution with a target launch in December 2022 on our baseline of 31 toll-free applications. Further expansion is planned in Fiscal Year 2023 and Fiscal Year 2024 to optimize the use of the technology to improve the taxpayer experience. The IRS has a long-term goal of offering callback services to 95 percent of viable toll-free live service demand by Fiscal Year 2024.

Question. How would the President's proposed budget accelerate these timelines?

¹A single phone line can include multiple toll-free applications depending on the nature of the inquiry. An application is a systemic way of grouping calls by a similar topic, for routing and reporting purposes at a more granular level. Customer Callback services are being deployed at the application level rather than the product line level.

Answer. The proposed budget request would improve the taxpayer experience, ensure we stay current with improved telephone service, and accelerate development of digital tools to enable smarter communication with taxpayers. An appropriate level of funding for the IRS will allow the agency to continue enhancing the taxpayer experience.

Question. I understand that part of the backlog is due to the fact that IRS employees have to transcribe paper returns manually. The IRS does not use automated scanning technology like many states. For example, if you fill out your Oregon State tax return on your computer and then mail it, the return will print with a bar code that the Department of Revenue can scan like a box of cereal at the grocery store. Nobody has to transcribe anything. Oregon has been doing this since 2006.

Another technology called optical character recognition (OCR) transcribes returns, even if you fill them out with a pencil or the bar code is smudged. While this technology makes some mistakes, humans make even more.

I understand the IRS plans to update its tax forms with 2D bar codes over the next 5 years, is negotiating with tax software companies to include bar codes on forms printed using software, and is running pilots to test OCR.

The IRS can't go through another filing season with the same backlogs and delays that we have seen over the last 2 years. When will the IRS start using scanning technology to transcribe individual income tax returns?

Answer. The IRS has been using various technologies to scan tax returns for more than 35 years, with an emphasis on optical character recognition (OCR) scanning information tax returns such as withholding document processing. The IRS implemented the Service Center Recognition/Image Processing System (SCRIPS) for individual tax returns before 2000. We used SCRIPS Forms 1040-EZ, various business tax returns such as Forms 940, Employer's Annual Federal Unemployment (FUTA) Tax Return and Form 941, Employer's Quarterly Federal Tax Return.

Scanning Forms 1040-EZ through SCRIPS was discontinued when the volumes of that form type decreased, and the form changed from a one-page document to a front and back 2-page document. In more recent times, the Form 1040-EZ also became obsolete.

The IRS has several ongoing pilot projects to improve the efficiency and accuracy of processing paper tax returns with, optical character recognition (OCR) or 2D barcoding. These projects are:

- **V-Coded Return Pilot.** A V-coded return is when the taxpayer used software to prepare the return, printed the return and mailed it to the IRS. Using a vendor, this pilot was designed to enable remote scanning and validation of Forms 1040 that are V-coded to be submitted using Modernized e-File (MeF). The goal is to accelerate this pilot so it will be scanning tax year 2022 Forms 1040 V-coded and Forms 940 and 941 in filing season 2023.
- **OCR Scanning Service Pilot.** This pilot used a third-party contractor's OCR capability to scan Form 940 business returns. The contractor will scan and submit the returns using MeF.
- **2D Barcode Pilot.** This pilot implemented 2D bar codes to digitally intake data from Forms 8918 (Material Advisor Disclosure Statement) and Forms 8886 (Reportable Transaction Disclosure Statement). In December 2021 IRS released Form 8918 with 2D bar codes. Form 8886 was to follow with production of the 2D bar code form in March 2022. The IRS has received approximately 1,000 Forms 8918 to date, of which 253 were on the old paper form and 837 on the new paper forms with 2D bar codes. However, only 78 percent of the 2D bar-coded paper forms received could be fully read into IRS systems, requiring close scrutiny of the data. We are working to determine actions to reduce the error rate. Before considering using 2D bar codes for Form 1040, we need to engage with the software industry to update industry standards to align them with how we intake and process data. The industry would have to agree to provide such code in forms printed after using their software to prepare the tax return. We will start that engagement, develop a plan on how it would work and report back to you with the results.

In addition to pursuing scanning, we also plan to make more forms available to be e-filed. We are also reviewing administrative policies to determine whether we can make changes so more people are eligible to e-file.

We believe a multi-faceted approach is necessary to address the paper inventory the IRS receives yearly.

We caution that the expected benefit from bar codes and OCR would diminish if Congress modifies provisions of the Internal Revenue Code s shortly before the filing season or, as happened recently, during the filing season, increasing the likelihood of errors. For example, IRS and software vendors' ability to respond and produce accurate forms may preclude timely inclusion of bar codes or QR codes, resulting in more submissions with unreliable codes.

Question. How would the President's budget accelerate this timeline?

Answer. The proposed budget request would improve the taxpayer experience by ensuring we stay current with improved telephone service and accelerate development of digital tools to enable smarter communication with taxpayers. An appropriate level of funding will allow the IRS to continue enhancing the taxpayer experience and modernizing our information technology.

Question. In July, the IRS began to pay out the Child Tax Credit monthly for the first time. The American Rescue Plan made an historic expansion to the credit, boosting it to \$3,000 per child (and \$3,600 per child under age 6) and making the full credit payable at very low incomes. Families received monthly checks of up to \$300 per child. Up to half of the credit was paid in advance. Now they need to reconcile those amounts on their returns.

What has the administration been doing to help make sure taxpayers can claim the other half of the child tax credit?

Answer. To assist taxpayers with calculating the Child Tax Credit, IRS issued Letter 6419, 2021 Total Advance Child Tax Credit (CTC) Payments, to more than 57 million taxpayers who received advance Child Tax Credit payments. The letter provided a summary of the total amount the taxpayer received. The letter instructed taxpayers to use this information to complete their tax return. For taxpayers who misplaced or never received the letter, the IRS added the information to the IRS's Online Account. The IRS has performed broad outreach advising taxpayers about reconciling the Child Tax Credit advance payments and where to find the amounts issued to them. The IRS also has Frequently Asked Questions, including information about repayment protection, available on *IRS.gov*.² These FAQs were also issued as a news release.³

The IRS shared the Advance Child Tax Credit outreach materials with Volunteer Income Tax Assistance (VITA)/Tax Counseling for the Elderly (TCE) partners. VITA/TCE partners shared this information directly with their clients, posted information on their web pages and social media. Additionally, the IRS incorporated this information in VITA/TCE training materials for Filing Season 2022 to assist volunteers with preparing the returns.

In 2021, to promote awareness of Advanced Child Tax Credit (AdvCTC) and assist taxpayers who were not automatically enrolled to receive monthly payments, we hosted AdvCTC events in Taxpayer Assistance Center (TACs).

In 2022, to reach working, lower income taxpayers, those less able to take off from work during the week, we provided expanded opportunities for face-to-face service beyond normal TAC office hours, with an emphasis on refundable credits. We targeted approximately 90 TACs nationwide to provide expanded services on the second Saturday of each month from February through May. During the February, March, April, and May events, more than 700 IRS employees volunteered to assist nearly 15,000 taxpayers.

Question. You testified last year that the IRS is "outgunned" when it comes to auditing large partnerships and the wealthy individuals that own them. This is especially concerning given that around 70 percent of all partnership income accrues to the top 1 percent of households. In fact, an individual earning less than \$25,000 a year was 12 times as likely to be audited as a partnership in 2020. And to make matters worse, the Treasury Inspector General for Tax Administration (TIGTA) found that 78 percent of the IRS's audits of these large partnerships resulted in no change at all.

² <https://www.irs.gov/credits-deductions/filing-season-2021-child-tax-credit-frequently-asked-questions>.

³ <https://www.irs.gov/newsroom/2021-child-tax-credit-and-advance-child-tax-credit-payments-resources-and-guidance>.

What changes has the IRS implemented over the past year and what changes does it have planned to fix this glaring problem?

Answer. Several efforts are underway that are dedicated to increasing and improving partnership examination coverage. For example, we launched the Large Partnership Compliance program (LPC) at the end of FY 2021 to support and increase our focus on identifying and auditing high risk partnership issues. We've undertaken form improvements to get better data and are updating our case selection models. The IRS's increased focus on high-income individuals, and the entities they control, is another compliance touch point that will increase enforcement coverage of partnerships. Also, to support our efforts to improve how we audit partnerships, we've recently completed a partnership-focused hiring initiative that increased staff of the subject matter experts and field agents who examine these returns. We have just begun a second round of partnership-focused hiring.

With respect to TIGTA's audit, the high no change rate reported was based on the early results of partnerships subject to the newly implemented audit procedures under the Bipartisan Budget Act. They do not include the results of closed examinations for the existing partnership audit procedures under TEFRA or deficiency procedures. In addition, we explained that, generally, the first cases to close each tax year are no change cases. It can take several years to close partnership returns where we are developing complex issues. Based on prior experience, we anticipate that the final no change rate will be lower.

QUESTIONS SUBMITTED BY HON. MIKE CRAPO

Question. As you know, Congress recently made changes to the tax code to provide or modify certain refundable credits, including the recovery rebate credit (the so-called stimulus check) and the child tax credit. Because these are advance credits, they must be reconciled on the following year's tax return. The National Taxpayer Advocate and others have testified that these reconciliations on 2021 tax returns resulted in delays and other problems for millions of taxpayers.

Please describe how reconciliation of tax credits, including advance-paying credits, has impacted taxpayers during the 2022 tax filing season, including changes to refund amounts and whether it has delayed refunds and the length of such delays.

Answer. To claim the Tax Year 2021 Child Tax Credit (CTC), taxpayers must complete Schedule 8812, Credits for Qualifying Children and Other Dependents. If the taxpayer doesn't correctly determine the amount of CTC they are eligible to receive based on their 2021 tax return, the return cannot be processed and is routed to our Error Resolution System. Through the Error Resolution System processing, the IRS will correct the amount the taxpayer is eligible to receive and continue processing the return. A notice is sent to the taxpayer explaining the change to the Child Tax Credit amount and why the change was made.

For Filing Season 2022, the IRS implemented a new tool to accelerate the resolution of e-filed returns that include errors such as calculating the Child Tax Credit, Earned Income Credit, and the Recovery Rebate Credit. The tool resolves these types of errors and issues the notice to the taxpayer with minimal human intervention. This has greatly reduced the amount of time it takes to process most returns with these types of errors on e-filed returns. The automation allows us to focus employee resources on paper inventories with the errors or e-filed returns with more complex issues requiring manual review.

Question. Comparing individual tax returns for 2021 to 2020, has there been an increase in the number of taxpayers who owe tax on their returns, so-called "balance due" returns? If so, what are those figures, including number of taxpayers as well as the dollar amount of tax owed?

Answer. We do not have this information to share at this time.

Question. Some taxpayers may not be aware that they are required to file a tax return this year in order to obtain the second half of the child tax credit. Does the IRS have an estimate for the number of taxpayers who received the Advance Child Tax Credit payments in 2020 but who have yet to file their 2021 tax returns?

Answer. While our data is not updated yet for tax year 2021, we estimate approximately 16 million taxpayers have received advance payments of the Child Tax Credit in 2021 but have yet to file their 2021 tax return.

Question. It has been almost a year since ProPublica announced it was in the possession of a huge trove of private taxpayer information. I understand TIGTA immediately commenced an investigation, and I understand you cannot comment on that ongoing investigation.

However, the reality is that ProPublica continues to publish what it claims is private taxpayer information. As the Commissioner of the IRS, it is your responsibility, not TIGTA's, to ensure that all private taxpayer information is secure.

As Commissioner, can you give any assurances to the American taxpayers that any vulnerabilities that may have existed in the lead up to the initial ProPublica publication have been addressed, or would you say that, almost one year later, it is possible that taxpayer information is just as vulnerable today as it was a year ago?

Answer. The IRS is committed to protecting taxpayer data and continually works to enhance the security of taxpayer data through continual investments in cybersecurity that ensure the IRS aligns with Federal guidance and other directives. Due to the mutable nature of technology and the challenging environment in the government-wide threat landscape, the IRS leverages robust tools and technologies to harden the network against unauthorized access. This includes collection and review of application and platform security audit trails, identity management, provisioning and deprovisioning for just-in-time access and expanding coverage of data loss prevention.

Question. On February 7, 2022, the IRS stated it will “transition away from using a third-party service for facial recognition to help authenticate people creating new online accounts [and] [t]he transition will occur over the coming weeks. . . .” As of April 2022, although it is one of a few options, the IRS still uses third-party facial recognition to authenticate new online accounts.

When will the IRS follow through with its statement to “transition away from using a third-party service for facial recognition to help authenticate people creating new online accounts?”

Answer. On February 21, 2022, the IRS announced an alternative option for taxpayers to choose a non-biometric option to authenticate their identity. We no longer require facial recognition to establish an online account; eliminating that requirement was the point of the statement in February.

Question. The new alternative to the biometric extraction option, has been reported as requiring taxpayers to follow a 17-step process to verify their identity. Is there data available the new alternative is not an overly burdensome to taxpayers? Is there data available on how many people start, but then abandon the alternative to the biometric approach?

Answer. The new alternative verification option is a 7-step process. To utilize the live interview feature, taxpayers:

1. Navigate to the IRS application login page and select “Create an account with ID.me.”
2. Select the Video Chat Agent option and then select “Continue.”
3. Select “Get Started” and follow the prompts to: fill in their personal information; confirm their Social Security number; select identity documents for validation; select the option to take a photo or upload an image of the identity documents; and upload documents (front and back).
4. Once documents are uploaded, they are reviewed live by an ID.me Video Chat Agent.
5. Taxpayers then receive an email from ID.me inviting them to join a video call with an ID.me Video Chat Agent.
6. When prompted, taxpayers select “Join Video Call to speak with a Video Chat Agent.”
7. Taxpayers show the Video Chat Agent their documents, answer a few questions, and complete the verification process.

For the period February 21, 2022, through December 31, 2022:

- Of those who selected the alternative option and choose to verify on a video call, 43.4 percent upload the required identity documents and attempt to verify.
- Of those who selected the alternative option and submitted approved documents, 88.1 percent successfully verified on a video call.

- Those who are not successfully verified always have the option to retry (*e.g.*, reupload documents, upload different documents, etc.).
- Eight percent of those who choose the alternative option abandon the alternative flow and ultimately verify via the self-service option.

Question. The IRS’s February 7, 2022 press release states it is transitioning away from third-party facial recognition. Does this mean the IRS might develop its own biometric extracting software?

Answer. No, the IRS is not developing biometric extracting software.

The original proposal that led to the biometric extraction requirement included a provision where the mobile phone application used to submit a selfie could be used to track taxpayers. In particular: “The use of mobile phones is required in order for the applicant to complete the IAL2 identity proofing process. Mobile phones are used as a piece of identity evidence themselves and to capture additional identity evidence (*e.g.*, photo of government issued identification document). Geolocation can be gleaned from the Mobile Network Operators (MNOs) in the event of an investigation into a user.”⁴

Question. What is the IRS’s current position on capturing “additional identity evidence” through a taxpayer’s mobile phone?

Answer. We have investigated geolocation technology through various vendors; however, the IRS does not have a current position or plans for capturing this type of evidence.

Question. In FY 2021, the IRS received about 282 million telephone calls. During the same period, robo-calling services emerged allegedly using software to deluge the IRS phone lines in order for robo-call customers to “jump the line” and minimize their hold times.

Of the 282 million telephone calls, how many were robo-calls?

Answer. The IRS does not have a technology to definitively detect and/or deflect robo-calls. Until a technology solution is procured, the only tool the IRS has to assess robo-dialers is historical telephone data. Telephone data has its limitations. For instance, telephone data may show a call was answered and lasted 60 seconds, but it won’t know whether the IRS customer service representative (CSR) interacted with a human being or if the call was dead air (when no taxpayer paid to skip the line, or no company representative was available at the time).

Furthermore, the technology companies used to contact the IRS make a significant difference in our ability to detect and quantify their calls. Some organizations use older technology to contact the IRS and generally use one or two telephone numbers to reach us. These companies have higher call volumes and are easier to detect; others use newer technology which uses a variety of different telephone numbers to reach us, making it much harder to detect and quantify.

The IRS is in pursuit of technologies to help detect, quantify, and potentially block calls from robo-dialers in real-time. We anticipate having a technology solution in Fiscal Year 2023.

Question. Are robo-calls clogging IRS phone lines?

Answer. These calls can impact our service delivery if no one purchased the space in line or there’s no company representative available to handle the call when we answer. Customer Service Representatives (CSRs) lose valuable time asking whether someone is on the line and the call is a missed opportunity for other taxpayers attempting to reach the IRS. The systems cause competition for the limited resources the IRS uses to queue calls.

Question. Has the IRS contacted the Federal Communication Commission about its possible robo-call problem?

Answer. The IRS will explore this issue further with the Federal Communication Commission.

Question. Please provide your opinion about the degree robo-callers are affecting IRS telephone service.

⁴<https://www.irs.gov/pub/irs-pia/id-me-pia.pdf>.

Answer. Robo-calls have an impact on IRS call queues, but to what extent is unknown until new technologies are procured to help detect, quantify, and potentially block robo-calls.

We sought to counter these companies through various actions. We implemented Customer Callback (CCB) in 2020. The CCB solution gives taxpayers the opportunity to bypass waiting in queue to instead be contacted by the IRS when the next CSR becomes available. We believe offering a government opportunity to receive a call back, will deter taxpayers or tax professionals from paying for or using other sources to hold their position in line when calling. CCB tracks the taxpayer's place in line and places a call to the taxpayer which frees up the taxpayer to do other things while waiting for the callback.

We have expanded CCB to cover approximately 70 percent of our toll-free telephone demand. During Fiscal Year 2022, we have offered this option to more than 5.3 million taxpayers, with an acceptance rate exceeding 57 percent and a reconnection rate of more than 91 percent. We estimate a savings of about 1.7 million taxpayer hours related to these efforts. We plan to continue expanding callback with a goal of 95 percent of our demand provisioned for callback by Fiscal Year 2024.

We continuously pursue solutions to help distinguish calls made from organizations using some form of technology that can impact service delivery online or through our phone system. These tools require hardware and software investments. Securing funds to deploy the necessary hardware and software (targeting 2022 after Filing Season) would give us the opportunity to identify and block calls placed through auto-dialer technology.

Question. In your testimony you alluded to a substantial cost to the IRS of implementing 2D bar codes as described in the Taxpayer Advocate Directive. You also suggested, however, that the President's budget would include funds to implement the technology.

I was unable to locate any line-item reference in the President's budget that is focused on implementing 2D bar code technology.

How much would it cost the IRS to adopt this technology?

Answer. A caution about the expected benefit from bar codes and OCR is that tax law changes enacted by Congress shortly before the filing season begins or, as happened recently, during the filing season, increase the likelihood of errors. For example, IRS and software vendors' ability to respond and produce accurate forms may preclude timely inclusion of bar codes or QR codes, resulting in more submissions with unreliable codes.

To improve the efficiency and accuracy of processing paper tax returns, the IRS has had several projects ongoing for the past couple of years leading to the use of optical character recognition (OCR) or 2D barcoding. These projects are:

- **V-Coded Return Pilot.** A V-coded return is when the taxpayer used software to prepare the return, printed the return and mailed it to the IRS. Using a vendor, this pilot was designed to enable remote scanning and validation of Forms 1040 that are V-coded to be submitted using Modernized e-File (MeF). The goal is to accelerate this pilot so it will be scanning tax year 2022 Forms 1040 V-coded and Forms 940 and 941 in filing season 2023.
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it would work and report back to you with the results. In assessing the pilot results, the final costing would be dependent on the use cases and scope we would ultimately pursue.

In addition to pursuing scanning, we are also planning to make more forms available to be e-filed. We are also reviewing administrative policies to determine if changes are possible to make more people eligible to e-file.

We believe that a multi-faceted approach is necessary to address the paper inventory that the IRS receives yearly.

Question. By comparison, how much will the tax preparation industry need to spend in order to implement such technology?

Answer. The IRS does not know the costs the tax preparation industry would incur to add bar codes to certain paper returns taxpayers file with the IRS. The individual tax preparation companies would determine these costs.

Question. The IRS has hundreds of millions of dollars of unspent COVID-19-related funds specifically allocated to business systems modernization.

Can the IRS provide any reasons why these funds have not been utilized to implement 2D bar codes?

Answer. The IRS received \$1.46 billion from the American Rescue Plan, appropriations that expire on September 30, 2023, “for the administration of the advance payments, the provision of taxpayer assistance, and the furtherance of integrated, modernized, and secure Internal Revenue Service systems.” As of May 3, 2022, the IRS has obligated \$683 million: \$397 million to administer the third round of Economic Impact Payments and provide taxpayer assistance, and \$286 million for IT modernization. Of the remaining amount, the IRS has a robust plan in place to obligate the funding by the statutory deadline. The IRS will use \$430 million to address the unprecedented backlog of paper correspondence and paper tax returns that still need to be processed. The \$284 million remaining for IT modernization will be used to address cybersecurity and other critical ongoing modernization work.

The IRS has implemented a 2D bar code pilot. This pilot implemented using 2D bar codes to digitally intake data from Forms 8918 (Material Advisor Disclosure Statement) and Forms 8886 (Reportable Transaction Disclosure Statement). In December 2021 IRS released Form 8918 with 2D bar codes. Form 8886 was to follow with production of the 2D bar code form in March 2022. The IRS has received approximately 1,000 Forms 8918 to date of which 253 were on the old paper form and 837 on the new paper forms with 2D bar codes. However, only 78 percent of the 2D bar-coded paper forms received were able to be fully read into IRS systems requiring close and ongoing scrutiny of the data. Additional analysis is being performed to assess potential actions to reduce the error rate. Before the IRS can consider using 2D bar codes for Form 1040, we need to engage with the software industry to make updates to industry standards to align them with how we intake and process data. The industry would have to agree to provide such code in forms printed after using their software to prepare the tax return. We will start that engagement, develop a plan on how it would work and report back to you with the results. In assessing the pilot results, the final costing would be dependent on the use cases and scope we would ultimately pursue.

In addition to pursuing scanning, we are also planning to make more forms available to be e-filed. We are also reviewing administrative policies to determine if changes are possible to make more people eligible to e-file.

We believe that a multifaceted approach is necessary to address the paper inventory that the IRS receives yearly.

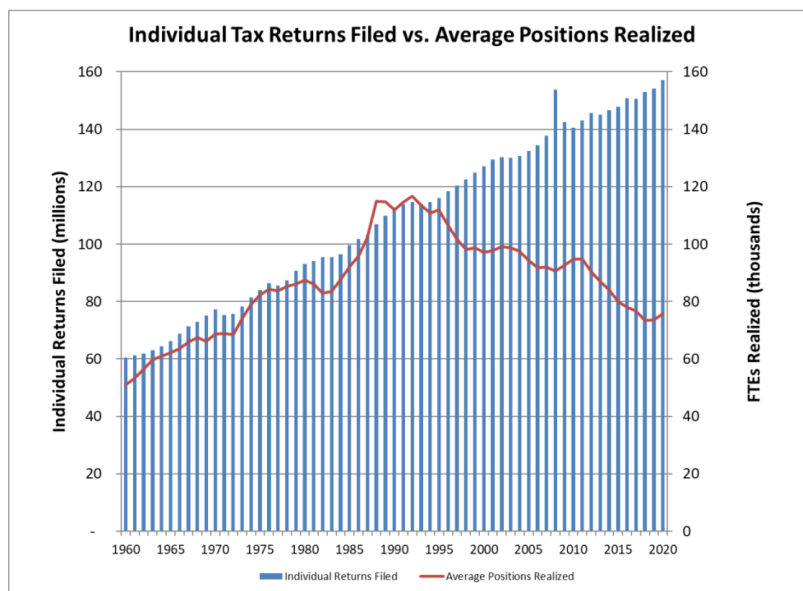
Question. During the hearing it was claimed that the IRS has the lowest headcount this year since 1974. Since 1974, however, there has been a multifold increase in worker productivity levels due to technological and human resources advances.

Have productivity levels with respect to IRS employees kept pace with general worker productivity trends?

If not, why not? If so, what is the utility of comparing the current IRS headcount with its headcount in 1974?

For example, does the IRS maintain that it needs to have a commensurate or better headcount in order to fulfill its mission, and if so, why?

Answer. The IRS is the primary source of funding for the United States government and collected more than \$4 trillion in gross taxes in FY 2021. We make it possible for the government to perform its vital functions and be effective on everything from education to defense. But as the past 2 years show, we have become more than a tax administration agency. We have effectively supported economic growth and recovery through issuing three rounds of Economic Impact Payments and 6 monthly Advance Child Tax Credit payments, while fulfilling our core mission, including delivery of two extended tax filing seasons. This unprecedented scope of responsibilities illustrates the significant role the IRS plays in the overall economic health of our country. Comparing the ratio of net revenue collected to cost of administration,⁵ the IRS is among the most efficient national tax administration authorities.



The IRS has become more productive since 1974, but the IRS's task has also grown significantly. For example, the number of individual returns has nearly doubled since 1974.⁶ IRS activities, and especially IRS compliance activities, are labor-intensive. Because of the nature of the IRS's work, fewer staff directly translates into reduced access to service and less enforcement activity, imperiling the foundation of taxation—voluntary compliance. The IRS must visibly enforce the tax laws to maintain high rates of voluntary tax compliance. For these reasons, I am concerned that low IRS staffing levels are harmful to the Nation's financial well-being.

In recent decades, the Nation's tax law has become more complex, the number of taxpayers has risen, and the size and complexity of the U.S. economy has increased significantly.⁷ The chart above shows the relationship between individual returns filed and IRS staffing levels. Since peaking in 1992, IRS staff has decreased to 1974 levels, while the number of returns filed continues to increase. To the extent that the IRS has been able to continue to fulfill its mission, this demonstrates improved

⁵The Organisation for Economic Co-operation and Development's Tax Administration 2021 document includes Comparative Information on OECD and other Advanced and Emerging Economies. The United States was among the 5 most efficient out of 59 countries on their Cost of Collection metric. Tax Administration 2021: Comparative Information on OECD and other Advanced and Emerging Economies. Read online (https://read.oecd-ilibrary.org/taxation/tax-administration-2021_cef472b9-en#page182).

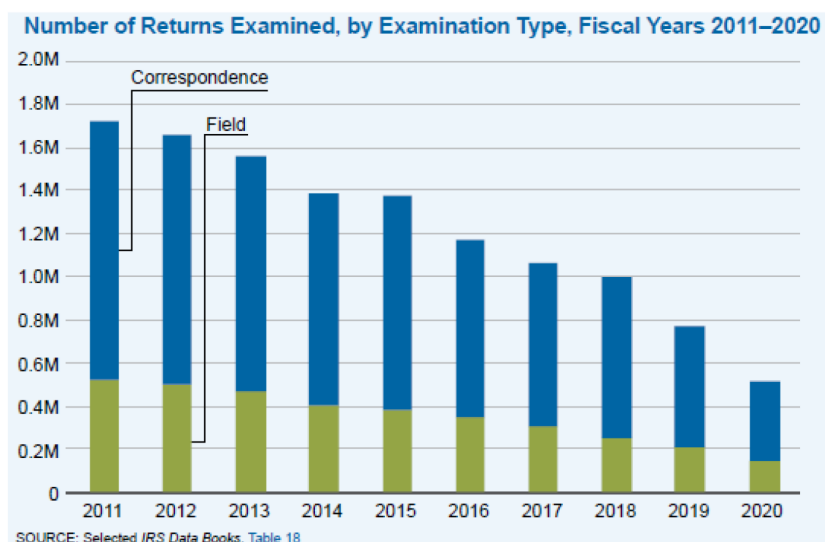
⁶Individual returns filed rose from 81.4 million in 1974 to 157.2 million in 2020.

⁷For example: gross tax collections rose from \$269 billion in FY 1974 to \$4.1 trillion in FY 2021, and U.S. GDP rose from \$1.5 trillion in FY 1974 to \$22.4 trillion in FY 2021—roughly a factor of 15 for each.

productivity. However, much of the IRS's work is inherently labor-intensive, and these reductions have come at a cost—see example below.

The IRS's productivity improvement is partially attributable to improvements in IRS technology, notably with electronic filing and online account services. But technology has experienced underinvestment also. Part of the administration's strategy to modernize the tax system is to address this underinvestment in IRS information technology.⁸

However, even with improved technology, IRS compliance activities involve manual steps. For example, the Automated Underreporter (AUR) system can automatically compare the details of a tax filing to independently reported information returns and generate notices when there are discrepancies. When this happens, taxpayers call or reply by letter to the IRS with questions and additional information. IRS needs sufficient staff to answer those questions and evaluate the information provided to fairly resolve any discrepancies. When IRS lacks the staff to respond to the anticipated correspondence, we purposely hold back on some AUR cases, knowing we won't be able to answer questions when the taxpayer calls.



Another example is examination—an inherently manual exercise. Examining tax returns, and especially complicated tax returns, requires corresponding with a taxpayer, reviewing their documentation, and assessing the appropriate tax liability. The IRS's ability to conduct these examinations is a direct function of the trained staff available. It is important to remember that, depending on the type of exams, these staff directly generate additional tax revenues of more than \$5 for every \$1 spent. This chart from the FY 2020 IRS Data Book shows the effect of dwindling staff on the number of returns the IRS was able to examine in the last 10 years. Put simply, fewer staff resulted in fewer audits.

While there is nothing inherently special about 1974, the comparison highlights how IRS staffing has failed to keep pace with the growth in the U.S. population and economy. I used that comparison to illustrate how our staffing levels have regressed significantly, to the detriment of the IRS's ability to fulfill its mission of helping taxpayers and enforcing the tax law.

Question. In the hearing, it was insinuated that a key problem the IRS faces with respect to its operating budgets is that spending bills are sometimes not passed on time and the IRS must operate under a continuing spending resolution (CR). Bear-

⁸The administration described the IRS challenges with compliance at length in a white paper: *The American Families Plan Tax Compliance Agenda.pdf* (<https://home.treasury.gov/system/files/136/The-American-Families-Plan-Tax-Compliance-Agenda.pdf>).

ing in mind that all agencies face similar pressures, what is unique about the IRS that makes operating in a CR challenging?

Additionally, there have been calls for multiyear funding for the IRS as a solution to the myriad of problems plaguing the IRS. Other agencies, such as the Social Security Administration, have likewise called for multiyear funding, which Congress has been highly reluctant to grant given that it removes (or diminishes) Congress's oversight power.

What is unique about the IRS such that it requires multiyear funding?

How large a factor does the IRS believe operating under a CR and/or not having multiyear funding is in terms of the IRS's ability to deliver on its mission?

Answer. This year's individual filing season started on January 24th and closed on April 18th. Through April 22nd, IRS processed nearly 134 million tax returns, issued nearly 89 million refunds—totaling more than \$267 billion, answered over 20 million calls (through live assistance and automation), provided face-to-face services to more than 434,000 taxpayers, and prepared over 2 million returns through our volunteer program. Operating under continuing resolutions (CRs) poses challenges to IRS operations, particularly in the Taxpayer Services account as we prepare for the Filing Season. A significant amount of the activity in this account occurs when most CRs occur, prior to and during the 3-month filing season that starts in January. In this respect, IRS is different from other agencies whose activities are more evenly spread over the fiscal year. Filing and account services—which currently make up more than one-third of IRS staffing—must be fully staffed and trained by the start of filing season. IRS begins planning as early as October prior to Filing Season to ensure we provide the service customers expect from the IRS. Each fall, IRS brings on thousands of customer service representatives who require several weeks of training to be fully ready to provide for taxpayer needs during the filing season.

IRS is a public-facing agency that directly interacts with and affects nearly every American taxpayer. Multiyear appropriations will allow IRS to carry over a planned amount of funding that would be available in addition to the funds allocated during the CR and provide IRS the ability to implement multiyear workforce planning and hiring, resulting in better service for America's taxpayers. Most hiring is a long process in a normal operating environment. Under a CR, hiring is put on hold due to funding uncertainty, leaving little time to proceed with hiring and spend labor dollars once a budget is passed. In addition, the IRS requires large government contracts that may need up to 9 months to bid and award before funding expires on September 30th. Multiyear funding would allow the IRS to implement its hiring plans and complex contracts uninterrupted throughout the year, positioning IRS to better meet the needs and expectations of taxpayers through improved levels of service and compliance efforts.

IRS's Business Systems Modernization appropriation is a good example of the power of multiyear funding. The 3-year account allows IRS to build complex IT modernization plans that span longer than the current fiscal year, because funding levels are known beyond September 30th. Inconsistent funding levels in our 1-year account mean plans need to be replanned when funding levels change, leading to both costlier projects and delays. IRS requires more consistent multiyear modernization funding to bring IRS processing into the modern age and away from paper.

Question. In our February hearing on IRS customer service issues, several witnesses made statements with respect to the particular budget allocations made by the IRS's budget request. Generally, the IRS's budget is allocated among four activity-based accounts: (1) taxpayer services, (2) enforcement, (3) operations support, and (4) business systems modernization. The requested funding level for each of these activities reflects an agency's priorities. Put simply, money is spent on the "important" activities, and the more funding one activity receives, the more important the activity.

With that as a backdrop, do you believe that the current IRS budget request demonstrates that the IRS's top priority is taxpayer service?

Answer. All initiatives in the IRS's FY 2023 Congressional Justification (CJ) are high-priority. Besides continuing our enforcement investments, IRS seeks to restore taxpayer services activities to a level America's taxpayers expect and deserve, while maximizing efficiency and productivity.

Our FY 2023 request highlights our urgent need to continue enhancing the taxpayer experience by providing services that help them meet their tax obligations

with minimal burden. Another high priority in our request is a proposal to improve congressional appropriations for support services that house, hire, and equip IRS employees. We propose to allocate mission support costs back to the mission appropriations—Taxpayer Services and Enforcement—so that when Congress seeks to provide resources to the IRS, you are funding both the labor and the support costs that make taxpayer services or enforcement activities possible.

Funding Taxpayer Services is critical to successfully delivering on our tax administration mission, and remains a high priority. Using the appropriated FY 2022 funding level that was not available when the administration submitted the Congressional Budget Justification, the IRS budget request increases the Taxpayer Services funding level by 21.8 percent compared to our overall requested increase of 12.0 percent. This increase in funding, along with the supporting costs required in Operations Support for telecommunications, laptops, etc., will allow us to dramatically increase Taxpayer Services by answering 85 percent of incoming phone calls, fully staffing our walk-in sites, keeping current with incoming paper correspondence and paper returns, and providing the type of taxpayer service that Americans deserve and expect. Requesting the largest funding increase for Taxpayer Services demonstrates that the IRS considers those activities essential to our mission, and among our highest priorities.

Question. The centralized partnership audit regime is designed to streamline IRS enforcement for partnerships subject to its rules, including the largest and most complex partnerships which may not opt out of the regime. In its March 17th report on the IRS's implementation of the centralized partnership audit regime, TIGTA identified that with respect to the hundreds of examinations conducted by the IRS under this regime between 2016 and 2019 just over 78 percent of the examinations overall resulted in no change to tax liability (79 percent when focused solely on the audits conducted by the IRS large business and international division on the very largest and most complicated partnerships). Stated differently, just under 22 percent of these audits overall identified any potential noncompliance. With respect to audits focused on the very largest and most complex partnerships, no change rates have increased year-over-year since enforcement under the new regime began. Stated differently, IRS-identified potential noncompliance by these partnerships has decreased year-over-year since the regime was enacted, including a zero percent identified noncompliance rate in 2019.

Further, TIGTA identified that the IRS on average spent nearly 25 percent more time working a “no change” audit under this regime than it spent working a case with the next most time-consuming type of disposition.

There are a number of conclusions that could potentially be drawn from these statistics. TIGTA recommended that the IRS take specific measures to decrease the high no-change rate. Such recommendations would ultimately redirect IRS resources to where they are most effective. The IRS disagreed with two out of the three recommendations.

Given the “no change” data TIGTA highlighted in its report, isn't it prudent to better understand where the IRS should best devote its finite resources in selecting centralized partnership audit cases?

Answer. We agree it is prudent to better understand where the IRS should devote our finite resources. As we explained to TIGTA, we do not select returns based on the audit procedures to which a return would be subject. We select our work based on the tax compliance risk of each partnership tax return.

There are several efforts underway specifically dedicated to improving our efforts to identify partnership compliance risk. For example, we recently launched the Large Partnership Compliance program (LPC) to identify risk on the largest and most complex partnerships. We've undertaken form improvements to gather better data and are updating our case selection models. Also, to support our efforts to improve how we audit partnerships, we've recently completed a partnership-focused hiring initiative that increased staff to both the subject matter experts and field agents who examine these returns. We have begun a second round of partnership-focused hiring.

The high no change rate TIGTA reported was based on the early results of partnership returns subject to the newly implemented audit procedures under the Bipartisan Budget Act. TIGTA's report does not include the results of closed examinations for existing partnership audit procedures under TEFRA or deficiency procedures. In addition, we explained that generally, the first cases to close for each tax year are those that are not changed. It can take several years to close partnership returns

where we are developing complex issues. Based on prior experience, we anticipate that the final no change rate will be lower.

Question. In its March 28th report on so-called lien foreclosure collections actions,⁹ TIGTA identified that with respect to primary residences—that is, a taxpayer’s home—the IRS used lien foreclosures far more often than it did comparable levy collection actions, 88 percent of the time to 13 percent. As you know, levy collection actions provide affected taxpayers many rights and protections that lien foreclosures do not. TIGTA recommended that the IRS work with Treasury to develop a legislative proposal to ensure that the protections applicable to levy collection actions are likewise available for lien foreclosures.

The IRS disagreed with this recommendation, arguing that lien foreclosures adequately protect taxpayer rights despite lacking many of the taxpayer-friendly features of levies (such as full, as opposed to limited, judicial review). The IRS also noted that in any case making these changes would benefit few taxpayers.

I’m somewhat concerned with this response. There are a variety of circumstances where the IRS believes lien foreclosures should be utilized, including situations where the statute of limitations for collections actions is fast approaching. Troublingly, on this point TIGTA identified that often IRS delays in either working the collection action—or worse still, delays in the case being picked up by IRS collections in the first instance—at least contributed (if not caused) the looming deadline.

Does the IRS have any substantive objections to taxpayers being provided the same rights and protections in lien foreclosures that they have with respect to levies?

Answer. Taxpayers are offered similar protections with a lien foreclosure as with an administrative seizure. While these tools serve different purposes and are used in different circumstances, the IRS forecloses a lien on a principal residence only as a last resort, after taxpayers are offered numerous opportunities to resolve their tax liabilities. Taxpayers are afforded numerous rights and protections throughout the foreclosure process, prior to and during litigation. For example, Collection Due Process rights are granted with both enforced levy action and Notice of Federal Tax Lien filings.

The IRS provides administrative protections in lien foreclosure cases. Federal law protects taxpayer rights through a neutral third-party, a district court, with broad equitable powers to review the merits of all claims before ordering a sale.¹⁰ Before initiating foreclosure on a principal residence, the IRS must consider the same precautions as those required for seizures of principal residences. Specifically, the IRS must attempt to contact the taxpayer and consider other payment options. Also, when the taxpayer indicates that foreclosure on a principal residence may create economic hardship, the IRS must consider the taxpayer’s ability to secure future housing, assist the taxpayer in completing the Taxpayer Advocate Service (TAS) assistance request, and forward the request to TAS. These actions occur prior to recommending a foreclosure suit on a principal residence to the Office of Chief Counsel and the Department of Justice.

The IRS cannot administratively levy and sell a principal residence where the tax liability belongs to one of multiple owners, if the person liable for the tax debt has only a beneficial interest in the property or, where the person liable for the tax fraudulently transfers the property away. These reasons are the most likely cause for pursuing foreclosure on a principal residence.

A court must resolve who has what interest in the property. Although taxpayers do not have a right of redemption in the lien foreclosure process, we have seen only about 5 percent of taxpayers take advantage of the right of redemption in the levy process. Further, the possibility of redemption lowers the sale price of the property in the levy process. Consequently, lien foreclosures result in more tax liability being satisfied, benefiting both the taxpayer and the United States.

Question. Particularly given the role the IRS itself has to play in some instances in the need to use a lien foreclosure at all, does the IRS agree it would be a more “fair” outcome for taxpayers to have those same protections regardless of the collections approach?

Answer. As TIGTA’s audit report acknowledged, the IRS reviewed the imminent collection statute expiration date (CSED) lien foreclosure cases. Based on our re-

⁹ <https://www.treasury.gov/tigta/auditreports/2022reports/202230026fr.pdf>.

¹⁰ *United States v. Rodgers*, 461 U.S. 677 (1983).

view, we implemented steps to improve our processes in imminent CSED cases. To avoid missing time frame deadlines, we agreed to remind our employees to take timely actions in these cases and reassign cases when practicable.

When enforcement action becomes necessary, we evaluate a variety of factors and circumstances to determine the most appropriate course of action. We use the appropriate collection device based on the facts of each case. Despite the difference in processes, the IRS has policies and procedures for each collection tool to ensure taxpayers' rights are protected.

The IRS's mission is to provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities, while applying the tax law with integrity and fairness to all. We strive to comply with the law and protect taxpayer rights throughout the collection process, including cases requiring administrative seizure or lien foreclosure.

Question. Does the IRS agree that the implementation of the Schedules K-2 and K-3, including complicated instructions such as the January 18th and April 12, 2022 updated FAQs, as well as the lack of a timely e-filing option, is making (and has made) this filing season more difficult than it needs to be?

As further background for this, National Taxpayer Advocate Erin Collins called paper the IRS's kryptonite, and there is currently a tremendous backlog of tax returns and correspondence. Notwithstanding, the IRS decided to push out two complex 39-page schedules that are possibly required to be filed by millions of pass-through entities. There is no statutory mandate to implement these forms *for this tax filing season*. Despite considerable discussion in the tax community, many practitioners continue to wonder:

Who of my constituents has to actually file these forms?

Whether the IRS will accept these forms in an electronic format?

As you are aware, in some instances my constituents are being required to manually pull their financial data and handwrite the information to properly complete these schedules.

How is this prudent for the American public?

Answer. The Schedules K-2 and K-3 replaced existing required reporting on the Schedules K and K-1 and attached statements and footnotes. The Schedules' standardized reporting format will clarify reporting obligations for partners and flow through investors, ultimately easing flow through return compliance.

The Schedules K-2 and K-3 are completed by flow through entities that have relevant international items, as provided in forms, instructions, and FAQs. See specifically FAQs 1-4 for additional background on the benefits and reasons for the Schedules K-2 and K-3. The IRS has taken steps to limit and clarify filing and reporting requirements suggested by taxpayer comments and feedback. See specifically FAQ #15. Completion and filing Schedules K-2 and K-3 does not impact or relate to the IRS's backlog issues. Flow through entities have been filing the Schedules K-2 and K-3 via PDF without issue. In addition, the MeF/XML filing capability for the Form 1065 became available on March 20, 2022. Finally, Notice 2021-39 provides penalty relief to those who make a good faith effort to comply with the new schedules for tax year 2021.¹¹

Question. I understand that the IRS will be releasing a new estimate of the tax gap this summer.

Will your estimate focus on ways to better understand the various factors that contribute to taxpayer errors and omissions, particularly on tax returns that are completed by individual income tax filers?

Answer. The methodology for the new TY 2014-2016 tax gap estimates is similar to the approach used for our prior estimates. The tax gap methodology reports estimates by type of tax (*e.g.*, individual or corporate) and whether the gap is the result of nonfiling, underpayment or underreporting. The data underlying the tax gap analysis is not granular enough to identify factors contributing to taxpayer errors and omissions. As part of our tax gap estimates, we publish individual income tax underreporting tax gap amounts. We also use the net misreporting percentages for certain line items from the individual income tax return. Outside of the tax gap

¹¹ See FAQ #10 and IRS Notice 2021-39, <https://www.irs.gov/pub/irs-drop/n-21-39.pdf>.

framework, IRS has ongoing research to better understand line-item anomalies that may provide insight into factors contributing to errors and omissions on returns.

Question. For example, will the study include an analysis of tax errors and/or fraud by method of preparation, such as those using an unregulated preparer?

Answer. The current tax gap estimates do not include an analysis of errors or fraud by method of return preparation. This type of analysis may be conducted in the future, depending on agency priorities and resource availability.

Question. Do you agree that trying to determine which methods of filing are subject to greater rates of error and/or fraud could have value as Congress and the IRS formulate new approaches to close the tax gap?

Answer. The IRS agrees that determining which methods of filing are subject to greater rates of error and/or fraud is valuable for formulating new approaches to address noncompliance. One study the IRS conducted focused on the overclaim rates for refundable tax credits by tax preparation method. In general, this research shows the overclaim rates on returns done by paid preparers are slightly lower than self-prepared returns. Further research would need to be conducted to determine root causes for the overclaim rates.

Question. Does the IRS believe that so-called “ghost preparers” contribute to the tax gap and if so, is the IRS aware of how much they do?

Answer. The IRS uses the term “ghost preparers” to refer to individuals who complete tax returns on behalf of their clients without providing the required information to indicate the return was prepared by someone other than the taxpayer. Prior research and worked cases show that ghost preparers frequently add overstated or fraudulent credits to tax returns to inflate the refunds issued to the taxpayers, while usually not including the compensation the ghost preparer received for preparing the return. One ghost preparer can be responsible for the submission of hundreds of bad returns. In some cases, the fraud is unknown to the ghost preparer’s clients. To that end, ghost preparers can contribute to the tax gap in various ways including: failing to report or underreporting income earned from any return preparation; filing fraudulent returns that yield refunds; and claiming deductions that the taxpayers are not entitled to claim.

The IRS continues to refine our processes and develop tools to identify ghost preparers and the returns they prepared. The IRS uses data and research methods to identify commonalities and shared characteristics of ghost preparers. Although we can stop a large percentage of suspicious returns using filters, the size of the ghost preparers’ contribution to the tax gap cannot be confirmed. The IRS has initiated a research study to help identify ghost preparers with preliminary results expected in FY 2023. Leveraging these results, the IRS will test potential enforcement treatments in FY 2023 and 2024.

Question. Does the IRS currently possess data that could shed light into how these ghost preparers are able to circumvent the current rules and regulations?

Answer. There are minimal rules and regulations for Federal tax return preparers related to the preparation and submission of tax returns. To prepare a return for compensation, the preparer must be 18 years old and have a valid Preparer Tax Identification Number (PTIN). Paid tax return preparers must include their PTIN on taxpayer returns.

Ghost preparers generally fail to provide any or all of the required identification information in the paid preparer block on the taxpayer’s return. The taxpayer’s return appears to be self-prepared. There may be indicators that the return was not self-prepared, but the return belongs to the taxpayer, not the preparer. Unless there are specific indicia of fraud on the return, the IRS must process the taxpayer’s return as there is no requirement that a taxpayer use a paid preparer or report to the IRS that a paid preparer was used in the completion of the return.

Ghost preparers often use commercially available software or file the returns on paper. While using these filing methods makes it difficult to distinguish between legitimate taxpayer-filed returns and ghost-prepared returns, some ghost preparers use repeating patterns. By searching for these patterns in the data, the IRS has been able to find certain returns that appear to have been created by ghost preparers.

Question. Do you agree that this tax gap estimate, and future tax gap estimates, should attempt to quantify how ghost preparers impact the tax system and specifically the tax gap?

Answer. Compliance studies outside of the framework of the tax gap methodology are a better approach to quantify the impact of ghost preparers on the tax system because they would yield more detailed information, allowing for a better understanding of the scope of the problem and identification of potential mitigations to the problem. That said, regulation of paid tax return preparers would provide the most benefit to the tax system and may have a comparable impact on the tax gap. A more competent tax return preparer community allows the IRS to better distinguish preparers in need of additional outreach and education from preparers intent upon defrauding the tax system and to apply the appropriate resources accordingly. Without greater oversight of paid tax return preparers, the impact of ghost preparers on tax administration and the tax gap will continue to be a non-specific estimate.

Question. Will the IRS accept the National Taxpayer Advocate's recommendation to exercise its authority under section 7508A to postpone the 2-year period for filing a refund suit in a U.S. district court or the Court of Federal Claims for up to 1 year for all notices and claim disallowances mailed within the last 2 years? If not, why not?

Answer. This would be novel application of the IRS's authority under section 7508A. In a typical disaster relief situation, the IRS can postpone the time for filing a refund suit if taxpayers are affected by a federally declared disaster. In this situation, the IRS is affected by a disaster in the sense that pandemic-related backlogs could delay our ability to administratively process taxpayers' cases before the 2-year period to file a refund suit expires. There is no federally declared disaster preventing taxpayers from timely filing refund suits to protect their rights, and taxpayers do not need to wait for the IRS before doing so. Taxpayers who filed a timely claim for a refund but haven't received a written response from the IRS within 6 months can file suit in the appropriate district court or the Court of Federal Claims. The National Taxpayer Advocate's recommendation to apply section 7508A in this manner is not something the IRS has previously contemplated and would require Treasury approval.

QUESTIONS SUBMITTED BY HON. ROBERT MENENDEZ

Question. Over the past 20 years, the IRS has provided an administrative waiver of penalties, including for late-filing penalties, late-payment penalties, and failure-to-deposit penalties, to taxpayers who have been tax compliant for the previous 3 years or who have not previously been required to file a return. This procedure is referred to as "first-time abatement." This is an important tool for taxpayers who have an isolated filing or payment compliance issue, but it can only be used once every 3 years. Reasonable cause penalty waivers, on the other hand, are granted based on a facts-and-circumstances test where taxpayers spell out their situation and try to prove how they exercised ordinary business care and prudence. In 2020, when taxpayers and their advisers were struggling with COVID-related health issues, new childcare arrangements, and work concerns, tax practitioner groups argued that reasonable cause penalty relief should be based on COVID impacts and that the IRS should consider a special one-time COVID-related first-time abatement. As this tax filing season continues, millions of unprocessed pieces of taxpayer correspondence remain and most taxpayers are unable to reach the IRS by phone.

Are you considering allowing taxpayers to qualify for "reasonable cause relief" due to the impacts of the pandemic and backlog? If so, would the IRS implement such relief in a way that would ensure taxpayers are not required to request relief by writing to the IRS?

Answer. On August 24, 2022, the Internal Revenue Service issued Notice 2022-36 granting penalty relief to most people and businesses who filed certain 2019 or 2020 returns late.

The IRS is also taking an additional step to help those who paid these penalties already. Nearly 1.6 million taxpayers will automatically receive more than \$1.2 billion in refunds or credits. These payments were completed by the end of September.

This relief applies to forms in both the Form 1040 and 1120 series, as well as others listed in Notice 2022-36. To qualify for this relief, any eligible income tax return must have been filed on or before September 30, 2022.

Question. The IRS has faced longstanding challenges in its hiring capabilities due to pandemic-related challenges and competition with the private sector. You noted

that the IRS is seeking to hire for 5,000 vacant positions this year and that the IRS has made 2,500 conditional offers. However, the agency has fallen short of this goal, only hiring about 3,805 new employees to date. Your testimony did not distinguish between the two categories of jobs the IRS is seeking to fill to reduce the backlog: submission processing and accounts management. According to the National Taxpayer Advocate, Erin Collins, submission processing positions are considerably more difficult to fill as employees must reside near one of the IRS submission processing centers in Ogden, Kansas City, or Austin, and are not eligible for remote work. Even with the recently secured direct hiring authority, the IRS still faces systemic barriers to hiring employees, compounded by the fact that 52,000 employees are expected to retire or leave the agency over the next 6 years.

Can you provide a breakdown for the submission processing and accounts management positions the IRS is seeking to fill, and how many positions in each respective category have been filled thus far? Accordingly, how does the IRS plan to hire for these more difficult to fill submission processing positions? Does the IRS's hiring strategy for in-person positions differ from easier-to-fill accounts management positions?

Answer. Since March 2022, the IRS's hiring strategy has focused on filling 5,000 Clerk and Tax Examiner (TE) positions for Submission Processing for FY 2022. As of August 31, 2022, Submission Processing has filled 2,987 Clerk/TE positions (*i.e.*, applicants have accepted firm job offers or have onboarded). In addition, 1,428 applicants accepted tentative offers and are in the onboarding process. To help fill additional positions to meet the Submission Processing goal, the IRS held Direct Hiring events in Austin (March 24th/25th, May 11th/12th and June 21st/22nd), Ogden (March 31st/April 1st, May 25th/26th and June 29th/30th), Kansas City (March 18th/19th and June 7th/8th), Philadelphia (August 10th), Memphis (August 18th), and Brookhaven (August 25th).

Hiring for 5,000 Customer Service Representative (CSR), Clerk, and TE positions in Accounts Management began in June 2022 in preparation for the FY23 Filing Season. As of August 31, 2022, Accounts Management has filled 3,503 positions. In addition, 4,129 applicants accepted tentative offers and are in the onboarding process. Direct Hiring events began in June 2022 and were held in Andover (June 1st), Atlanta (June 2nd/3rd), Philadelphia (June 14th and August 10th), Fresno (June 16th/17th), Cincinnati (June 22th/23th), Memphis (August 18th), Guaynabo, PR (August 19th), and Brookhaven (August 25th). Applicants began onboarding August/September 2022 (CSR) and into October 2022 (Clerks/TE).

Question. You have stated on multiple occasions that the IRS will be "healthy" by the end of calendar year 2022. When discussing taxpayer customer service with Senator Toomey, you state that "healthy" is viewed in the eyes of the taxpayer. You also mention that historically, the target has been around 70 percent in terms of level of telephone service.

Could you define what you consider to be a "healthy" amount of backlog at the IRS? Please specify what the threshold is for number of outstanding returns and pieces of taxpayer correspondence that adheres to your standard for a "healthy" agency.

Answer. While addressing unprecedented backlogs of correspondence and unprocessed paper returns, the IRS delivered a successful 2022 filing season processing over 140 million individual returns and issuing over 96 million refunds for over \$292 billion thru May 20, 2022.

Healthy projected inventories vary by function. In our Submission Processing function, healthy inventory for individual paper returns waiting to be processed is about 100,000; business paper returns waiting to be processed is about 500,000; returns in our Error Resolution System, Rejects, and Unpostables is about 900,000; and Form 1040-X amended returns is about 30,000. In our Accounts Management function, healthy inventory would be about 1,000,000, which includes amended individual 1040-X returns, amended business returns, tentative net operating loss carryback claims, individual and business general correspondence, and internal account maintenance.

To achieve this goal of getting healthy, we created surge teams of experienced employees to focus on reducing the volume of paper returns and correspondence. Additionally, we are concentrating on hiring 10,000 new employees, using direct hiring authority, and holding job fairs, as well as offering financial incentives. We are also developing and improving automated tools to better manage our resources and as-

sist taxpayers, such as voice and chat bots, and a new automated tool that is closing error resolution cases.

QUESTIONS SUBMITTED BY HON. JOHN BARRASSO

Question. Many of the issues the IRS currently faces, such as the paper backlog, slow processing times, and errors, are a result of the number of paper returns the IRS receives. Decreasing the amount of paper filings could alleviate some strain on the IRS's resources and result in better service for taxpayers.

Despite the many incentives to file electronically, a good number of paper filings occur because the IRS does not accept some forms in digital format. Some forms cannot be e-filed. Even among those forms recently converted to digital, some are still manually processed. For example, in 2021, the IRS received 3.6 million amended individual tax return forms. If the IRS could automatically process these 3.6 million forms, processing delays would be significantly decreased.

What is the agency's plan for expanding electronic forms and electronic filing?

Answer. All IRS forms are available electronically, but not all forms can be filed electronically. Generally, electronic filing helps reduce errors and speed processing. Nearly all individual tax returns are available to be filed through the Modernized Electronic Filing (MeF) system. A small number of forms remain paper based. Adding these paper-based forms to the existing technology platform (Modernized eFile) requires funding. If fully funded, the IRS could dedicate the necessary resources to modernizing the Individual Master File and providing more digital options. Generally, the IRS considers which forms are the best candidates for MeF based on their volume and the ongoing cost of development and maintenance. Almost 94 percent of individual tax returns were filed electronically in FY 2021.

Along with the funding requested in the President's FY 2023 budget request, we are also asking for Congress's help with legislation in several important areas to improve tax administration, including expanded authority to require electronic filing for forms and returns. The proposal requires electronic filing for taxpayers reporting larger amounts or complex business entities meeting certain thresholds. The Secretary would also be authorized to determine which additional returns, statements, and other documents must be filed electronically to ensure efficient administration of the internal revenue laws without regard to the number of returns that a person files during a year.

The IRS continues to add new electronic forms and increase the availability of electronic filing for taxpayers. Funding and resources drive IRS priorities and determine the scope of electronic forms that can be completed in any given year. We are working on a solution for external stakeholders to submit web-based, adaptive forms to improve the taxpayer experience and streamline internal processing of forms that are currently only available for paper filing. These adaptive forms will generate 2D bar codes for stakeholders that choose to print and mail them, to allow faster and more accurate electronic data conversion.

Question. The IRS began the 2021 filing season with roughly 8 million unprocessed taxpayer returns from 2020, a number substantially higher than previous years. While the IRS was facing this large backlog, Congress passed the American Rescue Plan Act during the middle of last year's filing season.

The bill required the IRS to implement major new policy changes and greatly expanded its role beyond that of a revenue collection agency. It required the IRS to do all of this during the middle of a filing season while still working out from under the backlog of 2020. This delayed refunds for people who were just trying to follow the law and pay their taxes.

Can you identify the challenges created by such changes during the middle of the filing season and the impact they have on taxpayers?

Answer. The IRS is an administrative agency and will take steps to deliver whatever is asked of us. If Congress enacts legislation, IRS employees will move quickly to implement it, as we did with major provisions of the Coronavirus Aid, Relief and Economic Security Act, COVID-Related Tax Relief Act of 2020, and the American Rescue Plan Act.

The combination of the pandemic, new tax laws and numerous other factors led to an unprecedented amount of unprocessed tax returns and correspondence remaining in the IRS inventory during 2021.

Passing sweeping legislation in the middle of the filing season, especially one in which a global pandemic, has driven historic taxpayer demand, creates serious challenges to our front-line employees. Most of our yearly employee update training occurs prior to the filing season starting and late legislation cannot be immediately implemented by the frontline IRS employee as it must first be translated into procedures for employees to follow. Once procedures are created, training must be developed and delivered while systems are being updated for use. The extent of the changes needed are dependent on the complexity of the legislation.

With the current backlogs of inventory and the level of service on our toll-free lines, many taxpayers have been unable to get an appointment and have chosen to walk into the Taxpayer Assistance Centers (TACs) which creates challenges for our TAC staff. We had an approximately 200 percent increase in appointments scheduled for filing season 2022 compared to filing season 2021.

From a tax forms and publishing standpoint upon enactment of COVID-related legislation, like the American Rescue Plan Act, we had to immediately send messages to taxpayers and software companies about how to use existing forms to claim the unemployment exclusion, and how to report on returns the Suspension of Repayment of Excess Advance Payment of the Premium Tax Credit (PTC). We had to retroactively update our instructions for tax year 2020, after we had already started updating tax year 2021 products. 2021 forms had to be updated to reflect all the new provisions, which was a significant undertaking, and then undo those changes because most were only for one tax year. This led to instructions and publications being delayed for release to printing and electronically for taxpayers.

The IRS pursued significant actions during the 2021 filing season to address the return and correspondence inventory. Due to resource limitations and numerous unique factors tied to new legislation and the pandemic, we entered the 2022 filing season with a significant inventory of unprocessed returns and correspondence.

We continue to balance multiple unprecedented demands, including continuing the filing season and work on important new tax provisions. We remain focused on numerous taxpayer-related issues, and we have pursued innovative ideas and processes not previously deployed by the IRS to make improvements to the current inventory and provide meaningful taxpayer services.

QUESTIONS SUBMITTED BY HON. SHERROD BROWN

Question. In 2021, more than 2,800 VITA sites—many still dealing with the ongoing ramifications of COVID-19—prepared nearly one million returns generating more than \$1.7 billion in refunds to lower-income families. Impressively, VITA sites maintained a 96-percent accuracy rate—the highest in the industry.

Still, there is room for this model private-public partnership to grow. Our office, along with other Senate offices, are pushing to increase VITA funding from \$30 million in FY 2022 to \$45 million in FY 2023. Funding VITA at \$45 million would help programs grow tax credit outreach, increase capacity to file virtual returns, and build needed support of low-income tax filers due to decreased IRS capacity.

