

**2020 FILING SEASON AND  
IRS COVID-19 RECOVERY**

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**HEARING**  
BEFORE THE  
**COMMITTEE ON FINANCE**  
**UNITED STATES SENATE**  
ONE HUNDRED SIXTEENTH CONGRESS  
SECOND SESSION

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JUNE 30, 2020  
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# CONTENTS

## OPENING STATEMENTS

	Page
Grassley, Hon. Chuck, a U.S. Senator from Iowa, chairman, Committee on Finance .....	1
Wyden, Hon. Ron, a U.S. Senator from Oregon .....	3

## ADMINISTRATION WITNESS

Rettig, Hon. Charles P., Commissioner, Internal Revenue Service, Washington, DC .....	5
---	---

## ALPHABETICAL LISTING AND APPENDIX MATERIAL

Grassley, Hon. Chuck:	
Opening statement .....	1
Prepared statement .....	41
Rettig, Hon. Charles P.:	
Testimony .....	5
Prepared statement .....	42
Responses to questions from committee members .....	48
Wyden, Hon. Ron:	
Opening statement .....	3
Prepared statement .....	71

## COMMUNICATION

Center for Fiscal Equity .....	73
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## 2020 FILING SEASON AND IRS COVID-19 RECOVERY

TUESDAY, JUNE 30, 2020

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

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

Present: Senators Thune, Portman, Scott, Cassidy, Lankford, Daines, Wyden, Stabenow, Menendez, Carper, Cardin, Brown, Bennet, Casey, Warner, Hassan, and Cortez Masto.

Also present: Republican staff: Mark Warren, Chief Tax Counsel; and Jeffrey Wrase, Deputy Staff Director and Chief Economist. Democratic staff: Tiffany Smith, Chief Tax Counsel.

### **OPENING STATEMENT OF HON. CHUCK GRASSLEY, A U.S. SENATOR FROM IOWA, CHAIRMAN, COMMITTEE ON FINANCE**

The CHAIRMAN. Commissioner Rettig, thanks for coming to testify on the 2020 tax filing season and the IRS's handling of challenges posed because of the pandemic.

The 2020 filing season got off to its typical start at the end of January. However, since then this filing season has been anything but typical. As a result of the national health emergency stemming from the ongoing pandemic, almost all regular tax filing and tax payment deadlines have been extended. This includes the individual and corporate income tax filing and payment deadlines, which were pushed back from the normal April 15th to July 15th, and there are some rumors they might be extended again. I do not know—I have heard that at least once.

Despite these extended deadlines, the tax filing season continued, with many taxpayers still filing their taxes as usual to get their tax refund. At the same time, consistent with government shutdown orders and CDC guidance, the IRS limited much of its work to essential services, closed a number of facilities, and instituted telework policies where practicable.

This left the IRS short-staffed during the busiest time of the year. Understandably, that meant taxpayers experienced longer wait times to get their tax questions answered. It meant more calls than usual went unanswered. And mail, including paper returns, went unprocessed. Over the last couple of weeks, the IRS has begun to reopen facilities and start back to normal operations.

So, Commissioner, I will be interested to learn more from you on how the reopening is proceeding and what actions are being taken

to clear the backlog of taxpayer correspondence. While the IRS has worked to keep up with its filing season duties, it also has been tasked with implementing a number of tax measures enacted by Congress to provide relief for individuals and businesses.

IRS and Treasury have worked nonstop to put out necessary guidance to help taxpayers navigate important provisions designed to help families make ends meet and provide businesses with needed liquidity to keep the lights on and the employees on the payroll. But even more daunting was the implementation of the rebates for individuals, often referred to as “Economic Impact Payments.” IRS and Treasury worked at unprecedented speed to get the payments out the door and in the hands of individuals and families forced to stay home through the pandemic. Over about a 2-month span, nearly 160 million stimulus payments totaling almost \$267 billion were delivered by direct deposit check or prepaid debit card.

The IRS took steps to get payments to as many eligible individuals as possible. This included working with the Social Security Administration and the Department of Veterans Affairs to get payments to seniors, veterans, and individuals receiving certain Federal benefits, with no need to file a tax return. For others who typically do not file a tax return, the IRS established an online tool to register for the payments. Over 6 million individuals and families took advantage of that tool.

Commissioner Rettig, you ought to be thanked, and I do thank you and your staff for working around the clock to get this much-needed assistance in the hands of taxpayers during difficult times that were no fault of their own. Because, for the first time in 244 years, our government took the step of actually shutting down the economy and a lot of people were unemployed, that help was badly needed.

When you consider all this, I would say the IRS performed exceptionally well under the circumstances. Of course when you are tasked with processing 160 million payments in an expedited fashion, there are bound to be some hiccups. But there will always be Monday morning quarterbacks eager to criticize, even though we all know they could not have done it any better.

I am interested in getting your perspective on how the process has worked, what the IRS has learned, and what improvements could be made should this or a future Congress once again task the IRS with administering stimulus payments.

Beyond the current filing season and the challenges posed by the pandemic, the IRS has been working to implement the Taxpayer First Act, which was enacted last year to modernize the IRS and beef up taxpayer protections. The Taxpayer First Act calls for the IRS to institute a comprehensive customer service strategy, modernize its organizational structure, and implement an information technology strategy.

I look forward to hearing how the IRS has proceeded with those reforms. We thank you once again.

Now I turn to Senator Wyden.

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

**OPENING STATEMENT OF HON. RON WYDEN,  
A U.S. SENATOR FROM OREGON**

Senator WYDEN. Thank you very much, Mr. Chairman. And, Mr. Chairman and colleagues, on behalf of the chairman and I, I do have some sad news to begin this morning's hearing with.

Ed Kleinbard, who was the Chief of Staff for the Joint Committee on Taxation, has passed away. And he was a truly extraordinary person. He accomplished the rare trifecta of making his mark as a respected expert in tax law in business, in government, and in the academic world. He was always professional—I see my friend Senator Thune here. We all remember him, always professional, always fair to both sides.

And he became a personal friend of mine, a man of exceptional warmth and good humor. I always thought of him as a mensch. This was a man with exceptional character, and I just wanted to make those remarks, and the chairman said I should express our sorrow on behalf of both of us today for the passing of Ed Kleinbard.

Now as the chairman noted, we meet for our annual oversight hearing. This year of course, it is intertwined with the COVID-19 response, as the chairman mentioned. I want to start with COVID-19, because I think we are all seeing spikes now across the country, tens of thousands of newly identified cases every day. ICU beds in hot spots are running dangerously low.

The President says out in the open that he wants less testing, and he has reportedly gone weeks without speaking to our top public health officials. I think that is particularly unfortunate, because I think what happens is, it causes Americans to say that some of their elected leaders have just given up. And in my view, that just defies common sense, because it is an absolute certainty jobs in the economy cannot come to full strength as long as the pandemic continues, with these kinds of spikes and so many communities so hard-hit.

This committee is going to have to do more. We are going to be in the center of key economic discussions in the next few weeks. I strongly feel, as all my colleagues here know, that the top priority has got to be to extend super-charged unemployment benefits for as long as it takes to get the economy back to normal. And I see my friend Senator Thune here—and colleagues know that what this means is you have got to have these benefits so that people can pay their rent and buy groceries. And then of course as unemployment goes down—and the Senator from South Dakota calls it tapering off—now of course when unemployment goes down, then you are in a different situation. But we cannot leave people, August 1st, not being able to pay their rent or afford groceries, because they are going to just be in a position where we will probably have a tsunami of evictions and people who will just be desperate when they cannot feed their families or put groceries on the table. And tens of millions of folks are out of work, and more and more of these temporary furloughs are becoming permanent layoffs.

So I am very hopeful that as we go into those negotiations, we can get super-charged benefits that are tied to conditions on the ground—the kind of marketplace conditions we have out there in the real world.

Now on the subject of IRS oversight, I am going to touch first on a stunning new report that shows how years of Republican budget cuts have led to wealthy tax cheats getting off scot-free. A new report by the Treasury Inspector General showed that over a 3-year period the IRS failed to audit almost 900,000 wealthy taxpayers who skipped out on filing tax returns. Together, these wealthy taxpayers owed nearly \$46 billion in taxes. And, colleagues, think of what we could do for hard-hit communities, if you are talking about having that money—\$46 billion in taxes that was owed to the American people.

In nearly 370,000 of those cases, taxpayers have failed to respond to more than one delinquency notice from the IRS. Those individuals owed nearly \$21 billion. And let us be clear: this is not about shadowy networks of hard-to-trace shell companies. It would not take a lot of complicated forensic accounting to start cracking down on tax cheats. Because we are talking, colleagues, about people who simply would not file their return.

Now, two issues stick out. First, Donald Trump says he is pro-law enforcement, but his administration has not taken any steps to crack down on these wealthy tax cheats who have stolen tens of billions of dollars from American taxpayers. After years of Republicans bullying and gutting the IRS, audits of wealthy taxpayers are way down.

So maybe it does not come as a surprise that Donald Trump is not doing anything about it, given what we know about this President's long record of tax dodging and, in my view, outright fraud.

Second, in my view it is past time for Congress to reconsider how the Federal Government fights against tax cheating. Over a decade of Republican budget cuts, the IRS has lost a third of its enforcement personnel and more than half of its revenue officers.

This new Inspector General report shows, colleagues, how easy it is, after these enforcement cuts, to rip off taxpayers, for the wealthy to get away with cheating, and even those who do not bother to file their tax return. The burden of painful tax audits has been shifted unfairly onto those hardworking Americans who work for a living.

So years of Republican budget cuts have made this a good, good, good time to be a rich tax cheat, and the Congress ought to change it. You do not actually believe in law and order if you advocate for cuts that allow wealthy tax cheats to get away with breaking the law.

Commissioner Rettig, thanks for joining us this morning.

And, Mr. Chairman, I look forward to our questions and answers after we hear from the Commissioner.

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

The CHAIRMAN. Before I give the introduction, there was something I was wondering about: whether or not we were going to extend the time beyond July 15th for filing. And I have just been informed that last night Secretary Mnuchin announced that he would not be extending that filing. And he has the authority under law to do that.

Now to introduce our witness, the Commissioner of the Internal Revenue Service, Mr. Rettig. Prior to his present position, Mr.

Rettig was a highly respected law firm partner in California for more than 36 years. There he represented thousands of individuals, businesses, and corporate taxpayers before the IRS, the Department of Justice Tax Division, Federal and State courts, and State taxing authorities.

He has served as a member and Chair of the IRS Advisory Council 2008 to 2011. He chaired the Taxation Section of the Bar of California and served on advisory boards of both the Franchise Tax Board and the Board of Equalization in California.

He has received numerous professional honors—and I will not go through that list. He has been a featured speaker at many tax conferences, both domestically and internationally. He has authored numerous tax-related articles. He has a B.A. in economics from UCLA as well as a J.D. with honors from Pepperdine University, and a master of law from New York University.

Commissioner Rettig, we are pleased to have you here, and we will have your opening statement. And then we will have questions.

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

Commissioner RETTIG. Thank you. Chairman Grassley, Ranking Member Wyden, and members of the committee, thank you for the opportunity to discuss this year's filing season and the IRS's efforts to help taxpayers during the COVID-19 pandemic.

Before I proceed, I would like to also extend my personal sympathies, as well as on behalf of the Internal Revenue Service, to the family and friends of Ed Kleinbard. I was familiar with Ed through his tenure at USC out in Los Angeles, and a better person did not exist, and a more supportive person, I think, for tax administration, guidance, and getting it right probably did not exist. So we are equally saddened to learn of the passing of Ed Kleinbard.

I remain extremely proud to be working with the Internal Revenue Service in my second year as Commissioner. Knowing that 96 percent of the gross receipts of our country flow through the Internal Revenue Service has strengthened my belief that a healthy, functional IRS is critical to the success and well-being of our country and our people. The IRS's rapid response to the pandemic serves to illustrate how critical it is for the agency to receive consistent, timely, and adequate multi-year funding such that we can succeed in providing the services our country deserves.

IRS employees have worked around the clock since mid-March to implement major provisions of the CARES Act, especially the Economic Impact Payments, to help millions of Americans during this challenging time. As stated by the chairman, so far approximately 160 million Economic Impact Payments have been distributed, totaling approximately \$270 billion. However, there is more to do. The IRS remains focused on making sure every eligible American receives a payment.

We are especially focused on getting payments out to historically underserved communities of our Nation, such as individuals experiencing homelessness. We realize how difficult the pandemic has been for so many Americans. For that reason, the IRS has also provided important administrative relief, postponing the filing and

payment deadlines to July 15th. And as you stated, Mr. Chairman, they will not be extended beyond July 15th. But yesterday we issued a notice that had a variety of payment-related options that folks can look to. We also temporarily adjusted our processes to help people and businesses during these uncertain times under the IRS People First Initiative.

With respect to filing season, while we had to adjust and re-deploy resources during the pandemic, our employees have remained dedicated to delivering the 2020 filing season as they continue to process electronic payments, issue direct deposit refunds, and accept electronic payments during the pandemic.

As of June 19th, we have processed more than 126 million individual returns, and we have issued more than 93 million refunds totaling more than \$257 billion. We are in the process of a phased-in reopening of some of our operations when and where it is safe to do so. In this regard, we are processing paper returns. We are tackling the backlog of mail and reopening our phone lines and adding phone assisters.

We are prioritizing refunds and customer service operations, as well as the health and safety of our employees and everyone that we interact with. We will continue to follow and, where possible, exceed applicable safety guidelines and measures.

The IRS is also committed to delivering on the promise of a new IRS. We continue to be extremely grateful to Congress for last year's strong bipartisan support in passing the Taxpayer First Act. We will put forth comprehensive strategies for a newly envisioned taxpayer experience, operating through the eyes of the taxpayer.

With respect to enforcement, the IRS is also committed to having a strong, visible, robust tax enforcement presence. During my tenure, we have shifted significant examination resources and technology to increase our focus on high-income taxpayers, especially those who have failed to file returns and those engaged in certain types of questionable transactions.

With respect to the budget, by providing adequate funding Congress can help the IRS deliver on its mission and build a stronger IRS for taxpayers, as required by the Taxpayer First Act.

The President's Fiscal Year 2021 budget requests an appropriation of \$12 billion, as well as a program integrity cap. We are also asking for Congress's help legislatively by allowing the IRS greater flexibility to address correctable errors and improving the IRS oversight of paid tax return preparers.

Chairman Grassley, Ranking Member Wyden, and members of the committee, this concludes my statement, and I would be happy to take your questions. Thank you.

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

The CHAIRMAN. It looks to me like—what I got from the clerk here is, most people are going to be remote. So I do not know whether people who are remote have the timer or not, but if you do, then you know when you need to stop. But if you do not, and I see the 5 minutes time is up, finish your question and we will let it be answered and then we are going to quickly move on. Because I cannot see you folks face-to-face, that is the best way I can do it to keep things on time.

Commissioner Rettig, last week the Government Accountability Office put out a report discussing the Federal Government's response to the COVID-19 crisis. That report included a review of the IRS's work on getting stimulus payments out to Americans. And one issue raised was that, due to a glitch with the IRS Non-Filer tool, some stimulus recipients did not receive the additional \$500 for the children claimed on the form.

The IRS estimated 450,000 stimulus recipients did not receive the correct amount. I understand the IRS now intends to send these tax filers any additional amount they are entitled to. So when can these tax filers expect to see these additional amounts?

And then before you answer that, let me refer to a second part of the same subject. Senator Collins sent you a letter expressing similar concerns about those on Social Security with dependents missing out on an additional per-child amount due to the April 22nd deadline for this group to use the Non-Filer tool.

As you go back to account for the dependents for other non-filers, does the IRS intend to similarly send additional amounts due to any seniors who filled out the Non-Filer tool after the April 22nd deadline?

Commissioner RETTIG. Mr. Chairman, with respect to the first group, the individuals where the \$500 payments were missed, I believe the figure is about 365,000. But in any event, we are going to be reissuing those \$500 payments this summer.

Similarly, we have an issue with respect to individuals who had filed Injured Spouse claims. And we are taking a look at those, and we anticipate reissuing those as well, sometime, I believe it is, during this summer, but we can verify that with you separately.

With respect to the Social Security information folks, SSA folks, we are taking a look at that. We have some limitations on abilities and capacities to move things through, but we are sympathetic with trying to get as much funds out to as many people as possible as quickly as possible. So that I cannot yet commit on, but we are taking a look at it.

The CHAIRMAN. The next point is, for much of the filing season, IRS has operated on short staff due to this emergency. This has resulted in backlog. We have IRS error resolution system claims waiting to be addressed. Many are returns filed by low-income taxpayers claiming the EITC and Child Tax Credit.

What steps is the IRS taking to clear this backlog? And how is the IRS prioritizing returns that were flagged for error resolution?

Commissioner RETTIG. The EITC returns have an extreme priority, and as I think you are aware, we brought employees back on a voluntary basis initially. We have been bringing our people back week by week, with full staffing, given social distancing—a full staffing under the new procedures by July 15th. And we expect to move through the EITC claims as quickly as we can, but they have priority on what we are doing.

We have allocated priority to refunds. We have allocated priority to customer service calls, with our customer service representatives in the campus. Really, the taxpayer service side of the organization is what we have stood up first and, most importantly, what we are trying to address.

The CHAIRMAN. There is a significant mail backlog for the same reason: that staff could not come to the office. We have even heard reports that you had to bring in tractor trailers, and even rent extra storage space to store the mail waiting processing.

How long do you expect it to take for the IRS to address the backlog? And are there procedures in place to prioritize certain types of correspondence such as tax returns and audit requests?

Commissioner RETTIG. Paper returns are being prioritized in terms of going through the inventory, which I believe is currently around 12.3 million pieces of correspondence, which includes paper returns and other correspondence that we might have.

We are focused on the paper returns, because many of those also obviously will have EITC refunds and otherwise, but that is another focus.

The CHAIRMAN. Okay. With my 13 seconds left, I will say, could you explain the reasoning for not screening out payments to the deceased from the start? Also, what procedures were eventually put in place to limit such payments, as well as recover those that went out?

Commissioner RETTIG. With respect to the decedent payments, the Internal Revenue Service followed the practice with respect to the payments that went out in 2008 for the stimulus payments. And after 3 weeks of issuing payments, Treasury and counsel issued guidance indicating that decedents should not be receiving those payments, and so IRS changed the processing for that.

Because there was no clarity in the CARES Act that decedents should not be receiving payments, the IRS administered the CARES Act as written. And then as Treasury came to the policy conclusion with counsel that decedents should not be receiving the payments, we adjusted our filters after the third day and then input the death file.

The CHAIRMAN. Okay. Senator Wyden?

Senator WYDEN. Thank you, Mr. Chairman.

Commissioner, let us go to the infuriating new report from the Inspector General that found that millionaires are getting away without paying the taxes they owe. Between 2014 and 2016, nearly 5,000 taxpayers who owed at least \$500,000 in unpaid taxes did not file a return and were not audited by the IRS. The 5,000 scoff-laws owed a cumulative \$15.7 billion over 3 years, and they got away with it.

The report found that overall, hundreds of thousands of taxpayers with significant incomes were skipping out on filing tax returns and paying a cumulative \$45.7 billion in taxes over 3 years, with the IRS doing nothing about it.

I think this is just infuriating, and I hope that you are as angry about this too. And so my question is, we confirmed you here in this room almost 2 years ago. I have to assume you learned about this outbreak of lawlessness I have described, and I want to know why you did not call up then-Chairman Hatch and me and say, "Hey, this is what has happened. It is outrageous. I want to stop it now. Here is what I need from the Finance Committee."

And we never got such a call.

Commissioner RETTIG. That report addresses a time before I was confirmed, as you are aware—

Senator WYDEN. I understand that, Mr. Commissioner. But when you learned about it, why did you not call the chairman, then Chairman Hatch, and me and say, "Let us stop this."

Commissioner RETTIG. We are stopping it.

Senator WYDEN. No. You are doing various things with budgets and the like, and I am interested in hearing it. But I am asking you a specific question.

When you learned about this—it seems to me this is priority business. We are talking about billions and billions of dollars, and you all sure can find time to go after folks who get the Earned Income Tax Credits. Why did you not call us, Chairman Hatch and I, and say, "We have got to do something about it now"? And this, in my view, should have been a call made almost 2 years ago. Why did you not do that?

Commissioner RETTIG. Senator, can I tell you what we are doing?

Senator WYDEN. I want first—

Commissioner RETTIG. I will—I will call you, but I would like to tell you what we are doing.

Senator WYDEN. No, Commissioner; I want to know first why, when you saw this going on shortly after you were confirmed, why you did not say to this committee on a bipartisan basis, "I have got to stop this"?

Answer that first, and then tell me what you are doing now.

Commissioner RETTIG. Shortly after I was confirmed, this issue was not brought to my attention. When this issue was brought to my attention—

Senator WYDEN. Okay; let us stop right there. So are you saying you and your staff did not know that 900,000 individuals skipped out on filing their returns and paying the \$46 billion they owed? Is that what you are telling us?

Commissioner RETTIG. That report relates to tax years 2014, 2015, 2016. Can I talk about what I did when I got on board, sir?

Senator WYDEN. I want to know—yes, absolutely. I want to know what you did when you learned about that.

Commissioner RETTIG. When I learned about that—a lot of this has been public—we changed certain folks with respect to certain positions in the Internal Revenue Service. We moved somebody from the Criminal Division at the Internal Revenue Service to be the Commissioner of Small Business and Self-Employed. The Deputy Chief of Criminal Investigation is now the Commissioner of Small Business and Self-Employed.

We created a fraud enforcement group headed by somebody who was a career IRS Criminal Investigation person. We created a promoter coordinator position. We recently added a significant counsel attorney to the fraud enforcement group.

We have touched all non-filers that we are aware of with respect to 2017 and 2018. We will, with respect to 2019. For fiscal year 2019, we closed more than 364,000 Automated Substitute for Return matters, resulting in nearly \$6.6 billion in additional assessments.

We have a non-filer strategic plan—

Senator WYDEN. My time is essentially up, and I have given you an opportunity to respond. How much of the \$46 billion, or close to it, has been recovered?

Commissioner RETTIG. I do not have those figures, but I am more than willing to meet with you or have our—

Senator WYDEN. When can we have those? Can we have those figures within a week? And the reason I want the answer, at least to the best of your ability, is because we always hear about things that are being done in the future, and we hear about changes with respect to policy, and new people being named and the like, but this is a brand new report.

It is the latest report from the Inspector General, and it says that these scofflaws are making off with enormous sums of money that we need for priorities here at home. And I am still trying to figure out when you actually learned about this, and what you did to collect that money.

So I am over my time, and I would like a written response to my question within a week. Okay? Thank you.

The CHAIRMAN. Senator Thune? And then after that, by remote, Senator Stabenow.

Senator THUNE. Thank you, Mr. Chairman.

Commissioner Rettig, during the pandemic, medical professionals from around the country have come to hard-hit areas to help, forming an essential part of our medical response and saving countless lives.

I believe these front-line health-care workers are heroes and are deserving of our Nation's profound gratitude. However others, including some State leaders, believe that these individuals are deserving of something else—tax bills. I have introduced bipartisan legislation, along with Senator Brown, called the Remote and Mobile Workforce Relief Act, which would establish a special 90-day standard for health-care workers who traveled to another State to fight the coronavirus and help ensure that these workers do not face surprise tax bills for the critical assistance that they have provided.

Our bill also addresses the possible tax complications that could face remote workers as a result of the pandemic, including State withholding and nexus issues. I know the safety of IRS workers is paramount to you, Mr. Rettig, and that much of your workforce has had to work remotely as well.

As a large national employer with a footprint in many States, is it safe to assume that you too are having to confront many of these same State tax withholding issues presented by remote work?

Commissioner RETTIG. I believe that is accurate.

Senator THUNE. I would hope that we could make some progress on addressing that and provide certainty and clarity for a lot of these employees who are crossing State lines in many cases to provide assistance to help us defeat the coronavirus. So I am hoping that that legislation can ride on whatever the next CARES package is.

