S. HRG. 118–559

THE PRESIDENT'S FISCAL YEAR 2024 IRS BUDGET AND THE IRS'S 2023 FILING SEASON

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

APRIL 19, 2023

Printed for the use of the Committee on Finance

U.S. GOVERNMENT PUBLISHING OFFICE

58–673—PDF WASHINGTON : 2025

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THE PRESIDENT'S FISCAL YEAR 2024 IRS BUDGET AND THE IRS'S 2023 FILING SEASON

WEDNESDAY, APRIL 19, 2023

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

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

Present: Senators Cantwell, Menendez, Carper, Cardin, Brown, Bennet, Casey, Warner, Whitehouse, Hassan, Cortez Masto, Warren, Grassley, Cornyn, Thune, Cassidy, Lankford, Daines, Young, Barrasso, Johnson, Tillis, and Blackburn.

Also present: Democratic staff: Eric LoPresti, Detailee; Sarah Schaeffer, Chief Tax Advisor; and Joshua Sheinkman, Staff Director. Republican staff: Michael Quickel, Policy Director; Gregg Richard, Staff Director; and Don Snyder, Senior Tax Counsel.

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

The CHAIRMAN. The committee will come to order. This morning, the committee welcomes Commissioner Werfel back to the Senate to discuss the IRS budget and this filing season, which of course came to a close yesterday. Let me begin by thanking staff at the IRS for the hard work that made this the smoothest filing season in many years.

Democrats made a big investment in taxpayer service with the Inflation Reduction Act, and it goes without saying that now the American people have a right to know what they got with that investment. The numbers paint a clear picture.

Last year, the IRS was able to answer 15 percent of the phone calls it got. This year, it was 87 percent. The IRS answered 2 million more calls and helped 100,000 more taxpayers in person. The return backlog is now way down. The technology upgrades are helping to get the refunds out the door more quickly. So these are real, concrete improvements.

Now looking ahead, at the top of our agenda needs to be reducing the tax gap. This is money that is owed to American taxpayers and just has not been collected. The official estimate says that $540 billion of taxes owed go unpaid every year. Other estimates, including from Donald Trump's IRS Commissioner, believe that it could be $1 trillion. These estimates are so far apart because sophisticated, wealthy tax cheats excel at hiding in the shadows. The IRS cannot measure the lawbreaking because it does not have all the resources to identify it in the first place.

So, the bottom line is pretty clear. You cannot get at the tax gap without focusing on these wealthy tax cheats and highly complicated businesses like large partnerships. That is what Democrats have sought to accomplish with the tax enforcement funding in the Inflation Reduction Act.

The IRS plan for that funding came out a few weeks ago. I am sure members have a lot to say about it. It is clear to me that the IRS is focusing on the key issues that the law has subscribed to. The reality is, there are big challenges for the Congress to address: shoring up Medicare and Social Security; child care and education for families; paid leave for workers.

Both sides have made it clear they want to address the country's fiscal health. Reducing the tax gap helps create the head room to be able to address those issues. If the first priority is making it harder for wealthy tax cheats to get away with breaking the law, the next priority ought to be to make tax filing season easier for everybody else.

I think we all have heard from our constituents the last few weeks continued stories about how complicated it is, how much time it takes, how many forms. Why is all of this bureaucracy necessary? Now, the Inflation Reduction Act took an important step on an alternative. It is called free direct filing. It would provide another option for taxpayers and, colleagues, it is voluntary. It is something they can choose to have, a voluntary option when they are sick of the hassle and expense that comes with filing online today.

There is a study underway looking at how to go about building such a system. Republicans and the tax prep lobby in the past have reacted as if this is just going to be pretty much the end of western civilization. There used to be bipartisan interest in building a free-file system that saved taxpayers money each year.

Making it easier to file was a key component, for example, of the bipartisan tax reform proposal that I wrote with Senator Dan Coats a little more than a decade ago. His seat was right down there. We put together a bipartisan tax reform proposal that included a simplified system should middle-class folks want to choose it. And I am always, always, colleagues, going to hope that one day we can have another bipartisan proposal to include free-file, the kind of idea Senator Coats and I pursued for so many years.

Unfortunately, these days too many Republicans are on the side of the big tax prep companies, the big companies that squeeze Americans for billions of dollars each year in various fees and markups. They have even objected to the organization that is conducting the free-file study.

I am sure these legislators would prefer to have the tax prep lobby in charge of studying the issue, to smother it from the get-go. It has always been the same pattern each time free-file came up. An army of well-paid lawyers and lobbyists descends on Congress to squash it, and too many Republicans stand there, right there with them.

This must not be allowed to happen again. Democrats are committed to the proposition that it should not cost hundreds of dollars and many more hours of time simply to follow the law and to pay what you owe. When it comes to filing taxes online, the status quo is unacceptable.

So these are some of the agenda items that Democrats are focused on, including reducing the tax gap by going after cheating by wealthy scofflaws, and making tax filing easier for everybody else. Those are our priorities.

Here are some of the things we are seeing from the other side. When they talk about fiscal health, they are talking about giving billionaires a free pass to cheat on their taxes. It is in the proposals—in the proposals: billionaires get a free pass. Speaker McCarthy works overtime to rally Republicans around a plan that would gut health care and increase hunger among tens of millions of Americans.

Apparently, if he does not get what he wants, he is willing to let this country go through a catastrophic default—and that is the operative word here folks: "default." There is a lot of lingo about debt ceilings and all these kinds of things. What is really at issue is whether this country is going to be clobbered by a default.

The Congress ought to take a smarter approach. That includes making sure the IRS can meet the needs of the American people and enforce the law when billionaires skip out on paying what they owe.

So there is plenty to talk about today. I want to thank Commissioner Werfel for joining us again, and as always, Senator Crapo and I try to find as much common ground as we can on these issues.

Senator Crapo?

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

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

Senator CRAPO. Thank you very much, Mr. Chairman. Commissioner Werfel, thank you for testifying this morning and also for your conduct in these first few weeks of your tenure. I hope you will continue to be transparent, accessible, and willing to work with me and my colleagues, particularly regarding support for taxpayer services and modernization of our outdated IT, which House Republicans passed in their bill, showing their support.

While not the focus of today's hearing, the IRS's recent 150-page response to Secretary Yellen's directive to deliver to her a 10-year operational plan for spending its Inflation Reduction Act funding requires comment.

Secretary Yellen promised a plan that would allow the public and Congress to hold the IRS accountable for the project. While dense, what has been delivered is noticeably light on many essential attributes of a plan and will be extremely challenging to use as a document to hold the IRS, the Treasury Department, or anybody else accountable for missteps.

A few things it almost entirely lacks include quantitative targets to measure against; backup data to analyze; and various key operational details including, for example, who at the IRS or Treasury

Department is ultimately responsible for making decisions on any particular issue.

It does not give any detail on how the IRS will implement Secretary Yellen's $400,000 pledge, and details really matter here. It also does not estimate what any of the 42 initiatives or 190-odd key projects are expected to cost or clearly answer the basic question of which initiatives or key projects can be fully implemented with the $80 billion in funding.

What the document quietly admits is astonishing. Despite contrary rhetoric, the IRA did not give the IRS enough funding to fully realize the plan's vision, this despite having given the agency a slug of funding more than six times its annual budget. The IRS's annual budget justification goes further, asking for 15-percent increases in the IRS's discretionary appropriations in the short term for areas where the IRA funding falls short, particularly in taxpayer services and IT modernization.

The IRS's annual budget justification also warns that if Congress fails to increase future IRS discretionary budgets on top of the $80 billion, and in particular spend even more for taxpayer services and IT modernization, the IRS's future service delivery will actually suffer. Finally, the President's budget requests still more IRS funding for future enforcement efforts—$29.1 billion more. That is on top of the $80 billion.

Americans rightly have a hard time understanding how an agency provided more than six times its annual funding can still claim poverty, and given that the plan the IRS delivered is not transparent and does not allow for any meaningful accountability, this plea is essentially for another blank check.

I have heard some argue that future uncertainty prevents the IRS from making firm estimates beyond a fiscal year or two. Indeed, that sounds like a tacit admission that circumventing the annual appropriations process for the $80 billion was a huge "spend first, plan later" mistake.

But this "uncertainty" excuse falls completely flat when one observes the countless other examples of long-term budget-, revenue-, and cost-estimating—both in the public and private sectors. When you last testified before us, you promised to regularly update the IRS's spending plan and solicit this committee's feedback. Based upon what has just been delivered, I strongly suggest you accelerate your timeline and return to this committee in short order with an actual plan.

Returning to the subject of this hearing, my colleagues and I eagerly await discussing the IRS's annual discretionary budget request and current performance measures. I have learned more in the last few weeks about the sometimes-puzzling ways the IRS measures its own effectiveness, such as on answering phones.

What I have learned would be more troubling if not for the hope that you will adhere to your promise to enhance the rigor and meaningfulness of the IRS's data collection and analysis. I recognize that you are only a few weeks into your tenure and are already facing momentous decisions that will likely have lasting consequences.

I was encouraged by your commitments, which include full and prompt transparency, utilizing best management practices, making decisions based on sound and unbiased data, ensuring the IRS is strictly nonpartisan, not making any policy decisions that are Congress's responsibility, and turning to Congress at every possible opportunity for guidance and authorization.

How well you adhere to these promises will determine the legacy you leave the IRS and the American taxpayers with, as well as your relationship with Congress. I urge you to walk the straight course and set a positive trajectory, and above all keep the IRS out of the partisan gamesmanship.

Thank you, Mr. Chairman.

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

The CHAIRMAN. I thank my colleague, and as my colleagues all know, we will have further briefings this week on the strategic operating plan by Mr. Werfel, so we appreciate that.

Our witness today is Daniel Werfel, 50th Commissioner of the IRS. He previously was a managing partner at the Boston Consulting Group. Before joining Boston Consulting, he was nominated to be Controller at the Office of Management and Budget, where he served for 4 years before becoming Acting Commissioner of the IRS in 2013. He began his career at OMB in 1997. We welcome him.

Why don't you go ahead, Mr. Werfel, and we will have questions.

STATEMENT OF HON. DANIEL I. WERFEL, COMMISSIONER, INTERNAL REVENUE SERVICE, WASHINGTON, DC

Commissioner WERFEL. Chairman Wyden, Ranking Member Crapo, and members of the committee, thank you for the opportunity to testify on the filing season and the IRS budget. I am pleased to report the IRS provided substantially better service to taxpayers during the 2023 filing season.

We delivered a strong tax season for the Nation, the best in several years. Through April 7th, the IRS received more than 101 million individual Federal returns and issued more than 69 million refunds, totaling about $199 billion. IRS employees were able to make substantial improvements this tax season because of the funding Congress provided through the Inflation Reduction Act.

This funding made a difference. It allowed us to hire more than 5,000 phone assistants, which led to a phone level service averaging 87 percent during the filing season. The average wait time on the phones was 4 minutes. This is a major improvement from last year, when service levels were under 15 percent and wait times averaged 27 minutes. Perhaps most telling was this: IRS employees answered 6.5 million calls to help taxpayers. That is 2.5 million more calls than last year.

Improvements were seen in other areas. We increased face-to-face visits at our Taxpayer Assistance Centers to 474,000—that is up more than 30 percent from the year before—and we expanded digital scanning efforts to speed up the processing of paper returns.

Providing a better filing season experience this year was an important step, but more work remains. The long-term funding from the Inflation Reduction Act gives us a unique opportunity to transform our agency over the next decade. Historically, the IRS received funding that allowed our staffing and operations to keep pace with the size of the U.S. population.

In 2010, that changed. Cuts in annual funding caused IRS staffing levels to decline by nearly 17 percent, to less than 80,000 full-time employees by 2022. While the IRS shrank, the U.S. population grew by more than 7 percent, reaching 334 million. These reductions caught up with us. You could see that in the poor taxpayer service levels in previous years, including last year.

We were able to improve this filing season by shifting Inflation Reduction Act funds over to our day-to-day operations. If we continue using Inflation Reduction Act funding this way, however—focused on short-term operations rather than long-term systemic improvements—we will not be able to transform the taxpayer experience, modernize outdated IRS technology, and deliver more effective enforcement of the tax laws as the Inflation Reduction Act envisions.

The IRA funding was designed to restore IRS core operations and prepare the agency to serve the Nation in its future. But that work is outside of our base-level funding. That level of funding, which is $12.3 billion for Fiscal Year 2023, has not materially increased since Fiscal Year 2010. In fact, in real terms, we are 33 percent below our funding level in Fiscal Year 2010 if we had just received inflationary adjustments. It is not enough resources to fund a tax system in an economy that grows in size and complexity every year.

So I ask for your help to build on the remarkable progress we saw this filing season by supporting the $1.8 billion in incremental discretionary funding requested for Fiscal Year 2024. This funding will enable us to maintain our current performance in the next filing season, while allowing us to use the Inflation Reduction Act resources as Congress intended: to modernize our operations so we can sustain and improve our service to taxpayers into the future.

Our strategic operating plan lays out in detail our path forward, describing how we will improve all aspects of our operations. The plan, which I call our public "to do" list, lays out roughly 200 projects for improvements for taxpayers, tax professionals, and IRS employees that will transform our work on the phones, in person, and online.

Inflation Reduction Act funding also gives us an important opportunity to improve enforcement efforts to promote fairness while respecting taxpayer rights. The agency will follow Secretary Yellen's directive not to raise audit rates above historical levels for small businesses and households making less than $400,000.

I want to be crystal clear. We are not increasing audit rates for hardworking taxpayers making under $400,000. That is my pledge. There is no surge of new audits coming for workers, retirees, and others. We have plenty of other areas we need to focus on.

Instead, we will build capacity to pursue high-income and high-wealth individuals, complex partnerships, and large corporations that are not paying the taxes they owe. We will use Inflation Reduction Act resources to hire highly skilled employees to address noncompliance among this group of taxpayers.

I plan to provide regular updates to Congress and the public on our efforts to transform the IRS, and I would be happy to delve deeper into the details with committee members. For example, I will provide a supplemental document that provides, in one place, extensive details on planned expenditures over a 10-year period, and on hiring over a 3-year period.

Within the next 3 to 6 weeks, I will be able to add more detail showing expected hiring across the full 10-year window. I am optimistic we can build on the accomplishments of this filing season.

The question is not whether the IRS can improve service to taxpayers. This year, we proved that dramatic improvement is possible. The question is whether we can continue to improve. I am confident that we will continue this trajectory if we have adequate annual funding for day-to-day operations, coupled with the long-term resources. Combined, these will transform the IRS over the long term into an agency that taxpayers and the Nation expect and deserve.