What additional steps is the IRS taking to increase the good work and efficiency of this critical program?

Answer. While the IRS would be grateful to receive additional Volunteer Income Taxpayer Assistance and Tax Counseling for the Elderly (VITA/TCE) funding, we also need additional funding for infrastructure improvements and additional staffing. Increasing grant funding without a corresponding increase in staff may be challenging.

The IRS continues to focus on the growth of the VITA/TCE programs. In response to the pandemic, we offered VITA/TCE partners alternatives to the preferred face-to-face tax preparation service model, including drop off/pick-up, combination (in-person and virtual) and 100-percent virtual. These alternative service options will continue to be available to VITA/TCE partners to serve their communities. Approximately 9,000 VITA/TCE sites provided free tax preparation services during Filing Season 2022, filing slightly more than 2 million returns with a 96-percent accuracy rate. Additionally, the IRS implemented a more streamlined volunteer recruitment process. Potential volunteers can go through the *IRS.gov* portal to attend one of multiple volunteer orientation sessions. The volunteers are then paired with a partner/site in their local community.

Question. Revenue Procedure 2022-12, authorizing simplified filing for TY 2021, mentions the EITC, but requires filers to provide their W-2 data in order to claim the credit. Why are simplified filers required to provide this data, when the IRS already receives W-2 data from employers, and low-income populations struggle to access their tax documents? Specifically, why is it not possible to calculate EITC payments later in the year, after the initial crunch of tax season, and issue EITC as plus-up payments in a batch job later in the summer or the fall—much like the IRS issued plus-up EIPs throughout 2020? What resources would it take for the IRS to do such automation?

Answer. Unlike the Economic Impact Payments (EIPs), the Earned Income Tax Credit (EITC) has an earned income requirement, in addition to other eligibility requirements (with respect to qualifying children and otherwise) to which a taxpayer must attest when claiming the EITC on the return. Unlike the EITC, the EIP required the IRS to make advance payments and specifically authorized the IRS to rely on information in prior year returns. While the IRS could, in theory, estimate the taxpayer's earned income and adjusted gross income from the filer's W-2 information to adjust the amount of EITC claimed on a return and make a "plus-up" payment based on W-2 information not reported on the return, such a program could lead to improper payments of the EITC because the W-2 information submitted to the IRS may not provide a complete picture of the taxpayer's earned income and adjusted gross income. The IRS must calculate separate totals to determine both credit eligibility and the correct credit amount.

Other items of income, such as gig income, may not be reported to the IRS. Even gig income and other non-employee compensation reported to the IRS by third parties can't just be added to earned income because the amount reported is a gross payment that does not take into account any offsetting expenses that offset the payments if included in gross income and earned income. Including gross amounts of gig economy and other non-employee compensation payments may result in inflated self-employment tax liabilities for the taxpayer.

Additionally, the IRS currently notifies taxpayers who appear eligible for EITC and fail to claim it on their return. These taxpayers will generally receive a CP 09 or CP 27 Notice inviting them to submit their information to determine eligibility for the EITC. The taxpayer must claim the EITC so that they can attest to the fact that they both qualify for the credit (for example, that their qualifying children satisfy the relationship and residency requirements), and that they want to receive the refundable credit, in addition to establishing the earned income and other computational requirements for EITC. Further, some taxpayers intentionally decline to claim the EITC despite meeting the eligibility requirements, due to religious objections or other sincerely held beliefs.

Question. When during the year does the IRS have W-2 data available for use? When during the year does the IRS begin using its W-2 data for enforcement actions? When during the year does the IRS have 1099 data available for use? When during the year does the IRS begin using 1099 data for enforcement actions, or for the Automated Underreporter Program?

Answer. The Protecting Americans from Tax Hikes (PATH) Act of 2015 accelerated the due date of the Forms W-2 and the Form 1099-MISC for non-employee compensation to January 31st. The IRS starts receiving the Forms W-2s from the Social Security Administration (SSA) in early January. The information is provided to the IRS within days of receipt at the SSA. The Form W-2 information is consumed by IRS systems, including the Return Review Program (RRP), and available for our identity theft and non-identity theft filters. During the filing season, the IRS consumes Form W-2 information on our systems daily. We leverage the earlier availability of Form W-2 data to systemically verify information reported on taxpayers' returns against third-party information reporting daily and release the returns that verify.

In a pre-refund environment, using the Form W-2 reduces improper payments and reduces taxpayer burden, if the income reported on the return matches the information reported by the employer. The refunds are released once the wages/withholding are verified. The IRS leverages the Form 1099-Miscellaneous for non-employee compensation or the Form 1099-NEC as an indicator the taxpayer is acting as an independent contractor or self-employed. This information reduces the risk that a taxpayer may submit a false or bogus Schedule C to claim refundable credits to which the taxpayer may not be entitled. If there is withholding included on the Form 1099, the withholding will be verified. If there is an unresolved discrepancy within tolerance, the taxpayer may be contacted with a proposed adjustment to in-

come, withholding, and/or refundable credits in our Automated Questionable Credit Program or Withholding Only claim disallowance program.

Both W-2 and Form 1099 data become available in late July for post processing compliance. This is when the Automated Underreporter Program begins the process of matching filed tax returns to information returns, such as the W-2 and Forms 1099 series. This is also the time when the data is available for field examiners for use in their open audits.

Question. The IRS has implemented a procedure to automatically correct EIP3 and advance payment amounts reported by taxpayers.

When was this process implemented?

Answer. The tool was released and started live production on January 18, 2022.

Question. How does this process work, and how quickly does it make corrections?

Answer. Incoming electronic returns are sorted according to the errors specified in the tools programming, known as FixERS. Those returns are processed through the FixERS tool which resolves the errors using return information and IRS records. The program assigns a code resulting in a letter sent to the taxpayer explaining the automated corrections to the tax return. The tool processes electronically filed returns at an approximate rate of 1,000 returns per hour.

Question. Are there any situations in which the automated process does not work?

Answer. There are cases that the FixERS tool can't resolve. When the tool encounters a return that exceeds the boundaries of its programming, it refers the return for manual review.

Question. How frequently and why?

Answer. Approximately 3 percent of electronically filed returns processed through the FixERS tool are not resolved by the tool due to additional errors found on the return exceeding the boundaries of the FixERS programming. The 3 percent are suspended for manual review.

Question. Has this process been communicated to taxpayers?

Answer. General tax return correction processes and procedures (*i.e.*, Internal Revenue Manuals) are available to the public on *IRS.gov*.

In addition, I publicly shared use of the automation tool with the House Ways and Means Oversight Subcommittee on March 17, 2022 during my testimony on the 2022 filing season.,

Question. If the amounts are automatically corrected, why are taxpayers still required to report their own advance payment amounts?

Answer. The American Rescue Plan Act, subtitle G, Part I, 2021 Recovery Rebates to Individuals, and Part II—Child Tax Credit, allows advance refunds of the Recovery Rebate Credit and Child Tax Credits as credits against income tax.

Adjusted gross income (AGI), and dependents used for eligibility and calculation of total tax and credits the taxpayer reports may differ from information in IRS records. Additionally, the taxpayer may experience life changes not known to the IRS at the time of the advance payment, such as a marriage or birth of a child.

Question. Can the IRS similarly use automation to utilize other data held by the agency, including income data for purposes of calculating credit amounts?

Answer. We are exploring areas of expansion for use of similar automation tools.

The IRS is authorized to use income information in its possession to calculate the amount of a credit a taxpayer is entitled to receive when the credit is based on the taxpayer's income. If the taxpayer understates or overstates their income, and the correct calculation results in an increase in tax, or a reduction of the refundable credits the taxpayer has already claimed, the IRS may issue a notice of deficiency to the taxpayer to adjust the amount of tax or credit. The Internal Revenue Code provides authority to adjust a math error, instead of requiring a notice of deficiency.

The IRS also has authority to reduce the amount of tax reported on the return when the amount is overstated. Similarly, if the amount of a tax credit the taxpayer claimed is understated, the IRS is authorized to issue a refund to the taxpayer when it determines there is an overpayment (which can occur when a tax return understates refundable credits).

However, the IRS must make assumptions about the taxpayer's eligibility for a credit if the taxpayer has not previously claimed the credit. These assumptions increase the risk of improper payments, compared to taxpayers who claimed a credit in the wrong amount. For instance, with the EITC, we need to know from the taxpayer whether they meet certain eligibility requirements, particularly whether their children meet relationship and residency tests. For the child tax credit, we may need to know if they have a Form 8332 the custodial parent signed to give up their claim for the credit. This type of information is generally not volunteered by the taxpayer in the absence of the taxpayer making an affirmative claim for the credit. Requiring this type of information on a return that is filed with the IRS before any type of adjustment can be made minimizes improper payments.

Question. What data can you share about usage of the IRS/Fillable Forms Non-Filer Tool last year, so outreach efforts can improve and be more effective this year in reaching families?

How many households used the IRS/Fillable Forms Non-filer Tool last year?

Answer. For processing year 2021, approximately 1.3 million households with distinct primary account Social Security Numbers (SSNs) attempted to use the Non-filer Signup Tool to claim the Advance Child Tax Credit or missing stimulus payments.

Question. How many of them successfully filed a return that was accepted by the IRS?

Answer. Of those approximately 1.3 million households, approximately 390,000 returns were accepted via the portal. Additionally, regular e-file channels accepted more than 350,000 returns.

Question. How many of these returns were routed to some form of manual review?

Answer. We aren't aware of existing data indicating the IRS/Fillable Forms Non-filer Tool had a higher rate of manual review.

Question. What was the median wait time for these returns before receiving payments, and what fraction of them waited for longer than 3 weeks?

Answer. IRS does not have this data.

Question. If relevant, what caused higher-than-average wait times among these returns?

Answer. Inherently, manual review of a return requires more time and human interaction to view and resolve questions or errors on the return.

Question. What fraction of households who used simplified filing last year misreported their RRC amount? What was the average magnitude of the error?

Answer. IRS does not have this data.

Question. How many children do you estimate did not receive the CTC last year because their families did not file a tax return?

Answer. IRS does not have this data.

Question. How many households who used simplified filing last year had more than \$2,000 of W-2 income and thus were likely eligible for a meaningful amount of EITC?

Answer. In tax year 2019, approximately 890,000 taxpayers filed simplified returns. They reported more than \$2,000 in wages and less than the maximum income allowed for the Earned Income Tax Credit (EITC). In tax year 2020, this figure was approximately 12,000. Please note that for tax year 2020, the period for taxpayers to file simplified returns was limited to June 2021 through November 15, 2021, because the return was for taxpayers who needed to claim advance payments of the Child Tax Credit and did not file a tax year 2019 or tax year 2020 return.

Question. Can the IRS assure Ohioans abroad that they will have continued access and the ability to set up an online IRS account without needing a U.S. address or U.S. phone number?

Answer. Yes, international taxpayers, including Ohioans living abroad, may establish and access online accounts. Taxpayers without a U.S. address or U.S. phone number can create an IRS account for access to online services using the modernized platform. If taxpayers have difficulty proving identity with the self-service option, they can verify their identity via video chat with an ID.me Trusted Referee.

Question. As you know, the American Rescue Plan Act temporarily expanded and improved the Earned Income Tax Credit for people without eligible children by increasing the amount and expanding the eligible age range, including a specific provision to lower the age to 18 for youth who have been in foster care and youth at risk of homelessness. As you might imagine, this specific provision benefits potentially hundreds of thousands of young people who may never have filed taxes before and likely don't know they qualify for this critical benefit for the first time. Please describe what outreach the IRS has taken, including coordination with other agencies and the States and local communities, to ensure young adults with experience in foster care and youth at risk of homelessness are being reached about the EITC and how to claim the benefit?

Answer. The IRS hosts an annual "EITC Awareness Day," a nationwide collaboration with national and local partners to increase awareness of refundable credits. For each Awareness Day, IRS invites community organizations, elected officials, State and local governments and other entities throughout the Nation to raise awareness of the EITC. We encourage external stakeholders to promote the EITC to taxpayers and tax professionals by hosting local events, contacting local media, and in social media communications. Concentrated traditional and social media activity helps us reach the broadest possible range of eligible taxpayers, including underserved populations and newly eligible taxpayers. The 16th annual EITC Awareness Day was held on January 28, 2022. The IRS messaging included social media communications that addressed American Rescue Plan (ARP) provisions for qualified former foster youths and qualified homeless youths. Information is posted on *IRS.gov* including frequently asked questions regarding qualified former foster and homeless youths.¹² In addition, the EITC Assistant helps taxpayers determine if they are eligible and if they have a qualifying child or children, and it estimates the amount of the EITC they may receive.¹³

The IRS also created Publication 5585, Child-Related 2021 Tax Credits, educational flyer that explains refundable credits. Circulating Publication 5585 has been instrumental in expanding this outreach initiative. The publication was shared with all VITA/TCE partners, local Taxpayer Advocate Offices and became the foundation for another new publication, Publication 5607, You Could Receive a Tax Refund even if You're Not Required to File. In addition, the IRS is planning to conduct targeted outreach to individuals raising children who lost both parents, foster children, and those living in domestic abuse centers and/or homeless shelters. To accomplish this, we will identify and share information with individuals and agencies/organizations actively serving these populations.

Question. The IRS has had its budget slashed over the past decade, with funding down roughly 20 percent since 2010 and some departments seeing even steeper cuts. Under your leadership, the IRS has also taken on new responsibilities as part of the Federal Government's response to the pandemic, providing rounds of stimulus payments and monthly Child Tax Credits, which provided a financial lifeline to millions of families but strained an already over-burdened agency.

As you've previously acknowledged, the IRS's budget cuts present a serious challenge to the agency's operation, across departments. The audit rates on large corporations and millionaires have fallen by over half since 2010. The agency's IT system, integral for the health and security of our tax system, is woefully outdated. Insufficient funding has even made it hard for the IRS to answer most taxpayers' phone calls.

Following the overdue but insufficient 6 percent increase in funding for the IRS in the 2022 omnibus, Congress must continue to rebuild the IRS after years of cuts. President's Biden's budget for 2023 proposes to increase IRS appropriations by 12 percent over the 2022 level, which would make important progress but still be about 13 percent short of inflation-adjusted funding levels in 2010. Further, the House-passed Build Back Better legislation would provide roughly \$80 billion in mandatory funding for the IRS over 10 years.

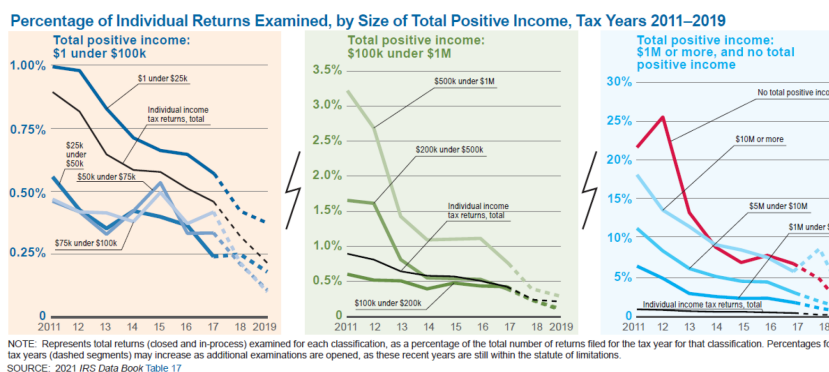
Can you elaborate on the urgency and importance of this funding for the agency? How would this funding be used, and how would it help address the challenges the IRS faces as it confronts this and future filing seasons?

¹² EITC FAQs: IRS Issues Questions and Answers About the Tax Year 2021 Earned Income Tax Credit, Internal Revenue Service, <https://www.irs.gov/newsroom/irs-issues-questions-and-answers-about-the-tax-year-2021-earned-income-tax-credit>.

¹³ EITC Assistant: Use the EITC Assistant, Internal Revenue Service, (<https://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit/use-the-eitc-assistant>).

Answer. The IRS is the primary source of funding for the United States Government. The IRS collected more than \$4 trillion in gross taxes in FY 2021. This revenue makes it possible for the government to perform its vital functions ranging from education to defense. As the past 2 years have shown, we are more than a tax administration agency. The support we provided to the Nation during the COVID-19 pandemic illustrates the IRS's significant role in our country's overall economic health.

As you note, since 2010 the IRS has experienced a dramatic decrease in funding in real terms. Because of this reduction, the number of returns the IRS is not able to examine is at historic levels. A recent GAO report discussed this problem at length.¹⁴ The following table from the 2021 IRS Data Book illustrates this problem succinctly. Across the board, the number of returns examined dropped significantly between tax years 2011 and 2019.



The IRS estimates the tax gap from 2011–2013 was \$441 billion. Preliminary research suggests the gross tax gap for 2019 could be approximately \$600 billion. Providing \$80 billion in multiyear funding to the IRS—on top of the proposed discretionary budget request would allow the IRS to address this trend and increase amounts of tax owed but not paid. This problem has taken years to develop, though, and it will take years to reverse—that is why a 10-year infusion of mandatory funding would be so beneficial. The Biden administration¹⁵ and I¹⁶ have written extensively on this topic. The proposal contains elements that address three aspects of the problem:

1. **Provide the world-class customer service that taxpayers deserve,** which includes funding to **increase staff and technology for taxpayer services to provide taxpayers the resources they need to voluntarily pay their taxes.**
2. **Modernize our tax administration information technology** to ensure IRS employees have the tools they need to assist taxpayers and identify and target noncompliant taxpayers.
3. **Build the IRS's enforcement capacity** to address areas where our tax gap analysis indicates underpayment of taxes such as high income, partnerships, and business returns.

Providing \$80 billion in multiyear funding, on top of a complementary discretionary investment, includes would gradually restore IRS's enforcement capability and train a new generation of enforcement staff. The phased approach is necessary because it takes time to rebuild. For example, the skills necessary to audit complex returns take years to develop. It is important to recall, though, that from the perspective of the United States Government, IRS enforcement staff pay for themselves many times over. Investments in IRS's enforcement capacity generates about \$5 of

¹⁴ <https://www.gao.gov/products/GAO-22-104960>.

¹⁵ <https://home.treasury.gov/system/files/136/The-American-Families-Plan-Tax-Compliance-Agenda.pdf>.

¹⁶ <https://www.warren.senate.gov/imo/media/doc/Warren%20et%20al%20response%20to%20Warren%20082721.pdf>.

income to the Treasury for every \$1 they cost, based on historical experience.¹⁷ The Congressional Budget Office (CBO) has confirmed this overall investment would pay for itself and more.¹⁸

The \$80 billion in mandatory funding also includes funding for Taxpayer Services appropriation. In tandem with the existing annual appropriations for taxpayer service, this funding would allow the IRS to hire additional staff to directly assist American taxpayers. Voluntary tax compliance is the cornerstone of our tax system. The IRS wants to make it as easy as possible for taxpayers who want to pay their fair share, but need our help to do so. Modernization is another critical element in expanding the IRS's ability to meet taxpayers' service needs. We are making meaningful progress with modernization efforts and promptly delivered recently enacted financial assistance and administrative relief to hundreds of millions of deserving and needy Americans. However, insufficient funding slows the speed at which we can deliver services to taxpayers and increase our efficiency through technology.

With substantial new investment in modernization, IRS could support efforts to continue implementing its Integrated Modernization Business Plan for upgrading IT systems and retiring legacy applications. This funding will enable the IRS to advance significant modernization initiatives that directly benefit taxpayers. These initiatives include digital communications, customer callback, and Enterprise Case Management, all of which will allow our customer service to staff to provide more comprehensive service to taxpayers.

Question. For people who cannot use ID.me to create an IRS online account, what is the alternative for them to access information about their tax filing history?

Answer. Taxpayers may access the Where's My Refund? (WMR) and Where's My Amended Return? (WMAR) online tools at *IRS.gov* to check the status of their Form 1040, Individual Income Tax Return and Form 1040X, Amended U.S. Individual Income Tax Return.

We are currently working to expand WMR technology. We recently added multi-year technology to allow taxpayers the ability to view refund information for multiple years. In FY 2023 we plan to expand capabilities to provide more detailed messaging on refunds delayed due to math errors and the identify theft filters for the taxpayer protection program. We are focused on the expanding refund trace capabilities as well as modernizing and internationalizing the WMR application.

Taxpayers may request a transcript by faxing or mailing Form 4506-T, Request for Transcript of Tax Return. Transcripts are available for the following returns: Form 1040 series, Form 1065, U.S. Return of Partnership Income, Form 1120, U.S. Corporation Income Tax Return, Form 1120-A, U.S. Corporation Short-Form Income Tax Return, Form 1120-H, U.S. Income Tax Return for Homeowners Associations, Form 1120-L, U.S. Life Insurance Company Income Tax Return, and Form 1120-S, U.S. Income Tax Return for an S Corporation. Return transcripts are available for the current year and returns processed during the prior 3 processing years.

Electronic Tax payments may be made by using the below options: Direct Pay; debit or credit card; and online account.

Question. What do you know about the effectiveness of the IRS notices mailed in September 2020 to inform people about their potential eligibility to claim the economic impact payment? How many people filed returns when IRS sent EIP notices in September 2020 based on employment info? Of the 9 million notices sent, how many were undeliverable? How many redelivered to a new address? How many received a response?

Answer. The IRS sent Economic Impact Payment (EIP) notices to nearly 9 million recipients from September 17, 2020, through October 2, 2020. The IRS used the United States Postal Service (USPS) Address Correction Service reports, which provide codes for non-delivery to attempt to deliver returned EIP notices.

¹⁷ IRS Research Division estimated Build Back Better Act large business Enforcement staff returning \$5.0 and small business enforcement staff returning \$6.3 for every dollar of cost assuming a 7-year career and collections for that period plus 10 years thereafter. The model assumes Revenue Agents assess tax liability during their 7-year career and the IRS continues to collect on those assessments after they leave. These estimates are based on historical actuals for a mix of examination work that IRS expects would be worked with Build Back Better Act funds.

¹⁸ <https://www.cbo.gov/publication/57620>.

There were 1.6 million notices determined to be undeliverable putting the Secure Destruction rate at approximately 17.9 percent. Analysis of these codes showed that most error codes related to addressees no longer being located at the address and/or their forwarding order had expired.

Question. In its recent report, TIGTA said there 51,000 cases of individuals mistakenly marked as living in a territory, who did not receive their EIP for this reason.

In 2021, IRS staff provided my staff with an estimate that 500,000 individuals were affected by this problem. Why was the 51,000 figure later reported by TIGTA so different from the earlier estimate provided by IRS?

Answer. The figure TIGTA provided was based on reports the territories provided. The IRS took a broader approach and reviewed individuals who had a Federal tax history. We also allowed individuals to attest they were not residents of the territories and did not receive a payment from the territories.

Question. How many individuals were mistakenly marked as living in a territory?

Answer. The territories provided the IRS with individuals who filed a tax return with the territory and who they intended to issue an EIP territory payment. The IRS used listings the territories provided to mark approximately 946,000 accounts to prevent duplicate Economic Impact Payments (EIPs) (one from the U.S. Treasury and one from the Territory).

Question. Has the IRS successfully reversed the territory marker for all of the individuals found to be affected by the mistaken marker? Are there other individuals mistakenly marked with the territory marker, that have not yet been reversed? If so, when will the marker be reversed for these individuals?

Answer. The IRS has reversed approximately 663,000 markers. Any individual who believes they were eligible to receive an EIP from the U.S. Treasury, but did not receive one, may claim the 2021 Recovery Rebate Credit on their Federal income tax return (Form 1040).

QUESTIONS SUBMITTED BY HON. MARIA CANTWELL

Question. Updating the IRS's technology needs to be at the top of the agency's to-do list. We've seen throughout the pandemic the problems with taxpayers having to call the IRS to get their tax questions answered.

IRS call volumes have soared in the last year, and in 2021 only one in nine callers were able to actually reach an IRS employee. The GAO recently testified in this committee that the IRS expects customer service representatives to answer only about 35 percent of incoming calls during the 2022 filing season.

As you know, the IRS is piloting its use of online chat features, but right now limiting it to resolving collection notices. It has not been expanded to allow taxpayers to chat with customer service representatives about their tax questions.

A 2019 GAO study compared the IRS's online communication capabilities with other nations. It found that taxpayers in the U.K., Australia, and New Zealand were able to securely chat online with their tax agencies to get answers to their tax questions. And we don't even need to look abroad to find these capabilities: California and Alabama's revenue agencies offer similar online chat services.

As we look at increasing funding for the IRS, we need to invest in the agency's technology and workforce to bring it into the 21st Century.

As part of that 2019 report, the GAO recommended the IRS set targets to reduce taxpayers' burden through the development of new online services. Would the development of online services like those we've seen from California and other countries to allow direct communication with IRS staff help improve taxpayers' ability to get their questions answered?

Answer. Developing online services that allow taxpayers to directly communicate with the IRS would presumably help taxpayers get answers to their questions and conduct business with the IRS more seamlessly. Key assumptions are the IRS has the staffing resources to support what could be an influx in demand and the IRS has sufficient modernization funding to support the technology enhancements.

The IRS continues expanding the type of transactions taxpayers can conduct through IRS Online Account. We recently integrated functionality to make pay-

ments more seamless and to establish a payment plan if needed. Through Online Account, you can now: access tax records; make and view payments; manage communication preferences; view your balance; view or create payment plans; and view Tax Pro authorizations.

Question. Will you commit to establishing these kinds of online communications services in order to help taxpayers get their questions answered quickly and securely?

Answer. The IRS will continue exploring opportunities to modernize digital service to address taxpayer inquiries quickly and securely. Funding will determine which opportunities we can pursue and the pace at which the IRS can expand online services. Our future technology direction includes a fully digital experience for all taxpayers, including small business owners, corporations, and tax professionals, through an expanded IRS Online Account.

Question. In your testimony you stated that the IRS lacks sustained sufficient multiyear funding for IT modernization. I strongly support this funding as investments in this technology would speed up the filing of paper tax returns and improve communication with taxpayers.

The National Taxpayer Advocate's Annual Report to Congress stated that paper processing remains the IRS's biggest challenge. As of February 5th, the IRS still had 8.5 million paper returns that need to be processed. The only way we are going to prevent these kinds of backlogs from happening again and again is by modernizing the IRS's technology.

Beyond the ability of taxpayers from being able to get their answers to tax questions online, I am also broadly concerned about the lack of information technology upgrades in the IRS.

To help reduce call volumes during tax season, the IRS has directed taxpayers with questions about the status of their refund to use the agency's online Where's My Refund? tool.

But the GAO in a report from this February found a number of issues with this tool, primarily that it provides very limited information to taxpayers. The tool only displays whether a return has been received, approved, or sent. It does not, for example, alert a taxpayer if there has been a delay in processing their return due to an error or another reason, which slows the process down.

This resulted in increased call volumes as taxpayers tried to get more information on the status of their tax refund—the exact problem Where's My Refund? is supposed to help with.

According to the GAO, the IRS has no plans to modernize the refund tool due to a lack of funding, even though this would help the IRS better serve taxpayers, lower call volumes, and reduce costs.

The President's budget requests \$310 million for IT upgrades through the IRS's business systems modernization program, including \$78 million specifically for IT systems to improve taxpayer services. How would this funding allow the IRS to improve communication with taxpayers?

Answer. These multiyear funds are used for development, modernization, and enhancement activities that support the IRS mission, including efforts to improve communication with taxpayers. For example, this funding will be used to expand IRS Online Account capabilities to improve the taxpayer experience, enhancing self-service options to establish and submit payment plans, as well as to make and view tax payments. The funding will enable the IRS to expand Tax Pro Account, providing authorized tax professionals with capabilities that modernize certain paper-based processes to help resolve issues with the IRS on behalf of their clients. In FY 2023, the IRS will continue to expand the Tax Pro capabilities to include the ability to view and manage authorizations and enable taxpayers to initiate new authorization requests online. These capabilities will reduce taxpayer and tax professional burden, the number of submitted paper forms, and the time it takes to submit authorizations. Taxpayers and tax professionals will also benefit from additional data accuracy and security because the process confirms and protects their identity. The IRS will continue to expand taxpayer access to digital notices, allowing taxpayers to choose to opt in or opt out of receiving paper notices and receive notifications through email or text message. This investment will increase taxpayer response rates to notices, reduce burden on taxpayers and the IRS, reduce printing and postage requirements, and promote more efficient interactions.

Question. Will you commit to updating the Where's My Refund? application to provide more information to taxpayers on the status of their refunds?

Answer. The IRS recently expanded Where's My Refund? (WMR) technology. We added technology to allow taxpayers the ability to view refund information for multiple years. In 2023 we plan to expand capabilities to provide more detailed messaging on refunds delayed due to math errors and identify theft filters for the taxpayer protection program. In addition, we are focused on expanding refund trace capabilities, as well as modernizing and internationalizing the WMR application.

We recognize the importance of providing transparency in the refund processing status. The IRS has acknowledged that Where's My Refund? has limitations. We are in the early stages of making enhancements to Where's My Refund?, an initial step for an IT modernization effort. In June of 2022, we updated WMR to make it possible for taxpayers to get high-level processing status for multiple tax years. For example, if the IRS has records for a taxpayer's 2020 and 2021 returns, and the taxpayer enters the refund amount matching your 2020 return, WMR would display the status of the 2020 refund.

The IRS tracks the status of a refund from start to finish. Currently, WMR provides the following information: high-level processing status; refund date; high-level offset and math error information; contact information for further questions; and helpful links for additional information.

QUESTIONS SUBMITTED BY HON. ROB PORTMAN

Question. In late December, Treasury released final regulations on Foreign Tax Credits (FTCs), which would deny creditability to a substantial portion of foreign taxes and result in double taxation on American companies. These "updated regulations" were promulgated under the guise of preventing Digital Services Taxes (DSTs) from receiving credits.

My understanding is that the regulations would deny a tax credit for foreign taxes paid on royalties when the underlying intellectual property (IP) is located here in the United States. This result would not occur if the IP were located in the relevant foreign jurisdiction. Without consulting Congress and against the advice of the companies who utilize foreign tax credits, the Department of the Treasury has unilaterally issued regulations that will incentivize offshoring of both jobs and IP, undermining bipartisan efforts to do the opposite. We should be encouraging these investments here at home, not driving them to our competitors.

The regulations' effective date is immediate, giving companies little time to adapt to the radically different system than the one they have operated under for decades.

This requires time to review and analyze foreign tax law to determine its characterization under this new regime, and many companies are struggling to meet the deadlines.

With the IRS now already facing substantial challenges, has the agency begun reviewing foreign law to determine which foreign taxes are eligible for credits under the new regime? If not, when do you plan to start preparing for this change and how long do you anticipate it will take to train audit agents and appeals on which country's taxes are eligible for the foreign tax credit?

Answer. The IRS is coordinating with subject matter experts and counsel to review the creditability of various foreign taxes. To assist with this effort, the IRS obtained access to translations of many foreign tax laws to help examiners understand and analyze these foreign taxes. The IRS's Large Business and International division has conducted informal workshops on the new regulations and plans to conduct more detailed, formal training. Training and formal and informal guidance on this new area of the tax law is expected to be iterative and evolve with developments in the law and the IRS's understanding taxpayers' issues over several years.

The Independent Office of Appeals has a group of Appeals Officers—International Specialists. This group predominately works cases involving international issues, including Foreign Tax Credit issues. Appeals has delivered training to our Appeals Officer—International Specialists on the general provisions of Tax Cuts and Jobs Act. Appeals will not encounter issues related to these new regulations for several years, given the effective date of the regulations and the fact that Appeals works cases after IRS revenue agents complete audits. We generally provide just-in time training to our employees. To be effective, training in new and complicated areas is deliv-

ered soon after receiving the cases. We will collaborate with Counsel as we plan training on these credibility rules.

Question. The bipartisan infrastructure bill I led was signed into law last year and included a provision to provide more certainty for Americans looking to invest digital assets.

This would ensure that crypto investors receive the same tax documents from their brokers that stock traders receive, mainly a 1099-B, which in turn will enable them to file their taxes more easily and promote higher compliance.

This is one of our first efforts to incorporate digital assets like crypto into the tax code, so it is important that we help provide clarity into what this law means for the millions of taxpayers who hold crypto assets.

In December, we urged Secretary Yellen to engage in rulemaking for this provision as quickly as possible, in particular with how “broker” is defined. As we described in that letter, it was our intent that the reporting requirements only cover brokers who enable the transfer of digital assets for consideration—and not other parties which are ancillary to the process.

What is the status of these regulations?

Answer. The IRS and the Treasury Department are working on a notice of proposed rulemaking (NPRM) to implement information reporting rules for brokers of digital assets. We share Congress’s goal to achieve greater certainty for Americans looking to invest in digital assets. This is especially important because section 80603 of the Infrastructure Investment in Jobs Act (IIJA) is one of the first efforts to address digital assets and incorporate them into our Nation’s tax code, as digital assets become increasingly prevalent and mainstream.

Question. Can you assure me that congressional intent will be taken into consideration throughout the rulemaking process?

Answer. The IRS and the Treasury Department are aware of a colloquy between Senator Portman and Senator Warner about the purpose and meaning of the modification made by section 80603 of the IIJA to the definition of “broker” in section 6045(c). This colloquy is part of the legislative history of the IIJA amendment to the definition of “broker” in section 6045(c). The IRS and the Treasury Department are considering these statements as they develop the NPRM. They are consistent with the IRS’s and the Treasury Department’s view that ancillary parties who cannot get access to information that is useful to the IRS are not intended to be captured by the reporting requirements for brokers. For example, persons who are just validating transactions through a consensus mechanism are not likely to know whether a transaction is part of a sale. And persons who are only selling storage devices used to hold private keys, or merely write software code are not carrying out broker activities. The IRS and the Treasury Department also will consider the extent to which other parties in the digital asset market, such as centralized exchanges and those often described as decentralized exchanges and peer-to-peer exchanges, should be treated as brokers given the clarification section 80603 provides. The IRS and the Treasury Department intend to propose regulations that address the concerns expressed in the colloquy regarding the definition of broker.

Question. The 2020 CARES Act allowed taxpayers to carryback net operating losses arising in a taxable year beginning after December 31, 2017, and before January 1, 2021 to each of the 5 taxable years preceding the taxable year in which the loss arose. Generally, taxpayers had to file claims for refund on paper (Form 1139 for corporations or Form 1045 for individuals). In a report from January 2022, the Government Accountability Office (GAO) found that the IRS was poorly prepared to contend with the influx of these paper refund claims. GAO found that the average time for refunds was approximately 165 days, well exceeding the 90-day statutory limit on the issuance of refund. In addition, the Taxpayer Advocate reported in January 2022 that the IRS is not providing information on refund wait times for the inventory backlog. These carrybacks were enacted to provide cash to taxpayers to offset costs and losses they incurred during the pandemic, but delays have meant that many taxpayers have not been provided the intended relief.

My office has received reports that there has been a sharp increase in the denial of these carryback refund claims filed a year ago. These denials are supposedly for “missing information” or other administrative reasons related to the refund claims. Per Internal Revenue Manual 21.5.9.4.3, such denials are not to be issued until the IRS has contacted the designated IRS contact for the taxpayer and requested the missing information or stated other reasons for errors in the claim for refund. How-

ever, it is my understanding that no such requests for information or other requests have been made to many of these taxpayers. Some were only made aware of this denial when they received a “216C letter” from the IRS stating their claim was denied. One taxpayer has an IRS liaison out of the Cincinnati Service Center to assist them and such liaison had no answer for why a denial was issued.

I am told that if claims for refund are denied, taxpayers will have to file amended returns for the carryback years, and if these amended returns are refused in about 6–12 months, file suit in court. For publicly traded businesses, this process will likely require them to restate financial statements.

Are you aware of such denials of CARES Act carryback refund claims?

Answer. In all cases, IRS employees attempt to analyze the documents and correct minor math errors in the submitted forms so they can be processed. The Internal Revenue Manual (IRM) 21.5.9.4.3 states that employees must determine if missing information could make the Form 1139, Corporation Application for Tentative Refund, processable; if so, they make two attempts to contact the taxpayer to obtain specific missing information. Most return rejects occur when taxpayer figures do not match IRS’s posted figures, or multiple errors prevent processing. When rejected, a Letter 216C is issued to the taxpayer with an explanation and states how to correct the return.

Question. Is it possible that erroneous denials have increased as part of the effort to clear away past year return backlogs?

Answer. The IRS has an effective and rigorous training strategy. Recent legislation has required the IRS to skill up additional staff to handle the demand. Employees must follow the IRM guidance, but erroneous rejects could occur occasionally. If this occurs, they can be identified through various quality review channels or by the taxpayer. If they are identified in quality review or by the taxpayer, the cases are reopened for correction. A timely filed application for tentative refund identified as erroneously rejected (IRS error) will be corrected without the taxpayer having to file an amended return Form 1120–X, Amended U.S. Corporation Income Tax Return.

Question. Can you explain why it appears that the Internal Revenue Manual procedures on contacting taxpayers before denying these carryback claims are not being followed?

Answer. Our quality review of carryback cases does not indicate this to be a recurring issue.

Question. What are the options for taxpayers whose claims for refund have been denied erroneously?

Answer. Rejected cases include Letter 216C or other appropriate letters, to explain the reason for rejection and how to correct it. The letters include a toll-free phone number and a mailing address for corrections to be returned. If an application for tentative refund was timely filed but erroneously rejected (IRS error), and the erroneous rejection is identified through quality review or notification by the taxpayer, the IRS will correct it without the taxpayer having to file an amended return.

Question. Can you provide my office with a contact at the IRS who has reviewed these denials and can offer assistance if a taxpayer’s claim was erroneously denied?

Answer. We would be glad to research any outstanding constituent cases on the matter if your staff provides our Legislative Affairs team with the appropriate privacy release documentation.

QUESTIONS SUBMITTED BY HON. MAGGIE HASSAN

Question. Taxpayers in my State are struggling with the large IRS backlog in processing amended tax returns. Many families have reached out to my office because they missed their original opportunity to claim Economic Impact Payments on their tax returns—and are still stuck waiting for their Economic Impact Payments while the IRS processes their amended return.

I’ve raised these concerns with you before, but I continue to hear from Granite Staters about these IRS delays. What more are you doing to expedite processing of tax returns in general—and amended returns specifically.

Answer. We are utilizing overtime, including mandatory overtime, and redirecting resources as available. We are also currently using a new automated tool, called Fix-ERS, to expedite the resolution for millions of taxpayers normally requiring manual review. This tool has had positive results dramatically expanding efficiencies. We are prioritizing work in a first-in, first-out order, with refund returns given priority.

While we began intaking Form 1040-X returns electronically, Tax Examiners in our Submission Processing function and Customer Service Representatives in our Accounts Management function must input adjustments manually. We are using overtime and redirecting resources as available.

Accounts Management continues to use surge employees. As of April 18th, there were almost 900 former Accounts Management employees assisting with amended return case processing. We have seen a significant increase in amended return closures as a result of adding these surge employees. We expect the surge employees to remain in our Accounts Management function through at least the end of this fiscal year.

Question. I've introduced legislation to raise the threshold determining when casual users of online marketplaces have to receive a 1099-K tax form. Casual sellers who sell used goods online typically don't owe any income tax on those sales—but could nevertheless easily get a 1099-K under the \$600 threshold.

If many of these casual users are selling their personal items for less than they purchased them, do you agree that, under the \$600 threshold, the IRS will receive significantly more tax forms in the future for online sales of used goods that do not show any taxable income?

Answer. The Form 1099-K is an information return. A taxpayer can use the information in the form with their other tax records to determine their correct tax. Whether the taxpayer has a tax liability depends on whether the proceeds from the asset sale are greater than the taxpayer's basis in the asset. Changes from the American Rescue Plan Act to information reporting requirements for payments settled by third party networks do not change the taxability of payments. If a taxpayer receives a Form 1099-K for a non-taxable transaction and is audited by the IRS, the individual can provide the facts and circumstances to support the non-taxable determination.

Beginning with calendar year 2022, third-party settlement organizations must file and furnish a Form 1099-K to payees if the aggregate amount of payments to a participating payee exceed \$600. This is less than the prior reporting threshold of \$20,000 and 200 transactions for third-party settlement organizations. We agree the volume of Form 1099-K filings will increase with the \$600 threshold; however, we are unable to quantify that increase at this time.

Question. You have previously stated your support for remote notarization, which allows consumers and small businesses to remotely and securely notarize important documents. Thirty-nine states, including New Hampshire, have passed laws supporting remote notarization.

Will the IRS permanently extend its rule making this common-sense solution available to taxpayers?

Answer. Notice 2020-42¹⁹ provided relief through December 31, 2020, from the physical presence requirement, allowing for remote notarizations under certain conditions. IRS Notice 2021-03²⁰ extended this relief, subject to certain requirements. IRS Notice 2021-40²¹ extended the temporary relief again, through June 30, 2022, if the notarization meets certain requirements in IRS Notice 2021-03. In May, we released IRS Notice 2022-27,²² which provides an additional 6-month extension, through December 31, 2022, of the temporary relief, if the notarization meets certain requirements in IRS Notice 2021-03.

Following the publication of the various notices extending the temporary relief, the Department of the Treasury (Treasury) and the IRS received comments from numerous stakeholders about the physical presence requirement. While some stakeholders requested permanent relief from the physical presence requirement, other stakeholders asked that we keep the physical presence requirement, describing concerns about potential fraud and spousal coercion.

¹⁹ 2020-26 Internal Revenue Bulletin (IRB) 986, published on June 22, 2020.

²⁰ 2021-2 IRB 316, published January 11, 2021.

²¹ 2021-28 IRB 15, published July 12, 2021.

²² Released on May 13, 2022.

Treasury and the IRS are currently reviewing the stakeholder comments to determine whether to keep the physical presence requirement in Treasury Regulation section 1.401(a)-21(d)(6)(i) without modification, or to propose modifications.

QUESTIONS SUBMITTED BY HON. JAMES LANKFORD

Question. In February, the Taxpayer Advocate, Erin Collins, testified before the Senate Finance Committee. Her testimony noted that as of late December 2021, the IRS had backlogs of 6 million unprocessed original individual returns, 2.3 million unprocessed amended individual returns, and more than 2 million employer's quarterly tax returns. According to the IRS's website, as of April 1, 2022, the IRS had 7.1 million unprocessed original returns, which includes returns received before 2022 and new tax year 2021 returns. In addition, as of April 2, 2022, there were 2.2 million unprocessed amended individual returns (Forms 1040-X), and as of April 6, 2022, 1.9 million unprocessed employer quarterly Federal tax returns (Forms 941).

Do all of these unprocessed returns require manual processing?

Answer. Generally, no. This figure may include current and prior year, paper and electronic, business and individual returns, and returns that will be processed both with, and without, human intervention. We process returns in the order in which we receive them. We continue to work to reduce our amended return inventory using surge teams, employees we temporarily reassigned to processing. The surge team initiative moved hundreds of existing employees with previous processing experience to address the backlog.

Question. How many of these unprocessed returns are from this filing season vs. prior filing seasons? Please provide a breakdown of unprocessed returns and the tax year to which they correspond.

Answer. Unprocessed returns are a mixture of returns that have not yet been input into the system and returns that have been input and require further manual processing. We are unable to breakdown unprocessed returns by tax year until they are processed.

IRS completed the processing of all error free individual income tax returns taxpayers filed in 2021 as of June 24, 2022. As of August 5, 2022, we have approximately 140,000 business paper returns we received in calendar year 2021 waiting to be processed. For individual paper returns received in calendar year 2022, as of August 5, 2022, there are about 7.9 million waiting to be processed and about 6.2 million business paper returns waiting to be processed.

Question. How do you balance existing backlogs with other returns being filed in real time for this filing season?

Answer. Returns filed electronically with no errors are processed within normal time frames without manual intervention. We work returns with errors within 14 days of receipt by either making corrections or sending correspondence to the taxpayer for additional information. We process paper returns in a first-in, first-out order, so we will work the current year paper returns once the returns of the same type we received prior to January 1, 2022, are input.

Question. You have announced a plan to get the IRS "healthy," allowing the IRS to eliminate backlogs and get back to standard processing times by the start of the 2023 filing season.

Are you on track with that plan?

Answer. The IRS is making every effort to redirect resources with the goal of getting healthy. Actions the IRS has taken to address the inventory include surge teams, mandatory overtime, innovating to expedite case closures and suspending various notices.

Question. When exactly do you expect to eliminate backlogs—at least for returns and correspondence related to prior filing seasons?

Answer. We have redeployed and reallocated resources throughout the IRS and have implemented innovative strategies in an ongoing effort to provide a meaningful reduction in our inventories. We continue pursuing innovative strategies to fulfill our commitment to return inventories to a healthy level.

Question. Earlier this year, the IRS announced “surge teams” and the reassignment of 1,200 employees from existing jobs to processing positions to help with the backlog. Based on your April 5, 2022 letter in response to a letter that I sent on January 25, 2022, it is my understanding that you have recently moved 800 employees back into key accounts management positions and intend to move 700 employees into submissions processing.

Have those “surge teams” worked to eliminate the backlog?

Answer. Yes, as we had anticipated, the surge teams are helping reduce inventory at each of our processing sites.

Question. Do you still intend to have those employees reassigned through September of this year?

Answer. We plan to keep the surge team employees in their reassigned roles through the end of this year.

Question. What is the plan for timely processing after that time?

Answer. Once we achieve healthy inventory levels, we expect to have adequate staffing to remain timely.

Question. In your testimony, you mentioned the creation of the Taxpayer Experience Office, an office launched last year to unify and expand the work being done to serve taxpayers. You noted that that office will focus on customer service best practices and will add staff in the coming months to support that effort.

Please provide areas of improvement that the Taxpayer Experience Office has identified thus far with respect to customer service and taxpayer experience.

How are you moving forward with those recommendations?

Answer. To drive the IRS strategic direction for improving the taxpayer experience, the Taxpayer Experience Office identified key activities the IRS is focusing on over the next 5 years. These activities include the commitments in the President’s Executive Order on Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government. We developed the Taxpayer Experience Strategy (TXS) with input with internal and external stakeholders. As the Taxpayer First Act Report to Congress describes, the TXS has the following focus areas, representing goals the IRS hopes to achieve over the next several years:

1. Expanded Digital Services

The IRS will expand access to digital information and assistance, offering an improved experience for people who prefer online self-service. We will: enhance the IRS’s Online Account for individual taxpayers and expand this service to tax professionals and businesses; enhance authenticated online self-services to include account updates, full interaction history, and issue status; and increase electronic filing receipts and scanning/data capture for paper filings, secure document exchange, and more.

2. Seamless Experience

The IRS will offer personalized online interfaces for taxpayers and their authorized tax professionals. We will: enable taxpayers to seek service and information through the channel of their choice; pass taxpayer information from one interaction to the next employee or channel, streamlining processes and expediting resolution; and offer live web chat and train telephone employees to provide IRS navigation support.

3. Proactive Outreach and Education

The IRS will educate the taxpayer community by proactively providing information in the language, timing, and method taxpayers need or prefer. We will: leverage multiple means including social media, trusted partnerships, customized digital options, and new technology to deliver information and personalized messages; and increase taxpayer confidence in meeting their tax obligations through this additional education.

4. Focused Strategies for Reaching Underserved Communities

The IRS will establish a consolidated program to engage with historically underserved communities to address issues of communication, education, transparency, trust, and of the limited access to quality products and services. We will: develop custom strategies for each underserved segment based on focused research, best practices, and learning from partners on ways to better interact with these commu-

nities; and provide personalized education and outreach to ensure taxpayers are engaged, heard, informed, and clearly understand their obligations.

5. Community of Partners

The IRS will create and facilitate a collaborative, interactive network of partnerships across the tax ecosystem and consolidate existing efforts. We will: bring innovative ideas and approaches to our stakeholder and trusted partner collaborations; collaboratively explore new ways to better serve the needs of different taxpayer segments and provide appropriate assistance; and seek new partnerships to better reach and interact with our taxpayers.

6. Enterprise Data Management and Advanced Analytics Capabilities

The IRS will develop an Enterprise Data Management strategy with a cross-enterprise understanding of customer experience, emerging needs and expectations, and operational data. This strategy will: assist in understanding customer profile, behavioral and transactional data, and customer support services; use a central repository of integrated data from IRS systems that stores current and historical data; and improve compliance efforts, resolving cases faster and focusing on addressing issues with the largest effects.

Although planning is still underway to successfully implement the TXS, the IRS has already made considerable near-term progress across various focus areas and capabilities including:

- **Expanding Customer Callback.** In Fiscal Year (FY) 2022, customer callback expanded from 16 applications to 30, meaning over 70 percent of our toll-free demand is eligible for customer callback. We plan to continue expanding, with a goal of 95 percent by FY 2024.
- **Expanded Taxpayer Outreach.** We established special Saturday Taxpayer Experience Days in several key locations to expand availability of in-person assistance.
- **Increased Services for Multilingual Customers.** We translated Form 1040 into Spanish, expanded over-the-phone interpreter services, and developed a multilingual insert for the top 20 notices. We've also made Form 1040, its main schedules and six publications available in Spanish, Braille, and large print and developed a long-term enterprise-wide strategy to improve the services we provide to multilingual taxpayers.
- **Improvements to Digital Tools to Support Economic Impact Payments and the Advance Child Tax Credit.** We supported the American Rescue Plan by allowing taxpayers to opt-out, update qualifying children, link bank account, and change status for receiving advance payments of the Child Tax Credit. We also successfully gave citizens the ability to monitor the status of Economic Impact Payments and enter bank information through the Get My Payment tool on *IRS.gov*. We launched this tool only 3 weeks after the enactment of the Coronavirus Aid, Relief, and Economic Security (CARES) Act.
- **Enhanced Digital Communications.** We have improved online chat and deployed online tax professional accounts. With online chat, taxpayers and their authorized representatives can securely interact with designated IRS revenue agents and tax examiners. We also launched a feature allowing taxpayers to digitally control their representatives with Power of Attorney or view their tax records with a Tax Information Authorization. We released this feature in July 2021.
- **Expanded Partnerships.** We expanded partnerships with multiple Federal agencies to send Economic Impact Payments to groups without requiring the affected taxpayers to file a return or take any action.
- **Forms Modernization.** We enabled digital submission of Forms 2848, Power of Attorney, Form 8821, Tax Information Disclosure Authorization, Form 911, Request for Taxpayer Advocate Service Assistance, and Form 3949-A, Information Referral.

Question. In February, Jessica Lucas-Judy, the Director of Strategic Issues at the Government Accountability Office (GAO), testified before this committee on this year's filing season. In her testimony, Lucas-Judy detailed the difficulties taxpayers had contacting the IRS last filing season, noting that while the IRS answered more calls than previous years, the volume of calls contributed to a very low answer rate.

According to GAO, during the 2021 filing season the IRS disconnected 53 percent of calls due to lack of a customer service representative, taxpayers abandoned 27 percent of calls, and taxpayers received a busy signal on 2 percent of calls. Additionally, according to the Taxpayer Advocate, only 11 percent of calls were answered by IRS customer service representatives in FY 2021.

It is a primary responsibility of the IRS to provide adequate and ample customer service to the public.

In response to a letter that I sent to you on January 25, 2022 and also noted in your testimony, you said that the IRS is working to expand “Customer Callback,” which allows taxpayers to select a callback when estimated wait times are higher than 15 minutes. In your testimony, you estimate that that function has saved taxpayers more than 1.3 million hours.

What else can the IRS do to address call volume, hold times, and low answer rates?

Answer. The IRS has begun expanding live taxpayer-assistance services. These services include new technologies such as automated self-service voice bots and chat bots with artificial intelligence and natural language technology. These automated services provide immediate information access without waiting for a customer service representative. Additionally, the IRS is exploring live chat technology with customer service representatives as an alternative to phone calls. When successful, these new services will help to reduce telephone demand. We will continue to utilize Direct-Hire authority to hire individuals without regard to sections 3309–3318 of title 5, United States Code, to fill these critical roles.

Question. What can you do to ensure that those answering the phones are able to provide adequate and complete assistance to taxpayers?

Answer. Employees receive a comprehensive training on phone and paper inventories, as applicable. New hire and existing employees receive regular training updates and Critical Filing Season Readiness Training prior to the filing season. Our goal is to ensure these employees maintain a strong knowledge base to assist taxpayers. Our Accounts Management function maintains a robust quality review process to identify error trends and metrics. This process enables them to provide feedback when necessary. IRS leadership has calls with field locations to provide this feedback according to established quality goals.

Question. In a letter from you dated February 7, 2022, you said that the IRS received 145 million calls from January 1st through May 17th of last year—more than 4 times the number of calls received in an average year. You also note that on March 15th of last year you received approximately 1,500 calls per second—a 600-percent increase in normal call traffic.

Understanding that this is an unprecedented level of inbound calls, how do those numbers—those incredibly high call volumes—compare to what you’re seeing this filing season?

Answer. For the 2022 filing season, from January 1st through April 16th, we received 56 million net attempts, which are the overall volume of callers dialing IRS product lines for automated live assistance during open and available hours, compared to 124 million net attempts for the same time frame (January 1st through April 17, 2021) last year.

Question. What are most people contacting the IRS about? The Child Tax Credit? Recovery Rebate Credit? An unprocessed prior year return? Another error?

Answer. During Filing Season 2022 most taxpayer calls we received are about: Individual Master File (IMF) accounts; IMF math errors; IMF refunds; Where’s My Amended Return?; Affordable Care Act; Business Master File accounts; National Taxpayer Advocate; Practitioner Priority Services; and Taxpayer Assistance Center (TAC) (requesting a TAC appointment).

Question. Earlier this year, the IRS announced 5,000 open positions at IRS campuses, but you noted at a House Ways and Means hearing in March that you had only filled 211 of those spots.

I understand that it can take the IRS months to hire an employee—oftentimes applicants will look for and find another job in that time, as they can’t wait for months to get the job. The National Taxpayer Advocate’s 2021 report says that on average, it took 88 days to hire an IRS employee in FY 2021 and 120 days in FY 2020.

The IRS was recently granted direct hiring authority—through an OPM approval and the recent FY 2022 omnibus spending bill that passed in March. You have previously stated that direct hiring authority will allow you to hire on a more competitive basis, allowing you to fill positions and address backlogs and processing more quickly.

Your testimony before this committee states that you have been granted direct hiring authority for 10,000 positions—hoping to onboard 5,000 now and 5,000 over the course of the next year.

What exact positions were these grants of direct hiring authority for?

Answer. Office of Personnel Management (OPM)-approved direct hire authority (DHA) for filing season positions, on February 18, 2022, as follows:

| | | |
|-----------------------------------------|---------|--------------|
| Clerks | GS-0303 | 02 and above |
| Clerks | GS-0305 | 02 and above |
| Data Transcribers | GS-0356 | 02 and above |
| Computer Assistants | GS-0335 | 02 and above |
| Computer Operators | GS-0332 | 02 and above |
| Mail Processing Equipment Operators | GS-0350 | 02 and above |
| Tax Examiners | GS-0592 | 04 and above |
| Remittance Perfection Clerks | GS-0503 | 04 and above |
| Accounting Technician | GS-0525 | 04 and above |
| Individual Taxpayer Advisory Specialist | GS-0501 | 04 and above |
| Tax Specialist | GS-0526 | 04 and above |
| Contact Representative | GS-0962 | 05 and above |

Under the Consolidated Appropriations Act, 2022, DHA has also been approved for up to 400 Human Capital positions and up to 350 Information Technology positions, as outlined below, that directly support the IRS's work to get inventory back to healthy levels.

| | | |
|-----------------------------------|---------|--------------|
| Human Resource Specialists | GS-0201 | 07 and above |
| Information Technology Specialist | GS-2210 | 07 and above |
| Computer Engineers | GS-0501 | 04 and above |
| Computer Scientist | GS-1550 | |

Question. How will these hires help address backlogs?

Answer. All direct hire authority (DHA)-approved positions are critical to addressing IRS's urgent staffing needs. These 12 approved filing season position series will support millions of taxpayers, from individuals to businesses, who depend on IRS assistance, return and refund processing, and other support and services. The additional approved positions include Human Resource Specialists, critical to onboarding and training new hires, and Information Technology Specialists, Computer Engineers, and Computer Scientists, critical to updating our technology to address current backlogs and reduce the risk of future backlogs. The IRS is integrating scanned data and content management systems to improve digital intake of paper form data. This integration will improve paper data intake by reducing manual transcription and paper document storage. Taxpayers will be able to access their sensitive financial and tax information securely and easily from any device; they will also be able to resolve issues quickly and proactively using a variety of services.

Question. Before the committee, you said that 2,200 positions had been filled thus far. What is your plan to fill the remaining spots?

Answer. We plan to continue using the approved direct hire authority (DHA). We will also use all available recruitment resources, including: merit promotion, delegated examining, Veteran's and Schedule A appointing authorities, reemployed annuitants, Pathways recent graduates and Presidential Management Fellows, transfers, and reinstatements.

Question. Are these long-term positions?

Answer. We are filling most long-term positions with career and career conditional appointments. Available positions include temporary, term and permanent jobs.

Question. How long does it take for these new hires to complete training and begin working in the field? Are these new hires able to help with existing backlogs?

Answer. Training times depend on the job series and occupation. Generally, new hire Clerks take between 1 to 3 weeks to complete training and new hire Tax Examiners take between 3 to 6 weeks to complete training. The exact time needed depends on the functional area. After training is completed, new hires will be able to help with existing backlogs.

Question. Earlier this year, GAO testified that the IRS reported an attrition rate of 17 percent for processing center staff at the end of FY 2021. This is more than twice the agency's overall attrition rate of 7.6 percent. At the same time, the IRS encountered challenges hiring enough new processing staff, only meeting about 67 percent of your stated goal. GAO noted that for every 10 newly hired returns processing staff, the IRS needed about 4 to offset attrition.

What is the cause of that attrition level?

Answer. The IRS cannot definitively answer the cause of the attrition level.

Question. What recommendations do you have to better retain IRS employees?

Answer. The IRS's engagement and retention efforts focus on fostering a collaborative and inclusive culture, supporting employees with training opportunities and clear career paths, enhancing succession planning and knowledge transfer, and designing proactive talent management strategies to address business needs and workload demand. We are confident enhancing these efforts will lead to better staff retention.

Question. Do you believe that the Biden administration's vaccine mandate led to attrition and early retirements?

Answer. Individuals may consider many factors when deciding to retire or separate from Federal service. The IRS doesn't speculate about whether the vaccine mandate factored into an individual's decision to voluntarily separate or retire. We do not track this information.

Question. How many early retirements have you seen in 2021 and 2022?

Answer. The IRS retirement trend for FY 2020 was 3.4 years beyond eligibility. This trend rose to 3.9 years beyond retirement eligibility in FY 2021. Thus far in FY 2022, the data is trending down to 3.0 years beyond retirement eligibility.

Question. What were the causes of those early retirements?

Answer. The IRS is unable to determine the exact cause of the downward trend of beyond retirement eligibility requests. The analysis indicates a combination of factors, such as the usual factors of ability to carry over leave beyond 240 hours and age of workforce and unusual factors from the pandemic, led to the increase in retirements.

Question. How many early retirements were the result of the Biden administration's vaccine mandate?

Answer. The IRS does not track an individual's reason for retiring from Federal service.

Question. In late December, days before the end of the year, the Treasury Department released final regulations pertaining to foreign tax credits. These regulations were published in the Federal Register on January 4, 2022, and in a number of instances, are effective immediately. As such, these regulations are already impacting business decisions and financial statements.

We've heard a number of concerns from taxpayers regarding these regulations, including their significant departure from precedent without any congressional action or direction, and the broad impact they will have on the creditability of certain income and withholding taxes. U.S. businesses have reached out to us concerned about the regulations' impact on their ability to compete and grow internationally, which would result in fewer jobs here in the U.S.

Has the IRS considered postponing the effective date of these regulations to give businesses more time to understand how they will affect their operations, or re-proposing the provisions that were not included in the proposed regulations?

Answer. The final regulations released in December 2021 adopted the proposed regulations released in November 2020 in all substantive respects, while incorporating changes made after careful consideration of the numerous comments sub-

mitted through a public process. Since the final regulations were released, the IRS has engaged with numerous stakeholders and is considering whether any further changes or clarifications would be warranted. As the first part of that process, on July 26th, the Treasury Department and the IRS released technical corrections to the final regulations, which provide clarifications to the final regulations that apply to the same taxable periods as the final regulations.