Mr. Rettig, this year the President's budget once again proposes to improve clarity and worker classification requirements. As you know, for the past two Congresses I have introduced legislation that would do just that. My bill, the NEW GIG Act, addresses the classification of workers and creates a safe harbor based on objective tests for both income and employment tax purposes.

What is new this year is just how much more important gig workers and gig work has become. During the pandemic, many of us have relied on these workers to deliver our food and groceries, among other necessities. But companies who have wanted to provide additional benefits to workers, from PPE to financial assistance, have hesitated to do so for fear that, as a result of their support, they could accidentally see these workers be reclassified from independent contractors to employees.

Would you continue to work with me to add the much-needed certainty to our worker classification rules so that companies can provide support to workers to help them stay safe during the pandemic?

Commissioner RETTIG. Yes, sir.

Senator THUNE. I had introduced legislation in March. It was a bipartisan bill that allowed the tax filing deadline to be extended from April to July. Shortly after that, you proceeded to approve that request, or the Treasury Department, I should say, did. And yesterday, as the chairman noted, the IRS and Treasury announced the payment deadline of July 15th would not be postponed.

Could you speak to whether this decision was made in response to feedback you received from States regarding their own fiscal concerns? Is it your impression that small and medium-sized businesses have enough liquidity presently to pay their tax bills? Could you talk a little bit about that decision?

Commissioner RETTIG. The decision ultimately was made by the Treasury, but we were interactive with various professional organizations, professional service organizations, both accounting law and otherwise. We were interactive with various States along the course of the path.

So the decision was sort of a cumulative decision after, I think it was—you know, one of the organizations, I know, solicited 1,000 of its members to get input, and they were supportive of not postponing the July 15th. Basically the comment was that their businesses have started to settle into a degree of reality.

But we also, in issuing the notice—the IRS issued a notice yesterday with a host of payment options for folks who might not be able to pay by July 15th.

Senator THUNE. Yes, and I was going to ask, would more separate deadlines be better or worse for taxpayers, would you say?

Commissioner RETTIG. You know, we are moving into—with respect to the IRS, we are always processing two filing seasons at once, and we are moving right into the next filing season that we have. So it becomes a little cumbersome for us, but that was not taken into account, and the IRS employees will rise to the challenge.

But with respect to taxpayers, and particularly self-employed or unrepresented taxpayers, too many dates begins to get a little confusing in the trenches. And so giving some degree of certainty that they can move to and having us exercise discretion on the back end, I think is the proper path forward.

Senator THUNE. Thank you, Mr. Chairman. My time has expired.

The CHAIRMAN. Senator Stabenow—and for everybody else who is remote—I do not know whether you know when the 5 minutes are up. I do not intend to cut you off at the 5 minutes, but if you

hear a little tapping of the gavel like that [indicating], it means that I should go on to the next person. We have a lot of people. We have 24 people who want to ask questions today.

Senator Stabenow?

Senator STABENOW. I understand, Mr. Chairman. Thank you and our ranking member for holding the hearing, and thank you, Commissioner, for joining us today. It is a really important discussion.

Now I want to speak about the \$1,200 Economic Impact Payments that have been so vital to stabilizing so many American families during this pandemic. And I think, along with those payments, unemployment insurance has really allowed millions of families just to attempt to survive through all of this.

Families in Michigan have received more than 4.8 million payments, the \$1,200 payments, the money helping people through the crisis, and I want to first thank you for working with the Social Security Commissioner and the Secretary of Veterans Affairs to ensure that people receiving Social Security and VA benefits would receive the EIPs without having to file tax returns.

However, we have a lot of folks who still have not gotten those payments. In fact, last week the Center for Budget and Policy Priorities estimated that about 12 million families—and I know we have estimated more than 300,000 families in Michigan—that are eligible have not received them because they did not file tax returns, or have not used the IRS website.

So these are likely to be low-income families, disproportionately people of color, and they are people who frankly right now—as you know, the \$1,200 and \$500 per child are extremely, extremely important.

So my first question is really basic. Does the IRS have an estimate of how many people are eligible for EIPs but have not yet received them?

Commissioner RETTIG. Personally, I can tell you I think the 12 million is significantly overstated, but—

Senator STABENOW. Any ideas? Do you have any—what do you think the right number is?

Commissioner RETTIG. I am currently not at liberty to give a number, but I would say it is overstated multiple times. But part of the difficulty here is we cannot count people whom we cannot identify. And we cannot issue payments to people we cannot identify.

So we have reached out—and personally I have reached out to numerous folks around the country, and thousands of different community organizations, including organizations involving homelessness and other arenas which have a significant contingent of folks who have the ability to operate off the radar screen, if you will, with respect to the Federal Government.

Senator STABENOW. And I appreciate that. In the interests of time, I am going to pursue that just a little bit more, because when we are talking about another COVID package, one of the things on the table is an additional \$1,200 payment, which I hope will actually happen.

But given that, what should we be doing in the current round in terms of getting people the payments that they deserve; and in any future rounds, what should the strategy be with Congress? How

should we write this? What can we do to support your efforts to make sure that the people who most need this help right now are able to get it?

Commissioner RETTIG. Well, there are some lessons learned, obviously, when you go through a process like this, including outreach to various State organizations that might be providing subsidies to members of a State that the Federal Government might not know of or be unaware of, and folks who do not otherwise have a filing obligation.

Similarly, we have created what we refer to as toolkits. One is for members of Congress and the Senate, and then another one is for literally every type of organization you can consider. And we have a lot of information.

We have actually put our information in more than two dozen different languages, because there are a lot of situations with respect to certain communities that are also not interactive. But we can provide some information on a go-forward basis.

And, the people we have been able to identify now, we have and we can identify, and I think that that is hugely positive. But we have—

Senator STABENOW. If I might, I am going to stop you, only just to finally—I just want to refer to the fact that a lot of what we are talking about are folks who are unbanked. They do not have bank accounts. They have difficulty opening bank accounts.

I know that you sent stimulus payments via debit cards to some unbanked people. Unfortunately, they were not expecting them. A lot of people thought it was fraud, and basically threw them in the trash.

And so, when we look at another round of stimulus—checks, using a debit card, which I think can make sense as a strategy—what mistakes can we avoid repeating? What problems can we avoid repeating with the people who did not know it was coming, and basically did not take it seriously?

Are you reaching out to them as well? Because the debit card would make sense for people who do not have a bank account, but there needs to be a strategy somehow to communicate with them to let them know it is coming.

Commissioner RETTIG. Issuing payments by debit card was actually determined by the Bureau of Fiscal Services, rather than by the Internal Revenue Service. We were just instructed to provide a file in a certain manner, and they made the determination of how those payments went out, whether it was by check or by debit card for unbanked people.

But I think certainly, marketing outreach, any kind of public service announcements, not only by the Internal Revenue Service but by a number of other Federal agencies, State agencies, and similarly Congress—I do not think we can do—

Senator STABENOW. Thank you, Mr. Chairman. Thank you.

Senator Portman, by remote.

[Pause.]

The CHAIRMAN. Are you there, Senator Portman?

Senator PORTMAN. I am here, Mr. Chairman. Can you hear me okay?

The CHAIRMAN. Yes, I can hear you.

Senator PORTMAN. Commissioner Rettig, thank you so much for being with us today and, more importantly, for your service. Your last year as IRS Commissioner must feel like 10 years, and we appreciate all the challenges you faced and how you have handled them professionally.

I am going to ask a few questions about some concerns I have. But overall, let me say that I am pleased you got those checks out as quickly as possible. There has been a lot of discussion of that this morning, but one data point that was in your testimony—in 2008 it took us 10 weeks to get the first check out. Ten weeks into this one, we had about 90 to 95 percent of the checks out.

And although I was hearing from a lot of my constituents about where is my check, I do think that that was one of the areas where we did best in terms of the legislation that we passed here in Congress in getting real help to people right away. It was needed.

We may do it again, and so I think these questions are appropriate to ask. One is, what are you doing to correct some of the problems that were encountered, in particular those who did not have bank relationships, were unbanked, or did not have up-to-date personal information and had a tough time getting their checks? They log on to Get My Payment, which I have encouraged all of them to do in my tele-town halls and so on, and they find out their check has gone to another account they have never heard of, as an example.

So these are folks who often are low-income and need the checks more than anybody. So what is the status of some of these incorrect or non-delivered payments? And what steps are being taken to ensure that incorrect checks are being processed and reissued right away?

Commissioner RETTIG. Reissuing checks is a priority for the Internal Revenue Service. We actually take it very seriously. The concept of trying to get these payments out to the eligible Americans as quickly as possible—you know, we put together those portals. The first portal with respect to the non-filers was put together on what was launched on April 10th. The portal Expect to Get My Payment was launched on April 15th.

The Get My Payment portal, 14 million people successfully used it. The non-filers portal, 6.1 million people successfully used it. And 192 million people successfully verified the status of their payment on the Get My Payment portal.

So we have moved forward with that information. But again, our focus is on the people who have—principally they are unbanked people, and the IRS is essentially unaware of their existence. So identifying people, and then trying to get payments into their hands, I think that is one of the reasons why BFS moved to using debit cards.

And as far as distribution of payments, one of the limitations was the BFS capacity was about 5 to 7 million checks per week. The Internal Revenue Service was more or less ready to go by April 10th with the information we had to launch the payments, which is how 81 million payments launched on April 10th.

Senator PORTMAN. Well, I appreciate your focus on particularly those who are unbanked, because those are some of the folks who need it the most.

The other question I have is about refunds this year. I have been surprised, frankly, to hear how many people filed prior to the deadline, or a couple of weeks before the deadline, and 138 million returns have been processed as of June 19th, which is on par with the 137 million last year.

So basically, even though you delayed the filing, most people did not take advantage of that, in part because they wanted their refund. But I am concerned that even though people have filed, they have not had their tax returns processed. As a result, there are many individuals, I am told—as an example, nearly 5 million paper returns are sitting unprocessed at a processing center somewhere around the country, as well as the 10 million difference in refunds processed this year compared to last year.

So we are taking people's tax returns early, but we are not processing them. As a result, these refunds are sitting in the Federal Treasury rather than going out to people as they should. This, of course, would be a de facto second stimulus. I mean, it would be huge if we could get this money out the door. So it seems to me that should be our top priority right now.

We have received hundreds of inquiries from constituents who did not have the means to file electronically who need their refund to just make it, financially—to make ends meet, to make their car payment, to make the rent.

Can you tell us what your plans are to process this backlog of paper returns, in particular, and ensure the remaining refunds get out the door as quickly as possible?

Commissioner RETTIG. The paper returns are a high priority for the Internal Revenue Service in terms of processing. I think we are running through those about a million a week, reducing the backlog about a million a week. And so going through that and getting those out is a priority.

Similarly, with respect to electronically filed returns that might have been called up in a fraud filter or identity theft situation, those are also priorities. So the refund side of the house is really the first thing for the customer service representatives. And I think currently we have around 8,300 folks working those two issues.

Senator PORTMAN. Well, I would urge you to redouble your efforts there. Again, we are looking at what is happening right now in the economy. We have still got 10 million people out of work. We have still got ourselves in a recession, and getting these refund checks out is absolutely critical. And they are due to people. So we have the information; it is something that can be done. I would think that would be a high priority.

With regard to the issue of IRS reform, I have a few questions for you I will submit for the record, because I want to keep to the chairman's time here. And I would just say that with regard to IRS reforms, we appreciate all you have done. We are looking forward to the restructuring report that is due by September 30, 2020. And the restructuring commission that I co-led back in 1997 made a big difference, I think, in trying to improve the agency, and it is time to do it again.

So we look forward to that restructuring report, and I look forward to sending you some additional questions on IRS reform and

getting your answer in writing. And again, thank you for your service, Commissioner.

The CHAIRMAN. Senator Cassidy, by remote.

Senator CASSIDY. Mr. Commissioner, thank you for being on—can you hear me?

Commissioner RETTIG. Yes, I can.

Senator CASSIDY. Thank you very much. Listen, a couple of things right off the bat. I know Senator Menendez and I are collaborating. He is going to ask you a couple more questions, but I just want to quickly point out that our bipartisan bill, the SMART Act, attempts to revise State and local relief.

Let me ask you, though, to set the stage for that. Do you agree that much of the current fiscal crisis facing the State and local governments is related to the pandemic that caused revenues to fall off a cliff, not mismanagement by that local city and that State government?

Commissioner RETTIG. I personally have not analyzed that. Quite frankly, we have been working 7 days a week, 12, 15 hours a day, since March. I am aware certainly that the private sector and the government sector being shut down is having an impact.

Senator CASSIDY. Sounds great. Okay. Senator Menendez will follow up with some more on that.

Let me ask you this regarding conservation easements. There are neighborhoods in downtown New Orleans—and in Shreveport and Baton Rouge—which have been revitalized by the historic preservation easement.

I know there has been a review of conservation easements, but it seems that the historic preservation easements are kind of caught up in that, which are a fraction of the conservation easements.

So it does not seem like the IRS's evaluation of conservation easements has drawn a distinction between the historic property and the land conservation. Would the IRS be willing to create a safe harbor for those preservationists who wish to use the program with integrity, which is the way Congress of course intended?

Commissioner RETTIG. You know, this would be subject to Treasury with respect to policy on issues like that, but we would certainly be willing to take a look at it. A distinction between historic easements and the conservation easements is the syndicated conservation easements.

The Internal Revenue Service is supportive of historic easements. It is supportive of legitimate conservation easements. In the syndicated arena, we have seen significant abuse, and that is where a significant part of our enforcement effort has been and will continue to be.

Senator CASSIDY. Got it. With that said, I am also saying—I do not know if this is you or Treasury—but it seemed that sometimes the holdup seems to be that the easements are being denied over mandatory changes, for example, putting in an ADA-compliant wheelchair ramp, which is a little bit of a Catch-22. You get busted if do not put it, and you do not do well if you do put it. And so that is, you know, of a concern.

There is also an issue—I am sorry about my computers. I am trying to follow more than one computer right now, so I apologize for

the delay. There is also the issue of administering the COVID-19 relief. I am interested in paid leave tax credits provisions which are contained within H.R. 6201. Could you give your insights on the administration of these paid leave tax credits?

My colleagues and I are contemplating other legislation in the paid-leave space, and we would love your thoughts on this.

Commissioner RETTIG. As tax administrators, on behalf of the country, we are doing our best to administer every one of these provisions. They are really relief provisions to provide relief for businesses in this context, and individuals and whatnot.

So I can tell you, from our perspective we have prioritized this entire arena. And we are doing our best.

Senator CASSIDY. Has the program gone well? Or do you see hiccups? Or is there something which Congress needs to help you address?

Commissioner RETTIG. I am not aware of—today I am not aware of something that I would say is a hiccup, but we would relish the opportunity to meet with members of Congress and others who are looking at creating a bill and try to provide our assistance, to meet with staff, or anybody.

Senator CASSIDY. So I have one more question in my remaining time. We have some companies which have employees, U.S. employees, who work for foreign corporations overseas. Think of the guy who is working in the energy sector, and he is doing something off the coast of Israel with natural gas development. I am told the IRS released guidance saying that the activities of these foreign workers trapped in the U.S. right now because of travel restrictions would not result in the foreign corporation being deemed to have a U.S. trade or business, or having a permanent establishment in the U.S.

I think the ask is: can you release more formal guidance? There is a little bit of concern about relying only on an online FAQ, and a formal IRS notice would be preferable. If that is impractical, can you update the FAQ to include the documentation necessary to approve of the travel impairment?

Commissioner RETTIG. It would be a—guidance would be a Treasury policy call, but I will take that back.

The CHAIRMAN. Senator Menendez?

[No response.]

The CHAIRMAN. Senator Menendez? Okay; Senator Lankford?

[No response.]

The CHAIRMAN. Senator Lankford? Okay; Senator Carper was here in person, so I will go to Senator Daines by remote.

[No response.]

The CHAIRMAN. Do you suppose our system is broken down or anything? Senator Cardin?

Senator CARDIN. I am here.

The CHAIRMAN. Go ahead, Senator Cardin.

Senator CARDIN. Thank you very much.

Mr. Commissioner, thank you very much for your service and being here today to fill us in. First I want to thank you for figuring out a way that we can get checks out to those non-filers or their dependents this summer, rather than having to wait to file for a refund in the next tax season. I know that would be a terrible in-

convenience, and I thank you for your commitment to find a way to deal with this.

I do want to talk a little bit about the Taxpayer First Act. The chairman mentioned it in his opening statement. We recognize that COVID-19 has challenged the implementation of that bill that requires the IRS to be more customer-friendly, that deals with training, that deals with several of these issues that we have been working on for a long time as members of the Senate Finance Committee.

Can you just very briefly tell me how you have been impacted on implementing that act as a result of COVID-19?

Commissioner RETTIG. Unfortunately, Senator, we have been impacted. We had to redeploy resources, as you can imagine, in a number of different arenas. And I think somewhere within 2 to 3 weeks ago we sent a letter up indicating that we probably will need to move the September date to later this year—November, December.

We are working very hard on it, and the IRS takes the experience of taxpayers quite seriously. I think you are aware of the fact that a significant purpose as to why I did come onboard was because of my experience on the outside and trying to make things better for everyone who interacts with the Internal Revenue Service.

Every employee of the Internal Revenue Service wants to do more, wants to do their best. And the Taxpayer First Act is quite an opportunity and a privilege for us to actually move the Internal Revenue Service into the arenas where I think we are actually doing things through the eyes of the taxpayer, as opposed to through the eyes of the Federal agency.

We are also looking at the organizational structure. We have had more than a thousand interactions in terms of focus groups, and direct interactions and comments and such, receiving information from all over. We do have TFAO@irs.gov Anybody can submit a comment there in terms of that, but we are working very hard.

We did get pushback with respect to COVID. We were doing really well, and—

Senator CARDIN. Mr. Commissioner, let me make this suggestion. There are lots of members of our committee who are very interested in this. I would suggest that we have an opportunity for briefings so that we understand exactly what you are trying to do. We certainly understand that COVID-19 will impact the time schedule here, but we would urge you to keep us informed.

I want to cover two other points, if I can, briefly. One is to deal with the employee retention credit. We know that there have been some credits that have been given. We would welcome your thoughts as to how that program has been implemented. We know the House is interested in modifying that program. We are going to be looking at legislation, I hope soon, in regards to the next stimulus package. The retention credit was one of our major IRS initiatives.

What challenges have you found in trying to implement that law?

Commissioner RETTIG. Unfortunately, there has been a degree of fraud for folks who actually looked at it as an opportunity to take

advantage of a really good program designed to help a lot of businesses, as well as employees.

We think we are pretty good in terms of identifying the fraud. We have some indicators. We have some filters, but I think you have probably seen a number of the prosecutions. The quickest prosecution was within about 2 weeks; an individual was indicted within about 2 weeks of when they submitted some paperwork.

That is an arena that we would like to have, I think, some input on in terms of maybe how we can limit that. In terms of the entire CARES Act, there have been quite a few scams, for lack of a better word, and we have devoted quite a few resources to that, as has Treasury and the Inspector General's office.

So we would welcome the opportunity to meet with staff, or meet with members to explore options.

Senator CARDIN. Well, I will make sure that we follow up with our staff.

The last point I want to mention is that the CARES Act did provide some relief in regards to retirement security by allowing relief from the required minimum distributions and some other provisions. These are temporary issues.

We know that in regards to retirement security, it is going to be impacted by COVID-19. We are looking at some substantive changes. Senator Portman and I have introduced legislation that would provide additional help for small businesses, for part-time workers, for low-income workers.

I would just urge that we work together and get your experiences during COVID-19 as to how we can use the Internal Revenue Code to encourage more retirement security options for vulnerable workers.

Commissioner RETTIG. We would welcome the opportunity.

Senator CARDIN. Thank you, Mr. Commissioner. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Cardin.

Now, would the people from Menendez, Lankford, Carper, or Daines—if you want to be recognized, please tell the staff. So I skipped over you to go to Cardin.

Senator Bennet would be next.

Senator BENNET. Thank you.

The CHAIRMAN. I am sorry. You were not here a little while ago, Senator Carper. Go ahead. I am sorry.

Senator CARPER. No, let me yield. Go ahead to whomever you were going to.

The CHAIRMAN. Well then, let us go to Senator Bennet, and I will go back to Senator Carper.

Senator CARPER. Thanks so much.

The CHAIRMAN. Senator Bennet, are you available?

Senator BENNET. Yes I am, Mr. Chairman. Can you hear me?

The CHAIRMAN. Yes, I can.

Senator BENNET. Thank you, Mr. Chairman, for holding the hearing. Thank you to Senator Carper for yielding. Thank you, Commissioner Rettig, for all you are doing.

As you know, the IRS created a non-filer portal allowing households to register for their \$1,200 Economic Impact Payment. However, unbeknownst to its users, the portal seems to have created

a limited tax return, or in effect filed a tax return as a formality for these households.

Later, when these taxpayers attempted to file a full 2019 return to receive their Child Tax Credit or Earned Income Tax Credit, they were prevented from doing so. And it is my understanding that they can still file a paper return. The IRS has a limited capacity to process paper, and until late June was not processing paper returns at all.

And I suspect, if I understand this correctly, there are a lot of people who are going to become discouraged when unable to file online, and as a result as many as 5 to 10 million households do not have a clear way to file taxes and no way to claim the Earned Income Tax Credit and the Child Tax Credit.

Until a suitable online system is put in place to deal with this filing trap created by the IRS's system, millions are going to go without the money they desperately need—for example, a mother of three who received \$2,700 in Economic Impact Payments but could be eligible for double that amount, or about \$5,200, in EITC but is unable to claim it because she is in this so-called “filing trap.”

So let me ask you. First, can you confirm that the non-filer portal is filing tax returns on behalf of these taxpayers and the users of that portal?

Commissioner RETTIG. For those individuals, the purpose of the non-filer portal was for them to be able to provide us with dependent information, which was for the additional \$500 per qualifying child—to get that in. And also we are about to issue guidance for these individuals to file a paper return. It will be marked “amended EIP return.” We will have specific guidance—amended EIP return, in paper. We will extract those from the mail and process those on an expedited basis.

Senator BENNET. Can I ask—first of all, Commissioner, thank you for doing the outreach on the additional \$500 payment. You and I had a conversation about the importance of that payment. But is there no way to—is there a reason why this cannot be done in a more expeditious way, and online? Although I appreciate your saying that the payments are going to be prioritized, it feels like it is going to be slower than these people would need to get these payments.

Commissioner RETTIG. We are trying to get things to come in through certain portals, which actually expedites our ability to look at certain things. I cannot commit to another lane for having this come in. Right now this will be the lane that we will be announcing, and we will be expediting it.

We also, I think you are aware, have specific email for members of the House and Senate at [house.gov](mailto:house.gov) or [senate.gov](mailto:senate.gov). And so if you have folks reaching out to you on these issues, you can forward that to us. And those emails are handled on an expedited basis as well, with respect to your constituents.

We have truly tried, given the fact that our employees are dealing with the same thing everyone else in the country is, and we have around 56,000 employees currently teleworking. We have worked really hard to try to address as many issues as we can, and

I continually keep saying “this is a priority,” “that is a priority,” and those are accurate statements.

And when I use the word “priority,” it is knowing that we have the human resources to back that up. We also have the employees who have the desire to make this happen. Our people care, and they care a lot.

Senator BENNET. And I am sure that they do. I appreciate that.

Let me just ask a final question for you to either answer or consider, whether there is anything preventing the IRS from automatically paying childless EITC benefits to households that are in this situation, using the W-2 data that the IRS already has on file? Or is there any other way that you think it could be expedited, or in a sense automated given the difficulty, the challenges that the agency is facing, but also the dire need that so many of our families are in?

Commissioner RETTIG. When I came onboard is when I learned a lot about the EITC. And interestingly, I was in a room with some IRS employees who had been there since 1975 and 1976 who have been working on EITC since then.

About 98 percent of all refunds are processed accordingly and paid within 21 days. It is that 2 percent, and the 2 percent get held up for a number of reasons. A large percentage of those would be in the EITC arena.