Chairman Wyden, Ranking Member Crapo, and members of the committee, that concludes my statement. I would be happy to take your questions.

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

The CHAIRMAN. Thank you, Mr. Werfel.

We know in this country we have a tax gap of hundreds and hundreds of billions of dollars. This is money owed to the American taxpayer but not collected. Your predecessor sat where you are this morning not very long ago and said the tax gap may be as high as a trillion dollars a year, and he also said you are not going to be able to collect those monies, deal with the tax gap, unless you go after the very wealthy tax cheats.

That is because—and you have mentioned this—the workers who have wages and salaries, we already know essentially a lot about them with respect to the taxes owed. It is these wealthy tax cheats—who can pretty much decide what they want to pay and when they want to pay it—that are the challenge.

So my question is, a couple of weeks ago, the Senate Finance Committee completed a long investigation, finding that the big bank Credit Suisse violated a plea deal with the Department of Justice, where again you are seeing massive tax evasion by thousands of wealthy Americans.

Our investigations team uncovered an ongoing conspiracy, in one instance involving a single family, of failure to disclose $100 million in secret offshore accounts. If that was not bad enough, the investigation found that Credit Suisse in total concealed from U.S. authorities 23 large accounts worth more than $700 million. And this kind of flagrant abuse, flagrant tax evasion, highlights the point that you and I have been talking about, which is that this ball game is all about going after these wealthy tax cheats.

So my question to you is, Commissioner, how will the agency, the IRS, use the funding you have gotten to step up enforcement to crack down, for example, on the use of secret offshore accounts, something that is ongoing, by wealthy Americans? How are you going to use the funds to tackle that?

Commissioner WERFEL. Well, as I have said, Mr. Chairman, the enforcement funds in the Inflation Reduction Act will be focused to improve capacity in these areas of reviewing the taxes of high-wealth individuals, large corporations, and complex partnerships. It has been a place that we have been historically severely under-resourced to take on, and the Inflation Reduction Act provides much-needed resources for us to finally build the capacities that we have not had.

Now, your point. Critical to doing this is, we have to ID certain patterns of activity where tax dodging is most rampant, and you point out, you know, offshore. You are not the only one to point this out. In a recent GAO report on the tax gap, they identified abusive tax shelters as an area where the IRS has to do more.

So our plan is to build capacity, and that means subject matter experts, specialized accountants, data scientists, lawyers, all of who understand how these things are set up and can help us navigate them, and figure out where the funds are that should have been paid back to the Nation that have not been. And I——

The CHAIRMAN. So you will go after foreign banks like Credit Suisse? And the reason I want to ask that question first is, Credit Suisse got busted almost a decade ago for doing what we found they have continued to do. In other words, they came to the Federal Government. Their CEO raised his right hand, promised 100-percent compliance, and then all of a sudden, what we found is, we are dealing with it all over again.

So you have recidivists here, you know, people who have ripped off the American taxpayer, because it is those working-class people who pay when the wealthy Americans get out of their obligations. And I think it is very important that the American people hear that when you are talking about a recidivist like Credit Suisse that promised that they would stop doing it and then continued to do it, I think it is important that we know those are the kind of people you are going to go after.

Commissioner WERFEL. Mr. Chairman, I am prohibited from discussing any individual taxpayer in a public setting.

The CHAIRMAN. I am talking about the kind of action that I believe needs to be a priority. You do not need to go into the specific names.

Commissioner WERFEL. Yes, and I was going to say lifting up—absolutely, the goal is to understand these patterns of behavior across these very complicated organizations. Because they are so complicated—large multinational corporations, complex partnerships—they have many divisions and subdivisions that are operating across different countries. They have different financial structures. It is a lot to unpack.

The CHAIRMAN. My time has expired. And your last point, Commissioner, is very much on point, where you said the patterns are what is important. With Credit Suisse, the pattern was all there. Huge violations, huge violations. They enter an agreement with the government, and then basically, after a little bit of time goes by, they do exactly the same thing.

So when you talk about patterns, it is exactly the kind of issue that Credit Suisse presented, because after they made all these grandiose promises in 2014, they just went back to ripping off American taxpayers.

Senator Crapo?

Senator CRAPO. Thank you, Mr. Chairman.

And, Commissioner Werfel, I want to start out with an issue which my colleague, Senator Wyden, raised in his introductory remarks, where we do have a big disagreement, namely whether the IRS should be the entity that prepares people's taxes for them.

Some want the IRS to prepare tax returns for taxpayers, and several colleagues have actually introduced legislation in Congress to authorize the IRS to do that. The IRA gave the IRS $15 million to study such an outcome. That idea is concerning, and not just because of the apparent bias in favor of doing so by those who were selected to conduct this study, but for a lot of other reasons.

Having the IRS act as tax preparer, tax collector, and tax enforcer raises significant conflicts of interest in many of our minds. It would incur billions of dollars in cost in development and would expose exponentially more taxpayer information to misuse or abuse.

The private sector of this country already prepares and files free tax returns for tens of millions of Americans, and millions more of Americans are already eligible for that. The IRS's strategic plan has an entire initiative devoted to an IRS-run tax preparation program, which seems to me odd, because it's still being studied right now.

The question I have for you is, has the IRS made the determination that it is going to pursue this, and if so, where does the IRS find its statutory authorization to do so or the funding allocated and appropriated to do so?

Commissioner WERFEL. Senator, no decision has been made on moving forward with a direct-file solution, and in large measure because of the point you raised. The Inflation Reduction Act mandated that the IRS produce a study for this committee and for Congress on the feasibility of such a solution. That study is due in mid-May. We are on track to complete that study.

I do not want to jump ahead of the conclusion, because the study is not done yet, and so we are still working through. What we plan to produce will hopefully create an important dialogue between the IRS, the administration, and this committee on what the study says and whether it is feasible or not and what the various issues are, because you have raised some questions, and hopefully, the study will help us have a good dialogue on those questions.

Senator CRAPO. Well, can we agree that—I am glad to hear your answer, that it is not a predetermined outcome already. And can we agree that the decision is one that Congress can make, not the IRS independently?

Commissioner WERFEL. I am not sure of where the legal authorities are. I would—actually, I think it is a good question to ask in the context of issuing the report. The report really focuses on, operationally, what it would take to produce such a solution.

Your question in terms of who has the legal authority is something I am not sure is within the scope of the report. But it is clearly an important question to ask on any go-forward basis.

Senator CRAPO. Well, I would tell you that I encourage you to recognize that Congress has the authority to make this determination.

Let me move on; my time is running out.

Senator Wyden also asked you about the tax gap. Have you done an analysis, or has the IRS done any kind of an in-depth analysis you can show us as to where the tax gap lies?

And what I am referring to is something like what we have seen out of the Joint Tax Committee, that goes by income increment or cohort. Where is the tax gap—whether we can decide on what the amount of that tax gap is—where is the tax gap among people who live in the United States, or who are taxpayers?

Commissioner WERFEL. Yes. We released our latest tax gap assessment in October of 2022. It covers years 2014 to 2016. I don't think we have time to unpack all of the rich content in there. I will say that it does give us a good roadmap for where to assess where there is a difference between the balance owed and the balance paid.

One of the things that is important to understand is, we are constantly trying to improve the way we measure the tax gap, and when I was answering Chairman Wyden's question, when we have better capacity to assess, for example, high-income taxpayers, individuals, large corporations, and complex partnerships, we will learn more about how those financial structures are laid out and be able to hone more detail in terms of what the tax gap is in those areas——

Senator CRAPO. Well, thank you, and my time is running out, and I want to ask my last question, so——

Commissioner WERFEL. Please.

Senator CRAPO. I was very interested in your, again, making the pledge that you will not increase audits on those making less than $400,000. As you have likely gathered from my opening statement, I am concerned that the strategic plan did nothing to flesh out the details of this, and I do not have time for you to get into it today, but we know even less about what the IRS believes will happen to actual audit numbers for taxpayers making less than $400,000 than we did before.

There is some kind of a historic rate that is being referenced. There is some kind of a pledge now, and a pledge from both Secretary Yellen and you. But we need to get details as to exactly how this pledge will be honored as we move forward.

Commissioner WERFEL. Yes, sir. I am prepared to provide additional details, maybe in additional questions that are coming up. I know that we have a member meeting with me tomorrow. Of course, I understand that there's a request for more details, and I think the plan that was issued is robust. As you said, it is dense.

Does it answer every question? No, and that is because we want to work with you to figure out what the questions are that we need to answer, to make sure that what we are doing is very clear in terms of how we are going to improve the IRS.

Senator CRAPO. Thank you.

The CHAIRMAN. Senator Cardin?

Senator CARDIN. Thank you, Mr. Chairman. And, Commissioner Werfel, thank you for being here, and congratulations on this tax season. You have triaged the IRS in order to deal with the necessary services to taxpayers, and you have done it well. I appreciate the point that you make, and that is, you need to have the ability now to invest for the future in regard to technology and workforce so that you can maintain that type of service level.

One of my highest priorities for the IRS is to recognize it needs to be a customer-based organization. You need to be able to answer questions of taxpayers. You need to be able to provide those services. So I thank you for giving us the hope that we can in fact do that in a more acceptable way.

I want to first acknowledge that our chairman and ranking member have been very sensitive to the concerns of small businesses. I chair the Small Business Committee, and we are going to have some joint efforts between this committee and the Small Business Committee to deal with the challenges that small businesses are confronting in regard to our tax code.

As you know, small businesses depend very much on the IRS improving its customer services and improving its technology. So it will help—the investments you are talking about making. But small businesses do not have the same type of tax literacy that larger companies have, and they certainly do not have the personnel to deal with complexities in the tax code related to their business if they only have one or two employees and they are trying to struggle with the challenges of a young, new entrepreneur.

So, I appreciate the discussion you had with the ranking member and chairman in regards to direct filing and the study that is being done. I would encourage you to also include small businesses, as to the impact it could have on our small business population, on trying to simplify the way that they can comply with our tax code.

I would just point out that the authority issue is interesting, because we have not given you the authority you need to go after paid preparers. And one of the issues, particularly for low-income families is, yes, there is free tax service available, but there are also paid preparers that they are paying for, and we are not sure they are getting value in all of these circumstances.

Unfortunately, we do not have the accountability that is necessary here. So I hope that your advice to us will be comprehensive, particularly how we can deal with low-income families and small companies in getting through our tax code more efficiently.

Then lastly, we urge you to give us areas where you believe the tax code needs to be modified as it relates to small companies, because again, small companies are using the individual tax returns to deal with their taxes, and it is not as convenient as the corporate tax system is generally for larger companies. We need your help in making that a reality.

So, just give me a brief reply, if you might, as to sensitivity in the work that you are doing right now, to help smaller businesses deal with our tax code?

Commissioner WERFEL. Thank you, Senator Cardin. I want to start out by just acknowledging that the point about the filing season that we have had, all the credit goes to the IRS workforce. I mean, I am fortunate enough to be here and talk about it and talk about their success. But it is just a remarkable group of employees who care so much and are so dedicated to this mission that we have, this critical mission.

Senator CARDIN. And please extend our appreciation. We recognize that. This is a stressful period for everyone, but particularly the IRS workers who are dedicated, who have stuck with the mission, recognizing the importance of public service. I agree with you.

Commissioner WERFEL. And I think the ranking member made reference to the plan as being dense—and it is—and I want to lift up what are the three main things that we are trying to achieve with the plan, and I think in doing so, I will get to your question about small businesses.

First, we want to build capacity to do better customer service. That is the first thing. The second thing is, we want to build capacity to ensure that wealthy and very wealthy people pay what they owe. That's individuals, large corporations, complex partnerships. And third, we need to modernize the IRS infrastructure so we can better protect data and we can better automate our processes.

So in all of the planning, those are the three things that I want taxpayers to take away. So, if you are a small business, based on what I just read and what I am committing to, our focus for you is improved service. It is not some wave of audits. It is improved service, and how do we improve service for small businesses?

We have to meet them where they are. We have to help them understand their obligations under the tax law. We have to figure out how to put new solutions online for them, to make their journey easier. If they are paper filers, we have to figure out is there a bridge to get them to electronic files? Can we work to process their paper files more quickly so they can get their refunds and have tax certainty more clearly?

So, if we can modernize the IRS, then we can also keep pace with how complex the law is and how it is changing, and we can meet taxpayers where they are more effectively. We just historically have not been able to do that because of the incremental and aggressive funding cuts that have happened since 2010.

But the Inflation Reduction Act provides us an opportunity, and again, if you are a small business, our emphasis, our focus—what I am going to go to sleep at night thinking about and wake up in the morning thinking about—is, how do we help small businesses meet their obligations?

Senator CARDIN. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague.

Senator Cornyn is next.

Senator CORNYN. Commissioner, is it not true that a tax credit or a tax subsidy, dollar for dollar adds to Federal expenditures, and in the case of a $31-trillion debt, it adds to the debt? In other words, tax credits are just another way for the Federal Government to spend money; correct?

Commissioner WERFEL. I think technically it is like an outlay or a spend with respect to measuring the deficit.

Senator CORNYN. We talked a little bit about the Inflation Reduction Act. In addition to throwing gasoline on the fire of inflation, with $700 billion of additional spending and added to the debt, as part of the Inflation Reduction Act—this partisan bill, which was voted on exclusively by our friends on the Democratic side of the aisle, signed into law by the President—it lavishes rich subsidies for electric vehicles, up to a $7,500 tax credit for electric vehicles. I wanted to point out that contrary to the original estimate about how much this would actually cost in terms of outlays—it was originally advertised as being a $30-billion expenditure, and the truth is, it looks like it is going to be closer to $200 billion, 6½ times higher than advertised.

The President, as you know, has said by 2032 he wants to—by his magic wand—say that two-thirds of all the vehicles being built will be electric vehicles, even though we now have 280 million cars on the road, and almost all, except 2 or 3 or 4 percent, have internal combustion engines.

Added to that, we know that about 60 percent of the electricity that would be needed to charge those batteries comes from fossil fuels. Only about 22 percent of electricity is generated by renewables. And we know that, basically, this mandate and this expenditure, this lavish expenditure for the rich, would do virtually nothing to reduce carbon emissions.