Question. If not, is there concern that if foreign tax credits are denied for royalty withholding taxes because IP is located in the United States, that taxpayers may actually be incentivized to move their IP offshore?

Answer. As noted above, since the final regulations were released, the IRS has engaged with numerous stakeholders and is considering whether any further changes or clarifications would be warranted. As the first part of that process, on July 26th, the Treasury Department and the IRS released technical corrections to the final regulations, which provide clarifications to the final regulations that apply to the same taxable periods as the final regulations. Additionally, the Treasury Department and the IRS have previously announced that they anticipate releasing additional proposed guidance regarding the treatment of royalty withholding taxes as soon as possible.

Question. The Social Security Administration recently announced that Social Security offices will restore in-person services, including for people without an appointment, beginning on April 7, 2022. This is a welcome development, as many constituents are in need of in-person assistance.

Are IRS Taxpayer Assistance Centers back to pre-pandemic staffing levels and appointment availability?

Answer. The IRS began to shut down Taxpayer Assistance Centers (TACs) in March of 2020 due to the COVID-19 pandemic. We began to reopen offices to the public in June of 2020. All TACs were re-opened by May 24, 2021, except for six IRS TACs that are in the Social Security Administration office buildings.

In March of FY 2020, TAC had about 1,160 employees. In FY 2022, as of April 2022, TAC staffing is approximately 1,150 employees. We developed a Taxpayer Assistance Hiring and Expansion Strategy. We worked closely with our internal partners to identify underserved areas of the country to expand our TAC footprint. Through this coordination, we identified almost 60 potential locations throughout the country.

We have five new TAC offices scheduled to open in late FY 2022 and early FY 2023. This strategy also has a staffing plan for our current TACs to meet the taxpayer needs. This strategy of establishing new TACs and staffing existing locations will allow us to provide more outreach to underserved communities and online support for taxpayers who can use virtual services.

Question. It is my understanding that the IRS and its unions have recently come to an agreement on the return-to-office plan for the IRS. That plan states that during the week of April 24, 2022, executives, managers, and supervisors who have not been in the office regularly will be required to report as needed. During the week of May 8, 2022, employees without an approved telework agreement will have to return to the office, and during the week of June 25, 2022, employees who have not been required to report back to the office will be required to return. However, those with a valid telework agreement will simply follow the terms of their agreement, which may or may not require them to return the week of June 25, 2022.

How many IRS employees telework now? This represents what percentage of total IRS employees? What are these positions?

Answer. As of August 27, 2022, 59,600 or 73 percent of IRS employees (excluding Chief Counsel) telework part time and 151 or 0.18 percent telework full time. (The 2,258 Chief Counsel employee population is excluded in the telework reporting data for the 81,718 IRS employees. Many Chief Counsel employees are eligible for part-time telework; very few are eligible for full-time telework.) Approval for participation in the IRS Telework Program is within a supervisor's authority and is not guaranteed for an employee. Telework may not be suited for all positions and is not an employee entitlement. The operational needs of the IRS are paramount. The mission of the IRS, roles and responsibilities of a particular office, and the extent that the employee meets the eligibility requirements determine whether and to what extent telework is approved.

Question. What percentage of IRS employees do you anticipate teleworking after the broader return to office date of June 25th?

Answer. We completed our return to office plan in June 2022. We anticipated between 73 percent and 78 percent of IRS employees would telework part-time, meaning at least 1 day per week, and well under 1 percent would telework full-time after the return to office.

Question. What percentage of IRS employees teleworked prior to the COVID-19 pandemic?

Answer. Pre-pandemic, which the Office of Personnel Management defines as beginning March 10, 2020, 51 percent of the workforce teleworked at least 1 day a week.

Question. How were these dates—particularly the June 25th reentry date—determined?

Answer. The IRS approached return to office planning consistent with government-wide guidance. The administration is committed to collaborating with labor partners; this plan reflects extensive conversations with the National Treasury Employees Union about ensuring a safe environment. The IRS phased in this plan to ensure a smooth transition with minimal disruption to taxpayers, operations, and employees.

Question. In a March 8, 2022 response to Senate Finance Committee Republicans regarding a December 2021 letter that we sent concerning IRS privacy protections, you reiterated that the Treasury Department, Office of the Inspector General, FBI, and DOJ were each conducting independent investigations of ProPublica's claim to have 15 years of protected data from the tax returns of thousands of Americans.

Are you aware of the status of any of those investigations?

How often do you communicate with those agencies?

To your knowledge, has the IRS or Treasury asked ProPublica for a copy of the information that they claim to have from the returns of thousands of taxpayers?

Answer. I am not aware of the status of these investigations and do not communicate with them regarding their investigations. The IRS has not requested a copy of the information that ProPublica has in their possession.

QUESTIONS SUBMITTED BY HON. ELIZABETH WARREN

Question. The Child Tax Credit is a historic child anti-poverty effort that brings over 100 billion Federal dollars to around 67 million children in the U.S.²³ However, millions of families have missed out on claiming this credit.²⁴ IRS data shows that the Earned Income Tax Credit, another credit that helps to reduce poverty, also frequently goes unclaimed by qualifying taxpayers.²⁵ Data on unclaimed tax credits is a critical tool in efforts to reach eligible families.

The IRS released data on the number of children under age 18 with a Social Security number who are not found on a Tax Year 2019 or 2020 tax return but who appear on a Tax Year 2019 Form 1095 and Associated Number of Policy Holders,²⁶ Does the IRS have this same data for Tax Year 2021 and does the IRS plan to release it to assist in outreach efforts? If not, why not?

²³ Shah Family Foundation, "Tax Benefits Outreach in Massachusetts," 2021, p. 3, <https://static1.squarespace.com/static/5e25d642e0556233b7fc89d2/t/61d32932b3e9d606167e4b99/1641228600898/FindYourFunds+Outreach+Report+2021.pdf>.

²⁴ Department of Treasury, "By ZIP Code: Number of Children Under Age 18 With a Social Security Number Who Are Not Found on a Tax Year 2019 or 2020 Tax Return but Who Appear on a Tax Year 2019 Form 1095 and Associated Number of Policy Holders," June 2021, <https://home.treasury.gov/system/files/131/Estimated-Counts-of-Children-Unclaimed-for-CTC-by-ZIP-Code-2019.pdf>.

²⁵ Internal Revenue Service, "EITC Participation Rate by States Tax Years 2011 Through 2018," December 2021, <https://www.etc.irs.gov/etc-central/participation-rate/eitc-participation-rate-by-states>.

²⁶ Department of Treasury, "By ZIP Code: Number of Children Under Age 18 With a Social Security Number Who Are Not Found on a Tax Year 2019 or 2020 Tax Return but Who Appear on a Tax Year 2019 Form 1095 and Associated Number of Policy Holders," June 2021, <https://home.treasury.gov/system/files/131/Estimated-Counts-of-Children-Unclaimed-for-CTC-by-ZIP-Code-2019.pdf>.

Answer. We do not have this data at this time.

Question. The IRS released data on Earned Income Tax Credit participation rates for Tax Years 2011–2018.²⁷ Does the IRS have this same data for Tax Years 2019–2021 and does the IRS plan to release it to assist in outreach efforts? If not, why not?

Answer. We posted Tax Year 2019 participation rates on the *IRS.gov* webpage later this year and we expect to post the Tax Year 2020 participation in 2023. The IRS collaborates with the U.S. Census Bureau to produce the Earned Income Tax Credit participation rates. The report provides information 3 years behind the current tax year to facilitate data collection and estimation procedures.

Question. The IRS has previously released data on Federal individual income tax filers by ZIP code, including how the taxpayers filed.²⁸ Can the IRS provide data on the number of returns filed by non-filers in 2021 by ZIP code and month, including the number of individuals who filed that are non-filers—including people who are not required to file a return and separately, people who hadn't filed returns in the last 3 years—and how they filed? And can the IRS provide the number of these individuals who filed full returns and how they filed returns (such as paid tax preparers, VITA), and the number of individuals who filed simplified returns and how they did so (such as IRS non-filer portal, GetCTC, and paper simplified returns)? If not, why not?

Answer. We do not have this data.

Question. How many low-income filers have received a Letter 5071C or 6331C this year, and how many were able to successfully verify their identities?

Answer. This calendar year through April, approximately 1.3 million returns for taxpayers with an adjusted gross income of less than \$50,000 received a letter 6331C or 5071C letter. We resolved and closed about 390,000. The remainder are open pending taxpayer authentication.

A taxpayer may authenticate their identity by phone, online or in person at a Taxpayer Assistance Center. If the authentication is successful, we complete the processing of the taxpayer's return and quickly release the refund, generally within 21 days if there are no other issues.

The IRS's pre-refund return selection process is critical to protect taxpayers from identity theft refund fraud and prevent lost revenue. We select a return for further review when it matches characteristics of an at-risk return in one of the many filters. We select returns for additional authentication only when they break our established filters or patterns. Each year, the refund returns that have suspicious indicators of refund fraud out of the individual tax returns processed represent only about 3 percent of returns filed.

Question. I appreciate the tremendous efforts of the IRS to serve taxpayers even as it faces long-term underfunding and pandemic-related challenges. Through the end of 2021, the IRS issued more than 175 million third-round Economic Impact Payments (EIPs) which served as a critical economic lifeline.²⁹ Families who did not receive an EIP are eligible for the money in the form of a Recovery Rebate Credit (RRC) when they file their taxes. However, these families have to correctly input information on their tax returns to claim the credit. Similarly, the IRS issued about \$16 billion to over 36 million families in the final batch of advance Child Tax Credit (CTC) payments in 2021, but families may remain eligible for half or more of the CTC amount to which they are entitled.³⁰ In order to claim it, however, they need

²⁷Internal Revenue Service, "EITC Participation Rate by States Tax Years 2011 Through 2018," December 2021, <https://www.eitc.irs.gov/eitc-central/participation-rate/eitc-participation-rate-by-states>.

²⁸Internal Revenue Service, "SOI Tax Stats—Individual Income Tax Statistics—ZIP Code Data (SOI)," December 7, 2021, <https://www.irs.gov/statistics/soi-tax-stats-individual-income-tax-statistics-zip-code-data-soi>; Brookings Institution, "Earned Income Tax Credit (EITC) interactive and resources," December 21, 2016, <https://www.brookings.edu/interactives/earned-income-tax-credit-eitc-interactive-and-resources/>.

²⁹Internal Revenue Service, "All third Economic Impact Payments issued; parents of children born in 2021, guardians and other eligible people who did not receive all of their third-round EIPs can claim up to \$1,400 per person through the 2021 Recovery Rebate Credit," January 26, 2022, <https://www.irs.gov/newsroom/all-third-economic-impact-payments-issued>.

³⁰Internal Revenue Service, "Families will soon receive their December Advance Child Tax Credit payment; those not receiving payments may claim any missed payments on the upcoming 2021 tax return," December 15, 2021, <https://www.irs.gov/newsroom/families-will-soon-receive->

to accurately account for the advance CTC payments that they have received so far on their tax returns. Thus, it is more important than ever for low-income taxpayers to file and do so accurately.

However, according to Erin Collins, the National Taxpayer Advocate, the IRS issued over 11 million math error notices relating to RRC claims and nearly 14 million math error notices overall.³¹ These error notices are sent to taxpayers when there are discrepancies between a tax return and IRS records, such as on EIP and CTC payments or W-2 income.

What is the average and maximum delay in processing and receiving tax refunds, if eligible, that taxpayers face if they make a math error on EIP and CTC payment amounts or W-2 income?

Answer. Currently, the average delay for returns that fall out for error correction is 10 days. The maximum time is currently 14 days. We either then correct the return, send correspondence to the taxpayer about any changes, and issue refunds, or we send correspondence to the taxpayer requesting additional information. At this point, the time for resolution depends on the time it takes the taxpayer to respond.

Question. How are math errors on EIP and CTC payment amounts or W-2 income impacting the IRS backlog and burden on the IRS?

Answer. Some types of math errors have more effect on the IRS than others. All math errors add to the processing time of tax returns and increase overall inventories. The continued increase in electronic filing will lead to an overall decrease in math errors and a higher probability of automated resolution.

This filing season, we can correct most simple errors with Economic Impact Payments (EIPs) and Child Tax Credit (CTC) with our automated tool FixERS. Therefore, these errors have a very insignificant effect on our inventory and our ability to deliver a timely product.

However, we need additional resources to review, correspond with taxpayers, and correct other types of errors, such as W-2 errors, because these errors must be addressed manually. Manually addressing these errors diverts resources from paper return processing.

Question. The IRS has made efforts to make available to taxpayers the amount in EIP and CTC payments that they have received via IRS online accounts and letters to taxpayers. Do you have any data on the extent to which those steps have helped taxpayers file accurately? What are the limitations of these efforts in addressing math errors?

Answer. We do not have data available on this as we can't establish a direct link between available information and filing accuracy.

QUESTIONS SUBMITTED BY HON. SHELDON WHITEHOUSE

Question. Under section 501(c)(4) of the tax code, an organization can be exempt from tax if it is operated exclusively for the promotion of social welfare. Treasury regulations further provide that to qualify for this tax exemption, its primary activity must be the promotion of social welfare, which does not include political campaign intervention. In practice, this means that a 501(c)(4) cannot spend more than 50 percent of its funds on political campaign intervention.

Let's say there are four 501(c)(4) organizations that are affiliated with one another, potentially sharing staff or even office space. The first spends half of its budget on political campaign intervention and gives the other half to the second organization, which proceeds to spend half of that on political campaign intervention and give the other half to the third organization, and so-on. In the end, over 90 percent of the budget of the four nominally separate organizations has been spent on political campaign intervention.

You said during your appearance before this committee that under these circumstances, IRS agents would likely "consolidate if it's really a money circle," and

their-december-advance-child-tax-credit-payment-those-not-receiving-payments-may-claim-any-missed-payments-on-the-upcoming-2021-tax-return.

³¹National Taxpayer Advocate, "Annual Report to Congress 2021," January 2022, pp. 2-3, https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/01/ARC21_Full-Report.pdf.

therefore find what is effectively a single organization to have engaged in impermissible activity.

Has the IRS ever identified fact patterns of this nature or similar and if so, what enforcement actions, if any, has it taken in response? What tools or additional resources does the IRS need to effectively identify these schemes?

Answer. The IRS receives information about noncompliance through analyzing quantitative information (Form 990 data) and internal and external referrals of alleged noncompliance. Taxpayer privacy law under Internal Revenue Code (IRC) section 6103 prevents us from discussing specific cases or taxpayers.

An organization's eligibility for an IRC section 501(c)(4) Federal income tax exemption is based on all the facts and circumstances. A "facts and circumstances" analysis, here, means determining whether activities promote social welfare or constitute political campaign intervention, and measuring the organization's social welfare activities relative to its total activities.

This facts-and-circumstances analysis creates considerable confusion for the public and the IRS when making IRC section 501(c)(4) determinations and evaluating ongoing IRC section 501(c)(4) compliance. The Consolidated Appropriations Act, 2021, states that "none of the funds made available in this or any other Act may be used by the Department of the Treasury, including the Internal Revenue Service, to issue, revise, or finalize any regulation, revenue ruling, or other guidance not limited to a particular taxpayer relating to the standard which is used to determine whether an organization is operated exclusively for the promotion of social welfare for purposes of section 501(c)(4) of the Internal Revenue Code of 1986 (including the proposed regulations published at 78 Fed. Reg. 71535 (November 29, 2013))."

However, we can view circular transactions as a single transaction. The courts have sanctioned a doctrine under which related yet distinct steps in a transaction "may not be considered independently of the overall transaction."³² As to attribution of funds between entities, the court has said that the law "requires only that the two groups be separately incorporated and keep records adequate to show that tax deductible contributions are not used to pay for lobbying."³³

Question. You noted during the hearing that the IRS would "have to be able to identify" that the type of abuse described above has occurred in order to take enforcement action. In 2020, the Treasury Department and the IRS finalized a rule that eliminated donor reporting requirements for 501(c)(4) organizations.

Did this change make it harder for the IRS to identify the type of abuse described in the question above?

Answer. No, the IRS does not need the names and addresses of substantial donors on Schedule B of Form 990 or Form 990-EZ.³⁴ In general, the identity of substantial donors would not prove that the organization's activities promote social welfare. Similarly, donor identity would not affect a determination of the organization's primary purpose.

Other data on Form 990, Schedule I (grants to domestic organizations) and Schedule R (information on related organizations and certain transactions with related organizations) is potentially more useful for this purpose. Schedule B of the Forms 990 and 990-EZ requires all tax-exempt organizations to report the amounts of contributions from each substantial contributor (but not the contributor's name or address). It also requires them to maintain the names and addresses of substantial contributors should the IRS need this information on a case-by-case basis. This is sufficient for the efficient administration of the Internal Revenue Code. The 2020 regulation didn't compromise the requirement to present the data on exam.

QUESTIONS SUBMITTED BY HON. TODD YOUNG

Question. The IRS's processing backlog ballooned to over 20 million unprocessed returns earlier this year.³⁵ In response to the growing backlog, I understand the IRS increased hiring levels and reassigned some individuals to "surge teams." While I

³² *Commissioner of Internal Revenue v. Clark*, 489 U.S. 726, 738 (1989).

³³ *Regan v. Taxation With Representation*, 461 U.S. 540, 545 note 6 (1983).

³⁴ See 85 Federal Register 31,963 (2020).

³⁵ <https://www.cnbc.com/2022/03/11/irs-plans-to-hire-10000-workers-to-tackle-massive-backlog.html>.

laud these efforts to reduce the backlog, my constituents continue to experience significant delays in the processing of their returns and refunds.

When can my constituents reasonably expect the IRS to have fully cleared its backlog from the 2021 and prior tax filing seasons?

Answer. We redeployed and reallocated resources throughout the IRS and have implemented innovative strategies in an ongoing effort to provide a meaningful reduction in our inventories. These steps resulted in the IRS completing the processing of all error free individual income tax returns taxpayers filed in 2021 as of June 24, 2022. We must continue pursuing innovative strategies to fulfill our commitment to return inventories to a healthy level.

Question. What quantifiable impact have “surge teams” had on the reduction of the backlog?

Answer. Quantifiable results are not yet available. We are working to create a report to isolate surge employee efficiencies.

Question. During the hearing, some of my colleagues brought up the IRS data leak of confidential taxpayer information to ProPublica. My colleagues and I remain frustrated that neither Congress nor the public has been informed on the cause of that massive data leak, which is unacceptable given that it’s been over 10 months.

One of the reasons I find this leak so concerning is that the IRS has a documented history of political targeting. Taxpayers need to know that the sensitive information they provide the IRS is not only kept confidential, but is also only used for the fair and unbiased administration of our tax laws.

The Washington Post reported on April 4th that as part of its recruiting efforts in Ogden, UT, the IRS’s “marketing department” had “sent postcards to homes with incomes under \$50,000.”³⁶ This would seem to indicate the IRS is still using taxpayer information for purposes beyond just tax administration.

Can you please confirm whether this reporting is true? In your response, please provide specific details on how the IRS identified the persons with household incomes below \$50,000, what information it used to do so, and the origin of that information.

Answer. Generally, the IRS will send postcards to individuals in the ZIP codes of the local commuting area prior to our initial recruitment efforts. We do not use any household income data.

Question. If the IRS’s internal taxpayer data was utilized for this targeted recruitment effort, do you believe this was an appropriate use of taxpayer information?

Answer. We are not aware of any effort to use internal taxpayer income data for targeted recruitment efforts.

Question. What additional safeguards does the IRS need to put in place to ensure that taxpayer information is not used for any kind of targeting—whether that be to achieve political goals, recruit new employees, or for any other reason?

Answer. We are not aware of any effort to use internal taxpayer income data for targeted recruitment efforts.

Question. Only 11 percent of calls to the IRS were answered by customer service representatives in 2021.³⁷ With that said, I understand the IRS has rolled out new voice and chatbot services to assist taxpayers with simple inquiries.³⁸

What impact do you believe this new service offering will have on overall call volumes to the IRS?

Answer. The new Collection voice and chatbots provide new self-service options to taxpayers, allowing immediate service without waiting. Both voice and chatbots are relatively new technologies at the IRS. We launched the first Collection chatbot on December 10, 2021, followed by the Collection voicebot on January 3, 2022. The IRS previously used an Economic Impact Payment informational voicebot in May 2021.

³⁶ <https://www.washingtonpost.com/politics/2022/04/04/irs-tax-backlog-hiring/>.

³⁷ <https://www.taxpayeradvocate.irs.gov/news/nta-blog-hello-is-anyone-there-taxpayers-and-practitioners-continue-to-experience-frustration-over-lack-of-adequate-phone-service/#:~:text=Taxpayers%20have%20difficulty%20reaching%20IRS,of%20calls%20reached%20a%20CSR>.

³⁸ <https://www.irs.gov/newsroom/irs-unveils-voice-and-chat-bots-to-assist-taxpayers-with-simple-collection-questions-and-tasks-provides-faster-service-reduced-wait-times>.

The IRS Collection voicebot has provided taxpayers assistance with One-Time Payment information, Notice Clarification, and Frequently Asked Questions. Taxpayers have used the Collection voicebots over 2 million times, with the taxpayer not escalating to a live assistor 40 percent of the time. Taxpayers have used the Collection chatbots over 250,000 times to date; these bots reduced live agent chat requests by almost 80 percent, freeing agents to serve taxpayers with more complex issues.

In June 2022, the IRS will also deploy an authenticated Collection voicebot. This voicebot allows taxpayers who have verified their identity to set up installment agreements and get account or return transcripts and account history without waiting for live telephone help.

In addition, FY 2021 and FY 2022, the IRS Wage and Investment division deployed voicebot automated services on two toll-free product lines, the Economic Impact Payments line, and the Advance Child Tax Credit line. The voicebots provide unauthenticated responses to general, procedural questions using information from the frequently asked questions on *IRS.gov*. As of April 21, 2022, over 10.8 million callers have interacted with these voicebots combined, and we resolved over 4.8 million calls (45 percent) without transferring to a live assistor.

Question. Are there other technologies the IRS is considering to help reduce call volumes? If so, please provide details on those technologies and anticipated timelines.

Answer. Yes, the IRS is continuously exploring opportunities for online services and new technologies to meet taxpayer needs and reduce call volumes. The IRS analyzes data on call volumes and drivers to determine features to add to Online Account (for individual taxpayers) and to build new online applications. Our goal is to allow taxpayers with simple questions to use self-service tools. Live assistors can then focus on more complex issues requiring a live interaction. Examples include enabling taxpayers to update their address online (to be launched in summer 2022), improving and expanding online payment options, and integrating secure messaging into Online Account.

There are other technologies the IRS is using or investigating to improve taxpayer service. These include:

1. Adding information about financial relief to both Collection voicebots and chatbots;
2. Expanding voicebot functionality so taxpayers can verify their identity to set up an installment agreement, order a transcript, retrieve payment information, and receive a balance due payoff figure;
3. Increase the use of Live Chat to provide taxpayers and tax practitioners another channel for live assistor service;
4. Increase the use of Customer Callback to include the ability to schedule a callback;
5. Modernize Online Payment Plan self-service options and integrate them into the Online Account platform. This change will improve user experience and our online taxpayer engagement so taxpayers don't need to call or write the IRS. We plan to deploy additional long term payment plan options and expanded status information for taxpayers with existing plans in Fiscal Year 2023.

The IRS Wage and Investment (W&I) division identified several other uses for future voicebot and chatbot services. Currently, W&I and IRS Information Technology (IT) are developing automated chatbot services for Refund Status and Advanced Child Tax Credit topics. These chatbots will provide unauthenticated general information in a guided help format on *IRS.gov*. We aim to deploy these bots this summer.

The IRS has future plans to add other authenticated and unauthenticated voicebot/chatbot uses on other topics. These bots will reduce call demand for live assistance on many topics, including: Change of Address, Amended Returns, Transmitter Control Codes, Identity Theft/Victim Assistance, e-File application maintenance, walk-in taxpayer appointments, Employer Identification Number frequently asked questions, Extension to file guidance, e-File rejection error guidance, and e-File Fingerprint instructions. The IRS is also exploring live chat technology with customer service representatives as an alternative to a call when escalating from a chatbot.

Question. When the National Taxpayer Advocate testified before the Senate Finance Committee in February, the IRS had announced that it was hiring 5,000 positions in preparation for the 2022 filing season, but had only been able to fill 179 of those so far.³⁹ Since that time, the IRS has announced plans to hire an additional 5,000 positions.⁴⁰

As part of the Consolidated Appropriations Act, 2022 signed into law in March, the IRS was granted hiring authorities to bring new employees onboard within 40 to 45 days, rather than the usual several months.⁴¹

Can you provide me with an update on how many position have been filled out of the initial 5,000 job listings?

Answer. As of August 31, 2022, Submission Processing has filled 2,987 Clerk/TE positions (*i.e.*, applicants have accepted firm job offers or have onboarded), and there are an additional 1,428 applicants who have accepted tentative offers and are currently in the onboarding process. Accounts Management has filled 3,503 CSR positions. In addition, 4,129 applicants accepted tentative offers and are in the onboarding process.

Question. How will these new hiring authorities enable the IRS to hire more employees and onboard them more efficiently?

Answer. The direct hire authority (DHA) allows the IRS to conduct on-the-spot hiring at recruitment events. At these events, IRS can make qualification determinations; interview and make selections; determine shift preferences based on availability; extend tentative job offers; receive applicants' acceptance; complete the required forms to begin the pre-employment process; and conduct fingerprints sessions on site, reducing hiring time by eliminating the need a separate fingerprint appointment. DHA reduces hiring time frames from 80–120 days to 45–60 days.

Question. The GAO Director of Strategic Issues, Jessica Lucas-Judy, noted in her February testimony before the Senate Finance Committee that attrition, particularly among returns processing staff, is a challenge nearly equivalent to the IRS's hiring woes. In 2021, the IRS had an attrition rate of 17 percent for this group of employees, more than double the average for the total IRS workforce.⁴² In fact, for every 10 new hired returns processing staff, four were needed just to offset the rate of attrition.⁴³

What is the IRS doing to lower the high attrition rate for returns processing staff?

Answer. To assist with hiring and employee retention initiatives, we are standing up a Reskilling Academy at our three Submission Processing sites beginning in August 2022. The program provides employees an intensive training program with the opportunity to develop competencies necessary to qualify for a higher graded position. The curriculum includes a mix of self-study, direct instruction, hands-on learning and application, and assessments to track participant's progress. The program offers an accelerated promotion opportunity where participants successfully completing the program will be offered placement in a higher graded position within Submission Processing without competition. The rollout includes grade 3 and 4 clerical employees being reskilled to entry level Grade 5 Tax Examiner positions.

We have also used our internal employee viewpoint survey to address issues that employees have identified as important, such as improving training, communication, and opportunities for advancement. During new hire orientations, managers are addressing career paths and future available opportunities for advancement.

Question. How has high attrition rate significantly contributed to the unprecedented backlog we saw build up last year?

Answer. The IRS experienced extraordinary challenges during the COVID–19 pandemic. The return processing inventory backlog was the result of a combination of factors including a temporary shutdown in 2020 of all IRS processing sites due to the COVID outbreak; an increased number of e-file and paper returns filed to

³⁹ <https://www.finance.senate.gov/imo/media/doc/National%20Taxpayer%20Advocate%20Testimony%20-%20Senate%20Finance%20Hearing%20on%20Cust%20Serv%20Challenges%20-%202021-17-2022%20-%20updated%20chart.pdf>.

⁴⁰ <https://www.irs.gov/newsroom/irs-hiring-more-than-5000-positions-in-austin-kansas-city-ogden#:~:text=WASHINGTON%20%E2%80%94%20To%20help%20serve%20taxpayers,Missouri%3B%20and%20Ogden%2C%20Utah>.

⁴¹ <https://www.congress.gov/bills/117th-congress/house-bill/2471/text>.

⁴² <https://www.gao.gov/assets/gao-22-105802.pdf>.

⁴³ *Id.*

claim new COVID tax credits; increased employee turnover rates due to the COVID outbreak; and consolidation of our Fresno Submission Processing Center in calendar year 2021.

Because of resource limitations, changes from new legislation and the pandemic, we entered the 2021 and 2022 filing seasons with a significant inventory of unprocessed returns and correspondence. Additionally, we haven't yet met our hiring goals.

We continue to recruit and offer various Direct Hiring Authority (DHA) events. The DHA granted to the IRS in February 2022 gives us approval to hire 10,000 employees through the end of calendar year 2023 for Accounts Management and Submission Processing to support inventory reduction efforts.

We continue pursuing innovative strategies to fulfill our commitment to return inventories to a healthy level.

Question. In an April 1, 2022, *Forbes* article, former IRS Commissioner Mark Everson—who praised the IRS's success in disbursing COVID funds and has advocated for increased funding for the IRS—said that the backlog of returns “compromises the integrity” of the tax system.⁴⁴ Mr. Everson suggested the IRS bring all employees back to the office immediately and begin deploying everybody except criminal investigators to clear the backlog. I understand you are working to hire personnel, but that will certainly take some time. You have also said that this is an “all-hands-on-deck” situation.

If this indeed is an “all-hands-on-deck” situation, why not have the IRS bring back all employees now rather than phasing them in through May and June, and assign them to temporary duty in the Ogden, Austin, and Kansas City processing centers?

Answer. In April 2020, IRS ceased numerous on-campus operations due to COVID-19. On June 1, 2020, employees with non-portable work began returning to campuses, using a phase approach and in accordance with current State and local guidelines. Following CDC guidelines, we implemented social distancing requirements that reduced the staff footprint by half in most areas. In January 2021, all employees had to return to duty. Employees were no longer permitted to remain on paid leave due to the pandemic.

In February 2022, the IRS quickly established an Inventory Surge Team to improve the taxpayer experience and to address the unprecedented inventory and higher call volumes. To staff the Inventory Surge Team, the IRS identified employees with prior experience in this area and temporarily assigned them to the team. Eligible employees included those who were Accounts Management customer service representatives, tax examiners, clerks or had Campus Support experience within the last two fiscal years. We excluded positions that would not directly impact case closures, such as managers and analysts.

In March 2022, the IRS further increased taxpayer assistance by asking 700 Small Business/Self-Employed (SB/SE) employees to temporarily work at our Wage and Investment Submission Processing sites. These teams are made of SB/SE Campus Collection and Examination employees at our Austin, Ogden, and Kansas City sites.

Question. There have been reports of individuals improperly receiving Economic Impact Payments (EIP). In some cases, these are individuals who did not qualify in the first place, or received more than they should have, and in others, it is individuals who claimed the Recovery Rebate on their 2020 tax return despite having already received EIPs. I have also heard of similar issues relating to the Advanced Child Tax credit payments.

What happens if a taxpayer who has received all three EIP checks claims an EIP payment on his or her tax return?

Answer. The first and second rounds of Economic Impact Payments (EIPs) were advance payments of the Tax Year 2020 Recovery Rebate Credit (RRC). The third round of EIP was an advance payment of the Tax Year 2021 Recovery Rebate Credit (RRC). Taxpayers who already received the full amount of the EIP can't claim the RRC on the tax return. If a taxpayer makes this error, we adjust the return to remove and or reduce the credit, and the taxpayer receives a notice explaining the change made to their tax return.

⁴⁴<https://www.forbes.com/sites/ashleaebeling/2022/04/01/irs-we-apologize-your-tax-refund-is-delayed/?sh=18e6bda87d62>.

Question. What happens if two parents separately claim the Advance Child Tax Credit for the same child?

Answer. Generally, a taxpayer cannot use a qualifying child's Taxpayer Identification Number (TIN) to claim a credit on more than one tax return per tax year. When a taxpayer reports a qualifying child on more than one tax return, they may inappropriately receive tax benefits.

The IRS has ways to identify when the same qualifying child appears on multiple tax returns. For electronic returns, the IRS will reject the return if the qualifying child's TIN has already been used on another return. If we rejected the electronic return for a taxpayer but the taxpayer has a legitimate claim for the child, the taxpayer will need to file a paper return to claim the qualifying child.

We have multiple potential compliance approaches for taxpayers with duplicate dependents. We can issue a notice about the duplication with the opportunity for the taxpayer to self-correct by filing an amended return removing the child and the related tax benefit. For some returns, we may conduct an audit. If we determine the taxpayer was ineligible to claim the child, they will have to repay any tax benefit they received, plus interest.

Question. Does the IRS have an estimate of the total dollar amount of EIPs, Recovery Rebates, and Advance Child Tax Credits that have been improperly claimed?

Answer. Recovery Rebate Credits (RRC) and related versions of Economic Impact Payments (EIP) are unprecedented in terms of magnitude and response times. A recent Treasury Inspector General for Tax Administration (TIGTA) audit report about the 175 million advance RRC payments (EIP3) we issued to 167.4 million individuals found that the IRS correctly computed the RRC amount for 166.6 million individuals (99.48 percent). Another TIGTA audit report states that the IRS correctly calculated the allowable RRC for 26.1 million (99.3 percent) of the 26.3 million tax returns that claimed an RRC as of May 27, 2021. We were able to achieve these results by developing programming for stimulus payments, quickly modifying programming for subsequent legislation, and enhancing internal controls. Comprehensive audits of the expansion of the Child Tax Credit are currently under way.

The IRS assessed both the EIP and RRC in 2021 and will continue to evaluate controls to reduce improper payments. The IRS follows the Payment Integrity Information Act (PIIA) and Office of Management and Budget (OMB) Requirements for Payment Integrity Improvement. The IRS has reported the estimated improper payment rate for the Additional Child Tax Credit (ACTC) in Treasury's Agency Financial Report since FY 2019. We will use the same methodologies to evaluate improper payment compliance for the Advance CTC, similar to other refundable credits. The IRS will perform a risk assessment to evaluate the program in FY 2022. However, there are limited benefits to devoting significant resources to quantifying the amount and rate of improper payments for short-term programs such as COVID-19 related refundable tax credit (RTC) programs.

PIIA doesn't consider all aspects of tax administration in a system that relies heavily on voluntary reporting. In keeping with PIIA requirements, the IRS reports risk assessments for refundable tax credits, as well as improper payments. The IRS's risk assessments on refundable tax credits have consistently found that overclaims are not due to internal control deficiencies. Instead, overclaims often result from the difficulty of verifying eligibility, including our lack of access to relevant third-party data, for refundable tax credits within the applicable deadlines. The Tax gap methodology provides a better framework for reporting refundable tax credit overclaims.

Question. What controls does the IRS have in place to ensure taxpayers are not improperly claiming these tax credits or payments?

Answer. In administering refundable credits, the IRS has two goals—to reduce errors leading to improper payments and to increase eligible taxpayer participation so they receive the appropriate credits. Credits that are refundable attract fraud and other noncompliance, while the complexity of the eligibility criteria often leads to unintentional errors, both of which may result in improper payments. Addressing improper payments is an ongoing effort for us. We do this with a balanced approach, delivering outreach and education and conducting compliance activities for both taxpayers and preparers. The IRS has enforcement tools to address noncompliance, including audits, to prevent and recover improper refunds.

Although the payment integrity provisions of the Protecting Americans from Tax Hikes (PATH) Act of 2015 and provisions in the Tax Cuts and Jobs Act of 2017 have

helped IRS combat noncompliance, we need more assistance from Congress to significantly reduce overclaims. Expanded correctable or math error authority to correct more errors on tax returns, including errors claimed on Earned Income Tax Credit (EITC) returns, would give IRS the additional enforcement options for potential noncompliance. IRS legislative proposals in the President's Fiscal Year 2023 budget would give IRS increased oversight authority over paid tax return preparers, to help reduce preparers filing erroneous and fraudulent returns. Strengthening relationships with paid tax return preparers, educating them about eligibility requirements for EITC and other refundable credits and enforcing due diligence requirements are significant parts of IRS's strategy to prevent and reduce improper payments.

Question. A consistent source of my office's constituent casework stems from amended tax returns getting "lost" in the IRS's system. As you know, historically amended returns were required to be submitted via paper, so they are much more likely to get lost during processing. The IRS is now allowing certain individual amended returns to be submitted electronically "using available tax software products."⁴⁵

What types of filings are still required to be done via paper?

Answer. There are certain documents taxpayers can only provide to the IRS by paper. There are a range of reasons why, including the following: the IRS does not have the resources to create and process the electronic version of the document; we need to modernize existing or create new systems to meet the document's requirements, such as digital signatures; and legislation does not allow the document to be submitted electronically, for example, requiring a wet ink signature.

Beginning in January 2022, filers needing to amend a 2020 Form 1040, U.S. Individual Income Tax Return, are able to do so electronically. We added the ability to amend tax years 2019, 2020, and 2021 in June 2022 for Form 1040-NR, U.S. Non-resident Alien Income Tax Return, Form 1040-SS, U.S. Self-Employment Tax Return (for Bona Fide Residents of Puerto Rico), and Form 1040-PR, Federal Self-Employment Contribution Statement for Residents of Puerto Rico. Taxpayers will also be able to electronically amend returns they originally submitted on paper.

Question. For each of the filings identified in part (a) above, please explain why they cannot be submitted electronically.

Answer. There are over 3,900 forms taxpayers can't file electronically. The complexity varies depending on the form's data, whether it has child form attachments, the type of form (tax, information, etc.), and many other factors. We have different intake systems and are establishing new ones. We must match each form with the best platform. Limited resources restrict the IRS's ability to analyze the forms and implement information technology changes.

Question. In a 2018 settlement announced by the Department of Justice and approved by then-Judge Ketanji Brown Jackson, the IRS expressed its "sincere apology" for any delay involved with the application of Z Street, a nonprofit corporation dedicated to educating the public about issues related to Israel and the Middle East, for tax-exempt status as a public charity under section 501(c)(3) of the tax code.⁴⁶ In that settlement, the IRS acknowledged that criteria for tax-exempt status should not be based ". . . on the applicants' political viewpoints."⁴⁷ In her Declaratory Judgment in the agreement, Judge Jackson concluded that it was "wrong" to use the tax code against any group "based solely on any lawful positions it espouses on any issues" or its "associations or perceived associations with a particular political movement, position, or viewpoint."⁴⁸

Question. Do you agree with the position laid out by then-Judge (now Justice) Jackson that tax law should not be used against any group "based solely on any lawful positions it espouses on any issues" or its "associations or perceived associations with a particular political movement, position, or viewpoint"?

Answer. Yes, as indicated in the settlement, the IRS is fully committed to the evenhanded application of the law, respecting the viewpoints of all taxpayers. We charged the IRS Exempt Organizations Division with the responsibility to admin-

⁴⁵ <https://www.irs.gov/filing/amended-return-frequently-asked-questions>.

⁴⁶ <https://www.justice.gov/opa/press-release/file/1030516/download>; https://www.wsj.com/articles/when-judge-jackson-ruled-against-the-irs-abuse-of-power-first-amendment-supreme-court-11649015861?mod=opinion_lead_pos10.

⁴⁷ <https://www.justice.gov/opa/press-release/file/1030516/download>.

⁴⁸ *Id.*

ister the tax code provisions related to tax-exempt organizations in a fair and impartial way. The IRS agrees criteria for selecting tax-exempt applications or tax-exempt entities for IRS review should focus on the activities of the organizations and whether they fulfill the requirements of the law, and not on the applicants' political viewpoints.

Question. Since assuming the role of IRS Commissioner, what steps have you taken to ensure political ideology or positions on issues are not taken into consideration when the IRS makes decisions on such matters as tax-exempt status applications?

Answer. Since joining the IRS, I have focused on improving service to the Nation's taxpayers, balancing appropriate enforcement of the Nation's tax laws while respecting taxpayer rights. In 2017, the IRS was a party to a consent order filed in the U.S. District Court for the District of Columbia. In 2018, we informed all employees of the IRS Exempt Organization Division of the terms of that agreement. These terms include the District Court declaration in that case that it is "wrong to apply the United States tax laws, including any and all tax rules, regulations, policies, procedures, and standards of review, to any tax-exempt applicant or entity based solely on such entity's name, any lawful positions it espouses on any issues, or its associations or perceived associations with a particular political movement, position, or viewpoint."

The training of IRS employees is ongoing, as we strive for continuous improvement in applying the tax law with fairness and integrity for all.

Question. As you know, the Office of Management and Budget (OMB) issued a 2018 memorandum instructing all Federal agencies to transition "to a fully electronic environment, and end the National Archives and Records Administration's (NARA) acceptance of paper records by December 31, 2022."⁴⁹ I understand the IRS has been working to adopt an approach called Scanning-as-a-Service (SCaaS) to help the agency reduce its reliance on paper, and in August 2021, awarded five \$7.5 million contracts to five different companies to help the IRS scan and digitize its paper files. In your April 8, 2022, letter to several of my Republican colleagues and me, you noted that "although we are cautiously optimistic of [the five SCaaS contractors'] progress to date, it is important to note that a significant amount of work remains to confirm the viability of these pilots, as well as their ability to scale to other use cases."

Question. What have been the biggest challenges the IRS has faced in adopting SCaaS functionality?

Answer. The IRS is exploring Scanning as-a-Service (SCaaS) options using contractor-managed services to digitize or digitalize paper records. This functionality will let the IRS transition from a paper record environment to an electronic record environment, in accordance with Office of Management and Budget (OMB) guidance.

In August 2021, the IRS awarded five contracts to test SCaaS-managed service functionality and explore full-scale adoption if the initial use case is successful. The SCaaS contractors completed Phase 1 of the contracts, and 3 contractors advanced to Phase 2 in anticipation of a target-State IT solution scheduled for December 2022. The scanning contractors are progressing through the onboarding process, completing necessary security assessments, and preparing to scan the first SCaaS use case.

By its very nature, SCaaS is a fundamentally different approach to digitizing and digitalizing records that is sufficiently flexible to scale to other use cases when and as it proves successful. Challenges have included security clearance timelines, identifying prerequisites to safely and appropriately disposing of documents that have been digitized, and determining how to identify resources and prioritize additional use cases based on enterprise-wide needs. Although additional challenges undoubtedly remain, we are proud of our progress in this space and our consistent engagement with industry partners who are helping us examine the opportunities for tackling this complicated problem in a different way.

Question. Do you believe the IRS will be able to meet the December 31, 2022 OMB deadline for Federal agencies to fully transition to an electronic environment? If not, when do you expect the IRS will meet this deadline?

⁴⁹ <https://www.archives.gov/files/records-mgmt/policy/m-19-21-transition-to-federal-records.pdf>.

Answer. No, the IRS will not be able to meet the December 31, 2022, deadline.

The IRS processes nearly 169 million returns and other forms annually and stores between 5.7–7 million cubic feet of paper records (the bulk of which are tax returns) at Federal Records Centers (FRCs) nationwide. Although more than 90 percent of individual returns are electronically filed, IRS receives millions of returns and other taxpayer documents on paper every year.

Given the paper-intensive nature of business operations, full compliance with OMB/NARA M–19–21 is not feasible by December 31, 2022. Therefore, IRS contacted the National Archives and Records Administration and formally requested an exception from the requirement and authorization to continue to transfer paper records to the FRCs until January 2028, during which time we will continue our digitalization efforts to further reduce reliance on and necessary storage of paper records.

Question. As you know, audit logs can be an effective tool for retroactively determining unauthorized access to confidential taxpayer data sets. Additionally, user access reviews can help find individuals who may have been assigned a level of access incommensurate with their role and responsibilities. Audits logs and user access reviews are particularly relevant considering the source of the June 2021 leak of troves of private taxpayer information to ProPublica has apparently not yet been identified. I understand other Federal agencies have jurisdiction over this matter and are currently conducting investigations.

How often does the IRS review audit logs for violations such as unauthorized access to taxpayer data sets and perform user access reviews for inappropriate privileges assigned to users?

Answer. The IRS has several different monitoring methods of audit logs for multiple security threat and compliance purposes, including Unauthorized Access, which we call UNAX, on a daily, weekly, and monthly basis. The variation of frequency is driven by data availability, analytic platform capabilities, and policy. As a result of these efforts, the IRS has processed 462 violations resulting in suspension, resignation, and removal over the past 10 years.

The IRS requires that individuals recertify their access to IRS applications on a regular schedule. For “non-privileged” roles such as an employee’s access to the agency’s official timekeeping system, the recertification process occurs annually. For “privileged” roles, the recertification process occurs every 6 months.

Question. The IRS frequently says it is near-current on “opening mail,” and yet many of my constituents wait for months, sometimes close to a year, for any indication from the IRS that it has received a mailed return or other tax document. I understand there is a difference between opening the mail and “processing” the mail, but it seems hard to believe that should take upwards of a year.

Can you please outline the process of what happens when one of the IRS’s processing centers receives a mailed tax return from a taxpayer, from start to finish? Please also include the current average timeline for each step in the process.

Answer. Please see the following link, as it provides a visual, simplified pipeline of one of our Submission Processing centers. This video is accessible to the public: <http://www.irsvideos.gov/Professional/IRSWorkProcesses/SubmissionProcessingPipeline>.

The primary purpose of the processing pipeline is to transfer taxpayer information from a paper return to the computer in an electronic version.

1. Incoming mail is automatically sorted and opened by a machine called the Service Center Automated Mail Processing System (SCAMPS) that reads the bar-coded envelopes that identify the types of returns inside. The machine separates returns with payments from those without payments by detecting magnetic ink on enclosed checks.
2. Returns are extracted from their envelopes and further sorted by type by employees using unique workstations called sorting tables.
3. Before continuing their journey through the processing pipeline, returns with payments are routed through a Remittance Processing System to ensure deposit of revenue within 24 hours.
4. Returns are then batched into official units of work called blocks, containing from 50 to 400 documents. Individual blocks containing the same types of re-

turns are combined, placed on carts, and logged into a computer system which tracks their movement through the pipeline.

5. Tax Examiners correct taxpayer errors, assign codes that will facilitate data entry and, if necessary, correspond with the taxpayer to request additional forms or information.
6. A Document Locator Number, used to identify and locate a document anywhere within the IRS, is stamped on each return. It indicates the processing center, type of return, Julian date, block and sequence number and processing year.
7. Data Transcribers input tax return information into the computer. Portions of returns are re-entered into the system by a second transcriber to verify the original entry of the return data.
8. The return data is then transmitted to the Martinsburg, WV Computing Center, where it is subjected to math error and validity checks before attempting to post to the IRS Master File. If no errors or inconsistencies are found and all requirements are met, refunds or balance due notices are issued to the taxpayer.
9. Returns with errors or inconsistencies are transmitted back to the processing centers where tax examiners make corrections using an Error Resolution System (ERS). The corrected return is transmitted back to the computing center for posting to the IRS Master File.
10. The original paper returns are then stored in our Submission Processing Center files until they are retired to a Federal Record Center.

E-file, the IRS's electronic alternative to paper tax returns, bypasses most of the processing pipeline process. Taxpayers can use a tax preparation service or software on their personal computer to file their taxes electronically. Since return information is already computer formatted, the IRS can quickly and efficiently check for errors and transmit the data to either the Martinsburg, WV Computing Center for posting to the IRS Master File or to the preparer for correction. E-file saves both the IRS and the taxpayer a lot of time and effort.

Question. In the Treasury Inspector General for Tax Administration's (TIGTA) report from February 7, 2022, the hiring progress as of August 17, 2021, is reported for the four IRS tax processing centers: Austin, Kansas City, Ogden, and Fresno.⁵⁰ While Austin, Kansas City, and Fresno have all struggled to meet their hiring goals, Ogden far surpassed theirs by over 200 hires.

What factors do you believe contributed to the Ogden processing center overperforming in hiring while the three other locations lagged?

Answer. In recent hiring efforts, our Ogden location did not over-perform. The economic factors and availability of job opportunities contributed to the overall results for hiring in each location.

Question. Are there any lessons that can be learned from Ogden?

Answer. The recruiting efforts and hiring processes were the same at Ogden, Austin, Kansas City, and Fresno. Throughout our recent hiring events at each campus, we have used a variety of platforms to share and socialize job opportunities including social media, news outlets, internal communications, job posting boards, and flyers. We also broadly share job postings with local congressional offices, tax professionals, and small business associations.

Question. That February TIGTA report also estimated that the IRS lost out on \$56.2 million in interest due to taxpayer checks that failed to be deposited by the IRS in a timely manner.⁵¹ In 2020, that amount was \$367.7 million.⁵² From my understanding, these delays are due to the fact that the IRS uses 12 Service Center Automated Mail Processing System machines, or SCAMPS machines, to process paper mail containing physical checks, which according to TIGTA, are unable to "effectively identify" checks included with taxpayer correspondence.⁵³ Apparently in

⁵⁰ <https://www.treasury.gov/tigta/auditreports/2022reports/202240015fr.pdf>.

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

some cases, these machines even cut taxpayer correspondence and envelopes, forcing IRS employees to manually reconstruct these items with tape.⁵⁴

TIGTA has encouraged the IRS to either upgrade or completely replace this outdated equipment. According to TIGTA, it would cost around \$360,000 to \$650,000 to either upgrade or completely replace each machine; just a fraction of the cost compared to the amount of interest the IRS loses out on each year.⁵⁵ In response to this recommendation, the IRS said, “. . . [b]ecause this procurement action is dependent on funding and is subject to competing priorities, IRS management will re-evaluate continuing actions if implementation is not successful within 3 years.”⁵⁶

Lastly, I would like to note that based on the Treasury Department’s latest Quarterly Summary of Treasury COVID Response Programs, dated March 28, 2022, the IRS had approximately \$538.5 million and \$382.3 million in unobligated funds in the IRS Operations Support and the IRS Business Systems Modernization programs, respectively. These figures represent supplemental COVID-related funding that the IRS received in addition to its annual appropriations.

If funding is a concern, why does the IRS not use a tiny portion of the unobligated supplemental COVID funding to resolve this issue? It would cost only \$7.8 million to completely replace every machine, and only about \$4.3 million to upgrade.

Answer. The Internal Revenue Service is taking a holistic approach to identify a Submission Processing Modernization (SPM) solution, before spending funds on a short-term fix. The effort is to ensure we obtain equipment that improves upon the efficiency of processing incoming mail while also being adaptable to future advancements in technology related to digitalization and the elimination of paper-based, manual processes.

Question. Why is the IRS giving itself 3 years to fix an issue which, according to the vendor of SCAMPS machines, can be resolved in about 6 weeks?

Answer. Wage and Investment is working with IRS Procurement to solicit this solution through a competitive bidding process. IRS is currently working through our procurement process to ensure all equipment is obtained per government contract regulations

Question. How does the IRS plan on utilizing the remaining unobligated IRS Operations Support and IRS Business Systems Modernization funding?

Answer. The following is our current plan for the ARPA modernization funding as of May 12, 2022. The costs reflected are total costs, but the summary table breaks out the planned spending between actuals and plan. Previously, the IRS had planned on allotting \$1 billion of ARPA funds for the IT modernization portfolio. In order to deploy additional resources to reduce the inventory backlog and pay for IT requirements beyond what the FY 2022 appropriation provided, IRS will spend \$584 million of the ARPA funds on the IT modernization portfolio, rather than \$1 billion.

| (\$ in millions) | Taxpayer Services | Operations Support | Business Systems Modernization | Total |
|-------------------------------------|-------------------|--------------------|--------------------------------|----------------|
| Taxpayer Assistance | \$166 | | | \$166 |
| Total Modernization Portfolio | | \$286 | \$298 | \$584 |
| Information Technology Requirements | | \$250 | | \$250 |
| Total Requirements | \$166 | \$536 | \$298 | \$1,000 |

This change illustrates a perennial problem for IRS IT. In recent years, the enacted budget typically has not covered all IT needs. Spending to address new legislation, inflation, and cybersecurity risks has left little room for other priorities and impaired our ability to modernize. The IRS has been required to use its scarce IT resources to meet current needs, such as filing season and correspondence inventory challenges, first. This scarcity has affected IRS’s ability to invest in modern technology at the rate that we need and the taxpayer community desires.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

The ARPA funds were an opportunity to make such an investment, but we were forced by necessity again to shift resources that were intended for modernization to meet more immediate needs. The long-term effect of this is the IRS today does not have the tools in place to best serve the American people and enforce the tax laws.

ARPA Modernization Portfolio Spend Plan

ARPA-Modernization Spend Plan

(in millions of dollars)

| Modernization Pillars | FY 2021– FY 2022 Actual Spend ¹ | FY 2023 Plan | Total FY 2021– FY 2023 (Actual Spend + Plan) |
|---------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|----------------|-------------------------------------------------------|
| <i>Taxpayer Experience:</i> Deliver high-quality service experience while protecting taxpayer information and data | \$23.5 | \$2.5 | \$26.0 |
| <i>Care Taxpayer Services and Enforcement:</i> Streamline and integrate IT programs that enable top-quality service | \$106.9 | \$59.8 | \$166.7 |
| <i>Modernization IRS Operations:</i> Retire and decommission legacy systems, replace with more sustainable infrastructure | \$ 108.1 | \$47.2 | \$155.2 |
| <i>Cybersecurity and Data Protection:</i> Continue to protect taxpayer data and address emerging threats | \$124.7 | \$75.3 | \$200.0 |
| <i>Technology Planning and Program Oversight</i> | \$14.2 | \$21.9 | \$36.1 |
| Total | \$377.4 | \$206.6 | \$584.0 |

¹ Spending for FY 2021–FY 2022 includes commitments, obligations, expenses, and disbursements (COED).

The IRS started implementing the following capabilities within the ARPA Modernization portfolio in FY 2021 and continues to deliver through FY 2023. The following information is a high-level summary of the capabilities and outcomes expected as a result of this funding.

Taxpayer Experience (\$26 million total): IRS is delivering technology that helps taxpayers, third parties and IRS employees to respond proactively and efficiently. This enables a more human-centered, digital experience that is easy-to-use, secure, and grants access to the most relevant information so that taxpayers can resolve issues quickly and efficiently, reducing burden. IRS will expand customer callback to the remaining major phone applications, providing taxpayers the option to keep their place in queue without staying on hold. This feature empowers taxpayers with information about their account by making services available to customers when they need them while protecting taxpayer information and data and implements technology enhancements that provide taxpayers with equal access to information, services, and documents in their desired media format and a choice of multiple languages. IRS will establish an enterprise solution to offer consistent translation and will implement accessibility solutions more rapidly to offer products in multiple languages, assisting taxpayers to comprehend their tax account information.

Core Taxpayer Services and Enforcement (\$166.7 million total): Modernize and integrate core tax processing systems to streamline processes, enable cost-effective operations, improve operational outcomes, and reduce taxpayer burden. The IRS will enable a modernized solution for acceptance, validation, perfection, management, and use of Information Returns data by delivering a user-friendly interface for taxpayers to securely submit their tax forms via a portal. This portal will improve filing experience and data access to the information returns for both IRS staff and the taxpayers. This will advance the use of data and analytics to combat noncompliance and improve taxpayer service.

Modernized IRS Operations (\$155.2 million total): The efforts in this area focus on reducing complexity, standardizing underlying technology infrastructure, and strengthening organizational agility through automation and streamlining proc-

esses. The migration to cloud will reduce cost on life cycle management of hardware and gain application management and reliability efficiencies. This will deliver more efficient, scalable, resilient, and secure infrastructure through cloud services and will improve the Taxpayer experience. Another focus is on expanding IRS network capacity. The IRS will expand current network capacity because we expect to exhaust our existing capacity in FY 2023. IRS will begin the activities to expand the bandwidth at the IRS data centers, 500+ offices, and dedicated cloud circuits to support the increased cloud usage, growing workforce, and rapidly accelerating bandwidth demand as consumption grows for modernized capabilities. IRS will also start to modernize asset management by ensuring that the assets required to deliver services are properly controlled and that accurate and reliable information about those assets is available when and where it is needed throughout IRS business processes. This will be achieved by migrating asset data from the legacy Asset Manager tool to the new Asset Management capabilities on the ServiceNow platform. Lastly, digitalization continues to convert large volumes of paper to digital data formats to improve operational performance, making the IRS more responsive and resilient.

Cybersecurity and Data Protection (\$200 million total): Protecting our systems and taxpayer information against cyber threats is a top priority for the IRS. The cyber landscape is constantly evolving, resulting in more sophisticated and frequent efforts by cybercriminals. In response, IRS IT Cybersecurity will expand monitoring of IRS High Value Assets (HVAs) from standard business hours to continuous monitoring (24 hours per day, 7 days per week). The IRS has transitioned most of its operations from a legacy system to a modern-era big-data platform. The new platform with Next Generation Fraud Analytics significantly improves the accessibility of the massive cybersecurity data collection, fraud-detection research and development, facilitated large-scale cases investigations, and shortens the IRS response time to court orders and inquiries from the Congress and other law enforcement agencies. IRS has leveraged the big-data platform to develop and improve many data pipelines, fraud indicators, dashboards, risk models and web-based automation utilities. These developments reduced the complexity of data management and investigation activities, thus reducing the operating cost while increasing monitoring and analytics efficiency. This migration has streamlined and automated many data analysis and reporting tasks to replace many manual processes. IRS implemented the Privileged User Management and Access System (PUMAS) to manage privileged access accounts to servers, mainframes, and network devices and manage software on IRS endpoints and provide white/blacklisting of software applications to ensure the most secure technology products are used. IRS continues to upgrade the physical access control equipment at IRS facilities as well. Lastly, IRS will improve the user experience by providing a simpler and more secure method for secure registration, identity proofing, authentication and single sign on to its ever-growing online applications and tools.

Technology Planning and Program Oversight (\$36.1 million total): Provides key technology planning, portfolio, and program management support to ensure seamless integration and fulfill oversight and reporting requirements of the American Rescue Plan modernization programs. This includes technology architectural and engineering requirements and impact analysis of additional opportunities to retire legacy technology as capabilities are deployed by the modernization programs.

| (\$ in millions) | Taxpayer Services | Operations Support | Business Systems Modernization | Total |
|-------------------------------------|-------------------|--------------------|--------------------------------|----------------|
| Taxpayer Assistance | \$166 | | | \$166 |
| Total Modernization Portfolio | | \$286 | \$298 | \$584 |
| Information Technology Requirements | | \$250 | | \$250 |
| Total Requirements | \$166 | \$536 | \$298 | \$1,000 |

| Modernization Pillars | FY 2021 Actual Spend | FY 2022 and FY 2023 Plan | FY 2021–FY 2023 Total Plan | FY 2022 Actual Spend ¹ as of 05/12 | Cumulative FY 2021–FY 2022 Spend as of 05/12 | Remaining Balance |
|----------------------------------------------------------------------------------------------------------------------|----------------------|--------------------------|----------------------------|-----------------------------------------------|----------------------------------------------|-------------------|
| <i>Taxpayer Experience:</i> Deliver high-quality service experience while protecting taxpayer information and data | \$15.2 | \$17.2 | \$32.4 | \$7.1 | \$22.3 | \$10.1 |
| <i>Care Taxpayer Services and Enforcement:</i> Streamline and integrate IT programs that enable top-quality service | \$0.1 | \$138.9 | \$139.0 | \$99.1 | \$99.2 | \$37.3 |
| <i>Modernized IRS Operations:</i> Retire and decommission legacy systems in place of more sustainable infrastructure | \$30.6 | \$105.1 | \$135.7 | \$8.9 | \$39.5 | \$92.4 |
| <i>Cybersecurity and Data Protection:</i> Continue to protect taxpayer data and address emerging threats | \$43.9 | \$156.1 | \$200.0 | \$61.8 | \$105.7 | \$94.3 |
| <i>Technology Planning and Program Oversight</i> | \$0.5 | \$28.8 | \$29.3 | \$10.9 | \$11.4 | \$17.9 |
| Subtotal | \$90.3 | \$446.1 | \$536.4 | \$187.8 | \$278.1 | \$252.0 |
| Discontinued Programs | \$8.2 | \$39.1 | \$47.3 | \$45.4 | \$53.6 | \$0.0 |
| Total | \$98.5 | \$485.2 | \$583.7 | \$233.2 | \$331.7 | \$252.0 |

¹ Spending for FY 2022 includes commitments, obligations, expenses, and disbursements (COED).

Question. Will you commit to providing the Senate Finance Committee membership with quarterly updates on the status of the IRS's supplemental COVID funding?