We devote a lot of resources to trying to figure out, as do members of Congress and the Senate and others, how to make that program more efficient and quicker. Because at the end of the day, these are subsidies that need to get into the hands of the people who truly need them.

The CHAIRMAN. Senator Carper?

Senator CARPER. Thanks, Mr. Chairman. Mr. Rettig, thank you for joining us today. Thank you for your service, and our thanks to the people who work with you, the folks that you lead across the IRS. It is a difficult job and a thankless job. We are grateful for all you do.

If I could just give you a word of advice to follow up on Senator Wyden’s questioning of “why did you not call, why did you not call?” I have said to the chairman and Senator Wyden, sometimes the folks who are new in jobs, like even your job, are reluctant to reach out as a human being and call and say, “By the way, I am new at this.”

But this is something that I share with you: I would urge you to do that. Some folks are really good at it. Robert Lighthizer, Trade Rep, who was here a couple of weeks ago, he is really good at doing that. And I would just ask you to keep that in mind.

A couple of things. One, with respect to the kind of resources that we provide, I have been looking at the numbers, and it looks like from 2010 to last year we saw, in terms of real resources provided to the IRS, a significant drop.

I think the budget proposal for the next year, 2021, is an improvement—modest, but an improvement nonetheless. But John Koskinen, a former Commissioner, used to come here and plead with us for additional resources; plead with us for the authority to hire people with the kind of technical skills that are needed for some of these complex tax returns.

Talk to us about the people, the human resources that are needed, and the folks with technical skills. Are you able to hire—to find them? Are you able to bring them onboard and put them to work?

Commissioner RETTIG. The Taxpayer First Act gave us streamlined critical pay, and we have been exercising that, and it is principally with respect to cyber and IT. That is a huge benefit to the agency. It allows us to get on a more even keel basis to compete for folks in that regard.

All of the Federal Government has difficulty onboarding people. There is a time lag in onboarding people. So from when we meet them to try to get them onboard, they are approached by others.

Senator CARPER. It can take months, right?

Commissioner RETTIG. Yes.

Senator CARPER. Maybe even longer.

Commissioner RETTIG. I have actually taken to—in the town halls and interactions with our employees—referring to our employees as IRS ambassadors, that when you are out and about, either with private-sector folks or with folks from other agencies, let them know how great it is to work for the Internal Revenue Service, bring those people into our agency, particularly the ones we can get onboard quickly.

We do have resource issues from the human perspective. A significant percentage of our employee base is eligible to retire over the next few years. We had essentially no real hiring from 2011 to 2018. We were able to hire last year. We are hiring this year. But it is difficult to replenish on the attrition. So we go up—I think our enforcement side of the house went up about 1 percent, even with some considerable hiring.

This also brings in the—

Senator CARPER. I am going to ask you to stop right there. I think the point is well made. I want to refocus a little bit, if I can, on Free File. When I was a Congressman a million years ago, I used to hold town hall meetings, hundreds of them. And every year, along about the middle of March—I only had three counties in Delaware—I would host town hall meetings in all three counties about mid-March, a month before the filing deadline.

We would invite IRS to counsel people. We would invite the Delaware Division of Revenue to counsel people. We would literally help people with their taxes, with help from the experts. And we did that—I was in Congress on the House side 10 years—we did it for almost 10 years.

As it turns out, there is a better way to do that now in terms of providing assistance and advice, and it is something called Free File—Free File, which most people do not even know exists. And I think in the country there are close to 100 million taxpayers—close to 100 million taxpayers—who could actually take advantage of this help in filing their taxes, and it is free. But relatively few people, just a couple million actually, use that.

Senator Rob Portman, who was questioning you just a few minutes ago, he and I are the leads on this Permanent Subcommittee on Investigations in the Senate. And one of the things we have delved into over the last year is what is going on here. How can we make sure that this advantage is public and is there to help people?

I would like to say, if there is a tree that falls in the forest and there is nobody there to hear it, is there really a noise? Well, if there is a good program, a very helpful program that is free, like Free File, why aren't more people using it? What can you do? What can the IRS do, and what can we do to help enable you to provide better access to that kind of information?

Commissioner RETTIG. The IRS promotes it to the extent that the IRS can. It has not had a marketing budget, essentially since 2001, I think, when it started. You know, IRS resources and the allocation of those resources, there is a lot of effort that goes into where a dollar should go. And a dollar for marketing versus a dollar for answering a phone call, or the equivalent, or cyber—you know, we have to be aware of a lot of different things.

I am a huge proponent of Free File. It helps the right people. Free File, combined with VITA, tax counseling for the elderly, military VITA, I think make a huge difference. If I had to—and I know the report that came out, and I agree with this, calls for more outreach and knowledge.

When IRS issues guidance, or issues a press release, it does not necessarily get to the person at the corner grocery store, et cetera, et cetera, right? So having people become aware of it is a significant issue.

If you do not know of Free File, you are not going to use it. So I think that is a hurdle to it. But this year it had, I think, so far, a 27-percent increase in usage, not including the non-filers portal. But the Free File Alliance was instrumental in helping us launch the non-filers portal for EITC by April 10th. The CARES Act came out March 27th. We launched that portal April 10th. And the Free File Alliance was a significant help to us in getting that done.

Senator CARPER. Thank you, Mr. Chairman.

Mr. Chairman, there is something we can do about this, and I am very, very encouraged by what the Commissioner said. This is a good program, and we need to make sure people know about it.

The CHAIRMAN. Senator Menendez now, by remote.

Senator MENENDEZ. Well, thank you, Mr. Chairman.

Commissioner, earlier this year the Treasury Inspector General for Tax Administration concluded an investigation that I requested into potential abuses of the 45Q credit for carbon capture and sequestration by big fossil fuel companies. The IG confirmed that these companies had in fact incorrectly claimed almost \$900 million in 45Q credits. Of the 10 companies claiming 99.9 percent of the 45Q credits, the IG found that only 3 had the required monitoring, reporting, and verification plans in place with the EPA.

I subsequently wrote a letter to you urging the IRS to take a number of steps to both ensure that companies that had previously incorrectly claimed the credit are held accountable, and to ensure that these abuses do not continue moving forward. I sent that back on April 29th. And last night at 6 p.m., I got an answer to my April 29th letter.

I understand that the IRS has examined a portion of the incorrectly claimed credits and retroactively denied them, and that some additional portion may be currently under order, or could come under orders in the near future. However, in your response you also declined to commit to auditing all previous claimants of the

45Q credit to ensure that they are in compliance. And you would not commit to implementing a campaign to examine claimants going forward.

You said, quote, “The IRS cannot initiate examinations on a select group of taxpayers without proper justification, documentation, and approval.”

But, Commissioner, if the facts that I have discussed here today supported by an investigation of the Inspector General do not constitute proper justification and documentation, I do not know what does. I understand that the IRS has limited resources, but it seems clear to me that ensuring compliance with the 45Q carries a significant return on investment for the American taxpayer.

So let me ask you again in person. Will you commit to auditing all previous claimants of more than \$10,000 in 45Q credits and initiate a campaign to examine future claimants to ensure compliance?

Commissioner RETTIG. Senator, we are exercising our best efforts with respect to the 45Q credit. We take compliance seriously. We continue to apply significant audit resources in this arena. And, as I believe that TIGTA report also states, the IRS examiners have consistently denied the credit, and I think of the pool that they were looking at, the examiners denied about 60, 6–0, percent of those credits.

And we are—I will commit to trying to exercise our best efforts there, but we have to balance that. We have similar, as Senator Wyden opened with, we have similar areas that we need to also devote resources to. We only have 6,430 revenue agents. We lack the ability to do that.

Senator MENENDEZ. I appreciate that, and I have been someone who has supported resourcing the IRS so you can do your job.

Commissioner RETTIG. We appreciate that.

Senator MENENDEZ. But the bottom line is, 45Q was put in to incentivize cleaner energy production and innovative new technologies. And if \$900 million is what we have got back already, I can just imagine what is available. So it is well worth it.

Let me quickly turn to one other question, though. The COVID pandemic has devastated our cities and local communities, which have been forced to set up and provide an unprecedented level of services. The consequences have had a real drain from Texas to Colorado, from South Carolina to New Jersey. No State is immune.

We have had 1.4 million American workers affected, ultimately all in the public service field, the people whom we need the most on the front lines. You are our Nation’s top tax official. Do you think that State and local governments would be facing the immediate fiscal crisis they are experiencing if it were not in the middle of a pandemic and recession that caused revenues to fall off the cliff?

Commissioner RETTIG. Senator, I think I answered this question earlier; it came out in a different format. But I have not been focused on the State and local governments. I am aware of the impact universally on the public and private sectors by having so many individuals out of work, businesses shut down, and people home, as well as the consequences for the health and safety side,

which obviously increases expenses for a lot of individuals. And, you know—

Senator MENENDEZ. Let me ask you this. If we have 3 or 4 million public employees laid off, we are going to have a lot less Federal revenue come to the Nation's Treasury because those people are not going to be paying, right?

Commissioner RETTIG. So we are—we are in that mode of, you know, we have 56,000 employees teleworking. The balance of the employees, the ones who have nonportable work who need to come in, we need to be socially distanced and the rest. And we are trying to accomplish, for example, examinations, telephones, processing returns, and whatnot, with a limited—

Senator MENENDEZ. I was referring to if you have 3 or 4 million people laid off—not furloughed, working remotely—that at the end of the day the consequence is going to be millions of people who are not paying their Federal taxes who are going to cost a lot more to the Federal Treasury.

The CHAIRMAN. Senator Warner?

[No response.]

The CHAIRMAN. Senator Warner, I was told you were available. Senator Warner?

Senator WARNER. Yes, I am here. Thank you, Mr. Chairman. Commissioner Rettig, I want to thank you for your testimony today.

Echoing what a number of the other members have said, I want to thank you—and particularly the men and women of the IRS for what they have been doing to implement the CARES Act. That really is extraordinarily significant.

I want to start my questions today on one of the tools that was in the CARES Act, the Employee Retention Tax Credit, what's been called the ERTC. I think this is an extraordinarily significant addition to the legislation and something I was personally involved with with Secretary Mnuchin, and it has gotten a very favorable response from Treasury.

I know in the House, the next version of CARES, there is an enormous expansion of the ERTC. And I have been working with a number of my Democratic colleagues, although there is a Republican parallel effort that would further utilize the ERTC. Our effort is called The Paycheck Security Act, which would again greatly expand this tool.

As you know, Commissioner, one of the key components of the ERTC is it allows companies to, in a sense, keep their payroll tax deposits to be applied against the ERTC. So it helps them with their cash flow. If their ERTC credit is greater than their payroll tax deposits, they would file a new form, which I appreciate you guys creating very quickly, Form 7200, that advances future payroll tax payments so it becomes this refundable credit.

Now we know, so far, there have not been that many firms that have filed the 7200, so they have not—the current credit is fairly modest. So we do not know the full take-up rate, because there may be a number of people who simply withhold their payroll taxes and have not had to use the Form 7200.

But as we are looking at expansion of this tool, one of the things I am really concerned about is that, so far at least, the IRS has

only utilized a fax-filing form of Form 7200, rather than an e-filing form. And I just would like to know, why is that the case? And if we are looking—if Congress is looking at a major expansion of the ERTC, it seems to me that we need you to focus on updating the filing. I imagine you have to take that fax form and convert it to an online form. Why not have that online form available from the outset?

Can you address that and tell me when we might get that updated?

Commissioner RETTIG. We actually were quite proud of the fact that we got the paper form out for e-fax as quickly as we did on the 7200. We are taking a look at all options to try to streamline all interactions with us going forward. And it is probably best that I get back to you on the ability to do that.

I think you are aware, we just created the ability to electronically file amended income tax returns. It takes quite a bit of programming, and our IT department, our IT individuals are spectacular, but we have quite a few projects. Not to lessen the importance of this by any stretch of the imagination.

Senator WARNER. Commissioner, I would simply say, I do appreciate the fact that you got 7200 out. It is a new form. You got it out. But I think this is one of those unique spots where you have the administration and Treasury thinking ERTC is very important. You have the House already doing a greatly expanded version. You have a number of us on the Democratic side who have an expanded use they hope to get into the next COVID package. A number of my Republican colleagues, like Senator Hawley and Senator Gardner, have a variation on this, which also uses the ERTC.

So I really hope you will bump this up higher on the list.

Let me move in my last couple of seconds to another area. I would ask—I have been focused for a long time on gig workers, and easing their tax compliance. I asked the GAO to publish a major study. They did come back. For example, the GAO team suggested that IRS make several changes to update instructions for both Form 1040 and include a reference to form 1099-K.

Just generally speaking in the last few seconds, gig workers are not going away. We have to make tax compliance easier. Can you talk about what you hope to do to ease the gig workers' tax compliance issues?

Commissioner RETTIG. Yes. We are looking at a lot of different facets of the gig workers. I think there is a study out there that says that a significant portion of their receipts go to expenses. And so the net probably is not what we would think it might otherwise be, but we are looking at a lot of different options to ease their ability to comply. And it is not limited to gig workers. It is actually pretty pervasive to all folks who might be in the realm of an independent contractor.

Senator WARNER. Thank you, Mr. Chairman.

Commissioner RETTIG. But I just really want to keep working with you on this. This is going to be an area that is only going to grow, and again we appreciate your cooperation.

Senator WARNER. I look forward to the opportunity. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Cantwell?

Senator CANTWELL. Thank you, Mr. Chairman. Thank you and the ranking member for holding this hearing.

Many of the activities that must take place to keep the housing credit production on schedule have been impacted by the steps that States and local governments have taken in response to the coronavirus. And over the last few months, we have seen significant interruptions to construction activities, shortages of materials, and delays.

As a result, many properties will be unable to meet certain programmatic deadlines. The National Council of State Housing Agencies sent the IRS and Treasury a letter in March asking the IRS to extend programmatic deadlines and provide other flexibilities needed in these current circumstances. It was signed by over 200 organizations.

The IRS has not yet given guidance on this, so I am concerned that if we do not act soon, we are going to really impact the affordable housing market even more than it already is.

So is that guidance forthcoming?

Commissioner RETTIG. Let me get back to you as to whether that is going to be forthcoming. I believe it is on the Treasury side that the response is coming, but let me get back to you on that. And I will look into it.

Senator CANTWELL. Do you understand how important—

Commissioner RETTIG. For sure.

Senator CANTWELL. We do not have enough housing, affordable housing, period. Now the problem is going to be exacerbated by the COVID crisis. And a little guidance could help us keep some projects. Because every project is valuable for helping us solve this problem.

I noted from some of my colleagues how hospitals are now paying for affordable housing, just to keep people out of the emergency room, because if they can keep them in affordable housing, then they are not going to show up in the emergency room every day. So this is a pervasive problem.

I wanted to ask you about, according to the National Taxpayer Advocate—well, in March, as a result of the coronavirus, IRS closed its offices. And so I want to ask about taxpayer assistance.

According to the National Taxpayer Advocate, the only resources readily available are at the *IRS.gov* website and automated phone line. Many Washingtonians rely on in-person assistance, including the elderly.

So what are the steps being taken to serve those who require that kind of assistance?

Commissioner RETTIG. All phone lines are open. Our TACs will be open by mid-July—Taxpayer Assistance Centers will be open by mid-July. We have 358 Taxpayer Assistance Centers; 31 are not staffed full-time, but we do rotate folks in there. And we have people doing a circuit.

We also, not only IRS, but a lot of folks use VITA sites for a variety of different things, and 10,500 of 11,000-and-change of the VITA sites shut down. All of the AARP VITA sites shut down.

So we have been really working as hard as we can, and we are trying to ramp up as quickly as we can, maintaining, you know,

safety and health for our employees, as well as for people interacting with us.

We had to modify our TACs in terms of—you know, normally it is “come in and sit down at a desk.” The TACs that are opening will handle matters by appointment only. But their history is that over 50 percent, 5–0, who contact the TAC for an appointment, their matter is handled actually on that call. So we are——

Senator CANTWELL. But they are not getting caught in some automated system that is——

Commissioner RETTIG. There is a person who answers the phone for a TAC——

Senator CANTWELL. That they can get to?

Commissioner RETTIG. They answer the phone. Then the TACs are local. They are retail. They are right out there.

Senator CANTWELL. Okay. And what steps are we taking to serve people who are filing for the Earned Income Tax Credit?

Commissioner RETTIG. The EITC—one, for about 98 percent of the folks who file for that, it goes through. And the 2 percent, we have a lot of complexities involved there in terms of—if Congress, with the Internal Revenue Service, with Treasury, with everybody else, could take a hard look at the statutory authority there and the definition particularly of a qualifying child. That is where we launch—we get claims for EITC. The claims essentially are for people who, for one or many reasons, are deserving of the funds that are coming, but there are a tremendous amount of problems for us to be able to verify a qualifying child when there is no link in the system. It does not need to be the parent of a child to be a qualifying child.

Similarly, over 51 percent of EITC claims are done by return preparers. And we have continually asked for oversight of return preparers.

Similarly, we have continually asked for correctable error authority. We cannot adjust any EITC claim on our own with information we otherwise have in our system, which would allow us to not have to go through a deficiency-type procedure——

Senator CANTWELL. I see my time is expiring, so can we show you language and have you tell us whether you think that would give you the flexibility you need?

Commissioner RETTIG. I am available after this hearing.

Senator CANTWELL. Thank you. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Hassan?

Senator HASSAN. Well, thank you, Mr. Chairman, and thank you, Commissioner, for being here, and for all of the work that you and your staff are doing on recovery efforts underway at the IRS.

I want to start first by just thanking you for heeding the calls of my committee colleagues and myself to deliver stimulus payments automatically to the millions of Social Security and VA beneficiaries who do not file tax returns. And towards that end, I want to follow up on something that Chairman Grassley asked you about. Unfortunately, many of these beneficiaries missed out on \$500 payments for their children because of short deadlines to provide the IRS with dependent information. And the IRS has said

that these families will need to wait until 2021 to get their payments.

Along with colleagues on this committee, I sent you a letter in April urging you to provide these payments as quickly as possible before 2021. You just referenced in your answer to the chairman that you were considering doing that, but there were some limitations.

So could you tell us, please, what specifically you are considering, and what specific limitations the IRS is facing with regard to getting these payments to people before 2021?

Commissioner RETTIG. We have a pool of individuals who used our non-filers portal who should have actually received that additional \$500 payment. We had that information. It just, for a limited period—remember, that portal was—you know, I am very proud of the effort of our employees, but we built several airplanes while we were flying two other airplanes.

Senator HASSAN. I understand.

Commissioner RETTIG. And then we had to adjust those as we were monitoring them. And one of the things we found was, we had a gap where it was not picking up those \$500 payments, and we had that information.

So we are going to be, between those payments to that pool—and I believe the number is 365,000 individuals, and I believe it is substantially SSA and RRA recipients. So that, I believe, is going to happen sometime around July, by the end of July. That is my understanding. And if that date changes, we will get back.

Similarly, the individuals who filed injured spouse claims, there was a difficulty connecting that. You know, get the payments out as rapidly as possible, find information that might not be front and center, so we did our best. And I am very proud of how we did.

Lessons learned going forward: we know certain areas to look into. And the limitations are, we are actually also in the middle of programming, or starting to program now, the 2021 filing season. We constantly have two filing seasons that our IT Department are working on.

Senator HASSAN. Okay, so—

Commissioner RETTIG. We are sympathetic to these issues, trying to figure out a way to get the money out as quickly as possible.

Senator HASSAN. And when can you get this information then to this committee about what that timeline looks like? I mean, we have constituents who need these dollars. They are entitled to them. They are trying to get them. They have been trying to do their best. So when can you give us a timeline of what the windows look like for them and when they might get the \$500?

Commissioner RETTIG. We will not be able to issue what I might now refer to as “secondary payments” for everyone who might have a change in circumstances. Some people were married. Some got divorced—

Senator HASSAN. I am not talking about that. I am talking about—

Commissioner RETTIG. Those—

Senator HASSAN. Commissioner, hold on. I am talking about the people—you put up a very short window for people who were non-filers to put in information so that they could get those \$500 pay-

ments. You now are saying that, for the people you missed who did submit information in those 48 hours, you are going to be able to get them out.

So now what I am asking is, the people who were not able to get into that 48-hour window, if they give it to you now, how could they get it before 2021? What is the plan? And when will you share the plan with us?

Commissioner RETTIG. Let me get back to you. It is not an easy thing for us to accomplish. And can I address the 48-hour window?

Senator HASSAN. Yes, I understand that it exists, and I have another question, so why don't we take that offline?

And again, I appreciate how hard everybody is working. People need these dollars, right? So another question is, employers can claim new tax credits to help stay afloat during the COVID-19 crisis, including credits for providing paid leave and retaining employees.

In order to rapidly provide this assistance, the Treasury sends advance payments for these tax credits to employers that file requests with the IRS. However, although the IRS has said these payments will be delivered to employers within 2 weeks, reports indicate that these payments may be taking significantly longer.

So could you tell us, please, Commissioner, how quickly the IRS is delivering advance payments to employers, and is the IRS proactively planning for a possible increase in requests for these payments as States partially reopen their economies?

Commissioner RETTIG. I will get back to you with some specifics, but I believe that we have actually processed about a third of those so far that have come through, and then, on some, we have asked for additional verification.

Senator HASSAN. And again, this is a matter of cash flow for businesses that are just desperately struggling.

Commissioner RETTIG. We appreciate that, but we are trying our best.

Senator HASSAN. Thank you very much. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Lankford?

Senator LANKFORD. Mr. Chairman, thank you. Thanks for the conversation today. It is exceptionally important to be able to walk through this, and I do appreciate your testimony very much today.

I have talked to some of my caseworkers back in the State who talked to me about the Taxpayer Advocate Service and some of the work that is happening there and their interactions with the IRS staff. Because of COVID-19 and the downsizing, it has been very, very difficult to be able to get answers to questions, and to be able to go through this process and to be able to help some taxpayers at this point.

Walk me through the closures of IRS offices, the re-engagement of employees, what lessons that can be learned. And I would also be interested to be able to know how and when we are going to get things back going again so people can get answers to questions.

But what can be done for the future, protecting private information of individuals, but knowing that we have to be able to work remotely and we can actually get the work done again?

Commissioner RETTIG. For good or bad, I am the person who started shutting down our facilities. And at one point, over 90 percent of our facilities were closed. We took the health and safety of our employees as a significant priority, and that created a lot of difficulty for others.

We worked closely with NTEU throughout. I myself worked closely with NTEU as well as others in the IRS. We are now—by July 13th, essentially all of our processing facilities will be open. All of our call centers will be open, understanding that “open” is a relative term with social distancing, working different schedules, working different shifts, having folks spread out.

We have people on the ground in each of our facilities essentially monitoring the issues to keep our employees safe. But you know, like everybody else, we are worried about interactions that might happen and a potential spike at a facility.

So we are doing everything we can to get back online. We had 56,140 individuals teleworking. We processed about 14,000 laptops for people who have telework work but were not telework-eligible, did not have the facilities and whatnot. So we were able to get laptops.

There is a training session that goes on with respect to that, certainly with respect to security. And a large portion, as you can imagine, of the work we do is not telework-eligible, for security and other similar matters.

I can with confidence say that our IT folks are as good as it gets. They are tremendous. They care. They work really hard, and they have moved mountains to get us as efficient as we possibly could be in this unprecedented pandemic.

Senator LANKFORD. I appreciate that very much, to reengage into that. Are there lessons that can be learned that, if we have to have more folks teleworking, can carry over from what we have faced right now into the future in ways to be able to protect our private information but still get the work done?

Commissioner RETTIG. And significantly, the folks on the phone, customer service representatives, to get a large portion of them able to handle the work remotely, I think would help significantly, let me just say that. And we are headed in that direction.

Senator LANKFORD. Thank you. Let me know what we need to do to be able to help head in that direction, because that will be a significant gain for the future. As we not only look at space and cost, there will be greater use of telework, I would assume, in the future, but if there are other issues that come up, we will want to be able to make sure that we continue—

Commissioner RETTIG. I have to express my appreciation. You have—you all have been incredibly supportive of us. And we realize there are issues, and unfortunately there are issues that come out of this, but I think that, universally, you all have been incredibly supportive.