But I want to ask you about the supply chain. Seventy-seven percent of the batteries made in the world are made by China. We know they are on a path to increase their capacity to build electric batteries sevenfold by 2027. Is there any way that this mandate President Biden has ordered with the stroke of his pen, is there any way that it will do anything except increase the sale of Chinese-made batteries here in the United States?

Commissioner WERFEL. Senator, I do not know the answer to that question. What I do know is that what the IRS's responsibilities are, are to issue regulations and guidance for how these credits will be evaluated and who will be eligible for them based on a very intricate array of requirements that are in place.

What we are doing now is issuing—we are on a path to issue regulations for comment. So the questions that you are raising, the tensions, the policy tensions that you are raising, will be fleshed out in the comments that we receive on the regulations.

And then I will be able to come back and sit in this chair and be more illuminating in terms of what those comments are and talk to you about what those tensions are.

Senator CORNYN. You will agree with me that those regulations are going to have to be consistent with what is in the law?

Commissioner WERFEL. Absolutely.

Senator CORNYN. Okay. And actually the Inflation Reduction Act, misnamed I might add, actually provides a smorgasbord of credits for electric vehicles. For example, there's a $4,000 credit for used electric vehicles in section 25E. There's a $40,000 tax credit for commercial electric vehicles; that's section 45W. And then there is a tax credit for fuel cell cars, which is section 30B.

Do you know if these other credits have the same critical mineral and battery sourcing requirements as the $7,500 EV credit?

Commissioner WERFEL. Senator, I do not have that at my fingertips, but I can certainly provide you with information on that.

Senator CORNYN. I appreciate that, because it appears to me that the American taxpayer will be subsidizing the purchase of Chinese-made commercial and used electric vehicles by virtue of these tax credits. So, we would appreciate your getting back to us with that information.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague. We are going to go to Senator Johnson, but I just want to say, as the lead author of this package of more than $200 billion in clean energy tax credits, we felt very strongly about the point Senator Cornyn's talking about, about batteries being made in China. The legislation—and this was at my direction—provides incentives for batteries made in the United States, and it was something we worked on for some time.

Senator CORNYN. Mr. Chairman, if I can just respond briefly. It is not possible to meet that requirement, due to this constraint on supply chain and battery manufacturing. So it is either going to subsidize Chinese-made batteries, or it is an illusory promise.

The CHAIRMAN. There are plenty of supply chain issues. The fact is—and I am going to go to Senator Johnson—it is something I happen to agree with about batteries being made in China. It is something that we took direct action to deal with when we were marking up that legislation. We want batteries made in the United States. We pushed to make that possible with the incentives.

Senator Johnson?

Excuse me, Senator Thune is next.

Senator JOHNSON. I appreciate it, but I realized that.

The CHAIRMAN. I am sorry for getting out of order. Senator Thune is next.

Senator THUNE. My apologies. I know how you love that, right, Senator, when people come in.

Commissioner Werfel, welcome. Thank you for being here, and I know you are probably answering a lot of questions on this front. But at the confirmation hearing you said that you have dual priorities at the IRS, and I quote, "equally focused on improving taxpayer services and improving the IRS's capacity to unpack complex returns." Now—and I appreciate and respect your aspirations there, but the funding priorities in the Inflation Reduction Act and the President's budget show very different priorities.

For example, of the $80 billion provided to the IRS in the partisan IRA, more than half, or about $46 billion, is directed toward enforcement activities, and only 4 percent of the $80 billion—and I repeat, 4 percent, 4 percent—was earmarked for improving taxpayer services.

And President Biden recently proposed boosting the IRS budget by 15 percent, over and above the massive funding increase the IRS received from the Inflation Reduction Act. The President's budget would provide a separate, additional $29 billion to the IRS for enforcement; again, in addition to the $46 billion for enforcement the IRS received last August.

So, given the overwhelmingly disproportionate funding towards enforcement compared to taxpayer services, would you agree that some of the IRA enforcement funds could be more effectively spent on improving customer service?

Commissioner WERFEL. That is a good question, Senator. I think that we actually need funds to do both, and I worry that if we were to redirect funds out of one bucket into another, we would lose important ground that we need to cover in one particular area.

And I say that—I know it seems like for the enforcement dollars, that there is a lot. The reality is that today, we have 2,600 staff who work on high-income, high-wealth taxpayers, individuals, corporations, and complex partnerships. There are more than 390,000 of those.

So, 390,000 high-wealth, high-income taxpayers, corporations, individuals, and partnerships, and we have 2,600 staff. A lot of these filings are thousands of pages, tens of thousands of pages, and some come in hundreds of thousands of pages. So every dollar we move off of our efforts to build the capacity to unpack those returns means, I think, we are leaving money on the table for the American people in terms of our ability to close the gap in terms of what is paid versus what is owed.

Senator THUNE. Well—and I do not dispute the fact that there probably could be some need for additional enforcement. It just seems like the way this skews—you think about 4 percent for taxpayer services. You had, you know, 90 percent of the phone calls into the IRS were not answered in 2021, and I think it was a little better last year.

And then you have this massive amount of funding infused into the enforcement, not only out of the IRA, but now also out of the budget, the President's budget, which we are considering and talking about here today.

But I want to make one other point, and I think it maybe was touched on just now by Senator Cornyn. But in the Inflation Reduction Act, only 4 percent, $3.2 billion of the overall funds, go toward taxpayer service. The IRS Inflation Reduction Act strategic operating plan, which was recently released—more than 45 days late, I might add—proposes a total of $3.9 billion for energy security, which includes $1.2 billion of the total allotment for taxpayer services.

Now by energy security, is the IRS referring to an all-of-the-above energy approach, including conventional energy production, or simply provisions related to green energy?

Commissioner WERFEL. The funds that we need are to implement the energy credits. It is a lot of work. There are a lot of customer service reps that we need. So for example, in the budget for 2024, we have asked for a $1.8-billion incremental increase.

Part of that $1.8 billion is to fund about 1,200 new customer service agents and staff to help us implement the energy credits, because we are going to get a lot of questions coming in, and we are going to have to process additional applications for credits. So that is what that funding is talking about.

Senator THUNE. But as IRS Commissioner, what is a higher priority for you, delivering better taxpayer services, or is it advancing Green New Deal policies, which I will note are projected to blow past, way past initial CBO projections? I mean, is it taxpayer services or is it Green New Deal priorities?

Commissioner WERFEL. It is taxpayer service, and the reason is because——

Senator THUNE. Well, why doesn't the budget reflect that?

Commissioner WERFEL. The IRS's responsibility is to administer the law that is enacted by Congress. And so, we do not take policy preferences. We basically try to manage the portfolio——

Senator THUNE. I know you do not do that, but you do—you do have to prioritize. You have a certain amount of allocated resources.

Commissioner WERFEL. Yes.

Senator THUNE. And what I am saying is, when 4 percent is going to taxpayer services, with the deplorable record the IRS has in responding to people across this country—I am all for secure and sustainable energy policies, but I am deeply concerned that the IRS has made more IRA funds committed to promoting the administration's radical energy agenda than for improving taxpayer services.

And I know my time has expired. I am working with Senator Grassley on an IRS Funding Accountability Act, which hopefully will bring some transparency and accountability to this massive infusion of dollars and resources and employees the IRS now has. I would just really urge you to reconsider your priorities.

The CHAIRMAN. Senator Thune, just very quickly, and then we will go next to Senator Warner. On this question that you started with respect to service and enforcement—and you and I have worked on so many of these tax issues over the years—I would just hope that we would not say these are mutually exclusive; we ought to do both.

We desperately need to improve services. Our citizens are telling us that is important. But we also need enforcement, because that is what the tax gap is all about. If we do not enforce the tax gap, we will not get the money from these wealthy people. But I will look forward to the kind of proposals that you are going to be making, and I will always be willing to work with you.

Senator Warner?

Senator WARNER. Thank you, Mr. Chairman, and thank you for holding these hearings. Commissioner, it is good to see you. You do not look that much worse for the wear. Again, I think many of us on both sides of the aisle—regardless of whether we may disagree or agree with specific policies—are really grateful for your willingness to take on this job.

I know the chairman's already mentioned this, but I want to commend the fact that we are working through that backlog, and we are going to have, I think, an efficient, hopefully, taxpaying season. I want to drill down on two issues, one which I have raised with you already and one that I have not.

The first is—and this was the call we had in late March—the Employee Retention Tax Credit, one of the things we put in place during COVID; again, a bipartisan piece of that legislation, which I think was well-intended to make sure that folks, that employers kept people on during COVID, rather than having to put them on unemployment.

As I shared with you, you know, there are a number of businesses in Virginia—and I imagine this is probably the case in other States as well—where there has been a backlog. They cannot get clarity. They are not getting these tax credits which I think they deserve, since these were businesses that did, from a policy standpoint, what I think we all thought was the right thing, by keeping folks employed during that period.

Can you update us on the overall ERTC backlog and where we stand?

Commissioner WERFEL. I can, Senator. Thank you for the question. And what I would like to do is just very quickly walk you through the situation, as I am finding it in my first weeks at the

IRS, the actions that we are taking, and the results that I expect, or we should expect.

So the situation is, the employee retention credit is an extremely complicated filing to process. It is paper-based. It is often coming through as an amended return, and you have to align resources across multiple tax years. So the staff at the IRS has a lot of work to do when these come in, to make sure they are processed correctly.

Secondly, we see a lot of potential fraud and issues in terms of, you know, nefarious individuals seeking these credits when they are not eligible, or trying to dupe people into thinking that they are eligible, and they are not. So that also clutters. So that is the situation.

The action is that now that filing season has ended, we now expect less calls coming in as people have—most of them have filed their taxes. We can redeploy people off the phones and reset, so that we are managing paper.

Now, prior to this move of moving people off the phones, we were resolving about 20,000 of these employee retention credits a week using overtime and any down time when the phones are not up, moving people to do it. Like every resource, it is an all-hands-on-deck situation.

Post this filing season, now that we can reset the staff, I think we can maybe double per week the amount of credits that we are processing. So that is the action that we are taking, and in particular I want to make sure—and I have talked to the team about making sure—that we go with the older ones first, like those that have been waiting the longest, so you know, really focus on if it was received in 2022 or prior. Because they are still coming in, and under the law, they can come in until 2025. So this is a filing that we are going to be dealing with for years, but I think we are going to make progress.

Senator WARNER. How many—well, what you are saying is a great answer, but I also took away the fact that you are going to double per week the number of these that are dealt with, how many are being processed. How much of the backlog is being taken care of on a weekly basis?

Commissioner WERFEL. Twenty thousand.

Senator WARNER. Twenty thousand.

Commissioner WERFEL. Twenty thousand a week.

Senator WARNER. We can look at 40,000 a week going forward?

Commissioner WERFEL. That's the hope. That is what I have asked the team to do.

Senator WARNER. Okay. You just said it on the record, so I am going to hold you to it.

Last question. You know, section 127 of the code has something that has again been bipartisan supported for years, which basically, as you are aware, allows an employer to go ahead and send an employee back to school to get additional education and that additional education, up to $5,250 a year, goes tax-free to the employee.

Great retention tool, great ability to get additional skills. And my friend John Thune and I put a bill in that got broad bipartisan support—the chairman supported it as well—that said if we do this on a going-forward basis, shouldn't we also allow those employees who have student debt to go ahead and qualify as well, and be able to let the employer pay down that $5,250 a year tax-free?

We had it put in place for a year. It was extended to 2025. The take-up rate though—it seems like such a no-brainer—the take-up rate hasn't been great. What can we do to help further promote—and this is an area where, regardless of how we feel about student debt, you know, everybody is kind of all in, and it is, again, a great retention tool.

I know I am over time, so I will let you—I will not say anything else, Mr. Chairman, but I would really appreciate an answer.

Commissioner WERFEL. Absolutely. So, as I mentioned, the three priorities of our work going ahead are to improve customer service, to increase capacity to assess high-income filers, and to build the backbone of the IRS so that it is on a more stable, modernized footing.

That first priority is to improve customer service. In my mind, that is doing outreach. That is making sure that taxpayers are aware of the credits that they are eligible for, the benefits that they can participate in. I think there's an education gap of what is available, and then a sense of, well, the IRS is so complicated. Even though that benefit might be there, how am I going to navigate the tax laws to get there?

These are two things that we have to close the gap on. We have to make sure that people understand what they are eligible for, and then we have to make sure that they understand that we are working hard to create a much easier path for them to navigate these types of rules—in this case, the benefit to them.

The CHAIRMAN. The time of the gentleman has expired.

Senator Hassan?

Senator HASSAN. Well, thank you very much, Mr. Chairman, Ranking Member, for this hearing. And, Commissioner, it is great to see you. I want to congratulate you on your recent confirmation, and thank you for testifying today.

Mr. Werfel, before turning to my questions, I want to highlight the importance of remote notarizations for consumers and small businesses, something I just heard about from some constituents last night. As Commissioner, I encourage you to look closely at permanently extending the IRS's common-sense policy that makes it easier for families and businesses to use secure, remote notarization for tax paperwork.

Now, on to my questions. Recent reporting has shown how emerging artificial intelligence technologies such as ChatGPT could be used to scam taxpayers by impersonating IRS employees. These AI tools could be used to quickly generate many well-composed, convincing messages that trick taxpayers into providing scammers with personal financial information.

For example, one cybersecurity expert used ChatGPT to easily generate a scam message on the employee retention credit that requested sensitive personal information such as Social Security numbers. So how do you expect AI tools to change how the IRS protects taxpayers from scams? Are the IRS's current anti-fraud programs well-suited to help combat scams that use emerging AI technologies?

Commissioner WERFEL. It is a great question, Senator, and we do have embedded in our operations tools, forensic tools, fraud detection, data, and analytics that have been strengthened over time. And I think, as I arrive at the IRS, I find it to be in very good shape in terms of our understanding of the portfolio of fraud that is out there and how we detect it.

But we have more work to do, and in particular, this is fast-moving. You know, this is like this—there is this concept of Moore's Law in terms of how exponentially these things move. This is why the Inflation Reduction Act funds are so important. I mean, it is the difference between us being underresourced and allowing these scams and AI and these emerging solutions to outpace us, or the ability for us to keep pace.

Senator HASSAN. Okay. And I would look forward to continuing the conversation with you about ways we can make sure that you are all in a position where you can deal with evolving threats.

Commissioner WERFEL. Absolutely.

Senator HASSAN. The National Taxpayer Advocate has called paper tax returns the IRS's kryptonite. Many of the frustrating IRS issues faced by my constituents are because of the backlog of unprocessed paper returns. The issues range from families who are struggling to get their refunds, to small businesses waiting for Employee Retention Tax Credit payments.