Answer. IRS provides COVID obligation status updates in COVID Spend Plan reports provided through Treasury. Treasury also provides consolidated obligation updates on COVID funding spending for the Department that includes input from IRS. These status updates are either provided as a separate report or as a part of other consolidated budget specific submissions or requests. IRS plans to continue to provide the Hill with spend plan/obligation status updates for COVID and the American Rescues Plan allocations.

QUESTIONS SUBMITTED BY HON. CHUCK GRASSLEY

Question. Last year, ProPublica began publishing stories that appear to be based on confidential taxpayer information leaked or hacked from the IRS. In a December letter to you from myself and several other members of this committee, you were asked if you were aware of any data breach of IRS systems. In your March 8th response, you suggested that this question would be better directed to the Treasury Inspector General, the FBI, and the Department of Justice. However, according to the Internal Revenue Manual “[t]he IRS Commissioner is responsible for overall planning, directing, controlling and evaluating IRS policies, programs, and performance.”

In light of this and the fact we are in the middle of filing season, do you evaluate IRS systems as safe and secure for the millions of returns currently being filed?

Answer. Yes.

Question. Are you working to ensure that IRS systems are secure or are you waiting for the results of a criminal investigation before you take any action?

Answer. The IRS is continuously working to ensure that IRS systems are and remain secure.

Question. On April 13, 2022, ProPublica published another story based on a claimed “trove of IRS data” “revealing the incomes and tax rates of the 400 Ameri-

cans with the highest incomes from 2013 to 2018.” It is very frustrating that for nearly a year what appears to be confidential taxpayer information has continued to be openly published without any sign from the IRS that a leak or hack has been identified much less addressed. While there are many entities such as the FBI that are responsible for Federal law enforcement, the IRS is responsible for protecting the taxpayer information that is entrusted to it.

Since ProPublica first began publishing what appears to be confidential taxpayer information last year, has the IRS undertaken any effort to determine if there was a leak or hack of IRS systems? Please detail those efforts if any were undertaken.

Answer. The Treasury Department has made clear that the matter was immediately referred to the appropriate authorities, including the Treasury Inspector General for Tax Administration, and that those entities conduct independent investigations.

Question. In response to any of the information published by ProPublica, has the IRS reached out or had contact with any of the taxpayers who appear to have had their confidential taxpayer information leaked or hacked from the IRS?

Answer. Particularly given statutory restrictions, I am constrained in what I can say about this matter. But the matter was immediately referred to the appropriate authorities, which conduct their investigations independently.

Question. When what appears to be confidential taxpayer information is published by ProPublica or in any other public forum, does the IRS take note of it and investigate, or does the IRS need to receive a complain first?

Answer. While the IRS certainly recognizes the significance of the ProPublica article, the Office of the Treasury Inspector General for Tax Administration (TIGTA) has “jurisdiction and responsibility to enforce criminal law as it pertains to IRS operations, including IRS employee misconduct and external attempts to corrupt tax administration.” As part of this mandate, TIGTA is charged with investigating “unauthorized inspection and/or disclosure of tax information.” The IRS fully supports any TIGTA investigation into this matter.

Question. Do you think the responses to previous questions from Congress on this matter, which do not confirm that a leak or hack took place, show good stewardships of existing IRS resources, which would encourage Congress to entrust even more money to the IRS?

Answer. Yes. The Department of Justice (DOJ) has sole authority to initiate any civil action (such as seeking an injunction) or criminal prosecution pertaining to an unauthorized disclosure of tax information. As stated above, TIGTA has “jurisdiction and responsibility to enforce criminal law as it pertains to IRS operations including IRS employee misconduct and external attempts to corrupt tax administration.” As part of this mandate, TIGTA is charged with investigating “unauthorized inspection and/or disclosure of tax information.” The IRS’s prior answers appropriately referred questions to the agencies with jurisdiction and demonstrate its unwavering commitment to follow the laws enacted by Congress.

Question. On March 8, 2022, you responded to a letter from Finance Committee Republicans that asked several questions relating to the possible leak or hack of confidential taxpayer information. In response to a question asking you to identify the holders of all contracts and sub-contracts over the past 10 years where 6103 information was transmitted outside of the IRS, you stated: “We have no ready way of identifying the requested information for the last 10 years short of going into each of the tens of thousands of contract and sub-contract files, many of which exist only in paper form.”

This response suggests the IRS is not able to track the full extent of its contracting activities. Does the IRS know how many contracts for various services, including IT, it has engaged in?

Answer. The IRS uses several systems to track the number of contracts it has awarded. As the IRS awards thousands of contracts per year, we track and report on contract awards to prime contractors. The IRS tracks IT and non-IT contracts through standard reporting practices using North American Industry Classification System (NAICS) and Product Service Codes (PSC). Contract awards are reported on publicly available sites: Federal Procurement Data System (FPDS) and *USASpending.gov*. The IRS is actively modernizing its capabilities to capture procurement information at all levels.

The government does not have a contractual relationship with sub-contractors. Privity of contract is only at the awardee level for the government. Given that the IRS only has a contractual relationship with prime contractors, we do not track the names of sub-contractors affiliated on each contract awarded. The IRS does evaluate sub-contracting plans when appropriate and required by Federal Acquisition Regulations.

Question. How does the IRS track that contractor and sub-contractors are in compliance with their contracts, including provisions relating to IRC section 6103, if the IRS is not even able to track the number of contracts it has engaged in?

Answer. Protecting taxpayer data is an IRS priority. The IRS security process is thorough and in-depth for both contractors and IRS employees who have access to return information protected by IRC § 6103. IRM section 10.5.1 describes the foundation for IRS's protection of Sensitive But Unclassified information, including return information.

In the event Contracting Officers have concerns regarding the level of protection or the scope of work, they can contact the IRS Privacy, Government Liaison, and Disclosure (PGLD) division, whose mission is to preserve and enhance public confidence by advocating for the protection and proper use of that critical and sensitive information. Additionally, the Contracting Officer can contact Facilities Management and Security Services and IRS Chief Counsel's General Legal Services division to ensure that appropriate security controls for the requirement are in place.

The IRS Contracting Officer (CO) appoints Contracting Officer Representatives (COR) on all contracts that exceed \$250,000. These individuals work directly with the prime contractors to ensure contract compliance. When issues arise, the COR works with the CO to bring contracts back into compliance or move forward with alternative actions. Additionally, either or both the CO and COR engages leadership and appropriate stakeholders within the IRS to fully ensure that taxpayer information is protected.

Question. How does the IRS ensure that confidential taxpayer information is only shared outside the IRS as appropriate, particularly in lights of the apparent inability to track which contracts allow for the sharing of that information?

Answer. The IRS has very strict personnel security processes that involve both IRS IT's Cybersecurity team and PGLD's Privacy Compliance and Assurance division. The Internal Revenue Manual (IRM) lays the foundation to implement and manage security for systems used or operated by the IRS as well as systems operated by a contractor of the IRS, establishes the processes for evaluating companies before granting access to 6103 information, and notes other guidance such as Executive Orders and policy memoranda.

In addition, we follow the standards published by the National Institute of Standards and Technology regarding security requirements and controls for contractors and adhere to the guidance set forth in the Federal Information Security Modernization Act of 2014 (FISMA) regarding periodic training to all contractors/subcontractors involved in the management, use, or operation of Federal information and information systems.

The COR is responsible for ensuring each vendor is assessed appropriately based on the level of access to 6103 data required, how the data will be used, and where and how the data will be stored and accessed.

We ensure we apply security and privacy clauses—including those in the National Institute of Standards and Technology (NIST) Special Publication 800 series, IRS Publication 4812, and Federal Risk and Authorization Management Program requirements—to all contracts where contractors will handle sensitive information.

On an ongoing basis, contractors must follow the general guidance and specific security control requirements in Publication 4812, Contractor Security Controls; Internal Revenue Manual (IRM) 10.8.1, Information Technology (IT) Security, Policy and Guidance; and IRM 10.23.2, Personnel Security, Contractor Investigations. Publication 4812 and IRMs 10.8.1 and 10.23.2 provide comprehensive lists of all security controls and guidance.

To monitor compliance with Publication 4812, we conduct annual onsite or virtual Contractor Security Assessments (CSAs) based on risk. During the CSAs, we assess and validate the effectiveness of security and privacy controls. Security control effectiveness addresses the extent to which the controls are implemented correctly, operating as intended, and producing the desired outcome with respect to protecting in-

formation and individual privacy, or meeting the security requirements for the information system in its operational environment. These assessments help determine whether additional controls or protections are necessary to protect returns, return information, personal privacy, other SBU data, and organizational assets and operations.

Question. Despite spending \$5.4 billion over the past 20 years on IT upgrades, the IRS still processes paper returns manually. In contrast, over the past 2 decades State revenue departments have automated the processing of paper returns. Recently, the National Taxpayer Advocate, Erin Collins, called on the IRS to work with tax software companies to voluntarily adopt features that allow IRS to use machine reading technology to process paper returns prepared with their software for the 2023 filing season. Moreover, by no later than the 2024 filing season, Ms. Collins has directed the IRS to adopt optical character recognition software that can read any remaining paper returns. Please provide an overview of what actions IRS has taken, or is in the process of taking, in response to the NTA's directive.

Answer. The IRS has several ongoing pilot projects to improve the efficiency and accuracy of processing paper tax returns with, optical character recognition (OCR) or 2D barcoding. These projects are:

- *V-Coded Return Pilot.* A V-coded return is when the taxpayer used software to prepare the return, printed the return and mailed it to the IRS. Using a vendor, this pilot was designed to enable remote scanning and validation of Forms 1040 that are V-coded to be submitted using Modernized e-File (MeF). The goal is to accelerate this pilot so it will be scanning tax year 2022 Forms 1040 V-coded and Forms 940 and 941 in filing season 2023.
- *OCR Scanning Service Pilot.* This pilot used a third-party contractor's OCR capability to scan Form 940 business returns. The contractor will scan and submit the returns using MeF.
- *2D Barcode Pilot.* This pilot implemented 2D bar codes to digitally intake data from Forms 8918 (Material Advisor Disclosure Statement) and Forms 8886 (Reportable Transaction Disclosure Statement). In December 2021 IRS released Form 8918 with 2D bar codes. Form 8886 was to follow with production of the 2D bar code form in March 2022. The IRS has received approximately 1,000 Forms 8918 to date, of which 253 were on the old paper form and 837 on the new paper forms with 2D bar codes. However, only 78 percent of the 2D bar-coded paper forms received could be fully read into IRS systems, requiring close scrutiny of the data. We are working to determine actions to reduce the error rate. Before considering using 2D bar codes for Form 1040, we need to engage with the software industry to update industry standards to align them with how we intake and process data. The industry would have to agree to provide such code in forms printed after using their software to prepare the tax return. We will start that engagement, develop a plan on how it would work and report back to you with the results.

In addition to pursuing scanning, we also plan to make more forms available to be e-filed. We are also reviewing administrative policies to determine whether we can make changes so more people are eligible to e-file.

We believe a multifaceted approach is necessary to address the paper inventory the IRS receives yearly.

We caution that the expected benefit from bar codes and OCR would diminish if Congress modifies provisions of the Internal Revenue Code shortly before the filing season or, as happened recently, during the filing season, increasing the likelihood of errors. For example, IRS and software vendors' ability to respond and produce accurate forms may preclude timely inclusion of bar codes or QR codes, resulting in more submissions with unreliable codes.

Question. The IRS recently experienced several legal defeats involving taxpayers challenging IRS guidance for failing to adhere to the Administrative Procedures Act (APA). In *Mann Construction*, the Sixth Circuit invalidated a 2007 IRS notice establishing "a listed transaction" for failing to follow the APA and similarly in *Liberty Global*, a District Court invalidated temporary regulations issued under section 245A of the Internal Revenue Code. These decisions potentially have broad implications as to the validity of other guidance issued by the IRS and raise a number of other questions pertinent to tax administration.

With respect to the *Mann Construction* case, please provide an overview of how the IRS views this recent decision and what it means for the listed transaction regime going forward.

Answer. The Treasury Department and the IRS disagree with the Sixth Circuit's decision in *Mann Construction* and continue to defend the validity of existing listing notices in litigation. The Treasury Department and the IRS recognize, however, that *Mann Construction* is controlling law in the Sixth Circuit, and the IRS has ceased enforcing disclosure and list maintenance requirements with respect to the listing notice at issue in *Mann Construction* in the Sixth Circuit. The IRS has also similarly ceased enforcing Notice 2017-10, relating to syndicated conservation easements, in the Sixth Circuit. The Treasury Department and the IRS recently issued proposed regulations identifying certain syndicated conservation easement transactions as listed transactions. The Treasury Department and the IRS intend to issue proposed regulations identifying additional listed transactions in the near future.

Question. Please identify other such notices or instances of informal guidance that have been challenged, whether in administrative proceedings or litigation.

Answer. While the IRS has seen more challenges to its non-regulatory guidance in recent years, most challenges to IRS guidance have been to regulations, except for notices issued under the reportable transaction regime.

Regarding the reportable transaction program, Notice 2007-83 identifying certain abusive trust arrangements that purportedly provide welfare benefits as a list transaction, Notice 2016-66 identifying micro-captive insurance transactions as a transaction of interest, and Notice 2017-10 identifying syndicated conservation easements as a listed transaction have all been challenged. Notice 2017-10 has been challenged in numerous cases and administrative proceedings.

Three documents published in the Internal Revenue Bulletin (IRB) have been held to be procedurally or substantively deficient. Notice 2005-79 regarding refunds of illegally collected telephone excise taxes was held invalid by the District Court for the District of Columbia and Revenue Procedure 2018-38 regarding reporting of donors to certain charitable organizations was held invalid by the District Court for the District of Montana for failure to comply with the APA's notice and comment requirement. *In re Long-Distance Telephone Service Excise Tax Refund Litigation*, 853 F.Supp.2d 138 (D.C. Dist. 2012); *Bullock v. IRS*, 401 F.Supp.3d 1144 (D. Mont. 2019). Revenue Procedure 99-21 regarding claiming financial disability was found to have not adequately explained the agency's decision to not treat a psychologist as a doctor. *Stauffer v. IRS*, 285 F.Supp. 3d 474 (D. Mass. 2017).

One document published in the IRB has been upheld. Revenue Procedure 2014-42 establishing the Annual Filing Season Program was upheld by the Court of Appeals for the District of Columbia in a challenge that the revenue procedure should have complied with the APA's notice and comment procedures and was arbitrary and capricious. *AICPA v. IRS*, 746 Fed.Appx.1 (D.C. Cir. 2018).

Finally, a challenge to one document published in the IRB is currently pending. A challenge to Notice 2017-5, which clarifies definitions of a vehicle chassis for the purpose of applying a safe harbor to excise taxes imposed under section 4051, is pending before the Middle District of Tennessee for failing to comply with notice-and comment.

These challenges were brought in litigation. We do not have data about any challenges made during examinations or in Appeals although we understand there are several. Unless there is controlling precedent invalidating an IRS regulation or document published in the IRB these documents will be treated as valid during examinations or in Appeals. In some circumstances, Appeals may consider a final, unappealable decision invalidating IRS guidance when weighing the hazards of litigation and considering settlement of a Federal tax controversy.

Question. Please provide an overview of current litigation challenging IRS guidance for failure to adhere to the APA process, including the number of case filings and the amount of revenue in taxes and penalties at issue.

Answer. The IRS currently has numerous cases pending before various courts that challenge IRS guidance for failure to comply with APA procedural requirements.

Several challenges to Notice 2007-83, which identifies certain abusive trust arrangements that purportedly provide welfare benefits as a list transaction, are pending. *Govig v. United States* is pending before the District Court for the District of Arizona. *Govig* alleged that Notice 2007-83 is invalid under the APA because it was issued without using notice-and-comment. There are approximately \$251,000 at issue in this case. *McGowan v. United States* is pending in the Northern District of Ohio. *McGowan* also alleges that that Notice 2007-83 is invalid under the APA because it was issued without using notice and comment procedures. There are ap-

proximately \$116,000 in taxes, penalties, and interest at issue in *McGowan*. Two cases have also been filed requesting refunds in light of the Sixth Circuit's opinion in *Mann Construction. Coughlin v. Unites States* was filed in the Eastern District of Michigan and approximately \$29,000 is at issue in this case. *Madison Avenue Pharmacy v. United States* was filed in the Southern District of Ohio and approximately \$40,000 in penalties is at issue in this case.

Notice 2016-66 was invalidated by the Eastern District of Tennessee in *CIC Services, LLC v. IRS*. Because this case was a pre-enforcement challenge to Notice 2016-66 no tax or penalties are at issues in the case. However, the court order vacating Notice 2016-66 will have collateral consequences for a penalty determined under section 6662A, 6707, 6707A, or 6708 related to a micro-captive insurance transaction.

There are also numerous challenges to Notice 2017-10 identifying syndicated conservation easements as a listed transaction pending the United States Tax Court (Tax Court). There are currently over 40 Tax Court cases with APA challenges to Notice 2017-10. In these cases, petitioners allege that they are not liable for penalties under section 6662A, which imposed an accuracy-related penalty on understatement related to reportable transactions. Petitioners allege that Notice 2010-17 was improperly issued without following notice and comment procedures and that it is arbitrary and capricious to apply Notice 2017-10 to require disclosure of transactions reflected on returns filed before the notice was issued even when the period to assess tax with respect to those returns is open. Additionally, there is a pre-enforcement challenge to Notice 2017-10 before the Northern District of Alabama.

Numerous cases before the Tax Court have challenged regulations under section 170A regarding conservation easements, two of which have been appealed to circuit courts. The petitioner in *Oakbrook Land Holdings, LLC v. Commissioner*, alleged that the IRS acted arbitrarily and capriciously when it promulgated Treas. Reg. § 1.170A-14(g)(6)(ii), which addresses the contents of the proceeds clause in the deeds of easement. The Tax Court issued an opinion upholding the validity of the regulation. The Sixth Circuit affirmed, and the period for petitioning for certiorari remains open. In *Hewitt v. Commissioner*, the petitioner also challenged Treas. Reg. § 1.170A-14(g)(6)(ii), and the Tax Court again upheld the regulation. The Eleventh Circuit reversed, holding that the IRS's interpretation of a provision in the regulation is arbitrary and capricious. There are at least 29 other deficiency cases pending before the Tax Court in which taxpayers have raised similar challenges to this regulation, none of which has become final yet.

The total tax liabilities at issue in the cases challenging Notice 2017-10 and regulations under section 170A are approximately \$1,108,650,00 and total penalties at issue are approximately \$521,400,000.

There are several other challenges to IRS regulations pending before appellate or district courts. *FedEx v. United States* is a refund suit pending before the Western District of Tennessee in which the plaintiff alleges the regulations under section 965 are invalid under the APA. There are approximately \$89,100,000 in taxes and interest at issue in *FedEx. Liberty Global v. United States* is a refund suit pending before the District of Colorado. The plaintiff alleges that the temporary regulations under section 245A are invalid under the APA because they are arbitrary and capricious and should have been submitted for notice and comment. The district court recently held that the temporary regulations are invalid because the government failed to comply with the notice and comment requirement and did not provide good cause for forgoing notice and comment. There are approximately in \$104,500,000 in taxes and \$4,800,000 in penalties at issue in *Liberty Global*. This holding could have collateral consequences in cases of at least eight other taxpayers who have raised questions regarding the validity of the section 245A regulations. The tax amounts at issue regarding these taxpayers exceeds \$8,000,000,000.

In *Silver v. Internal Revenue Service*, plaintiffs allege that the section 965 regulations were issued in violation of the APA, and in *Silver v. Internal Revenue Service II*, plaintiffs allege that the section 951A regulations were issued in violation of the APA, though the primary argument alleges a failure to comply with the Regulatory Flexibility Act. The IRS prevailed in Silver I, which plaintiffs have appealed to the Court of Appeals for the District of Columbia. Plaintiffs do not request monetary relief.

State of New Jersey v. Mnuchin is a pre-enforcement challenge to regulations implementing the State and local tax cap alleging that the regulations are contrary

to the law and arbitrary and capricious in violation of the APA. No monetary relief was requested.

There also several challenges under the APA to different IRS regulations pending before the Tax Court. *Bluescape v. Commissioner* is a deficiency case in which the petitioner is challenging the validity of regulations issued under sections 61 and 461, which govern the taxable year of when a deduction is available. There is an approximately \$226,050,000 tax liability at issue in *Bluescape*. *Perficient, Inc. v. Commissioner* is a deficiency case challenging Treas. Reg. § 1.41-4A(d)(2), which provides standards for determining whether a credit for increasing research under section 41 should be denied because the research is funded by clients. There is an approximately \$1,677,000 tax liability at issue in *Perficient*. *3M v. Commissioner* and *The Coca-Cola Company and Subsidiaries v. Commissioner* are deficiency cases in which the petitioners argue that Treas. Reg. § 1.482-1(h)(2) was issued in violation of the APA. In *3M* there is an approximately \$8,565,000 tax liability at issue, and in *Coca-Cola* there is an approximately \$3,436,600,000 tax liability plus penalties at issue.

Finally, in *Fitzgerald Truck Parts v. United States*, plaintiffs challenged Notice 2017-5, which clarifies definitions of a vehicle chassis for the purpose of applying a safe harbor to excise taxes imposed under section 4051, as violating the APA because it did not go through notice and comment. This case is pending before the Middle District of Tennessee, and approximately \$202,000 in taxes are at issue in this case.

Question. Please describe how the notice and comment process may affect timeliness of non-regulatory guidance.

Answer. Subjecting non-regulatory guidance to the notice and comment process would significantly and detrimentally delay the issuance of non-regulatory guidance. The notice and comment process has many more steps than the current process for issuing guidance published in the Internal Revenue Bulletin (IRB), which is where non-regulatory published guidance is published. Documents submitted for notice and comment must be published in the Federal Register as a notice of proposed rulemaking, receive public comments, and in some cases be the subject of a public hearing before the final document may be published. None of these steps is required for documents published in the IRB. Additionally, notice and comment documents are subject to a more complex approval process. This additional process can add years to the time it takes to publish a final document.

This additional time may allow taxpayers to engage in abusive transactions for many more years than if the transaction had been identified without notice and comment. It also means that some limitations periods for determining a tax deficiency and penalties will expire before a final document can be published. Also, taxpayers may be able to take advantage of the delay between a notice of proposed rulemaking and a final rule. Combined, these factors could have a significant effect of the fisc, increase the tax gap, and reduce the taxpaying public's perception of the fairness of the tax system.

Question. What matters that are generally addressed by revenue non-regulatory publications may now be required to be the subject of regulations?

Answer. The IRS does not use non-regulatory guidance documents to issue guidance that should go through the notice and comment process. If other courts agree with the Sixth Circuit's decision in *Mann Construction*, listed transactions will have to be identified in regulations unless Congress acts to address the issue by legislation.

Question. Thank you for your response to questions from Finance Committee Republicans regarding the IRS use of a service provider to verify the identities of taxpayers accessing IRS services. You said that taxpayers would not be required to provide a "video selfie" and instead could conduct a live video chat.

Do you have information on how many taxpayers have opted for a live video chat instead of providing a "video selfie?"

Answer. Between February 21, 2022, and December 31, 2022, 1,351,119 taxpayers have opted for the video chat authentication option.

Question. Has ID.me, the credential service provider the IRS is working with, identified any issues to the IRS in implementing this change in authentication procedure?

Answer. No, ID.me has not reported any issues to the IRS in implementing this change in authentication procedure.

Question. Does the IRS believe that providing this additional option will reduce the quality of the identification process, even if it complies with NIST and OMB rules and guidelines?

Answer. No, we do not believe the quality of the identification process will be reduced with a live video option.

Question. In your written testimony, you describe how the IRS is working with the General Services Administration to facilitate the use of *Login.gov* to provide identity authentication of taxpayers who want to access IRS services. What is the time frame for completing this transition, and does the IRS expect to continue to use any third-party credential service providers once the transition is complete?

Answer. We continue to engage with GSA to determine when *Login.gov* will meet IRS requirements. Once the requirements are met, an implementation time frame may be established. We foresee the need to continue to use third-party CSPs to reduce risk by eliminating reliance on a single CSP and to provide continuity and choice for taxpayers who have already completed the credentialing process.

Question. In a response to questions from Finance Committee Republicans regarding the IRS use of a service provider to verify the identities of taxpayers accessing IRS services, you responded to a question asking about actions taken in the event of a data breach affecting a credential service provider. You wrote that the agreement with ID.me “requires contractors and subcontractors to report a suspected or confirmed breach in any medium” as soon as possible.

Are contractors and subcontractors required to undergo training on taxpayer data protection and if so, is the training administered by the IRS, the contractor, a subcontractor, or another third party?

Answer. Yes, all contractors and subcontractor employees who require staff-like access to IRS information or information systems (regardless of their physical location) must complete Security Awareness Training (SAT) prior to being granted access to Sensitive But Unclassified (SBU) data. This training includes mandatory briefing on Annual Cybersecurity Awareness, Privacy, Information Protection and Disclosure, Records Management, Insider Threat Awareness, and Unauthorized Access (UNAX) training. The training is developed by the IRS and administered virtually.

Question. How does the IRS verify and maintain records that service providers such as ID.me are aware of and follow the requirements for data security that are part of their contracts with the IRS?

Answer. IRS Contracting Officers ensure contractors are aware of their contractual requirements, and contractors must maintain and furnish, as requested, records of initial and annual training and certifications. Contractors may also establish additional internal training, as needed (or as required under the terms of the contract), for personnel in the organization who require access to IRS information or information systems. System access may not be granted until required training is completed.

PREPARED STATEMENT OF HON. RON WYDEN,
A U.S. SENATOR FROM OREGON

This morning the Finance Committee meets to discuss the IRS budget for the year ahead and the filing season that’s winding down later this month. Around the country are millions and millions of families who are feeling the pressure of rising prices. This year in particular, people are counting on getting their tax refunds to help cover the bills.

I’ll cut right to the heart of the matter for those families whose refunds might be delayed due to IRS backlogs. If you’re frustrated by poor customer service from the IRS, you’ve got years and years of Republican cuts to blame for gutting the agency’s ability to meet your expectations. For all the talk about running government more like a business, Republicans seem to want to turn government into the kind of dysfunctional business that never has a repeat customer.

They had an opportunity, when they passed their tax law in 2017, to fix the IRS comprehensively, reduce backlogs, and improve service. They did not do it. In fact,

they added more complexity to the tax code and made the tax system more difficult to manage. This came after Republicans had been squeezing the IRS budget steadily for years. It was clear at the time, Republicans were steering into a train wreck, and you're seeing the effects today.

The number of revenue agents at the IRS, the people who audit tax returns, is currently a third of what it was a decade ago. The officers who collect unpaid taxes are down by nearly half. The agency has the same number of employees it did in 1970 when the country's population and economy were a fraction of the size they are today.

As of late March, the IRS was facing a backlog of 12 million tax returns. Service agents are struggling to keep up with phone calls. So far this year they've been able to answer only 11 percent of them.

The IRS has recently been on a hiring mission, thanks to funding and hiring authority passed by Democrats. The agency is making progress on the backlog and targeting resources at customer service and phone lines. But in the meantime, law-abiding taxpayers dealing with the aftereffects of these Republican budget cuts are left with the impression that the government couldn't manage a two-car parade.

With that said, not everybody is pained by what's happening at the IRS. Customer service has fallen off, but tax enforcement is in even worse shape, which means these are high times for wealthy tax cheats. The IRS is totally outmanned against tax cheats who use those complexity-driven loopholes to cheat out of paying their fair share. There are fewer revenue agents working today than at any point since World War II, but the challenge they're up against is a whole lot bigger.

Some of the murkiest, most loophole-ridden parts of America's broken tax code deal with partnership income. It is a thicket of super-complicated rules that are supposed to apply to a third of all business income in the United States—a large and growing percentage.

In Fiscal Year 2020, the IRS examined barely more than one-tenth of 1 percent of partnership tax returns—the tiniest sliver. Meanwhile, new research from U.C. Berkley found that the working poor are 12 times more likely to face an audit.

Look at the big picture. As a result of years of Republican budget cuts, IRS customer service is struggling at best, wealthy tax cheats are getting away with breaking the law, and the burden of tax enforcement has been shifted onto working people who spend every day walking a tightrope.

Democrats in Congress have begun to reinvest in taxpayer service and enforcement to crack down on the cheats and to make tax filing season less of a headache for everybody else. Part of that ongoing process, in my view, must be making it easier for Americans to file their taxes directly online, for free. Taxpayers are paying huge sums to file their taxes through private companies, and some of those companies use deeply deceptive practices to steer them away from free options they have a legal right to use.

I've been a longtime supporter of the right to file directly with the IRS online, as well as a "simple return" system in which your forms show up completed, and all you have to do is check the numbers. The bottom line is that it's past time for Congress to tell these tax prep companies that they no longer have a free pass to turn rip-offs and deception into profits.

Wrapping up, I want to thank Commissioner Rettig and particularly the front-line staff at IRS for putting in long hours this filing season to get refunds out in a timely way. That job's been made a lot harder, but the staff are working hard—and that effort is much appreciated. I'm looking forward to our discussion with Commissioner Rettig today.

United States Government Accountability Office

Report to Congressional Committees

October 2021

Information Technology: Cost and Schedule Performance of Selected IRS Investments

GAO-22-104387

Why GAO Did This Study

IRS relies extensively on IT investments to annually collect more than \$3.5 trillion in taxes, distribute more than \$450 billion in refunds, and carry out its mission of providing service to America's taxpayers in meeting their tax obligations. For Fiscal Year 2020, the agency reported spending approximately \$2.8 billion for these investments.

The Joint Explanatory Statement accompanying the Financial Services and General Government Appropriations Act, 2020 included a provision for GAO to annually review the status of IRS's IT investments. GAO's specific objectives were to (1) summarize IRS's reported performance for selected IT investments, including CADE 2; (2) identify IRS's reported progress in implementing its 2019 IT modernization plan; and (3) identify the IT-related actions IRS has taken to maximize telework and operate during the COVID-19 pandemic, and any impacts of those actions.

GAO obtained IRS's reported performance information for a nonprobability sample of five investments, and compared performance to agency targets. GAO also compared modernization activities that IRS reported completing to those identified in the agency's 2019 IT modernization plan. Further, GAO reviewed agency documentation to identify reported IT actions taken to continue to operate during the pandemic and reported associated impacts. GAO also interviewed cognizant IRS officials.

What GAO Found

The Internal Revenue Service (IRS) reported that the five investments GAO reviewed met most of the performance goals set by the agency for Fiscal Years 2019 and 2020. Specifically, IRS reported that most of the three investments in development were within 10 percent of performance goals, a variance the Office of Management and Budget considers not to be significant. An exception was the Customer Account Data Engine (CADE) 2, a program intended to modernize tax processing, that reportedly spent about 15 percent less than budgeted for 2020. For the two investments in operations and maintenance, IRS reported that for Fiscal Years 2019 and 2020 one investment met all five operational performance goals established by the agency, while the other met three of five goals in Fiscal Year 2019 and four of five in Fiscal Year 2020.

While CADE 2 had lower reported costs than expected for 2020 and was within 10 percent of schedule goals for 2019 and 2020, its longer term performance and outlook are troubling. IRS began developing CADE 2 in 2009 to replace its 60-year-old Individual Master File (IMF)—IRS's authoritative data source for individual tax account data. Since 2009, IRS has revised the program's cost, schedule, and scope goals on numerous occasions, including seven times between 2016 and 2019. Accordingly, a key major program milestone for replacing selected IMF functions, known as transition state 2, has slipped 9 years—from 2014 to 2023. Further, CADE 2 is now expected to replace core functions of IMF, rather than the entire system. The CADE 2 delays and IRS's continued use of IMF are troubling given, that IMF (1) is one of the oldest systems in the Federal Government; (2) has software written in an archaic language that IRS stated is no longer taught in school; and (3) is supported by a workforce with specialized skills that are increasingly harder to find. In June 2021, IRS reported that it planned to replace and fully retire IMF by 2030. Accordingly, IRS will continue to face IMF challenges for several more years.

For its agency-wide modernization plan, IRS reported completing most of its activities intended for Fiscal Years 2019 and 2020 within cost and on or ahead of schedule. The updated plan identified 59 activities for completion in Fiscal Years 2019 and 2020. IRS reported that, by the end of Fiscal Year 2020, it had completed 54

of the 59 activities early or on schedule and the remaining five activities 3 to 7 months later than initially planned. Regarding cost, IRS reported that it spent \$9 million less than the \$300 million planned for Fiscal Year 2019 and \$19.9 million less than the \$271 million planned for Fiscal Year 2020.

To respond to the pandemic, IRS took a number of information technology (IT)-related actions to maximize telework capabilities for its employees, including deploying IT equipment, such as laptops, and upgrading its network infrastructure bandwidth. For Fiscal Year 2020, IRS spent \$104 million for these actions from emergency appropriations included in pandemic-related legislation. According to IRS officials, the long-term impact of sustaining an increased level of telework on the budget had not been determined. In contrast, IRS said the actions to maximize telework capabilities delayed plans for IT modernization and operations. For example, IRS reported that staffing resources initially allocated for CADE 2 had been reassigned to support COVID-19 responsibilities, resulting in a 7-month delay in the scheduled completion of key development activities.

October 19, 2021

The Honorable Chris Van Hollen
Chairman
The Honorable Cindy Hyde-Smith
Ranking Member
Subcommittee on Financial Services and General Government
Committee on Appropriations
U.S. Senate

The Honorable Michael B. Quigley
Chairman
The Honorable Steve Womack
Ranking Member
Subcommittee on Financial Services and General Government
Committee on Appropriations
U.S. House of Representatives

The Internal Revenue Service (IRS) relies extensively on information technology (IT) systems to annually collect more than \$3.5 trillion in taxes, distribute more than \$450 billion in refunds, and carry out its mission of providing service to America's taxpayers in meeting their tax obligations. For Fiscal Year 2020, the agency reported spending approximately \$2.8 billion for its IT investments.¹

In April 2019, IRS issued a plan to guide its IT modernization efforts through Fiscal Year 2024.² This plan defined four major categories of work that IRS considered necessary to transform the agency's technology and deliver a modernized taxpayer experience in support of its mission: (1) taxpayer experience, (2) core taxpayer services and enforcement, (3) modernized IRS operations, and (4) cybersecurity and data protection.

Further, in response to the Coronavirus Disease 2019 (COVID-19) pandemic, starting in March 2020, IRS, like other Federal agencies, took actions to ensure its employees' safety while continuing to meet its mission. In March 2021, we issued our annual report on IRS's filing season performance. In the report, we identified steps the agency took to manage disruptions to the 2020 filing season due to COVID-19.³

The Joint Explanatory Statement accompanying the Financial Services and General Government Appropriations Act, 2020⁴ includes a provision for us to annually review the status of IRS's IT investments. Our objectives for this review were to (1) summarize the agency's reported performance for selected IT investments, including the Customer Account Data Engine (CADE) 2; (2) determine IRS's progress in im-

¹This amount does not include the \$104 million from COVID-19-related appropriations that IRS reported spending on IT-related actions it took to continue to operate during the pandemic. This spending is detailed later in this report.

²Internal Revenue Service, *IRS Integrated Modernization Plan Business Plan* (Washington, DC: April 2019).

³GAO, *Tax Filing: Actions Needed to Address Processing Delays and Risks to the 2021 Filing Season*, GAO-21-251 (Washington, DC: March 1, 2021). We also regularly issue government-wide reports on the Federal response to COVID-19, including IRS's response. For the latest report, see GAO, *9 GAO-21-551* (Washington, DC: July 19, 2021).

⁴Joint Explanatory Statement accompanying the Consolidated Appropriations Act, 2020, Pub. L. No. 116-93, 133 Stat. 2317 (December 20, 2019). In communication with committee staff, we agreed to focus on the three objectives detailed in this report.

plementing its 2019 IT modernization plan; and (3) identify the IT-related actions the agency has taken to maximize telework during the COVID-19 pandemic, and the reported impacts of the actions on the agency's IT budget and plans.

For the first objective, we identified a nonprobability sample of five out of IRS's 133 IT investments. We selected the sample from among those investments that IRS identified as mission-critical and with the highest levels of funding for Fiscal Years 2019 and 2020. Specifically, we selected three investments in development—Enterprise Case Management (ECM), CADE 2, and Web Applications (WebApps)—and two investments in operations and maintenance—Individual Master File (IMF) and End User Systems and Services (EUSS).

For the investments in development, we compared planned cost, schedule, and scope data to actual cost, schedule, and scope data for Fiscal Years 2019 and 2020, using performance data from the Investment Performance Tool—IRS's system for tracking investment performance—and supporting documentation. The Office of Management and Budget's (OMB) and IRS's standards for reporting on investment performance consider variances within 10 percent of goals not to be significant.

To assess the reliability of the Investment Performance Tool data for the selected investments in development, we, among other things, interviewed IRS IT organization officials responsible for overseeing the use of the tool to confirm our understanding of the data. We also reviewed the data to verify that it included all the projects supporting the investments for the 8 quarters in the scope of our review. We followed up with IT program officials to discuss detected anomalies. We determined that the data were sufficiently reliable for our purposes.

For the CADE 2 investment, we also reviewed prior GAO reports; IRS's quarterly IT reports to Congress on the agency's IT modernization progress; and relevant documents, including the modernization plan for IMF for which CADE 2 is a key component.

For the selected investments in operations and maintenance, we compared operational performance measures found in the agency's monthly investment performance reports to agency operational performance metrics for Fiscal Years 2019 and 2020. We also reviewed IRS's operational analyses—internal qualitative assessments of performance required by OMB—for the two selected investments to determine whether they addressed key factors specified in OMB's capital programming guidance. These factors included, for example, analyzing how well the investments contribute to achieving the organization's strategic goals and determining the extent to which the investments support customer processes, as designed. We rated each factor as addressed if the operational analysis fully addressed the factor; or partially addressed if the operational analysis addressed some, but not all, of the factor.

For the second objective, we compared IRS's reported actual costs and schedules for the IT modernization activities completed in Fiscal Years 2019 and 2020 to the planned costs and schedules for these activities. We also reviewed documentation, such as IRS's quarterly IT reports to Congress, and interviewed IT organization⁵ officials, to understand variances between actual and planned performance.

In addition, we selected a nongeneralizable random sample of modernization activities to verify that they were completed. Specifically, we randomly selected one activity from each of the four modernization categories outlined in the agency's plan for Fiscal Years 2019 and 2020. This resulted in our selection of eight of 59 activities. To verify completion of the selected activities, we reviewed supporting documentation and interviewed IRS IT organization officials.

To address the third objective, we obtained, analyzed, and summarized relevant documentation, including weekly impact summary reports prepared by Associate Chief Information Officers in IRS's Information Technology organization; IRS's COVID-19 spending plan; and the inventory of IT equipment and services that the agency purchased to transition its workforce to maximum telework. We also interviewed officials from IRS's Information Technology organization who are responsible for purchasing and deploying the equipment.

We also reviewed instructions for reporting information in the COVID-19 weekly impact summary reports. Further, we corroborated the accuracy of the information in the COVID-19 spending plan with IRS budget officials. We determined that the data were sufficiently reliable for purposes of summarizing what IRS reported. A

⁵ IRS's IT organization is led by the Chief Information Officer and includes several subordinate offices.

detailed discussion of our objectives, scope, and methodology can be found in appendix I.

We conducted this performance audit from June 2020 to October 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

The mission of IRS, a bureau within the Department of the Treasury, is to provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all. In carrying out its mission, IRS annually collects more than \$3.5 trillion in taxes from millions of individual taxpayers and numerous other types of taxpayers. It also manages the distribution of more than \$450 billion in refunds.

In response to the COVID-19 pandemic, IRS, like many other agencies, had to take actions to ensure its employees' safety and health, while also ensuring the continuity of its mission-essential functions. In March 2020, Congress and the President enacted the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which directed IRS to assist individuals, families, and households in alleviating the financial hardships they were facing through the disbursement of economic impact payments.⁶ In addition, the CARES Act provided the agency with the funding needed to take actions to continue to operate during the pandemic and perform its new responsibilities.

In March 2020, Congress and the President also enacted the Families First Coronavirus Response Act, which provided additional funding to IRS to continue to operate during the pandemic.⁷ Further, in December 2020, Congress and the President enacted the Consolidated Appropriations Act, 2021, which authorized IRS to issue a second round of direct payments to individuals to help address financial stress due to the pandemic.⁸ Finally, in March 2021, Congress and the President enacted the American Rescue Plan Act, which provided \$1.5 billion to the agency to continue to develop "integrated, modernized, and secure systems."⁹

IRS Relies on IT to Carry Out Its Mission and Responsibilities

As previously mentioned, IT plays a critical role in enabling IRS to carry out its mission and responsibilities. According to the agency, it expended approximately \$2.8 billion on IT investments during Fiscal Year 2020: \$605 million for development, modernization, and enhancement, and \$2.2 billion for operations and maintenance.

Included in these expenditures are the five investments selected for our review—all of which IRS describes as critical to the agency's mission.

Three of the five investments were primarily in the development phase during Fiscal Years 2019 and 2020:

- CADE 2, which IRS began developing in 2009, is intended to replace core functions of IMF—IRS's authoritative data source for individual tax account data—which accounts for a large portion of the tax processing activities. CADE 2 data are also expected to be made available for access by downstream systems, such as the Integrated Data Retrieval System, for online transaction processing by IRS customer service representatives. We provide more details on this investment later in the report.
- ECM, which IRS began developing in 2015, is intended to provide an enterprise solution for performing case management across the agency's business units. According to the agency, its current case management systems provide limited visibility into case management practices among programs, and cause process redundancies as well as multiple handoffs that can lead to, among other things, increased risks. ECM is expected to address these limitations.

⁶Pub. L. No. 116-136, § 2201(a), 134 Stat. 281,336-37 (codified at 26 U.S.C. § 6428) (March 27, 2020).

⁷Pub. L. No. 116-127, title III, 134 Stat. 178, 181 (March 18, 2020).

⁸Pub. L. No. 116-260, div. N, § 272(a), 134 Stat. 1182, 1965-1971 (2020), classified at 26 U.S.C. § 6428A. These payments are an advance refund for a tax year 2020 tax credit.

⁹American Rescue Plan Act of 2021, Pub. L. No. 117-2, Title IX, Subtitle G, § 9601, 135 Stat. 4, 144 (March 11, 2021).

In June 2018, we reported that, after 18 months of working with a contractor, IRS had paused all development activities for the investment because the product that was being delivered did not meet the agency's needs.¹⁰ Specifically, the contractor's solution was not sufficiently automated to be scalable across the agency.

IRS subsequently established a new effort to acquire a product that would be aligned with its business needs. In April 2020, it acquired the product and began an incremental implementation.¹¹ The agency reported completing the first release of the implementation—the delivery of the case management solution to one business organization—in December 2020.

IRS reported completing the second release—the delivery of the solution to one other business organization and the initiation of work with three additional business organizations—in May 2021. The agency expects the third release—the delivery of data services to allow users to access individual taxpayer data, and additional case management functionality to enable further business migration to ECM—to be completed in December 2021.

IRS reported spending \$66 million on the investment in Fiscal Year 2020. As of July 2021, the agency had spent \$229 million on the lifecycle of this investment and had rebaselined it—meaning that it had revised cost, schedule, or scope goals—three times.

- WebApps, which the agency began developing in 2015, is intended to establish an online account for individual taxpayers that links the taxpayer to various IRS services. For example, WebApps is intended to allow taxpayers to check their account balances and payment histories, and resolve a variety of tax issues using IRS's website or mobile application. The agency reported that it expects to complete the online installment agreements—which would allow users to create a short-term payment plan—in WebApps by September 2021. The agency reported spending \$32 million on the investment in Fiscal Year 2020. As of December 2020, IRS had spent \$181 million on the lifecycle of the investment.

The two other investments selected for our review were in the operations and maintenance phase during Fiscal Years 2019 and 2020:¹²

- EUSS, which IRS began operating in 2002, provides desktops, laptops, mobile devices, software, incident management services, and asset management services to end users in the agency. IRS reported spending \$268 million on development and operations and maintenance for this investment in Fiscal Year 2020; it reported spending \$2 billion on the lifecycle of the investment through September 2020.
- IMF, which began operating in 1970, is IRS's system for processing individual taxpayer account data. The agency uses this system to update accounts, assess taxes, and generate refunds, as required, during each tax filing period. Virtually all of IRS's information system applications and processes depend on output, directly or indirectly, from this data source; and IMF was used as a key system for determining eligibility for making the economic impact payments to individuals. IRS uses assembly language code¹³ and Common Business Oriented Language (COBOL)¹⁴—languages that were developed in the late 1950s and early 1960s—to program this system, which it began developing in the late 1960s. The agency reported spending \$14 million on operations and maintenance for

¹⁰ GAO, *Information Technology, IRS Needs to Take Additional Actions to Address Significant Risks to Tax Processing*, GAO-18-298 (Washington, DC: June 28, 2018).

¹¹ IRS uses an agile approach to implement modernization activities.

¹² IRS allocated funding to both development and operations and maintenance activities for EUSS and for IMF in Fiscal Years 2019 and 2020. However, over 50 percent of the funding was allocated to operation and maintenance activities for both investments during this time period.

¹³ Assembly language code is a low-level computer language initially used in the 1950s. Programs written in assembly language are conservative of machine resources and quite fast; however, they are much more difficult to write and maintain than other languages. Programs written in assembly language may only run on the type of computer for which they were originally developed.

¹⁴ COBOL, which was introduced in 1959, became the first widely used, high-level programming language for business applications. The Gartner Group, a leading IT research and advisory company, has reported that organizations using COBOL should consider replacing the language, as procurement and operating costs are expected to steadily rise, and because there is a decrease in people available with the proper skill sets to support the language.

IMF in Fiscal Year 2020 and a total of \$189 million on the investment through August 2020.

To guide its future direction, in April 2019, IRS issued a plan for its IT modernization efforts through Fiscal Year 2024.¹⁵ This plan defined four major categories¹⁶ of work, which IRS considered necessary to transform the agency's technology and deliver a modernized taxpayer experience in support of its mission. The categories were taxpayer experience, core taxpayer services and enforcement, modernized IRS operations, and cybersecurity and data protection.

In addition, the plan defined two phases for completing the work: the first phase was scheduled to occur between Fiscal Years 2019 and 2021, and the second phase was scheduled to occur between Fiscal Years 2022 and 2024. The agency noted that successful implementation of the plan depended on obtaining certain hiring flexibilities and required multiyear funding at predictable levels.

IRS reports quarterly to the Congress and other stakeholders on its progress in implementing the modernization plan, as mandated in the Joint Explanatory Statement. These quarterly reports summarize accomplishments for the past quarter and identify plans, including associated costs and schedules for the upcoming quarter. Further, the agency issues a publicly available annual status report and, in February 2021, issued its second such report.

GAO Has Reported on Opportunities for IRS to Improve the Management of Its IT Investments

For several years, we have reported on the performance of IRS's IT investments and identified opportunities for improving the management of these investments. For example,

- In May 2016, we reported on legacy IT systems across the Federal Government. We noted that these systems were becoming increasingly obsolete and that many of them used outdated software languages and hardware parts that were unsupported by the vendor.¹⁷ We stressed the need for agencies to move to more modern, maintainable languages, as appropriate and feasible. As part of that work, we highlighted the Department of the Treasury's use of assembly language code and COBOL to program its legacy systems.¹⁸ We also reported that IMF was over 50 years old and that, although IRS was working to modernize it, the agency did not have a time frame for completing the modernization or replacement. Thus, we recommended that the Secretary of the Treasury direct the Chief Information Officer to identify and plan to modernize or replace IRS's legacy systems. In June 2021, IRS issued a high-level IMF retirement plan that included the scope of the work, the approach, dependencies and risks, and cost and timeline estimates.¹⁹ According to the plan, IRS estimates that it will retire IMF in 2030.
- In June 2016, we reported that IRS had developed IT investment priorities which supported two types of activities—operations and maintenance and modernization.²⁰ We noted that the agency had not fully documented the process for allocating funding to its operations activities or developed a structured process for allocating funding to its modernization activities. We recommended that IRS develop and document these processes.

In response to our recommendation, IRS documented its process for prioritizing its operations activities in March 2017. Further, in October 2020, the agency provided documentation of a process for prioritizing its modernization activities that it had developed and begun implementing. According to IRS IT organization officials, this process for prioritizing modernization efforts is expected to be fully implemented for the Fiscal Year 2022 budget cycle, to coincide with the start of a new phase of modernization efforts.

¹⁵ Internal Revenue Service, *IRS Integrated Modernization Plan Business Plan* (Washington, DC: April 2019).

¹⁶ IRS refers to these major categories of work as pillars.

¹⁷ GAO, *Information Technology: Federal Agencies Need to Address Aging Legacy Systems*, GAO-16-468 (Washington, DC: May 25, 2016).

¹⁸ While COBOL was developed in the late 50s and early 60s, IRS has been regularly updating the version it uses. Nevertheless, according to IRS, modernizing its systems would assist with providing the instant data access and real-time updates to the systems that are needed to provide better across-the-board service in a cost-effective manner.

¹⁹ IRS, *Information Technology, Individual Master File Modernization* (June 2021).

²⁰ GAO, *Information Technology: IRS Needs to Improve Its Processes for Prioritizing and Reporting Performance of Investments*, GAO-16-545 (Washington, DC: June 29, 2016).

- In June 2018, we reviewed the performance of selected IRS investments, the extent to which IRS had identified and taken steps to address the risks associated with three mission critical legacy systems—IMF, Integrated Data Retrieval System, and Mainframes and Servers Services and Support—and the agency’s implementation of key IT workforce planning practices.²¹ We reported, among other things, that these legacy systems were facing significant risks due to their reliance on legacy programming languages, outdated hardware, and a shortage of human resources with critical skills needed to maintain the systems. In addition, the agency had not fully implemented key risk management practices to effectively mitigate those risks.

As a result of these and other findings in our report, we made 21 recommendations to IRS. The agency did not agree or disagree with the recommendations, but said it would provide a plan for addressing each recommendation. As of May 2021, IRS had updated its risk management process to include preparing, analyzing, and controlling risk. Further, the agency had implemented 18 recommendations, including updating its risk management plan for the Mainframe Servers and Support System to account for identifying risk, and had taken steps to address the others. A detailed summary on the status of IRS’s efforts to address the recommendations is included in appendix II.

IRS Reported That Selected Investments Met Most Performance Goals but Key Effort Had Significant Delays and Cost Increases

IRS reported that the five investments we reviewed had met most of the performance goals set by the agency and the performance reporting requirements established by OMB for Fiscal Years 2019 and 2020. Specifically, the agency reported that the three selected investments in development were mostly within 10 percent of performance goals for Fiscal Years 2019 and 2020, a variance OMB and IRS consider not to be significant.²² An exception was CADE 2 that reportedly spent about 15 percent less than budgeted for 2020. In addition, for the two investments in operations and maintenance, the agency performed operational analyses that addressed nearly all OMB requirements for Fiscal Years 2019 and 2020. Further, the agency reported that, in Fiscal Years 2019 and 2020, one of the investments met all five operational performance targets established by the agency; the other investment met three out of five targets in Fiscal Year 2019 and four out of six targets in Fiscal Year 2020.

While CADE 2 had lower expected costs for 2020 and was within schedule parameters for 2019 and 2020, IRS had changed its plans for the investment several times. This has led to a key schedule milestone for replacing selected IMF functions, known as transition state 2, being delayed 9 years—from 2014 to 2023. Overall, IRS now reports that CADE 2 development will not be completed until 2030. In addition, development costs to date are about four times higher than originally planned.

IRS Reported That Selected Investments in Development Were Mostly Within 10 Percent of Performance Goals

For the selected investments in development (ECM, CADE 2, and WebApps), IRS reported cost, schedule, and scope performance information on a quarterly basis for Fiscal Years 2019 and 2020.²³ According to the agency, with the exception of CADE 2, which experienced a significant budget overrun in Fiscal Year 2020, the three investments were within 10 percent of cost, schedule and scope goals for these years. Table 1 summarizes the performance of the ECM, CADE 2, and WebApps investments for Fiscal Years 2019 and 2020.

²¹ GAO, *Information Technology: IRS Needs to Take Additional Actions to Address Significant Risks to Tax Processing*, GAO-18-298 (Washington, DC: June 28, 2018).

²² For purposes of this reporting, variances within 10 percent were considered not to be significant. Consistent with OMB guidance, IRS considers cost and schedule variances within this threshold not to be significant.

²³ While IRS uses earned value management type information from its Investment Performance Tool to track the performance of its investments in development, it does not consider the tool containing this information to be a formal earned value management system. As a result, we did not evaluate the extent to which the tool was compliant with the American National Standards Institute’s guidelines for an Earned Value Management System.

Table 1: Reported Performance of Enterprise Case Management (ECM), Customer Account Data Engine 2 (CADE 2), and Web Applications (WebApps) Investments During Fiscal Year 2019 and 2020

| Investment name | Fiscal year | Total budgeted cost of work performed (in millions) | Total actual cost of work performed (in millions) | Cost variance | Schedule variance ^a | Percent of planned scope delivered ^a |
|-----------------|-------------|-----------------------------------------------------|---------------------------------------------------|---------------|--------------------------------|-------------------------------------------------|
| ECM | 2019 | \$19.26 | \$19.26 | 0% | -1.8% | 98% |
| | 2020 | \$30.44 | \$30.44 | 0% | -2.2% | 97.8% |
| CADE 2 | 2019 | \$51.87 | \$51.84 | -0.1% | 2.1% | 102.1% |
| | 2020 | \$82.26 | \$70.22 | -14.6% | -0.1% | 99.9% |
| WebApps | 2019 | \$28.38 | \$26.48 | -6.7% | 0% | 100.0% |
| | 2020 | \$23.73 | \$21.81 | -8.1% | 0% | 100.0% |

Source: GAO analysis of Internal Revenue Service data. | GAO-22-104387.

Note: For purposes of this reporting, variances within 10 percent were not considered significant. In addition, positive variances represent overruns and negative variances represent underruns.

^aBased on the ratio of earned value to planned value at the investment level.

Regarding ECM, IRS reported that it was on budget, had a 1.8-percent schedule overrun, and delivered 98 percent of planned scope for Fiscal Year 2019. For Fiscal Year 2020, the agency reported results similar to those for Fiscal Year 2019. Specifically, IRS reported that ECM was on budget, had a 2.2 percent schedule overrun, and delivered 97.8 percent of planned scope.

For CADE 2, IRS reported that it spent about 0.1 percent less than budgeted for the amount of work performed (about \$32,000 less), was 2.1 percent ahead of schedule, and delivered about 102 percent of planned scope in Fiscal Year 2019. For Fiscal Year 2020, the agency reported that CADE 2 was under budget by about 15 percent (about \$12 million), was 0.1 percent behind schedule, and delivered 99.9 percent of the planned scope. CADE 2 program officials reported that the significant budget underrun in Fiscal Year 2020 was due to requiring fewer people than initially planned for the Individual Tax Processing Engine project.

In addition, in its fourth quarter Fiscal Year 2020 IT quarterly report to Congress, IRS reported that staffing resources were pulled from CADE 2 to support the 2020 filing season, COVID-19 responsibilities, and maintenance activities to ensure readiness for the 2021 tax filing season. The agency further reported that this reallocation of resources led to a slight underspend for the fourth quarter and is expected to result in a 7-month delay in the completion of Transition State 2 development activities—from September 2022 to April 2023.

However, while IRS reported the reallocation of resources and the resulting schedule impact in the fourth quarter Fiscal Year 2020 report to Congress, it did not include a history of baseline changes or other information that would provide a long-term view of CADE 2's performance.

We shared this observation with IRS, and, in response, the agency began including a history of program baseline changes in its quarterly reports, beginning with the second quarter Fiscal Year 2021 report. In July 2021, IRS IT officials stated they plan to continue to include this history in future reports. By including this transparency in its quarterly reports, IRS is providing greater assurance that Congress and stakeholders have more complete information to support their oversight of the agency's investments.

Regarding WebApps, the agency reported that it was under budget by about 7 percent (about \$1.9 million) with no variances in schedule or planned scope in Fiscal Year 2019. WebApps program officials attributed the cost variance to spending less money than planned because their appropriation was delayed and lower than anticipated.

In Fiscal Year 2020, IRS reported similar results, with the WebApps investment spending about 8 percent (about \$1.9 million) less than budgeted, and with no variances in schedule or scope. Similar to Fiscal Year 2020, WebApps program officials attributed the budget variance to having less to spend because the agency's

appropriation was delayed and lower than anticipated. Nevertheless, in Fiscal Year 2020, IRS reported that it completed additional activities as part of this investment that related to COVID-19, including the development of a “Where’s My Stimulus Check?” application.

IRS Reported That the Selected Investments in Operations and Maintenance Met Most OMB Performance Requirements

OMB’s Fiscal Year 2020 Capital Programming guidance states that agencies should conduct an operational analysis for each investment in operations and maintenance that addresses six factors.²⁴ These factors are (1) the extent to which the investment supports customer processes as designed; (2) how well the investment contributes to achieving the organization’s strategic goals; (3) a comparison of current performance with a pre-established cost baseline; (4) alternative methods for achieving the same mission needs and strategic goals; (5) greater (*i.e.*, increased) utilization of technology or consolidation of investments to better meet organizational goals; and (6) annual performance of operational analyses.

Further, OMB’s Fiscal Year 2020 Capital Planning guidance states that the ongoing performance of operational investments should be monitored to demonstrate that the investments are meeting the needs of the agency and delivering expected value, and/or that the modernized and replaced systems are consistent with the agency’s enterprise architecture.²⁵ To achieve these goals, OMB requires agencies to define and publicly report on five operational performance metrics specific to each major IT investment, as well as planned and actual performance against these metrics. According to OMB, these metrics should address three broad areas: customer satisfaction, financial performance, and strategic and business results.

IRS conducted operational analyses for the two investments in operations and maintenance, EUSS and IMF, for Fiscal Years 2019 and 2020. The operational analyses for EUSS fully addressed all six OMB factors for Fiscal Years 2019 and 2020. For example, the operational analyses addressed the factors associated with:

- Utilizing technology or consolidation of the investment to better meet organizational goals. For example, the Fiscal Year 2019 operational analysis stated that IRS implemented a capability to deploy Windows and perform system upgrades remotely. In addition, the Fiscal Year 2020 operational analysis stated that IRS developed a robotics process automation tool to facilitate the interaction between service desk specialists and employees with account lockout issues—the most common issue requiring service desk assistance. According to the operational analysis, the tool reduced the amount of time it takes specialists to unlock accounts from 22 minutes to under 7 minutes.
- Providing a comparison between planned and actual costs for both Fiscal Years 2019 and 2020 by addressing planned and actual costs in the operational analysis.

The operational analyses for IMF, in both Fiscal Years 2019 and 2020, fully addressed five of the six factors and partially addressed the one other factor. For example, the operational analyses addressed the factors associated with:

- Supporting customer processes, as designed, by including performance goals related to customer satisfaction, specifically identifying a target goal of zero errors that cause the program to crash per month, and achieving the goal for Fiscal Years 2019 and 2020.
- Researching alternative methods of achieving the same mission needs and strategic goals and aligning available resources with the investment annually.

The operational analyses partially addressed the factor associated with greater utilization of technology or consolidation of investments to better meet organizational goals. The analyses stated that IRS used new technology to implement processing improvements via a more robust testing approach in order to reduce coding defects.

However, while the analyses noted that IMF is being replaced with a more modern system, the analyses did not reflect IRS’s modernization progress to date and the associated challenges—a shortcoming we identified in our review of the agency’s

²⁴ Office of Management and Budget, *Capital Programming Guide V 3.1: Supplement to Office of Management and Budget Circular A-11, Planning, Budgeting, and Acquisition of Capital Assets* (Washington, DC: 2020).

²⁵ Office of Management and Budget, *FY 2020 IT Budget—Capital Planning Guidance* (Washington, DC: June 2018).

2016 operational analysis for IMF and reported on in June 2018.²⁶ We stressed that this omission was concerning given the risk exposure created by the agency's continued use of the legacy assembly language code. Consequently, we recommended that IRS ensure the operational analysis for IMF fully addresses greater utilization of technology or consolidation of investments to better meet organizational goals.