And, as important as it is to the country and to the IRS as an agency, it is important to our people. Our employees are the strength of our agency, and they hear when you make comments. And sometimes Senators and members of the House have made comments that I have circulated in all employee messages, because

during this time, that is about all we can give our people in terms of a pat on the back.

They are working really hard.

Senator LANKFORD. And we are exceptionally grateful to them. They are under enormous pressure, having to be able to shift in ways that they had never anticipated and the rest of the country had not anticipated. As we move closer and closer to the July 15th deadline, there is more and more pressure for answers and solutions, and they are feeling the weight of that as well. So definitely tell them that we appreciate the work in the transition. And what we can provide in the days ahead, we want to be able to do that.

On charitable giving, I just want to be able to give you a heads-up. You and I both know that when you alter the tax code, it also alters behavior in multiple ways. There are six of us, three Republicans, three Democrats, who are working together to try to resolve some of the issues on charitable giving.

It will be something that we will come back and have longer conversation with you about in the future, how we can continue to encourage engagement on charitable giving in the future.

So, thanks again for the service.

Commissioner RETTIG. Thank you.

The CHAIRMAN. Senator Cortez Masto by remote, if you are available.

Senator CORTEZ MASTO. I am here. Thank you, Chairman Grassley, and to the ranking member for convening this important hearing today.

Commissioner, thank you for joining us. I do want to associate myself with the comments of Senator Lankford on the workers and employees at the IRS. They are truly also heroes in the sense that they are working all the time and trying to get the payments out, and doing everything they can in our community. So I too, like my colleagues, support them. Whatever resources you need, please make us aware of it. I think it is a challenging time right now.

I do want to address a concern that I am hearing in my State, but also across the country. I have talked quite often, and have worked in the domestic violence prevention area for a good part of my career, and I have worked with our legal aid centers.

I am hearing from survivors of domestic violence who have fled their abusers, often with their children, but whose abusers have walked away with their Economic Impact Payment. In other words, the survivors are not getting their EIP. And in some instances, the IRS is issuing Economic Impact Payments based on jointly filed tax returns, but it is not following accompanying Form 8888 to split the Economic Impact Payment in the same manner that refunds were split.

I sent to you, Commissioner, a letter, along with Secretary Mnuchin, about this a couple of weeks ago. It was joined by 35 of my Senate colleagues. I have not received a response yet. So, since I have you here, I would love to ask you, what is the IRS doing to get replacement checks out to victims of domestic violence who are in desperate, desperate need right now because they are not getting their EIPs? And how do we get them those payments, and take into consideration their safety and financial stability away from their abusers as well?

Commissioner RETTIG. I have your letter. Your letter is actually on my desk. The process of getting a response back to you is in process. I think your letter had some actually really great suggestions. I think they were listed under a "Request" section near the back of the letter. And there are things that we are taking under consideration.

We take advice from everybody, and we take good advice from everybody as well. The individuals, particularly with respect to domestic violence, who filed an injured-spouse claim, I indicated in a response earlier that we are going to process those separately.

And so I would like to say that is going to happen in July. If it is going to be later than July, I will reach back out to you and give you a timeline on that. But I think that every person at the Internal Revenue Service is very sympathetic and understanding and would like to assist any victim of domestic violence. And you know, our people care, and they care a lot, and this is a particular type of an arena where we can actually provide significant assistance.

And so to have a victim of domestic violence also not be able to receive the payment, particularly at this time of need, does not sit well with us. So it is a priority and a focus for us. And again I would like to thank you for your letter, and particularly, the suggestions in your letter were quite helpful.

Senator CORTEZ MASTO. Yes, Commissioner, thank you. And I appreciate that. Those suggestions were put together by many across this country who work to really help and support and get resources to our survivors of domestic violence.

So as you look at that list—because it is really common sense, and also I think, not only helpful during this pandemic, but in the future, how the IRS can work with, just support and make sure our survivors of domestic violence are accessing the funds that they are entitled to.

So as you look through this—I know that the recommendations are a dedicated phone line, create a process with an online PIN, utilize existing prepaid cards tied to government benefits, on and on and on. There are some great suggestions.

If you need resources to implement these suggestions, I would hope that you would also let us know so that we can make sure we are giving you the resources so that you can implement these tools to get the money to our survivors of domestic violence.

So please know that. I am running out of time, but I will submit the rest of my questions for the record. Again, Commissioner, thank you for being here.

Commissioner RETTIG. Thank you.

The CHAIRMAN. Thank you. I have been told that Senator Brown is remote and would be the next one for me to call on.

Senator BROWN. Thank you, Mr. Chairman; I am here. Thank you very much, Mr. Chairman, Senator Wyden; thank you for this hearing.

Commissioner, thanks for your public service. In the midst of a pandemic, our country reckons with the murders of Mr. Floyd and Ms. Taylor and too many other black Americans at the hands of police. Communities across this country are calling for justice, reinvestment of resources, and, as you know, an end to systemic racism.

Many of us rightly examine the ways racism is baked into almost every facet of public policy. We must do better. One area that has not been closely examined, Mr. Chairman, through a lens of racial justice is our tax policy.

Over a trillion dollars moves through the IRS each year; 150 million households file taxes. The American people deserve to know that taxpayers are treated fairly by our tax laws and by our tax enforcement agencies.

Congress writes the tax laws. If there are ways our current tax code exacerbates racial inequity, then it is our job to fix it. And it is your job, Commissioner, to enforce the tax laws we write. So you and Congress, all of us around this table, virtually or in person, are responsible and partners in this.

So, Commissioner, will you work with Congress and have your staff with the Statistics of Income division help us determine ways in which our tax code contributes to racial wealth disparities?

Commissioner RETTIG. Sure, sure. As I think you are aware, I am a huge proponent of inclusiveness, diversity, and I think you are aware of the fact that I am the first Commissioner whose spouse came to this country as a refugee. And so I understand how people are treated, and I appreciate them.

Senator BROWN. That was the answer I figured you would give.

Commissioner RETTIG. Thank you.

Senator BROWN. Research shows that employers often discriminate against job applicants based on their first or last names. The Form 1040, our basic income tax form, asks for first and last names. The IRS is the agency responsible for tax enforcement, and it has access to first and last names as it carries out its enforcement responsibilities.

Do you have safeguards in place to ensure that enforcement actions do not target filers based on first or last names?

Commissioner RETTIG. That is correct. We do.

Senator BROWN. Does the IRS study racial disparities in its enforcement efforts?

Commissioner RETTIG. There are no race or geographic issues that come up with respect to audit selection, which is what most people consider to be the enforcement side of—

Senator BROWN. Well, can you—I understand that. I am glad to hear that in one sense. But can you assure me, and assure the American people, that IRS audit rates do not disproportionately—not by intention but by commission, perhaps—that IRS audit rates do not disproportionately hit black and brown people? Can you assure us that that does not happen?

Commissioner RETTIG. Yes.

Senator BROWN. I want to ask you about the tool—and I want to work with you on all of that. Thank you for your offer, and—

Commissioner RETTIG. Senator, I would like to add, we have a zero tolerance in the Internal Revenue Service for issues of discrimination. And that comes from me. And every employee of the Internal Revenue Service has heard that. And I would also like to say that the fact that we have a quite diverse employee base, we are stronger because we come into the room from different doors, and we work together, and we care about each other, and we care about this country.

Senator BROWN. Thank you. As my office does, and as my committee staff does in terms of racial diversity and making us better.

There is implicit racism of course, as you know, in this system, and that is what I am trying to dig down into. There are no accusations certainly against you that way.

I want to ask you one other thing about the tool the IRS developed this year to help people who do not normally file a return, to get their stimulus check. You called it the Non-Filer tool.

One in five people eligible, as you know, for EITC do not get it. This is a key anti-poverty tool. It puts money directly into people's pockets. I know the chairman supports it. I know Senator Wyden supports it. Too many filers leave that money on the table. Eighty percent take-up is a place to start, but we can do better. That is why I wrote you earlier this year asking you to act on the recommendations to implement automatic EITC for childless adults.

I appreciated your response. You said you could not make automatic EITC work even for childless adults because you are still missing information. It seems to me though, Commissioner, the IRS can repurpose the tool you have already developed, the Non-Filer tool, and turn it into a Get My EITC tool.

The response to me said there was missing information stopping you from sending an automatic EITC return. You could easily ask for this basic information using the Non-Filer tool.

So my question is, Commissioner, my last question, will IRS use this tool to increase EITC take-up moving forward?

Commissioner RETTIG. Senator, I think you are going to see a replication of a couple of tools that came out during this, and you should know that the Get My Payment tool was a replication of the Where's My Refund? tool. That allowed us to get these tools up, one within 10 days, one within 2 weeks. And we are looking at—this is the future of the Internal Revenue Service.

Senator BROWN. So you are open to an EITC automatic tool?

Commissioner RETTIG. We are looking at that, yes, sir.

Senator BROWN. And we will work with you, and we really appreciate it.

Mr. Chairman, thank you for this hearing.

The CHAIRMAN. Senator Daines?

Senator DAINES. Thank you, Mr. Chairman and Senator Wyden; much appreciated.

Commissioner, these are tough times, and I have worked hard to provide relief to help many struggling Montana families, workers, small businesses, who are facing economic hardships as a result of this pandemic. Much of that relief getting to Montanans has been through the tax code. So I want to thank you for all that you and your agency have done to facilitate that. I look forward to continuing to work to provide more relief to Montanans as our economy begins to recover.

In the past 3 months, Congress has approved trillions of dollars in relief for the American people. Unfortunately, pushing out huge amounts of money so quickly can present opportunities for criminals to prey on the most vulnerable, who often are senior citizens.

My question is, could you discuss the actions that the IRS has taken to uncover and combat criminal activity targeting our senior citizens and other vulnerable populations?

Commissioner RETTIG. Senior citizens and vulnerable populations tend to get—the terminology used in the field is “scams.” And it is people either impersonating—or “I can help you with respect to the EIP payment, pay me a fee,” and this and that.

Both IRS Criminal Investigation and folks on the civil side of the Internal Revenue Service, as well as the Treasury Inspector General’s office, have been extremely aggressive in those arenas. We think we have been quite successful, but you know that your success is only based on the ones that you find, not the ones that you do not find. But there are numerous criminal prosecutions that have been pursued, and what we do is, we investigate and turn it over to the Department of Justice, the U.S. Attorney’s Office, for prosecutions.

We are very active there. And if you look at the data book, you will see the Internal Revenue Service’s high degree of focus in the arena, particularly for vulnerable individuals. And that will continue.

Senator DAINES. That is much appreciated, Mr. Commissioner.

I am going to shift gears and talk about conservation easements. And I want to applaud the work that you and the Internal Revenue Service have done in stepping up enforcement efforts in these abusive syndicated conservation easements. I also want to applaud Chairman Grassley and Ranking Member Wyden for their investigation of these transactions. And I look forward to reviewing the findings of their investigation very soon.

Recent decisions by the U.S. Tax Court demonstrate what we have long known: that abusive syndicated conservation easement deals are costing taxpayers billions and tarnishing the reputation of this very valuable conservation tool.

In fact, in one recent case the Court noted that property valued at \$30 million had, within 3 days, an easement with a claimed value of \$155 million. Honest, charitably motivated actors deserve strong rules to protect against this clear abuse, and taxpayers should not have to foot the bill for profit-motivated tax shelters.

This is why I introduced the Charitable Conservation Easement Program Integrity Act with Senator Stabenow, which would help to weed out some of the worst actors in this space by denying the charitable tax deduction, when investors claim a tax benefit that is more than 2½ times their investment.

My question is, does the IRS have the time, the personnel, and the resources to prosecute all known abusive syndication cases?

Commissioner RETTIG. The IRS would welcome legislation with respect to syndicated conservation easements, the abuse of transactions. Under this Commissioner, the IRS will aggressively go after everybody involved in one of those transactions. I think the people who are in compliance need to know that the folks who take advantage in that manner are at risk, and we intend to maintain a presence in that neighborhood. And I think the Tax Court has ruled in our favor, even a 40-percent penalty. We had three cases last week. I think you will see a number of compliance actions surface over the course of the next month or so.

Senator DAINES. So, given the amount of taxpayer resources being put to use on this, how helpful would it be to have this bill, Senate Bill 170, enacted into law?

Commissioner RETTIG. It would help us significantly.

Senator DAINES. Thank you.

I want to note my support for modifying and expanding the Employee Retention Tax Credit which we enacted as part of the CARES Act. The worker-focused design of the credit, coupled with the requirement that a business has to have experienced significant negative impact to be eligible, makes a good fit for the targeted type of relief we are looking to enact in this next package.

I hope my colleagues join me in pushing to expand this tax credit as part of the next relief package. My question, as I am wrapping up here, Mr. Commissioner: from an administrative perspective, how has the advanced refund process using Form 7200 worked so far?

Commissioner RETTIG. I think that what we are seeing is that the process is working smoothly. There is—you know, I dealt with an issue with another Senator about e-fax as opposed to maybe can we get an online portal, or other ways we can streamline it. But I would say that, overall, we think it is working smoothly.

Senator DAINES. Any idea how long it takes for a business claiming the credit to get reimbursed?

Commissioner RETTIG. About a third of the people who filed 7200s have received it. So on that basis, we are probably talking 6 weeks, give or take; 4 weeks, give or take. I do not really have—I do not know that we have the study. We will know more, actually, in terms of the program itself once the second quarter returns are filed, and we should be able to provide some data based on that.

Senator DAINES. Thank you. Thanks, Mr. Chairman.

The CHAIRMAN. I think we are to a point where the Senator from Oregon has one follow-up question. That will be the only second round we have.

So if there is anybody—there are still a couple of people I have not marked off the list yet—if you want to ask questions after Senator Wyden, you had better let me know very soon. Otherwise, we are going to shut down.

Senator Wyden?

Senator WYDEN. Do you want to see if there are any people waiting right now before I go, Mr. Chairman?

The CHAIRMAN. Well, I think there would only be one, which is Senator Young.

[No response.]

Senator WYDEN. Thank you, Mr. Chairman, and I will keep this to one question.

Commissioner, just a question with respect to small businesses, because my State is overwhelmingly a small-business State. These are people who are just walking an economic tightrope right now every single day, and they are maxing out their credit cards and the like.

The question really I want to get into is this question of the most efficient way to help them. And I have thought in particular the concept of their getting a rebate similar to the individual rebate is a constructive idea to look at.

You all have been helpful to us—thank you. Would it not be easier for both the taxpayer and the IRS to rely on previously filed in-

formation that the IRS has in its system, rather than having these laborious processes that include massive influxes of new tax filings, and using fax machines and the like? Would it not be better to use what you already have?

Commissioner RETTIG. We used what we already have with respect to EIPs, and there was a segment, obviously, of the population that does not file tax returns. And so we needed to come up with a different variation of that.

I think that one of the ideas with respect to the retention credits was that the funds essentially are already there in the possession of the business owner. And I think, as I know you are aware, I come from a small business family, and I have current members of my family who are involved in small businesses. I am very sensitive to the issues, but we are certainly more than willing to work with you and your staff on the processes and ideas.

Senator WYDEN. I will wrap up on this, because we have a clean-up in terms of getting some follow-up materials. I think we do want to know—and Senator Warner has touched on this—what the IRS needs to continue to fight fraud so that taxpayers can get those advance credits electronically instead of by fax. So let us say we would like that information within a week.

And second, as we talked about earlier, I am particularly concerned about the millionaires skipping out on paying their taxes. Officials come—and we understand that this did not happen on your watch—and we cannot find out exactly what was done to follow up. Then we hear that there are going to be changes made in the future, and then this cycle just repeats itself again and again and again, as the wealthiest taxpayers figure out how to just escape their obligations that the small business people have to comply with.

So I would like answers in a week to the questions I asked earlier with respect to the millionaires skipping out. And then this question that I think we agree is a serious matter with respect to fraud associated with the advanced credits, I would like that within a week too.

Okay; thank you, Mr. Chairman.

The CHAIRMAN. I want to clear up something. I am not really asking a question, Commissioner, but if I am wrong—I am seeing some of these statistics—I want you to correct me.

It is in regard to appropriations, because we have had some people on the committee claim that the IRS's enforcement efforts are not being funded sufficiently. I think that is not true.

When the administration put out its budget request about 16 months ago for the current fiscal year, it asked for \$4.7 billion for IRS enforcement. Last December, Congress funded IRS enforcement by more than what it had asked for. IRS enforcement ended up getting \$300 million more, for a total of \$5 billion.

In its latest budget request, the IRS is asking for \$5.1 billion, which is a 2-percent increase from what it is getting this year. Basically the IRS is asking for an enforcement budget that Congress is giving to it. There is no shortfall in the funding of the IRS enforcement efforts.

You do not have to respond to that, unless I said something that was wrong.

[No response.]

The CHAIRMAN. So I will close with this. First of all, thank you for sitting here for 2½ hours to answer our questions. I appreciate the hard work you and your agency are doing during this tax season, a very difficult tax season. And we look forward to having you testify before the committee in the future.

I will close by identifying that any written questions members may have for the record need to be submitted by the close of business on Wednesday the 14th.

With that, we will adjourn.

Commissioner RETTIG. Thank you very much.

[Whereupon, at 12:18 p.m., the hearing was concluded.]



## A P P E N D I X

### ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

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PREPARED STATEMENT OF HON. CHUCK GRASSLEY,  
A U.S. SENATOR FROM IOWA

Commissioner Rettig, thank you for agreeing to testify on the 2020 tax filing season and the IRS's handling of the challenges posed by the ongoing pandemic. The 2020 filing season got off to its typical start at the end of January. However, since then this filing season has been anything but typical.

As a result of the national health emergency stemming from the ongoing pandemic, almost all regular tax filing and tax payment deadlines have been extended. This includes the individual and corporate income tax filing and payment deadlines, which were pushed back from the normal April 15th date to July 15th. Despite these extended deadlines, the tax filing season continued, with many taxpayers still filing their taxes as usual to get a much-needed tax refund.

At the same time, consistent with government shutdown orders and CDC guidance, the IRS limited much of its work to essential services, closed a number of facilities, and instituted telework policies where practicable. This left the IRS short-staffed during its busiest time of the year. Understandably, that meant taxpayers experienced longer wait times to get their tax questions answered; more calls than usual went unanswered; and mail, including paper returns, went unprocessed.

Over the last couple of weeks the IRS has begun to reopen facilities and start back to normal operations. Commissioner, I will be interested to learn more from you on how the reopening is proceeding and what actions are being taken to clear the backlog of taxpayer correspondence. While the IRS has worked to keep up with its filing season duties, it also has been tasked with implementing a number of tax measures enacted by Congress to provide relief to individuals and businesses.

IRS and Treasury have worked nonstop to put out necessary guidance to help taxpayers navigate important provisions designed to help families make ends meet and provide businesses with needed liquidity to keep the lights on and employees on the payroll. But even more daunting was the implementation of the rebates for individuals, often referred to as Economic Impact Payments.

IRS and Treasury worked at unprecedented speed to get payments out the door and in the hands of individuals and families forced to stay home due to the pandemic. Over about a 2-month span, nearly 160 million stimulus payments totaling almost \$267 billion were delivered by direct deposit, check, or prepaid debit card. The IRS took steps to get payments to as many eligible individuals as possible. This included working with the Social Security Administration and the Department of Veterans Affairs to get payments to seniors, veterans, and individuals receiving certain Federal benefits, with no need to file a tax return.

For others who typically do not file a tax return, the IRS established an on-line tool to register for the payment. Over 6 million individuals and families took advantage of this tool to receive their Economic Impact Payment. Commissioner Rettig, I want to thank you and your staff for working around the clock to get this much-needed assistance in the hands of taxpayers during these difficult times.

All in all, I would say the IRS performed exceptionally well under the circumstances. Of course, when you're tasked with processing 160 million payments in expedited fashion, there are bound to be some hiccups. And there will always be Monday morning quarterbacks eager to criticize, even though we all know they couldn't have done it any better. I am interested in getting your perspective on how the proc-

ess has worked, what the IRS has learned, and what improvements could be made should this or a future Congress once again task IRS with administering stimulus payments.

Beyond the current filing season and the challenges posed by the pandemic, the IRS has been working to implement the Taxpayer First Act, which was enacted last year to modernize the IRS and beef up taxpayer protections. The Taxpayer First Act calls on the IRS to institute a comprehensive customer service strategy, modernize its organizational structure, and implement an information technology strategy.

I look forward to hearing how the IRS is proceeding with these reforms and how the recent challenges may be informing your efforts.

Commissioner, thank you again for appearing before us today. I appreciate your and your staff's commitment and hard work during these trying times.

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

INTRODUCTION

Chairman Grassley, Ranking Member Wyden and members of the committee, thank you for the opportunity to provide you with an update on the 2020 tax filing season and IRS operations.

I remain extremely proud to be working for the IRS in my second year as Commissioner and am excited about the future of our agency. My experiences as Commissioner have strengthened my belief that a fully functioning IRS is critical to the success of our Nation. In Fiscal Year (FY) 2019, the IRS collected \$3.56 trillion in taxes and generated almost 96 percent of the funding that supports the Federal Government's operations. We serve and interact with more Americans than any other public or private organization.

The importance of the IRS to every American has become especially apparent over the last several months as our Nation has faced unprecedented challenges, and the IRS has responded admirably by quickly facilitating financial assistance to millions of deserving and needy Americans. IRS employees continually demonstrate just how much they care, and how important the agency is to our country, by their heroic response to the crisis our country is facing during the pandemic.

At the same time, the IRS continues to remain focused on its core mission, striving to serve taxpayers in a manner that facilitates voluntary compliance by providing meaningful guidance and proper levels of staffing and support at points of significant taxpayer interaction. Our modernization efforts will not ignore traditional methods of communication, including meaningful opportunities for local and in-person interactions whenever possible.

In the year ahead, the IRS has many important changes on the horizon. We have embarked on a journey about how best to provide our services and how we are currently organized as we work toward implementation of the Taxpayer First Act. We want to earn the trust and respect of every American and improve our working relationships with taxpayers and others in the tax community. We will also continue implementation of the IRS Integrated Business Modernization plan released last year.

We respect and serve every taxpayer, none more or less so than any other. We must operate from their perspective, enhancing their experiences while striving to provide clear language, wherever possible, in our guidance and services. In support of compliant taxpayers, we must aggressively pursue non-compliant taxpayers by maintaining robust, visible civil and criminal enforcement efforts. We are making a difference, and we will not stop in the successful pursuit of our mission on behalf of the greatest country in the world.

PROVIDING RELIEF TO TAXPAYERS DURING THE COVID-19 PANDEMIC

*Delivering Economic Impact Payments*

IRS employees have worked around the clock since mid-March to develop new tools and deliver meaningful guidance to simultaneously deliver Economic Impact Payments (EIP) in record time and still keep the annual filing season on track. In fact, millions of Americans started seeing EIPs show up in their banking accounts within 14 days after the CARES Act was enacted on March 27. By comparison, for

the last stimulus payments in 2008, the first 800,000 payments did not start reaching taxpayers for 75 days.

So far, approximately 160 million payments totaling approximately \$270 billion have been delivered, most by direct deposit and some by paper check. Working with the Bureau of the Fiscal Service, nearly 4 million payments were delivered by pre-paid debit card. Some payments represent a single individual; some represent funds for more than one individual, such as a married couple or people with eligible dependents.

The vast majority of people did not need to take any action to receive an Economic Impact Payment. The IRS calculated and automatically sent the payments to those eligible. This included many people who may not normally file a return, such as senior citizens and others receiving Social Security retirement, survivors or disability benefits and railroad retirees. It also included those whose only income is from Supplemental Security Income payments and people receiving disability compensation, pension or survivor benefits from the Department of Veterans Affairs (VA).