How does the IRS plan to improve processing of paper returns, and how we will help our constituents stuck in the backlog?

Commissioner WERFEL. Yes. So, a couple of things. First, scanning is a critical part of this, and we have really started to scale our investment in scanning solutions. We are scanning hundreds of thousands of paper forms now, and that just makes the entire process much quicker. I anticipate this—you know, we are getting better and better at it week by week, and I think we are going to start to be able to do a lot more scanning, especially next tax filing season, but also right now to deal with our backlog today.

The second thing—and I mentioned this to Senator Warner. With the end of tax filing season, we need to start redeploying some of the people who have been on the phones, move them to paper processing. This is just good seasonal adjustment of workforce, and I anticipate that we are going to make substantial progress on some of the paper backlog as a result of just resetting where the employees sit.

But there are other things that we can go into, and again, I go back to the fact that we have to make a decision in terms of what we want from the IRS. If we are funded at a steady level or cut, then all we can do is maintain our current operation. We have to make investments to deal with the complexity of what we see today.

Senator HASSAN. Okay. Well, thank you, and I have a bipartisan proposal that would use bar codes to make paper returns easier to process, and I hope you will look into that.

One last thing before my time runs out. A recent report found that innovative partnerships between nurses and tax professionals can help first-time mothers fully access the tax benefits available to families. For example, through the Nurse-Family Partnership, nurses have helped connect new mothers to tax filing information and tools which can help moms get benefits such as the Child Tax Credit.

How does the IRS support new mothers in accessing tax benefits, and how do you think the IRS can best promote these kinds of innovative partnerships?

Commissioner WERFEL. I love the idea of partnering with HHS, the Centers for Medicare and Medicaid Services, to do more to figure out how we can support these types of individuals. It goes back to this significant priority of improved customer service, meeting taxpayers where they are, making sure (a) they understand what they're eligible for, but some taxpayers need more help than others.

And if you are a new mother, if you are struggling financially in another situation, I want the IRS to have a better understanding of that portfolio of different taxpayer situations, and then better strategies for how to reach them. I think we can work with other Federal agencies to do it.

Senator HASSAN. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague.

Senator Lankford is next.

Senator LANKFORD. Mr. Chairman, thank you. Mr. Werfel, it is good to see you again. In the process, you have jumped right into the frying pan. There are a lot of things that need to be done, obviously, at IRS. I am grateful that you are engaging in this, but we are obviously lacking a lot of details—as you mentioned—on some of the plan, and you have said that some detail is coming on this.

One of the things that you have—and I appreciate that the detail is coming, but we are tracking that. One of the issues that you raised was that we are not going to do audits or increase audits for those individuals and businesses with $40,000 or less, as per Janet Yellen's statement from Treasury.

It is difficult for me to be able to track what historic levels may mean, because if I look back on it—and we have gone back to be able to look at what are the historic levels of what audits were done of $40,000 or less—some years it was very low and some years it was particularly high, statistically, on this.

We do not know if that is a number, if that is a percentage, and if it is a percentage or a number, which year that that is. Is it going to be a group of years? Because if you say this is the historic level and then you look back 10 years ago versus 5 years ago versus 15 years ago, that is a very different number. So help us with understanding what the words "historic level" mean.

Commissioner WERFEL. Yes; thank you for the question, Senator. Just to clarify, the pledge is $400,000 a year, and what I believe—and the message I want to provide to you and to the American people—is that we are, for the next number of years, going to be so focused on increasing capacity for high-wealth taxpayers, individuals, corporations, and partnerships—and complex partnerships—that there will be no change to the most recent audit rate we have, the most final, complete audit rate we have, for years.

And then, even once we feel like we have done the necessary capacity building in the high-wealth area, then it will take years to even get close to what might be a historical average versus where we are today. So, when I say "where we are today," I want to make clear that we do not have a final audit rate for 2022, 2021, 2020, because it is still possible that there could be audits issued.

So we will take the most recent final audit rate—and it is historically low, so it addresses some of your concerns that you raised in your question—and we will allow that to be the marker for at least several years, and then we will revisit it.

Senator LANKFORD. So the historic level means the 2021, 2022 audit rates?

Commissioner WERFEL. It goes earlier than that. It is more in the 2018–2019 range, because actually 2018 is now closed, and that is a final audit rate——

Senator LANKFORD. Right.

Commissioner WERFEL [continuing]. Where in the other years, there is still the potential that the audit rate could change.

Senator LANKFORD. Yes. I do not mean to pick on this, but this is an issue that we debated, actually on the floor, during the IRA debate, and Republicans actually brought an amendment saying it cannot include that $400,000. It cannot include that.

The Democrats actually voted that amendment down and blocked it, and so this is why this is such a question now. And I know everyone is saying it will not be that $400,000, but there is nothing in statute that does that in defining the historic norm, and what that is seems to be a moving target on it. So that is helpful for us to get a clarification. So the 2018 number is what it is going to be?

Commissioner WERFEL. Yes.

Senator LANKFORD. Okay. That is helpful to be able to get, and we will follow up on it.

There are a lot of questions about the Individual Master File and some of the updating there in the technology. You and I have talked about that before, the issue of technology at the IRS.

I have been in the Senate 8 years. Every single year I hear the IRS has legacy hardware and software, okay, and that is every single year. Now you are saying with the additional funding, you are going to be able to update all those software and hardware systems. Thank you for that.

The issue on the Individual Master File, where does that stand in the process, because a lot of things are built on that.

Commissioner WERFEL. Yes. Well, I think one of the priorities that we put in our plan is the desire to fully update the Individual Master File by 2028. I think the reason we need to modernize it is—a couple of different reasons. One, we want to make sure—and we think the American people deserve—to have the most up-to-date technology that is housing that data, so that it is as secure as possible.

And then, obviously, with a more technologically sophisticated platform, we can automate more. We can do more. We can meet emerging requirements more quickly. The technology is not all old. You said there have been investments. The issue is, we have not crossed the finish line, and my goal is to make sure that we are not just updating this part and that part and not bringing together the full suite of solutions, so that that final solution is modernized and then it will be less expensive to operate and easier to update in the future. So it is a central priority for us going forward.

Senator LANKFORD. I look forward to that.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague.

Senator Johnson is next.

Senator JOHNSON. Thank you, Mr. Chairman.

Quick little comment. You know, if this committee would focus on, spend all of your time and energy on simplifying the tax code, stop trying to socially engineer through the tax code, a lot of these issues, a lot of these problems, would just evaporate, or would be a whole lot easier to tackle. So that is just my commentary.

Mr. Commissioner, welcome. You are quoting statistics of 87 percent response rate versus 15 percent last year. Where are you getting those numbers, because I have something completely different. Do you have the numbers to back up those percentages?

Commissioner WERFEL. We do, Senator. This is the same methodology, and we have used it for years.

Senator JOHNSON. Okay. Well, please provide me those numbers, because mine are—the numbers I have, by the way, are last year 63 million calls, and you answered 21 million for about a response rate of 33 percent. This year the calls are way down. I think people just got discouraged. Twenty-six million calls and 16 million were answered.

So you actually answered less, according to the numbers I got from the IRS. So I would like to figure out what that discrepancy is.

Commissioner WERFEL. Absolutely.

Senator JOHNSON. Secondly, with $45 billion flowing into your coffers on enforcement, I am highly concerned about how you are going to keep partisanship out of your enforcement efforts. How do you make sure that enforcement is apolitical? We have examples of the IRS being weaponized, the Tea Party, targeting the Tea Party.

The lack of enforcement, quite honestly—when we have emails showing Hunter Biden simply did not disclose income, we do not see any enforcement action. And the most recent, and I would say outrageous example of this was when journalist Matt Taibbi was testifying before the House Judiciary Committee on their weaponization of government.

Basically, the day he is testifying, an IRS agent ends up showing up at his home. First of all, how common is that? Listen, I have filed a lot of tax returns, paid a lot of taxes. I have never had an IRS agent show up at my home or my place of business. I mean, how unusual is that to have an IRS agent show up at any taxpayer's home as kind of a first notice that you have an issue with your tax returns?

Commissioner WERFEL. So, first of all, Senator, I want to repeat something I said earlier, which is I am prohibited from discussing——

Senator JOHNSON. I understand. So that is why I asked you a general question. What is the normal course of action for notifying a taxpayer if you are going to, for example, reject their tax return?

Commissioner WERFEL. So we have made it public for all taxpayers to see, what they can expect from the IRS in terms of when we might call you, when a home visit might occur. It is something that we want to make sure that the taxpayers have an understanding of, because there are a lot of scams out there.

Mostly, if the IRS is reaching out to you, it is probably not the IRS. So we as part of our——

Senator JOHNSON. No. So, I think this is pretty well documented, that an IRS agent showed up, put a note on Mr. Taibbi's door to call him in 4 days, which he did. They explained what the situation is. I find that unbelievably unusual, and I am asking you as IRS Commissioner, does that happen often? How unusual is that, that an IRS agent would show up at a taxpayer's home and tell him "give us a call."

Now throw on top of that, an IRS agent showing up at a taxpayer's home as a taxpayer just happens to be testifying before the House Judiciary Committee on the weaponization of government against U.S. citizens. I mean, the chance of that happening is infinitesimal, but it happened.

So, I am just saying in general, how often does the IRS show up as the first notice that there may be an issue or a problem with a taxpayer's return, and makes a personal appearance at that taxpayer's home? Is that part of your procedures? Does that happen very often?

Commissioner WERFEL. Again, I want to be cautious in my answer, to make sure that I am not violating a prohibition.

Senator JOHNSON. That is fine. Talk in general. How often does that happen?

Commissioner WERFEL. I will talk generally, that if a taxpayer, if the IRS is reaching out to you directly, it is more likely the case that there has been some issue with your return. We have tried reaching you through less-intrusive means. We have been unsuccessful. We want to help and get a handle on why you may not have filed, on why you might have an outstanding balance due.

Senator JOHNSON. You are doing—you are not answering my question in terms of how often that would happen. My time is running out, so all I can say is, I know Chairman Jordan has sent you and Secretary Yellen a letter requesting all the information on that. I will be sending you a similar letter.

I would like it if the chairman would join me in that letter to get this information, because this is very troubling, to have the IRS take that type of action. Again, the chances are so infinitesimally small, that an IRS agent would show up at a journalist's door the day that journalist is testifying before a House Committee.

So, I am also going to be requesting that all the documentation, all the information on that specific case—I believe Mr. Taibbi has already issued a waiver for the IRS to provide that information. So, I am asking, will you comply with that, those requests for you to turn that information over to myself and to Chairman Jordan?

Commissioner WERFEL. As long as we can do it consistent with section 6103, yes.

Senator JOHNSON. Okay; thank you.

The CHAIRMAN. I thank my colleague.

Senator Blackburn is next.

Senator BLACKBURN. Thank you, Mr. Chairman, and welcome back to us. Just tacking on to what Senator Johnson was saying, I think it is important to note, with the Lois Lerner scandals and targeting that took place at the IRS—you are very familiar with that because you were brought in to help clean that up.

And when there's the perception that people are being targeted and there is anecdotal evidence and that information makes it to us, it does mean that we need to question you about this, and you know what a debacle that was during Ms. Lerner's time.

I want to return to where I was with you in the first hearing, and we talked about the SITCA and the $400,000 limit, how you were going to be able to put that in place and not have it affect people who have tip income that are actually making less than $400,000 a year.

And as we discussed, I do not think you were able to give me an example of someone you knew or any profession you knew that would make $400,000 a year that was working for tips. So if that IRS enforcement focus is on taxpayers who are making $400,000, then how do you justify this SITCA program, and how are you going to handle this so that it does not become a mandate on employers?

Commissioner WERFEL. Yes. I appreciate the question, and again, I think it is absolutely the case, and I want to reaffirm, that those individuals who are making less than $400,000 will see no new wave of audits or no increase in the audit rate, as I have described earlier in this hearing. On the question of——

Senator BLACKBURN. But you will be increasing their taxes?

Commissioner WERFEL. This is a question where I think we need to do better outreach with the associations, restaurants, tipped workers, to make sure that we are getting better aligned——

Senator BLACKBURN. Is your goal to make the program mandatory? Right now, it's voluntary. Are you trying to make this mandatory?

Commissioner WERFEL. I have no intention——

Senator BLACKBURN. No intention; okay.

Let me move on. You talked earlier about the historical rate of audits, but previously you had said—you and Yellen had each said that you were not going to raise taxes. The President has said no one making under $400,000 a year is going to see their taxes raised.

So now that has changed to no more than historical levels. So if you will, give us in writing how you are couching that. Is it 5-year levels, is it 10-year levels? Is it going back to 2018 and setting it there? Was that a high mark, was it a low mark? I think there needs to be a little bit more clarity on that, and I would also like to hear from you, because this is causing great confusion.

How do you calculate the $400,000? How are you—is it based on adjusted gross? Is it based on the net? How are you arriving at this number? And the reason I ask this, Commissioner, is because Tennessee is a very entrepreneurial State, and as you know, we have a lot of people in the music industry.

We have a lot of people who do tours, who work with these tours. They are self-employed. They are independent contractors, and while they may have a higher gross, their net is very low. So it is important to have definition around what do you mean—what is $400,000? Gross, adjusted gross, net? Where are you pegging that?

Commissioner WERFEL. Okay. So on that question, we are going to look at total positive income as our metric. So, if the return comes in and the total positive income on the return is under $400,000, then we will know that it is in a segment of population that would receive no——

Senator BLACKBURN. Does that increase their audit rate?

Commissioner WERFEL. No; that is the point. There would be no increased likelihood of an audit if they have less than $400,000 in total positive income.

Senator BLACKBURN. Okay. Let us go back to the issue we previously discussed about teleworking, and I know that Senator Thune talked a little bit about the phones not being answered, which is something that we hear quite a bit. You have a heavy lift to go, and I would love to know what percentage of your employees are currently in the office working and how many are teleworking, and are you pulling that VPN data and auditing that?

That is what you ought to be auditing, to see if they are actually conducting business, logged in working, or if they are asleep on the job.

Commissioner WERFEL. Senator, let me, let me offer you this. First of all, I want to clarify. All employees are working. In my first few weeks at the IRS, I focused my questions as follows. Are we answering the calls, and we answered 87 percent. Are we in our Taxpayer Assistance Centers, in our walk-in centers, keeping the lines short, meeting all of our appointments, and we are. Are we making progress on processing the paper backlog? We are. Are we defending cyberattacks, and we defend a billion cyberattacks successfully a year. I understand the question. I think also OMB just issued guidance last week on telework, so I am going to now turn to that and figure out how to make sure that the IRS is aligned with the rest of the government.