IRS provided its Fiscal Year 2020 operational analysis for CADE 2, which addressed the agency's progress in modernizing components of IMF and associated challenges. However, given that this information was not included in the IMF operational analysis, the agency may not have had the critical information it needed to inform the decisions about IMF. We plan to continue monitoring the agency's efforts to update its operational analysis to include progress on modernizing IMF and the associated challenges.

Further, as mentioned earlier, OMB requires agencies to define and publicly report on five operational performance metrics specific to each major IT investment, as well as planned and actual performance against these metrics. The metrics are to focus on the three broad areas of customer satisfaction, financial performance, and strategic and business results.

IRS defined operational performance metrics for EUSS and IMF, as required by OMB. For EUSS in both Fiscal Years 2019 and 2020, the metrics were:

- Timeliness of service call resolution;
- Percentage of IT interactions closed at the first level of support;
- Percentage of properly configured workstations passing baseline security scans;
- Amount of time it takes a customer service representative to complete a service call; and
- Amount of time IRS employees wait before reaching telephone support.

For IMF, in Fiscal Year 2019, one of the metrics was interest paid on taxpayer refunds per million. However, in May 2019, IRS changed this metric to the amount of application changes made to address coding errors. The four other metrics that were used in both Fiscal Years 2019 and 2020 were:

- Amount of errors causing the application to stop running;
- Percent of scheduled system availability;
- Amount of issues that cannot be resolved during a Service Desk call excluding outages; and
- Percent of completed planned processing schedule to meet refund, notice, and online access deadlines.

The agency reported that the operational performance of EUSS improved from Fiscal Year 2019 to Fiscal Year 2020. Specifically, in Fiscal Year 2019, EUSS did not meet its performance target for percentage of properly configured workstations passing baseline security scans; however, in Fiscal Year 2020, EUSS met this performance target. For the other targets, EUSS met three of the five operational performance targets in Fiscal Year 2019 and met four of the five targets in Fiscal Year 2020. IMF met all of its operational performance targets for both Fiscal Years 2019 and 2020.²⁷

Table 2 identifies the two investments' operational performance metrics, and whether or not each performance target was met during Fiscal Years 2019 and 2020. The table is followed by a discussion of the performance target shortfalls for these investments.

²⁶ GAO-18-298.

²⁷ For Fiscal Year 2019, IRS had six operational performance metrics for IMF. It used one operational performance metric for part of the year and another metric for the rest of the year.

Table 2: End User Systems and Services (EUSS) and Individual Master File (IMF) Performance Metrics, Their Descriptions, and Whether Operational Performance Metrics Were Met for Fiscal Years 2019 and 2020^a

| Investment | Operational performance metric | Focus of metric | Whether performance target was met for Fiscal Year 2019 | Whether performance target was met for Fiscal Year 2020 |
|------------|------------------------------------------------------------------------------------------------------|--------------------------------|---------------------------------------------------------|---------------------------------------------------------|
| EUSS | Timeliness of service call resolution | Customer satisfaction | • | • |
| | Percentage of information technology interactions closed at the first level of support | Financial performance | • | • |
| | Percentage of properly configured workstations passing baseline security scans | Strategic and business results | ◦ | • |
| | Amount of time it takes a customer service representative to complete a service call | Strategic and business results | • | • |
| | Amount of time IRS employees wait before reaching telephone support | Strategic and business results | ◦ | ◦ |
| IMF | Interest paid on taxpayer refunds per million | Customer satisfaction | • ^b | N/A |
| | Amount of application changes made to address coding errors | Strategic and business results | • ^c | • |
| | Amount of errors causing the application to stop running | Customer satisfaction | • | • |
| | Percent of scheduled system availability | Financial performance | • | • |
| | Amount of issues that cannot be resolved during a Service Desk call excluding outages | Strategic and business results | • | • |
| | Percent of completed planned processing schedule to meet refund, notice, and online access deadlines | Strategic and business results | • | • |

Legend: • performance target met; ◦ performance target not met; N/A: not applicable because metric changed in 2019.

Source: GAO analysis of IRS data. | GAO-22-104387.

^a The EUSS and IMF metrics are for IRS employees.

^b IRS only used this metric for part of Fiscal Year 2019.

^c IRS used this metric from May 2019 to September 2020.

The EUSS investment did not meet its target for the percentage of properly configured workstations passing baseline security scans for Fiscal Year 2019. The agency reported that this was due to switching from Windows 7 to Windows 10 and a problem with IRS's compliance tool. Specifically, the agency said the compliance tool was not configured for Windows 10. According to User and Network Services officials, the issue was resolved when the agency configured its compliance tool to Windows 10.

In addition, in Fiscal Years 2019 and 2020, IRS did not meet the target for the amount of time its employees waited before reaching telephone support for EUSS. The agency reported that this was due to problems with its network and servers, ongoing software upgrades, a lack of resources due to attrition, and an increased number of teleworkers as a result of COVID-19.

User and Network Services officials said the agency's IT team consistently works on network, server, and software upgrade issues as they arise. In response to not meeting the target for EUSS telephone support, these officials stated that they had developed a process in which software releases were deployed to a pilot portion of workstations and then monitored to determine their impact before releasing new software to the rest of the agency's workstations.

We also asked IRS about actions the agency had taken to address the attrition of telephone support staff since this factor had contributed to the agency not meeting its target in prior years.²⁸ In response, the User and Network Services officials stated that IRS had received funding and authority to hire additional staff and additional contractor support in Fiscal Years 2019 and 2020; however, funding was not sufficient to get ahead of losses due to attrition, including retirements, and promotions to other parts of the agency. The officials added that they were continuing to elevate the understaffing issue to IRS's hiring authority while also pursuing options for assistance that do not require live telephone support. These options include encouraging users to use IT self-service options and an automated assistance function that the agency deployed in July 2019.²⁹

CADE 2 Development Has Taken Much Longer and Cost Significantly More Than Originally Planned

IRS began developing CADE 2 in 2009 to replace IMF. To limit risk and demonstrate incremental progress toward modernization, the agency planned to deliver the investment in three phases, called transition states. Table 3 shows the initial target completion dates and key characteristics for transition state 1, transition state 2, and the target state that we reported on in March 2011.³⁰

Table 3: Initial Planned Completion Dates and Key Characteristics of the Customer Account Data Engine (CADE) 2 Transition States

| Transition states and completion dates | Key characteristics of CADE 2 transition states |
|----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Transition state 1 January 2012 | Dual systems—Individual Master File (IMF) and CADE <ol style="list-style-type: none"> Daily batch processing of individual taxpayer returns provided by modifying IMF to run on a daily, rather than weekly, basis Comprehensive database established for housing all individual taxpayer accounts and loaded with data from CADE and IMF Database provides timelier updates of taxpayer information for use by IRS employees for compliance and customer service |
| Transition state 2 January 2014 | Single system—CADE <ol style="list-style-type: none"> Target technology (single processing system; IMF retired) High-priority downstream service and compliance applications modified to take advantage of the new database Key financial material weaknesses and applications addressed |
| Target state TBD | Single system—CADE <ol style="list-style-type: none"> Complete the transition of applications that use the target database so downstream systems fully leverage the database Address all financial and security material weaknesses identified at the inception of the program Eliminate transitional components that were required during the transition states |

Source: GAO analysis of IRS data. | GAO-22-104387.

IRS also initially reported preliminary estimated life cycle cost estimates for transition state 1 and transition state 2 of about \$1.3 billion through 2024, including

²⁸In June 2018, we reported that IRS did not meet its target for the amount of time the agencies' employees wait to receive telephone support for 6 out of the 18 months we reviewed due to the attrition of telephone support staff and the agency's inability to hire additional support staff. See GAO-18-298.

²⁹IRS's automated assistance is a chatbot that is designed to answer questions and help IRS employees resolve technical difficulties.

³⁰GAO, *Taxpayer Account Strategy: IRS Should Finish Defining Benefits and Improve Cost Estimates*, GAO-11-168 (Washington, DC: March 24, 2011).

about \$377 million for development and \$922 million for operations and maintenance.

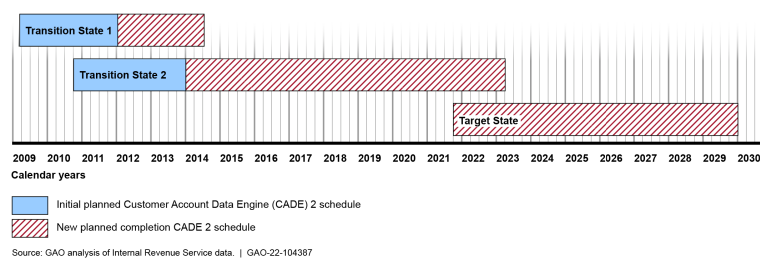
We previously reported that IRS completed all the work it had originally planned for transition state 1 in July 2014, 2 years later than originally planned.³¹ Through this phase, the agency modified the IMF processing cycle to allow for daily (rather than weekly) processing and posting of taxpayer returns. According to IRS, this enabled faster refunds to taxpayers, among other things. In addition, IRS established the database intended to serve as the authoritative source for all individual taxpayer data. IRS officials recently told us that they had used the CADE 2 database to meet their responsibilities for making advanced child tax credit payments to eligible taxpayers.

IRS has taken much longer than originally planned to develop transition state 2. It now expects that it will complete development activities in April 2023, 9 years later than originally planned. We previously reported that due to significant budget cuts and a shortage of skilled staff, the transition state's release plan was revised three times between 2016 and 2017.³² In addition, in May 2019, IRS's Chief Information Officer stated that the agency recognized that the scope for CADE 2 was too broad and complex. As a result, IRS decided to de-scope several of CADE 2's projects to focus solely on modernizing parts of IMF—which accounts for a large portion of tax processing activities—rather than retire IMF.³³ As of July 2021, the agency was focused on re-engineering the core components of the IMF using a hybrid of Agile and waterfall software development approaches.

IRS initiated planning efforts for the target state in the second quarter of Fiscal Year 2021. As of July 2021, IRS estimated that it would complete it in 2030.³⁴

Figure 1 shows the current and initial planned schedule for the three transition states.

Figure 1: Customer Account Data Engine 2 Current and Planned Transition State Schedules



Regarding costs, IRS reported that it had spent \$1.47 billion on the development for CADE 2 through September 2020, nearly four times the amount it had estimated it would spend to develop transition states 1 and 2. In addition, the agency reported that it had spent approximately \$72 million for operations and maintenance through September 2020.

We reported that overall IRS had revised or rebaselined its cost, schedule, and scope goals on numerous occasions, including seven times between 2016 and 2019.³⁵

³¹ GAO, *Information Technology: Management Needs to Address Reporting of IRS Investments' Cost, Schedule, and Scope Information*, GAO-15-297 (Washington, DC: February 25, 2015). We reported that while IRS reported the completion of transition state 1 in November 2012, this transition state was completed "conditionally," meaning that the investment was approved to proceed to the next phase with outstanding issues remaining to be addressed. These outstanding issues were addressed by July 2014.

³² GAO, *Information Technology: Key Attributes of Essential Federal Mission-Critical Acquisitions*, GAO-20-249SP (Washington, DC: September 8, 2020).

³³ GAO-20-249SP.

³⁴ IRS, *Information Technology, Individual Master File Modernization* (June 2021).

³⁵ We have previously reported that agencies may modify a project's cost, schedule, or performance goals (baseline) to reflect changing development circumstances. We have also reported that these changes—called a rebaselining—can be done for valid reasons, but can also be used to mask cost overruns and schedule delays. See GAO, *Information Technology: Agencies Need to*

The CADE 2 delays and IRS's continued use of IMF are troubling given that IMF (1) is one of the oldest systems in the Federal Government, (2) has software written in an archaic language that IRS stated is no longer taught in school, and (3) is supported by a workforce with specialized skills that are increasingly harder to find. In addition, IRS has reported that a more modern system would provide the foundation for real-time digital taxpayer interactions, agile responses to legislative changes, and rapid access to data for enhanced customer service, compliance, and fraud detection services.

As mentioned earlier in this report, in May 2016,³⁶ we reported on legacy IT systems across the Federal Government, including IMF. As part of that work, we highlighted the Department of the Treasury's use of assembly language code and COBOL to program its legacy systems.³⁷ We also reported that IMF was over 50 years old and that, although IRS was working to modernize it, the agency did not have a time frame for completing the modernization or replacement. Thus, we recommended that the Secretary of the Treasury direct the Chief Information Officer to identify and plan to modernize or replace IRS's legacy systems such as IMF.

In June 2021, IRS reported that it planned to replace and fully retire IMF by 2030 through a combination of CADE 2 and other modern components. Specifically, the agency issued a high-level IMF retirement plan that included the scope of the work; the approach, dependencies, and risks; and cost and timeline estimates.³⁸ In addition, IRS IT officials, including the Chief Information Officer, recently reported that they plan to use part of the \$1.4 billion appropriated for their IT budget through the American Rescue Plan Act to accelerate several programs, including CADE 2 and IMF retirement plans. They added that they were in the process of developing more detailed plans associated with the replacement and retirement of IMF.

While IRS now has a high-level plan for retiring IMF, a 2030 milestone for full replacement means that for many years it will still have to contend with the numerous challenges associated with the system's age and reliance on an old programming language. Further, given the past significant delays and other challenges in developing CADE 2 and the substantial work ahead, consistent high-level management attention is warranted.

IRS Reported Completing Most of Its 2019 IT Modernization Plan Activities Within Schedule and Cost Estimates

In the IRS Integrated Business Modernization Plan, referred to as the IT modernization plan that IRS issued in April 2019, the agency identified 65 activities supporting 13 programs and initiatives and four categories of work that it planned to complete in Fiscal Years 2019 and 2020. These activities included developing online installment agreements to allow taxpayers to view the status of their payment plans within their IRS online accounts. The activities also included completing a major acquisition for the technical solution to enable the agency to consolidate its many case management systems. IRS estimated that completing these activities would cost approximately \$300 million and \$271 million, respectively, for Fiscal Years 2019 and 2020.

IRS subsequently made changes to its modernization plan, which it noted in its Fiscal Years 2019 and 2020 quarterly reports to Congress. Specifically, the agency added eight planned activities, including providing a callback option to taxpayers calling the toll-free assistance line by the second quarter of Fiscal Year 2020, developing a 3-year plan for moving applications to the cloud by the fourth quarter of Fiscal Year 2020, and achieving several milestones for converting code to a modern programming language as part of the CADE 2 Individual Tax Processing Engine project. According to the agency's annual Fiscal Year 2020 Key Insights report,³⁹ the activities were added mostly due to technology advances and evolving customer expectations and needs.

Establish Comprehensive Policies to Address Changes to Projects' Cost, Schedule, and Performance Goals, GAO-08-925 (Washington, DC: July 31, 2008).

³⁶ GAO-16-468.

³⁷ While COBOL was developed in the late 50s and early 60s, IRS has been regularly updating the version it uses. Nevertheless, according to IRS, modernizing its systems would assist with providing the instant data access and real-time updates to the systems that are needed to provide better across-the-board service in a cost-effective manner.

³⁸ IRS, *Information Technology, Individual Master File Modernization* (June 2021).

³⁹ IRS's 2020 Key Insights report, issued in February 2021, provides a status of modernization activities completed in Fiscal Year 2020 and those planned for Fiscal Year 2021.

In addition, IRS removed four activities and paused 10 other activities, resulting in an updated list of 59 activities planned for completion in Fiscal Years 2019 and 2020. For example, IRS eliminated the modernization activities it had planned for Fiscal Year 2020 for the Return Review Program.⁴⁰

Further, the agency paused seven out of 12 of the activities associated with the Next Generation Infrastructure modernization initiatives that it had planned for the same year. According to the agency's IT officials, including the Chief Information Officer, and as noted in the agency's quarterly reports to Congress, IRS removed or paused these activities due to funding constraints. In April 2021, the officials stated that the agency's decision to resume the activities in Fiscal Year 2021 would depend on whether it received additional funding.

Table 4 provides a breakdown of the number of initial and revised planned modernization activities by category and program/initiative.

Table 4: The Internal Revenue Service's (IRS) Planned and Revised Modernization Activities by Program/Initiative and Work Category for Fiscal Years 2019 and 2020

| Work category | Program/initiative | Number of planned activities in modernization plan | Revised number of planned activities |
|-------------------------------------------|--------------------------------------------------------|----------------------------------------------------|--------------------------------------|
| 1. Taxpayer experience | WebApps | 3 | 4 |
| | Taxpayer Digital Communications Outbound Notifications | 1 | 0 |
| | Live Assistance | 3 | 4 |
| 2. Core taxpayer services and enforcement | Customer Account Data Engine 2 transition state 2 | 3 | 7 |
| | Enterprise Case Management | 3 | 3 |
| | Return Review Program | 4 | 1 |
| 3. Modernized IRS operations | Robotics Process Automation | 4 | 4 |
| | API Implementation | 3 | 2 |
| | Cloud Execution | 5 | 5 |
| | Next Generation Infrastructure | 16 | 9 |
| 4. Cybersecurity and data protection | Vulnerability and Threat Management | 8 | 8 |
| | Identity and Access Management | 3 | 3 |
| | Security Operations and Management | 9 | 9 |
| | | 65 | 59 |

Source: GAO analysis of IRS's Integrated Modernization Business Plan and progress reports. | GAO-22-104387.

IRS reported that, by the end of Fiscal Year 2020, it had completed most of the 59 IT modernization activities associated with its revised plans for Fiscal Years 2019 and 2020 early or on schedule and within cost. Specifically, the agency reported that it had completed 54 of 59 activities early or on schedule.

Of eight modernization activities that we selected for review (from IRS's revised list of 59 activities), we verified that the agency had completed all of them.⁴¹ Table 5 lists these eight activities and the programs or initiatives they support.

⁴⁰ IRS IT officials told us that they subsequently decided to use operations and maintenance funding for these Return Review Program activities.

⁴¹ For our sample, we selected one activity from each of the four categories of work for both Fiscal Years 2019 and 2020, resulting in eight activities.

Table 5: Activities That the Internal Revenue Service (IRS) Completed in Fiscal Years 2019 and 2020 That GAO Verified

| Program or initiative | Activity |
|-------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|
| Live Assistance Customer Callback | Added four additional taxpayer applications |
| | Expanded toll-free capacity |
| Customer Account Data Engine 2 | Deployed modern code for the internal balancing and control component for Individual Master File testing |
| Enterprise Case Management (ECM) | Delivered sequencing strategy and release plan to support the delivery of future ECM releases for Fiscal Year 2021 and beyond |
| Next Generation Infrastructure | Deployed continuous integration/continuous delivery to software upgrades and code changes rapidly and reliably |
| | Deployed additional standard stack components ^a |
| Security Operations and Management | Deployed cyber architecture and cyber cloud strategy, and migration plan |
| Vulnerability and Threat Management | Enhanced security testing and process automation to fully integrate security in system deliver as early as possible |

Source: GAO analysis of IRS's modernization activities. | GAO-22-104387.

^a A technology stack is a set of software components that compose a platform for running an application.

Regarding the activities completed late, IRS reported that it completed the remaining five of 59 activities 3 to 7 months later than initially planned. Table 6 provides the planned and actual completion dates for the activities that the agency completed late.

Table 6: The Internal Revenue Service's (IRS) Planned Modernization Activities for Fiscal Years 2019 and 2020 That Were Completed Late

| Activity | Initiative | Planned completion date | Actual completion date | Number of months late |
|---------------------------------------------------------------------------------|---------------------------------------------------|-------------------------|------------------------|-----------------------|
| Procure Enterprise Case Management (ECM) solution | ECM | September 2019 | April 2020 | 7 |
| Deploy initial network monitoring—Continuous Diagnostics and Mitigation Phase 1 | Identity and Access Management | December 2019 | April 2020 | 4 |
| View scheduled and pending payments | WebApps | June 2020 | September 2020 | 3 |
| Procure and deliver cloud computing services required to deploy ECM | Cloud Execution | June 2020 | September 2020 | 3 |
| Measurable progress toward converting code with a target of 31 percent | Customer Account Data Engine 2 transition state 2 | December 2019 | March 2020 | 3 |

Source: GAO analysis of IRS's Integrated Modernization Business Plan and progress reports. | GAO-22-104387.

According to IRS's quarterly IT reports to Congress, the late completion of the majority of these activities was primarily due to delays in the agency obtaining the necessary funding. For the Procure Enterprise Case Management Solution capability, the agency reported that the delay was due to taking corrective action in response to a vendor's bid protest of IRS's contract award determination at the end of Fiscal Year 2019.

Regarding the cost to complete the 59 modernization activities, IRS reported that, for Fiscal Years 2019 and 2020, respectively, it had spent less than the \$300 million and the \$271 million that it projected to spend in its modernization plan. Specifici-

cally, for Fiscal Year 2019, the agency reported that it spent \$291 million on modernization, or \$9 million less than the \$300 million it had planned. For Fiscal Year 2020, the agency reported that it spent \$251.3 million on modernization, or \$19.9 million less than its planned budget of \$271.2 million. According to the agency, this was due to IRS receiving less funding than requested, the lapse in appropriations in Fiscal Year 2019, and the late passage of the Fiscal Year 2020 budget.

Looking to the future, as of April 2021, IRS had 31 modernization activities planned for completion through the remainder of Fiscal Year 2021. These included several activities supporting the WebApps, CADE 2, ECM, and cloud execution initiatives. According to the IT modernization officials, the activities associated with the Next Generation Infrastructure program that the agency paused, as well as the Robotics Process Automation and the Live Assistance programs were removed altogether from the modernization plan, as part of the replanning undertaken to align with the appropriation received. However, in June 2021, the IT modernization officials added that they planned to use part of the \$1.4 billion that was appropriated for IT through the American Rescue Plan Act to accelerate several programs. The officials stated that they had developed high-level plans to use the funds and were working on developing more detailed plans.

IRS Took Actions to Maintain Operations During the COVID-19 Pandemic

IRS took several IT-related actions to maximize telework capabilities for its employees and continue to operate during the COVID-19 pandemic. These actions included procuring IT equipment to continue to support agency operations and upgrading its infrastructure bandwidth. According to the responsible officials in the agency's IT organization, the actions taken were not funded from IRS's IT budget for Fiscal Year 2020; however, the actions contributed to delays in the agency's plans for IT modernization and operations.⁴²

IRS Procured Equipment and Upgraded Its IT Infrastructure to Maintain Operations

To maximize telework and operate during the COVID-19 pandemic, IRS accelerated its plans to procure IT equipment and upgraded its IT infrastructure. The agency estimated that, of the \$104 million it received from the CARES Act and Families First Coronavirus Response Act,⁴³ it spent approximately \$53 million to cover the costs associated with procuring the equipment and making the infrastructure upgrades needed to transition the agency to maximum telework. Of the \$53 million, the agency estimated that it spent approximately \$23 million on procuring IT equipment and approximately \$30 million on upgrading its infrastructure.

Procuring IT equipment. IRS took steps to accelerate the procurement and distribution of necessary equipment, such as laptops and headsets, to transition employees to maximum telework and continue to operate during the pandemic. Prior to the pandemic, the agency had developed a 3-year plan to replace its desktop computers with laptops in order to support business operations and prepare its employees to work in a telework environment. IRS's Enterprise Customer Service Representative Telework Phased Implementation Plan stated that the agency had expected to replace over 16,000 of its existing desktops with a new inventory of laptops by February 2021.⁴⁴

In response to the pandemic, the agency accelerated its plans and redirected its new laptop inventory intended for general replacements to employees who were not originally set up for telework. These employees included the agency's customer service representatives.⁴⁵ User and Network Services officials stated that these employees

⁴²In March 2021, we issued a report on IRS's performance during the 2020 filing season which described changes IRS made to its operations and services due to the pandemic. See GAO, *Tax Filing: Actions Needed to Address Processing Delays and Risks to the 2021 Filing Season*, GAO-21-251 (Washington, DC: March 1, 2021). We also regularly issue government-wide reports on the Federal response to COVID-19, including IRS's response. For the latest report, see GAO, *COVID-19: Continued Attention Needed to Enhance Federal Preparedness, Response, Service Delivery, and Program Integrity*, GAO-21-551 (Washington, DC: July 19, 2021). Our government-wide reports issued quarterly and are available on our website at <https://www.gao.gov/coronavirus>.

⁴³IRS received \$89 million in funding from the CARES Act and \$15 million from the Families First Coronavirus Response Act to continue to operate during the pandemic.

⁴⁴IRS, *Information Technology, Contact Center Support Division, Enterprise Customer Service Representative Telework Phased Implementation Plan* (September 5, 2019).

⁴⁵Customer service representatives provide administrative and technical assistance to individual taxpayers and businesses primarily over the phone.

were mission critical personnel who needed to immediately begin teleworking in order to continue providing services to taxpayers.

By redirecting its inventory, the User and Network Services officials said IRS was able to distribute laptops to about 14,000 of the agency's customer service representatives between March 2020 and May 2020. Table 7 provides details on the approximately \$23 million that IRS spent in Fiscal Year 2020 on procuring IT equipment that was used to maximize telework and operate during the COVID-19 pandemic.

Table 7: Information Technology Equipment and Costs That the Internal Revenue Service Spent to Operate During the COVID-19 Pandemic in Fiscal Year 2020

Dollars in thousands

| | Cost |
|-----------------------|-----------------|
| Headsets and adapters | \$962 |
| Shoulder/rolling bags | 898 |
| Monitors | 2,300 |
| Printers | 1,614 |
| Laptop bundles | 17,249 |
| Shipping and delivery | 250 |
| Total | \$23,273 |

Source: Internal Revenue Service reported data. | GAO-22-104387.

Upgrading IT infrastructure. In addition to equipment, in order to work remotely, employees needed to be able to access IRS's network from their approved telework locations and request access through the agency's Enterprise Remote Access Program. Due to the pandemic, User and Network Services officials expected the number of employees accessing the network to increase significantly, as the majority of the workforce was given telework flexibilities.

To support the significant increase in employees connecting and accessing its systems remotely, the agency added additional capacity to its Common Communications Gateway infrastructure and purchased additional Enterprise Remote Access Program provisioning licenses. In doing so, IRS upgraded the bandwidth capacity of its network infrastructure from 2 gigabytes⁴⁶ to 10 gigabytes in two planned phases. In the first phase, the agency increased the bandwidth from 2 gigabytes to 4 gigabytes. In the second phase, it increased the bandwidth to 10 gigabytes.

According to User and Network Services officials, they gradually increased the infrastructure bandwidth over time as a means to avoid overloading the network, as well as to monitor the performance of the upgrade. In addition to increasing bandwidth, the officials stated that they made the decision to build the network infrastructure across three site locations to ensure the continuation of essential services in the event of an emergency or disruption.

IRS also increased its toll-free call service by adding callback lines and additional functionality for taxpayers needing to obtain tax information related to economic impact payment checks or the status of their filing requirements. Additionally, to ensure business continuity, the agency coupled its IT field support technicians with its service desk operations to provide technical assistance and support to employees who were new to the telework environment.

Table 8 provides further information on the approximately \$30 million IRS spent on upgrading its infrastructure for COVID-19 between March and May 2020.

⁴⁶ A gigabyte is a measurement of data storage capacity that represents the total volume of data sent and/or received by the end user over a period of time.

Table 8: Infrastructure Upgrades and Costs That Internal Revenue Service Incurred During COVID–19 Between March and May 2020

Dollars in thousands

| | Cost |
|-----------------------------------------------|-----------------|
| Network/remote access | \$13,583 |
| Video/audio conferencing and webcast services | 10,989 |
| Contract recording centralization | 2,600 |
| Infrastructure/telecommunication | 2,939 |
| Total | \$30,111 |

Source: Internal Revenue Service reported data. | GAO–22–104387.

IRS Reported That Actions Taken Delayed Modernization Plans

According to IRS, as of April 2021, the transition to maximum telework had not impacted the agency's IT budget for Fiscal Year 2020. Officials in the agency's IT organization stated that the actions IRS took to transition to maximum telework in Fiscal Year 2020 were all funded by appropriations from the Families First Coronavirus Response Act and the CARES Act. However, the officials added that the agency had not yet determined the long-term impact of sustaining an increased level of telework on the IT budget.

On the other hand, the IT organization reported that the transition to maximum telework had impacted the agency's plans for IT operations and modernization activities. Specifically, between May and July 2020, the Chief Information Officer established a mechanism for the deputy and associate chief information officers to report impacts on ongoing and planned work due to the COVID–19 pandemic on a weekly basis.⁴⁷ The weekly reports identified issues, such as delays and risks to programs and initiatives, and their effects on the agency's IT programs and initiatives for the Fiscal Year 2021 filing season and nonfiling season activities. Among the issues identified in the reports were a delayed infrastructure refresh due to hardware supply chain back orders and delays of procurement activities because staff were reassigned to accelerate the move to maximum telework.

In addition, as mentioned earlier in this report, in its quarterly status IT investment reports to Congress, IRS reported that resources initially allocated to the CADE 2 modernization program for the fourth quarter of Fiscal Year 2020 had been reassigned to support COVID–19 responsibilities. This resulted in a 7-month schedule delay in the completion of development activities for CADE 2's transition state 2, which, as previously mentioned, has been delayed several times since IRS initiated the program in 2009.

Agency Comments and Our Evaluation

IRS provided comments on a draft of this report. In its comments, which are reproduced in appendix III, IRS offered its views on IMF, CADE 2, and the agency's progress in implementing the 2019 modernization plan. IRS also discussed actions it took to maximize telework capabilities and provide the agency's workforce with the equipment needed to telework at the onset of the COVID–19 pandemic. Further, the agency commented on its progress in implementing our 2018 recommendations related to selected IT investments.

Regarding IMF, IRS called it one of the most critical systems in the Federal Government and stated that, despite the system's limitations, IMF continues to perform and enable the agency to implement statutory mandates. However, as we note in our report, IRS has acknowledged that a more modern system would provide the foundation for real-time digital taxpayer interactions; agile responses to legislative changes; and rapid access to data for enhanced customer service and compliance, among other things.

IRS also noted that IMF's modernization plan involves systems and functions beyond CADE 2, and that the plan positions the agency to incrementally deliver bene-

⁴⁷The documented weekly impact reports were discontinued after July 2020, though Associate Chief Information Officers and Deputies were instructed to report issues in their meetings with the Chief Information Officer.

fits for the next 10 years. Nevertheless, as we state in this report, a 2030 milestone for the full retirement of IMF means that, for many years, the agency will have to contend with the numerous challenges associated with this system's age and reliance on an old programming language.

Commenting on CADE 2, IRS stated that the program had made good progress in modernizing some of the most complicated portions of IMF and remained within acceptable schedule parameters for Fiscal Years 2019 and 2020. As we discuss in our report, despite this progress, CADE 2's delays and continued use of IMF are troubling. The agency has previously reported that IMF: (1) is one of the oldest systems in the Federal Government, (2) has software written in an archaic language that is no longer taught in school; and (3) is supported by a workforce with specialized skills that are increasingly harder to find.

Further, since 2009, IRS has revised the CADE 2 program's cost, schedule, and scope goals on numerous occasions, including seven times between 2016 and 2019. Accordingly, a key major program milestone for replacing selected IMF functions, known as transition state 2, has slipped 9 years—from 2014 to 2023. In addition, CADE 2 is now expected to only replace core functions of IMF, rather than the entire system, as was originally planned. While we acknowledge IRS's progress on CADE 2 in the years we reviewed, given the past significant delays and other challenges in developing CADE 2, as well as the substantial work ahead, consistent high-level management attention is warranted.

IRS also highlighted several modernization activities it had completed in Fiscal Years 2019 and 2020. These activities included expanding the availability of the customer callback feature, digital services for taxpayers, and activities to reduce cybersecurity vulnerabilities and manage potential threats.

IRS further noted the IT-related actions it took to provide the equipment and infrastructure upgrades needed to transition the agency to maximum telework at the onset of the COVID-19 pandemic. These are consistent with the actions we identified in our report.

Finally, IRS stated that it had addressed 17 of 21 recommendations included in our 2018 report on selected agency investments. At the end of our review, IRS also provided evidence of actions it had taken to address two of the remaining four recommendations. We reviewed the evidence and determined that the agency had implemented one of the recommendations, bringing the total number of implemented recommendations to 18 of the 21. We adjusted our summary of actions taken in appendix II of this report accordingly.

We are sending copies of this report to interested congressional committees, the Commissioner of IRS, and other interested parties. In addition, this report will be available at no charge on the GAO website at <http://www.gao.gov>.

Should you or your staffs have any questions on information discussed in this report, please contact me at (214) 777-5719 or hinchmand@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix IV.

David B. Hinchman
Director, Information Technology and Cybersecurity

Appendix I: Objectives, Scope, and Methodology

Our objectives were to (1) summarize the Internal Revenue Service's (IRS) reported performance for selected information technology (IT) investments, including the Customer Account Data Engine (CADE) 2; (2) determine IRS's progress in implementing its 2019 IT modernization plan; and (3) identify the actions IRS has taken to maximize telework during the COVID-19 pandemic, and the reported impacts of the actions on the agency's IT budget and plans.

To select investments for our first objective, we identified a nonprobability sample of five investments out of 133 based on the following factors: (1) investments that IRS rated as being mission critical; and (2) investments with the highest levels of funding for Fiscal Years 2019, 2020, and 2021, as reported on the Federal IT Dashboard.¹ We selected five investments in different life cycle phases—three invest-

¹The Federal IT Dashboard is a public website deployed by the Office of Management and Budget with information on the performance of Federal agencies' IT investments.

ments in the development phase and two investments in the operations and maintenance phase. The investments that were primarily in development were CADE 2, Enterprise Case Management (ECM), and Web Applications. The investments primarily in the operations and maintenance phase were the End User Systems and Services and Individual Master File (IMF).

For the investments in development, we compiled and analyzed quarterly reports from the Investment Performance Tool—IRS’s internal system for tracking investment performance—showing planned versus actual cost, schedule, and scope for work the agency was performing on these investments during Fiscal Years 2019 and 2020. We also interviewed IRS IT program officials to understand variances between planned and actual performance.

To assess the reliability of the performance data for the investments in development, we confirmed our understanding of the processes used to generate the data by reviewing the processes defined in IRS’s August 2020 Investment Performance Tool User Guide and confirmed their use with project management officials. We also reviewed the data to verify that it included all the projects supporting the investments for the eight quarters in the scope of our review. Further, we followed up with these officials to discuss detected anomalies we found in the performance data. Finally, IRS’s Integrated Financial System is the source of the financial data in the Investment Performance Tool, and our prior audits of the agency’s internal controls over financial reporting found that there were no internal control issues that would prevent us from relying on the data in the system. We determined these data were sufficiently reliable for purposes of summarizing what IRS reported.

For the CADE 2 program, we also reviewed prior GAO reports, IRS’s quarterly IT reports to Congress on the agency’s IT modernization progress, and relevant documents, including the modernization plan for IMF for which CADE 2 is a key component. From this documentation, we determined any revisions to these plans, and the functionality delivered.

For the investments in operations and maintenance, to determine if the operational performance metrics were met for Fiscal Years 2019 and 2020, we compared the average of the actual monthly operational performance measures found in the agency’s monthly investment performance reports for each year to the performance target for the year. Further, we determined the extent to which an operational analysis was performed in accordance with relevant Office of Management and Budget (OMB) guidance.² To do so, we obtained operational analyses for Fiscal Years 2019 and 2020 and compared the analyses to requirements specified in OMB’s Fiscal Year 2020 capital programming guidance. We rated each requirement as addressed if the operational analysis fully addressed the requirement; or partially addressed if the operational analysis addressed some, but not all, of the requirement.

For the second objective, we compared the activities IRS reported that it completed for Fiscal Years 2019 and 2020 in quarterly IT summary reports to Congress and an annual status report to the Department of the Treasury, along with their associated schedule and costs, to the activities identified in the 2019 modernization plan. For additional cost analysis, we compared actual costs and schedules for the IT modernization activities completed in Fiscal Years 2019 and 2020 to the planned costs and schedules for these activities found in the agency’s quarterly IT summary reports to Congress and an annual status report. We also reviewed documentation and interviewed IRS IT organization officials to understand variances between planned and actual performance.

To supplement our analysis of the agency’s reported data, we verified the completion of a nongeneralizable random sample of modernization activities. To do so, we randomly selected one activity from each of the four modernization categories outlined in the agency’s plan for Fiscal Years 2019 and 2020. This resulted in our selection of 8 of 59 activities. We confirmed that the eight selected activities were completed by reviewing supporting documentation and interviewing IRS IT program officials. The activities we selected were:

- Live Assistance Customer Callback: four additional taxpayer applications.
- Live Assistance Customer Callback: expanded toll-free capacity.

²Office of Management and Budget, *Capital Programming Guide V 3.1: Supplement to Circular A-11, Planning, Budgeting, and Acquisition of Capital Assets* (Washington, DC: December 2020).

- CADE 2: deployed modern code for the internal balancing and control component for IMF testing.
- ECM: delivered sequencing strategy and release plan to support the delivery of future ECM releases for Fiscal Year 2021 and beyond.
- Next Generation Infrastructure: deployed continuous integration/continuous delivery to software upgrades and code changes rapidly and reliably.
- Next Generation Infrastructure: deployed additional standard stack components.³
- Security Operations and Management: deployed cyber architecture and cyber cloud strategy, and migration plan.
- Vulnerability and Threat Management: Enhanced security testing and process automation to fully integrate security in system delivery as early as possible.

For these eight activities, we reviewed project documentation that IRS provided, including a solutions concept of operations document for the live assistance customer callback feature, systems testing documents, a Cybersecurity Modernization Plan status report, and various other status reports.

For the third objective, we obtained, analyzed, and summarized relevant documentation, including weekly impact summary reports, a COVID-19 spending plan, and an inventory of IT equipment and services the agency reported that it purchased to transition its workforce to maximum telework. We supplemented our document reviews with interviews of cognizant IRS officials from the IT organization's User and Network Services group.

We also reviewed instructions for Associate Chief Information Officers reporting information in the COVID-19 weekly impact summary reports. We corroborated the accuracy of the information in the COVID-19 spending plan with IRS budget officials. We determined that the data were sufficiently reliable for purposes of summarizing what IRS reported.

As part of our work, we also determined the status of actions taken to address each of 21 prior recommendations we made in our 2018 review of IRS's IT investments to improve operational analyses and fully implement risk management practices for selected investments, and implement IT workforce planning practices. To do so, we asked relevant agency IT organization officials about actions taken or planned to address each recommendation, and obtained and analyzed evidence to substantiate their claims. We assessed a recommendation as being fully addressed if IRS provided evidence that it completely addressed all elements of our recommendation; partially addressed if IRS provided evidence that it addressed some, but not all, of our recommendation; and not addressed if IRS did not provide any evidence that it addressed our recommendation.

We conducted this performance audit from June 2020 to October 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Status of IRS's Efforts to Implement 2018 GAO Recommendations on Selected IT Investments

In June 2018, we reported on the performance of selected IRS IT investments; the risks that selected legacy investments faced; and the need for the agency to implement key IT workforce planning practices.¹ We made 21 recommendations in that report and, as of September 2021, IRS has fully implemented 18 of these recommendations. Table 9 summarizes our assessment of IRS's efforts to implement the recommendations included in the report.

³A technology stack is a set of software components that compose a platform for running an application.

¹GAO, *Information Technology: IRS Needs to Take Additional Actions to Address Significant Risks to Tax Processing*, GAO-18-298 (Washington, DC: June 28, 2018).

Table 9: Status of the Internal Revenue Service's (IRS) Efforts to Implement Recommendations on Operational Analyses and Risk Management, as of September 2021

| Recommendation | Status | Summary |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. The Commissioner of the IRS should ensure the operational analysis for Individual Master File (IMF) fully addresses greater utilization of technology or consolidation of investments to better meet organizational goals. | ▶ | IRS provided its Fiscal Year 2019 and 2020 operational analyses; however, it did not reflect the agency's progress in modernizing IMF and associated challenges. Instead, IRS provided its Customer Account Data Engine 2 Fiscal Year 2020 operational analysis which addressed IMF's progress in modernization and associated challenges. However, given that the information on modernization and challenges was not in the IMF operational analyses, decision-makers may not have the critical information they need to inform their decisions about IMF. |
| 2. The Commissioner of the IRS should ensure the operational analysis for the Integrated Data Retrieval System (IDRS) addresses the extent to which the investments support customer processes as designed, and how well the investments are delivering the goods or services they were designed to deliver. | • | In June 2020, IRS provided its Fiscal Year 2019 operational analysis which addressed the extent to which investments support customer processes as designed and how well the investment was delivering the goods or services it was designed to deliver. |
| 3. The Commissioner of the IRS should ensure the operational analysis for the Telecommunications Systems and Support (TSS) addresses the extent to which the investments support customer processes as designed, and how well the investments are delivering the goods or services they were designed to deliver. | ▶ | IRS provided its Fiscal Year 2020 operational analysis that addressed how the investment supports services such as video conferencing, enterprise voice, and fax services. However, the information was not included as part of the specific metric. We will therefore continue to monitor the operational analysis on how the investment supports services. |
| 4. The Commissioner of the IRS should ensure the operational analysis for TSS includes a comparison of current performance with a pre-established cost baseline. | • | In February 2021, IRS provided its Fiscal Year 2020 operational analysis report which demonstrated that IRS had compared current performance with a pre-established cost baseline, and accounted for user fees and multiyear costs. |
| 5. The Commissioner of the IRS should ensure the operational analysis for End User Systems and Services includes a comparison of current performance with a pre-established cost baseline. | • | In December 2020, IRS provided its Fiscal Year 2020 operational analysis, which addressed the comparison of current performance with a pre-established cost baseline. |
| 6. The Commissioner of the IRS should ensure the operational analysis for the Mainframes and Servers Services and Support addresses alternative methods of achieving the same mission needs and strategic goals. | • | In August 2019, IRS provided its Fiscal Year 2018 operational analysis that addressed alternative methods of achieving the same mission needs and strategic goals. |
| 7. The Commissioner of the IRS should fully implement the risk management key practice associated with preparing for risk management for the IMF investment. | • | In December 2019, IRS provided its updated IT Risk Management Program plan which addressed key practices associated with preparing for risk management for the IMF investment. |
| 8. The Commissioner of the IRS should fully implement the risk management key practice associated with analyzing risk for the IMF investment. | • | In December 2019, IRS provided updated policy documentation that addressed its risk management policy associated with analyzing risk. In addition, in May 2021, IRS provided evidence that it analyzes risk for the IMF investment. Specifically, the agency provided examples of the risk statement and analysis that are included in its Item Tracking Reporting and Control tool. |

Table 9: Status of the Internal Revenue Service's (IRS) Efforts to Implement Recommendations on Operational Analyses and Risk Management, as of September 2021—Continued

| Recommendation | Status | Summary |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 9. The Commissioner of the IRS should fully implement the risk management key practice for prioritizing risk for the IMF investment. | • | In December 2019, IRS provided its risk profile which addressed key practices associated with prioritizing risk for the IMF investment. Specifically, IRS provided, among other things, risk registry reports. These reports identified IRS's implementation of the risk management practice for prioritizing risk for IMF. |
| 10. The Commissioner of the IRS should fully implement the risk management key practice associated with mitigating risk for the IMF investment. | • | In December 2019, IRS provided updated policy documentation that addressed the agency's risk management policy associated with mitigating risk. Further, in May 2021, IRS provided its risk review registry that identified risk for IMF and alternative courses of action to take (mitigation plans) if risks statements are impacted. |
| 11. The Commissioner of the IRS should fully implement the risk management key practice associated with monitoring, reporting, and controlling risk for the IMF investment. | • | In December 2019, IRS provided updated policy documentation that addressed the agency's risk management policy associated with monitoring, reporting, and controlling risk. In addition, in February 2021, IRS provided, among other things, governance board meeting minutes and its annual operational analyses review of risk management to demonstrate that it has implemented its policy for risk management. |
| 12. The Commissioner of the IRS should fully implement the risk management key practice associated with preparing for risk management for the IDRS investment. | • | In December 2019, IRS provided its updated IT Risk Management Program plan, which addressed key practices associated with preparing for risk management for the IDRS investment. In addition, in February 2021, IRS provided its Risk Issue and Action Item Management Process transmittal, which described the risk management requirements for all IRS IT investments, including IDRS. |
| 13. The Commissioner of the IRS should fully implement the risk management key practice associated with analyzing risk for the IDRS investment. | • | In December 2019, IRS provided its updated IT Risk Management plan that addressed the agency's risk management policy associated with analyzing risk for the IDRS investment. IRS also provided a risk register for IDRS showing that it analyzed both inherent and residual risks for the investment. |
| 14. The Commissioner of the IRS should fully implement the risk management key practice associated with mitigating risk for the IDRS investment. | • | In December 2019, IRS provided its Risk and Issue Management plan which identified the key practices associated with mitigating risk. Further, in May 2021, IRS provided its risk review registry that identified risk for IDRS and alternative courses of action to take (mitigation plans) if risks statements are impacted. |
| 15. The Commissioner of the IRS should fully implement the risk management key practice associated with monitoring, reporting, and controlling risk for the IDRS investment. | • | IRS provided its Risk Management Program plan which identified the key practices associated with monitoring, reporting, and controlling risk. In addition, in February 2021, IRS provided, among other things, governance board meeting minutes and annual operational analysis reviews of risk management to identify that it has implemented its policy for risk management. |
| 16. The Commissioner of the IRS should fully implement the risk management key practice associated with preparing for risk management for the Mainframes and Servers Services and Support (MSSS) investment. | • | In February 2021, IRS provided its updated IT Risk Management Program plan which addressed key practices associated with preparing for risk management for the MSSS investment. |

Table 9: Status of the Internal Revenue Service’s (IRS) Efforts to Implement Recommendations on Operational Analyses and Risk Management, as of September 2021—Continued

| Recommendation | Status | Summary |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 17. The Commissioner of the IRS should fully implement the risk management key practice associated with identifying risk for the MSSS investment. | ● | In January 2020, IRS provided an updated MSSS risk log which identified risks for the investment, including human resource risks and staff shortages. |
| 18. The Commissioner of the IRS should fully implement the risk management key practice associated with analyzing risk for the MSSS investment. | ● | In December 2019, IRS provided updated policy documentation that addressed the agency’s risk management policy associated with analyzing risk. In addition, in May 2021, IRS provided evidence that it analyzes residual risk for the IMF investment. Specifically, the agency provided examples of the risk statement and analysis that are included in its Item Tracking Reporting and Control tool. |
| 19. The Commissioner of the IRS should fully implement the risk management key practice associated with mitigating risk for the MSSS investment. | ● | In December 2019, IRS provided updated policy documentation that addresses the agency’s risk management policy associated with mitigating risk. In addition, in January 2020, the agency began identifying a period of performance for its risks by providing Risk Reports which identified that each risk has a “submit date,” a “probable impact date,” and a “projected completion date.” |
| 20. The Commissioner of the IRS should fully implement the risk management key practice associated with monitoring, reporting, and controlling risk for the MSSS investment. | ● | In December 2019, IRS provided updated policy documentation that addresses the agency’s risk management policy associated with monitoring, reporting, and controlling risk. In addition, in February 2021, IRS provided among other things, governance board meeting minutes and its annual operational analyses review of risk management to identify that it has implemented its policy for risk management. |
| 21. The Commissioner of the IRS should fully implement IT workforce planning practices, including the following actions: (1) setting the strategic direction for workforce planning; (2) analyzing the workforce to identify skill gaps; (3) developing strategies and implementing activities to address skill gaps; and (4) monitoring and reporting on progress in addressing skill gaps. | ◆ | In March 2021, IRS provided its draft IT Workforce Strategy, which identifies objectives that the agency plans to achieve, such as, a diverse, flexible and engaged workforce. IRS also developed an implementation plan to operationalize the IT Workforce Strategy, which described key efforts supporting each objective, along with benefits and measurable outcomes. However, IRS did not provide a date for when it plans to finalize the strategy. In addition, IRS did not provide evidence that it had implemented the key efforts identified in the implementation plan |

Legend: ● — recommendation fully implemented, ◆ — recommendation partially implemented, ○ — recommendation not implemented.

Source: GAO analysis of Internal Revenue Service data. | GAO-22-104387.

Note: Recommendations from GAO-18-298.

Appendix III: Comments From the Department of the Treasury Internal Revenue Service

DEPUTY COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

September 16, 2021

David B. Hinchman
Director, Information Technology and
Cybersecurity
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Hinchman:

We reviewed the U.S. Government Accountability Office (GAO) draft report entitled Information Technology: Cost and Schedule Performance of Selected IRS Investments (GAO-22-104387) and appreciate the opportunity to provide comments. We remain committed to investing in and delivering on modernization plans that improve how the IRS interacts with taxpayers and the tax community while continuing to strengthen cybersecurity protections and information technology systems.

The IRS contends with multiple priorities including annual tax law changes, emergency legislative mandates, and evolving security and fraud threats. As we deliver on these needs, we also continue to prioritize the operational health of our technology environment and the modernization of critical systems such as the Individual Master File (IMF). The IMF is one of the most critical systems in federal government, as it provides data to support IRS customer service, compliance, custodial accounting and fraud detection. Despite its limitations, the system continues to perform and enable the IRS to implement legislative mandates such as quickly facilitating the distribution of Economic Impact Payments and Advanced Child Tax Credit payments.

The Customer Account Data Engine 2 (CADE 2) program has made good progress modernizing some of the most complicated portions of the IMF, and as noted by GAO, remained within acceptable schedule parameters for 2019 and 2020. We completed the CADE 2 Target State Plan, in addition to an independent verification and validation, and assessments of the program by the Treasury Inspector General for Tax Administration have noted that we are effectively monitoring the progress of the Individual Tax Processing Engine project, which is a key component of CADE 2. Although CADE 2 is foundational to modernizing the IMF, we must also replace systems and functions not included in the CADE 2 program. The IMF modernization plan, which has been independently assessed, positions the IRS to incrementally deliver benefits each year for the next 10 years. With the American Rescue Plan providing modernization funding,

we are accelerating these efforts, but continued progress will depend on available funding.

More broadly, the IRS continues to successfully deliver on the IRS Integrated Modernization Business Plan. In FY 2019 and FY 2020, we remained within cost and schedule parameters, ultimately delivering a total of 60 new capabilities that included expanding the availability of the customer callback feature, which allows callers to choose to receive a return call from us rather than stay on hold. We also expanded digital services for taxpayers and continued to innovate our online assistance. For example, we enhanced Taxpayer Digital Communications, which includes secure messaging, a text chat function, and outbound notifications, and added several new features to IRS Online Account. We appreciate that for the eight modernization capabilities reviewed as part of this report, GAO verified that all capabilities were completed.

Cybersecurity also remains a top priority area for allocating IRS technology funding. The IRS observes and mitigates more than 2.5 million unauthorized access attempts per day, including denial-of-service attacks, unsuccessful intrusion attempts, probes or scans, and other unauthorized connectivity attempts. As part of the overall modernization plan, we have successfully delivered several additional capabilities to reduce vulnerabilities and manage potential threats with a focus on areas such as data encryption, asset management, security testing and process automation, and fraud analytics.

At the onset of the COVID-19 pandemic, we quickly mobilized to maximize telework capabilities and equip the IRS workforce with the equipment needed to telework. For example, we successfully upgraded the bandwidth capacity of our network infrastructure from 2 gigabytes to 10 gigabytes, which enabled a record number of nearly 60,000 IRS employees to securely connect to the IRS network remotely. We also equipped IRS customer service representatives with laptops and peripheral equipment bundles in preparation for telework and took unprecedented steps to ship laptops directly to employees' home addresses. By the end of FY 2020, more than 15,000 laptops and peripheral equipment bundles were provisioned across 28 sites around the country, and more than 2,000 employees received equipment at home. These actions helped ensure the continuity of mission critical activities.

In collaboration with GAO, we have addressed 17 of the 21 recommendations from the prior report entitled Information Technology: IRS Needs to Address Significant Risks to Tax Processing (GAO-18-298). Of the remaining four recommendations, two are currently under review and two will be addressed during the FY 2021 Operational Analysis Evaluation, which is scheduled for completion by the end of CY 2021. We look forward to working with GAO to fully address these remaining recommendations.

If you have any questions, please contact me, or a member of your staff may contact Nancy A. Sieger, Chief Information Officer, at 202-317-5000.

Sincerely,

**Jeffrey J.
Tribiano** Digitally signed by
Jeffrey J. Tribiano
Date: 2021.06.16
07:26:09 -04'00'

Jeffrey J. Tribiano
Deputy Commissioner for
Operations Support

COMMUNICATIONS

AMERICAN CITIZENS ABROAD

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).

In testimony presented to the Senate Finance Committee hearing of April 7, 2022, on the IRS, the President's 2023 Budget and the 2022 tax season, IRS Commissioner Rettig discussed the customer service challenges posed by resource constraints and paper filing. An overwhelming proportion of non-resident taxpayers file paper tax returns due to the inaccessibility of IRS online accounts and free filing, \$2.2 billion in new funding for the IRS and focused efforts by staff to eliminate the backlog of paper filings have helped to reduce the to-be-processed 2021 paper tax returns to 2.7 million. Those will need to be processed before the IRS can turn its attention to 2022 paper filings, which currently number 2.3 million. It is astonishing that in 2022, processing of paper returns still requires manual transcription. Indications by Commissioner Rettig that the IRS received funding in the March spending package for scanning technology using a 2D barcode were undermined by his non-specific comments that challenges to the implementation of that technology remain.

Commissioner Rettig acknowledged that it is unacceptable for the IRS to remain paper-based in a digital world. However, until online accounts are available to U.S. citizens abroad, those without the resources to hire professional tax return preparers will be forced to file the paper returns that accumulate in those backlogs. Identity verification using the ID.me website and data security concerns remain obstacles for creating an IRS online account for U.S. citizens abroad.

Perhaps the most astonishing IRS customer service failure is the 11% response rate to taxpayer calls to the IRS help line, which Commissioner Rettig testified reached 1,500 calls per second in the 2021 tax filing season. IRS help line inaccessibility is compounded for non-resident filers: the help line cannot be dialed from some foreign countries; the calls are not toll-free; lengthy wait times are frustrating as well as expensive; and customer service representatives frequently lack the technical expertise to address problems common to non-resident filers.

During the hearing Senator Thune made this comment regarding the challenges the IRS has in meeting the customer service needs of all U.S. citizen taxpayers:

The timely processing of returns and the ability to speak to an IRS representative are cornerstones to good tax administration. Many taxpayers are trying in good faith to comply with tax laws, and they deserve a responsive IRS. It is critical . . . to establish the trust of the American people and having a responsive tax collection service is key to that.

Of course, non-resident taxpayers, who present special complications for the IRS, deserve no less. The U.S. can continue to struggle to meet the needs of the Americans abroad community or consider a change to the treatment of this taxpayer cohort.

TAXATION AND AMERICANS ABROAD

The Taxpayer First Act has identified U.S. citizens living and working overseas as an underserved community and the IRS is working to create systems and provide support to these taxpayers. This cannot come fast enough for the estimated 3.9 mil-

lion U.S. citizens living and working abroad.¹ Tax filing for U.S. citizens living and working outside the U.S. is complex, costly and confusing, results in onerous taxation of foreign investments considered Passive Foreign Investment Company (PFICs), involves duplicate reporting regimes like the Foreign Account Tax Compliance Act (FATCA) Form 8938 and the Financial Bank Account Report (FBAR) (FinCEN Form 114), is unfair with regard to the application of certain tax credits for non-residents (Child Tax Credit and Earned Income Credit), exposes filers to double taxation with the Net Investment Income Tax (NIIT), and involves wading through many regulations that overlap with U.S. corporate international tax.

This is just a sampling of the problems on the individual side of reporting, not taking into consideration the filing requirements for small business operations run by U.S. citizens overseas that need to deal with the Transition Tax and Global Intangible Low-Taxed Income (GILTI) regimes (and are denied access to programs available for small businesses through the U.S. tax code such as the Employee Retention Tax Credit and Paycheck Protection Program which were discussed by Senator Cardin).

RESIDENCE-BASED TAXATION

ACA has throughout its 40-plus year history advocated for the adoption of residence-based taxation (RBT) and has produced key documents and research that support the move to RBT, which can be made revenue neutral and tight against abuse. ACA was the first organization to develop a side-by-side analysis that indicates where in the current tax code changes could be made in a move to a system of taxation based on residence (excludes from U.S. taxation foreign earned income). ACA has fielded two research projects on the subject with District Economics Group (DEG), a Washington, DC-based economic consulting firm—one in 2017 and one in 2022 that provide valuable information on the income, assets 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 no one will be any worse off, the U.S. Treasury would not lose revenue and the provisions would be protected against tax abuse.

CONGRESSIONAL HEARINGS ON TAXATION AND AMERICANS ABROAD

It is time for this research work, along with documents and testimony from ACA and other stakeholders, to be put on record with the Senate Finance Committee with hearings. There are currently three pieces of legislation introduced in Congress that address some of the tax compliance problems of U.S. citizens overseas; H.R. 5800 (The Commission on Americans Living Abroad Act) and H.R. 5799 (The Overseas Americans Financial Access Act) both introduced by Congresswoman Carolyn Maloney, and H.R. 6057 (The Tax Simplification for Americans Abroad Act), introduced by Congressman Donald Beyer. These legislators have asked Chairman Neal to address the tax and compliance issues of U.S. citizens living and working overseas, and ACA echoes this call to action for the Senate Finance Committee.

Never in the history of the U.S. Congress have hearings been held to address the specific issues facing U.S. citizens living and working abroad, not only tax issues but other concerns related to Social Security, Medicare, voting and representation. The Americans Abroad Caucus with Co-Chairs Carolyn Maloney, Dina Titus, and Maria Elvira Salazar are hearing from constituents in their districts about the growing concerns of citizens who chose to live and work overseas. If U.S. citizens are to engage in a global economic marketplace, they need the tools to help them compete for jobs and have full access to financial and banking services. Some U.S. laws, such as FATCA, are hampering this and the Committee needs to hear and understand these issues and problems, in order that proposals, such as the adoption of residence-based taxation, can be carefully examined.

The concerns over how paper return backlogs, taxpayer help line accessibility, under-resourcing at the IRS, and the technological issues with IRS systems affect U.S. citizens living and working overseas, as well as how the current citizenship-based tax regime affects these citizens, are all reasons why the Senate Finance Committee needs to hold hearings on the tax and compliance issues of U.S. citizens overseas and consider legislation such as residence-based taxation to alleviate the problems.

ACA would like to thank the Senate Finance Committee for the opportunity to submit this testimony and commentary. For more information, please visit the ACA

¹ACA and District Economics Group estimate that the total number of Americans abroad at present, excluding members of the military and other government employees and contractors, is approximately 3.9 million individuals.

website www.americansabroad.org or telephone +1 202-322-8441 and/or email marylouise.serrato@americansabroad.org.

LETTER SUBMITTED BY AMY BALCERAK

Dear Chairman Wyden, Ranking Member Crapo, and Members of the Committee:

I am an American who spent the first 30+ years of my life living in the U.S., primarily in Indiana, where I am still registered to vote. For the past 10 years, I've been living in Switzerland. My husband's job, as well as a sense of adventure brought us here.

My financial life is entirely in Switzerland, and my income is subject to full taxation under the laws of Switzerland. I try very hard to fulfill the requirements of the U.S. tax system in addition to the tax requirements in Switzerland. The reality, though, is that the U.S. requirements (especially the myriad of required informational filings) get increasingly burdensome every year, and the compliance costs for knowledgeable tax preparers are egregious. My federal U.S. tax return for tax year 2021 was 88 pages long, and we have no income or property in the U.S.

The extraterritorial application of the U.S. federal income tax system is a painful issue for the 9 million U.S. citizens who reside outside the United States. In a survey of 1,564 overseas resident citizens conducted by Stop Extraterritorial American Taxation ("SEAT"), an independent, non-partisan not-for-profit association, 46% of participants agreed with the statement "I pay significant fees for preparation of U.S. tax return but owe nothing in U.S. taxes," with 41% of those who engaged a professional preparer paying more than \$1,000 in fees.

This is a reflection of the burden non-residents face due to complex information reporting requirements related to ordinary banking, investment and pension products which are "foreign" to the United States but just a part of living an ordinary financial life in one's country of residence.