The IRS worked cooperatively with the Social Security Administration and the VA and other government agencies to pull more information into our systems so that we could send payments to these groups of people without requiring them to file a return or take any other action. These agencies provided critical help that allowed us to reduce the burden for these individuals including reducing the need for them to seek tax return preparation to file a return. This is a step beyond anything the IRS was able to do during previous stimulus efforts.

The IRS designed, created, and built two online tools to help us quickly deliver the Economic Impact Payments:

- The Non-Filer tool launched on *IRS.gov* on April 10th—available in both English and Spanish—allows people who normally don't have a filing obligation to enter basic information so that they receive their payment.
- The Get My Payment tool launched on *IRS.gov* on April 15th—which is also available in English and Spanish—allows many taxpayers to check the status of their payment or enter their bank account information to receive their payment electronically.

So far, there have been more than 200 million successful status checks. And more than 14 million people have successfully provided their banking information, meaning they received, or will receive, their payments much more quickly.

Although the IRS has sent out the vast majority of these payments, it continues its extensive outreach efforts into the historically underserved communities of our Nation. We are especially focused on getting payments out to people who are homeless, who don't normally have a return filing obligation, or who otherwise live their life outside normal lines of communication, etc. We have been reaching out beyond our normal contacts to many lower-income, military, veterans, retired, older, limited English proficient, and homeless communities around the country. In fact, we have distributed EIP outreach materials in more than two dozen languages and within each of these communities. We have also been asking for help from local community groups and religious organizations as well as the national associations to which they belong and numerous others to reach into their respective communities. The deadline for people in this group to register using the Non-Filer tool is October 15th, and we encourage everyone to share this information so the IRS can get Economic Impact Payments to people in need.

#### *Providing Administrative Relief and Protecting Taxpayers*

Along with implementing the CARES Act, the IRS is providing administrative relief to ease the burden on people facing tax issues:

- A postponement of the deadline for individuals to file and pay Federal income tax from April 15, 2020, to July 15, 2020. This relief covers all taxpayers with a tax return filing deadline or payment due date between April 1, 2020, and July 15, 2020.
- The IRS People First Initiative, under which we have temporarily adjusted our processes to help people and businesses during these uncertain times. This includes limiting certain collection and examination activities.

It is also important to note that the IRS has been diligently working to alert taxpayers and tax professionals to scams related to COVID-19, especially calls and email phishing attempts tied to the Economic Impact Payments. The IRS and its partners have been making every effort to get the word out about these contacts, which can lead to tax-related fraud and identity theft.

*IRS Operations During the COVID-19 Pandemic*

The IRS's efforts to provide relief to taxpayers have come during a time when the agency has had to temporarily scale back operations to protect the health and safety of both IRS employees and taxpayers. Even with our reduced operations, the IRS has continued to deliver the tax filing season, continuing to process electronic tax returns, issue direct deposit tax refunds and accept electronic payments. A more detailed discussion of the 2020 tax filing season is provided below.

We have also been continuing the agency's ongoing work to find new ways to serve taxpayers, including our efforts to expand online options for them. A good example is our recent announcement that, later this summer, taxpayers will for the first time be able to file amended income tax returns electronically using available tax software products.

Providing an online filing option for the amended return—also known as Form 1040-X—has been an IRS goal for many years, and is a major milestone for us. Achieving this goal wasn't easy—the 1040-X posed a number of unique challenges—but we succeeded thanks to a great deal of hard work by employees across the agency.

Recently, we announced we were beginning a phased-in resumption of our operations for non-portable services, as more States and local areas also begin reopening. Throughout this crisis, our main concern has been protecting the health and safety of taxpayers and IRS employees, and that will continue as our operations resume. We have had more than 50,000 employees teleworking and don't anticipate significant changes in the foreseeable future. We are actively monitoring these operations on the ground and will continue to follow—and, where possible, exceed—applicable safety guidelines and measures. We appreciate the patience and understanding of taxpayers and tax professionals as we work to expand the scope of our operations. The entire IRS workforce cares about our people and our country, and they are committed to helping improve this situation.

## UPDATE ON THE 2020 FILING SEASON

I am pleased to report that the 2020 filing season opened on time on January 27th. On that first day, we set records by processing more than 2.275 million e-filed returns in an hour and at a rate of 631 submissions per second, without error. The previous records were set last year at the rates of 1.9 million submissions in an hour at 536 per second on January 28, 2019.

Notwithstanding obvious concerns about the spread of COVID-19, our employees have remained dedicated to delivering the filing season for taxpayers. As of June 19th, the IRS received more than 138.2 million individual returns, and we have issued more than 93 million refunds for more than \$257 billion.

A critical component of the tax filing season is the help IRS provides taxpayers to ensure they can fulfill their filing obligations. The IRS must be focused on enhancing the experience of *all* taxpayers, including those who are unrepresented, lower-income, or have limited English proficiency. This focus dictates we maintain appropriate levels of staffing, training and systems modernization to be successful.

This year's filing season has been particularly challenging in that taxpayers cannot depend on many of the usual outlets for assistance. I am proud of our past and look forward to future efforts to support the Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) programs. Unfortunately, due to the current COVID-19 situation, most of these partners had to suspend their operations. In a normal year, the IRS supports approximately 11,000 VITA/TCE sites (including military bases) around the country, which are staffed by more than 82,000 volunteers, many of whom are current IRS employees and retirees. During this filing season, before sites were closed, volunteers at VITA and TCE sites helped prepare more than 2 million individual returns.

An important way the IRS serves diverse communities, during the filing season and throughout the year, is by communicating with them in their own language. The IRS has had a long history of providing major communications products in Spanish. Additionally, we are now able to provide tax information and free products and services in six additional languages. Examples include the Taxpayer Bill of Rights and key products related to the Tax Cuts and Jobs Act. And the IRS has expanded its efforts to use multiple languages on social media platforms, including Twitter and Instagram.

But we realize we need to do more. We are increasing our efforts to reach out to taxpayers in diverse communities, to be in their communities and share information with them in their languages to help them comply with the tax laws. For example, our Stakeholder Liaison employees work continuously around the country and throughout the year in this regard, and in the current fiscal year have held numerous tax information seminars and other events for taxpayers and tax practitioners in diverse communities.

#### ENSURING TAX COMPLIANCE

The IRS is committed to having 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. Enforcement of the tax laws is critical to ensuring fairness in our tax system. IRS employees who collect taxes, audit returns and investigate fraud as well as tax-related identity theft work hard throughout the year to enforce the tax laws while treating taxpayers fairly and respecting their rights.

The IRS remains extremely active in the enforcement area. This is true across our agency—in our divisions that deal with individuals, large businesses, small businesses and exempt organizations are highly coordinated. In all our enforcement efforts, the IRS must emphasize the use of technology to develop new enforcement tools. Our advanced data and analytic strategies allow us to catch instances of tax evasion that would not have been possible just a few years ago.

We realize when the public thinks of compliance, they think of audits, but there is so much more to our work to ensure compliance with the tax law and serve the Nation. This includes the important work of our Criminal Investigation division to uncover tax fraud, and the millions of notices the IRS sends each year to taxpayers when issues are discovered on their returns.

To help increase tax compliance, the IRS has been focusing on a number of special areas in our enforcement activities. For example, the IRS will continue to pursue offshore tax noncompliance by all available methods. We are also committed to pursuing those who promote and make use of abusive tax shelters, and are especially concerned about certain variations, including syndicated conservation easements and micro-captive insurance shelters. And we continue to be very active in emerging areas such as virtual currency. The IRS has been working to ensure taxpayers with virtual currency transactions understand the tax laws governing virtual currency and meet their tax obligations.

Taxpayers should remember the IRS is committed to pursuing those who would intentionally evade their tax obligations. We continue working toward the goal of having a presence in every neighborhood, on each type of tax issue and at every level of income, to ensure fairness for all taxpayers. For example, a coordinated IRS initiative announced in February of this year involves improving tax compliance among high-income taxpayers by increasing visits to those generally with incomes above \$100,000 who failed to file tax returns in 2018 or previous years. Similar initiatives include a significant shift in examination resources and technology focused on high-income/high-wealth taxpayers as well as certain types of questionable transactions typically engaged in by such taxpayers.

#### TAXPAYER FIRST ACT: UPDATE ON IMPLEMENTATION

During 2019, Congress helped the IRS in its efforts to enhance the taxpayer experience by passing the Taxpayer First Act (TFA). Implementation of the TFA gives the IRS an incredible opportunity to make significant improvements in the way we serve taxpayers, continue to enforce the tax laws in a fair and impartial manner, collaborate across the agency and train IRS employees.

Along those lines, in the fall of 2019, the IRS launched its Taxpayer First Act Office (TFAO). This was an important step, because the TFAO ensures our implementation efforts are focused and well-coordinated throughout the agency.

The TFAO has spent several months holding “listening sessions” with stakeholders inside and outside the tax administration universe. We are continuing to analyze this information and have begun drafting the various components of the TFA Report to Congress.

The TFAO has thoughtfully considered thousands of pieces of feedback, largely centering around six major themes, which helped us shape the foundational components of a holistic taxpayer experience:

- *Expanded Digital Services*: An improved experience through self-service digital channels by building upon existing online accounts and introducing online accounts for tax professionals and business taxpayers. However, the IRS will not ignore traditional channels of communications.
- *Seamless Experience*: Taxpayers should be guided to the resources and communication channels that will resolve their issues most effectively and efficiently.
- *Proactive Outreach and Education*: Educate the taxpayer community by proactively providing information in the language, timing, and method taxpayers need or prefer.
- *Focused Strategies for Reaching Underserved Communities*: To establish a consolidated program to engage with historically underserved communities to address issues of communication, education, transparency and trust, as well as access to quality products and services.
- *Ecosystem of Partnerships*: Establish, shepherd, and facilitate a collaborative and interactive network of partnerships across the entire tax ecosystem and bring together existing efforts.
- *Enterprise Data Management and Advanced Analytics*: That is an Enterprise Data Management strategy that includes a cross-enterprise understanding of the customer experience, emerging needs and expectations, and operational data. The strategy should rely on a central repository of data from IRS systems that can be used to create reports to enable more-informed decisions.

These components will continue to be refined as we finalize our recommendations in the TFA Report to Congress.

Due to the IRS's intense focus and shift in IRS resources to our COVID-19 response, we have been modifying timelines and activities for our TFA Report to Congress, which was originally planned for submission in July 2020. We're working with Congress to adjust that timeframe, and plan to submit the report in December.

Meanwhile, the IRS is continuing to solicit feedback from stakeholders: taxpayers, tax professionals, tax software companies, advisory groups, financial industry stakeholders and other partners inside and outside the tax administration universe. We have a special email address for this feedback: [tfao@irs.gov](mailto:tfao@irs.gov).

#### THE PRESIDENT'S FY 2021 BUDGET

The President's FY 2021 budget proposal for the IRS provides \$12 billion to administer the Nation's tax system fairly, collect more than \$3.6 trillion in gross taxes to fund the government, and strengthen tax compliance. In addition to the base appropriations request, the budget proposes a program integrity cap adjustment that would provide an additional \$400 million in FY 2021 to fund investments in the IRS tax enforcement program. These investments will generate \$79 billion in additional revenue over 10 years and cost \$15 billion, for net revenue of \$64 billion over 10 years, which will help reduce the net tax gap of \$381 billion. The IRS funds our country and is one of the best investments in the Federal Government with an overall return on investment (ROI) of about \$5 for every \$1 invested, excluding significant deterrence effects. The FY 2021 request provides:

- \$106 million to implement the TFA, which will revamp customer service, introduce new taxpayer protections, and deliver new online service platforms to facilitate filing and payment for individuals and businesses. This investment will provide for creation of a new IRS website that allows taxpayers to prepare, file and distribute Form 1099 information returns online; electronic filing of statements and returns in the Form 990 series or Form 8872, Political Organization Report of Contributions and Expenditures; and increased staffing so that the Independent Office of Appeals can share files with taxpayers prior to conferences and the IRS Whistleblower Office can provide periodic updates on referral status.
- \$300 million for systems modernization to transform the taxpayer experience with new digital communications, online payment tools and reminders for individuals and tax professionals, and stronger data encryption to protect taxpayer information from billions of cyberattacks each year. Modernization must always remain priority for our country, is an IRS priority and also a key driver of the President's Management Agenda. The modernization funding request includes an increase of \$113.8 million to continue implementing the IRS's Integrated Modernization Plan in FY 2021. This plan will enable the IRS to provide consistently superior service to taxpayers and deliver long-

term budget efficiencies as the IRS modernizes capabilities currently provided via legacy applications.

- \$452 million for inflation and labor investments to fund current activities and annualization of the 3.1 percent pay increase from Congress.

LEGISLATIVE PROPOSALS IN THE PRESIDENT'S FY 2021 BUDGET

Along with the funding requested in the President's FY 2021 budget, we are also asking for Congress's help legislatively in several important areas that would improve tax administration and support the IRS in fulfilling its mission, including the following.

*Greater Flexibility to Address Correctible Errors.* The budget would expand the IRS authority to correct errors on taxpayer returns. Current law only allows the IRS to correct errors on returns in certain limited instances, such as basic math errors or the failure to include the appropriate social security number (SSN) or taxpayer identification number. This proposal would expand the still limited instances in which the IRS could correct a taxpayer's return to situations where: (1) the information provided by the taxpayer does not match the information contained in Government databases or Form W-2, or from other third party databases as the Secretary determines by regulation; (2) the taxpayer exceeded the lifetime limit for claiming a deduction or credit; or (3) the taxpayer failed to include with his or her return certain documentation that is required to be included on or attached to the return. This proposal would lessen taxpayer burdens and make it easier for IRS to correct verified taxpayer errors, directly improving tax compliance and reducing EITC and other improper payments and freeing limited IRS resources for other compliance activities.

*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. Incompetent and dishonest tax return preparers burden unsuspecting taxpayers, increase collection costs, reduce revenues, disadvantage taxpayers by potentially subjecting them to penalties and interest because of incorrect returns, and undermine confidence in the tax system. To promote high quality services from paid tax return preparers, the proposal would explicitly provide that the Secretary of the Treasury has the authority to regulate all paid tax return preparers.

*Improve Clarity in Worker Classification and Information Reporting.* The budget proposes to: (1) establish a new safe harbor that allows a service recipient to classify a service provider as an independent contractor and requires withholding of individual income taxes to this independent contractor at a rate of 5 percent on the first \$20,000 of payments; and (2) raises the reporting threshold for payments to all independent contractors from \$600 to \$1,000, and reduces the reporting threshold for third-party settlement organizations from \$20,000 and 200 transactions per payee to \$1,000 without regard to the number of transactions. In addition, Form 1099-K would be required to be filed with the IRS by January 31st of the year following the year for which the information is being reported. Significant information reporting and withholding can result in a 90-percent effective rate of voluntary compliance. The proposal lessens worker classification disputes with service recipients, increases clarity in the tax code, reduces costly litigation, and significantly improves tax compliance.

In addition, the President's FY 2021 budget request also includes these two provisions related to tax administration.

*Fund the Federal Payment Levy Program via collections:* This proposal would allow the Fiscal Service to retain a portion of the funds collected under the bureau's Federal Payment Levy Program (FPLP) which processes and collects delinquent tax debts through the Treasury Offset Program (TOP). TOP currently recoups its costs from retained amounts from collected amounts for all its programs except for the FPLP but under current law, the IRS must pay these costs through annual reimbursement agreements under the Economy Act. This proposal would make the FPLP consistent with other TOP programs. Delinquent taxpayers will not be impacted by the proposal, because they will receive credit for the full amount collected. This proposal creates efficiencies, because it allows the Fiscal Service to recover its FPLP costs from the IRS in the same manner as other TOP programs.

*Require a Social Security number (SSN) that is valid for work to claim Child Tax Credit (CTC), Earned Income Tax Credit (EITC), and credit for other dependents (ODTC):* The administration proposes requiring an SSN that is valid for work to

claim the EITC, CTC (both the refundable and non-refundable portion), and/or the ODTC for the taxable year. For all credits, this requirement would apply to taxpayers (including both the primary and secondary filer on a joint return) and all qualifying children or dependents. Under current law, taxpayers who do not have an SSN that is valid for work may claim the CTC if the qualifying child for whom the credit is claimed has a valid SSN. Furthermore, the ODTC, created by the Tax Cuts and Jobs Act, allows taxpayers whose dependents do not meet the requirements of the CTC, including the SSN requirement, to claim this non-refundable credit. This proposal would ensure that only individuals who are authorized to work in the United States could claim these credits by extending the SSN requirement for qualifying children to parents on the tax form for the CTC and instituting an SSN requirement for the ODTC. While this SSN requirement is already current law for the EITC, this proposal also would close an administrative gap to strengthen enforcement of the provision.

#### CONCLUSION

Chairman Grassley, Ranking Member Wyden, and members of the committee, thank you again for the opportunity to provide you with an overview of the filing season and budget request, and update you on our responses to the COVID-19 situation. The IRS is dedicated to improving service to taxpayers, modernizing its systems and maintaining the integrity of the tax system, while also protecting the health of its workers and American taxpayers.

We believe we have made great strides over the past year, but we want to do more. The entire IRS workforce wants to do more in every area. With the help of Congress, we will continue improving, as we move the agency forward into the future. This concludes my statement, and I would be happy to take your questions.

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

##### QUESTIONS SUBMITTED BY HON. CHUCK GRASSLEY

*Question.* It's been reported that about 44,000 taxpayers may have accidentally thrown out the stimulus money sent to them on pre-paid debit cards because they thought it was junk mail. This suggests a poor job was done in alerting individuals of the possibility of receiving their payment by pre-paid debit card and how to identify it. Prior to the pre-paid debit cards being sent out, did the IRS engage in any public outreach intended to inform individuals about payments being sent by pre-paid debit card? If so, please provide details of such outreach. Once it became clear there was significant public confusion about the pre-paid debit cards, what efforts did the IRS make to educate the public on the pre-paid debit cards?

*Answer.* The IRS has engaged in an extensive effort to educate the public about debit card distribution related to Economic Impact Payments.

The Treasury Department made the decision to issue debit cards and the Bureau of the Fiscal Service (BFS), our sister bureau, handled payment delivery and used a contractor to deliver the debit cards.

The IRS worked closely with Treasury and BFS on communicating this decision, which did not involve much lead time. Treasury initiated the announcement about the debit cards on May 18th when they issued a news release announcing the debit cards were being mailed. The IRS posted the Treasury news release (<https://home.treasury.gov/news/press-releases/sm1012>) to *IRS.gov* and shared the news release with the press as well as partners inside and outside the tax community.

In addition to the initial announcement, the IRS conducted extensive follow-up communications in the days and weeks following. IRS social media, including Twitter, highlighted the debit cards starting May 19th. On May 26th, the IRS also issued a special Tax Tip (<https://www.irs.gov/newsroom/millions-of-people-will-get-their-economic-impact-payment-by-prepaid-debit-card>). Frequently Asked Questions and other information continued to be posted and updated on *IRS.gov*.

When reports began surfacing that people were mistaking the plain envelope mailings as junk mail, the IRS responded with a May 27th news release (<https://www.irs.gov/newsroom/economic-impact-payments-being-sent-by-prepaid-debit-cards-arrive-in-plain-envelope-irsgov-answers-frequently-asked-questions>) to highlight details about the mailing to alert people to watch their mail carefully.

The IRS reinforced these communications in social media, through IRS email listservs reaching millions of subscribers and more than 10,000 contacts with partner groups across the Nation.

The IRS has not previously dealt with debit cards delivering refunds or stimulus payments. If debit cards are used for any future efforts, the IRS will incorporate components learned during this period to help avoid taxpayer confusion.

*Question.* At the end of 2019, Congress passed a funding bill, which included a provision that made certain IRS deadlines automatic in areas that the President declares to be disaster areas under the Stafford Act. Then, on March 13, 2020, the President declared the entire country a disaster area because of the COVID-19 pandemic. However, the IRS took the position that the automatic deadline extensions enacted into law at the end of 2019 did not apply because the President's declaration was not the sort of declaration that the law had in mind. This raises two questions.

Does the IRS have the discretion to determine whether automatic deadline extensions required under a statute apply differently depending on the Stafford Act disaster declaration?

*Answer.* The IRS does not interpret section 7508A(d) as allowing discretion to determine whether the 60-day period applies when relief is granted under section 7508A with respect to any federally declared disaster. The nationwide scope and unknown duration of the COVID-19 disaster is unprecedented and could not have been contemplated at the time that section 7508A(d) was drafted. The pandemic highlighted ambiguities in the application of section 7508A(d). The IRS applied section 7508A(d) to the COVID-19 disaster consistent with its view of the text and intent of the statute.

*Question.* One of the reasons for the automatic deadline extensions passed into law at the end of 2019 was so that taxpayers across the country could be certain that if they lived in a presidentially declared disaster area, their tax deadlines automatically would be extended without waiting for IRS affirmation on the matter. If a taxpayer is busy securing the safety of his or her family or property because of a pending disaster, he or she should not have to pause to think about imminent IRS deadlines. Unfortunately, this intended purpose of the law did not happen back in March, and members of Congress heard from taxpayers and their accountants about the difficulties they were having with getting tax returns completed just as everybody was making arrangements for social distancing and staying at home.

Going forward, can a taxpayer living in a presidentially declared disaster area count on tax deadlines being automatically extended? Or does the IRS still have to issue guidance to effectuate the extension?

*Answer.* The IRS will continue to issue guidance to explain to taxpayers the relief to which they are entitled under section 7508A in the event of federally declared disasters. Such guidance is essential for communicating to taxpayers the acts for which additional time is available because section 7508A(d) does not explicitly identify specific acts for which relief is provided, with the possible exception of certain pension-related acts listed under section 7508A(d)(4).

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QUESTION SUBMITTED BY HON. BILL CASSIDY

HELPING TAXPAYERS MAKE CONSERVATION EASEMENT DONATIONS

*Question.* As you are aware, Congress provided conservation easement tax incentives to encourage taxpayers to preserve land for future generations. The National Taxpayer Advocate's annual report to Congress released in January identified conservation easements as one of the "most litigated issues." The report recommended that the IRS should "[d]evelop and publish guidance to provide safe harbors . . . and prevent unnecessary litigation." Would you and your team at the IRS be willing to work with me and my team to explore the feasibility of safe harbor guidelines for preservationists who wish to use the program with integrity?

*Answer.* The IRS is happy to work with your office and the Treasury Department, on a solution that addresses all parties' concerns, conforms to the law, and is administrable.

## QUESTIONS SUBMITTED BY HON. TODD YOUNG

*Question.* On June 1st, the Treasury Inspector General for Tax Administration released an audit report on the IRS, which found that there were significant instances of noncompliance in fiscal years 2014 through 2016.

It's easy to notice that audit rates have declined the past decade. According to the Tax Policy Center, between 2010 and 2018, the overall audit rate for individual tax returns dropped 47 percent from 1.1 percent to 0.6 percent.

With that said, it is important to note that in March—when the IRS announced the tax filing extension—it further stated that “field revenue officers will continue to pursue . . . non-filers and perform other similar activities where warranted.”

Can you explain how the IRS has and plans to pursue audits during the pandemic?

*Answer.* Under the IRS's People First Initiative, the IRS paused most collection enforcement activities during a suspension period that ran from April 1st through July 15th. During this period, the IRS generally did not initiate new examinations, send notices of Federal tax lien or levies, or conduct property seizures. We also allowed taxpayers who were paying their tax liabilities under installment payment agreements to skip their payments during those months without the agreements being defaulted. Our field functions did continue to assign and work nonfiler, egregious balance due cases, and audits related to abusive transactions during this time.

As you mention, limited resources have affected our ability to conduct audits at similar rates to prior years. In fact, the IRS's Revenue Officer and Revenue Agent staff, who typically perform these activities, has decreased by over 40 percent since 2011. To address declining resources, the administration's budget request included the Program Integrity Cap adjustment to secure funds for new and continuing investments in expanding and improving the effectiveness and efficiency of our overall tax enforcement programs. We appreciate the support from Congress and the administration. Recent budget increases enabled the IRS to hire enforcement personnel in FY 2019. However, we have an aging workforce, and retirements and attrition mean we've only had a net gain of approximately 1 percent to our compliance employee staffing.