But I would say that the success we had with the filing season was the most important metric for me to start with, before I got into the details of where someone might be working.

The CHAIRMAN. The time of the gentlelady has expired.

Senator BLACKBURN. Thank you, Mr. Chairman.

The CHAIRMAN. I just want to say, because we are getting ready to make sure that everybody gets a chance to ask questions, the program Senator Blackburn has been talking about, a small business program, is voluntary, and I want to assure colleagues, as long as I am chairman of this committee, it will not be mandatory, period, full stop. It will not be mandatory.

Senator Bennet?

Senator BENNET. Thank you, Mr. Chairman. Thank you very much for being here. We really appreciate your service.

During your confirmation hearing, I raised concerns about how the IRS considered taxing Colorado's State tax refund, which we call TABOR refunds. I also sent a letter out about this yesterday.

As you may remember, the IRS notified Colorado taxpayers in the middle of filing season, right when people were filing their taxes, that it could tax their TABOR refund. In 30 years, the IRS has never done that before, and in February, the IRS issued guidance saying it would not tax TABOR refunds for the 2022 tax year, which we appreciate.

But the guidance also opened the door to tax these refunds in the future. In the fine print, the IRS groups State tax payments into two categories. The first category was State tax refunds which the IRS almost never taxes, and the secondary category was general welfare and disaster relief payments, which the IRS is more likely to tax down the road.

And for reasons that I still cannot understand, the IRS put Colorado's TABOR funds in the second category. I think that the TABOR refund should have been placed in the first category. They are State tax refunds. This is how the IRS has treated them for 30 years.

TABOR refunds only go out, as I think you know, Commissioner, to Coloradans when the State collects more in taxes than we allow in State law. It is a tax refund. It is not a form of income, and it has been treated that way for 3 decades.

During your confirmation hearing, you committed to working with my office and the State of Colorado ahead of the next filing season about this. Could you talk about how you are thinking about this now, and give some assurance, I hope, to people in Colorado about how this is going to be treated?

Commissioner WERFEL. Yes. I appreciate the question. I have had some time to start to roll up my sleeves and look at the issue, and obviously there are multiple States that are impacted here. There are questions about the transition out of the pandemic, where there are different treatments for COVID payments versus not, and I agree. There is confusion, and we need to remediate that confusion.

The one thing I will tell you is that we will not allow there to be confusion next filing season, and I want to make sure that you and the State of Colorado and other States impacted have a heads-up in terms of how we are sorting through this issue, so that there is great clarity going into the next filing season next year.

I also need to sort through, Senator Bennet, whose decision it is. This is a question that came up earlier. Who gets to decide? Is it you, Commissioner? Is it the Secretary of the Treasury? Is it Congress? On this one, I am working with my colleagues at Treasury to make sure that I understand, is this a tax policy call or an IRS administrative call.

Bottom line, as we head deeper into spring but before the summer, I will come meet with you in your office and let you know where this is headed in terms of what the process is, and make sure that you and the State have a heads-up in terms of what the moving pieces are.

Senator BENNET. I appreciate that, Commissioner. I hate to say this, but I think, probably, I do not get to make the call, and I hope though that the people who are looking at this understand, come to understand, that the IRS has made this call the same way for 30 years.

I mean, it is really aggravating and irritating that this happened during the middle of tax filing season. I appreciate your saying that that will not be repeated, but that is only part of it. Part of it is upsetting an expectation that really has existed for decades. I know there are other States involved in this. There is no other State that has TABOR. And so I hope you will consider that.

I have another question for you, but I do not have time, so I am going to submit it for the record, about the importance of staffing at the IRS, and the importance, for example, of having a tax counsel there to be able to help do the work that you are going to be required to do.

Because, honestly, I think part of the problem we ran into the last time we were going through this was the Department was not staffed up in the way that it needed to be, and people were making decisions maybe without being in a position to feel like they had the latitude.

I do not know. I cannot explain it. But can you say a word about the importance of having a tax counsel at IRS——

Commissioner WERFEL. It's actually critical. Look, there are only two Senate-confirmed positions in the IRS, my position and the Chief Counsel's position. It is really important that we have a chief lawyer at the IRS because, as we have been discussing, so many of these issues—and every one of these issues actually—has complicated legal elements.

So you know, we have to recruit lawyers in. We have to work with other Senate-confirmed General Counsels across government. And not having a Senate-confirmed General Counsel is an impediment. I am hoping that we can—and that the administration can—put a name before this committee soon.

The CHAIRMAN. That is the point. Senator Bennet is absolutely right. We need a nomination.

The time of my colleague has expired.

Senator Daines is next.

Senator DAINES. Mr. Chairman, thank you.

Commissioner Werfel, I would like to begin by addressing my Putting First Responders First Act, which was signed into law as part of the retirement legislation that we considered in this committee last Congress.

This law will make compensation received by disabled first responders tax-exempt even after retirement and, importantly, will end the improper audits of disabled first responders that stem from ambiguity around the retirement age.

However, the version that was signed into law moved the effective date of the bill to 2026, which was different from the committee-passed version that had this provision taking effect immediately. The unfortunate consequence of this is that erroneous IRS audits of disabled first responders could continue for the next few years.

I ask for your commitment to immediately end the improper audits of disabled first responders. In a question for the record following your confirmation hearing—and frankly, I was very dissatisfied with the response. Now you have been confirmed; congratulations. I am going to give you another opportunity to answer this, which I believe is a very straightforward question: will you commit to ending the improper audits of disabled first responders?

Commissioner WERFEL. Well, first of all Senator, I want to thank you for championing this really important issue. I think it is absolutely critical, and I am committed to helping you with your objective. What I can commit to you is us issuing clarifying guidance that will assist disabled first responders when they are preparing their tax returns.

We are going to conduct outreach with them. We are going to walk them through the guidance. We are going to try to mitigate the risk of there being an issue of follow-up. If there is an issue of follow-up, we will work directly with them to address it. I cannot commit, kind of, to exclude all audits on any one topic. I just cannot go that far.

But it has my attention. It is a priority for me, and we will work with this community to get it right.

Senator DAINES. I tried to make it easy. I said, "improper audits." That is why I said it that way. Let me give you a chance to answer it again.

Commissioner WERFEL. Yes.

Senator DAINES. Will you commit to ending improper audits of disabled first responders? I think——

Commissioner WERFEL. Yes, I will.

Senator DAINES. That is a "yes" or "no," and I am trying to give you the lanes here to make it clear. Look, as you know, a lot of folks watch these responses, and our first responders, when you hear their stories, who have been disabled while on duty, there are a lot of terrible stories about what has happened here in terms of the IRS coming after them. And they live in fear, not knowing that the most frightening letter to get in the mail is a letter from the IRS saying "audit," and they are already dealing with so many issues. So I heard you say "yes."

Commissioner WERFEL. I did.

Senator DAINES. Okay. Thank you for that answer, and you have a lot of families of disabled first responders who will be relieved to hear that answer. And look, this committee passed it. This was our intent, and thank you for taking some anxiety and anxiousness away from families that are already dealing with a lot of pain.

Commissioner WERFEL. Absolutely.

Senator DAINES. I appreciate it.

Commissioner Werfel, you have been quick to tout the success of the IRS in the taxpayer experience. However, I think it depends a bit on what metric you are looking at. Prior to getting into public service, I was working for companies, Procter & Gamble being one of them; another was a cloud computing company.

We focused on a CRM suite for large, both public entities and private entities that had a B2C kind of model here in taking care of customers. You are touting an 84-percent customer satisfaction rate for toll-free assistance, but simultaneously the IRS is seemingly deprioritizing suspended tax returns, amended tax returns, and correspondence.

There are literally tens of millions of items languishing. I know all of us here, when we are working with constituent services, deal with our constituents who are saying—we feel like we are tow trucks, to go in and get some return that is in a ditch somewhere and pull it out, to help the people that we serve.

Should Treasury and the IRS really be taking a victory lap at this point based on cherry-picked metrics like the highly misleading and often criticized level of service for some of its toll-free assistance?

Commissioner WERFEL. So let me—I have several thoughts in response. First of all, I think the issue with the backlog of paper returns is, we actually are making dramatic progress. I mean, we were at a 20 million backlog, and that was caused by COVID.

We never had a backlog like this before, but we had to shut down our operations right in the spring of 2020 as the world was shutting down. So, days and days of paper piling up, and we are still catching up, and we are making progress—like, we cut it in half last year to this year. Now we have to—during filing season, we have to redirect resources to the phones. We do not have as much staff so that we can manage the paper backlog.

With the end of filing season, we anticipate making more progress. But I also want to address your question about the victory lap. I think it is absolutely critical for the American people to understand that when we are funded at the right level and we can be there to answer the call, that they do not have to wait for 25–30 minutes on the phone wondering if they are ever going to get through.

If we do not have that funding, then we cannot staff the customer service centers with the right amount of people. It is just—it is math. It is a question of volume, and can we meet the demand, and I think that is why we want to celebrate this.

Senator DAINES. So, I am out of time, but my just one thought on that is, as you look at your metrics, perhaps in some instances it is not as much enjoyment in looking at metrics that still are very discouraging.

But you can talk about the improvements. So, if 20 million was the number and you are down to 10 million, let us track that number and report on that, and just keep it public as you are chipping away on that and the score-boarding idea here to get that down to——

The CHAIRMAN. The time of the gentleman has expired.

Senator Warren?

Senator DAINES. Okay; all right. Thank you.

Commissioner WERFEL. Thank you, Senator.

Senator WARREN. Thank you, Mr. Chairman.

So for years, lobbyists and antitax extremists have worked to gut the IRS, to prevent it from chasing down wealthy tax cheats, and to keep it from being able to help Americans who are honestly trying to file their taxes.

But thanks to the Inflation Reduction Act, the IRS now has the resources it needs to make tax filing free and easy. This has been on the IRS agenda, their “to do” list, for decades. Back in 2003, the IRS set up the Free File program, which was a partnership with companies like Intuit and H&R Block, that was supposed to make filing free for 70 percent of taxpayers.

But today, that Free File program serves just 2 percent of Americans, and that is because the tax prep companies sabotaged the program so they could keep raking in money, deliberately hiding Free File web pages from Google searches and confusing eligible taxpayers by marketing other fake free programs to them, only to scam them by collecting a fee later on.

So let me start here, Commissioner Werfel. Do you agree that the current Free File program is a failure?

Commissioner WERFEL. I agree. It is not reaching as many people as it should.

Senator WARREN. Yes, the difference between 2 percent and 70 percent.

Commissioner WERFEL. It is massive.

Senator WARREN. I think that's a failure. Tax prep companies have sabotaged the Free File program. They have tricked and trapped American taxpayers into paying for alternative services that should be free, that are marketed as free, but in fact they do not make free.

And the result is that today, the IRS reports that Americans waste an average of 13 hours and $250 each year filing their taxes. The Treasury Department analysts estimate that about 12 million low-income Americans miss out on thousands of dollars in refunds, likely because it is too expensive and too difficult to file through these supposedly free options.

So, Commissioner Werfel, do you agree that the private tax filing option that companies are pushing instead of Free File is also failing American taxpayers?

Commissioner WERFEL. The whole process needs to be improved; I agree. We need better clarity. When I hear the premise of your question, I think about the Taxpayer Bill of Rights, and just ticking off, three of them were violated just in your question, in terms of the implication. So we have an obligation to make the tax system easier for taxpayers to navigate, and you know, Congress hands us a very complicated tax code.

Senator WARREN. I understand that.

Commissioner WERFEL. We have to make it simpler. And so, yes, I want to work with you and with this committee and with taxpayers to make that process easier. If they are eligible for Free File and they are not taking advantage of that or are getting tripped up along the way, what can we do to help?

Senator WARREN. Okay. So look, the Government Accountability Office, the National Taxpayer Advocate, Treasury Secretary Yellen, many of our colleagues on this committee all agree, that it is high time for the IRS to develop its own truly free and easy way for hardworking Americans to file their taxes and to claim their refunds.

Thanks to the Inflation Reduction Act, the IRS now has the resources to do so, including dedicated funding to develop a roadmap for direct e-filing options with a report to Congress due next month. Now, I am looking forward to the report. You do not have to say here what it is going to do. I know we will have an opportunity then to talk more about the specifics of what the IRS can do to help tax filers. But broadly speaking, Commissioner Werfel, can you explain why offering a free and easy way to file directly with the IRS would help American taxpayers, particularly low-income and middle-income families?

Commissioner WERFEL. Yes. Again, as you said, we are issuing a report by congressional mandate in mid-May, and that will walk through a lot of the issues. I think one of the goals that we have at the IRS is to increase the options that taxpayers have to engage with us. If they want it fully digital, they should have it fully digital. If they want to do it in paper, we are not thrilled with that, but we have to meet taxpayers where they are.

And if they want to come directly to the IRS versus working through a third party, we now have the opportunity to study that and tell Congress what the implication of that is. As a guiding principle, the more workable options, the better.

But because Congress asked and has legitimate questions about the issues associated with the direct-file program, we are going to answer them, and then I will come back in mid- or late May, and we can talk through what the report said.

Senator WARREN. Good. Well, I look forward to that, and I think it is clear though. Americans deserve an IRS that ensures that folks at the top pay what they owe, and that honest hardworking Americans can file their taxes without spending an excessive amount of time or a lot of money to get that done. I think that is where we are aiming.

Thank you. Thank you, Mr. Commissioner, and thank you, Mr. Chairman.

The CHAIRMAN. I am just thinking as I listen to this, we have been working for more workable options for decades now, so it is time to figure it out.

Okay. Next is—let us see—Senator Cortez Masto.

Senator CORTEZ MASTO. Hit the lottery here. How are you? Good to see you.

Commissioner WERFEL. I am good.

Senator CORTEZ MASTO. Thank you for joining us, Commissioner. I always appreciate your attentiveness in response to questions and calls as well.

Let me talk to you about something that has not been discussed here, but it is important for many of us who are dealing with, unfortunately, disasters in our community and Governor-declared disasters.

This winter, Nevada has dealt with a series of severe storms, which have resulted in major damage causing widespread flooding, rockslides, landslides. They have threatened communities and contributed to more than $10 million in damages to our public infrastructure. The Governor and our Federal delegation have asked President Biden to issue a major disaster declaration.