The uniquely American definition of "tax residency" includes the imposition of taxation on the worldwide (including non-U.S. source) income of persons who are tax residents of other countries. This system requires the IRS to do the impossible: to administer not only a domestic tax system for U.S. residents and a system of source taxation for non-resident aliens, but also an extraterritorial one whose details are defined by unique interactions with the tax codes of other countries in the world.

Administering an extraterritorial tax system has become an overwhelming task, both procedurally and substantively. The IRS cannot remotely serve U.S. tax residents in the more than 100 countries in the world where they live, let alone in the languages that they speak. Nor can the IRS know how U.S. laws apply to the local financial services, small business structures, and retirement savings plans that are common in all those other countries.

Indeed the IRS itself has identified "international taxpayers" as a community which is underserved by the IRS. Although the IRS's Publication 54, "Tax Guide for U.S. Citizens and Resident Aliens Abroad," is helpful, it does not adequately enable non-resident taxpayers to understand their U.S. tax obligations in the context of the financial systems of the countries in which they live. Since IRS guidance is not sufficient for non-resident taxpayers to accurately understand how the U.S. tax system applies to them, they require the support of professional tax service providers, which is unaffordable for many.

The IRS's inability to provide non-resident taxpayers with essential services violates several aspects of the Taxpayer Bill of Rights, including the following:

- The right to be informed, including the right to know what to do to comply with tax laws and the right to receive clear explanations.
- The right to quality service, including the right to receive prompt service and clear and easily understandable communications from the IRS.
- The right to pay no more than the correct amount of tax, including the right to have the IRS apply all tax payments properly.
- The right to a fair and just tax system, including the right to expect the tax system to consider facts and circumstances that might affect taxpayers' underlying liabilities and ability to timely provide information.

In order for the IRS to fairly administer the system of extraterritorial taxation which the United States currently imposes, **the IRS must provide equal levels of service to both taxpayers resident in the United States and non-resident U.S. citizens. The level of service currently provided by the IRS is highly unequal.**

In a paper entitled, “Mission Impossible: Extraterritorial Taxation and the IRS” published in the *Tax Notes Federal* journal, authors Laura Snyder, Karen Alpert and John Richardson explain that the failure of the IRS to provide access to the following services, individually and collectively, constitute violations of the Taxpayer Bill of Rights:

- In-person assistance.
- Toll-free telephoning.
- Knowledgeable IRS agents.
- Online accounts.
- E-filing.
- Timely delivery of postal mail.
- Use of other languages.
- Explanations of tax obligations.
- Making payments to the IRS.
- Receiving payments from the IRS.
- Third-party assistance.
- Low income taxpayer clinic.
- IRS internal organization.

According to Snyder, et al., these failures when considered as a whole, “manifest a systemic pattern of discriminatory treatment of international taxpayers as compared with domestic taxpayers. The collective failures are evidence that the IRS is either unable or unwilling to administer an extraterritorial tax system.”

With limited ability to interface with non-resident taxpayers, the IRS has shut itself off from taxpayers, and as a result is unable to determine whether the taxpayer is providing accurate information, unless the IRS selects his or her return for audit. For their part, Americans living abroad are subject to potentially devastating penalties for failure to file a variety of documents accurately, even for inadvertent non-compliance. According to the SEAT survey, 80% “experience personal stress in relation to U.S. taxation,” a large part of which is due to the constant sense of fear because of the excessive penalties that could be applied for making an honest mistake in tax compliance. The inability of the IRS to address their questions makes it more likely that filers will get it wrong. As a result, the inaccessibility of these basic services leads to further non-compliance, as evidenced by the low rate of filing compared to domestic citizens.

The IRS should take immediate steps to address the many valid concerns that have been raised by Americans abroad. **If the IRS is unwilling or unable to administer a system of extraterritorial taxation, then it is time for Congress to take action to cease the imposition of tax on the non-U.S. source income of non-residents.** The cost-benefit analysis of the impact of a transition from citizenship-based taxation to a residence-based system of taxation should include an assessment of the investments which would be required to enhance the capabilities of the IRS to provide fair and equitable support to non-resident taxpayers under the current system.

The practice of imposing U.S. worldwide taxation on individuals, who are tax residents of other countries, because of their citizenship is a uniquely American practice. In 2015, the Senate Finance Committee embarked on an extensive study of the U.S. international taxation. On the last page of the 82-page report (released in July of 2015), it was stated that:

F. Overseas Americans

According to working group submissions, there are currently 7.6 million American citizens living outside of the United States. Of the 347 submissions made to the international working group, nearly three-quarters dealt with the international taxation of individuals, mainly focusing on citizenship-based taxation, the Foreign Account Tax Compliance Act (FATCA), and the Report of Foreign Bank and Financial Accounts (FBAR).

While the co-chairs were not able to produce a comprehensive plan to overhaul the taxation of individual Americans living overseas within the time-constraints placed on the working group, the co-chairs urge the Chairman

and Ranking Member to carefully consider the concerns articulated in the submissions moving forward.

It is now 2022 and there has been no consideration of the taxation of U.S. citizens who live outside the United States as tax residents of other countries. Notably, in the Spring of 2021, the Senate Finance Committee conducted numerous hearings about international tax issues. In spite of numerous submissions by impacted individuals and advocacy groups, the issues of Americans abroad were not considered. No one representing Americans abroad was invited to be a witness.

The combination of U.S. citizenship-based taxation and FATCA is destroying the lives of U.S. citizens living outside the United States who are bona fide residents (and tax residents) of other countries. Issues causing a particularly devastating impact include:

- Double taxation—due to misalignment of tax systems—that cannot be mitigated using the Foreign Earned Income Exclusion, Foreign Tax Credit, or existing Tax Treaties.
- Disproportionately high tax-preparation costs and excessive compliance risks associated with information reporting required for financial assets held in a U.S. citizen's country of residence, which harms ordinary Americans who are unable to afford sophisticated tax preparers, which (as noted) can be prohibitively expensive even if no tax is owed.
- Excessively large and regressive penalties related to information reporting errors that far exceed taxes owed or balances of accounts concerned and individuals' ability to pay.
- Americans abroad with a non-U.S. citizen spouse facing discriminatory treatment in the tax code and greater difficulty in meeting filing obligations due to the lack of a Social Security Number for their spouse.
- Corporate tax rules intended to apply to overseas subsidiaries of multinational corporations that are applied to small businesses owned by Americans residing abroad, resulting in unreasonably high compliance costs and punitive taxation of undistributed income.
- A lack of access to necessary financial products and services caused by a mix of burdensome reporting obligations and punitive treatment of local products in the U.S. tax code.

I urge the Senate Finance Committee to hold a hearing focused on the difficulties U.S. citizens who reside outside the United States are facing in navigating the increasingly complex extraterritorial tax compliance regime that the U.S. imposes on its non-resident citizens. These issues are not well known or understood, but they are a tremendous burden on millions of ordinary people who happen to live overseas.

The best solution to this problem is for the U.S. to come into alignment with every other developed nation on the planet and move to a residence-based taxation system for individuals. U.S. citizens who are tax residents of other countries would continue to be liable to pay U.S. Federal income tax on any income which is effectively connected with the United States, as all non-resident aliens do, by using Form 1040-NR instead of Form 1040.

Thank you for your attention to this matter.

Amy Balcerak

LETTER SUBMITTED BY REGINALD CALLAWAY

Dear Chairman Wyden, Ranking Member Crapo, and Members of the Committee:

I am from the state of Hawai'i and have not lived there for many years and I have always paid my state taxes. I also vote there. I presently live in New Zealand where I have lived for many years. New Zealand is home for me.

My financial life is entirely in New Zealand, and my income is subject to full taxation under the laws of New Zealand. I try very hard to fulfill the requirements of the U.S. tax system in addition to the tax requirements in New Zealand. The reality, though, is that the U.S. requirements (especially the myriad of required informational filings) get increasingly burdensome every year, and the compliance costs for knowledgeable tax preparers are egregious.

The extraterritorial application of the U.S. Federal income tax system is a painful issue for the 9 million U.S. citizens who reside outside the United States. In a sur-

vey¹ of 1,564 overseas resident citizens conducted by Stop Extraterritorial American Taxation (“SEAT”), an independent, non-partisan not-for-profit association, 46% of participants agreed with the statement “I pay significant fees for preparation of U.S. tax return but owe nothing in U.S. taxes,” with 41% of those who engaged a professional preparer paying more than \$1,000 in fees.

This reflects the burden non-residents face due to complex information reporting requirements related to ordinary banking, investment and pension products which are “foreign” to the United States but just a part of living an ordinary financial life in one’s country of residence.

The uniquely American definition of “tax residency” includes the imposition of taxation on the worldwide (including non-U.S. source) income of persons who are tax residents of other countries. This system requires the IRS to do the impossible: to administer not only a domestic tax system for U.S. residents and a system of source taxation for non-resident aliens, but also an extraterritorial one whose details are defined by unique interactions with the tax codes of other countries in the world.

Administering an extraterritorial tax system has become an overwhelming task, both procedurally and substantively. The IRS cannot remotely serve U.S. tax residents in the more than 100 countries in the world where they live, let alone in the languages that they speak. Nor can the IRS know how U.S. laws apply to the local financial services, small business structures, and retirement savings plans that are common in all those other countries.

Indeed, the IRS itself has identified “international taxpayers” as a community which is underserved by the IRS. Although the IRS’s Publication 54, “Tax Guide for U.S. Citizens and Resident Aliens Abroad,” is helpful, it does not adequately enable non-resident taxpayers to understand their U.S. tax obligations in the context of the financial systems of the countries in which they live. Since IRS guidance is not sufficient for non-resident taxpayers to accurately understand how the U.S. tax system applies to them, they require the support of professional tax service providers, which is unaffordable for many.

The IRS’s inability to provide non-resident taxpayers with essential services violates several aspects of the Taxpayer Bill of Rights, including the following:

- The right to be informed, including the right to know what to do to comply with tax laws and the right to receive clear explanations.
- The right to quality service, including the right to receive prompt service and clear and easily understandable communications from the IRS.
- The right to pay no more than the correct amount of tax, including the right to have the IRS apply all tax payments properly.
- The right to a fair and just tax system, including the right to expect the tax system to consider facts and circumstances that might affect taxpayers’ underlying liabilities and ability to timely provide information.

In order for the IRS to fairly administer the system of extraterritorial taxation which the United States currently imposes, **the IRS must provide equal levels of service to both taxpayers resident in the United States and non-resident U.S. citizens. The level of service currently provided by the IRS is highly unequal.**

In a paper entitled, “Mission Impossible: Extraterritorial Taxation and the IRS” published in the *Tax Notes Federal* journal, authors Laura Snyder, Karen Alpert and John Richardson² explain that the failure of the IRS to provide access to the following services, individually and collectively, constitute violations of the Taxpayer Bill of Rights:

- In-person assistance.
- Toll-free telephoning.
- Knowledgeable IRS agents.
- Online accounts.
- E-filing.
- Timely delivery of postal mail.
- Use of other languages.
- Explanations of tax obligations.
- Making payments to the IRS.

¹http://seatnow.org/survey_report_intro_page/.

²Snyder, Laura, et al. “Mission Impossible: Extraterritorial Taxation and the IRS,” *Tax Notes Federal*, Volume 170, March 22, 2021.

- Receiving payments from the IRS.
- Third-party assistance.
- Low-income taxpayer clinic.
- IRS internal organization.

According to Snyder, et al., these failures when considered as a whole, “manifest a systemic pattern of discriminatory treatment of international taxpayers as compared with domestic taxpayers. The collective failures are evidence that the IRS is either unable or unwilling to administer an extraterritorial tax system.”

With limited ability to interface with non-resident taxpayers, the IRS has shut itself off from taxpayers, and as a result is unable to determine whether the taxpayer is providing accurate information, unless the IRS selects his or her return for audit. For their part, Americans living abroad are subject to potentially devastating penalties for failure to file a variety of documents accurately, even for inadvertent non-compliance. According to the SEAT survey, 80% “experience personal stress in relation to U.S. taxation,” a large part of which is due to the constant sense of fear because of the excessive penalties that could be applied for making an honest mistake in tax compliance. The inability of the IRS to address their questions makes it more likely that filers will get it wrong. As a result, the inaccessibility of these basic services leads to further non-compliance, as evidenced by the low rate of filing compared to domestic citizens.

The IRS should take immediate steps to address the many valid concerns that have been raised by Americans abroad. **If the IRS is unwilling or unable to administer a system of extraterritorial taxation, then it is time for Congress to take action to cease the imposition of tax on the non-U.S. source income of non-residents.** The cost-benefit analysis of the impact of a transition from citizenship-based taxation to a residence-based system of taxation should include an assessment of the investments which would be required to enhance the capabilities of the IRS to provide fair and equitable support to non-resident taxpayers under the current system.

The practice of imposing U.S. worldwide taxation on individuals, who are tax residents of other countries, because of their citizenship is a uniquely American practice. In 2015, the Senate Finance Committee embarked on an extensive study of the U.S. international taxation. On the last page of the 82-page report³ (released in July of 2015), it was stated that:

F. Overseas Americans

According to working group submissions, there are currently 7.6 million American citizens living outside of the United States. Of the 347 submissions made to the international working group, nearly three-quarters dealt with the international taxation of individuals, mainly focusing on citizenship-based taxation, the Foreign Account Tax Compliance Act (FATCA), and the Report of Foreign Bank and Financial Accounts (FBAR).

While the co-chairs were not able to produce a comprehensive plan to overhaul the taxation of individual Americans living overseas within the time-constraints placed on the working group, the co-chairs urge the Chairman and Ranking Member to carefully consider the concerns articulated in the submissions moving forward.

It is now 2022 and there has been no consideration of the taxation of U.S. citizens who live outside the United States as tax residents of other countries. Notably, in the Spring of 2021, the Senate Finance Committee conducted numerous hearings about international tax issues. Despite numerous submissions by impacted individuals and advocacy groups, the issues of Americans abroad were not considered. No one representing Americans abroad was invited to be a witness.

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1. Double taxation—due to misalignment of tax systems—that cannot be mitigated using the Foreign Earned Income Exclusion, Foreign Tax Credit, or existing Tax Treaties.

³ <https://www.finance.senate.gov/imo/media/doc/The%20International%20Tax%20Bipartisan%20Tax%20Working%20Group%20Report.pdf>.

2. Disproportionately high tax-preparation costs and excessive compliance risks associated with information reporting required for financial assets held in a U.S. citizen's country of residence, which harms ordinary Americans who are unable to afford sophisticated tax preparers, which (as noted) can be prohibitively expensive even if no tax is owed.
3. Excessively large and regressive penalties related to information reporting errors that far exceed taxes owed or balances of accounts concerned and individuals' ability to pay.
4. Americans abroad with a non-U.S. citizen spouse facing discriminatory treatment in the tax code and greater difficulty in meeting filing obligations due to the lack of a Social Security Number for their spouse.
5. Corporate tax rules intended to apply to overseas subsidiaries of multinational corporations that are applied to small businesses owned by Americans residing abroad, resulting in unreasonably high compliance costs and punitive taxation of undistributed income.
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I urge the Senate Finance Committee to hold a hearing focused on the difficulties U.S. citizens who reside outside the United States are facing in navigating the increasingly complex extraterritorial tax compliance regime that the U.S. imposes on its non-resident citizens. These issues are not well known or understood, but they are a tremendous burden on millions of ordinary people who happen to live overseas.

The best solution to this problem is for the U.S. to come into alignment with every other developed nation on the planet and move to a residence-based taxation system for individuals. U.S. citizens who are tax residents of other countries would continue to be liable to pay U.S. Federal income tax on any income which is effectively connected with the United States, as all non-resident aliens do, by using Form 1040-NR instead of Form 1040.

Thank you for your attention to this matter.

Reginald Callaway

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Statement of Michael Bindner

Chairman Wyden and Ranking Crapo, thank you for the opportunity to address this issue. My comments are in the form of questions, which I previously submitted to the House Ways and Means Subcommittee on Oversight on two occasions, including one with Mr. Rettig and one with Erin Collins, the new Taxpayer Advocate. Feel free to pass along our Tax Reform plan to the witness so that you may ask him for comments (**especially regarding using a subtraction VAT to distribute the Child Tax Credit to workers and their families**).

I urge you to submit a written question (or one during the hearing) about the advisability of using support contractors—both for the hotline and for audit services. There are many qualified revenue agents working in the private sector who are up to this task, as well as top flight federal customer service providers to handle simple questions and arrange follow-up calls with revenue agents.

We are sure you already have questions on how Build Back Better can help the IRS meet these challenges as well. This is especially true regarding the suspension of payments refundable child tax credits to parents. Hopefully she will not have to handle inquiries for long from distressed families.

The Child Tax Credit should be the focus of BBB, as well as childcare and sick leave. While other matters are certainly important, they realistically will have to wait for a larger Senate majority. In the interim, it should be shouted from the housetops that the CTC is anti-abortion legislation. The Catholic Bishops must be urged in the strongest possible language to assure that increasing the CTC be scored as a must-pass pro-life vote.

As we have said before, to end the “stink of welfare” that Senator Manchin so objects to, CTC payments should be included with wages for all employees—not just those with three or more children. They should also be distributed through other federal and state assistance programs—some of which can be reduced to do so.

For middle-income taxpayers whose increased credits are less than their annual tax obligation, a simple change in withholding tables is adequate. Procedures are already in place to deliver refundable credits to larger families. For the coming year, they merely need to be expanded to all families with children.

Employers can work with their bankers to increase funds for payroll throughout the year while requiring less money for their quarterly tax payments (or estimated taxes) to the IRS. The main issue is working out those situations where employers owe less than they pay out. This is especially true for labor intensive industries and even more so for low wage employers.

A higher minimum wage would make negative quarterly tax bills less likely. Indeed, no one should have to subsist mainly on their child tax payments.

Please ask, either orally or in written form, how such a CTC proposal might work and how it would make things easier for taxpayers whose returns would be simpler—with fewer having to file at all.

We have attached the latest version of our tax reform plan, with a separate attachment on how implementation of this plan would affect IRS manpower. The answer is that the change would be drastic. It would also allow the Committee to focus more on how social welfare is being delivered in general, as well as eliminating current roadblocks to promptly filing for Social Security Disability Income.

Thank you, again, for the opportunity to add our comments to the debate. Please contact us if we can be of any assistance or contribute direct testimony.

Attachment One—Tax Reform, Center for Fiscal Equity, December 7, 2021

Individual payroll taxes. Employee payroll tax of 7.2% for Old-Age and Survivors Insurance. Funds now collected as a matching premium to a consumption tax based contribution credited at an equal dollar rate for all workers qualified within a quarter. An employer-paid subtraction value-added tax would be used if offsets to private accounts are included. Without such accounts, the invoice value-added tax would collect these funds. No payroll tax would be collected from employees if all contributions are credited on an equal dollar basis. If employee taxes are retained, the ceiling would be lowered to \$100,000 to reduce benefits paid to wealthier individuals and a \$16,000 floor should be established so that Earned Income Tax Credits are no longer needed. Subsidies for single workers should be abandoned in favor of radically higher minimum wages. If a \$10 minimum wage is passed, the employee contribution floor would increase to \$20,000.

Wage Surtaxes. Individual income taxes on salaries, which exclude business taxes, above an individual standard deduction of \$100,000 per year, will range from 7.2% to 57.6%. This tax will fund net interest on the debt (which will no longer be rolled over into new borrowing), redemption of the Social Security Trust Fund, strategic, sea and non-continental U.S. military deployments, veterans' health benefits as the result of battlefield injuries, including mental health and addiction and eventual debt reduction.

Our proposed brackets have been increased from \$85,000 to \$100,000 because this is the income level at the top of the 80% of tax paying households who earn the bottom third of adjusted gross income. Earners above this level are considered middle class. Likewise, the top 1% of income earners are at the \$500,000 level, which will be used as the start of the highest rate.

Asset Value-Added Tax (A-VAT). A replacement for capital gains taxes, dividend taxes, and the estate tax. It will apply to asset sales, dividend distributions, exercised options, rental income, inherited and gifted assets and the profits from short sales. Tax payments for option exercises, IPOs, inherited, gifted and donated assets will be marked to market, with prior tax payments for that asset eliminated so that the seller gets no benefit from them. In this perspective, it is the owner's increase in value that is taxed. As with any sale of liquid or real assets, sales to a qualified broad-based Employee Stock Ownership Plan will be tax free. These taxes will fund the same spending items as income or S-VAT surtaxes.

This tax will end Tax Gap issues owed by high income individuals. A 26% rate is between the GOP 23.8% rate (including ACA-SM surtax) and the Democratic 28.8% rate as proposed in the Build Back Better Act. It's time to quit playing football with

tax rates to attract side bets. A single rate also stops gaming forms of ownership. Lower rates are not as regressive as they seem. Only the wealthy have capital gains in any significant amount. The de facto rate for everyone else is zero. For now, however, a 28.8% rate is assumed if reform is enacted by a Democratic majority in both Houses.

Subtraction Value-Added Tax (S-VAT). These are employer paid Net Business Receipts Taxes. S-VAT is a vehicle for tax benefits, including

- Health insurance or direct care, including veterans' health care for non-battlefield injuries and long term care.
- Employer paid educational costs in lieu of taxes are provided as either employee-directed contributions to the public or private unionized school of their choice or direct tuition payments for employee children or for workers (including ESL and remedial skills). Wages will be paid to students to meet opportunity costs.
- Most importantly, a refundable child tax credit at median income levels (with inflation adjustments) distributed with pay.

Subsistence-level benefits force the poor into servile labor. Wages and benefits must be high enough to provide justice and human dignity. This allows the ending of state administered subsidy programs and discourages abortions, and as such enactment must be scored as a must pass in voting rankings by pro-life organizations (and feminist organizations as well). To assure child subsidies are distributed, S-VAT will not be border adjustable.

The S-VAT is also used for personal accounts in Social Security, provided that these accounts are insured through an insurance fund for all such accounts, that accounts go toward employee ownership rather than for a subsidy for the investment industry. Both employers and employees must consent to a shift to these accounts, which will occur if corporate democracy in existing ESOPs is given a thorough test. So far it has not. S-VAT funded retirement accounts will be equal-dollar credited for every worker. They also have the advantage of drawing on both payroll and profit, making it less regressive.

A multi-tier S-VAT could replace income surtaxes in the same range. Some will use corporations to avoid these taxes, but that corporation would then pay all invoice and subtraction VAT payments (which would distribute tax benefits. Distributions from such corporations will be considered salary, not dividends.

Invoice Value-Added Tax (I-VAT). Border adjustable taxes will appear on purchase invoices. The rate varies according to what is being financed. If Medicare for All does not contain offsets for employers who fund their own medical personnel or for personal retirement accounts, both of which would otherwise be funded by an S-VAT, then they would be funded by the I-VAT to take advantage of border adjustability. I-VAT also forces everyone, from the working poor to the beneficiaries of inherited wealth, to pay taxes and share in the cost of government. Enactment of both the A-VAT and I-VAT ends the need for capital gains and inheritance taxes (apart from any initial payout). This tax would take care of the low-income Tax Gap.

I-VAT will fund domestic discretionary spending, equal dollar employer OASI contributions, and non-nuclear, non-deployed military spending, possibly on a regional basis. Regional I-VAT would both require a constitutional amendment to change the requirement that all excises be national and to discourage unnecessary spending, especially when allocated for electoral reasons rather than program needs. The latter could also be funded by the asset VAT (decreasing the rate by from 19.5% to 13%).

As part of enactment, gross wages will be reduced to take into account the shift to S-VAT and I-VAT, however net income will be increased by the same percentage as the I-VAT. Adoption of S-VAT and I-VAT will replace pass-through and proprietary business and corporate income taxes.

Carbon Added Tax (C-AT). A Carbon tax with receipt visibility, which allows comparison shopping based on carbon content, even if it means a more expensive item with lower carbon is purchased. C-AT would also replace fuel taxes. It will fund transportation costs, including mass transit, and research into alternative fuels (including fusion). This tax would not be border adjustable unless it is in other nations, however in this case the imposition of this tax at the border will be noted, with the U.S. tax applied to the overseas base.

Tax Reform Summary

This plan can be summarized as a list of specific actions:

1. Increase the standard deduction to workers making salaried income of \$35,000 and over, shifting business filing to a separate tax on employers and eliminating all credits and deductions—starting at 7.2%, going up to 28.8%, in \$50,000 brackets.
2. Shift special rate taxes on capital income and gains from the income tax to an asset VAT. Expand the exclusion for sales to an ESOP to cooperatives and include sales of common and preferred stock. Mark option exercise and the first sale after inheritance, gift or donation to market.
3. Employers distribute the child tax credit with wages as an offset to their quarterly tax filing (ending annual filings).
4. Employers collect and pay lower tier income taxes, starting at \$100,000 at 7.2%, with an increase to 14.4% for all salary payments over \$150,000 going up 7.2% for every \$50,000—up to \$250,000.
5. Shift payment of HI, DI, SM (ACA) payroll taxes to employers, remove caps on employer payroll taxes and credit them to workers on an equal dollar basis.
6. Employer paid taxes could as easily be called a subtraction VAT, abolishing corporate income taxes. These should not be zero rated at the border.
7. Expand current state/federal intergovernmental subtraction VAT to a full GST with limited exclusions (food would be taxed) and add a federal portion, which would also be collected by the states. Make these taxes zero rated at the border. Rate should be 19.5% and replace employer OASI contributions. Credit workers on an equal dollar basis.
8. Change employee OASI of 7.2% from \$18,000 (\$20,000 for \$10 minimum wage) to \$100,000 income are optional taxes for Old-Age and Survivors Insurance.

Attachment Two—Tax Administration, Treasury Budget, February 12, 2020

Shifting to a single system for all business taxation, particularly enacting invoice value-added taxes to collect revenue and employer-based subtraction value-added taxes to distribute benefits to workers will end the need for filing for most, if not all, households. Any remaining high salary surtax would be free of any deductions and credits and could as easily be collected by enacting higher tiers to a subtraction VAT.

Subtraction VAT collection will closely duplicate the collection of payroll and income taxes—as well as employment taxes—but without households having to file an annual reconciliation except to verify the number of dependents receiving benefits.

Tax reform will simplify tax administration on all levels. Firms will submit electronic receipts for I-VAT and Carbon Added Tax (C-AT) credit, leaving a compliance trail. S-VAT payments to providers, wages and child credits to verify that what is paid and what is claimed match and that children are not double credited from separate employers.

A-VAT transactions are recorded by brokers, employers for option exercise and closing agents for real property. With ADP, reporting burdens are equal to those in any VAT system for I-VAT and A-VAT and current payroll and income tax reporting by employers.

Employees with children will annually verify information provided by employers and IRS, responding by a postcard if reports do not match, triggering collection actions. The cliché will thus be made real.

High-salary employees who use corporations to reduce salary surtax and pay I-VAT and S-VAT for personal staff. Distributions from such corporations to owners are considered salary, not dividends.

Transaction based A-VAT payments end the complexity and tax avoidance experienced with income tax collection. Tax units with income under \$84,000 or only one employer need not file high salary surtax returns. Separate gift and inheritance tax returns will no longer be required.

State governments will collect federal and state I-VAT, C-AT, S-VAT payments, audit collection systems, real property A-VAT and conduct enforcement actions. IRS collects individual payroll and salary surtax payments, performs electronic data matching and receive payments and ADP data from states. SEC collects A-VAT receipts.

I-VAT gives all citizens the responsibility to fund the government. C-AT invoices encourage lower carbon consumption, mass transit, research and infrastructure development. A-VAT taxation will slow market volatility and encourage employee ownership, while preserving family businesses and farms. Very little IRS Administration will be required once reform is fully implemented. All IRS employees could fit in a bathtub with room for Grover Norquist.

LETTER SUBMITTED BY JAMES WEBSTER COATES

Dear Chairman Wyden, Ranking Member Crapo, and Members of the Committee:

I am a United States citizen, registered to vote in the 3rd Congressional District of Pennsylvania. I moved to Japan in 2001 immediately after graduating from college, and have been living and working here ever since. My financial life is entirely in Japan since I've never worked in the U.S. or lived there as an adult. I am a tax resident of Japan, and my worldwide income is subject to full taxation under the laws of Japan.

I am employed as a compliance officer for a financial institution, so I have a high attention to detail around my own personal tax compliance matters and try very hard to fulfill the requirements of the U.S. tax system in addition to the tax requirements in my country of residence. The reality, though, is that the U.S. requirements (especially the myriad of required informational filings) get increasingly burdensome every year, and the compliance costs for knowledgeable tax preparers are egregious. I rarely actually owe much tax to the United States, but my annual accounting fees have frequently been higher than the ultimate amount of my U.S. Federal tax liability.

The extraterritorial application of the U.S. federal income tax system is a painful issue for the 9 million U.S. citizens who reside outside the United States. In a survey¹ of 1,564 overseas resident citizens conducted by Stop Extraterritorial American Taxation ("SEAT"), an independent, non-partisan not-for-profit association, 46% of participants agreed with the statement "I pay significant fees for preparation of U.S. tax return but owe nothing in U.S. taxes," with 41% of those who engaged a professional preparer paying more than \$1,000 in fees.

This is a reflection of the burden non-residents face due to complex information reporting requirements related to ordinary banking, investment and pension products which are "foreign" to the United States but just a part of living an ordinary financial life in one's country of residence.

The uniquely American definition of "tax residency" includes the imposition of taxation on the worldwide (including non-U.S. source) income of persons who are tax residents of other countries. This system requires the IRS to do the impossible: to administer not only a domestic tax system for U.S. residents and a system of source taxation for non-resident aliens, but also an extraterritorial one whose details are defined by unique interactions with the tax codes of other countries in the world.

Administering an extraterritorial tax system has become an overwhelming task, both procedurally and substantively. The IRS cannot remotely serve U.S. tax residents in the more than 100 countries in the world where they live, let alone in the languages that they speak. Nor can the IRS know how U.S. laws apply to the local financial services, small business structures, and retirement savings plans that are common in all those other countries.

Indeed the IRS itself has identified "international taxpayers" as a community which is underserved by the IRS. Although the IRS's Publication 54, "Tax Guide for U.S. Citizens and Resident Aliens Abroad," is helpful, it does not adequately enable non-resident taxpayers to understand their U.S. tax obligations in the context of the financial systems of the countries in which they live. Since IRS guidance is not sufficient for non-resident taxpayers to accurately understand how the U.S. tax system applies to them, they require the support of professional tax service providers, which is unaffordable for many.

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In order for the IRS to fairly administer the system of extraterritorial taxation which the United States currently imposes, **the IRS must provide equal levels of service to both taxpayers resident in the United States and non-resident U.S. citizens. The level of service currently provided by the IRS is highly unequal.**

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U.S. international taxation. On the last page of the 82-page report³ (released in July of 2015), it was stated that:

F. Overseas Americans

According to working group submissions, there are currently 7.6 million American citizens living outside of the United States. Of the 347 submissions made to the international working group, nearly three-quarters dealt with the international taxation of individuals, mainly focusing on citizenship-based taxation, the Foreign Account Tax Compliance Act (FATCA), and the Report of Foreign Bank and Financial Accounts (FBAR).

While the co-chairs were not able to produce a comprehensive plan to overhaul the taxation of individual Americans living overseas within the time-constraints placed on the working group, the co-chairs urge the Chairman and Ranking Member to carefully consider the concerns articulated in the submissions moving forward.

It is now 2022 and there has been no consideration of the taxation of U.S. citizens who live outside the United States as tax residents of other countries. Notably, in the Spring of 2021, the Senate Finance Committee conducted numerous hearings about international tax issues. In spite of numerous submissions by impacted individuals and advocacy groups, the issues of Americans abroad were not considered. No one representing Americans abroad was invited to be a witness.

The combination of U.S. citizenship-based taxation and FATCA is destroying the lives of U.S. citizens living outside the United States who are bona fide residents (and tax residents) of other countries. Issues causing a particularly devastating impact include:

1. Double taxation—due to misalignment of tax systems—that cannot be mitigated using the Foreign Earned Income Exclusion, Foreign Tax Credit, or existing Tax Treaties.
2. Disproportionately high tax-preparation costs and excessive compliance risks associated with information reporting required for financial assets held in a U.S. citizen’s country of residence, which harms ordinary Americans who are unable to afford sophisticated tax preparers, which (as noted) can be prohibitively expensive even if no tax is owed.
3. Excessively large and regressive penalties related to information reporting errors that far exceed taxes owed or balances of accounts concerned and individuals’ ability to pay.
4. Americans abroad with a non-U.S. citizen spouse facing discriminatory treatment in the tax code and greater difficulty in meeting filing obligations due to the lack of a Social Security Number for their spouse.
5. Corporate tax rules intended to apply to overseas subsidiaries of multinational corporations that are applied to small businesses owned by Americans residing abroad, resulting in unreasonably high compliance costs and punitive taxation of undistributed income.
6. A lack of access to necessary financial products and services caused by a mix of burdensome reporting obligations and punitive treatment of local products in the U.S. tax code.

I urge the Senate Finance Committee to hold a hearing focused on the difficulties U.S. citizens who reside outside the United States are facing in navigating the increasingly complex extraterritorial tax compliance regime that the U.S. imposes on its non-resident citizens. These issues are not well known or understood, but they are a tremendous burden on millions of ordinary people who happen to live overseas.

The best solution to this problem is for the U.S. to come into alignment with every other developed nation on the planet and move to a residence-based taxation system for individuals. **The definition of “individual” in Treasury Regulation, 26 Section 1.1-1 should be modified to include only “residents.” U.S. citizens who are tax residents of other countries would continue to be liable to pay U.S. Federal income tax on any income which is effectively connected with the**

³ <https://www.finance.senate.gov/imo/media/doc/The%20International%20Tax%20Bipartisan%20Tax%20Working%20Group%20Report.pdf>.

United States, as all non-resident aliens do, by using Form 1040-NR instead of Form 1040.

The tax compliance industry of lawyers and accountants will hate my suggestions because they would remove red tape which drives inordinate amounts of revenue to their industry. But the reality is that by solving these issues for ordinary U.S. citizens who live in other countries, the United States would sacrifice a relatively small amount of tax revenue, while freeing up IRS resources to focus on other larger priorities.

Thank you for your attention to this matter.

James Webster Coates
Tokyo, Japan

LETTER SUBMITTED BY GEOFFREY CONNOR

Dear Chairman Wyden, Ranking Member Crapo, and Members of the Committee:

I am an American citizen registered to vote in the state of Wisconsin and am a permanent resident of Australia and have been living here continuously since August of 2019. My wife, Joanne, is a dual Australian/American citizen. We have been married since 1996 and moved to Australia when I retired in order to be closer to Joanne's family, especially her elderly parents.

My financial life is entirely in Australia, and my income is subject to full taxation under the laws of Australia. I try very hard to fulfill the requirements of the U.S. tax system in addition to the tax requirements in Australia. The reality, though, is that the U.S. requirements (especially the myriad of required informational filings) get increasingly burdensome every year, and the compliance costs for knowledgeable tax preparers are egregious.

The extraterritorial application of the U.S. federal income tax system is a painful issue for the 9 million U.S. citizens who reside outside the United States. In a survey¹ of 1,564 overseas resident citizens conducted by Stop Extraterritorial American Taxation ("SEAT"), an independent, non-partisan not-for-profit association, 46% of participants agreed with the statement "I pay significant fees for preparation of U.S. tax return but owe nothing in U.S. taxes," with 41% of those who engaged a professional preparer paying more than \$1,000 in fees.

This is a reflection of the burden non-residents face due to complex information reporting requirements related to ordinary banking, investment and pension products which are "foreign" to the United States but just a part of living an ordinary financial life in one's country of residence.

The uniquely American definition of "tax residency" includes the imposition of taxation on the worldwide (including non-U.S. source) income of persons who are tax residents of other countries. This system requires the IRS to do the impossible: to administer not only a domestic tax system for U.S. residents and a system of source taxation for non-resident aliens, but also an extraterritorial one whose details are defined by unique interactions with the tax codes of other countries in the world.

Administering an extraterritorial tax system has become an overwhelming task, both procedurally and substantively. The IRS cannot remotely serve U.S. tax residents in the more than 100 countries in the world where they live, let alone in the languages that they speak. Nor can the IRS know how U.S. laws apply to the local financial services, small business structures, and retirement savings plans that are common in all those other countries.

Indeed the IRS itself has identified "international taxpayers" as a community which is underserved by the IRS. Although the IRS's Publication 54, "Tax Guide for U.S. Citizens and Resident Aliens Abroad," is helpful, it does not adequately enable non-resident taxpayers to understand their U.S. tax obligations in the context of the financial systems of the countries in which they live. Since IRS guidance is not sufficient for non-resident taxpayers to accurately understand how the U.S. tax system applies to them, they require the support of professional tax service providers, which is unaffordable for many.

The IRS's inability to provide non-resident taxpayers with essential services violates several aspects of the Taxpayer Bill of Rights, including the following:

¹http://seatnow.org/survey_report_intro_page/.

- The right to be informed, including the right to know what to do to comply with tax laws and the right to receive clear explanations.
- The right to quality service, including the right to receive prompt service and clear and easily understandable communications from the IRS.
- The right to pay no more than the correct amount of tax, including the right to have the IRS apply all tax payments properly.
- the right to a fair and just tax system, including the right to expect the tax system to consider facts and circumstances that might affect taxpayers' underlying liabilities and ability to timely provide information

In order for the IRS to fairly administer the system of extraterritorial taxation which the United States currently imposes, **the IRS must provide equal levels of service to both taxpayers resident in the United States and non-resident U.S. citizens. The level of service currently provided by the IRS is highly unequal.**

In a paper entitled, "Mission Impossible: Extraterritorial Taxation and the IRS" published in the *Tax Notes Federal* journal, authors Laura Snyder, Karen Alpert and John Richardson² explain that the failure of the IRS to provide access to the following services, individually and collectively, constitute violations of the Taxpayer Bill of Rights:

- In-person assistance.
- Toll-free telephoning.
- Knowledgeable IRS agents.
- Online accounts.
- E-filing.
- Timely delivery of postal mail.
- Use of other languages.
- Explanations of tax obligations.
- Making payments to the IRS.
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- Third-party assistance.
- Low income taxpayer clinic.
- IRS internal organization.

According to Snyder, et al., these failures when considered as a whole, "manifest a systemic pattern of discriminatory treatment of international taxpayers as compared with domestic taxpayers. The collective failures are evidence that the IRS is either unable or unwilling to administer an extraterritorial tax system."

With limited ability to interface with non-resident taxpayers, the IRS has shut itself off from taxpayers, and as a result is unable to determine whether the taxpayer is providing accurate information, unless the IRS selects his or her return for audit. For their part, Americans living abroad are subject to potentially devastating penalties for failure to file a variety of documents accurately, even for inadvertent non-compliance. According to the SEAT survey, 80% "experience personal stress in relation to U.S. taxation," a large part of which is due to the constant sense of fear because of the excessive penalties that could be applied for making an honest mistake in tax compliance. The inability of the IRS to address their questions makes it more likely that filers will get it wrong. As a result, the inaccessibility of these basic services leads to further non-compliance, as evidenced by the low rate of filing compared to domestic citizens.

The IRS should take immediate steps to address the many valid concerns that have been raised by Americans abroad. **If the IRS is unwilling or unable to administer a system of extraterritorial taxation, then it is time for Congress to take action to cease the imposition of tax on the non-U.S. source income of non-residents.** The cost-benefit analysis of the impact of a transition from citizenship-based taxation to a residence-based system of taxation should include an assessment of the investments which would be required to enhance the capabilities of the IRS to provide fair and equitable support to non-resident taxpayers under the current system.

The practice of imposing U.S. worldwide taxation on individuals, who are tax residents of other countries, because of their citizenship is a uniquely American practice. In 2015, the Senate Finance Committee embarked on an extensive study of the

² Snyder, Laura, et al. "Mission Impossible: Extraterritorial Taxation and the IRS," *Tax Notes Federal*, Volume 170, March 22, 2021.

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The best solution to this problem is for the U.S. to come into alignment with every other developed nation on the planet and move to a residence-based taxation system for individuals. U.S. citizens who are tax residents of other countries would continue to be liable to pay U.S. Federal income tax on any income which is effectively connected with the United States, as all non-resident aliens do, by using Form 1040–NR instead of Form 1040.

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Thank you for your attention to this matter.

Sincerely,
Geoffrey Connor

DEMOCRATS ABROAD
P.O. Box 15130
Washington, DC 20003
(202) 733-6790

April 6, 2022

The Honorable Ron Wyden
Chairman
U.S. Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Mike Crapo
Ranking Member
United States Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

Re: Hearing with IRS Commissioner Rettig on the IRS, the President’s Fiscal Year 2023 Budget, and the 2022 Filing Season

Dear Chairman Wyden, Ranking Member Crapo, and Members of the Committee:

In light of the enormous challenges facing the Internal Revenue Service (IRS), we greatly appreciate you holding this important hearing. There are an estimated nine million American citizens residing outside the United States,¹ the overwhelming majority of whom are working or middle class.²

In the context of the 2023 Budget “Green Book”, our comment makes a number of recommendations that would alleviate unintended tax-filing and financial-access problems that Americans abroad face as a result of the current system of extraterritorial taxation (*i.e.*, Citizenship-Based Taxation). The U.S., Eritrea, and North Korea are the only countries using such a system.

Going beyond the Green Book, we urge the Senate Finance Committee to hold a hearing specifically to examine the unintended consequences of the current tax code on non-resident citizens and consider changing this system. We would welcome engagement with individual Committee Members to discuss opportunities to introduce reforms.

Green Book Recommendations

The Department of the Treasury’s Fiscal Year 2023 proposals make a number of recommendations that are likely to impact Americans Abroad. In particular, they are:

- Raising the Corporate Tax Rate to 28 Percent, Page 2.
- Address Compliance in Connection with Tax Responsibilities of Expatriates, Page 87.
- Simplify Foreign Exchange Gain or Loss Rules and Exchange Rate Rules for Individuals, Page 90.
- Provide for Information Reporting by Certain Financial Institutions and Digital Asset Brokers for Purposes of Exchange of Information, Page 97.

Our commentary and recommendations on each proposal are as follows:

Raising the Corporate Tax Rate to 28 Percent

Commentary: How Americans Abroad are impacted by the change:

- Non-resident U.S. citizens who operate small businesses in their country of residence are subject to the GILTI tax on undistributed earnings unless they qualify for a high-tax exemption depending on tax rates in their country of residence. At the current 21% rate, income taxed at 18.9% or more is excluded from U.S. taxation. At a corporate rate of 28% the foreign tax rate would need to be as high as 25.2% to qualify for the exclusion.

¹The U.S. Department of State’s Bureau of Consular Affairs. (2020, January). Consular Affairs By The Numbers. Retrieved April 5, 2022, from <https://travel.state.gov/content/dam/travel/CA-By-the-Number-2020.pdf>.

²Democrats Abroad. (2019, March 1). *Tax filing from abroad—2019 Research on Non-Residents and U.S. Taxation*. Page 4. Retrieved April 5, 2022, from <https://democratsabroad.atlassian.net/wiki/download/attachments/4257416635/Tax%20filing%20from%20abroad%20-%202019%20Research%20on%20Non-Residents%20and%20US%20Taxation.pdf?api=v2>.

Our Recommendation:

- GILTI was designed to encourage large multinational corporations to move their operations back to the U.S., but this is not an option for small-business owners who reside outside the U.S., and they can seldom afford the accounting support which is required for compliance. U.S. citizens not residing in the United States should be exempted from GILTI.

Addressing Compliance in Connection with Tax Responsibilities of Expatriates**Major Changes:**

- Adjustments to the statute of limitations ensure compliance and administrability.
- The Secretary of the Treasury will be granted limited authority to relieve certain dual citizens from Covered Expatriate tax obligations.

Commentary:

- We encourage lawmakers to read the motivation for this proposal that the Treasury provides on Page 88; it identifies the excessive compliance burden that the U.S. extraterritorial tax regime places on lower- and middle-income individuals, the pervasive financial-access issues, and the limited value to the IRS.
- We note that denial of financial services and excessive compliance burdens are problems that broadly affect all Americans residing abroad, not just those with minimal U.S. ties.
- We note that bank account closures and refusals are not limited to only those without SSNs/TINs. In some cases, foreign financial institutions demand to see a “Certificate of Loss of Nationality” for any U.S.-born individual, available only after someone expatriates. Such financial institutions deny or close accounts based solely on U.S. Tax Residency.
- While we are supportive of relief for those with minimal U.S. ties, we are dismayed to see that there appears to be greater support for facilitating renunciation of American citizenship than there is for addressing the problems that force individuals into such an action.

Our Recommendations:

- We support the enactment of H.R. 5799 The Overseas Americans Financial Access Act as a way to address the denial of service faced by non-resident citizens.
- To address financial access issues, we would encourage the adoption of a strengthened “Non-Discrimination Clause”.

Simplify Foreign Exchange Gain or Loss Rules and Exchange Rate Rules for Individuals**Major Changes:**

- Annual average exchange rates, rather than spot exchange rates, become an option for tax calculations.
- Exemption from foreign currency gain is increased from \$200 to \$500.
- Foreign currency losses become deductible against any gain on the sale of the residence.

Commentary:

- Tracking and reporting of foreign currency gain is unworkable for individuals whose entire financial life revolves around a foreign currency; a meager and non-indexed increase in the personal exemption limit is insufficient in this regard.
- Making foreign-currency losses deductible against capital gains on a house appears more beneficial to property investors rather than to middle-class citizens living abroad. It does little to address problems related to “phantom currency savings” on mortgages that occur when a currency decreases in value (simultaneously reducing any capital gain).
- There is significant double taxation that occurs in cases of misalignment between countries with a “stamp duty” (tax paid by the buyer at purchase) and the United States, where tax is paid by the seller at time of sale. Relief is also desperately needed in this area.

Our Recommendations:

- Individuals residing outside the United States should be exempted from taxation of foreign-currency gains related to the currency of the country in which they reside.
- Exemption of primary residence and mortgage on primary residence from Foreign Exchange Gain/Loss: Capital-gain calculations should permit the use of an

exchange rate based on the day the house was purchased, eliminating phantom currency gains & losses.

Provide for Information Reporting by Certain Financial Institutions and Digital Asset Brokers for Purposes of Exchange of Information

Major Changes:

- U.S. financial institutions would require FATCA account reporting at U.S. financial institutions for any “foreign persons.”

Commentary:

- We urge caution when implementing this proposal, noting the severe financial-access issues caused by FATCA and the reliance of overseas Americans on U.S. financial institutions (due to FATCA and anti-offshoring provisions of the Internal Revenue Code).
- If FATCA’s scope of reporting is expanded to U.S. banks, it is both timely and necessary to address financial-access issues stemming from this reporting requirement.
- When FATCA was implemented in Europe, Americans abroad were locked out from banking—unable to open or maintain a bank account in their country of residence and faced with difficulty opening or maintaining a bank account in the U.S. Without financial access protections, our concern is that a similar wave of account closures and refusals could occur in the U.S.

Our Recommendations:

- To protect U.S. Citizens’ access to U.S. services, all U.S. Tax Residents must have equal access to financial services and products; a foreign address cannot be valid grounds for refusal or reduction in services.
- To protect U.S. Citizens’ access to financial services in the countries in which they live; being a U.S. Citizen or U.S. Tax Resident cannot be valid grounds for refusal or reduction in services.

Conclusion

Our recommendations are in response to the changes proposed by the Treasury in the 2023 “Green Book” and would be aligned with any legislative changes made in response to those proposals.

We strongly believe that more fundamental reforms are also necessary to address the underlying issues facing Americans abroad, namely:

1. Double taxation—due to misalignment of tax systems—that cannot be mitigated using the Foreign Earned Income Exclusion (FEIE), Foreign Tax Credit (FTC), or existing Tax Treaties.
2. Disproportionately high tax-preparation costs and excessive compliance risks associated with information reporting required for financial assets held in a U.S. citizen’s country of residence, which harms ordinary Americans who are unable to afford sophisticated tax preparers, which (as noted) can be prohibitively expensive even if no tax is owed.
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6. A lack of access to necessary financial products and services caused by a mix of burdensome reporting obligations and punitive treatment of local products in the U.S. tax code.

Americans residing abroad have been effectively barred from saving for retirement, starting a small business, taking title to real estate, or sharing finances with their spouse. The devastating consequences result in inability to retire, forced closure of small businesses, divorce from non-American spouses, and even suicide. This is on top of the inordinate stress, cost, and time involved just in understanding and meeting the complex reporting requirements of the U.S. tax code.

The current IRS definition of “tax residency” includes the obligation to report worldwide income (including non-U.S. source income), even of Americans who are tax residents of other countries. This requires the IRS to do the impossible: to admin-

ister both a domestic tax system for U.S. residents (including source taxation for non-resident aliens) and also an extraterritorial system interacting uniquely with the tax codes of other countries.

Administering this extraterritorial tax system has become an overwhelming task, both procedurally and substantively. The IRS cannot remotely serve Americans in the more than 100 foreign countries where they live, let alone in the languages they speak. Nor can the IRS know how U.S. laws apply to the local financial services, small business structures, and retirement savings plans that are common in those countries.

The IRS itself has identified “international taxpayers” as an underserved community.³ The level of service currently provided by the IRS to Americans inside and outside the country is highly unequal. For those abroad, IRS agents are insufficiently trained to respond to the common issues faced.

Americans abroad have pleaded for relief for over a decade, with no meaningful response from Congress or the Treasury Department. **It is time for Congress to cease the imposition of filing requirements for the non-U.S. source income of non-residents.**

Cost/benefit analysis of such a transition from citizenship-based to residence-based taxation should include consideration of what would be required for the IRS to provide fair and equitable support to non-resident filers under the current system. We believe that transitioning to residence-based taxation would:

- Substantially improve the well-being of Americans abroad;
- Improve the administrability of the Internal Revenue Code and facilitate greater tax compliance; and
- Reduce strain on an Internal Revenue Service that has expressed that the burden associated with servicing Americans abroad is disproportionate to the minuscule tax revenue raised.

We plan to release updated research on Americans abroad and their tax situations this summer. We will share our results and analysis with the Committee and encourage you to review it then.

Thank you for the opportunity to provide this testimony.

Please do not hesitate to contact Rebecca Lammers of our Taxation Task Force on taxadvocacy@democratsabroad.org with any questions about the information and recommendations provided.

Sincerely,
Candice Kerestan
International Chair
chair@democratsabroad.org

Rebecca Lammers
Chair, Taxation Task Force
taxadvocacy@democratsabroad.org

LETTER SUBMITTED BY BRENT FOSTER

Dear Chairman Wyden, Ranking Member Crapo, and Members of the Committee:

I am a U.S. citizen who grew up in southern California. When I was 18 years old in 1998, I moved to Germany to study and when studying I founded a family here in Germany. Since then I have been living here.

My financial life is entirely in **Germany**, and my income is subject to full taxation under the laws of **Germany**. I try very hard to fulfill the requirements of the U.S. tax system in addition to the tax requirements in **Germany**. The reality, though, is that the U.S. requirements (especially the myriad of required informational filings) get increasingly burdensome every year, and the compliance costs for knowledgeable tax preparers are egregious.

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³ IRS. (2021, January). Taxpayer First Act Report to Congress. Retrieved April 5, 2022, from <https://www.irs.gov/pub/irs-pdf/p5426.pdf?mc—cid=95523e3176&mc—eid=942e2d2064>.

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It is now 2022 and there has been no consideration of the taxation of U.S. citizens who live outside the United States as tax residents of other countries. Notably, in the Spring of 2021, the Senate Finance Committee conducted numerous hearings about international tax issues. In spite of numerous submissions by impacted individuals and advocacy groups, the issues of Americans abroad were not considered. No one representing Americans abroad was invited to be a witness.

The combination of U.S. citizenship-based taxation and FATCA is destroying the lives of U.S. citizens living outside the United States who are bona fide residents (and tax residents) of other countries. Issues causing a particularly devastating impact include:

1. Double taxation—due to misalignment of tax systems—that cannot be mitigated using the Foreign Earned Income Exclusion, Foreign Tax Credit, or existing Tax Treaties.
2. Disproportionately high tax-preparation costs and excessive compliance risks associated with information reporting required for financial assets held in a U.S. citizen’s country of residence, which harms ordinary Americans who are unable to afford sophisticated tax preparers, which (as noted) can be prohibitively expensive even if no tax is owed.
3. Excessively large and regressive penalties related to information reporting errors that far exceed taxes owed or balances of accounts concerned and individuals’ ability to pay.

4. Americans abroad with a non-U.S. citizen spouse facing discriminatory treatment in the tax code and greater difficulty in meeting filing obligations due to the lack of a Social Security Number for their spouse.
5. Corporate tax rules intended to apply to overseas subsidiaries of multinational corporations that are applied to small businesses owned by Americans residing abroad, resulting in unreasonably high compliance costs and punitive taxation of undistributed income.
6. A lack of access to necessary financial products and services caused by a mix of burdensome reporting obligations and punitive treatment of local products in the U.S. tax code.
7. the inability to do normal business proceedings with foreign banks and financial institutions due to the strict and unprecedented reporting requirements imposed on U.S. citizens living abroad.

I urge the Senate Finance Committee to hold a hearing focused on the difficulties U.S. citizens who reside outside the United States are facing in navigating the increasingly complex extraterritorial tax compliance regime that the U.S. imposes on its non-resident citizens. These issues are not well known or understood, but they are a tremendous burden on millions of ordinary people who happen to live overseas.

The best solution to this problem is for the U.S. to come into alignment with every other developed and undeveloped nation on the planet and move to a residence-based taxation system for individuals. U.S. citizens who are tax residents of other countries would continue to be liable to pay U.S. Federal income tax on any income which is effectively connected with the United States, as all non-resident aliens do, by using Form 1040-NR instead of Form 1040.

Thank you for your attention to this matter.

LETTER SUBMITTED BY ROBERT M. GERRETSEN

Dear Chairman Wyden, Ranking Member Crapo, and Members of the Committee:

I was born in New York in 1957. My Dutch parents (who worked in the U.S. temporarily) went back to the Netherlands when I was 20 months old. My only English words were "Daddy" and "Mammy" when I left the U.S. I never studied or worked in the U.S. I do not have any family, friends or assets in the U.S.

Only 5 years ago I found out about CBT, caused by FATCA. My bank asked me for a SSN or CLN. I never had a U.S. passport, never had a SSN and do not have the money for a CLN procedure. My Dutch bank will close my bank account in September this year because of the FATCA ruling. From that moment I will not be able to receive any income or pay any account. Without a bank account I will not be able to take care of my dear family anymore. . . .

My financial life is entirely in the Netherlands for more than 63 years and my income and assets are subject to full taxation under the TAX laws of the Netherlands. I do not understand at all why I should also pay TAX to the U.S. a country I have no ties with and have never got any services from.

The extraterritorial application of the U.S. federal income tax system is a painful issue for the 9 million U.S. citizens who reside outside the United States. In a survey¹ of 1,564 overseas resident citizens conducted by Stop Extraterritorial American Taxation ("SEAT"), an independent, non-partisan not-for-profit association, 46% of participants agreed with the statement "I pay significant fees for preparation of U.S. tax return but owe nothing in U.S. taxes," with 41% of those who engaged a professional preparer paying more than \$1,000 in fees.

This is a reflection of the burden non-residents face due to complex information reporting requirements related to ordinary banking, investment and pension products which are "foreign" to the United States but just a part of living an ordinary financial life in one's country of residence.

The uniquely American definition of "tax residency" includes the imposition of taxation on the worldwide (including non-U.S. source) income of persons who are tax residents of other countries. This system requires the IRS to do the impossible: to

¹http://seatnow.org/survey_report_intro_page/.

administer not only a domestic tax system for U.S. residents and a system of source taxation for non-resident aliens, but also an extraterritorial one whose details are defined by unique interactions with the tax codes of other countries in the world.

Administering an extraterritorial tax system has become an overwhelming task, both procedurally and substantively. The IRS cannot remotely serve U.S. tax residents in the more than 100 countries in the world where they live, let alone in the languages that they speak. Nor can the IRS know how U.S. laws apply to the local financial services, small business structures, and retirement savings plans that are common in all those other countries.

Indeed the IRS itself has identified “international taxpayers” as a community which is underserved by the IRS. Although the IRS’s Publication 54, “Tax Guide for U.S. Citizens and Resident Aliens Abroad,” is helpful, it does not adequately enable non-resident taxpayers to understand their U.S. tax obligations in the context of the financial systems of the countries in which they live. Since IRS guidance is not sufficient for non-resident taxpayers to accurately understand how the U.S. tax system applies to them, they require the support of professional tax service providers, which is unaffordable for many.

The IRS’s inability to provide non-resident taxpayers with essential services violates several aspects of the Taxpayer Bill of Rights, including the following:

- The right to be informed, including the right to know what to do to comply with tax laws and the right to receive clear explanations.
- The right to quality service, including the right to receive prompt service and clear and easily understandable communications from the IRS.
- The right to pay no more than the correct amount of tax, including the right to have the IRS apply all tax payments properly.
- The right to a fair and just tax system, including the right to expect the tax system to consider facts and circumstances that might affect taxpayers’ underlying liabilities and ability to timely provide information.

In order for the IRS to fairly administer the system of extraterritorial taxation which the United States currently imposes, **the IRS must provide equal levels of service to both taxpayers resident in the United States and non-resident U.S. citizens. The level of service currently provided by the IRS is highly unequal.**

In a paper entitled, “Mission Impossible: Extraterritorial Taxation and the IRS” published in the *Tax Notes Federal* journal, authors Laura Snyder, Karen Alpert and John Richardson² explain that the failure of the IRS to provide access to the following services, individually and collectively, constitute violations of the Taxpayer Bill of Rights:

- In-person assistance.
- Toll-free telephoning.
- Knowledgeable IRS agents.
- Online accounts.
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- Timely delivery of postal mail.
- Use of other languages.
- Explanations of tax obligations.
- Making payments to the IRS.
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According to Snyder, et al., these failures when considered as a whole, “manifest a systemic pattern of discriminatory treatment of international taxpayers as compared with domestic taxpayers. The collective failures are evidence that the IRS is either unable or unwilling to administer an extraterritorial tax system.”

With limited ability to interface with non-resident taxpayers, the IRS has shut itself off from taxpayers, and as a result is unable to determine whether the taxpayer is providing accurate information, unless the IRS selects his or her return for audit. For their part, Americans living abroad are subject to potentially devastating penalties for failure to file a variety of documents accurately, even for inadvertent non-

² Snyder, Laura, et al. “Mission Impossible: Extraterritorial Taxation and the IRS,” *Tax Notes Federal*, Volume 170, March 22, 2021.

compliance. According to the SEAT survey, 80% “experience personal stress in relation to U.S. taxation,” a large part of which is due to the constant sense of fear because of the excessive penalties that could be applied for making an honest mistake in tax compliance. The inability of the IRS to address their questions makes it more likely that filers will get it wrong. As a result, the inaccessibility of these basic services leads to further non-compliance, as evidenced by the low rate of filing compared to domestic citizens.

The IRS should take immediate steps to address the many valid concerns that have been raised by Americans abroad. **If the IRS is unwilling or unable to administer a system of extraterritorial taxation, then it is time for Congress to take action to cease the imposition of tax on the non-U.S. source income of non-residents.** The cost-benefit analysis of the impact of a transition from citizenship-based taxation to a residence-based system of taxation should include an assessment of the investments which would be required to enhance the capabilities of the IRS to provide fair and equitable support to non-resident taxpayers under the current system.

The practice of imposing U.S. worldwide taxation on individuals, who are tax residents of other countries, because of their citizenship is a uniquely American practice. In 2015, the Senate Finance Committee embarked on an extensive study of the U.S. international taxation. On the last page of the 82-page report³ (released in July of 2015), it was stated that:

F. Overseas Americans

According to working group submissions, there are currently 7.6 million American citizens living outside of the United States. Of the 347 submissions made to the international working group, nearly three-quarters dealt with the international taxation of individuals, mainly focusing on citizenship-based taxation, the Foreign Account Tax Compliance Act (FATCA), and the Report of Foreign Bank and Financial Accounts (FBAR).

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It is now 2022 and there has been no consideration of the taxation of U.S. citizens who live outside the United States as tax residents of other countries. Notably, in the Spring of 2021, the Senate Finance Committee conducted numerous hearings about international tax issues. In spite of numerous submissions by impacted individuals and advocacy groups, the issues of Americans abroad were not considered. No one representing Americans abroad was invited to be a witness.