Our plans for Tax Year 2018 also include a significant number of examinations among the highest income taxpayers, and we will be deploying an additional 200 agents over the coming months to initiate examinations of these taxpayers. In addition to our examination efforts, we did send all High Income Nonfiler (HINF) cases for tax years 2016, 2017 and 2018 a notice, and we intend to continue selecting all HINF cases for tax years 2019 and beyond. Earlier this year, we initiated “issue based” Revenue Officer Compliance Sweeps (ROCS) on High-Income Delinquent Filers (HiDef ROCS) to work these cases across the country. Experienced revenue officers perform these compliance sweeps, working in-person with the affected taxpayers and their representatives. To increase the effect, we promoted our strategy through the national media to address HINF delinquencies and improve future voluntary compliance. While the pandemic has affected the IRS's current ability to work these cases in such a manner, IRS Field Collection is working to identify HiDef ROCS that can be worked remotely.

With the expiration of the People First Initiative on July 15th, we resumed a number of compliance activities, while continuing to consider the wide-ranging effect of COVID-19 on taxpayers. In addition, the health and safety of taxpayers and IRS employees remains an important consideration. Our field and campus examiners have started to initiate new examinations which includes sending out appointment letters. Examiners will continue examinations virtually, and while there may be a need to make in person visits with taxpayers, this action would be the exception and not the norm. The Collection Operation has returned to assigning a variety of types of cases to revenue officers, but we directed employees to be mindful of the economic and personal effects of the pandemic on the taxpayer when making enforcement action decisions. We have allowed manual collection enforcement processes, such as the issuance of levies and summonses by revenue officers, to resume. Automated programs, such as levies issued by the Automated Collection System, will remain idle while IRS works through the backlog of incoming correspondence and outgoing notices.

Our resumption guidance memorandums can be found on the *IRS.gov* COVID-19 site, which includes guidance from several business operating divisions.

*Question.* Furthermore, how is the IRS using technology to pick up some of the slack to prevent, prepare for, and respond to tax discrepancies?

*Answer.* We are continuing the temporary procedures that allow IRS employees to accept images of signatures (scanned or photographed) and digital signatures on documents related to the determination or collection of tax liability. We also implemented a temporary procedure that allows IRS employees to accept documents via email and to transmit documents to taxpayers using SecureZip.

We are expanding the use of Taxpayer Digital Communications, which provides a secure portal for taxpayers and tax professionals to communicate and submit documentation to IRS employees. We will also continue to use digital transmissions to accept digital signatures on certain documents pursuant to Memo NHQ-01-0620-002 issued by the Deputy Commissioner, Services and Enforcement, on June 12, 2020.

Within the SB/SE division, which handles most field examination and collection activities we made significant progress in equipping our employees to work in a virtual environment. Our telework-ready workforce increased from 50 percent to 91 percent of employees, and we will continue those efforts by procuring the necessary equipment, laptops, and headsets to enable our employees to efficiently work in a virtual environment.

*Question.* Besides processing returns, what critical tasks are you unable to perform because of restrictions related to the pandemic, and what is your path forward to accomplish them. Is there any assistance Congress can provide to help you complete this vital mission?

*Answer.* We are only conducting field contacts with taxpayers, powers of attorney, and third parties in exceptional circumstances with managerial approval, in order to protect both IRS staff and the public. Field examiners normally conduct a physical tour of the business, onsite review of books and records of money services business, onsite reviews with casinos, and onsite inspection of fuel terminals. These regular onsite visits will resume when operations fully resume once it is safe to do so.

*Question.* Since late March, countless businesses in the private and public sectors have complied with local stay-at-home orders via teleworking. For some businesses and government agencies, this “new normal” was relatively painless due to the growing trend of flexible working. For others, significant adjustments in technology and infrastructure were required.

Can you elaborate on the IRS’s performance on handling “mission-critical work” while your agency has been teleworking?

*Answer.* The health and safety of our employees and of taxpayers is our top priority, and during the early phase of the COVID-19 national emergency, we were forced to significantly rescale IRS operations due to the closure of more than 90 percent of our buildings. As of July 13, 2020, the IRS reopened all our facilities, recalling only those employees who have mission-critical, non-portable work to ensure proper social distancing. As of October 30th, more than 12,000 Customer Service Representatives are taking calls on IRS toll-free lines and more than 8,000 employees are opening mail and processing paper tax returns (combination of telework and in-office). As of pay period 14 (ending on July 18th), approximately 93 percent of the IRS workforce is either teleworking or reporting to an IRS facility, including 13 percent who are reporting to an IRS facility on a full-time basis.

*Question.* Last year, I reintroduced the DRAIN Act, which would require Federal agencies to relocate their headquarters outside of Washington, DC and closer to the communities they serve throughout the United States.

Using the IRS as an example: can the agency’s mission support reducing its personnel footprint in DC by co-locating staff with regionally applicable offices around the country? In other words, if the headquarters remain in DC, could the agency support smaller operations in its HQ while spreading employees throughout the country?

*Answer.* The IRS personnel footprint in Washington, DC numbers approximately 2,700 employees, approximately 3 percent of the current IRS total staff, and more than 700 fewer employees than 10 years ago. Some of the DC-based employees service Washington, DC area taxpayers (appeals, examination, filing assistance, and Tax Court litigation functions, for example). Four percent (4 percent) of DC employees are executives who, along with their staff, commonly interact with the Department of the Treasury and its bureaus on strategic initiatives. Typical headquarter func-

tions such as the Chief Financial Officer (CFO) and the Human Capital Office (HCO) already have many more employees dispersed around the country in locations other than Washington, DC. Approximately two-thirds of the CFO staff are located outside Washington, and 90 percent of the HCO staff are located elsewhere. Our taxpayers are in every community, and the IRS is well represented throughout the country serving those taxpayers. Taxpayer Assistance Centers are in many communities throughout the United States and Puerto Rico, and the IRS Taxpayer Advocate Service has a presence in all 50 States. The IRS has no plans currently to relocate more staff and functions out of Washington, DC.

*Question.* Last February, the GAO reported that the IRS could be doing more to help taxpayers who own Bitcoin and other forms of cryptocurrency to comply with their tax obligations.

Notably, the GAO recommended that the IRS should look into improving information reporting—such as issuing W-2s—because it naturally leads to higher compliance.

Can you speak to the status of additional guidance for taxpayers, including methods for calculating the fair market value and determining the cost basis of disposition?

What actions has the IRS taken to develop a unified approach between enforcement agencies—while also remaining publicly transparent—to counter bad actors in response to this rapidly evolving technology?

*Answer.* The IRS, working closely with Treasury, is developing guidance requiring U.S. cryptocurrency exchanges and other U.S. businesses to provide third-party information reporting for certain taxable transactions involving virtual currency under section 6045, much like that which is provided by our current Form 1099-B reporting system. The current focus on developing guidance for third-party reporting is due to the significant role U.S. exchanges and other U.S. businesses play in virtual currency transactions carried out by U.S. taxpayers. This effort will complement Notice 2014-21, the Revenue Ruling, and FAQs the IRS has already published, which address many questions relating to the taxation of cryptocurrency transactions. We are also considering issuing additional guidance that would address methods for determining the fair market value and basis of cryptocurrency, as well as the tax treatment of tokens resulting from cryptocurrency forks. However, no decisions have been made at this point regarding the specifics or form of that guidance.

We are also working diligently on an enforcement campaign to address noncompliance related to individual taxpayers' use of cryptocurrency through multiple education and enforcement actions, including outreach and examinations. In the summer of 2019, the IRS sent more than 10,000 letters to taxpayers who engaged in cryptocurrency transactions informing them where they could obtain information regarding the proper reporting of cryptocurrency transactions. Because the lack of information can hamper tax compliance, we have set up a web page on our website providing information to taxpayers on the taxation of virtual currency transactions. That web page can be found at: <https://www.irs.gov/businesses/small-businesses-self-employed/virtual-currencies>.

We have also taken steps to unify enforcement initiatives among U.S. and international law enforcement agencies. For example, in March of this year, we hosted a "Virtual Currency Summit" that included stakeholders in the cryptocurrency industry as well as officials from the IRS, DOJ, Treasury's Office of Tax Policy, and FinCEN involved with enforcement and guidance. The goal of the summit was to provide a forum for the business community to share information with government officials about the cryptocurrency industry and to ask questions and share concerns regarding information reporting and tax treatment of cryptocurrency transactions.

Finally, IRS Criminal Investigation (IRS-CI) participates in the Joint Chiefs of Global Tax Enforcement (known as the J5) to combat transnational tax crime through increased enforcement collaboration. In addition to IRS-CI, the J5 is comprised of the Australian Taxation Office (ATO), the Canada Revenue Agency (CRA), the Fiscale Inlichtingen- en Opsporingsdienst (FIOD), and HM Revenue and Customs (HMRC). J5 members collaborate to gather information, share intelligence, conduct operations, and build the capacity of tax crime enforcement officials in order to reduce the growing threat to tax administrations posed by cryptocurrencies. As part of this collaboration, IRS-CI and the World Bank hosted an educational and intelligence sharing conference during June of 2019, which brought in more than 120 international and domestic law enforcement partners from approximately 20 countries to address emerging areas associated with cybercrime, including topics on

cryptocurrency, the blockchain and the dark web. IRS-CI continues to participate in numerous law enforcement task forces and public-private partnerships relating to cryptocurrency and cyber-crime enforcement.

*Question.* I would like to take this opportunity to commend the IRS's work in reviving the Compliance Assurance Process (CAP) at Large Business and International after a hiatus of several years. This program provides a significant value for taxpayers who are willing to work closely with the IRS to achieve a more efficient tax compliance review process versus traditional audits.

Traditionally, many participants in CAP have been the U.S. subsidiaries of internationally based companies. These companies have often been successful CAP participants, receiving yearly full acceptance letters from their CAP teams and successfully operating in CAP maintenance.

I understand that applicant eligibility must be limited to ensure resources are properly available; however, I am concerned that new program criteria and robust requirements will deter taxpayers of U.S. subsidiaries.

Is there another approach IRS could take to ensure these American taxpayers have access to CAP?

*Answer.* The Compliance Assurance Process (CAP) differs from a traditional audit in that the IRS completes most examination work before the tax return is filed. Without a tax return, CAP relies on the review of quarterly and annual financial statements to identify and verify that the correct material tax issues are being reviewed.

U.S. publicly traded corporations are required to prepare financial statements in accordance with United States Generally Accepted Accounting Principles (US GAAP), but the U.S. subsidiaries of internationally based companies generally prepare financial statements using International Financial Reporting Standards (IFRS). In order to ensure consistency in approach and the most effective use of CAP resources, the IRS determined to limit CAP participation to U.S. publicly traded Corporations with a legal requirement to prepare US GAAP financial statements.

However, the IRS gave U.S. subsidiaries of internationally based companies that were currently in the CAP program the opportunity to remain in the program if they made the commitment to prepare US GAAP quarterly and annual financial statements. Some U.S. subsidiaries of internationally based companies made this commitment and remain a part of the CAP program, while others were unable to make this commitment and are no longer eligible to be in the CAP program.

The IRS periodically evaluates the CAP eligibility criteria and makes adjustments consistent with resource constraints and the need to ensure the effective and efficient execution of the CAP program. We continue to engage with stakeholders and invite suggestions on viable alternatives in bridging and reconciling the disclosure gap between US GAAP and non-US GAAP reporting.

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QUESTIONS SUBMITTED BY HON. RON WYDEN

*Question.* On May 8, 2020, IRS updated FAQs online via the Economic Impact Payment Information Center to acknowledge that IRS is aware that "in some instances a portion of the payment sent to a spouse who filed an injured spouse claim with his or her 2019 tax return (or 2018 tax return if no 2019 tax return has been filed) has been offset by the non-injured spouse's past-due child support." This is not what Congress intended in the CARES Act. The COVID-19 public health emergency continues to take a massive economic toll on families across the country, and this direct assistance is needed now to help cover necessary expenses. Information in the IRS's FAQs goes on to say that injured spouses will receive their unpaid half of the total payment when the issue is resolved.

What steps is IRS taking to resolve the issue? When can injured spouses and their families expect to receive their stimulus payment?

*Answer.* The Injured Spouse payments were stopped in the Treasury Offset Program. The IRS coordinated with the Bureau of the Fiscal Service to recover and re-issue these funds on September 27, 2020, to the Injured Spouse.

*Question.* The COVID-19 pandemic has resulted in the IRS limiting its operations. As a result, lawmakers have relied on the IRS Free File Alliance to provide taxpayers earning less than \$69,000 with free tax preparation services. However,

earlier this year, the Free File Alliance was embroiled in a scandal where member companies were charging low-income taxpayers, including members of the military, for tax preparation services that should have been free. Since the scandal, as recently as June 9th, a bipartisan congressional staff memo indicated that there is still little oversight over the Free File program. This means that taxpayers who are eligible for the program may not be aware of it or take advantage of it. How is the IRS working to ensure that in other programs where it partners with the private sector, such as the Volunteer Income Tax Assistance (VITA) program and the AARP Foundation Tax Aide's Tax Counseling for the Elderly (TCE) program, it is not partnering with unscrupulous companies that have a track record of taking advantage of low-income taxpayers?

Specifically, has the IRS recently reviewed which companies it partners with to ensure such partners meet fundamental suitability requirements, including no conflicts of interest and a primary focus on providing low-income taxpayers, including members of the military, with free tax filing services? Has the IRS reviewed overall return/filing volume, for programs such as VITA and TCE, over the past 5 years to ensure that volume is directly correlated with the increased need and demand for such free services?

Answer. The IRS believes that taxpayers should have a choice in filing options and should be educated in those options. The IRS promotes options that result in accurate tax return filing. We are committed to providing taxpayers with viable options and tools for tax return preparation and filing, including free services, that help them effectively meet their tax obligations—whether online, as currently supported by Free File, or in-person, as supported by the Volunteer Income Tax Assistance.

The IRS Free File team tests each Free File Alliance member's tax preparation software every filing season, once before the filing season starts and once mid-year to ensure all software is in compliance with the Free File Memo of Understanding (MOU) agreement.

Our communications emphasize that IRS Free File eligible taxpayers must access the IRS Free File tax preparation software from the *IRS.gov* website to ensure they receive the benefits of the protections built into the Free File program. However, some taxpayers may start their web search on commercial tax preparation sites where charges for preparing and filing a Federal and a State tax return do not fall under the MOU.

The MITRE Corporation was tasked with completing the review using the Federally Funded Research and Development Center, an existing Federal Government platform, as a best practice. The statement of objectives includes a review of the current Free File memorandum of understanding (MOU); a review of compliance and oversight activities; a review of prior IRS Advisory Committee (IRSAC) recommendations; and the provision of recommendations to strengthen the MOU and the IRS free file program.

The IRS views the Free File program as a viable option for eligible taxpayers to receive individual tax return preparation and electronic filing at no cost. As stated in its 2019 public report, the IRSAC continues to view the Free File program as viable and has developed a list of recommendations for the MOU and for the IRS to improve oversight. We are using the IRSAC's findings and recommendations to improve and strengthen the program.

Upon receipt of the MITRE report in October 2019 we incorporated the recommendations into our discussions with stakeholder members of Free File Inc (FFI).

Taxpayers must qualify to use traditional IRS Free File software offered by the Free File partners. The qualification occurs through the tax return data the filer enters on their Federal tax return. If the filer qualifies, they are not charged for tax preparation and can proceed to electronically file. If the filer does not qualify (for example, the filer enters an Adjusted Gross Income that is too high for that Free File member's services), they are given two choices: either return to the IRS Free File landing page to find another offering to fit their specific tax situation or proceed (knowing the specific fee they are electing to pay in order to proceed with that software). Please note: IRS Free File reported volumes represent qualifying taxpayers only, not those that opt to continue for a fee. This concept is formalized in the "Addendum to the Eighth Free File MOU" signed December 2019 which stipulates that all Free File members shall provide "non-qualifying" filers the option to return to the IRS Free File landing page as the first option, presented at the earliest feasible point.

The IRS and the Free File Alliance included language in the December 2019 MOU Addendum which states: “FFI members are prohibited from engaging in any practice that would cause the member’s Free File Landing Page to be excluded from an organic Internet search.”

In regard to assisting the military filers, our Stakeholder Partnerships, Education and Communication division leads a coordinated partnership with the Armed Forces Tax Council (AFTC), which is the governing body for the military Volunteer Income Tax Assistance (VITA) Program. AFTC consists of members from each branch of the U.S. military (Air Force, Army, Coast Guard, Marines, Navy, and Public Health Service), as well as from the Defense Finance and Accounting Service. In preparation for Filing Season 2020, the IRS provided five overseas instructors to teach VITA at 10 installations. Through the Adopt-A-Base Program, 35 domestic bases received VITA training. VITA volunteers also help with military tax topics, such as special rules and tax benefits that apply to those serving in combat zones. Lastly, Military OneSource, a Department of Defense program that provides resources and support to active-duty military, partners with VITA as an option for service members who decide to prepare their own return through a Facilitated Self-Assistance method at the VITA site.

The IRS provides oversight of the Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) programs, both of which provide underserved communities with free tax filing assistance, using IRS-certified volunteers. The IRS regularly compares the demand for services for our VITA and TCE programs year over year. The IRS is continuously focused on growing the VITA/TCE program by determining ways to increase access to low-and-moderate income taxpayers, as well as increasing volunteer tax return preparation for individuals in rural communities, those with limited English proficiency, seniors and the military. This includes a focus on self-preparation, virtual, or other remote processes that facilitate limited-contact or contactless client service.

*Question.* Has the IRS taken steps to ensure that companies that were involved in the Free File scandal do not have access to taxpayers through other Federal programs?

*Answer.* The Free File MOU narrowly governs only the Free File program. The MOU does not constrain any member companies from offering services through any other channel or program.

*Question.* Has the IRS worked to ensure that these companies are not able to profit off other Federal Government contracts? Have any research contracts, VITA contracts, etc. been revoked for these companies?

*Answer.* The Free File MOU narrowly governs only the Free File program. The MOU does not constrain any member companies from offering other services through any other channel or program.

The IRS currently has a contract with a single software provider for VITA/TCE tax software licenses. Thousands of VITA/TCE partner sites use this IRS provided software for volunteers to deliver free tax return preparation for qualifying taxpayers.

In addition, the VITA/TCE program works with other tax software companies that voluntarily provide their products at no charge for partner use. About 12 percent of all VITA/TCE partner prepared returns are completed with software other than IRS provided software. There are restrictions on free taxpayer use of these offers (that typically match the offer restrictions on Free File, such as income limitations or out of scope complicated tax items).

*Question.* Protecting taxpayers is important to maintaining our tax system. There are always reports of tax return preparers preying on vulnerable taxpayers and pocketing the money—tax return preparer fraud routinely makes the IRS “Dirty Dozen” list of tax scams each year.

What have you been seeing on this front during this tax season?

*Answer.* Tax return preparer fraud is a tax administration issue. Incompetent and dishonest tax return preparers increase collection costs, reduce revenues, disadvantage taxpayers by potentially subjecting them to penalties and interest because of incorrect returns, and undermine confidence in the tax system.

*Question.* Do you agree that legislation setting minimum standards for tax return preparers, similar to what Senator Cardin and I have proposed (S. 1192, Taxpayer

Protection and Preparer Proficiency Act of 2019), would help reduce fraud and incompetence among tax return preparers?

Answer. The President's Budget for the past 3 years has included a legislative proposal to increase oversight of paid tax return preparers. To promote high-quality services from paid tax return preparers, legislation is required to grant authority to regulate all paid tax return preparers.

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QUESTIONS SUBMITTED BY HON. THOMAS R. CARPER

*Question.* In addition to serving on the Finance Committee, Senator Portman and I also head the Permanent Subcommittee on Investigations (PSI), which recently conducted a bipartisan review of the IRS Free File program. As you know, Free File is a partnership created in 2002 between the IRS and online tax preparation companies that allows 70 percent of Americans to file their taxes for free. Unfortunately, the Treasury Inspector General for Tax Administration (TIGTA) found in a recent report that only 2.4 percent of eligible taxpayers used the Free File program last year. What's more, 14 million taxpayers could have filed their taxes completely free but instead paid a fee. These statistics show pretty clearly that the Free File program is not operating as it should. In addition, we just learned recently that one of the biggest Free File members—H&R Block—is leaving the program after this tax season.

The non-partisan Government Accountability Office (GAO) has recommended that the IRS conduct a comprehensive analysis of the costs and benefits of the Free File program versus alternatives before making decisions on renewing the agreement. The IRS has agreed to this recommendation. With the current agreement expiring in October of next year, that deadline is coming up fast.

Can you share with us the IRS's plans and timeline for conducting this cost-benefit analysis?

Answer. In addition to the input from TIGTA, PSI and GAO, the IRS contracted with MITRE to conduct an independent assessment of the IRS Free File program. MITRE provided recommendations to ensure the continued integrity of the program. The IRS Free File team has moved to implement many of these recommendations, including those covered by the December 2019 Addendum to the MOU, those that are currently in-flight, and, those that will require a longer timeline to assess and complete. We will continue to assess and implement more of the complex recommendations throughout the 2020 calendar year and beyond.

Any cost-benefit analysis of alternatives such as expanding IRS capabilities to allow complete tax return filing directly with the IRS would require a large commissioned study (such as the Advancing eFile Study conducted by MITRE in 2010) that would require significant funding.

The IRS is invested in creating a modernized tax administration agency and continues to invest in systems and processes for taxpayers based on our appropriated funding. Our current modernization plan does examine alternatives to filing and the IRS last reviewed this concept in 2010. The IRS currently has no efforts under development for a new electronic filing system, but we will continue to look at innovative ways to serve taxpayers.

*Question.* Reports by PSI, GAO, and TIGTA all note that the Free File program has suffered from a lack of marketing funds and IRS oversight for many years.

Does the IRS have the resources it needs to conduct marketing and oversight for the Free File program, or does Congress need to provide additional funding for these purposes?

Answer. Although the IRS Free File program has no marketing budget, we took many steps to increase taxpayer awareness of Free File during the 2020 filing season. Our annual communication plan included efforts to target specific audience groups such as first-time filers, web-savvy seniors, families with children and the military among others. This effort included daily news releases, social media outreach and leveraging various stakeholder partnerships. We are aware of the interest in increasing the use of the program and note the House included language in the FY 2021 appropriations report accompanying the Financial Services bill to continue and expand these promotion efforts "via press releases, press outreach, social media, and other communications with taxpayers." We will continue these outreach efforts in 2021 as Free File will be a critical tool for taxpayers seeking additional tax cred-

its for children and non-filers who may have been missed this spring. Additionally, Free File maintained a prominent position on the *IRS.gov* homepage and additional changes are being made to make it easier for taxpayers to find the products that best match their situations. Through November 13, 2020, free filed returns were up 49 percent to 4.2 million in 2020 over the 2.8 million who used it 2019. Additional funding to market the Free File program would require specific funding from Congress.

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QUESTIONS SUBMITTED BY HON. SHERROD BROWN

IRS ACTIVITIES AND RACIAL EQUITY

*Question.* During the hearing on June 30th, I asked, “Can you ensure me and ensure the American people that IRS audit rates don’t disproportionately—not by intention but by commission perhaps—that IRS audit rates don’t disproportionately hit black and brown people? Can you assure us that that won’t happen?” You responded: “Yes.”

How does the IRS define disproportionate?

Answer. Please see combined response below.

*Question.* Who at the IRS is tasked with applying that nondiscrimination review?

Answer. Please see combined response below.

*Question.* How is it documented and verified?

Answer. Please see combined response below.

*Question.* How does the IRS retrieve the race data necessary to conclude that audit rates don’t disproportionately affect black and brown Americans?

Answer. Please see combined response below.

*Question.* Does the IRS match race data with the Census Bureau?

Answer. Please see combined response below.

*Question.* Aside from the IRS’s auditing functions, what steps does the IRS take to assure other actions—for example, offers and compromise or other IRS settlement actions—are not disproportionately applied along lines of race?