But I wanted to discuss how issues like this can impact tax filing. I have a bipartisan bill that would allow the IRS to delay the tax filing deadlines upon the written request of a Governor, when a disaster has been declared. It is very critical that we have this. What we are seeing—wildfires, disasters happening—it has an impact, and I am hearing from my constituents, unfortunately, who are dealing with these disasters, on their ability to try to file these taxes.

So my question, I guess, Commissioner, to you, is, do you agree with the need to provide taxpayers flexibility in meeting that filing deadline when something like a natural disaster occurs?

Commissioner WERFEL. I do. I mean, we have a long history of extending deadlines and creating flexibilities for individuals impacted by natural disasters. I think it is an important function for the IRS to not have a one-size-fits-all approach and assume every taxpayer is in the same situation.

We appreciate having those tools. The final position the administration can offer on any bill rests with the Treasury Department. But as a guiding principle, tools to help taxpayers in need are something that we are very interested in at IRS.

Senator CORTEZ MASTO. Thank you. That is what I am hearing from you today in your answers to my colleagues' questions.

Let me jump to a separate subject. Immigrants face unique barriers to filing taxes. As a result, we have seen lower immigrant uptake rates of tax credits, such as the Child Tax Credit, especially in Latino families.

The two questions I have for you are what steps the IRS is taking to remove barriers to filing taxes and receiving tax credits, and currently it is my understanding that the IRS does not allow ITIN applications to be processed electronically, and requires that ITIN applicants file a tax return along with their application.

I guess my question to you is, would you consider eliminating these barriers for ITIN applicants? So two questions, if you would, regarding the ITIN applications, and how do we deal with these barriers to filing taxes and receiving tax credits for some members of our immigrant community who want to file taxes?

Commissioner WERFEL. I think it has been a theme of this hearing in terms of taxpayers who are eligible for benefits, refunds, credits, you know. We have recently announced it publicly, and we tried to make a lot of press about it, to file, because the statute of limitations on your refunds is expiring. We have a lot of unclaimed refunds. People who can file, who can claim their refunds, are not doing so, and we want to make sure that we are paying people what they are owed.

Senator CORTEZ MASTO. So how do you reach out to those immigrant communities, the Latino communities, who are paying taxes or want to pay their taxes but there are barriers?

Commissioner WERFEL. Yes.

Senator CORTEZ MASTO. There may be a language barrier.

Commissioner WERFEL. Yes. We have to do more with our stakeholders, the intermediaries. We have to work more in communities. I mean, Senator, earlier I was talking about—one of the reasons why I am excited about the Inflation Reduction Act plan that we issued is that it really does allow us to establish three very clear priorities.

The first priority I listed was customer service, and that is not just about answering the phones, and it is not just about improving the call center, both of which are important. It is also about outreach. It is about better understanding taxpayers.

They are a diverse group. They are not all in the same situation. Some are struggling because of a disaster. Some are struggling because they are acclimating to the United States in some way. And some are struggling because they financially cannot afford to pay what they owe, and we want to get them on installment agreements and help them that way.

We can do better in all of those outreach efforts, and I am looking forward to working with the team at the IRS to do that.

Senator CORTEZ MASTO. Thank you, and I know my time is up.

Finally, in response to your conversation earlier with Senator Johnson, as you provide that feedback, that information that he requested from the chair, can you distinguish between the two?

You have auditors and you have investigators. You have criminal investigators that investigate fraud, criminal fraud, and then you have auditors who are looking at the tax returns of individuals and corporations. Can you, when you provide that information, distinguish between the two?

Commissioner WERFEL. Yes.

Senator CORTEZ MASTO. And would an individual receive outreach from an auditor if there is a technical question that auditor has about their tax return?

Commissioner WERFEL. Yes.

Senator CORTEZ MASTO. Okay. So that could be separate from a criminal investigator who may be responding to an investigation they are doing for criminal fraud; correct?

Commissioner WERFEL. Yes. Yes; and we try to be clear, and we can ramp up our communication efforts on this, when you can expect to be contacted by the IRS. It can happen, and it typically happens because there are questions that we have about what you filed. It might be a criminal question, it might just be an audit question, but it does happen.

One of the things that I am worried about is that we need to make clear that more often than not, if someone is telling you they are from the IRS, they are not, and it is a scam. It is not easy to navigate, but we do need at times—and we are going to try to be as transparent as possible—to reach out to taxpayers.

I am really committed to creating a culture in the IRS where, when we are doing outreach, it is to help. This is this customer service point.

The CHAIRMAN. The time of my colleague has expired.

Senator Brown?

Senator BROWN. Thank you, Mr. Chairman. Commissioner, as I have said to you privately, thank you for returning to public service. IRS Commissioner, not the easiest job on the planet, especially when you are subject to political attacks pretty much all the time, but I'm glad you are up to the task.

Earlier, you told Senator Wyden how much the IRS's service has improved since last filing season. Things are getting better. My constituents are still frustrated with the IRS—no surprise—particularly small businesses waiting to receive the Employee Retention Tax credit, to which they are entitled. I know your staff is working on resolving these cases. I appreciate your attention to it.

I know you touched on outreach with Senator Warner earlier. Last fall, IRS sent letters to 9 million households that appeared to be eligible for the EITC or CTC—something that Senator Wyden has made such a priority in this committee—but have not claimed them.

We know that roughly one in five EITC-eligible households do not claim it. What are some of your findings from last fall's outreach? How will you build off it to improve outreach to these households?

Commissioner WERFEL. Yes. I think the reality is that we have work to do, in particular, Senator, because what we are seeing happen too often is that individuals are seeking to encourage people to apply for the credit that are not actually eligible. So we are seeing some challenges—improper payments or fraud in the system—that we have to weed through.

That does not mean we do not want to make sure that people again understand what they are eligible for. So I think there is more take-up rate that can happen, and we are seeing employee credits come in; retention credits and other types of credits still come in the door. But every time we do an outreach effort, we learn something, and we are on a continuous improvement journey.

So the challenge is, how do we hit the right people with the right set of guidance, make sure they understand, help them navigate the complexity? They may be disincentivized because they think it is going to be too hard. How do we answer those questions effectively, and how do we also create an important firewall, to make sure that people are not duped by nefarious players that are trying to take advantage of that?

Senator BROWN. Speaking of that, could you reduce improper payments if Congress let you regulate paid tax preparers?

Commissioner WERFEL. Yes.

Senator BROWN. Okay; important to know.

When you were here last, I asked you about the 1099–K reporting threshold.

Commissioner WERFEL. Yes.

Senator BROWN. My concern is, this was a burden on Ohioans, a burden on third-party platforms, and a burden on the IRS. Would a higher threshold make this simpler for you to administer, so that IRS could focus its resources more efficiently, and therefore would you support congressional efforts to increase the threshold?

Commissioner WERFEL. So, I will answer the first question: absolutely, yes. The higher the threshold—it would reduce volume, it would reduce complexity. It would make the IRS's job a lot easier. In terms of whether we could support it, that is an issue that I always have to defer to Treasury on.

Senator BROWN. Okay.

Commissioner WERFEL. On any piece of legislation, I do not have the authority to give the administration's position. It is the Treasury that does that.

Senator BROWN. Okay. And I know Senator Hassan—you know, we have talked about this. Senator Hassan and I are working on this, to increase the threshold to $10,000, cutting down red tape for taxpayers and providing the advantages to IRS that you mentioned.

Last question. I would like to see the new energy credits from the IRA work in support of American manufacturing, spurring genuine domestic supply chains, particularly in the solar industry where so much capacity needs to be built quickly. My State, in northwestern Ohio, has the largest solar manufacturer in the country. Tell us about IRS plans to administer these manufacturing credits to minimize the administrative burdens and delays to issuing the credits, so that the critical IRA funding will truly benefit these reshoring efforts.

Commissioner WERFEL. And we have a lot of work to do, Senator. We have issued a variety of different notices. We have requested information. We are taking in a ton of input from a variety of different stakeholders about how they want to see IRS regulation and IRS guidance issued. I expect that we will issue, in the coming months, additional notices of proposed rulemaking, and we are going to get a lot of comments.

I was answering a question earlier, I think, from Senator Cornyn about—you know, there are a lot of moving pieces to track in terms of different input and different stakeholders. And the right way to do it is to go out with an advance or a notice, lay out the issues, collect the feedback, and then publicly discuss, as much as possible, the various tradeoffs we need to make in making these work.

I look forward to talking to you once we have a fuller set of feedback from the various stakeholders as part of our notice and comment rulemaking, to see where things are landing and getting your feedback.

Senator BROWN. Thank you, Commissioner.

The CHAIRMAN. Senator Brown, good points. And I particularly appreciate your hammering away on solar manufacturing. We are going to regret it deeply in this country if we look back at this period and we gave short shrift to solar manufacturing.

A lot of panels are coming from overseas. I get all that. We've got to manufacture more at home. Thank you for making the point.

Our next questioner will be Senator Young.

Senator YOUNG. Good to see you, Commissioner. Thanks for being here today. I know you have only been on the job for a short period of time, and there are, no doubt, a whole number of improvements that you would like to see made that have not yet been fully carried out.

So, with that in mind, I want to first focus on some trends that we have seen in this 2023 tax filing season. In your remarks today, you stated that the tax filing season has gone well. Among other things, you point to the IRS's phone performance, claiming to have answered more calls from taxpayers seeking your help than in 2022.

On this particular point, I would have to refer you back to our own reported numbers: 3.9 million is the number of lower calls as of April 8th that the IRS has answered in 2023, as compared to that same time last year. So there were 3.9 million fewer calls. Beyond this, I would like to reflect on a few additional IRS-provided numbers given to us by TIGTA, that are not routinely reported to the public, all as of April 1st of this year.

Ten-point-five million is the number of Calendar Year 2022 and 2023 original tax returns that have not been fully processed because they have been suspended. Three million is the number of these returns that the IRS considers to be "overaged," which works out to nearly 30 percent.

Six-point-seven million is the number of Calendar Year 2022 and 2023 amended tax returns that have not been processed, and 4.7 million is the number of fees returns that the IRS considers to be overaged, which works out to be more than 70 percent. I am almost done painting the picture here.

Ten and a quarter million is the number of Calendar Year 2022 and 2023 items of taxpayer correspondence that have not been worked, and 5.9 million—the last number here—is the number of these items that the IRS considers to be overaged, which works to be almost 60 percent.

So you know, it is nice to hear that the average call wait times have decreased for those who call and are actually able to connect to the IRS. Call volume to the IRS is down significantly year to year. Despite this decrease, the backlog of taxpayer inventory continues.

So, just to clarify, Commissioner Werfel, after getting all these numbers on the record and trying to bring some clarity to the picture, do you believe that the tax filing season has gone well for the tens of millions of Americans whose original returns remain suspended, amended returns remain unprocessed, or correspondence languishes in a bin somewhere, none of whom are receiving their refunds or having their questions or issues addressed in the meantime?

Commissioner WERFEL. Yes. I would say compared to last year, the tax filing season has been a dramatic improvement. I think it is important to amplify that, Senator, because it was only possible with additional resources and our ability to add more staff.

We did make progress on the backlog, but not enough progress. This started during COVID. We never had a backlog like this before, but when we had to shut down our operations, we had trucks full of returns sitting in the parking lots that we could not process until we could get back to operations.

I will say this: IRS employees came back earlier than any other Federal employees, had to work, social distance. It was really heroic what the IRS was able to do in the spring of 2020 as COVID was unfolding. But this raises the key point, which is, how do we build an infrastructure in the IRS so that we can do both, so that we can manage the call volume and reduce the call volume?

I do not know if my number is right, or your number is right. We will get to the bottom of that.

Senator YOUNG. These numbers are right; these numbers are right.

Commissioner WERFEL. But if you say that the call volume went down, that is actually a good thing. That means that our website is working effectively. That means that our apps are working on our smartphones more effectively. If we can build that infrastructure and modernize it—it is an example——

If we just operate at the same budget or less, then maybe we can answer the calls. If we have investments, then maybe we can build, and build the callback option so that people do not have to wait.

Senator YOUNG. Right. What the committee wants, what I want, what I think you and certainly my constituents want, Commissioner, is to make sure that we are getting and giving the whole picture here, in terms of what the taxpayer is experiencing and what the IRS's performance is. So, you want to be transparent. I voted to confirm you in this position because I still believe that, and I did at the time.

Yet it is not transparent when the bad news of filing season—there is a mix of good and bad. It is provided by Inspectors General, while the IRS solely highlights what it believes to be, you know, their most positive facts. So going forward, just in short, will you do everything you can to increase full transparency with respect to the IRS's performance, good and bad, Commissioner?

Commissioner WERFEL. Yes. I love the idea of a balanced scorecard, Senator, absolutely.

Senator YOUNG. Yes.

Commissioner WERFEL. I think the reason why I want to amplify the positives is because I want to make sure that it is understood how important fully funding this base operation is.

Senator YOUNG. Thanks, Commissioner.

Senator CRAPO. Senator Whitehouse?

Senator WHITEHOUSE. Commissioner——

Commissioner WERFEL. Yes.

Senator WHITEHOUSE. I want to talk to you about the use and abuse of 501(c)(3) and 501(c)(4) entities in the political space.

Commissioner WERFEL. Yes.

Senator WHITEHOUSE. That is an area that the IRS has responsibility for overseeing; is that correct?

Commissioner WERFEL. That is correct.

Senator WHITEHOUSE. So, the *Citizens United* decision of the Supreme Court posited something that I have no disagreement with, which is, that if big political spending is not transparent, it is corrupting. That is why transparency was so important to that decision. Political spending that is not transparent is corrupting. That is the law of the land, and we have massive non-transparent political spending taking place, corrupting political spending.

It is over $2 billion, and it could be a lot more, depending on reporting glitches. So here are some of the problems that we see emerging. First of all, to play in the political space with 501(c)(3)s and 501(c)(4)s, the current State of the art is to have a twinned 501(c)(3) and 501(c)(4).

The 501(c)(3) is not supposed to do any politics at all. The 501(c)(4) is only supposed to do half. The 501(c)(3)s and the 501(c)(4)s tend to have the same locations, the same staff, the same boards, the same funders, and yet nobody's looking at piercing the corporate veil and seeing whether the 501(c)(3)s are being used to improperly support 501(c)(4) political effort. So, I would like to have you take a look at that question.