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³ <https://www.finance.senate.gov/imo/media/doc/The%20International%20Tax%20Bipartisan%20Tax%20Working%20Group%20Report.pdf>.

abroad, resulting in unreasonably high compliance costs and punitive taxation of undistributed income.

6. A lack of access to necessary financial products and services caused by a mix of burdensome reporting obligations and punitive treatment of local products in the U.S. tax code.

I urge the Senate Finance Committee to hold a hearing focused on the difficulties U.S. citizens who reside outside the United States are facing in navigating the increasingly complex extraterritorial tax compliance regime that the U.S. imposes on its non-resident citizens. These issues are not well known or understood, but they are a tremendous burden on millions of ordinary people who happen to live overseas.

The best solution to this problem is for the U.S. to come into alignment with every other developed nation on the planet and move to a residence-based taxation system for individuals. U.S. citizens who are tax residents of other countries would continue to be liable to pay U.S. Federal income tax on any income which is effectively connected with the United States, as all non-resident aliens do, by using Form 1040-NR instead of Form 1040.

Thank you for your attention to this matter.

Kind regards,

Rob Gerretsen
The Netherlands

LETTER SUBMITTED BY MELVYN AND JUDITH GOLDBERG

Dear Chairman Wyden, Ranking Member Crapo, and Members of the Committee:

We are registered in the State of Pennsylvania. We reside in Canada because of the proximity of our children and grandchildren. We have resided in Canada for 14 years.

My financial life is entirely in Canada, and my income is subject to full taxation under the laws of Canada. I try very hard to fulfill the requirements of the U.S. tax system in addition to the tax requirements in Canada. The reality, though, is that the U.S. requirements (especially the myriad of required informational filings) get increasingly burdensome every year, and the compliance costs for knowledgeable tax preparers are egregious.

The extraterritorial application of the U.S. federal income tax system is a painful issue for the 9 million U.S. citizens who reside outside the United States. In a survey of 1,564 overseas resident citizens conducted by Stop Extraterritorial American Taxation ("SEAT"), an independent, non-partisan not-for-profit association, 46% of participants agreed with the statement "I pay significant fees for preparation of U.S. tax return but owe nothing in U.S. taxes," with 41% of those who engaged a professional preparer paying more than \$1,000 in fees.

This is a reflection of the burden non-residents face due to complex information reporting requirements related to ordinary banking, investment and pension products which are "foreign" to the United States but just a part of living an ordinary financial life in one's country of residence.

The uniquely American definition of "tax residency" includes the imposition of taxation on the worldwide (including non-U.S. source) income of persons who are tax residents of other countries. This system requires the IRS to do the impossible: to administer not only a domestic tax system for U.S. residents and a system of source taxation for non-resident aliens, but also an extraterritorial one whose details are defined by unique interactions with the tax codes of other countries in the world.

Administering an extraterritorial tax system has become an overwhelming task, both procedurally and substantively. The IRS cannot remotely serve U.S. tax residents in the more than 100 countries in the world where they live, let alone in the languages that they speak. Nor can the IRS know how U.S. laws apply to the local financial services, small business structures, and retirement savings plans that are common in all those other countries.

Indeed the IRS itself has identified "international taxpayers" as a community which is underserved by the IRS. Although the IRS's Publication 54, "Tax Guide for U.S. Citizens and Resident Aliens Abroad," is helpful, it does not adequately enable non-

resident taxpayers to understand their U.S. tax obligations in the context of the financial systems of the countries in which they live. Since IRS guidance is not sufficient for non-resident taxpayers to accurately understand how the U.S. tax system applies to them, they require the support of professional tax service providers, which is unaffordable for many.

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In order for the IRS to fairly administer the system of extraterritorial taxation which the United States currently imposes, the IRS must provide equal levels of service to both taxpayers resident in the United States and non-resident U.S. citizens. The level of service currently provided by the IRS is highly unequal.

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With limited ability to interface with non-resident taxpayers, the IRS has shut itself off from taxpayers, and as a result is unable to determine whether the taxpayer is providing accurate information, unless the IRS selects his or her return for audit. For their part, Americans living abroad are subject to potentially devastating penalties for failure to file a variety of documents accurately, even for inadvertent non-compliance. According to the SEAT survey, 80% "experience personal stress in relation to U.S. taxation," a large part of which is due to the constant sense of fear because of the excessive penalties that could be applied for making an honest mistake in tax compliance. The inability of the IRS to address their questions makes it more likely that filers will get it wrong. As a result, the inaccessibility of these basic services leads to further non-compliance, as evidenced by the low rate of filing compared to domestic citizens.

The IRS should take immediate steps to address the many valid concerns that have been raised by Americans abroad. If the IRS is unwilling or unable to administer a system of extraterritorial taxation, then it is time for Congress to take action to cease the imposition of tax on the non-U.S. source income of non-residents. The cost-benefit analysis of the impact of a transition from citizenship-based taxation to a residence-based system of taxation should include an assessment of the investments which would be required to enhance the capabilities of the IRS to provide fair and equitable support to non-resident taxpayers under the current system.

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While the co-chairs were not able to produce a comprehensive plan to overhaul the taxation of individual Americans living overseas within the time constraints placed on the working group, the co-chairs urge the Chairman and Ranking Member to carefully consider the concerns articulated in the submissions moving forward.

It is now 2022 and there has been no consideration of the taxation of U.S. citizens who live outside the United States as tax residents of other countries. Notably, in the Spring of 2021, the Senate Finance Committee conducted numerous hearings about international tax issues. In spite of numerous submissions by impacted individuals and advocacy groups, the issues of Americans abroad were not considered. No one representing Americans abroad was invited to be a witness. The combination of U.S. citizenship-based taxation and FATCA is destroying the lives of U.S. citizens living outside the United States who are bona fide residents (and tax residents) of other countries. Issues causing a particularly devastating impact include:

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6. A lack of access to necessary financial products and services caused by a mix of burdensome reporting obligations and punitive treatment of local products in the U.S. tax code.

I urge the Senate Finance Committee to hold a hearing focused on the difficulties U.S. citizens who reside outside the United States are facing in navigating the increasingly complex extraterritorial tax compliance regime that the U.S. imposes on its non-resident citizens. These issues are not well known or understood, but they are a tremendous burden on millions of ordinary people who happen to live overseas.

The best solution to this problem is for the U.S. to come into alignment with every other developed nation on the planet and move to a residence-based taxation system for individuals. U.S. citizens who are tax residents of other countries would continue to be liable to pay U.S. Federal income tax on any income which is effectively connected with the United States, as all non-resident aliens do, by using Form 1040-NR instead of Form 1040.

Thank you for your attention to this matter.

LETTER SUBMITTED BY PAULA HEMDAL, PH.D.

Dear Chairman Wyden, Ranking Member Crapo, and Members of the Committee:

I am an American who has lived abroad, in Belgium, for over 25 years and conscientiously file my U.S. Income tax forms every year, in addition to my Belgium tax forms. The reality is, that the U.S. requirements for citizens living outside of the U.S. get increasingly burdensome every year, and the compliance costs for knowledgeable tax preparers are egregious. Due to the high taxes in Belgium, the highest amount I ever owed the U.S. Government in my 25 years of living in Belgium has been \$5,422 and that was only because I had worked more for several weeks in the United States that year and, as I was told by Deloitte, who was preparing my taxes, that I was also being taxed on my company car as a “perk” (which wasn’t even used in the U.S.). Whether that was the true reason or not, my more usual amount owed to the U.S. is zero. Zero taxes to pay each year (because of the Belgium-U.S. tax treaty and because I pay a lot of tax in Belgium) yet I must pay a professional tax preparer each year and cannot file, like other U.S. citizens, using e-filing myself (my 4 digit zip code prevents me from doing this—believe me, I tried).

I am living proof that the extraterritorial application of the U.S. federal income tax system is a painful issue for me and for the 9 million U.S. citizens who reside outside the United States. In a survey¹ of 1,564 overseas resident citizens conducted by Stop Extraterritorial American Taxation (“SEAT”), an independent, non-partisan not-for-profit association, 46% of participants agreed with the statement “I pay significant fees for preparation of U.S. tax return but owe nothing in U.S. taxes,” with 41% of those who engaged a professional preparer paying more than \$1,000 in fees. That is me!

But it isn’t simply the tax filing that is burdensome. More and more complications arise for U.S. citizens living in Europe every day. The combination of U.S. citizenship taxation and FATCA (as well as the EU MiFID) is destroying my ability to save for my retirement using the tools typical for U.S. citizens living in the United States: 401K, IRA and even Mutual Funds. And the Banks in Europe are refusing to allow U.S. citizens to use their retirement tools because of the long arms requirements of FATCA reporting.

I have always been a proud American, which is why, without even thinking, I passed on my U.S. citizenship to my children while living in Belgium. In hindsight, I believe this was a mistake. As Belgium is the country they were raised, they have chosen to stay there. Little did I realize that I by giving them American citizenship, I was in fact, gifting them a whole slew of financial difficulties.

Here is what I have gifted my children:

- Onerous tax reporting requirements: Filing to 2 tax authorities every year despite never working in the United States and even though the EU income tax is higher, meaning none or very minimal tax is ever owed to the United States (but only if you understand how to complete the Foreign Earned Income Exclusion (FEIE) and Foreign Tax Credits and to do this, you have to hire a professional help from tax experts). This means between 300 and upwards of 6,000 euros to pay every year for specialist tax advisors that understand both the U.S. tax laws and the European country tax laws. Additionally, the usual time to receive all the tax statements in many European countries (such as Belgium) is often more than a year after the tax year (whereas in the U.S., it is 4.5 months), making it quite stressful to comply with even the extension of the U.S. tax filing timelines (October).
- No opportunity to save for their own retirement: Since they are not in the U.S., they are unable to take advantage of any pre-tax Individual Retirement Account or 401K. Furthermore, many of the European company-sponsored pension plans are only minimal: In Europe they use a 3-pillar system for retirement: Social Security, company pension, but the biggest pillar is often private investment. However, the EU banks will not allow U.S. citizens, even if they are also an EU citizen, to participate in any retirement scheme (for example, branch 21 pension savings insurance, in Belgium). Thus, the only way they can save for their third pillar is through bank savings accounts (which is a 0% interest) and which is not the way to save for the future, keeping them at a distinct disadvantage compared to U.S. or EU counterparts that do not have dual citizenship.

¹http://seatnow.org/survey_report_intro_page/.

- No opportunity to invest in European ETFs since they are punitively taxed by the U.S. authorities. The favored long-term investment strategies and pensions in the EU are often Passive Foreign Investment Companies (PFICs), which are taxed more severely by the U.S. tax authorities than other assets and more difficult to report to the IRS. This also means that unless they lie about their U.S. citizenship, they are not able to use online trading systems (Schwab, Vanguard, International Brokers, to name a few) to purchase safe mutual funds or ETFs. (They can still purchase individual stocks, but this is a very risky endeavor when starting to invest). This is because Americans living in Europe are no longer able to take advantage of their U.S. citizenship to purchase U.S.-based Exchange Traded Funds (ETFs), because of the Markets in Financial Instruments Directive (MiFID) rules that require to all U.S. investments to produce a Key Information Document or KID for EU-domiciled retail investors. So far, no U.S.-based ETFs have produced KIDs.
- Difficulty finding banks (and mortgages) if you are a U.S. citizen living in Europe because many banks and investment/financial service companies are no longer accepting Americans as clients due to the FATCA legislation. EU banks that fail to follow FATCA potentially face significant penalties; thus, many EU banks have decided that it is more cost-efficient for them to avoid having any American clients at all. And, because they are not a resident of the United States (no U.S. address), they do not have the right to have a bank account in the U.S. or to open an U.S. investment.
- Beyond reasonable requirements for U.S. citizens living abroad: Since 1970, U.S. citizens living abroad have been obligated to file a Foreign Bank Account Report (FBAR) each year, for all non-U.S. (“foreign”) bank or other accounts that they have in which the balance has exceeded \$10,000 during the year. All foreign accounts are reportable, even those with zero balances, if the aggregate total in all accounts exceeds \$10,000 and the maximum amount held in any of these accounts must be reported—even if it was a transfer from one account to another, even if only for a day. And, even if held jointly with a partner who is European and has no U.S. reporting obligations.

In conclusion, my daughters, as proud U.S. citizens born and raised and still living in Belgium, are being denied bank accounts and investment opportunities only because of their U.S. citizenship and the compliance burden FATCA. My daughters will find it impossible to properly manage their financial livelihood and retirement planning because of the effects of U.S. citizenship taxation and FATCA. And as for me: I am nearing retirement age and truly have no idea what is in store for me when I begin taking U.S. social security and withdrawals from my 401K (from when I lived and worked in the U.S.) and how that will be taxed by both the U.S. and Belgium.

Please consider this as a real-life example of what is happening to me, but more importantly, to the future: my children. Consider a change to the system for those living permanently outside of the U.S. but who do not want to give up their citizenship, which is a part of their identity.

If you decide not to consider the burden this has on U.S. citizens living permanently abroad, you can also look at this problem from the viewpoint of good ole’ Uncle Sam and the fact that the uniquely American definition of “tax residency” includes the imposition of taxation on the worldwide (including non-U.S. source) income of persons who are tax residents of other countries. This system requires the IRS to do the impossible: to administer not only a domestic tax system for U.S. residents and a system of source taxation for non-resident aliens, but also an extraterritorial one whose details are defined by unique interactions with the tax codes of other countries in the world.

Administering an extraterritorial tax system has become an overwhelming task, both procedurally and substantively. The IRS cannot remotely serve U.S. tax residents in the more than 100 countries in the world where they live, let alone in the languages that they speak. Nor can the IRS know how U.S. laws apply to the local financial services, small business structures, and retirement savings plans that are common in all those other countries.

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- Third-party assistance.
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According to Snyder, et al., these failures when considered as a whole, "manifest a systemic pattern of discriminatory treatment of international taxpayers as compared with domestic taxpayers. The collective failures are evidence that the IRS is either unable or unwilling to administer an extraterritorial tax system."

With limited ability to interface with non-resident taxpayers, the IRS has shut itself off from taxpayers, and as a result is unable to determine whether the taxpayer is providing accurate information, unless the IRS selects his or her return for audit. For their part, Americans living abroad are subject to potentially devastating penalties for failure to file a variety of documents accurately, even for inadvertent non-compliance. According to the SEAT survey, 80% "experience personal stress in relation to U.S. taxation," a large part of which is due to the constant sense of fear because of the excessive penalties that could be applied for making an honest mistake in tax compliance. The inability of the IRS to address their questions makes it more likely that filers will get it wrong. As a result, the inaccessibility of these basic services leads to further non-compliance, as evidenced by the low rate of filing compared to domestic citizens.

The IRS should take immediate steps to address the many valid concerns that have been raised by Americans abroad. **If the IRS is unwilling or unable to administer a system of extraterritorial taxation, then it is time for Congress to take action to cease the imposition of tax on the non-U.S. source income of non-residents.** The cost-benefit analysis of the impact of a transition from citizenship-based taxation to a residence-based system of taxation should include an assessment of the investments which would be required to enhance the capabilities

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of the IRS to provide fair and equitable support to non-resident taxpayers under the current system.

The practice of imposing U.S. worldwide taxation on individuals, who are tax residents of other countries, because of their citizenship is a uniquely American practice. In 2015, the Senate Finance Committee embarked on an extensive study of the U.S. international taxation. On the last page of the 82-page report³ (released in July of 2015), it was stated that:

F. Overseas Americans

According to working group submissions, there are currently 7.6 million American citizens living outside of the United States. Of the 347 submissions made to the international working group, nearly three-quarters dealt with the international taxation of individuals, mainly focusing on citizenship-based taxation, the Foreign Account Tax Compliance Act (FATCA), and the Report of Foreign Bank and Financial Accounts (FBAR).

While the co-chairs were not able to produce a comprehensive plan to overhaul the taxation of individual Americans living overseas within the time-constraints placed on the working group, the co-chairs urge the Chairman and Ranking Member to carefully consider the concerns articulated in the submissions moving forward.

It is now 2022 and there has been no consideration of the taxation of U.S. citizens who live outside the United States as tax residents of other countries. Notably, in the Spring of 2021, the Senate Finance Committee conducted numerous hearings about international tax issues. In spite of numerous submissions by impacted individuals and advocacy groups, the issues of Americans abroad were not considered. No one representing Americans abroad was invited to be a witness.

The combination of U.S. citizenship-based taxation and FATCA is destroying the lives of U.S. citizens living outside the United States who are bona fide residents (and tax residents) of other countries. Issues causing a particularly devastating impact include:

1. Double taxation—due to misalignment of tax systems—that cannot be mitigated using the Foreign Earned Income Exclusion, Foreign Tax Credit, or existing Tax Treaties.
2. Disproportionately high tax-preparation costs and excessive compliance risks associated with information reporting required for financial assets held in a U.S. citizen's country of residence, which harms ordinary Americans who are unable to afford sophisticated tax preparers, which (as noted) can be prohibitively expensive even if no tax is owed.
3. Excessively large and regressive penalties related to information reporting errors that far exceed taxes owed or balances of accounts concerned and individuals' ability to pay.
4. Americans abroad with a non-U.S. citizen spouse facing discriminatory treatment in the tax code and greater difficulty in meeting filing obligations due to the lack of a Social Security Number for their spouse.
5. Corporate tax rules intended to apply to overseas subsidiaries of multinational corporations that are applied to small businesses owned by Americans residing abroad, resulting in unreasonably high compliance costs and punitive taxation of undistributed income.
6. A lack of access to necessary financial products and services caused by a mix of burdensome reporting obligations and punitive treatment of local products in the U.S. tax code.

I urge the Senate Finance Committee to hold a hearing focused on the difficulties U.S. citizens who reside outside the United States are facing in navigating the increasingly complex extraterritorial tax compliance regime that the U.S. imposes on its non-resident citizens. These issues are not well known or understood, but they are a tremendous burden on millions of ordinary people who happen to live overseas.

The best solution to this problem is for the U.S. to come into alignment with every other developed nation on the planet and move to a residence-based taxation system for individuals. U.S. citizens who are tax residents of other countries would continue to be liable to pay U.S. Federal income tax on any

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income which is effectively connected with the United States, as all non-resident aliens do, by using Form 1040–NR instead of Form 1040.

Thank you for your attention to this matter. Please feel free to contact me if you would like to discuss my situation in more detail.

Kind regards,

Paula Hemdal, Ph.D.

LETTER SUBMITTED BY JOHN HOLMES

Dear Chairman Wyden, Ranking Member Crapo, and Members of the Committee:

My wife and I are dual citizens of Australia and the U.S., having been born in Australia. I worked and raised a family for 23 years in Florida through 2015. Our motivation for moving back to Australia is to provide care and assistance to parents in their 8th and 9th decades. We continue to actively vote in Pinellas County in state and federal elections. We are not affiliated with any party. We previously held property in Florida which we since have sold and have fully complied with U.S. tax law filing returns every year and paying applicable taxes related to U.S. holdings. We now have only 401k retirement accounts.

My financial life is entirely in **Australia** and my income is subject to full taxation under the laws of **Australia**. I try very hard to fulfill the requirements of the U.S. tax system in addition to the tax requirements in **Australia**. The reality, though, is that the U.S. requirements (especially the myriad of required informational filings) get increasingly burdensome every year, and the compliance costs for knowledgeable tax preparers are egregious. This results in me being forced to pay over \$1200+ in accounting fees every year to complete forms with no tax being due. Not to mention the tax years do not coincide creating an extra burden.

The extraterritorial application of the U.S. federal income tax system is a painful issue for the 9 million U.S. citizens who reside outside the United States. In a survey¹ of 1,564 overseas resident citizens conducted by Stop Extraterritorial American Taxation (“SEAT”), an independent, non-partisan not-for-profit association, 46% of participants agreed with the statement “I pay significant fees for preparation of U.S. tax return but owe nothing in U.S. taxes,” with 41% of those who engaged a professional preparer paying more than \$1,000 in fees.

This is a reflection of the burden non-residents face due to complex information reporting requirements related to ordinary banking, investment and pension products which are “foreign” to the United States but just a part of living an ordinary financial life in one’s country of residence.

The uniquely American definition of “tax residency” includes the imposition of taxation on the worldwide (including non-U.S. source) income of persons who are tax residents of other countries. This system requires the IRS to do the impossible: to administer not only a domestic tax system for U.S. residents and a system of source taxation for non-resident aliens, but also an extraterritorial one whose details are defined by unique interactions with the tax codes of other countries in the world.

Administering an extraterritorial tax system has become an overwhelming task, both procedurally and substantively. The IRS cannot remotely serve U.S. tax residents in the more than 100 countries in the world where they live, let alone in the languages that they speak. Nor can the IRS know how U.S. laws apply to the local financial services, small business structures, and retirement savings plans that are common in all those other countries.

Indeed the IRS itself has identified “international taxpayers” as a community which is underserved by the IRS. Although the IRS’s Publication 54, “Tax Guide for U.S. Citizens and Resident Aliens Abroad,” is helpful, it does not adequately enable non-resident taxpayers to understand their U.S. tax obligations in the context of the financial systems of the countries in which they live. Since IRS guidance is not sufficient for non-resident taxpayers to accurately understand how the U.S. tax system applies to them, they require the support of professional tax service providers, which is unaffordable for many.

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The IRS's inability to provide non-resident taxpayers with essential services violates several aspects of the Taxpayer Bill of Rights, including the following:

- The right to be informed, including the right to know what to do to comply with tax laws and the right to receive clear explanations.
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- The right to pay no more than the correct amount of tax, including the right to have the IRS apply all tax payments properly.
- The right to a fair and just tax system, including the right to expect the tax system to consider facts and circumstances that might affect taxpayers' underlying liabilities and ability to timely provide information.

In order for the IRS to fairly administer the system of extraterritorial taxation which the United States currently imposes, **the IRS must provide equal levels of service to both taxpayers resident in the United States and non-resident U.S. citizens. The level of service currently provided by the IRS is highly unequal.**

In a paper entitled, "Mission Impossible: Extraterritorial Taxation and the IRS" published in the *Tax Notes Federal* journal, authors Laura Snyder, Karen Alpert and John Richardson² explain that the failure of the IRS to provide access to the following services, individually and collectively, constitute violations of the Taxpayer Bill of Rights:

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5. Corporate tax rules intended to apply to overseas subsidiaries of multinational corporations that are applied to small businesses owned by Americans residing abroad, resulting in unreasonably high compliance costs and punitive taxation of undistributed income.
6. A lack of access to necessary financial products and services caused by a mix of burdensome reporting obligations and punitive treatment of local products in the U.S. tax code.
7. More specifically in my case the contributions to superannuation—a version of 401K is considered as income so it is taxed by both Australia and the U.S.

I urge the Senate Finance Committee to hold a hearing focused on the difficulties U.S. citizens who reside outside the United States are facing in navigating the increasingly complex extraterritorial tax compliance regime that the U.S. imposes on its non-resident citizens. These issues are not well known or understood, but they are a tremendous burden on millions of ordinary people who happen to live overseas.

The best solution to this problem is for the U.S. to come into alignment with every other developed nation on the planet and move to a residence-based taxation system for individuals. U.S. citizens who are tax residents of other countries would continue to be liable to pay U.S. Federal income tax on any

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income which is effectively connected with the United States, as all non-resident aliens do, by using Form 1040-NR instead of Form 1040.

Thank you for your attention to this matter.

Sincerely,

John Holmes

LETTER SUBMITTED BY LYNN FRANCES LEVENSON

Dear Chairman Wyden, Ranking Member Crapo, and Members of the Committee:

I was born in New York, NY in 1947 from Alvin Levenson, who was a U.S. Navy pilot on the USS Yorktown and Marjorie Murphy. I spent my younger years in school in West Hempstead Long Island and worked in New York City.

At the age of twenty-two I got married to an Italian citizen and transferred to Italy, where he was and we still are living. I returned to the States to see my parents and family during brief holidays. I have no property or financial interest in the USA at all. I have not worked in Italy outside the family and was never involved in any activity procuring me any monetary income. My husband who is only an Italian citizen, now retired as one of the former directors of the civil air traffic services, provides for the income of the family. The Italian citizenship was granted to me because of the marriage. I have dual citizenship since 1971 and am a permanent resident of Italy since the same year. My husband allowed my name as well in all his bank accounts hence making me eligible for FATCA and FBAR. All my husband's income and bank accounts are subject to Italian taxation. Because of FATCA and FBAR I have to spend his moneys for the lawyer and accountant taking care of my reports to IRS, to report his property already taxed in Italy, to the USA IRS. To find qualified lawyers in U.S. tax laws is a very, very difficult operation and a very, very expensive one, as well, while all responsibilities continue to lay on the tax payer only. Should my husband die before me I would be allowed to receive a percentage of his pension, making me an earner of already taxed money, to be reported and possibly taxed again because of my U.S. citizenship. The house my husband bought with his Italian income, sharing that property with me, would be subject to IRS taxation. On top of all the already proposed disturbing issues I wish to mention that You are proposed with the case of U.S. males living, earning and married to foreign, outside USA. I am proposing to you my case of an American woman married to a foreigner and living outside the USA with no income from my interest in working activities or financial investments still subject to taxation FATCA and FBARS.

My financial life is entirely in Italy, and my income is subject to full taxation under the laws of Italy. I try very hard to fulfill the requirements of the U.S. tax system in addition to the tax requirements in Italy. The reality, though, is that the U.S. requirements (especially the myriad of required informational filings) get increasingly burdensome every year, and the compliance costs for knowledgeable tax preparers are egregious.

The extraterritorial application of the U.S. federal income tax system is a painful issue for the 9 million U.S. citizens who reside outside the United States. In a survey¹ of 1,564 overseas resident citizens conducted by Stop Extraterritorial American Taxation ("SEAT"), an independent, non-partisan not-for-profit association, 46% of participants agreed with the statement "I pay significant fees for preparation of U.S. tax return but owe nothing in U.S. taxes," with 41% of those who engaged a professional preparer paying more than \$1,000 in fees.

This is a reflection of the burden non-residents face due to complex information reporting requirements related to ordinary banking, investment and pension products which are "foreign" to the United States but just a part of living an ordinary financial life in one's country of residence.

The uniquely American definition of "tax residency" includes the imposition of taxation on the worldwide (including non-U.S. source) income of persons who are tax residents of other countries. This system requires the IRS to do the impossible: to administer not only a domestic tax system for U.S. residents and a system of source taxation for non-resident aliens, but also an extraterritorial one whose details are defined by unique interactions with the tax codes of other countries in the world.

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The IRS’s inability to provide non-resident taxpayers with essential services violates several aspects of the Taxpayer Bill of Rights, including the following:

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The best solution to this problem is for the U.S. to come into alignment with every other developed nation on the planet and move to a residence-based taxation system for individuals. U.S. citizens who are tax residents of other countries would continue to be liable to pay U.S. Federal income tax on any income which is effectively connected with the United States, as all non-resident aliens do, by using Form 1040-NR instead of Form 1040.

Thank you for your attention to this matter.

Lynn Frances Levenson

LETTER SUBMITTED BY STEPHEN MATTHEW

Dear Chairman Wyden, Ranking Member Crapo, and Members of the Committee:

I am a proud American citizen, registered to vote in Connecticut, expatriated in The Netherlands since 1978. I came originally to The Netherlands to play semi-professional baseball in the Amsterdam area. Eventually I met my wife of over 40 years and was able to secure a job with an American company located here (a part of GE Capital) which I recently retired from after 40 years of service. We have 2 adult aged children that had dual nationality despite only living in The Netherlands.

My financial life is entirely in The Netherlands, and my income is subject to full taxation under the laws of The Netherlands. I try very hard to fulfill the requirements of the U.S. tax system in addition to the tax requirements in The Netherlands. The reality, though, is that the U.S. requirements (especially the myriad of required informational filings) get increasingly burdensome every year, and the compliance costs for knowledgeable tax preparers are egregious.

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With limited ability to interface with non-resident taxpayers, the IRS has shut itself off from taxpayers, and as a result is unable to determine whether the taxpayer is providing accurate information, unless the IRS selects his or her return for audit. For their part, Americans living abroad are subject to potentially devastating penalties for failure to file a variety of documents accurately, even for inadvertent non-compliance. According to the SEAT survey, 80% “experience personal stress in relation to U.S. taxation,” a large part of which is due to the constant sense of fear because of the excessive penalties that could be applied for making an honest mistake in tax compliance. The inability of the IRS to address their questions makes it more likely that filers will get it wrong. As a result, the inaccessibility of these basic services leads to further non-compliance, as evidenced by the low rate of filing compared to domestic citizens.

The IRS should take immediate steps to address the many valid concerns that have been raised by Americans abroad. **If the IRS is unwilling or unable to administer a system of extraterritorial taxation, then it is time for Congress to take action to cease the imposition of tax on the non-U.S. source income of non-residents.** The cost-benefit analysis of the impact of a transition from

² Snyder, Laura, et al. “Mission Impossible: Extraterritorial Taxation and the IRS,” *Tax Notes Federal*, Volume 170, March 22, 2021.

citizenship-based taxation to a residence-based system of taxation should include an assessment of the investments which would be required to enhance the capabilities of the IRS to provide fair and equitable support to non-resident taxpayers under the current system.

The practice of imposing U.S. worldwide taxation on individuals, who are tax residents of other countries, because of their citizenship is a uniquely American practice. In 2015, the Senate Finance Committee embarked on an extensive study of the U.S. international taxation. On the last page of the 82-page report³ (released in July of 2015), it was stated that:

F. Overseas Americans

According to working group submissions, there are currently 7.6 million American citizens living outside of the United States. Of the 347 submissions made to the international working group, nearly three-quarters dealt with the international taxation of individuals, mainly focusing on citizenship-based taxation, the Foreign Account Tax Compliance Act (FATCA), and the Report of Foreign Bank and Financial Accounts (FBAR).

While the co-chairs were not able to produce a comprehensive plan to overhaul the taxation of individual Americans living overseas within the time-constraints placed on the working group, the co-chairs urge the Chairman and Ranking Member to carefully consider the concerns articulated in the submissions moving forward.

It is now 2022 and there has been no consideration of the taxation of U.S. citizens who live outside the United States as tax residents of other countries. Notably, in the Spring of 2021, the Senate Finance Committee conducted numerous hearings about international tax issues. In spite of numerous submissions by impacted individuals and advocacy groups, the issues of Americans abroad were not considered. No one representing Americans abroad was invited to be a witness.

The combination of U.S. citizenship-based taxation and FATCA is destroying the lives of U.S. citizens living outside the United States who are bona fide residents (and tax residents) of other countries. Issues causing a particularly devastating impact include:

1. Double taxation—due to misalignment of tax systems—that cannot be mitigated using the Foreign Earned Income Exclusion, Foreign Tax Credit, or existing Tax Treaties.
2. Disproportionately high tax-preparation costs and excessive compliance risks associated with information reporting required for financial assets held in a U.S. citizen's country of residence, which harms ordinary Americans who are unable to afford sophisticated tax preparers, which (as noted) can be prohibitively expensive even if no tax is owed.
3. Excessively large and regressive penalties related to information reporting errors that far exceed taxes owed or balances of accounts concerned and individuals' ability to pay.
4. Americans abroad with a non-U.S. citizen spouse facing discriminatory treatment in the tax code and greater difficulty in meeting filing obligations due to the lack of a Social Security Number for their spouse.
5. Corporate tax rules intended to apply to overseas subsidiaries of multinational corporations that are applied to small businesses owned by Americans residing abroad, resulting in unreasonably high compliance costs and punitive taxation of undistributed income.
6. A lack of access to necessary financial products and services caused by a mix of burdensome reporting obligations and punitive treatment of local products in the U.S. tax code.

I urge the Senate Finance Committee to hold a hearing focused on the difficulties U.S. citizens who reside outside the United States are facing in navigating the increasingly complex extraterritorial tax compliance regime that the U.S. imposes on its non-resident citizens. These issues are not well known or understood, but they are a tremendous burden on millions of ordinary people who happen to live overseas.

³ <https://www.finance.senate.gov/imo/media/doc/The%20International%20Tax%20Bipartisan%20Tax%20Working%20Group%20Report.pdf>.

The best solution to this problem is for the U.S. to come into alignment with every other developed nation on the planet and move to a residence-based taxation system for individuals. U.S. citizens who are tax residents of other countries would continue to be liable to pay U.S. Federal income tax on any income which is effectively connected with the United States, as all non-resident aliens do, by using Form 1040–NR instead of Form 1040.

Thank you for your attention to this matter.

Humbly yours,

Stephen Matthew

LETTER SUBMITTED BY C. CHASE MCCARTHY

Dear Chairman Wyden, Ranking Member Crapo, and Members of the Committee:

I'm American. Born in TN, raised in CA, educated in NJ and currently registered to vote there. My wife is Spanish. We lived in Germany and Spain for more than 14 years and plan to return there soon for retirement. We had financial interests in Spain that we had to divest because the taxation, FBAR laws are excessive and onerous for honest citizens. We would like to plan more for our retirement with investments in Spain but that is not feasible to any degree with the current tax laws in place.

My financial life is CURRENTLY split between income in **the U.S. and Spain. We've had to change so many things in our lives including where we live because of the draconian tax measures taken by the U.S.** While I would like to live in Spain, my country's tax laws prevent me from doing so in realistic terms that I cannot afford a combined dual tax rate given the minimal credit provided to citizens currently—disregarding the substantial administrative costs of living abroad for both myself and our bank in Spain. The reality is that the U.S. requirements (especially the myriad of required informational filings) get increasingly burdensome every year, and the compliance costs for knowledgeable tax preparers are egregious.

The extraterritorial application of the U.S. federal income tax system is a painful issue for the 9 million U.S. citizens who reside outside the United States. In a survey¹ of 1,564 overseas resident citizens conducted by Stop Extraterritorial American Taxation (“SEAT”), an independent, non-partisan not-for-profit association, 46% of participants agreed with the statement “I pay significant fees for preparation of U.S. tax return but owe nothing in U.S. taxes,” with 41% of those who engaged a professional preparer paying more than \$1,000 in fees.

This is a reflection of the burden non-residents face due to complex information reporting requirements related to ordinary banking, investment and pension products which are “foreign” to the United States but just a part of living an ordinary financial life in one's country of residence.

The uniquely American definition of “tax residency” includes the imposition of taxation on the worldwide (including non-U.S. source) income of persons who are tax residents of other countries. This system requires the IRS to do the impossible: to administer not only a domestic tax system for U.S. residents and a system of source taxation for non-resident aliens, but also an extraterritorial one whose details are defined by unique interactions with the tax codes of other countries in the world.

Administering an extraterritorial tax system has become an overwhelming task, both procedurally and substantively. The IRS cannot remotely serve U.S. tax residents in the more than 100 countries in the world where they live, let alone in the languages that they speak. Nor can the IRS know how U.S. laws apply to the local financial services, small business structures, and retirement savings plans that are common in all those other countries.

Indeed the IRS itself has identified “international taxpayers” as a community which is underserved by the IRS. Although the IRS's Publication 54, “Tax Guide for U.S. Citizens and Resident Aliens Abroad,” is helpful, it does not adequately enable non-resident taxpayers to understand their U.S. tax obligations in the context of the financial systems of the countries in which they live. Since IRS guidance is not sufficient for non-resident taxpayers to accurately understand how the U.S. tax system

¹http://seatnow.org/survey_report_intro_page/.

applies to them, they require the support of professional tax service providers, which is unaffordable for many.

The IRS's inability to provide non-resident taxpayers with essential services violates several aspects of the Taxpayer Bill of Rights, including the following:

- The right to be informed, including the right to know what to do to comply with tax laws and the right to receive clear explanations.
- The right to quality service, including the right to receive prompt service and clear and easily understandable communications from the IRS.
- The right to pay no more than the correct amount of tax, including the right to have the IRS apply all tax payments properly.
- The right to a fair and just tax system, including the right to expect the tax system to consider facts and circumstances that might affect taxpayers' underlying liabilities and ability to timely provide information.

In order for the IRS to fairly administer the system of extraterritorial taxation which the United States currently imposes, **the IRS must provide equal levels of service to both taxpayers resident in the United States and non-resident U.S. citizens. The level of service currently provided by the IRS is highly unequal.**

In a paper entitled, "Mission Impossible: Extraterritorial Taxation and the IRS" published in the *Tax Notes Federal* journal, authors Laura Snyder, Karen Alpert and John Richardson² explain that the failure of the IRS to provide access to the following services, individually and collectively, constitute violations of the Taxpayer Bill of Rights:

- In-person assistance.
- Toll-free telephoning.
- Knowledgeable IRS agents.
- Online accounts.
- E-filing.
- Timely delivery of postal mail.
- Use of other languages.
- Explanations of tax obligations.
- Making payments to the IRS.
- Receiving payments from the IRS.
- Third-party assistance.
- Low income taxpayer clinic.
- IRS internal organization.

According to Snyder, et al., these failures when considered as a whole, "manifest a systemic pattern of discriminatory treatment of international taxpayers as compared with domestic taxpayers. The collective failures are evidence that the IRS is either unable or unwilling to administer an extraterritorial tax system."

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It is now 2022 and there has been no consideration of the taxation of U.S. citizens who live outside the United States as tax residents of other countries. Notably, in the Spring of 2021, the Senate Finance Committee conducted numerous hearings about international tax issues. In spite of numerous submissions by impacted individuals and advocacy groups, the issues of Americans abroad were not considered. No one representing Americans abroad was invited to be a witness.

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The best solution to this problem is for the U.S. to come into alignment with every other developed nation on the planet and move to a residence-based taxation system for individuals. U.S. citizens who are tax residents of other countries would continue to be liable to pay U.S. Federal income tax on any

³ <https://www.finance.senate.gov/imo/media/doc/The%20International%20Tax%20Bipartisan%20Tax%20Working%20Group%20Report.pdf>.

income which is effectively connected with the United States, as all non-resident aliens do, by using Form 1040-NR instead of Form 1040.

Thank you for your attention to this matter.

NATIONAL TAXPAYERS UNION

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The Honorable Ron Wyden
Chair
U.S. Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Mike Crapo
Ranking Member
U.S. Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

Dear Chair Wyden, Ranking Member Crapo, and Members of the Committee:

On behalf of National Taxpayers Union (NTU), the nation's oldest taxpayer advocacy organization, we write in regards to your hearing with IRS Commissioner Rettig on the agency's fiscal year (FY) 2023 budget request. NTU and its research arm NTU Foundation have been actively engaged on IRS budget and reform matters since our founding in 1969, and our experts and advocates have been especially involved of late in the challenges facing the agency during the 2022 tax filing season.

In recent years, NTU and NTU Foundation have often weighed in on efforts to increase the IRS budget. While we continue to believe that it would be a serious mistake to provide the agency \$80 billion over 10 years almost exclusively for enforcement purposes—and that such a proposal would represent a nearly blank check to an agency with serious structural flaws and long-term challenges—we have expressed our support for Congressional efforts aimed at improving customer service and modernizing the agency's infrastructure. We believe that resources properly directed to these ends should aim to be fully offset by spending reductions elsewhere in the federal budget, and we believe that any IRS budget increases should come with solidly-grounded guardrails, robust Congressional oversight, and strong taxpayer rights and privacy protections.

The IRS FY 2023 Budget Request

As you well know, the agency's FY 2023 budget request would increase spending by \$1.5 billion, or 11.9 percent, above FY 2022 enacted levels.¹ The Taxpayer Service Account would see the largest increase under the budget proposal: \$904 million or 32.5 percent above FY 2022 enacted levels. The Enforcement Account would see an \$834 million increase, or 15.3 percent above enacted levels. The Business Systems Modernization Account would see a \$35 million, or 12.7 percent increase, over FY 2022 enacted levels.

NTU and NTU Foundation are still evaluating the agency's full FY 2023 budget request, and we look forward to hearing from Commissioner Rettig at the Committee's April 7th budget hearing. However, we urge the IRS and the Committee to explore reforms that (1) advance taxpayer rights and privacy, (2) improve customer service at the agency, (3) modernize the IRS, and (4) help the agency enforce the nation's tax laws while fully respecting taxpayer rights and due process.

Protecting Taxpayer Rights and Privacy

Taxpayer rights—including the right to due process and the right to relief when the agency makes an error that affects the taxpayer—are of the utmost importance and have traditionally enjoyed bipartisan support on Capitol Hill. However, between concerns about the agency's proposed (but since canceled) use of facial recognition technology, and the ProPublica breach of sensitive tax data, it is clear the agency is not as prepared to protect taxpayer privacy and safeguard taxpayer rights as the

¹For more, see: Office of Management and Budget. "Internal Revenue Service." March 2022. Retrieved from: https://www.whitehouse.gov/wp-content/uploads/2022/03/tre_fy2023.pdf#page=40 (Accessed April 5, 2022.); Congress.gov. (Introduced April 13, 2021.) "H.R. 2471—Consolidated Appropriations Act, 2022." Retrieved from: <https://www.congress.gov/bills/117/th-congress/house-bill/2471/text> (Accessed April 5, 2022.)

nation's taxpayers should expect. The following recommendations may, over the long run, right the ship at the IRS.

- **Pass Additional Taxpayer Protections Through a New Taxpayer Bill of Rights (TBOR):** NTU has endorsed legislation from Sen. John Cornyn (R-TX), the Small Business Taxpayer Bill of Rights, which would create an alternative dispute resolution program for audits, give the IRS greater latitude to release levies that cause financial hardship, and strengthen safeguards against taxpayer abuses by IRS officers and agents, among other commendable provisions.² These and similar reforms should receive bipartisan support in Congress, either as part of the appropriations process or as standalone legislation.
- **Safeguard Taxpayer Privacy From Unauthorized Attempts to Access Data:** Targeted budget increases that improve the agency's information technology (IT) infrastructure and data security could prevent harmful and embarrassing data breaches like the ProPublica series on high-income filers' tax returns. As NTU Foundation has noted, "A 2020 report by the Treasury Inspector General for Tax Administration looked at 67 requests for taxpayer data that should have been monitored for unauthorized access. Of these, just 6 received adequate scrutiny—30 received inaccurate and incomplete audit trails, and 31 received no audit trails at all."³
- **Require the Agency to Reduce its Response Time for Resolving ID Theft Claims:** The agency is currently taking nearly a year to resolve identity theft claims, a significant increase from their average response time "due to extenuating circumstances."⁴ However, outside of extenuating circumstances, the agency's average response time is 120 days. Taking 4 months to a year to respond to identity theft claims is unacceptable, and the agency should work with Congress to reduce the average response time to identity theft claims. If this requires a targeted funding increase, so that the agency may hire more personnel to respond to identity theft claims, Congress should carefully consider such a request.
- **Evaluate and Remediate Problems with Current Taxpayer Rights Laws.** Both practitioners and the taxpayers they represent have raised concerns that the Independent Office of Appeals created by the Taxpayer First Act of 2019 is under-resourced, and that agency guidance released subsequent to the law's enactment may be limiting taxpayer access to this critical avenue of redress. At the same time, the tripartite accountability structure of the National Taxpayer Advocate, Treasury Inspector General for Tax Administration, and IRS Oversight Board has been tottering because the latter element has not had a quorum to function for many years. These are but two examples where Congress needs to step in and affirm or even strengthen its intent to provide more safeguards for taxpayers.

Improving Customer Service at the Agency

One area of the IRS budget where additional funding may be required is customer service. Taxpayers currently experience long wait times to reach an IRS agent with questions or concerns about their tax return, if they can even reach a real agency representative at all. While some IRS customer service struggles are no doubt tied to the agency's slow pace at modernization and its resource constraints, some are unique to this tax filing season and the challenges of the COVID-19 pandemic. Congress can step in with several reforms, outlined below. In some cases, emergency funding directed at the agency's short-term obstacles may be necessary.

- **Expand Funding for Taxpayer Services:** Narrowly tailored funding increases—targeted at, for example, hiring more customer service representatives to answer taxpayer questions or hiring more agents to reduce the agency's return backlog—could benefit both taxpayers and the agency as they face a difficult 2022 filing season. NTU Foundation noted in February, "[p]roviding the agency with emergency funding earmarked for the taxpayer services account

²Sepp, Pete; and Lautz, Andrew. "Senate Bill Would Provide Small Business Taxpayers With New Rights." NTU, May 17, 2021. Retrieved from: <https://www.ntu.org/publications/detail/senate-bill-would-provide-small-business-taxpayers-with-new-rights>.

³Wilford, Andrew; Sepp, Pete; and Bishop-Henchman, Joe. "Taxpayers Desperately Need Help with Disastrous Filing Season." NTU Foundation, February 17, 2022. Retrieved from: <https://www.ntu.org/foundation/detail/taxpayers-desperately-need-help-with-disastrous-filing-season>.

⁴Internal Revenue Service. "IRS Operations During COVID-19: Mission-critical functions continue." Updated March 18, 2022. Retrieved from: <https://www.irs.gov/newsroom/irs-operations-during-covid-19-mission-critical-functions-continue> (Accessed April 6, 2022.)

would at least reduce the problems that taxpayers are likely to face over the coming months.”⁵

- **Ensure That Taxpayers Are Not Punished for IRS Delays:** NTU and NTU Foundation have been leaders in demanding the IRS and/or Congress provide taxpayers with immediate relief for delays that are no fault of their own. A bipartisan group of lawmakers have made similar demands, indicating support across the ideological spectrum for immediate taxpayer relief this filing season. Lawmakers’ demands have included “that the IRS halt late fees and penalties for taxpayers who have paid 70 percent of assessed tax liability and have pending penalty abatement requests waiting to be processed. [Demands also include] halting automated collections until three months after the end of this tax season, and temporarily speeding up the reasonable cause penalty abatement process by eliminating the need for written correspondence.”⁶
- **Provide a Legislative Fix to “One Day Late” Dispute:** One area where Congress can step in is for taxpayers who have been harmed by the current IRS position that “any taxpayer who fails to file an appeal within 30 days forfeits all rights to go to Tax Court.” As NTU Foundation has written, “The IRS concedes that 26 U.S.C. § 6330(d)(1) allows taxpayers to go to Tax Court, but they argue that a parenthetical reference to ‘such matter’ instead of ‘such determination’ means that Congress intended to forbid judges from granting equitable relief to taxpayers who miss the deadline. This harsh reading is at odds with the rest of the 1998 law, with common law equitable doctrines, and other provisions in the same statute.”⁷ Congress could clarify the statute so that judges may grant relief to taxpayers who miss the deadline.
- **Apply a Consistent Mailbox Rule Deadline to Electronically Submitted Payments:** According to NTU Foundation, “Taxpayers who mail checks to the IRS can utilize the ‘mailbox rule’ of 26 U.S.C. § 7502, which treats paper payments as timely if mailed with a postmark before the deadline. By contrast, the Treasury Department’s Electronic Federal Tax Payment System (EFTPS) states that electronic payments must be made by 8:00 PM Eastern Time the day before the deadline in order to be timely.”⁸ These uneven rules effectively punish taxpayers trying to file electronically, and Congress should amend the law to equalize the electronic filing rules with the current “mailbox rule” for paper returns.
- **Increase Interest Rate for Delayed Refunds:** NTU Foundation’s February paper also recommended increasing the three-percent interest rate on tax refunds, amid significant IRS processing delays and historic levels of inflation that exceed three percent.⁹
- **Raise the 1099-K Reporting Threshold:** NTU Foundation has written extensively on the need for Congress to raise the reporting threshold for 1099-K forms, which Congress recently changed from 200 transactions and \$20,000 on web platforms to just \$600. The new \$600 threshold is a burden to online sales platforms, digital economy apps, and millions of workers across the country. While NTU would prefer that Congress revert to the \$20,000 and 200 transaction thresholds, there are bipartisan proposals to raise the threshold above the current \$600 level, including to \$5,000.¹⁰

Modernizing the IRS

As NTU Foundation wrote in February of this year, IRS technology and infrastructure are in many cases woefully inadequate and outdated.¹¹ NTU and NTU Foundation have compiled numerous recommendations to hasten the pace of the agency’s modernization efforts. We recognize that narrowly-tailored funding increases, relative to the agency’s current baseline, may be necessary to facilitate more rapid modernization. However, if expanding IRS electronic filing options, for example, or updating years- or sometimes decades-old infrastructure improves the agency’s abil-

⁵ Wilford, Andrew; Sepp, Pete; and Bishop-Henchman, Joe. “Taxpayers Desperately Need Help with Disastrous Filing Season.” NTU Foundation, February 17, 2022. Retrieved from: <https://www.ntu.org/foundation/detail/taxpayers-desperately-need-help-with-disastrous-filing-season>.

⁶ *Ibid.*

⁷ *Ibid.*

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ Yopez, Will. “Bipartisan Focus on 1099-K Reporting Issue Will Hopefully Lead to Taxpayer Relief.” NTU, March 18, 2022. Retrieved from: <https://www.ntu.org/publications/detail/bipartisan-focus-on-1099-k-reporting-issue-will-hopefully-lead-to-taxpayer-relief>.

¹¹ *Ibid.*

ity to answer taxpayer questions and deliver tax refunds, the benefits of such targeted funding increases may outweigh the short-term costs to taxpayers.

- **Promote Increased Digitization of Tax Filing and Processing:** As NTU Foundation wrote in February, “A good number of . . . paper filings occur because the IRS does not accept certain forms in digital format. Even among those that have been recently converted, some are still manually processed, such as Form 1040–X, or amended individual returns. If the IRS had the capability to automatically process the 3.6 million Forms 1040–X it received in 2021, it would significantly cut down on processing delays.”¹² Congress and the agency should prioritize electronic filing and processing for all or nearly all tax forms.
- **Promote Improved Digital Communications Tools:** NTU Foundation also recommended in February that the IRS “expand the use of virtual assistants” and increase the use of “existing secure digital communications tools” that allow taxpayers to contact the agency through email, text chat, and digital attachment uploads. Such efforts could reduce the amount of phone calls taxpayers make to the agency, reducing wait times for those taxpayers, resolving their questions or concerns faster, and putting less of a burden on the agency’s workforce in the process.

Enforcing the Nation’s Tax Laws

NTU remains strongly opposed to efforts to send the IRS \$80 billion largely for enforcement purposes. The agency is ill-equipped to handle its basic customer service, processing, and data security responsibilities, much less an \$80 billion bucket of cash aimed at generating revenue to pay for a variety of new federal spending programs. However, the tax gap remains a relevant concern for the agency and for taxpayers, and both Congress and the IRS should explore measures to reduce the tax gap that nonetheless respect taxpayer rights and privacy. NTU outlines a few possible paths forward below. We would remind lawmakers that the IRS’s mission statement, which was given a great deal of forethought in its development some 25 years ago, is to “provide America’s taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.” Fulfilling this mission first can actually help, not hinder, the IRS’s functions of law enforcement, which continue to rely heavily on voluntary compliance. Above all, the agency should move slowly on reducing the tax gap—starting with more up-to-date estimates of the current tax gap—and Congress should not see tax gap reduction as consequence-free revenue to pay for new or expanded government programs.

- **Demand an Updated Study From the IRS on the Tax Gap:** The last tax gap estimate from the IRS, completed nearly 3 years ago, covers tax years 2011–2013—9 to 11 years ago. Though the IRS is reportedly working on a 2022 study for tax years 2014 through 2016, and though data lag continues to be an issue in providing up-to-date estimates of the tax gap, Congress should require a more robust analysis from the IRS of the present-day tax-gap estimated using new IRS methodologies referenced by an official in 2021 testimony to the Senate Finance Committee.¹³
- **Require an IRS Plan for Reducing the Tax Gap for Nonfarm Proprietor Income:** According to the most recent IRS study of the tax gap, the single largest component of the gap is underreporting of non-farm proprietor income—a total of \$68 billion, or more than 15 percent of the estimated gross tax gap.¹⁴ The agency should have a detailed plan for reducing this gap in particular.¹⁵ That action plan should include steps to protect the due process rights of small businesses who report income on individual returns (so-called “pass-through income”). Another useful element of such a plan would be to compare the cost-effectiveness of alternative strategies for closing this gap. For example, would creation of an administrative quadrennial simplification process for tax law af-

¹² *Ibid.*

¹³ Senate Committee on Finance. “Written Testimony of Internal Revenue Service Before the Senate Finance Committee Subcommittee on Taxation and IRS Oversight on the Tax Gap.” May 11, 2021. Retrieved from: <https://www.finance.senate.gov/imo/media/doc/2021%20Donnell%20Johnson%20Tax%20Gap%20Written%20Testimony%20SFC%20051121.pdf> (Accessed April 6, 2022.)

¹⁴ Internal Revenue Service. “Federal Tax Compliance Research: Tax Gap Estimates for Tax Years 2011–2013.” September 2019. Retrieved from: <https://www.irs.gov/pub/irs-pdf/p1415.pdf> (Accessed April 6, 2022.)

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fecting small business, along with more resources to promulgate advance guidance, yield better compliance (and revenue) than relying more heavily on examinations and investigations? Such research is not beyond the capabilities of IRS technical experts.

In conclusion, the IRS faces significant short-term challenges with the 2022 tax filing season, and long-term challenges related to the agency's structural flaws and outdated infrastructure. A pot of cash for tax law enforcement will not improve customer service and data security at the agency, nor are we convinced that the agency's FY 2023 budget request meets all of the above challenges outlined by NTU, NTU Foundation, and other stakeholders in the taxpayer advocate community. Congress should carefully consider requests from the agency to increase budgets in various accounts, but should also insist that any budget increases are fully offset and come with robust reforms aimed at solving the agency's long-term struggles. We appreciate your consideration of our recommendations, and should you have any questions we are at your service.

Sincerely,

Pete Sepp,
President

Andrew Lautz
Director of Federal Policy

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April 21, 2022

Hon. Ron Wyden
Chairman
U.S. Senate
Committee on Finance
219 Dirksen Senate Office Bldg.
Washington DC, 20510

Hon. Mike Crapo
Ranking Member
U.S. Senate
Committee on Finance
219 Dirksen Senate Office Bldg.
Washington DC, 20510

Re: Written Comments for April 7, 2022, Hearing on "The IRS, the President's Fiscal Year 2023 Budget, and the 2022 Filing Season"

Dear Chair Wyden and Ranking Member Crapo:

On behalf of the Professional Managers Association (PMA)—the non-profit professional association that has, since 1981, represented professional managers, management officials, and non-bargaining unit employees at the Internal Revenue Service (IRS)—I write to urge the Committee to support robust and timely appropriations for the IRS.

PMA vehemently supports the White House's request for a \$14.1 billion in funding for the Service with \$310 million dedicated for systems modernization. When Congress allocated \$12.6 billion for the IRS in FY 2022, PMA applauded the historic investment in the IRS and the bipartisan recognition of the IRS's financial constraints. However, we also level set expectations: At \$12.6 billion in funding, the IRS is still nearly \$4 billion below its 2011 peak of \$16.4 billion,¹ when accounting for inflation.

Ranking Member Crapo is correct to point out that the IRS, despite funding, has failed to modernize its technology systems in a meaningful way. However, the culprit for this inefficiency is closer to home than the Senator assumes.

The IRS cannot modernize under the current broken appropriations process. Congress passed three continuing resolutions prior to passing FY 2022 appropriations, passed the measures five months late, and Congress is now scheduled to appropriate FY 2023 funds in just 6 months. The IRS cannot enact long-term plans to modernize its IT system when it is unsure what funding it will have in six months.

¹<https://www.irs.gov/statistics/irs-budget-and-workforce>.

The constant inability of Congress to fund the government adequately and on time has widespread ramifications on long-term planning, mission delivery, and taxpayer services. Each year when Congress delays appropriations, the IRS is placed in a continuing resolution state where the Service is deeply cautious and limited in its spending. The IRS also cannot conduct robust hiring, onboarding, and training while on a continuing resolution. This makes employees less equipped to handle the tax season and leads to more frustrations for taxpayers.

Most recently, this Committee expressed frustration that the IRS has not yet fully spent the \$1 billion allocated in the American Rescue Plan Act (ARPA). As the National Taxpayer Advocate Erin Collins explained, this discrepancy boils down to the consistency of funding. Each time Congress fails to pass appropriations, the IRS must cautiously couch funding to ensure it can continue functioning if additional funding does not materialize. Congress's inability to pass consistent and timely appropriations makes long term planning, and execution of those plans, impossible.

For example, when Congress passed ARPA, it passed IRC Section 6428B. The provision says: "\$1,464,500,000 to remain available until September 30, 2023 for necessary expenses for the Internal Revenue Service for the administration of the advance payments, the provision of taxpayer assistance, and the furtherance of integrated, modernized, and secure Internal Revenue Service systems, of which up to \$20,000,000 is available for premium pay for services related to the development of information technology as determined by the Commissioner of the Internal Revenue occurring between January 1, 2020 and December 31, 2022, and all of which shall supplement and not supplant any other appropriations that may be available for this purpose."

In prior years, the IRS had to raid its personnel budget to fund IT overages, and it seems likely the IRS is spending these funds cautiously because other modernization dollars might not materialize and, if they do not, the IRS will need the \$1 billion for "the furtherance of integrated, modernized, and secure Internal Revenue Service systems" which, again, they have all the way until 2023 to spend.

In our view, the IRS is being responsible—it spent a third or so in FY21, perhaps it will spend a third or so this year rather than raid personnel budgets and leave the balance for FY23. The IRS is not hiding this money in a rainy-day fund—Congress specifically authorized the agency to hold the money. To its credit, the IRS is currently deploying those funds to help mitigate its historic backlog. We are proud of the agency for making more than 2,500 job offers in the past month.

PMA ultimately agrees that the IRS must have robust plans for onboarding new employees, addressing the backlog, and modernizing the IT systems. But Congress's failure to pass timely and robust appropriations stifles all these plans.

Further, the Committee's focus on 2D bar-code scanning, while helpful, is misplaced. It is true the IRS's IT must be updated and 2D barcode scanning would be an element of that modernization. But it is a drop in the ocean. Most of the IRS's paper "kryptonite" will not be alleviated by 2D scanning, especially considering our outdated computer system will not likely integrate with most modern scanners. This also assumes that the agency's paper burden is primarily original tax returns—tax returns are the smallest component of the IRS's service-wide paper inventory. The IRS needs real investment and real long-term solutions, not band aids or a piecemeal approach.

For these reasons, PMA support multi-year funding dedicated to IRS technology modernization. All IRS technology needs a facelift, not just our scanning systems. The IRS is the largest revenue source for the federal government—simply put, we fund freedom. Yet, the IRS's aging IT infrastructure does not reflect the IRS's critical role in our nation.

There is not a single federal lawmaker who has been working for 61 years—there should not be an IT system that has been working for that long without modernization. Our nation should not rely on technology that predates Hawaii statehood, the Berlin Wall, and the Space Needle. Dedicated, multi-year funding for IT modernization would allow the Service to take consistent steps toward improvement isolated from Congress's annual appropriations panic.

Only with consistent, robust, and timely funding can the IRS truly improve the quality of taxpayer services for all Americans; therefore, we urge the Committee to support our call for dedicated, multi-year funding for IRS technology.

Thank you for your consideration of PMA's perspective. Please contact PMA Washington Representative Natalia Castro (ncastro@shawbransford.com) if we can be of

further assistance on these matters or provide addition insights on the issues facing the IRS.

Sincerely,
 Chad Hooper
 Executive Director

LETTER SUBMITTED BY KEIKO I. PULIN

Dear Chairman Wyden, Ranking Member Crapo, and Members of the Committee:

I am an American citizen and am a registered voter in the County of Orange in the State of California where I had lived most of my life. I moved to New Zealand in 2014 for love; my love is a retired New Zealander and he and I live in Auckland where we recently moved to a retirement community. I received my New Zealand Permanent Resident Visa in 2018.

I am a New Zealand Tax Resident and my income is subject to full taxation under the laws of New Zealand. I try very hard to fulfill the requirements of the U.S. tax system in addition to the tax requirements in New Zealand. The reality, though, is that the U.S. requirements (especially the myriad of required informational filings) get increasingly burdensome every year, and the compliance costs for knowledgeable tax preparers are egregious. I am tax compliant but still have painful issues because of complex requirements. I pay over \$2,500 in fees for my U.S. tax preparer and an additional \$2,700-plus for my New Zealand tax accountant.