Answer. The IRS administers tax laws established by Congress. The IRS does not have, nor does it collect, any information or data related to the race and ethnicity of taxpayers. For example, the Form 1040 does not ask for the race or ethnicity of the taxpayer, and, therefore, the IRS cannot track any of this information. Thus, the IRS does not base any tax administrative actions and procedures on race or ethnicity. Because the IRS does not collect such data, the IRS cannot evaluate administrative actions with respect to race or ethnicity.

Policy Statement 1–236 states that enforcement selection processes “operate under a comprehensive set of checks and balances and safeguards to identify the highest potential noncompliance, using scoring mechanisms, data driven algorithms, third party information, whistleblowers and information provided by the taxpayer.”

The IRS does release income and tax data to the public showing the actions of the IRS as it relates to certain income groups and filing statuses. The IRS routinely publishes studies which provide statistics on income, deductions, tax, and credits reported on individual Form 1040 income tax returns and associated schedules. The IRS redesigned the FY 2019 IRS Data Book, released in June 2020, to better reflect the compliance and enforcement activities that the IRS takes to ensure fairness in our tax system. The data on audit rate coverage in this most recent Data Book was also updated to more accurately reflect audit coverage over time. While audit rates have declined over the last decade across all segments, it is important to note that based on the total returns filed in each tax year, the IRS audits high income taxpayers at a greater percentage rate than low income taxpayers in that tax year.

The IRS does not receive Census data. U.S.C. Title 13, which restricts the use to statistical purposes that meet the mission of the Census Bureau, governs census data for race and ethnicity. It is our understanding that current law will not permit the Bureau to share any information with the IRS that would be used as part of the IRS’s program administration.

Ultimately, our goal is to run a tax system that is fair, equitable, and follows the Nation's laws for all taxpayers. We follow this for all our service and enforcement channels.

THE NON-FILER TOOL AND EITC TAKE UP

*Question.* At the June 30th hearing, regarding the prospect of repurposing the non-filer portal to expand access to the EITC in coming years, you stated that “you’re going to see a replication of a couple of the tools that came out during this” and that “this is the future of the Internal Revenue Service.” This is encouraging.

What steps will the IRS be taking in the coming months to repurpose the non-filer portal, and ensure it can be used as a “Get My EITC” tool for families below the filing minimum beginning in TY 2020? When do you expect the “Get My EITC” tool will launch?

*Answer.* The non-filers portal, used to register for Economic Impact Payments, was a modification of the Modernized eFile System used by taxpayers to electronically file tax returns. The IRS developed the utility in partnership with the Free File Alliance (at no charge) and rapidly put it in place in response to the immediate specific needs of the Economic Impact Payment program. The non-filers portal is only available in English. A Free File member stepped forward to provide a Spanish version.

Taxpayers today can use the Free File Program to file a tax return. Based on recommendations from digital experts, the IRS is making many changes to improve and enhance the Free File experience on *IRS.gov* for 2021. As part of these improvements, the IRS made significant changes to the “look-up” tool that taxpayers can use to identify those products for which they are eligible. Improvements to the “look-up” tool include the addition of Earned Income Tax Credit (EITC) eligibility questions to the overall user flow to ensure that working families not only receive the benefits to which they are due but find the free product best for them. Once the user chooses a Free File partner, the return preparation includes guiding the user through claiming the EITC. The IRS heavily promotes Free File and EITC through several communication and outreach campaigns (many with a focus on the underserved) each year including the fall Get Ready campaign, EITC Awareness Day, Free File Opening and EITC Awareness Day in addition to regular reminders throughout each filing season.

The IRS plays a critical role in providing financial help to low-income households. Each year, over 9 million individuals—half of them children—are lifted above poverty level because of the EITC. During tax year 2017, over 26 million taxpayers received over \$64 billion in EITC benefits, making the credit one of the largest anti-poverty programs in the United States.

In administering the EITC, we have two goals—increasing participation and reducing errors that lead to improper payments. The participation rate is high (nearly 80 percent, or four out of five people eligible for EITC claim it), and the administrative costs are low (less than 1 percent of the credit paid). Mainly, this efficacy is due to the reliance on taxpayers’ self-assessment of eligibility for EITC as part of our voluntary tax system, which often makes it difficult to prevent improper payments.

The refundability of the credit attracts fraud and other noncompliance, while the complexity of the criteria for eligible dependents often leads to unintentional errors, both of which may result in improper payments. The National Research Program estimates that approximately 50 percent of EITC claims have errors, and for fiscal year 2018, the EITC erroneous payment rate is estimated to be 25.1 percent of all EITC payments. The rate is nearly the same as the historical average error rate of about 25 percent, and the resulting roughly \$18.4 billion in improper payments accounts for almost half of the \$40 billion portion of the tax gap attributable to credits.

Anyone who qualifies for the EITC also qualifies for free tax help from a trained community volunteer. Again, VITA and TCE sites offer free assistance with return preparation around the country, and historically returns prepared by IRS-sponsored VITA and TCE have a very low error rate for EITC claims. During the filing season, taxpayers can find VITA/TCE sites in the local area on *IRS.gov*. They may also check the IRS2Go mobile application. This app also allows taxpayers to check their refund status, make a payment, find free tax preparation assistance, sign up for helpful tax tips, and more. IRS2Go is available in both English and Spanish.

Addressing EITC improper payments is an ongoing effort for us. We do this work with a balanced approach, delivering outreach and education and conducting compliance activities for both taxpayers and preparers.

*Question.* The non-filer portal this year was an invaluable proof of concept, and provides a solid foundation to build upon. Will the IRS seek to work with an agile tech team—either inside (*e.g.*, 18F or USDS) or outside the government—to build a new front end for the tool, and test it with users?

Answer. See response to question above.

*Question.* Do you expect the non-filer portal will be available in a variety of languages?

Answer. See response to question above.

*Question.* What outreach will the IRS perform to ensure that prospective claimants are aware of the portal, and know that they can use it?

Answer. See response to question above.

#### ECONOMIC IMPACT PAYMENTS

*Question.* Please describe the outreach activities the IRS is conducting to reach marginalized communities who do not typically file taxes—including the homeless and housing-insecure populations—who are eligible for the EIP and would substantially benefit from receiving it. What steps is the IRS taking to measure its own success at reaching these populations? How successful has the IRS been so far?

Answer. In April 2020, we created the Economic Impact Payment (EIP) Initiative to nationally distribute communications to stakeholders and community organizations serving individuals experiencing homelessness. These communications provided information about the availability of the EIP for individuals experiencing homelessness and the free Non-Filers: Enter Payment Info Here online tool. The organizations contacted included homeless shelters, Legal Aid offices, religious ministries and numerous other community-based groups. We also leveraged existing partnerships through the Volunteer Income Tax Assistance/Tax Counseling for the Elderly (VITA/TCE) program to inform underserved communities regarding the availability of the EIP.

As part of our efforts, we have undertaken a sweeping outreach and education campaign to help people understand the payments and ensure those who normally don't file tax returns are aware they are eligible for these payments, too. We shared this information nationwide, with stakeholders inside and outside the tax community. Our outreach includes organizations working with the homeless and others in transition, and we have worked closely with social service organizations and other Federal Agencies that help these populations across the country. The IRS also worked with the Social Security Administration (SSA), Veteran's Administration (VA) and Department of Housing and Urban Development (HUD), all of which have some homeless beneficiaries. Our EIP Initiative included researching potential organizations nationwide that might assist homeless individuals and share IRS-related EIP resources with them, including information on claiming the EIP. Over 300 organizations agreed when asked if they would act as a "trusted partner" allowing homeless persons to use their physical address to receive the EIP. If an organization agreed, the IRS performed a series of checks to determine if the organization could be considered a trusted partner. We continue to identify trusted partners. In addition, we continue to leverage our existing partnership with HUD. We hosted a webinar titled "Overview of IRS's Free Tax Preparation Services" on April 30, 2020. The webinar covered various topics including EIP resources available on *IRS.gov*. The session was attended by numerous HUD staff nationwide, including representatives from the Continuum of Care Program. We continued to share resources with HUD as they were made available. We made extensive efforts to share EIP information with people in these and other vulnerable and underserved communities, and we continue to do so.

In addition to sharing extensive material with the news media and on social media and websites, this extensive national public awareness campaign has included partnering with a wide spectrum of community and professional groups. This effort includes sharing outreach materials and working with homeless organizations, food banks and social service groups as well as national, State and local organizations (and associations to which these organizations belong). We've already shared information with more than 10,000 contacts with groups across the country that represent and interact with millions of individuals. We have distributed and con-

tinue to distribute EIP outreach materials in more than two dozen languages, including materials specifically focused on individuals experiencing unique circumstances. Further, we have also worked closely with State and local government agencies to raise awareness and have provided “EIP Toolkits” assisting them in their own outreach efforts; this toolkit is designed for use by groups dealing with the homeless and other non-filer populations.

For those who don’t normally file tax returns, we have worked to highlight and provide local assistance through the Non-Filers tool on *IRS.gov*, a tool provided through the close working relationship between IRS and Free File, Inc. via a public/private partnership. This partnership included a member company that stepped forward to provide a Spanish option for non-filers. In addition, the IRS also worked with the Free File software partners who wished to support this effort by ensuring they were also able to submit this information on behalf of eligible non-filers.

The IRS recognizes the special needs of the homeless and others. As our Nation and IRS facilities continue to reopen, we will keep raising awareness about EIPs and assist taxpayers. These efforts will include continued engagement with local community organizations as we determine what eligible individuals need as we return to full operations.

A key metric for us on this effort involves the number of people who have used the Non-Filers’ tool on *IRS.gov* or otherwise submitted a tax return solely to request their EIP. Through November 21, 2020, more than 8.5 million individuals who normally would not be required to file a tax return filed to request their EIPs.

*Question.* Please describe the steps the IRS is taking to release the portion of an injured spouse’s EIP that was wrongly offset. When can these individuals expect resolution?

*Answer.* The Injured Spouse payments were stopped in the Treasury Offset Program (TOP). The IRS coordinated with the Bureau of the Fiscal Service to recover and reissue these funds on September 27, 2020, to the Injured Spouse.

*Question.* Please explain why Notice 1444—mailed to millions of EIP recipients—did not provide instructions on how to report a “failure to receive the payment” as the IRS website suggests it would.

*Answer.* At the time the IRS wrote Notice 1444, Economic Impact Payment 2020, the IRS campuses and toll-free customer assistance lines were closed due to the pandemic. The guidance related to performing a payment trace requires an IRS assistor to complete. Once these IRS operations resumed, we provided information through a series of Frequently Asked Questions (FAQs) for handling EIP related issues, including not receiving an EIP.

For individuals who encounter an issue with their payment, we added FAQs that provide detailed information on necessary steps for missing, lost, stolen, or destroyed payments, and how to request a Payment Trace.<sup>1</sup> If recipients did not receive the full amount to which they believe they are entitled, recipients can also claim the additional amount when they file their 2020 tax return.

*Question.* What steps is the IRS taking to ensure that staff are readily available to answer calls from taxpayers who have questions about their EIP?

*Answer.* The new EIP line staffed by contractors has added additional assistors since debuting on May 18, 2020. As of mid-July, the EIP line has been operating at 100-percent capacity with 1,355 contracted agents and taken over 1.8 million calls. These agents answer basic EIP questions that do not require taxpayer account access and research. We continue to perform quality reviews to ensure that the contractors are connecting taxpayers with IRS assistors when they require more in-depth assistance and tax account related research.

As of August 6, 2020, more than 11,000 customer service representatives are taking calls on all toll-free lines and/or working priority paper inventory. We hope to see this number increase as we work to reopen our offices and call sites as State and local health guidelines ease restrictions.

*Question.* How will the IRS ensure that taxpayers who were recent victims of tax fraud (*i.e.*, returns were filed in their names or someone claimed them as dependents fraudulently) can still receive their EIP as soon as possible?

<sup>1</sup>See <https://www.irs.gov/coronavirus/economic-impact-payment-information-center> (FAQs #46, 47, and 48).

Answer. As identity theft cases are resolved, the IRS will consider and issue the EIP per eligibility requirements.

VITA AND COVID-19

*Question.* For over 50 years, the Volunteer Income Tax Assistance (VITA) program at the IRS has been providing free tax preparation services to millions of taxpayers, including low- and moderate-income households, the elderly, people with disabilities, people with limited English proficiency and members of the military. During the current pandemic, many VITA sites are creatively continuing to serve taxpayers through alternative means, such as virtual preparation or drop off, until the extended tax filing deadline of July 15th—some even through the end of the year. Sites are receiving an influx of clients who need help, not only with filing their tax returns, but also with submitting key information to the IRS so they can receive their Economic Impact Payments.

Please describe how the IRS has assisted the VITA network in adapting to and overcoming the challenges associated with the COVID-19 pandemic so that it can continue to fulfill its critical mission.

Answer. To assist VITA/TCE partners, the IRS took several actions to expand virtual offerings of free tax preparation. The IRS created general guidelines for partners to serve their clients safely and efficiently, while complying with previously established quality requirements.

The IRS worked with the current software vendor for VITA/TCE to increase flexibility, allowing partners to prepare and file returns remotely, while receiving assistance on tax law questions through virtual means (telephone/email/chat). The IRS implemented temporary Virtual VITA/TCE procedures to support partners with completing tax returns in their TaxSlayer system that were unfinished due to the unexpected closing of partner sites.

The Scanned Document pilot allowed VITA/TCE sites to securely upload taxpayers' supporting tax documentation electronically for the purpose of preparing tax returns in a contactless environment. The IRS expanded the pilot adding about 70 additional locations (the initial pilot was nearly 100 sites).

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QUESTIONS SUBMITTED BY HON. MICHAEL F. BENNET

*Question.* As mentioned in the hearing, the IRS's "non-filer portal"—which households use to register for their \$1,200 economic impact payment—seems to have filed a narrow tax return as a formality for its users.

When these taxpayers later attempted to file a full 2019 return to receive their Child Tax Credit or Earned Income Tax Credit, they were prevented from doing so. Though they are able to file a paper return, the IRS has limited capacity to process paper and until late June was not processing paper returns at all.

I suspect many became discouraged when they were unable to file online. As a result, as many as 5 to 10 million households do not have a clear way to file taxes, and no way to claim the Earned Income Tax Credit and Child Tax Credit.

For example, a mother of 3 would have received \$2,700 in economic impact payments, but could be eligible for double that amount—or about \$5,200—in EITC that she is unable to claim because she is in this so-called "filing trap."

Until a suitable online system is put in place to deal with this filing trap created by the IRS's system, millions will go without the money they desperately need.

Can you confirm that the Non-Filer portal is filing tax returns on behalf of its users?

Answer. Use of the Non-Filer utility on *IRS.gov* will result in a tax return being processed for the filer(s).

In order to assist taxpayers who need to file a subsequent return, we provide information on how to submit a claim in the EIP FAQs:

Taxpayers who used the Non-Filers: Enter Payment Info Here tool to register for an Economic Impact Payment and need to file a 2019 tax return must file a paper 2019 Form 1040 or 1040-SR tax return by mail with "Amended EIP Return" written at the top and pay tax owed by July 15th.

The Economic Impact Payment's Non-Filers tool was not intended to be used by a taxpayer who also needed to file a tax return with the IRS for tax year 2019. If you used the tool to register for a payment, you cannot file your tax return electronically. You must complete and print a paper 2019 Form 1040 or 1040-SR tax return, write "Amended EIP Return" at the top, and mail it to the IRS by July 15th. If you owe tax, you should pay it in full by the July 15th due date. Interest will be charged after July 15th on any amounts that are not paid by July 15th.

These same instructions apply if you registered for your Economic Impact Payment using the IRS Non-Filers: Enter Payment Info Here tool, tax software, or a paper tax return indicating \$0 or \$1 of adjusted gross income. If you have a copy of the document that registered you for the Economic Impact Payment, you can include it when you file Form 1040 or 1040-SR.

*Question.* What concrete steps will the IRS take to ensure that portal users are aware of the processes they must follow to file taxes, in order to obtain additional tax benefits like the CTC and EITC?

*Answer.* The IRS has encouraged the public to research and check the Frequently Asked Questions (FAQs) on *IRS.gov* for updates regarding current information about the EIP and related IRS tools. The IRS had communicated these FAQs frequently and broadly as the best EIP resource for the public.

The FAQs include who should not file using the Non-filers portal as well as specific instructions for filing a 2019 tax return after using the tool (emphasis added).

*Question.* Do I need to use the Non-Filers Enter Payment Information Here Tool? (Updated October 21, 2020)

*Answer.* If you already filed a 2019 tax return, you don't need to do anything to get your Economic Impact Payment. You will automatically get your payment deposited directly into your account if we have your direct deposit information on file.

If the direct deposit account is no longer active, the IRS will automatically mail your payment to your address of record (this is generally the address on your last return or as updated through the United States Postal Service (USPS)).

If you filed a tax return for 2019, do not use *Non-Filers: Enter Payment Info Here*.

Do not use the Non-Filers: Enter Payment Info Here tool, if you are required to file a 2019 tax return and have not filed yet. Doing so may delay your Economic Impact Payment, processing your tax return and any tax refund you may be owed.

However, if you do not have a filing requirement and did not already receive an Economic Impact Payment, you should use the Non-Filers: Enter Payment Info Here tool, provided you:

1. Are not claimed as a dependent of another taxpayer, and
2. You have a Social Security number valid for employment.

Most individuals who receive Social Security retirement or survivor benefits, Social Security disability (SSDI), Supplemental Security Income (SSI), Department of Veteran Affairs benefits or Railroad Retirement benefits were already issued a payment. If you are a benefit recipient and have not received a payment, we may not have enough information for you. If you are not required to and do not plan to file a 2019 tax return and you cannot be claimed as a dependent, you should use the Non-Filers: Enter Payment Info Here tool by November 21st to register for your payment.

The IRS will use the information you provide to determine your eligibility for the Economic Impact Payment.

The IRS won't have the information necessary to issue you a Payment unless you provide some basic information about yourself, your spouse, and any qualifying child under age 17. Entering your bank account information will allow the IRS to deposit your Payment directly into your account. Otherwise, your Payment will be mailed to you.

The Non-Filers tool will be available until November 21, 2020. This deadline allows the IRS enough time to process this information and, for most individuals, issue the Payment before December 31, 2020.

*Question.* Can I file my 2019 tax return electronically if I used the Non-Filers: Enter Payment Info Here tool to register for an Economic Impact Payment? (updated October 21, 2020)

*Answer.* The Economic Impact Payment's Non-Filers tool was not intended for use by taxpayers who also needed to file a tax return with the IRS for tax year 2019.

If you used the Non-Filers tool to register for an Economic Impact Payment, you cannot file your tax return electronically. You must complete and print a paper 2019 Form 1040 or 1040-SR tax return, write "Amended EIP Return" at the top, and mail it to the IRS. If you owe tax, you should pay it in full as soon as possible. See the IRS Pay tab for payment options. Interest will be charged on any amounts that were not paid by July 15th. For more information, visit the Amended EIP Return page.

The addition of a previous and related Q&A was shared through an eNews for Tax Professionals and with key partners who help taxpayers. Note that most, if not every, mention of the Non-Filers tool in IRS communications includes a warning that this tool should not be used by people who usually file an income tax return.

The Amended EIP Return page FAQ explains how a taxpayer can file a paper amended return and claim tax credits.

Taxpayers who used the Non-Filers: Enter Payment Info Here tool to register for an Economic Impact Payment and need to file a 2019 tax return must file a paper 2019 Form 1040 or 1040-SR tax return by mail with "Amended EIP Return" written at the top and pay tax owed by July 15th.

The Economic Impact Payment's Non-Filers tool was not intended to be used by a taxpayer who also needed to file a tax return with the IRS for tax year 2019. If you used the tool to register for a payment, you cannot file your tax return electronically. You must complete and print a paper 2019 Form 1040 or 1040-SR tax return, write "Amended EIP Return" at the top, and mail it to the IRS by July 15th. If you owe tax, you should pay it in full by the July 15th due date. Interest will be charged after July 15th on any amounts that are not paid by July 15th.

These same instructions apply if you registered for your Economic Impact Payment using the IRS Non-Filers: Enter Payment Info Here tool, tax software, or a paper tax return indicating \$0 or \$1 of adjusted gross income. If you have a copy of the document that registered you for the Economic Impact Payment, you can include it when you file Form 1040 or 1040-SR.

Tax Professionals please note that returns labeled "Amended EIP Return" will be processed as superseding returns if submitted before July 15th or, with a valid extension, before October 15th.

We will also be reviewing the Amended EIP Return FAQs to add links to specific reference refundable credit information for EITC and CTC.

Additionally, we have outreach awareness strategies for refundable credits including:

**CP09/27 Notices, You May Be Eligible for the Earned Income Credit (EIC)/Complete EIC Worksheet**

IRS issues CP 09/27 notices to potentially eligible EITC taxpayers who file returns but do not claim the credit. CP 09 is issued to taxpayers who may be eligible to claim EITC based on qualifying children. CP 27 is issued to taxpayers who may claim EITC without qualifying children.

**CP08 Notice, You May Qualify for Child Tax Credit (CTC)**

IRS issues CP 08 notices to taxpayers who file returns with one or more dependents and are potentially eligible for the Additional Child Tax Credit (ACTC) but do not claim it on their returns.

**EITC Assistant**

The EITC Assistant is an online tool in English and Spanish that allows taxpayers to determine if they are eligible for EITC and for what amount they are eligible. The IRS informs the public of this valuable tool through News Releases, Twitter and IRS YouTube videos.

**EITC Awareness Day**

The IRS hosts an annual "EITC Awareness Day," which is a nationwide collaboration with national and local partners to increase awareness of refundable

credits. Concentrated traditional and social media activity helps us to reach the broadest possible range of eligible taxpayers, including underserved populations and newly eligible taxpayers. The 14th annual EITC Awareness Day was held on January 31, 2020.

#### **Refundable Credits Summit**

We also hosted our third annual Refundable Credits Summit in September 2019. The goal of the Summit is to identify methods to improve administration, reduce overclaims and improve participation for taxpayers eligible to claim the EITC, as well as the Additional Child Tax Credit (ACTC) and the American Opportunity Tax Credit (AOTC). Twenty-five participants from 19 external organizations or agencies attended the Summit, including representatives from AARP Foundation Tax-Aide, Prosperity Now—Taxpayer Opportunity Network, Congressional Research Service, Council for Electronic Revenue Communication Advancement, and the National Association of Enrolled Agents. We formed a Refundable Credits Participation Working Group comprised of Summit attendees that will focus on identifying fresh approaches to expand participation in EITC, ACTC and AOTC.

*Question.* Will the IRS waive late fees for portal users who are blocked from filing taxes and cannot learn of alternate processes in time?

*Answer.* The IRS will not systemically assess a failure to file penalty on the Non-filers portal users who submit a paper amended return as instructed in the EIP FAQ.

*Question.* Will the IRS commit to processing electronic Forms 1040-X from portal users on a priority basis?

*Answer.* The IRS is committing to processing all Forms 1040-X, both paper and electronically filed. The vast majority of Forms 1040-X are refunds for taxpayers who have waited patiently for processing. The IRS is committing to being fair and equitable by processing returns on a first-in, first-out basis and applying resources that are permitted while following CDC social distancing guidelines.

*Question.* You committed to prioritizing the paper returns coming in from portal users who cannot e-file. Can you report to us regularly regarding how many of these forms have been received, and any backlog that builds up in these forms?

*Answer.* The IRS is working all paper returns and other correspondence in the order received. The IRS posts regular updates to *IRS.gov* on the status of its operations. We are processing refund returns first (which would include those from the portal users who cannot e-file), followed by balance due returns. Our IRS Submission Processing function's employees are working day and swing shifts to address the mail backlog. In addition, we are offering overtime and weekend shifts to open the mail and process tax returns.

*Question.* Even if the filing process is made much easier for households, I am concerned this will not be enough. The IRS must proactively reach out to the households who have already been blocked from claiming the EITC?