Second, 501(c)(4)s are only supposed to do less than half on politics. But what we see is associated 501(c)(4)s that are providing an orchestrated cascade where the donor gives, let us say a million dollars, to 501(c)(4) front group number one, which spends half of that on politics, and gives the other half to front group number two, which spends half of that on politics.

Now we are up to $750,000, which gives that other $250,000 to another related fund group, another $125,000. Now you are up to $875,000. One more, and you are over $900,000 out of the million being spent on politics in a coordinated way, conceivably around a single table in a single meeting room.

Finally, we have instances of what seems to be massive self-enrichment in this environment, as people seem to be paying each other off, again using these 501(c)(3) and 501(c)(4) mechanisms. My challenge to you is that I have seen big blowback from big special interests when the IRS has tried to do its job in this space.

I think you saw some of that pretty close to hand, and I think that the IRS has chickened out and refused to do its job in this space because they fear that political blowback, and they have created basically a lawless arena here in which the ref has chickened out and left the field.

I ask you to pull up your socks, do your job, look at these 501(c)(3)s and 501(c)(4)s, and in particular, look at these new behaviors with the numbers being so massive, with the coordination between 501(c)(3)s and 501(c)(4)s being so suspect, and with the 50-percent rule being flouted—to the extent it made any sense in the beginning—being flouted by coordinated groups of 501(c)(4)s operating in conjunction. Will you do that?

Commissioner WERFEL. Well, Senator, it is interesting that you used the referee analogy. I shared with the team when I arrived at the IRS that it does feel like the IRS is the referee, in that we get booed whether we get the call right or we get the call wrong. There is nothing wrong with that; that is our role.

But we cannot leave the field, you know. We can take the boos, but we have to be on the field. So my answer to you is, if we are falling short of our responsibilities, then we have to take a close look at that and figure out what we are doing——

Senator WHITEHOUSE. It looks to me like you are completely falling short, that you have vacated the field, that there is no effort being put into any of this because of the harassment that the IRS received when it last took a look in these areas.

Commissioner WERFEL. I think I would ask——

Senator WHITEHOUSE. If I am wrong, please correct me with a response for the record.

Commissioner WERFEL. Well, I think there is—you are not wrong in that it is an extremely complicated space. We learned 10 years ago how complicated a space it is. It asks the IRS to answer questions that are extremely, extremely sensitive, and places that onus on the IRS in an environment where we are trying to build trust with taxpayers and improve the overall dynamic that we have with taxpayers. So I think——

Senator WHITEHOUSE. My time is up, so let me—we will follow up as needed on that.

Commissioner WERFEL. Yes, we are going to have to follow up on that.

Senator WHITEHOUSE. Let me also just quickly thank you for your work on our reciprocal FATCA bill, and I think that is important to both stemming offshore tax evasion and dealing with kleptocrat assets, and I yield back.

Commissioner WERFEL. Thank you.

Senator CRAPO. Thank you.

Senator Carper?

Senator CARPER. Thanks. Thanks, Senator Crapo. Welcome back. It seems like a month ago we were sitting here, and we were having your confirmation hearing, your appearance, and your spouse and your children were all sitting behind you full of joy and pride, and I hope they still feel that way. Again, we are so grateful to all of them for sharing you with our country.

Commissioner WERFEL. Somehow, I am 2 inches shorter now, Senator.

Senator CARPER. Well, you do not look it; you do not look it.

Commissioner WERFEL. I have a great team holding me up here.

Senator CARPER. That is good.

Today, there are no minimum standards, as you know, for our professional requirements for paid tax preparers. It is not a new issue. This is one we have talked about, and frankly not done enough about, for years. But the problem too often results in error-filled tax filings, sometimes outright fraud, as you know.

While most preparers provide excellent service to their clients, the IRS receives tens of thousands of complaints, tens of thousands of complaints each year, about bad actors, and for these reasons the Government Accountability Office has recommended again and again and again that the Congress give the IRS the authority to establish standards to properly regulate paid preparers, especially those who may be acting in bad faith or preparing inaccurate tax returns.

Again, this is not a new issue. It is one that we have actually, I think, discussed before. How is the IRS managing the risk associated with paid preparers who knowingly or unknowingly prepare inaccurate returns, and what more should the Congress do to further protect taxpayers?

Commissioner WERFEL. Senator, it is such an important issue. As I move up my learning curve every day on tax administration, I start to see that there are moments where problems occur and there is not a victim. It is just—it is a mistake. The wrong amount might be paid. The victim might be the government's finances, but there is not an individual person who is a victim.

But in the cases that you raise, there are victims. There are people who are being taken advantage of, often vulnerable populations, unsuspecting, and it can be heartbreaking, and it is angering. I want the IRS to be doing its part to really kind of close this type of stuff down and to be as aggressive as we can be in dealing with these nefarious individuals who are creating victims in order to financially benefit themselves through the tax system.

More tools would be helpful. As I said earlier, I cannot comment formally on legislation. That is the domain of the Treasury Department. But you know, we always welcome tools that can help us do more outreach or crack down on fraud and on the type of behavior where the result is a victim.

And so, I know that we have teams of people at the IRS that are looking at these nefarious preparers, trying to determine how we can get to them earlier. There is a lot of education. During filing season, Senator, we do something we call "The Dirty Dozen," which is where we outline the tax scams that are out there.

We try to promote it, get as much publicity as we can out to Americans, that these are the types of things to be on the lookout for. And scamming preparers is one of the things that is always front and center in our Dirty Dozen.

Senator CARPER. Okay; thank you.

Commissioner WERFEL. So helping get the message out is critical.

Senator CARPER. Good. Thanks for that.

I think Senator Warren may have raised, before I arrived at the hearing today, the issue of no-cost filing services and expanding those.

Commissioner WERFEL. Yes.

Senator CARPER. But with the 2023 tax filing season coming to a close, many of my constituents recently went through the complex and often costly process of filing their tax returns. My wife and I did too. A lot of the Free File program was created to simplify this process at no cost for low-income taxpayers. The program is not working as intended.

And a review of the program that I requested from GAO, from the Government Accountability Office not long ago, found that the program's utilization rate is drastically low, disappointingly low. I think some 4 percent of eligible taxpayers used the program in 2020—4 percent.

In response, the GAO recommended that the IRS offer additional options for a free online filing service. Fortunately, thanks to the Inflation Reduction Act, as you know, the IRS now has the resources to expand access to free, simplified filing options, which would improve tax compliance and strengthen the fairness of the tax system.

Here is my question. What are the benefits of expanding no-cost filing options for low- and middle-income taxpayers, and what action is the IRS taking to make it easier and more accessible now for taxpayers to file their tax returns in future years?

Commissioner WERFEL. Yes. So the main benefit is options, you know. Different taxpayers have different preferences, based on their preference, based on their position, in terms of how they are going to engage with the IRS. We would love all taxpayers to engage with us in a more digital way, but not all taxpayers can.

Some of them want to walk into our walk-in centers, and we have been able to open more walk-in centers with the Inflation Reduction Act. The benefit, Senator, is options. Taxpayers need options. And the other benefit is, if we can implement these options in a way that simplifies a very complicated journey that can often be very intimidating, then we have created a true benefit to America and to citizens, that they have optionality, and we have made their job easier of complying with the code.

Senator CRAPO. Thank you.

Commissioner WERFEL. Yes, and the Inflation Reduction Act does provide us needed resources to be able to build those channels. Now, I know there is this one question that is out there on direct file, and as I mentioned earlier, we are mandated by the Inflation Reduction Act to study it. I think when we produce that study, we will be able to discuss potential issues, strategies, and what to do from here.

Senator CARPER. All right. Thanks so much.

Thanks, Mr. Chairman.

Senator CRAPO. Senator Cassidy?

Senator CASSIDY. Thank you. Commissioner, thank you for being here.

During your confirmation hearings, I asked if the IRS would consider having a third-party vendor to do your IT management. And at the time, I submitted for the record news reports going back to the 1980s, where IRS has requested lots more money, and then a lot of news reports that said they have not accomplished what they attempted to do.

It is like, you know, Christmas. Every year, IRS wants more money for IT, and every year there are reports that it is delayed. So you suggested an openness to the concept then. Has that been acted upon, analyzed, and in any way encouraged?

Commissioner WERFEL. Yes, absolutely. Looking at our IT strategy, you know, I am moving up my learning curve on where we are with our technology. What I have learned is, look, there have been successes, and I am very interested in those successes, and I can talk to you about them. Why am I so interested in these successes? Because what were the preconditions for those successes? Why were we able to build and deploy a successful, modernized e-file program? How did that happen?

And then there are non-successes, as you know. There are areas where we set out to accomplish something—for example, to fully modernize the Individual Master File—and we have only made progress, but we have not fully modernized it.

Senator CASSIDY. But that is how many years overdue?

Commissioner WERFEL. You could look at different time frames, but it is years overdue in terms of being fully modernized. But there are elements of it that are modern.

Senator CASSIDY. So let me ask, just because I have other questions——

Commissioner WERFEL. Yes, please.

Senator CASSIDY [continuing]. Has contracting with a third party, such as the Department of Defense does for some of these services, been part of the considerations?

Commissioner WERFEL. Yes, and you know, one of the things that I have also learned is that two-thirds of our IT spend is on contractors, one-third on IRS employees. That does not mean that that is the right level.

Senator CASSIDY. Now of course, contractors are separate from going to the cloud with——

Commissioner WERFEL. I think—you raised that during the confirmation hearing, and I am absolutely pushing the team to look at cloud service-oriented architectures like cloud as an alternative.

Senator CASSIDY. So great.

Commissioner WERFEL. Absolutely.

Senator CASSIDY. I do not mean to cut you off; I just have limited time.

Commissioner WERFEL. No, I get you.

Senator CASSIDY. Okay, next. In 2020, the IRS proposed, made final regulations regarding guidance on the definition of medical care under section 213(d) of the IRS code—essentially, what primary services are and are not qualified medical expenses for the purposes of HSAs.

And the final rule said that direct primary care is "expenses for medical care under section 213 of the code. Because these payments are for medical care, a health reimbursement arrangement provided by an employer generally may reimburse an employee for DPC arrangement payments."

That is great. It works for businesses. But it stops short of saying the same things for individuals, and IRS still takes the position that DPC arrangements are insurance or some sort of health plan. So we have two separate treatments for a piece of—you see where I am going with that.

Commissioner WERFEL. Yes, I totally see where you are going with it, and I think it is a really good question. It was not on my radar screen. It is now, and I want to get to the bottom of whether these things are insurance or not. I have started to have conversations. I understand there is a complication. I understand there are benefits to an interpretation that would not have it treated as insurance, and I want to get back to you on it.

Senator CASSIDY. I appreciate that.

Secondly, we have had, my office has pushed—you know, part of the reason for the backlog is that they have these services that kind of fill up your phone calls with automated services, so that you have to go to them to get through.

Commissioner WERFEL. Yes.

Senator CASSIDY. And you had a pilot program as to how to address that. How is the pilot program going, may I ask?

Commissioner WERFEL. It worked, you know. And part of it is that we were able to get the reporting time down to 4 minutes—or the waiting time down to 4 minutes.

Senator CASSIDY. Is that by taking out the automated calls?

Commissioner WERFEL. It was partly that. The reason is, we were——

Senator CASSIDY. So is that pilot going to be expanded to the entirety of this, because I was told it was a pilot. Has it now become——

Commissioner WERFEL. I do not know that I can say—we are going to continue to leverage that type of solution, to make sure that we are preventing that practice, because that is not a fair practice.

Senator CASSIDY. Yes, it seemed like——

Commissioner WERFEL. We had success, which is the bottom line, and you always want to replicate that success. So we are very interested in figuring out why it went right and how to scale it.

Senator CASSIDY. Sounds great.

Then if you are filing—someone in the private sector is obviously filing returns for people, but do you perceive a conflict of interest where the IRS, which is going to tax people, is also helping them to fill out their forms? The interpretation, which an independent filer may take on their behalf, might then be taken in a different way.

Commissioner WERFEL. Yes, it is an important question. I think it is a policy question, actually. What I want to do is answer the question, what are the operational implications of a direct file program? The idea that the IRS would be more involved in tax preparation through a direct file—I mean, I think other countries do it.

It is a debate. I don't want to weigh in on the debate. I want you and the Treasury Department and the President to decide, and then we will figure out how to administer it.

Senator CASSIDY. Thank you for your great answers.

I yield.

The CHAIRMAN. I thank my colleague. I think he missed some of the earlier discussion, because I and Senator Crapo, Senator Warren, a number of Senators, have asked questions about Free File. The history of this is pretty interesting. Down at the end of the dais on your side, Dan Coats was with me on a bipartisan Free File proposal years ago, and of course, all of the powerful interests came out and said western civilization was going to end.

We tried to simply say, it would be voluntary. In other words, all parties agree that if we go forward with such a thing for the people of Louisiana and Oregon and everywhere else, it will be an option. It will not be required in any way, shape, or form. So we look forward to having that discussion. I thank you.

Senator Menendez?

Senator MENENDEZ. Congratulations, Commissioner, on your confirmation.

Over the last year, I led eight letters to the IRS about a range of customer service issues impacting taxpayers. Just as the IRS expects taxpayers to file on time, taxpayers and tax professionals should be able to count on the IRS to answer the phone, respond to questions, and process refunds in a timely manner.

Thanks to the resources provided by the Inflation Reduction Act, the IRS has hired 5,000 new customer service workers to help meet taxpayer needs. It is now consistently answering the phones, as I understand it, between 80 and 90 percent of the time, at an average speed of 4 minutes compared to last year, when the average level of phone service was 17 percent with a speed-of-answer rate of 27 minutes.

So that is good. But there is still more work to be done. Currently, it takes approximately 20 weeks to amend paper and electronic returns. Commissioner, can we expect a more acceptable timeline for the IRS to process amended returns?

Commissioner WERFEL. You should expect it, and we should be held accountable for it. I mentioned earlier, we have the ability post-filing season to redirect some of our staff to the paper backlog versus being on the phones, because the call volumes should go down. That will enable us to process more. We are scanning more paper forms. The more we scan, the easier it is to get them processed. It makes the process more fluid.

And then there are longer-term solutions, whether it is hiring more people to help process these paper and amended returns, or building technology solutions to automate it more, because right now in most cases, we can't accept an amended return electronically. This is why the Inflation Reduction Act is not just about managing the day-to-day. It was not supposed to be about that. It was supposed to be about modernizing, and I am hoping we can preserve those funds in the Inflation Reduction Act.