The extraterritorial application of the U.S. federal income tax system is a painful issue for the 9 million U.S. citizens who reside outside the United States. In a survey¹ of 1,564 overseas resident citizens conducted by Stop Extraterritorial American Taxation (“SEAT”), an independent, non-partisan not-for-profit association, 46% of participants agreed with the statement “I pay significant fees for preparation of tax return but owe nothing in U.S. taxes,” with 41% of those who engaged a professional preparer paying more than \$1,000 in fees.

This is a reflection of the burden non-residents face due to complex information reporting requirements related to ordinary banking, investment and pension products which are “foreign” to the United States but just a part of living an ordinary financial life in one’s country of residence.

The uniquely American definition of “tax residency” includes the imposition of taxation on the worldwide (including non-U.S. source) income of persons who are tax residents of other countries. This system requires the IRS to do the impossible: to administer not only a domestic tax system for U.S. residents and a system of source taxation for non-resident aliens, but also an extraterritorial one whose details are defined by unique interactions with the tax codes of other countries in the world.

Administering an extraterritorial tax system has become an overwhelming task, both procedurally and substantively. The IRS cannot remotely serve U.S. tax residents in the more than 100 countries in the world where they live, let alone in the languages that they speak. Nor can the IRS know how U.S. laws apply to the local financial services, small business structures, and retirement savings plans that are common in all those other countries.

Indeed the IRS itself has identified “international taxpayers” as a community which is underserved by the IRS. Although the IRS’s Publication 54, “Tax Guide for U.S. Citizens and Resident Aliens Abroad,” is helpful, it does not adequately enable non-resident taxpayers to understand their U.S. tax obligations in the context of the financial systems of the countries in which they live. Since IRS guidance is not sufficient for non-resident taxpayers to accurately understand how the U.S. tax system applies to them, they require the support of professional tax service providers, which is unaffordable for many.

The IRS’s inability to provide non-resident taxpayers with essential services violates several aspects of the Taxpayer Bill of Rights, including the following:

- The right to be informed, including the right to know what to do to comply with tax laws and the right to receive clear explanations.
- The right to quality service, including the right to receive prompt service and clear and easily understandable communications from the IRS.

¹http://seatnow.org/survey_report_intro_page/.

- The right to pay no more than the correct amount of tax, including the right to have the IRS apply all tax payments properly.
- The right to a fair and just tax system, including the right to expect the tax system to consider facts and circumstances that might affect taxpayers' underlying liabilities and ability to timely provide information.

In order for the IRS to fairly administer the system of extraterritorial taxation which the United States currently imposes, **the IRS must provide equal levels of service to both taxpayers resident in the United States and non-resident U.S. citizens. The level of service currently provided by the IRS is highly unequal.**

In a paper entitled, "Mission Impossible: Extraterritorial Taxation and the IRS" published in the *Tax Notes Federal* journal, authors Laura Snyder, Karen Alpert and John Richardson² explain that the failure of the IRS to provide access to the following services, individually and collectively, constitute violations of the Taxpayer Bill of Rights:

- In-person assistance.
- Toll-free telephoning.
- Knowledgeable IRS agents.
- Online accounts.
- E-filing.
- Timely delivery of postal mail (which usually takes 7 to 8 weeks and longer).
- Use of other languages.
- Explanations of tax obligations.
- Making payments to the IRS.
- Receiving payments from the IRS.
- Third-party assistance.
- Low income taxpayer clinic.
- IRS internal organization.

According to Snyder, et al., these failures when considered as a whole, "manifest a systemic pattern of discriminatory treatment of international taxpayers as compared with domestic taxpayers. The collective failures are evidence that the IRS is either unable or unwilling to administer an extraterritorial tax system."

With limited ability to interface with non-resident taxpayers, the IRS has shut itself off from taxpayers, and as a result is unable to determine whether the taxpayer is providing accurate information, unless the IRS selects his or her return for audit. For their part, Americans living abroad are subject to potentially devastating penalties for failure to file a variety of documents accurately, even for inadvertent non-compliance. According to the SEAT survey, 80% "experience personal stress in relation to U.S. taxation," a large part of which is due to the constant sense of fear because of the excessive penalties that could be applied for making an honest mistake in tax compliance. The inability of the IRS to address their questions makes it more likely that filers will get it wrong. As a result, the inaccessibility of these basic services leads to further non-compliance, as evidenced by the low rate of filing compared to domestic citizens.

The IRS should take immediate steps to address the many valid concerns that have been raised by Americans abroad. **If the IRS is unwilling or unable to administer a system of extraterritorial taxation, then it is time for Congress to take action to cease the imposition of tax on the non-U.S. source income of non-residents.** The cost-benefit analysis of the impact of a transition from citizenship-based taxation to a residence-based system of taxation should include an assessment of the investments which would be required to enhance the capabilities of the IRS to provide fair and equitable support to non-resident taxpayers under the current system.

The practice of imposing U.S. worldwide taxation on individuals, who are tax residents of other countries, because of their citizenship is a uniquely American practice. In 2015, the Senate Finance Committee embarked on an extensive study of the U.S. international taxation. On the last page of the 82-page report³ (released in July of 2015), it was stated that:

²Snyder, Laura, et al. "Mission Impossible: Extraterritorial Taxation and the IRS," *Tax Notes Federal*, Volume 170, March 22, 2021.

³<https://www.finance.senate.gov/imo/media/doc/The%20International%20Tax%20Bipartisan%20Tax%20Working%20Group%20Report.pdf>.

F. Overseas Americans

According to working group submissions, there are currently 7.6 million American citizens living outside of the United States. Of the 347 submissions made to the international working group, nearly three-quarters dealt with the international taxation of individuals, mainly focusing on citizenship-based taxation, the Foreign Account Tax Compliance Act (FATCA), and the Report of Foreign Bank and Financial Accounts (FBAR).

While the co-chairs were not able to produce a comprehensive plan to overhaul the taxation of individual Americans living overseas within the time-constraints placed on the working group, the co-chairs urge the Chairman and Ranking Member to carefully consider the concerns articulated in the submissions moving forward.

It is now 2022 and there has been no consideration of the taxation of U.S. citizens who live outside the United States as tax residents of other countries. Notably, in the Spring of 2021, the Senate Finance Committee conducted numerous hearings about international tax issues. In spite of numerous submissions by impacted individuals and advocacy groups, the issues of Americans abroad were not considered. No one representing Americans abroad was invited to be a witness.

The combination of U.S. citizenship-based taxation and FATCA is destroying the lives of U.S. citizens living outside the United States who are bona fide residents (and tax residents) of other countries. Issues causing a particularly devastating impact include:

1. Double taxation—due to misalignment of tax systems—that cannot be mitigated using the Foreign Earned Income Exclusion, Foreign Tax Credit, or existing Tax Treaties.
2. Disproportionately high tax-preparation costs and excessive compliance risks associated with information reporting required for financial assets held in a U.S. citizen's country of residence, which harms ordinary Americans who are unable to afford sophisticated tax preparers, which (as noted) can be prohibitively expensive even if no tax is owed.
3. Excessively large and regressive penalties related to information reporting errors that far exceed taxes owed or balances of accounts concerned and individuals' ability to pay.
4. Americans abroad with a non-U.S. citizen spouse facing discriminatory treatment in the tax code and greater difficulty in meeting filing obligations due to the lack of a Social Security Number for their spouse.
5. Corporate tax rules intended to apply to overseas subsidiaries of multinational corporations that are applied to small businesses owned by Americans residing abroad, resulting in unreasonably high compliance costs and punitive taxation of undistributed income.
6. A lack of access to necessary financial products and services caused by a mix of burdensome reporting obligations and punitive treatment of local products in the U.S. tax code.

I urge the Senate Finance Committee to hold a hearing focused on the difficulties U.S. citizens who reside outside the United States are facing in navigating the increasingly complex extraterritorial tax compliance regime that the U.S. imposes on its non-resident citizens. These issues are not well known or understood, but they are a tremendous burden on millions of ordinary people who happen to live overseas.

The best solution to this problem is for the U.S. to come into alignment with every other developed nation on the planet and move to a residence-based taxation system for individuals. U.S. citizens who are tax residents of other countries would continue to be liable to pay U.S. Federal income tax on any income which is effectively connected with the United States, as all non-resident aliens do, by using Form 1040-NR instead of Form 1040.

Thank you for your attention to this matter.

Keiko I. Pulin

LETTER SUBMITTED BY AMY PURCELL

U.S. Senate
Committee on Finance

To whom it may concern,

I am writing to request that USA adopt resident-based taxation. I feel it is necessary abolish the unfair tax and reporting burdens to which USA citizens abroad are subject. I am a USA citizen abroad. I live in Australia, where I was born. I have never lived in USA. My USA citizenship is due to my American mother. I earn no USA income and own no USA assets. I feel that these requirements are burdensome and unfair. I would gratefully appreciate your assistance in this matter please.

I have been advised that these regulations have been applied to everyone, irrespective of economic status or geographic location in order to ensure that USA has the opportunity to catch tax cheats. As I am sure you are aware, the majority of people are average income earners with no opportunity or incentive to cheat tax. Also, the majority of people lack the financial sophistication to earn income in multiple countries. Accordingly, I feel these regulations are punishing the majority of people for the crimes of a few. Applying tax and reporting laws to every USA citizen in the world is an over-reaction. There would be methods of catching tax cheats without the need to resort to such extreme measures. Please consider that this system is not catching tax cheats anyway, but it is simply hurting innocent people. This is not a good representation of America on an international level.

I feel that paying any tax to USA government offers me no benefit since I do not live in America. Dual citizens and expats are already paying tax in the countries we live in. The services we use are provided by the countries we live in, so it is fair we should pay to the countries we live in. It is not fair for us to file taxes or to pay taxes to USA when we are not currently benefitting from the services provided by USA.

I acknowledge that there are foreign income tax concessions. These often reduce and even eliminate an American tax liability. However, the paperwork involved in this is excessive and time consuming. There is also the obvious risk that if I make a mistake on my USA tax statement, this could cost me a significant amount of money.

To prevent the risk of expensive mistakes on a tax return, it is necessary to hire a tax specialist. However, this is very expensive. On average, the price will amount to \$650 Australian dollars per year filed. This equates to USD\$480 per year. This expense is exorbitant for an average person, especially when trying to be compliant with law of a country we don't live in and don't earn in.

I was shocked to learn that the IRS can tax me on the sale of my primary residence here in Australia. I pay for this home out of my Australian money which I earn from my Australian job. The services provided to that home are provided by Australian governments. It is important to note that in Australia, the sale of a primary residence is exempt from capital gains tax. While this means that there is no obvious risk of double taxation on the capital gain, I still see no reason why USA has a right to tax the capital gain, even though I am a USA citizen. America has no role in my primary residence and therefore should not have the right to tax the capital gain, even though I am a USA citizen.

I have also been told that my Australian retirement fund is subject to USA tax. In Australia, retirement funds are mandatory. Each time we are paid by our employer, our employer deposits part of our pay into a retirement fund on our behalf. This is so that we have money to live on when we retire. Of course, the money deposited into these retirements fund are Australian as it is earned from our Australian jobs. Yet, when we retire and withdraw the money to live off, the USA taxes this money. USA citizens residing in Australia may end up in poverty in senior years because of this as Australian government is phasing out the aged pension. I consider the practice of taxing our retirement funds to be unfair and uncompassionate.

The Foreign Account Tax Compliance Act (FATCA) has caused great difficulty to USA citizens abroad. While I acknowledge that FATCA was introduced to prevent USA citizens from avoiding tax by utilizing foreign bank accounts, the outcome of this law has been terrible. Many USA citizens around the world have been prevented from accessing banking services in their country of residence because those banks are unwilling to comply with USA's reporting requirement. Accordingly, these banks purge themselves of USA clients, thereby leaving the USA citizens without access to banking services.

The Foreign Bank Account Reporting (FBAR) also needs to be repealed. This requirement is time-consuming and the potential penalties for an error or missed FBAR are astronomical. As this reporting requirement requires us to state the bank details and not the source of income, this process is not helpful to IRS in determining whether the citizen abroad may be a tax cheat. The threat of fines ranging between USD\$10,000 and half the value of the account are a great cause of stress to citizens abroad. Also, as stated, the money in our accounts is not American in origin anyway. Therefore, I consider that our bank accounts are not the business of the USA government and the fines are unconscionable.

It has been suggested to me that I consider renouncing my USA citizenship if I find the tax obligation to be too onerous. However, it is a condition that any tax obligation be complete prior to renouncing a USA citizenship. Outstanding fines on income and assets originated from our country of residence could prevent successful renunciation. Additionally, there is a substantial fee of \$2,350 to renounce USA citizenship. This fee is not affordable to the average person. Considering the renunciation often occurs as a result of unfair tax expenses, this \$2,350 fee can cause financial distress to an average person. Nevertheless, it is noted that the number of renunciations has increased significantly since the introduction of FATCA. Removing citizenship taxation and FATCA would significantly reduce the number of renunciations of USA citizenship.

As I stated earlier, as a USA citizen abroad, I have no representation in USA government. Yet, I am bound by whatever decisions the USA government imposes upon me. I have often heard it said that in USA, there is a culture of no taxation without representation. Since it is not possible to provide USA citizens abroad with representation, I feel it is necessary to cancel the taxation obligation in order to comply with this requirement.

You will certainly be disappointed to learn that the tax and reporting requirements have created tensions between USA homeland citizens and USA citizens abroad on social media platforms. Many arguments have occurred on social media over this issue as homeland citizens and representatives of USA government have attempted to persuade citizens abroad to adopt a more positive attitude towards citizenship-based taxation as well as voting in USA elections. A number of citizens abroad, myself included, have stated in these threads that we see no value in voting or participating in civic life in USA when we feel so used by USA government. Obviously, this in turn has the effect of insulting homeland citizens and representatives. Therefore, the policy of taxing citizens abroad is clearly responsible for the perceived lack of value in USA citizenship.

I have been told that the citizenship-based approach to taxation rules adopted by USA is also only used in Eritrea. Every other country uses a resident-based approach to taxation. I consider a resident-based approach to taxation to me more equitable as it imposes the financial liability as well as the paperwork on those who live there and benefit from the services. I feel that USA should consider using a resident-based approach to taxation.

I would appreciate it if you would please assist in the removal of this onerous obligation upon citizens abroad.

Kind Regards,

Amy Purcell

LETTER SUBMITTED BY ELIZABETH RUH, EA ET AL.

April 8, 2022

U.S. Senate
Committee on Finance

Dear Senators:

We are writing today in a desperate hope that someone will listen to us. We are practitioners, many of us small mom and pop operations just trying to make an honest living. We are trying to help our fellow Americans stay compliant with our voluntary tax system. We are exhausted and are in desperate need of your assistance for our profession to survive.

Since the pandemic we have been working non stop to keep up with the changes, assist the public with learning, applying for and honestly obtaining all the various

options for COVID Relief. We were learning on the fly. Making assumptions (conservative) while we waited on guidance. We have weathered mid-season tax law changes that affected returns we already filed. Meaning we had to touch completed files all over again during our busiest part of the filing season. We have survived shut downs. We have been trying for years to get clients refunds released or unnecessary letters to be resolved. We are exhausted.

We thought this year would be better. It is not. It seems every single return we touch is more complicated than ever. Exploding cryptocurrency investors, K2/K3 issues, advanced child tax credit issues, stimulus issues. Our clients are exhausted. They are weary of all our questions and document requests. They fight us every step of the way because they do not understand why this is so hard now. Our administrative staff is beat down by the new customer service culture we are experiencing. The general public has no idea how complicated taxes have become and they are mad we cannot keep up like we used to.

We are exhausted. We want quality of life returned to us. Our filing season is now compressed to about three weeks with brokerage statements often having until March 15th to be finalized. We are unable to work enough hours to get it all done, let alone get it all done well. The public does not understand this, and we are taking beatings.

We fully support the IRS receiving all the funding it needs to correct their problems, modernize its technology and improve customer service. We are leery that the IRS will have success finding more people to hire, as is the experience of the rest of the country also trying to hire.

Our one main request at this time is that the filing season be permanently extended to July 15th or even October 15th. We are wasting time filing and trying to calculate extensions when with just a few more months available to us we could have just filed the return.

We are exhausted. We need your help to keep this tax system functioning.

Sincerely,

Elizabeth Ruh, EA
Personal Financial Services, LLC

Matthew J. Cordes, EA

Scott T Rediger, CPA

Chase Helms, EA

Mark Burch, EA

Matt Metras, EA

Denise C Yelvington, CPA, Sheffield
Advisors

Franklin Bryant, EA

Andra Zachow, Ingalls Associates PA
CPAs

Olivia Henley, EA

Charles Streig, CPA

Joe Kristan

Logan Graf, CPA

Alicyn McLeod, CPA, Atlanta Tax LLC

Andrew Carroll, CPA

Scott Sanchez, S&S Accounting, LLC

Katherine Graci

Adam Markowitz, EA, Howard L
Markowitz PA CPA

Jason Staats

LETTER SUBMITTED BY LINDA SCURR

Dear Chairman Wyden, Ranking Member Crapo, and Members of the Committee:

I came to live in England from Florida, 30 years ago, after marrying my husband, who is English. While I enjoy visiting the U.S. to see family and friends, my life is here, and I will most likely never go back to the U.S. to reside.

As a result, my financial life is entirely in England, and my income is subject to full taxation under English laws. I try very hard to fulfill the requirements of the U.S. tax system in addition to the tax requirements of England. The reality, though, is that the U.S. requirements (especially the myriad of required informational filings) get increasingly burdensome every year, and the compliance costs for knowledgeable tax preparers are egregious. I usually spend at least \$500 per year to get my tax return prepared and I can't understand why this burden is considered to be acceptable.

The extraterritorial application of the U.S. federal income tax system is a painful issue for the 9 million U.S. citizens who reside outside the United States. In a survey¹ of 1,564 overseas resident citizens conducted by Stop Extraterritorial American Taxation (“SEAT”), an independent, non-partisan not-for-profit association, 46% of participants agreed with the statement “I pay significant fees for preparation of U.S. tax return but owe nothing in U.S. taxes,” with 41% of those who engaged a professional preparer paying more than \$1,000 in fees.

This is a reflection of the burden non-residents face due to complex information reporting requirements related to ordinary banking, investment and pension products which are “foreign” to the United States but just a part of living an ordinary financial life in one’s country of residence. I have an investment trust, for example, to help save for my retirement, but have been forced to pay taxes on it to the U.S. because it is a “foreign” company.

The uniquely American definition of “tax residency” includes the imposition of taxation on the worldwide (including non-U.S. source) income of persons who are tax residents of other countries. This system requires the IRS to do the impossible: to administer not only a domestic tax system for U.S. residents and a system of source taxation for non-resident aliens, but also an extraterritorial one whose details are defined by unique interactions with the tax codes of other countries in the world.

Administering an extraterritorial tax system has become an overwhelming task, both procedurally and substantively. The IRS cannot remotely serve U.S. tax residents in the more than 100 countries in the world where they live, let alone in the languages that they speak. Nor can the IRS know how U.S. laws apply to the local financial services, small business structures, and retirement savings plans that are common in all those other countries.

Indeed the IRS itself has identified “international taxpayers” as a community which is underserved by the IRS. Although the IRS’s Publication 54, “Tax Guide for U.S. Citizens and Resident Aliens Abroad,” is helpful, it does not adequately enable non-resident taxpayers to understand their U.S. tax obligations in the context of the financial systems of the countries in which they live. Since IRS guidance is not sufficient for non-resident taxpayers to accurately understand how the U.S. tax system applies to them, they require the support of professional tax service providers, which is unaffordable for many.

The IRS’s inability to provide non-resident taxpayers with essential services violates several aspects of the Taxpayer Bill of Rights, including the following:

- The right to be informed, including the right to know what to do to comply with tax laws and the right to receive clear explanations.
- The right to quality service, including the right to receive prompt service and clear and easily understandable communications from the IRS.
- The right to pay no more than the correct amount of tax, including the right to have the IRS apply all tax payments properly.
- The right to a fair and just tax system, including the right to expect the tax system to consider facts and circumstances that might affect taxpayers’ underlying liabilities and ability to timely provide information.

In order for the IRS to fairly administer the system of extraterritorial taxation which the United States currently imposes, **the IRS must provide equal levels of service to both taxpayers resident in the United States and non-resident U.S. citizens. The level of service currently provided by the IRS is highly unequal.**

In a paper entitled, “Mission Impossible: Extraterritorial Taxation and the IRS” published in the *Tax Notes Federal* journal, authors Laura Snyder, Karen Alpert and John Richardson² explain that the failure of the IRS to provide access to the following services, individually and collectively, constitute violations of the Taxpayer Bill of Rights:

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²Snyder, Laura, et al. “Mission Impossible: Extraterritorial Taxation and the IRS,” *Tax Notes Federal*, Volume 170, March 22, 2021.

- Timely delivery of postal mail.
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The IRS should take immediate steps to address the many valid concerns that have been raised by Americans abroad. **If the IRS is unwilling or unable to administer a system of extraterritorial taxation, then it is time for Congress to take action to cease the imposition of tax on the non-U.S. source income of non-residents.** The cost-benefit analysis of the impact of a transition from citizenship-based taxation to a residence-based system of taxation should include an assessment of the investments which would be required to enhance the capabilities of the IRS to provide fair and equitable support to non-resident taxpayers under the current system.

The practice of imposing U.S. worldwide taxation on individuals, who are tax residents of other countries, because of their citizenship is a uniquely American practice. In 2015, the Senate Finance Committee embarked on an extensive study of the U.S. international taxation. On the last page of the 82-page report³ (released in July of 2015), it was stated that:

F. Overseas Americans

According to working group submissions, there are currently 7.6 million American citizens living outside of the United States. Of the 347 submissions made to the international working group, nearly three-quarters dealt with the international taxation of individuals, mainly focusing on citizenship-based taxation, the Foreign Account Tax Compliance Act (FATCA), and the Report of Foreign Bank and Financial Accounts (FBAR).

While the co-chairs were not able to produce a comprehensive plan to overhaul the taxation of individual Americans living overseas within the time-constraints placed on the working group, the co-chairs urge the Chairman and Ranking Member to carefully consider the concerns articulated in the submissions moving forward.

It is now 2022 and there has been no consideration of the taxation of U.S. citizens who live outside the United States as tax residents of other countries. Notably, in the Spring of 2021, the Senate Finance Committee conducted numerous hearings about international tax issues. In spite of numerous submissions by impacted individuals and advocacy groups, the issues of Americans abroad were not considered. No one representing Americans abroad was invited to be a witness.

The combination of U.S. citizenship-based taxation and FATCA is destroying the lives of U.S. citizens living outside the United States who are bona fide residents (and tax residents) of other countries. Issues causing a particularly devastating impact include:

³ <https://www.finance.senate.gov/imo/media/doc/The%20International%20Tax%20Bipartisan%20Tax%20Working%20Group%20Report.pdf>.

1. Double taxation—due to misalignment of tax systems—that cannot be mitigated using the Foreign Earned Income Exclusion, Foreign Tax Credit, or existing Tax Treaties.
2. Disproportionately high tax-preparation costs and excessive compliance risks associated with information reporting required for financial assets held in a U.S. citizen's country of residence, which harms ordinary Americans who are unable to afford sophisticated tax preparers, which (as noted) can be prohibitively expensive even if no tax is owed.
3. Excessively large and regressive penalties related to information reporting errors that far exceed taxes owed or balances of accounts concerned and individuals' ability to pay.
4. Americans abroad with a non-U.S. citizen spouse facing discriminatory treatment in the tax code and greater difficulty in meeting filing obligations due to the lack of a Social Security Number for their spouse.
5. Corporate tax rules intended to apply to overseas subsidiaries of multinational corporations that are applied to small businesses owned by Americans residing abroad, resulting in unreasonably high compliance costs and punitive taxation of undistributed income.
6. A lack of access to necessary financial products and services caused by a mix of burdensome reporting obligations and punitive treatment of local products in the U.S. tax code.

I urge the Senate Finance Committee to hold a hearing focused on the difficulties U.S. citizens who reside outside the United States are facing in navigating the increasingly complex extraterritorial tax compliance regime that the U.S. imposes on its non-resident citizens. These issues are not well known or understood, but they are a tremendous burden on millions of ordinary people who happen to live overseas.

The best solution to this problem is for the U.S. to come into alignment with every other developed nation on the planet and move to a residence-based taxation system for individuals. U.S. citizens who are tax residents of other countries would continue to be liable to pay U.S. Federal income tax on any income which is effectively connected with the United States, as all non-resident aliens do, by using Form 1040–NR instead of Form 1040.

Thank you for your attention to this matter.

Mrs Linda Scurr

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April 14, 2022

Please accept this as our submission with respect to the subject of the April 7, 2022 Senate Finance Committee Hearing: “The IRS, the President’s Fiscal Year 2023 Budget, and the 2022 Filing Season.”

The United States is the only developed nation to impose its tax code on all citizens, regardless of where they live, using the same rules for both domestic and international taxpayers. Most other countries assert the right to tax the worldwide income of residents, but not of non-resident citizens. The U.S. taxes the worldwide income of *both* residents (regardless of citizenship) *and* non-resident citizens. Because the Internal Revenue Code has many special and punitive rules for “foreign” income, assets, and investments, this means that U.S. tax rules have a significant impact on the ability of Americans overseas to plan for retirement, invest, run small businesses, and have bank accounts in the countries where they live. While SEAT strongly advocates for a move to taxation based on *residence* rather than citizenship (as widely practiced in the rest of the world), if citizenship-based taxation is to continue, it is incumbent on Congress to carefully consider the impact of new legislation on this subset of American citizens.

The Biden Green Book for fiscal year 2023, released on March 28, 2022, contains a number of proposals to both increase tax rates and increase the tax base by in-

creasing the number of activities that are taxable events. Generally, the proposals include a number of provisions to create and enhance taxation on both income from capital and capital itself. Significantly the Green Book does not suggest a move away from U.S. citizenship taxation toward resident taxation as embraced by the rest of the world. In their totality, the proposals (particularly those that create income realization events when a gift is made) suggest a worsening of the situation for Americans abroad. That said, one proposal “might” (depending on Treasury) allow for the relaxation for the 877A Exit Tax rules, for a narrow group of Americans abroad under certain circumstances.

We would like to highlight six proposals in the Green Book that could have a disproportionate effect on Americans abroad:

1. Raising The Corporate Tax Rate To 28 percent—Creating Subpart F Income and Making More Americans Abroad GILTI—Page 2.
2. Reducing Phantom Gains and Losses: Simplify Foreign Exchange Rate and Loss Rules for Individuals and Exchange Rate Rules for Individuals—Page 90.
3. Strengthening FATCA: Provide for Information Reporting by Certain Financial Institutions and Digital Asset Brokers for the Exchange Of information—Page 97.
4. Expatriation—The Stick: Extend the Statute of Limitations for Auditing Expatriates to Three Years from The Date from Which 8854 Should Have Been Filed (Possibly Forever)—Page 87.
5. Expatriation—The Carrot: Exempting Certain Dual Citizen Expatriates from The Exit Tax—Page 87.
6. Reform the Taxation of Capital Income—Page 30.

1. Raising the Corporate Tax Rate to 28%

The Internal Revenue Code is a complex machine with many interdependent moving parts. Even a change as conceptually simple as raising the corporate tax rate can cause unforeseen problems due to interactions within the tax code. Raising the corporate tax rate will adversely affect Americans abroad with corporations. Unlike Americans living inside the U.S., when Americans abroad own a small business corporation, that corporation is likely to be “foreign” and therefore considered a Controlled Foreign Corporation (CFC) under rules found in 951 to 965 of the Internal Revenue Code. Increasing the U.S. corporate tax rate will affect the ability of American entrepreneurs abroad to avoid double taxation through exclusions to both Subpart F income and GILTI based on the ratio of the effective corporate tax rate paid where they live and the U.S. corporate tax rate. Furthermore, as noted in the Green Book, increasing the corporate tax rate has the effect of increasing GILTI. GILTI and the CFC rules, applied to small businesses run by individual Americans abroad, constitute an additional cost that their local competitors do not bear and therefore erode the competitive position of these entrepreneurs solely because they are American citizens.

2. Reducing Phantom Gains and Losses

All American citizens are tethered to the U.S. dollar as their functional currency. Yet they live their lives in the currency of the country where they reside. Every taxable transaction that takes place in that foreign currency must be converted to the U.S. dollar to determine its U.S. tax impact. Many Americans abroad have experienced the pain of having to pay tax on phantom capital gains. Where an American abroad has a mortgage on their principal residence, these rules operate separately on the mortgage and the value of the home, guaranteeing that there will be a currency gain on one leg of the position and a loss on the other. However, to add insult to injury, with respect to personal use real estate, the gains are taxable, but the losses are not deductible. This peculiar form of the American nightmare is found in Internal Revenue Code 988. The proposal to allow currency losses on a mortgage to the extent of gain realized on the home solves half of this problem. The other side of the transaction should be recognized as well by exempting currency gains on the mortgage to the extent of losses on the home.

3. Strengthening FATCA

The Green Book recognizes:

1. The importance of information exchange; and
2. The fact that the U.S. is not meeting its exchange obligations under the FATCA IGAs.

This proposal is an attempt to strengthen FATCA (which is why it is of interest to individuals) by requiring the U.S. to meet its obligations under the FATCA IGAs. The current lack of reciprocity has made the U.S. one of the biggest tax havens for

non-Americans. But FATCA has an ugly side as well. Across Europe it has caused financial institutions to deny or limit bank accounts to U.S. citizens residing abroad. As regularly suggested by the Taxpayer Advocate, Treasury should use the discretion granted by Congress to exempt from FATCA reporting (by both FFIs and individuals) accounts held by individuals resident in the country or economic zone where the account is located. Americans abroad are not evading U.S. taxes by having their wages deposited in a bank account where they live.

4. Expatriation: Extend the Statute of Limitations for Auditing Form 8854

Apparently, there are “expatriates” who fail to file Form 8854. This change would allow for IRS audits of expatriates who fail to file Form 8854 for up to three years from the date Form 8854 is filed, thus leaving the statute of limitations open if the form is not filed. It would be interesting to know whether this proposal is intended to be retrospective. This change would definitely encourage more people to avail themselves of the provisions in the 2019 “Relief Procedures For Former Citizens”.

5. Expatriation: Exempting Certain Dual Citizen Expatriates from the Exit Tax

“Expatriation” is defined as either “relinquishing U.S. citizenship” or “Ceasing to be a Permanent Resident”. The Internal Revenue Code defines the tax consequences of “expatriation” in 877A (which for the definitions of “covered expatriate” and “long term resident” reference 877(a)(2) and 877(e)(2) respectively). The 877A Exit Tax rules are harsh and extremely punitive as applied to U.S. citizens living outside the United States who have little connection to the United States.

Actually, the idea of the United States imposing worldwide *taxation on individuals with no residential connection to the United States is absurd*. Many of them don’t know they are considered to be U.S. citizens. Others learn they are U.S. citizens because they are identified by a bank pursuant to the FATCA IGAs. A significant percentage don’t speak English. It is entirely reasonable that these individuals should NOT be subjected to any aspect of U.S. worldwide taxation, including the 877A Exit Tax. Furthermore, the Green Book frankly admits that there is significant noncompliance with filing Form 8854. Therefore, in a remarkable and unusual instance of common sense, the Green Book proposes an exemption from the Exit Tax rules for certain “dual citizens” (whether dual citizens at birth or not). . . .

Query: Is this an admission from the Biden administration that for the purposes of U.S. taxation there really is a difference between U.S. citizens who live within the United States and those who live without the United States? Could this possibly be treated as a “crack in the wall”—of that most American tradition—the notion that it should impose *worldwide taxation on individuals with no residential connection to the United States*?

Conclusion: This proposal would appear to grant Treasury the authority (whether by formal regulation or informal notice) to exempt certain dual citizens from the 877A Exit Tax rules. In other words, they can renounce and simply be done with the USA once and for all. This proposal is clearly in the interest of the United States of America (it is generating a lot of bad will over this issue), the IRS (clearly the biggest victim of U.S. citizenship-based taxation) and the individuals impacted (who are being taxed on non-U.S. income while they are tax residents of another country). What’s not to like?

The real problem is the continued existence of U.S. citizenship-based taxation. The time has come to “Stop Extraterritorial American Taxation.”

That said, this proposal would provide relief for the individuals who are most unjustly treated under an extremely unjust tax system. If adopted, this would become one more example of what SEAT members John Richardson, Dr. Karen Alpert, and Dr. Laura Snyder have previously proposed as “A Simple Regulatory Fix For Citizenship-based Taxation.”

6. Reform the Taxation of Capital Income

One of the proposals here is to treat transfers of appreciated property by gift or on death as realization events for the purpose of taxing the capital gain.

For Americans abroad the impact of treating gifts as income realization events is (at least) two-fold:

First, Americans abroad may be subject to a U.S. income recognition event where there may be no corresponding income recognition event in the country where they reside. This is because the United States might be imposing tax where there was no actual income realization. The country of residence may impose taxation only

where there is the realization of income. To the extent that this creates a U.S. tax event without a corresponding realization event in the other country, the proposed taxation on gifts would be similar to the effect of the Subpart F, GILTI, Transition Tax and 877A Exit Tax rules. All of these are examples where there is a U.S. income realization event with no corresponding taxable event in the country of residence.

Second, the Green Book proposes an exemption for gifts made to U.S. citizen spouses but NOT to spouses who are not U.S. citizens! This continues the U.S. tradition of imposing punitive tax consequences on those U.S. citizens who marry non-citizens.

Finally, as goes the complexity of U.S. taxation so goes the difficulty of continuing the U.S. extraterritorial tax regime! The proposed treatment of gifts as income realization events would be one more step in a process of making it impossible for Americans abroad to survive under both the tax system of their country of residence and the U.S. tax system.

It is time for the United States to abolish citizenship taxation—the imposition of U.S. worldwide taxation on people who live in and are tax residents of other countries. Instead, the U.S. should join the world in adopting residence taxation.

Thank you for your attention to these matters.

Respectfully submitted by:

Stop Extraterritorial American Taxation (SEAT) Board Members (info@seatnow.org):

Dr. Laura Snyder (President)

Dr. Karen Alpert

Suzanne Herman

David Johnstone

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April 14, 2022

Please accept this as our second submission with respect to the subject of the April 7, 2022 Senate Finance Committee Hearing: “The IRS, the President’s Fiscal Year 2023 Budget, and the 2022 Filing Season.”

The United States is the only developed nation to impose its tax code on all citizens, regardless of where they live, using the same rules for both domestic and international taxpayers. Most other countries assert the right to tax the worldwide income of residents, but not of non-resident citizens. The U.S. taxes the worldwide income of *both* residents (regardless of citizenship) *and* non-resident citizens. Because the Internal Revenue Code has many special and punitive rules for “foreign” income, assets, and investments, this means that U.S. tax rules have a very different impact on overseas Americans than on their U.S.-resident counterparts. Compliance issues are particularly difficult for those with no access to IRS in-person assistance while facing complex international information reporting requirements. While SEAT strongly advocates for a move to taxation based on *residence only* (as widely practiced in the rest of the world) rather than including citizenship as a criterion for taxing worldwide income, if citizenship-based taxation is to continue, it is incumbent on Congress to carefully consider the impact of new legislation on this subset of American citizens.

In this submission we would like to focus on four aspects of Commissioner Rettig’s testimony at the hearing:

1. Customer Service Backlog and Paper Returns.
2. Identity verification and Online accounts.

3. In person assistance.
4. Disaster Relief and Advance Child Tax Credits.

Many of the points made are not new. We refer the committee to “Mission Impossible: Extraterritorial Taxation and the IRS,” by Laura Snyder, Karen Alpert, and John Richardson (*Tax Notes Federal*, Volume 170, March 22, 2021).

1. Customer Service Backlog and Paper Returns

Americans abroad are much more likely to file paper returns rather than e-filing. One of the main drivers of this trend is that Americans abroad are more likely to be married to non-resident aliens, and most tax preparation software does not deal well with the situation where an NRA spouse does not have a U.S. Social Security number. The IRS should ensure that all free-file providers will allow e-filing of a Married Filing Separate return where the spouse is an NRA without a social security number.

When an American abroad has an issue with their tax return, they often have difficulty getting appropriate assistance from the IRS. Most IRS service agents are not trained in the issues that frequently arise on an international return, such as non-U.S. retirement savings, non-U.S. business or trust structures, and the treatment of non-U.S. government assistance or welfare payments. When contacting overseas taxpayers, the IRS uses postal mail, which has recently experienced severe delays due to the pandemic. Even before the pandemic, taxpayers were reporting that they were receiving IRS correspondence months after it had been mailed. Add to that the abysmal record of the IRS in answering taxpayer phone enquiries, and the service level experienced by Americans abroad is well below the poor level of service experienced domestically.

Finally, the persistence of the IRS in sending paper checks for refunds to overseas taxpayers is causing particular difficulty. For those without a U.S. bank account, cashing a U.S. check can be prohibitively expensive, if it is even possible. Much of the rest of the world has discontinued the use of paper checks, and in some countries, individuals report that they are unable to find a bank that is willing to accept a U.S. check at all.

2. Identity verification and online accounts

Many Americans abroad report difficulty in accessing their IRS accounts online, often due to the requirement of using a U.S. phone number for verification. If the IRS is to be expected to administer a truly international tax system to provide the minimum level of service for Americans abroad, they must find a way to verify identity that does not rely on having a U.S. presence.

3. In person assistance

In his testimony, Commissioner Rettig noted that the IRS provides many opportunities for taxpayers to receive free in-person assistance at IRS Taxpayer Assistance Centers or through the Volunteer Income Tax Assistance program. All of these programs are available only to taxpayers currently living inside the U.S. If the U.S. is to continue its practice of taxing non-resident citizens, those U.S. taxpayers residing outside of the U.S. deserve the same level of taxpayer support. In the 1980s the IRS had 15 overseas posts in consulates around the world. These were progressively closed until the last four closed in 2014 and 2015. The only way for international taxpayers to access in-person support in an accessible location is to pay for assistance from a U.S. tax professional. This fee is incurred regardless of whether any U.S. tax is owed (and about 55 percent of returns filed from overseas show no tax owed). Americans overseas are not the wealthy tax dodgers of popular myth. They include people from all walks of life, homemakers, minimum wage workers, and middle-class families in addition to a small number of high net worth individuals. For some, the compliance cost of meeting their U.S. tax obligations is excessively expensive, especially when compared with their minimal (or zero) U.S. tax liability.

4. Disaster Relief

While the last three point dealt with IRS service issues, this final issue addresses inequities in the tax code that would require Congressional action to correct. By basing jurisdiction to tax on both citizenship and residence, the U.S. has taxpayers who live in all countries of the world. When tax breaks or relief is based on physical presence in the U.S., those U.S. taxpayers residing outside of the U.S. are specifi-

cally denied the tax breaks or relief allowed to similarly situated taxpayers resident inside the U.S. How can such a tax system be “fair and just”?¹

Currently, any taxpayer affected by a federally declared natural disaster is eligible for extensions to file or pay taxes and the ability to claim disaster-related casualty losses. By definition, this applies only to disasters that occur inside the United States. However, U.S. taxpayers residing outside of the U.S. may be affected by disasters that are just as terrible as those eligible for U.S. tax relief. By limiting disaster losses to losses incurred in a federally declared disaster zone, Congress is effectively saying that the Australian Black Summer bushfires in 2019–20 are less worthy of relief than the California wildfires in 2017 and 2018; and that the victims of the earthquake that hit Haiti in January 2010 are less worthy of relief than victims of Hurricane Katrina. While there will be fewer U.S. taxpayers affected by non-U.S. disasters, their pain and financial suffering is no less. Equal treatment requires that non-resident taxpayers be afforded similar treatment when faced with surviving a natural disaster.

Similarly, the Advance Child Tax Credits available in 2021 were available only for children residing inside the U.S. There were American citizen children living outside the U.S. who were just as severely impacted by the pandemic and resulting economic disruption. These children, however, were generally forced to wait until their parents were able to file their 2021 tax return before receiving the Child Credits provided by Congress.

Administering an extraterritorial tax system has become an overwhelming task, both procedurally and substantively. The IRS cannot remotely serve U.S. tax residents in the more than 100 countries in the world where they live, let alone in the languages that they speak. Nor can the IRS know how U.S. laws apply to the local financial services, small business structures, and retirement savings plans that are common in all those other countries.

The IRS should take immediate steps to address the many valid concerns that have been raised by Americans abroad. **If the IRS is unwilling or unable to administer a system of extraterritorial taxation, then it is time for Congress to take action to cease the imposition of tax on the non-U.S. source income of non-residents.** The cost-benefit analysis of the impact of a transition from citizenship-based taxation to a residence-based system of taxation should include an assessment of the investments which would be required to enhance the capabilities of the IRS to provide fair and equitable support to non-resident taxpayers under the current system.

Thank you for your attention to these matters.

Respectfully submitted by:

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LETTER SUBMITTED BY STEVEN CLARK SEEDS

Dear Chairman Wyden, Ranking Member Crapo, and Members of the Committee:

I moved with my family, aged 14, to Canada in 1968; my father was transferred by his employer, Crown Zellerbach Corp. I finished school and university in Canada and was granted a Canadian passport, travelled for nearly a year and arrived in the UK in 1977, where I’ve lived and worked ever since. As an American by birth, I was *required* to get a U.S. passport in the mid-2000s. I spent nearly \$10,000 establishing “compliance” re U.S. tax, and now regularly spend a considerable sum—and

¹The right to a “fair and just tax system” is included in the Taxpayer Bill of Rights in IRC § 7803(a)(3)(J).

many hours—preparing and paying for an international tax accountant to file yearly with the IRS on my behalf.

I have the vote in the UK, and I registered to vote in the last state in which I was resident (Louisiana) in 2021. I never will earn enough—and have never in the past earned enough—to pay any U.S. income tax whatsoever. I am not at all happy about renouncing my U.S. citizenship, which is not only hugely expensive and time-consuming (with a very long waiting list in the UK)—but primarily because I am a proud American.

My financial life is entirely in the UK, and my income is subject to full taxation under the laws of the UK. I try very hard indeed to fulfill the requirements of the U.S. tax system in addition to the tax requirements in here in the UK. The reality, though, is that the U.S. requirements (especially the myriad of required informational filings) get increasingly burdensome every year, and the compliance costs for knowledgeable tax preparers are egregious.

The extraterritorial application of the U.S. federal income tax system is a painful issue for the 9 million U.S. citizens who reside outside the United States. In a survey of 1,564 overseas resident citizens conducted by Stop Extraterritorial American Taxation (“SEAT”), an independent, non-partisan not-for-profit association, 46% of participants agreed with the statement “I pay significant fees for preparation of U.S. tax return but owe nothing in U.S. taxes,” with 41% of those who engaged a professional preparer paying more than \$1,000 in fees.

This is a reflection of the burden non-residents face due to complex information reporting requirements related to ordinary banking, investment and pension products which are “foreign” to the United States but just a part of living an ordinary financial life in one’s country of residence.

The uniquely American definition of “tax residency” includes the imposition of taxation on the worldwide (including non-U.S. source) income of persons who are tax residents of other countries. This system requires the IRS to do the impossible: to administer not only a domestic tax system for U.S. residents and a system of source taxation for non-resident aliens, but also an extraterritorial one whose details are defined by unique interactions with the tax codes of other countries in the world.

Administering an extraterritorial tax system has become an overwhelming task, both procedurally and substantively. The IRS cannot remotely serve U.S. tax residents in the more than 100 countries in the world where they live, let alone in the languages that they speak. Nor can the IRS know how U.S. laws apply to the local financial services, small business structures, and retirement savings plans that are common in all those other countries.

Indeed the IRS itself has identified “international taxpayers” as a community which is underserved by the IRS. Although the IRS’s Publication 54, “Tax Guide for U.S. Citizens and Resident Aliens Abroad,” is helpful, it does not adequately enable non-resident taxpayers to understand their U.S. tax obligations in the context of the financial systems of the countries in which they live. Since IRS guidance is not sufficient for non-resident taxpayers to accurately understand how the U.S. tax system applies to them, they require the support of professional tax service providers, which is unaffordable for many.

The IRS’s inability to provide non-resident taxpayers with essential services violates several aspects of the Taxpayer Bill of Rights, including the following:

- The right to be informed, including the right to know what to do to comply with tax laws and the right to receive clear explanations.
- The right to quality service, including the right to receive prompt service and clear and easily understandable communications from the IRS.
- The right to pay no more than the correct amount of tax, including the right to have the IRS apply all tax payments properly.
- The right to a fair and just tax system, including the right to expect the tax system to consider facts and circumstances that might affect taxpayers’ underlying liabilities and ability to timely provide information.

In order for the IRS to fairly administer the system of extraterritorial taxation which the United States currently imposes, **the IRS must provide equal levels of service to both taxpayers resident in the United States and non-resident U.S. citizens. The level of service currently provided by the IRS is highly unequal.**

In a paper entitled, “Mission Impossible: Extraterritorial Taxation and the IRS” published in the *Tax Notes Federal* journal, authors Laura Snyder, Karen Alpert and John Richardson explain that the failure of the IRS to provide access to the following services, individually and collectively, constitute violations of the Taxpayer Bill of Rights:

- In-person assistance.
- Toll-free telephoning.
- Knowledgeable IRS agents.
- Online accounts.
- E-filing.
- Timely delivery of postal mail.
- Use of other languages.
- Explanations of tax obligations.
- Making payments to the IRS.
- Receiving payments from the IRS.
- Third-party assistance.
- Low income taxpayer clinic.
- IRS internal organization.

According to Snyder, et al., these failures when considered as a whole, “manifest a systemic pattern of discriminatory treatment of international taxpayers as compared with domestic taxpayers. The collective failures are evidence that the IRS is either unable or unwilling to administer an extraterritorial tax system.”

With limited ability to interface with non-resident taxpayers, the IRS has shut itself off from taxpayers, and as a result is unable to determine whether the taxpayer is providing accurate information, unless the IRS selects his or her return for audit. For their part, Americans living abroad are subject to potentially devastating penalties for failure to file a variety of documents accurately, even for inadvertent non-compliance. According to the SEAT survey, 80% “experience personal stress in relation to U.S. taxation,” a large part of which is due to the constant sense of fear because of the excessive penalties that could be applied for making an honest mistake in tax compliance. The inability of the IRS to address their questions makes it more likely that filers will get it wrong. As a result, the inaccessibility of these basic services leads to further non-compliance, as evidenced by the low rate of filing compared to domestic citizens.

The IRS should take immediate steps to address the many valid concerns that have been raised by Americans abroad. **If the IRS is unwilling or unable to administer a system of extraterritorial taxation, then it is time for Congress to take action to cease the imposition of tax on the non-U.S. source income of non-residents.** The cost-benefit analysis of the impact of a transition from citizenship-based taxation to a residence-based system of taxation should include an assessment of the investments which would be required to enhance the capabilities of the IRS to provide fair and equitable support to non-resident taxpayers under the current system.

The practice of imposing U.S. worldwide taxation on individuals, who are tax residents of other countries, because of their citizenship is a uniquely American practice. In 2015, the Senate Finance Committee embarked on an extensive study of the U.S. international taxation. On the last page of the 82-page report (released in July of 2015), it was stated that:

F. Overseas Americans

According to working group submissions, there are currently 7.6 million American citizens living outside of the United States. Of the 347 submissions made to the international working group, nearly three-quarters dealt with the international taxation of individuals, mainly focusing on citizenship-based taxation, the Foreign Account Tax Compliance Act (FATCA), and the Report of Foreign Bank and Financial Accounts (FBAR).

While the co-chairs were not able to produce a comprehensive plan to overhaul the taxation of individual Americans living overseas within the time-constraints placed on the working group, the co-chairs urge the Chairman and Ranking Member to carefully consider the concerns articulated in the submissions moving forward.

It is now 2022 and there has been no consideration of the taxation of U.S. citizens who live outside the United States as tax residents of other countries. Notably, in the Spring of 2021, the Senate Finance Committee conducted numerous hearings about international tax issues. In spite of numerous submissions by impacted indi-

viduals and advocacy groups, the issues of Americans abroad were not considered. No one representing Americans abroad was invited to be a witness.

The combination of U.S. citizenship-based taxation and FATCA is destroying the lives of U.S. citizens living outside the United States who are bona fide residents (and tax residents) of other countries. Issues causing a particularly devastating impact include:

1. Double taxation—due to misalignment of tax systems—that cannot be mitigated using the Foreign Earned Income Exclusion, Foreign Tax Credit, or existing Tax Treaties.
2. Disproportionately high tax-preparation costs and excessive compliance risks associated with information reporting required for financial assets held in a U.S. citizen's country of residence, which harms ordinary Americans who are unable to afford sophisticated tax preparers, which (as noted) can be prohibitively expensive even if no tax is owed.
3. Excessively large and regressive penalties related to information reporting errors that far exceed taxes owed or balances of accounts concerned and individuals' ability to pay.
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6. A lack of access to necessary financial products and services caused by a mix of burdensome reporting obligations and punitive treatment of local products in the U.S. tax code.

I urge the Senate Finance Committee to hold a hearing focused on the difficulties U.S. citizens who reside outside the United States are facing in navigating the increasingly complex extraterritorial tax compliance regime that the U.S. imposes on its non-resident citizens. These issues are not well known or understood, but they are a tremendous burden on millions of ordinary people who happen to live overseas.

The best solution to this problem is for the U.S. to come into alignment with every other developed nation on the planet and move to a residence-based taxation system for individuals. U.S. citizens who are tax residents of other countries would continue to be liable to pay U.S. Federal income tax on any income which is effectively connected with the United States, as all non-resident aliens do, by using Form 1040–NR instead of Form 1040.

Thank you for your attention to this matter.

Yours most sincerely

Steven Clark Seeds

LETTER SUBMITTED BY RONALD WALTHER

Dear Chairman Wyden, Ranking Member Crapo, and Members of the Committee:

In 1975, after an employee relocation of my father ended, my German parents decided to return home. I was a child at that time but born in the A. The family has remained in Germany since then. Due to my German father I also have German citizenship.

Forty-seven years later it turns out, that the USA sees returning home of a family as a kind of wrongdoing of anyone who had the misfortune to be born at the wrong place (in my case the USA). The USA sees anyone born on it's territory but not residing in the U.S. as a sort of "tax cheat" to be hit by sanctions, no matter if this was ever intended or not.

What are these sanctions in detail?

- The necessity to file a U.S. federal tax declaration in a for me foreign language (in my case English) under highly complex rules (more than 400 pages instructions) without any help in a for the taxpayer usable form (no written German

instructions available). This results in very high costs for specialized tax advice for 0 (zero) tax due. (To avoid misunderstandings: I pay plenty of German taxes on my income.)

- The necessity to declare all “accounts” under a procedure that was intended to catch high profile criminals (FBAR) under the threat of economical destruction for even the smallest mistakes. Also here: no written German information available.
- To be hit by sanctions by the finance industry because this industry is sanctioned themselves for having me as customer due to costly but useless FATCA reporting.
- To accept to remain an employee for my lifetime, because highly complex (and thus very expensive) U.S. tax reporting for business owners would immediately choke off all attempts to start and continue an own business in the country I live in. One can call this a lifetime occupational ban.
- To be entirely and constantly ignored by any political party in the USA. It feels like being a second-class citizen.

My financial life is entirely in Germany, and my income is subject to full taxation under the laws of Germany. I try very hard to fulfill the requirements of the U.S. tax system in addition to the tax requirements in Germany. The reality, though, is that the U.S. requirements (especially the myriad of required informational filings) get increasingly burdensome every year, and the compliance costs for knowledgeable tax preparers are egregious.

The extraterritorial application of the U.S. federal income tax system is a painful issue for the 9 million U.S. citizens who reside outside the United States. In a survey¹ of 1,564 overseas resident citizens conducted by Stop Extraterritorial American Taxation (“SEAT”), an independent, non-partisan not-for-profit association, 46% of participants agreed with the statement “I pay significant fees for preparation of U.S. tax return but owe nothing in U.S. taxes,” with 41% of those who engaged a professional preparer paying more than \$1,000 in fees.

This is a reflection of the burden non-residents face due to complex information reporting requirements related to ordinary banking, investment and pension products which are “foreign” to the United States but just a part of living an ordinary financial life in one’s country of residence.

The uniquely American definition of “tax residency” includes the imposition of taxation on the worldwide (including non-U.S. source) income of persons who are tax residents of other countries. This system requires the IRS to do the impossible: to administer not only a domestic tax system for U.S. residents and a system of source taxation for non-resident aliens, but also an extraterritorial one whose details are defined by unique interactions with the tax codes of other countries in the world.

Administering an extraterritorial tax system has become an overwhelming task, both procedurally and substantively. The IRS cannot remotely serve U.S. tax residents in the more than 100 countries in the world where they live, let alone in the languages that they speak. Nor can the IRS know how U.S. laws apply to the local financial services, small business structures, and retirement savings plans that are common in all those other countries.

Indeed the IRS itself has identified “international taxpayers” as a community which is underserved by the IRS. Although the IRS’s Publication 54, “Tax Guide for U.S. Citizens and Resident Aliens Abroad,” is helpful, it does not adequately enable non-resident taxpayers to understand their U.S. tax obligations in the context of the financial systems of the countries in which they live. Since IRS guidance is not sufficient for non-resident taxpayers to accurately understand how the U.S. tax system applies to them, they require the support of professional tax service providers, which is unaffordable for many.

The IRS’s inability to provide non-resident taxpayers with essential services violates several aspects of the Taxpayer Bill of Rights, including the following:

- The right to be informed, including the right to know what to do to comply with tax laws and the right to receive clear explanations.
- The right to quality service, including the right to receive prompt service and clear and easily understandable communications from the IRS.
- The right to pay no more than the correct amount of tax, including the right to have the IRS apply all tax payments properly.

¹http://seatnow.org/survey_report_intro_page/.

- The right to a fair and just tax system, including the right to expect the tax system to consider facts and circumstances that might affect taxpayers' underlying liabilities and ability to timely provide information.

In order for the IRS to fairly administer the system of extraterritorial taxation which the United States currently imposes, **the IRS must provide equal levels of service to both taxpayers resident in the United States and non-resident U.S. citizens. The level of service currently provided by the IRS is highly unequal.**

In a paper entitled, "Mission Impossible: Extraterritorial Taxation and the IRS" published in the *Tax Notes Federal* journal, authors Laura Snyder, Karen Alpert and John Richardson² explain that the failure of the IRS to provide access to the following services, individually and collectively, constitute violations of the Taxpayer Bill of Rights:

- In-person assistance.
- Toll-free telephoning.
- Knowledgeable IRS agents.
- Online accounts.
- E-filing.
- Timely delivery of postal mail.
- Use of other languages.
- Explanations of tax obligations.
- Making payments to the IRS.
- Receiving payments from the IRS.
- Third-party assistance.
- Low income taxpayer clinic.
- IRS internal organization.

According to Snyder, et al., these failures when considered as a whole, "manifest a systemic pattern of discriminatory treatment of international taxpayers as compared with domestic taxpayers. The collective failures are evidence that the IRS is either unable or unwilling to administer an extraterritorial tax system."

With limited ability to interface with non-resident taxpayers, the IRS has shut itself off from taxpayers, and as a result is unable to determine whether the taxpayer is providing accurate information, unless the IRS selects his or her return for audit. For their part, Americans living abroad are subject to potentially devastating penalties for failure to file a variety of documents accurately, even for inadvertent non-compliance. According to the SEAT survey, 80% "experience personal stress in relation to U.S. taxation," a large part of which is due to the constant sense of fear because of the excessive penalties that could be applied for making an honest mistake in tax compliance. The inability of the IRS to address their questions makes it more likely that filers will get it wrong. As a result, the inaccessibility of these basic services leads to further non-compliance, as evidenced by the low rate of filing compared to domestic citizens.

The IRS should take immediate steps to address the many valid concerns that have been raised by Americans abroad. **If the IRS is unwilling or unable to administer a system of extraterritorial taxation, then it is time for Congress to take action to cease the imposition of tax on the non-U.S. source income of non-residents.** The cost-benefit analysis of the impact of a transition from citizenship-based taxation to a residence-based system of taxation should include an assessment of the investments which would be required to enhance the capabilities of the IRS to provide fair and equitable support to non-resident taxpayers under the current system.

The practice of imposing U.S. worldwide taxation on individuals, who are tax residents of other countries, because of their citizenship is a uniquely American practice. In 2015, the Senate Finance Committee embarked on an extensive study of the U.S. international taxation. On the last page of the 82-page report³ (released in July of 2015), it was stated that:

F. Overseas Americans

According to working group submissions, there are currently 7.6 million American citizens living outside of the United States. Of the 347 submis-

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sions made to the international working group, nearly three-quarters dealt with the international taxation of individuals, mainly focusing on citizenship-based taxation, the Foreign Account Tax Compliance Act (FATCA), and the Report of Foreign Bank and Financial Accounts (FBAR).

While the co-chairs were not able to produce a comprehensive plan to overhaul the taxation of individual Americans living overseas within the time-constraints placed on the working group, the co-chairs urge the Chairman and Ranking Member to carefully consider the concerns articulated in the submissions moving forward.

It is now 2022 and there has been no consideration of the taxation of U.S. citizens who live outside the United States as tax residents of other countries. Notably, in the Spring of 2021, the Senate Finance Committee conducted numerous hearings about international tax issues. In spite of numerous submissions by impacted individuals and advocacy groups, the issues of Americans abroad were not considered. No one representing Americans abroad was invited to be a witness.

The combination of U.S. citizenship-based taxation and FATCA is destroying the lives of U.S. citizens living outside the United States who are bona fide residents (and tax residents) of other countries. Issues causing a particularly devastating impact include:

1. Double taxation—due to misalignment of tax systems—that cannot be mitigated using the Foreign Earned Income Exclusion, Foreign Tax Credit, or existing Tax Treaties.
2. Disproportionately high tax-preparation costs and excessive compliance risks associated with information reporting required for financial assets held in a U.S. citizen's country of residence, which harms ordinary Americans who are unable to afford sophisticated tax preparers, which (as noted) can be prohibitively expensive even if no tax is owed.
3. Excessively large and regressive penalties related to information reporting errors that far exceed taxes owed or balances of accounts concerned and individuals' ability to pay.
4. Americans abroad with a non-U.S. citizen spouse facing discriminatory treatment in the tax code and greater difficulty in meeting filing obligations due to the lack of a Social Security Number for their spouse.
5. Corporate tax rules intended to apply to overseas subsidiaries of multinational corporations that are applied to small businesses owned by Americans residing abroad, resulting in unreasonably high compliance costs and punitive taxation of undistributed income.
6. A lack of access to necessary financial products and services caused by a mix of burdensome reporting obligations and punitive treatment of local products in the U.S. tax code.

I urge the Senate Finance Committee to hold a hearing focused on the difficulties U.S. citizens who reside outside the United States are facing in navigating the increasingly complex extraterritorial tax compliance regime that the U.S. imposes on its non-resident citizens. These issues are not well known or understood, but they are a tremendous burden on millions of ordinary people who happen to live overseas.

The best solution to this problem is for the U.S. to come into alignment with every other developed nation on the planet and move to a residence-based taxation system for individuals. U.S. citizens who are tax residents of other countries would continue to be liable to pay U.S. Federal income tax on any income which is effectively connected with the United States, as all non-resident aliens do, by using Form 1040-NR instead of Form 1040.

Thank you for your attention to this matter.

Ronald Walther

LETTER SUBMITTED BY EDWARD FRANCIS WUNDHEILER

Dear Chairman Wyden, Ranking Member Crapo, and Members of the Committee:
I am an accidental American born and raised overseas. My father was holocaust survivor who immigrated to United States, joined the Army, fought in Korean War,

became a veteran and had to move overseas. We ended up living our entire life in Brazil. However, I am a registered voter in New York State where I have family ties.

My financial life is entirely in Brazil, and my income is subject to full taxation under the laws of Brazil which is already a tax nightmare well known globally. I try very hard to fulfill the requirements of the U.S. tax system in addition to the tax requirements in Brazil. The reality, though, is that the U.S. requirements (especially the myriad of required informational filings) get increasingly burdensome every year, and the compliance costs for knowledgeable tax preparers are egregious.

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