Would the IRS be willing to automate EITC payments consistent with the levels for workers without dependent children for portal users? What authority, if any, would the IRS need from Congress to fully automate these payments?

*Answer.* The IRS cannot determine at the time of filing if the taxpayer has met certain key eligibility requirements for claiming the EITC without a qualifying child without obtaining additional information from the taxpayer. For example, based on the information on the Form 1040, the IRS cannot determine if a taxpayer can be claimed as a dependent on another return or if the taxpayer lived in the United States for more than 6 months. Therefore, issuing the EITC automatically, based solely on return information, could lead to erroneous refunds which would hinder the IRS's ongoing efforts to reduce improper payments.

Without legislative and policy changes, current processes do not allow for accurate determination of automatic taxpayer eligibility for the credit at the time of filing. The IRS will continue to send notices to taxpayers who appear to be eligible for the EITC and ask them to provide additional information.

*Question.* Does the IRS plan to send Forms CP-27 and/or CP-09 to all portal users to make these taxpayers aware of their eligibility for the EITC? What further resources would the IRS need from Congress in order to do so?

Answer. The IRS is committed to identifying innovative approaches to increase EITC awareness and to encourage all eligible taxpayers to claim the EITC on their tax returns and will consider this suggestion.

*Question.* Less than 2 weeks ago, the Taxpayer Advocate reported that about 3.7 million<sup>2</sup> people had used the non-filer portal, but during the hearing, you stated that “6.1 million people have successfully used the non-filer portal.” I assume these reflect total users as of different dates, but could you please address the following to clarify the reasons for the discrepancy?

Please clarify the number of people who have successfully used the portal to date, as well as how many of those successful users might have been eligible for CTC or EITC.

Answer. Through November 21, 2020, more than 8.5 million individuals who would not normally be required to file a return, filed to request an Economic Impact Payment. Eight million of those individuals used the non-filer portal.

*Question.* Will the IRS publicly provide this statistic on an ongoing basis, so as to help us keep track of the number of unreached households?

Answer. This is not information that the IRS is able to track.

*Question.* According to a GAO study<sup>3</sup> released in late June, 450,000 people who managed to meet very tight timelines to register their dependents through the non-filer tool still didn’t get the \$500 dependent payment they were also due for their kids.

Despite the IRS claiming that after May 17th, qualifying children were correctly accounted for and were included in payment computations, many have still yet to receive appropriate dependent payments.

What is your plan to make sure that the 450,000 plus Americans who filed on time receive the payments they need to support their families?

Answer. Recipients who added qualifying child dependent information through the Non-Filers tool before May 17, 2020, do not need to take any action. Treasury has issued payments and recipients should have seen the \$500.00 per dependent child direct deposited to their bank accounts on August 5th. Treasury mailed paper checks on August 7, 2020.

*Question.* For Social Security beneficiaries, the IRS issued an alert that dependents needed to be registered only 2 days before the deadline (notified on April 20th of April 22nd deadline)—following a little reported deadline of April 15th.

What about those beneficiaries who originally missed the tight timelines to declare dependents: is there something preventing the IRS from allowing them to enter that data now and paying them later in 2020 as well?

Answer. The IRS reopened the registration period until November 21, 2020, for individuals who receive Social Security, Supplemental Security Income (SSI), Railroad Retirement or veteran’s benefits, but didn’t receive \$500 per child earlier this year when they received their own Economic Impact Payment.

Federal benefit recipients can use the Non-Filers: Enter Payment Info Here tool to get a catch-up payment for a qualifying child if they have NOT done one of the following:

- Already used the Non-Filers tool to provide information about their qualifying child ; and
- Filed their 2019 or 2018 tax return.

The Non-Filers tool was available on *IRS.gov* in both English and Spanish. Eligible individuals could use the tool until Saturday, November 21st to enter information about their qualifying children to receive a catch-up \$500 payment per child. The IRS will issue payment once the Non-Filers registration has been processed.

Those people unable to access the Non-Filers tool, may file a simplified paper return following the instructions in this FAQ on *IRS.gov*.

Anyone who missed the November 21st deadline will need to wait until next year and claim the payment as a credit on their 2020 Federal income tax return.

<sup>2</sup> [https://taxpayeradvocate.irs.gov/Media/Default/Documents/2021-JRC/JRC21\\_SAO\\_03.pdf](https://taxpayeradvocate.irs.gov/Media/Default/Documents/2021-JRC/JRC21_SAO_03.pdf) (51).

<sup>3</sup> [https://www.gao.gov/reports/GAO-20-625/#TOC\\_Letter\\_Findings](https://www.gao.gov/reports/GAO-20-625/#TOC_Letter_Findings).

Those people who received their original Economic Impact Payment by direct deposit will also have any catch-up payment direct deposited to the same account. Others will receive a check.

Federal benefit recipients who used the Non-Filers tool after May 5th don't need to take any further action.

Social Security, SSI, Department of Veterans Affairs, and Railroad Retirement Board beneficiaries who have already used the Non-Filers tool to provide information on children don't need to take any further action. The IRS automatically sent a payment in October.

*Question.* Why not let these beneficiaries use the non-filer portal today to declare dependents?

Will the IRS pay them this summer?

If the IRS is already planning to retroactively provide dependent payments during July, what is stopping you from reopening applications for those who missed initial deadlines and providing these by the end of July as well?

Answer. See above.

*Question.* Nearly 9 million people that didn't file in 2018 or 2019 and don't receive Federal benefits have yet to receive their \$1,200 payments. One analysis found that 27 percent of this group are Black, while 19 percent are Hispanic.<sup>4</sup> What is your agency doing to increase take-up of these programs among States who have not yet adopted them?

How is the IRS planning to increase outreach to this group that disproportionately includes low-income individuals of color to make sure that they file and apply by the October 15th deadline?

Answer. The IRS has undertaken a sweeping outreach and education campaign to help people understand the payments and ensure those who normally don't file tax returns are aware they are eligible for these payments too. We are sharing this information nationwide, with partners inside and outside the tax community. Our outreach includes organizations working with groups across the Nation, including work with State organizations and local groups, as well as sharing material extensively in Spanish and other languages. We continue to make extensive efforts to share EIP information with people in vulnerable and underserved communities with a special focus on the November 21st deadline for registering for a payment by using the Non-Filers tool.

In addition to sharing extensive material with the news media and on social media and websites, this extensive national public awareness campaign has included partnering with a wide spectrum of community and professional groups. This includes sharing outreach materials and working with State and local agencies, homeless organizations, food banks and social service groups as well as national, State and local organizations (and associations to which these organizations belong). We've already shared information with more than 10,000 contacts with groups across the country that represent and interact with millions of individuals. We have distributed and continue to distribute EIP outreach materials in Spanish and more than two dozen other languages, including materials specifically focused on individuals experiencing unique circumstances. Further, we have also worked closely with State and local government agencies to raise awareness and have provided "EIP Toolkits" assisting them in their own outreach efforts.

For those who don't normally file tax returns, we have worked to highlight and provide local assistance through the Non-Filers tool on *IRS.gov*.

This effort included a special mailing in September to nearly 9 million people we identified as potentially eligible to use the Non-Filers tool.

Work to reach these groups will continue through the November 21st deadline as well as continue in anticipation of the 2020 filing season, when taxpayers will have another opportunity to claim any Economic Impact Payments that they are entitled to.

*Question.* With regards to non-filers who have not yet used the non-filer portal, do you have any estimate of how many people have used the non-filer portal? How many who are eligible have not yet used it?

<sup>4</sup> <https://www.cbpp.org/research/federal-tax/aggressive-state-outreach-can-help-reach-the-12-million-non-filers-eligible-for>.

Answer. Through November 21, 2020, more than 8.5 million individuals who would not normally be required to file a return, filed to request an Economic Impact Payment. Eight million of those individuals used the Non-filers portal.

For those eligible who have not used it, this is not data that we have available or are able to track.

*Question.* What is preventing the IRS from automating economic impact payments to these non-filers, using W-2 and 1099 data that the IRS already has on file?

Answer. There are significant problems in relying upon 1099 and W-2 information.

- Data provided by Forms W-2 and Forms 1099 do not provide enough information for the IRS to issue payments directly to taxpayers without additional confirmation from the taxpayers. Non-filers could have other tax considerations that are not obvious based on Forms W-2 and Forms 1099 data, including qualifying children.
- The IRS may not have any current address or direct deposit information on non-filers who only have income data reported to us once per year, creating a substantial risk for incorrect payments or payments sent to incorrect locations.
- The information returns filed by third parties that are not government agencies may not be accurate, and the Service wants to minimize any chance of issuing erroneous EIPs that may be difficult, if not impossible to recover.
- Some of the Forms W-2 or 1099 could involve employment related ID theft or other fraud. Excluding these bogus information returns would be labor intensive and might not be able to be completed in advance of the year-end deadline for making advance payments.

Rather than risk sending a check to an address that may or may not belong to the taxpayer identified on a Form W-2 or 1099, the IRS sent letters to an estimated 9 million taxpayers to provide information about using the Non-Filers tool or submitting a simplified 2019 return in order to receive an EIP. We used Form W-2 or 1099 information to compile this list of 9 million taxpayers. This strategy allows the IRS to reach potentially affected taxpayers without the risk of sending checks to unverified recipients at questionable addresses. In addition, if the individual provides the IRS with information, the IRS can properly calculate the amount of the EIP and either deposit it directly into the taxpayer's account or send the payment to the taxpayer's correct address.

*Question.* We've heard from a lot of Coloradans that they have yet to receive their economic impact payments, and we understand that there's a backlog of approximately 10 million pieces of mail currently at the IRS.

With so many households and taxpayers caught up in the backlogged system and waiting for their tax refunds, what are you doing to address the mail backlog?

Answer. As of July 13, 2020, the IRS reopened all our facilities to many employees with nonportable work, with protective measures in place for social distancing, including flexible work schedules. Our Submission Processing function employees are working day, night, and weekend shifts to open the mail and process tax returns as quickly as possible.

As of October 30, 2020, there are approximately 7.2 million individual paper returns, in various stages of the Submission Processing pipeline, waiting to be processed at the four Submission Processing Centers. In addition, there are an estimated 1.5 million returns in the unopened mail at these four locations.

*Question.* Do you have a sense of how many taxpayers have either filed taxes or used the non-filer portal but have not yet been paid?

If not, how do you reconcile this with widespread reports of families who say they have filed but not yet received payment?

Answer. The IRS is committed to providing fiscal relief to Americans affected by the coronavirus pandemic. We are assigning additional experienced Customer Service Representatives who are trained in account resolution to respond to EIP related inquiries.

*Question.* When can you commit to moving through the mail backlog?

Answer. The IRS is working paper returns and other correspondence in the order received. The IRS is processing refund returns first, followed by balance due returns. Our IRS Submission Processing function employees are working day and

swing shifts. In addition, we are offering overtime and weekend shifts to open the mail and process tax returns.

*Question.* The IRS recently announced that it will pay interest on individual income tax refunds issued after April 15th.<sup>5</sup>

Is it true that these interest payments will count as taxable income in 2020?

*Answer.* Yes, the interest payments must be considered in determining taxable income. The Internal Revenue Code defines gross income to include all income from whatever source derived, including interest.

*Question.* Would you be willing to exclude these interest payments from being counted as income, given the unique circumstances due to COVID-19 and the hardship that many taxpayers have endured as a result of the delays?

*Answer.* The Internal Revenue Code does not give the IRS the authority to exclude interest payments from being counted as income. An act of Congress would be needed.

*Question.* With a very limited and busy IRS phone line, many Americans are stuck talking to automated call voices that can't always answer the questions they have about receiving their EIPs. Many are getting automatically hung up on because they don't have the right information and the phone lines don't give them opportunities to move on and talk to a representative because of busy lines. Without an efficient IRS phone line, Americans will be left wondering what else they need to do to obtain their payment.

Do you have data on what percentage of calls to the IRS are about economic impact payments?

*Answer.* For the period of May 18th thru September 30, 2020, the percentage of EIP calls to the IRS, including those to our EIP contractor staff, is 37 percent. The percentage of calls going to our Account Management customer service representatives is 16 percent.

*Question.* Why does the IRS website instruct taxpayers not to call the IRS with questions about EIPs?

*Answer.* Since IRS operations have largely resumed, the IRS removed the statement not to call the IRS from *IRS.gov*.

*Question.* Does the IRS have sufficient capacity to field questions about EIPs? If not, what further resources would be needed?

*Answer.* Many of the EIP inquiries include highly complex and account-specific concerns that require in-depth account research which requires assistance from an experienced Customer Service Representative (CSR). These CSRs are also responsible for assisting taxpayers through the toll-free helpline, responding to correspondence in connection with notices that were delayed due to the COVID-19 closures, and providing disaster relief to support the Federal Emergency Management Agency (FEMA). To overcome these challenges, we have added staffing and developed procedures to expedite inquiries. The IRS is also assigning more frontline, experienced CSR's, who are trained in account resolution, to respond to the inquiries.

*Question.* Which services can callers expect from the phone line?

*Answer.* The new pilot EIP toll-free telephone line is staffed by contractor agents who answer general EIP questions that do not require taxpayer account access and research, *e.g.*, EIP eligibility, lost/stolen or destroyed payments and EIP address changes. All incoming calls will initially play an automated informational message. Callers that require in-depth assistance and account related research are transferred to an IRS assistor, who will assist with reviewing the accounts.

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#### QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO

##### SURVIVORS OF DOMESTIC VIOLENCE

*Question.* What are you doing to get replacement checks out to victims of domestic violence who are in desperate need of their EIPs to ensure their safety and financial stability away from their abusers? What is the procedure the victims will need to

<sup>5</sup> <https://www.wsj.com/articles/irs-will-pay-interest-on-late-refundseven-for-those-who-havent-filed-yet-11593024177>.

follow to get a replacement check? When will you be releasing information about this process, and when can they expect to receive their replacement check?

Answer. Survivors of domestic violence present a unique challenge in that the IRS properly made the payment to the taxpayer(s) listed on the return, but that payment was misappropriated after the taxpayer received it. For the IRS to address this issue, it would need to send a second, duplicate payment (or partial payment) which we do not believe we have the legal authority to do.

While the IRS is sympathetic to the plight of survivors of domestic violence, the IRS is required to follow express statutory authority and that authority does not exist in this context. The CARES Act does not provide the IRS with discretion to cause a second, duplicate, EIP to be issued when the initially issued EIP was properly issued absent additional circumstances (*e.g.*, identity theft or a forged or unauthorized endorsement). More specifically, where the IRS issued the payment to the correct taxpayer and the correct taxpayer received it, various provisions of Title 31 would generally prevent the IRS from issuing a second payment.

*Question.* What systems are you putting into place to identify victims of domestic violence who have been denied access to their Economic Impact Payment by their abusers to make sure that this does not happen again if the IRS issues a second round of Economic Impact Payments?

Answer. See response to question above.

#### DETERMINING NEED AND DISTRIBUTION

*Question.* How can Congress better determine actual need and target distribution of payments in any future Economic Impact Payments that may be considered?

Would it make more sense to self-report current income and then reconcile at the end of the year?

Answer. Our job is to administer the tax provisions approved by Congress, and we have learned how to better serve our customers from our quick implementation of EIPs following enactment of the CARES provisions.

We were able to deliver EIP payments quickly due to the information we had in our systems from tax filings in 2018 and 2019. The IRS has no process in place for individuals to self-report current year income for 2020 and reconcile it at year's end; unfortunately, this isn't a workable option for the way our operations are configured.

*Question.* Should Congress provide more stimulus payments? What are some of the lessons learned to ensure we effectively target and distribute aid to those who need it the most as quickly as possible?

Answer. In our role as tax administrators, the IRS stands ready to implement laws approved by Congress, such as delivering stimulus payments, and we continue to closely monitor the situation regarding Economic Impact Payments.

We have learned several important lessons from the 2020 stimulus effort that helped us refine our processes and make improvements. These items all will come into play if an additional round of Economic Impact Payments or other wide-spread stimulus initiative is agreed to in the future:

- The Get My Payment tool, which was quickly developed to help implement the EIP provisions, has had several programming improvements since its initial launch. A key element of this tool involved the capability for some taxpayers without direct deposit information on file to add bank account information to speed up the receipt of their payment. The IRS added new functionality to the tool to allow some people who received their EIPs by paper check to add banking information that would allow for direct deposits in the future.
- With additional information received from SSA, VA and RRB, the IRS has more information in our systems about potentially eligible individuals.
- Expanded outreach efforts. Our work in this area laid important groundwork that can be quickly used to assist with any future stimulus effort. To get the word out about the Economic Impact Payments, the IRS expanded our outreach contacts across the country as part of an extensive national public awareness campaign. This partnership with a wide spectrum of community and professional groups is available for any future efforts. This includes homeless organizations, food banks and social service groups as well as na-

tional, State and local organizations (and associations to which these organizations belong). We've shared information with more than 10,000 contacts across the country that represent and interact with millions of individuals. For EIP, we have distributed and continue to distribute EIP outreach materials in more than two dozen languages, including materials specifically focused on individuals experiencing unique circumstances. Further, we have also worked closely with State and local government agencies to raise awareness and have provided "EIP Toolkits" assisting them in their own outreach efforts. These will help IRS communication and outreach efforts on future initiatives.

*Question.* The IRS has evolved the Economic Impact Payment distribution verification and distribution system over time.

What best practices can Congress prescribe moving forward to ensure that people get the assistance they need as quickly and efficiently as possible? What are the gaps that you need filled from Congress to make sure people are getting their payment?

*Answer.* The IRS has undertaken a sweeping outreach and education campaign to help people understand their eligibility for an EIP and ensure those who normally don't have a tax return filing obligation are aware of their eligibility. We continue to share this information nationwide, with stakeholders inside and outside the tax community. In particular, we made extensive efforts to share EIP information with people in vulnerable and underserved communities.

#### MISCALCULATED AID PAYMENTS

*Question.* Next year is too long to wait for people that need to pay rent today. Will you commit to ensure that those still waiting on their full payment are made whole right away instead of making them wait until the 2021 filing season?

*Answer.* Though most Americans have already received their Economic Impact Payments, the IRS reminds people with little or no income and who are not required to file tax returns that they remain eligible to receive an Economic Impact Payment.

People in this group would have needed to use the Non-filers tool by November 21, 2020, to receive their payment this year.

We also have undertaken a sweeping outreach and education campaign to help people understand their eligibility for an EIP and ensure those who normally don't have a tax return filing obligation are aware of their eligibility. We continue to share this information nationwide, with stakeholders inside and outside the tax community. In particular, we made extensive efforts to share EIP information with people in vulnerable and underserved communities.

Anyone who missed the November 21st deadline will need to wait until next year and claim it as a credit on their 2020 Federal income tax return.

*Question.* How can Americans reconcile miscalculated aid payments? What is the timeline and what kind of penalties will they face if the IRS got their information wrong when determining and distributing aid payments?

*Answer.* People with miscalculated Economic Impact Payments will be able to claim the difference on their 2020 tax return. The IRS will not assess penalties for incorrect EIP payments.

#### 2020 FILING SEASON/IRS RESPONSIVENESS

*Question.* What can taxpayers expect from their IRS for responsiveness to their questions for who may still be seeking answers from the IRS to accurately comply with their tax obligations by July 15th?

*Answer.* As of October 30, 2020, more than 12,000 customer service representatives are taking calls on all toll-free lines and/or working priority paper inventory.

*Question.* How long do you anticipate the process to be to distribute refunds for those who have filed?

*Answer.* The IRS is working paper returns and other correspondence in the order received. The IRS is processing refund returns first followed by balance due returns. Our IRS Submission Processing function employees are working day and swing shifts. In addition, we are offering overtime and weekend shifts to open the mail and process tax returns. The refunds will systemically issue once the returns are processed.

*Question.* As people need assistance more than ever to get their taxes submitted timely and correctly, what more can Congress do to help ensure that the IRS has the ability to respond to constituent's questions and needs efficiently and as quickly as possible?

*Answer.* Additional funding could be used to hire and train additional employees, although any new hire processes take a certain length of time to train and prepare the employees to provide services. Funding to update, upgrade, or purchase replacement equipment or allow for updated programming is always helpful for improving customer service capabilities.

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PREPARED STATEMENT OF HON. RON WYDEN,  
A U.S. SENATOR FROM OREGON

Today the Finance Committee meets for its annual oversight hearing on the tax filing season. This year it also involves the COVID-19 response. I want to start on that issue, because when it comes to active cases, this country appears to be right back where it was in the spring: tens of thousands of newly identified cases every day. ICU beds in hot spots are running dangerously low. The Trump administration has made the astoundingly poor decision to pull back its support for testing in a lot of areas. The President says out in the open that he wants less testing, and he has reportedly gone weeks without speaking to our top public health officials.

To a lot of people, it probably looks like their elected leaders have given up. And in my view, it's an absolute certainty that jobs and the economy will not come close to full strength for as long as the pandemic continues at this uncontrolled spread.

The Senate needs to do more. Members of this committee will obviously be in the center of negotiations on key economic issues. Step one in my view is extending supercharged unemployment benefits for as long as it takes to get the economy back to normal.

I've also got a proposal to send financial support directly to Main Street small businesses. Leader McConnell may disagree, but in my judgement, these negotiations cannot wait. Tens of millions of Americans are out of work. More and more temporary furloughs are becoming permanent layoffs. So I hope we're able to get more help out the door to struggling Americans and our public health workers as soon as possible.

Now on to the subject of IRS oversight. I want to begin with a stunning new report that shows how years of Republican budget cuts have led to wealthy tax cheats getting away scot-free. The report by a Treasury Inspector General showed that over a 3-year period, the IRS failed to audit almost 900,000 wealthy taxpayers who skipped out on filing tax returns. Together they owed nearly \$46 billion in taxes. In nearly 370,000 of those cases, taxpayers had failed to respond to more than one delinquency notice from the IRS. Those individuals owed nearly \$21 billion.

Let's be clear that this isn't about shadowy networks of hard-to-trace shell corporations. It wouldn't take a whole lot of complicated forensic accounting to start to crack down on this tax cheating, since it's a matter of people who simply do not file.

Two issues here stick out to me. First, Donald Trump says he's pro law enforcement, but his administration hasn't taken any steps to crack down on these wealthy tax cheats who have stolen tens of billions from American taxpayers. After years of Republicans bullying and gutting the IRS, audits of wealthy taxpayers are way down. Maybe it shouldn't come as a surprise that Donald Trump isn't doing anything about it, given what we know about this President's long record of tax dodging and outright fraud.

Second, in my view it's past time for the Congress to reconsider how the Federal Government fights against tax cheating. Over a decade of Republican budget cuts, the IRS has lost a third of its enforcement personnel and more than half of its revenue officers.

This new Inspector General report shows how easy it is, after all those enforcement cuts, for the wealthy to get away with cheating—even those who don't bother to file tax returns. The burden of painful tax audits has been shifted unfairly onto people who work for a living.

Bottom line, years of Republican budget cuts have made this a good time to be a rich tax cheat, and the Congress ought to change that. You don't actually believe in law and order if you advocate for cuts that allow wealthy tax cheats to get away with breaking the law.

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## COMMUNICATION

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### **Statement of Michael G. Bindner**

Chairman Grassley and Ranking Member Wyden, thank you for the opportunity to submit our comments, which reflect those previously made in this topic in the other body. The SARS-CoV-2 crisis gives the nation another chance to consider these issues.

Please ask Mr. Rettig two questions.

First, what is the income profile of returns expected v. returns received. We would assume that almost all lower-income filers (those making under \$145,000 per year) have already filed. If this is the case, the filing deadline should not be extended, as it would primarily benefit higher-income households. Giving such households a later filing date deprives the United States of much-needed interest revenue from late filers.

The second question should be, where are the President's tax returns as requested by the Chairman of the Ways and Means Committee, preceded by the statement "You have the right to remain silent. Do you understand these rights as I have explained them to you?" The Sergeant at Arms should then take him into custody, detain him at the Marriott and release him only when the tax returns arrive.

Thank you for the opportunity to address the committee. We are, of course, available for direct testimony or to answer questions by members and staff.