Senator MENENDEZ. So with all of that, what can we get this down to, and in what time frame do you think that can happen?

Commissioner WERFEL. Well, as an example, I mentioned that, on the employee retention credit—I mentioned to Senator Warner we are resolving about 20,000 a week right now post-filing season. I am asking the team to double that output, and to focus on the oldest first, obviously, to make first those that have been waiting the longest.

But I appreciate the question. It is part of the challenge that we have in terms of this paper backlog, but we are making progress.

Senator MENENDEZ. Okay. Well, correcting a small mistake should not lead to a 5-month delay in receiving a refund, and so I am proud of the progress you have made, but we need to do better.

Let me ask you, with reference to a joint report from Stanford University and the Department of Treasury, it found that Black taxpayers are at least three times as likely to be audited by the Internal Revenue Service. The IRS does not collect data on race or ethnicity, and reports suggest that the disparity is attributed to discrimination in the IRS's computer algorithms that select returns for audit. The report also found that the IRS disproportionately audits people who claim the Earned Income Tax Credit.

So, Commissioner, the last time you were before this committee, you committed to providing a report on this issue within 60 days of your confirmation. That would be May 9th, so we are not there yet; I understand that.

But with that commitment nearly 3 weeks away, what have you learned about the issue, and how is the IRS planning to address this inequity?

Commissioner WERFEL. So, I want to start with the important premise that it is essential that our tax system is fair. Fairness is what anchors our mission statement. And when I got the directive from this committee to issue a report in 60 days, I engaged with my team on Day 1 to make sure it is a priority to fully understand what is going on with this report from Stanford, and how do we get to the bottom of it and figure out what we need to do going ahead.

I do not want to get ahead of the final report, because it is not done yet. I will share that we are asking, I think, the right set of questions. We are asking questions like, what are the major tenets of IRS's current corrective plan to address improper payments? Do existing EITC case selection processes unfairly raise audit rates for Black taxpayers in relation to non-Black taxpayers? There are about six or seven key questions that we are answering.

Senator MENENDEZ. Are you still committed to providing a written report to the committee by May 9th?

Commissioner WERFEL. Absolutely.

Senator MENENDEZ. Okay.

And then finally, while we are on the topic of tax equity and tax administration, the IRS contracted with ID.me for verification services this tax season, despite a track record of inequitable outcomes for minority taxpayers. When can we expect the IRS to use *login.gov* for verification services?

Commissioner WERFEL. Yes, and we are very interested in adding additional authenticating providers, and *login.gov* is one that we are interested in. It is my understanding that they are working through, at GSA, some security issues, and they want to make sure that they have wrapped up. Once those security issues have wrapped up, we will move forward with *login.gov* as a provider.

Senator MENENDEZ. Well, I would like you to be able to give us a report when you see you are on your way to that.

Commissioner WERFEL. Yes, absolutely.

Senator MENENDEZ. Thank you.

Commissioner WERFEL. Thank you.

The CHAIRMAN. Thank you, Senator Menendez, for coming down strongly on this matter of racial disparities. It was so striking when we heard the original conversation. If they got that kind of information when they were not looking for it, it just struck us that we had better get on it, because if you are going to look for it, it could be significantly more serious. So, thank you. I look forward to working with you.

All right. Senator Tillis?

Senator TILLIS. Thank you, Mr. Chair. Commissioner Werfel, I appreciated the time we spent in the office. I was one of the four Republican members of this committee who voted for your confirmation, along with two others off the committee, because I think you bring a private-sector experience and deep knowledge of the IRS.

If I were confronted—if I were back in my job at Price Waterhouse consulting with enterprise transformation, and I was assigned to a client that was struggling to meet current service level agreements, trying to get customer service right, trying to get the technical people you need to fulfill the primary mission of the organization, the first thing that I would tell my client is, do not think about a big new system that expands your responsibilities before we fix the current plumbing, which I believe you are well qualified to do.

Why shouldn't I look at all the calls for free filing as one of those at-risk projects for enterprise transformation, when 70 percent of the taxpayers are already eligible for Free File? If my data is correct, anybody making less than $73,000 a year, with a public-private partnership that the IRS has today with tax filing entities—they already have it.

So, even if you felt like you needed to get to 100 percent, why would you not figure out how to plus-up that relationship versus build your own and compete with the private sector that is already fulfilling the need?

Commissioner WERFEL. Senator, it is an excellent question, and you know, as you were talking, I was thinking, you absolutely have to keep the lights on. We have to be there to answer the calls. We also have to concurrently build incremental improvements——

Senator TILLIS. Yes, and I get it. And you are going to answer that question in a way that is going to satisfy me, so I am going to stipulate that you are going to give me a good answer, because I want to move on.

Commissioner WERFEL. Okay; yes, yes.

Senator TILLIS. So you are confirmed. Can you tell me whether or not you believe that the IRS has the authority, without new authorizing legislation and appropriations, to develop and implement a system for the service to prepare returns for taxpayers or allow them to file directly with the Service using the government-run software? I know there is $15 million out there to study it, but——

Commissioner WERFEL. Yes, yes. No, I got this question earlier, and I think I committed to come back, because the remit under the Inflation Reduction Act is for us to assess the feasibility. Most often we are doing that, because——

Senator TILLIS. I suspect you do not have—I suspect—I hate cutting people off, but I want to stick to my time.

Commissioner WERFEL. I understand.

Senator TILLIS. I suspect that you do not have the appropriate authorizations and funding. And so now, we are going to take our attention away from your core mission—which is to transform the IRS—and say we also want you to focus on this other big project, which really does not have a lot to do with a lot of the KPIs you need to be working on now.

So, last question related to this: recognizing the well-documented leaks of taxpayer information and outdated computer technology, what is your assessment of the Service's technical capabilities to develop a complicated program that would actually do that? Or do you view that as an implementation risk for all the other big rocks that you need to turn over, now that you have been confirmed?

Commissioner WERFEL. Well, I think I mentioned during my confirmation hearing, in many ways it has to begin and end with data security. It is fundamental. People have to know and trust that their tax information——

Senator TILLIS. And we have some credibility issues to deal with there.

Commissioner WERFEL. There are mixed results. I have looked at it, and I said, "Okay, tell us about our technology." Well, we did successfully defend a billion cyberattacks a year, and we need to continue on that path, because one successful attack——

Senator TILLIS. So let us harden the base that we are already the data stewards of.

Commissioner WERFEL. Exactly, yes.

Senator TILLIS. Prove that we can do that on a sustained basis, and then decide whether or not we want to dramatically increase that basis that would be subject to the same vulnerabilities.

I know that your training and experience in the private sector put you in a position to say, "You are asking me to move things ahead of the implementation time line that are standing in the critical paths of the things that I need to get done quickly."

And I think Congress needs to hear that, to understand that we do not do alla prima when it is technology, cybersecurity, everything else. If we do not focus on the primary goals so the taxpayers can be more satisfied, so that your customer satisfaction ratings can go up, then we are going to lose.

The last thing—and I will submit a question for the record—but also on the tax gap——

Commissioner WERFEL. Yes.

Senator TILLIS. The left is going to say it is all about finding a handful of billionaires and trillionaires—if there is one; there will be one soon. And the right is going to say, all you are doing is hurting small businesses with the tax gap. But we do not have the information to even know that.

I have asked a simple question: let us stratify all of the people who contribute to the tax gap, so that we have a distributional analysis of where we need to go after it. I cannot get an answer to that question. So why is it that I cannot get an answer when somebody says that we have a trillion-dollar tax gap, that I cannot have at least at the 30,000-foot level, what bucket they fit into?

Because I think we are talking past the fundamental issue. If somebody owes taxes—we could have a separate discussion about whether or not that tax should exist. But to the extent that it is in the tax code, then the taxpayers need to pay it, and then we can work on repealing it.

But I really need more information at a more granular level than a trillion dollars, so that I can start applying a rationality test to some of the statements that are coming out of these committee hearings and out of the mouths of my colleagues, because I do not think that they actually have the data upon which they can base some of these assertions.

I am going to—I am going to try and set up a meeting to come with you. Would you commit with me to have a meeting in your office, to go through your enterprise transformation plan?

Commissioner WERFEL. Absolutely.

Senator TILLIS. I look forward to it.

Thank you, Mr. Chair.

The CHAIRMAN. I thank my colleague. And just to give him 30 seconds' worth of history, before you were on the committee, the reason that this tax gap issue was so relevant over the last year is because it was not some member of this committee, a Democrat or a Republican, it was Donald Trump's Commissioner who held the post that Mr. Werfel did.

Mr. Rettig, Chuck Rettig, who had been a long-time auditor, was the one who made the statement (a) that he thought it could be up to a trillion dollars, and (b) it was his opinion that it was overwhelmingly due to those who are extremely wealthy because of the argument—and I certainly have made it—that for somebody who is a trucker, for example in Oregon or North Carolina, the government actually has the information in the vast majority of cases.

Senator TILLIS. That, Mr. Chair, is why I find it extraordinary that I cannot get an answer to my question. If people have made that assumption, then hopefully someone who made that statement actually had accurate data upon which to base that statement, and we do not have it. So whether it is the Trump administration, the Biden administration, Obama, Bush, Clinton, that does not matter to me.

What matters to me is, I have not seen anybody share that with me. So all we have is a trillion-dollar number and a great political whipping boy. But I am not here to do that. I am here to solve the problem, even if it is applying a tax code that I disagree with.

If you owe it, pay it. But let us get more strategic about the way we go about dealing with the—if we want to solve the problem, if we want to keep it at the high level and use it as a talking point in committee, that is great. But if we want to solve the problem, we have to have data to drive our priorities.

Thank you, Mr. Chair.

The CHAIRMAN. And I would only say, my colleague is absolutely right in saying that it is smart to get more detail. And as you and I talked about, an example of a detail is our Credit Suisse investigation, where Credit Suisse got busted a decade ago and our investigators found they are doing exactly the same thing.

So we have hard information on it. So, as you seek to get more detail on it, put me down. I am happy to work with you.

Okay. Senator Barrasso?

Senator BARRASSO. Thank you so much, Mr. Chair. And, Mr. Werfel, thanks very much for being here.

When you visited my office and when you were here for your nominating hearing, I asked you for your opinion on the funding priorities in this reckless tax and spending bill. I expressed my concern about $80 billion in additional funding for the IRS, and specifically, we talked about the enforcement amount versus the amount for taxpayer services—you know, $45 billion for enforcement, and only $3 billion for taxpayer services; so, the ratio of $15 of enforcement for every $1 of services, you know.

In the IRS strategic operating plan for the spending of all of this money, the first objective that you list is to dramatically improve services to help taxpayers meet their obligations and receive the tax incentives for which they are eligible. Yet the money ratio is 15 to 1 enforcement over providing for services. This does not even include the additional $29-billion request for supplemental funding that you have come up with. So why would the IRS in its discretionary budget request, despite $45 billion in funding for enforcement, request again more money for enforcement, $5.9 billion, than it is requesting for taxpayer services, $3.4 billion?

Commissioner WERFEL. Yes. So I am really appreciative of the question, because I think it is really important to break down our budget in a way that makes sense and can be understood. So our base budget pays for our day-to-day operations, the volume of things that come in both from a services and an enforcement standpoint.

And as I explain in my testimony, if you look at our base budget over the last 10 or 15 years, it has been on a steep decline, while the U.S. population has grown and the tax laws and filers have all been much more complicated.

So, when COVID hit, everything kind of broke, and at that point it was basically we could not do and continue to manage the way we would want, and services plummeted, and frankly audit rates plummeted.

So what we need to do now is not think about the Inflation Reduction Act as, let us use that to patch the holes in our base budget, because what the Inflation Reduction Act does is that it spends for increased capacity so that we can improve operations. It's the difference, Senator, between just answering the calls versus having a callback option, having more digital channels, having more bots in the phone line so that people can get through quicker on things they can do in an automated way.

So now to your question. Look, there is room for us to increase our capacity in enforcement. The stats on this are pretty eye-opening. We only have today 2,600 staff who are responsible for assessing compliance with our highest-wealth taxpayers, and there are more than 390,000 high-wealth taxpayers.

So, to give you a ratio, that is one IRS person for every 150 high-wealth taxpayers, and these filings are big and complicated. They can be thousands of pages, tens of thousands of pages long. So look, if we started to move money out of enforcement into services, we would lose the ability to develop the capacity in that area, and that ratio would suffer.

So the reality is, we need to do both. It is our job and our role to make sure that the tax system is operating effectively—answering the calls, improving the calls, but also making sure people pay what they owe.

Senator BARRASSO. Because, as we discussed, what I hear about in Wyoming is people who have called the IRS trying to get information, cannot get somebody to answer the phone, all of those issues. So you know, sticking to the issue of taxpayer service, when you look at the justification that you have printed for this fiscal year budget, it says "unless the IRS realizes sustained increases in discretionary funding, service quality is going to continue to suffer."

I still do not know why the IRS, in its plea for more money in its budget request, is threatening to cut back taxpayer services instead of wanting more and more money for enforcement. So that is where I am on that.

You know, the other issue is this long-awaited strategic plan for the so-called Inflation Reduction Act. It is well-documented, very late, despite the extra time to pull together this highly anticipated plan. It is lacking in measurable targets. Basically, to summarize, the indicators said "we will do better."

So *The Wall Street Journal* reported that your Deputy Treasury Secretary Wally Adeyemo referred to the plan, and he said, "We don't want to be locked into numbers on a piece of paper." I would just tell you, Mr. Werfel, every taxpayer in this country believes that they are locked into numbers on a piece of paper, or they can go to jail. That is the difference.

But if your Deputy Secretary thinks you do not want to be locked into numbers on a piece of paper, I have taxpayers all around Wyoming who have very similar concerns. So, thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague.

Senator Casey?

Senator CASEY. Mr. Chairman, thanks very much. Commissioner, good to be with you.

I wanted to start with a program that is little known and probably underappreciated, but is enjoying, I think, great success. It is not a program that many people have heard about, so-called VITA, V-I-T-A, the Volunteer Income Tax Assistance program.

I was just up in—not far from where I live in northeastern Pennsylvania—up in Stroudsburg, PA, the Pocono Mountains, and I met with a group of volunteers who work as part of VITA. And we know that last year VITA helped nearly 2 million Americans do their taxes and claim tax refunds for free.

VITA tax returns are very, very accurate. Its volunteers have a 96-percent accuracy rate in preparing returns, while paid preparers have only a 40-—40-—percent accuracy rate according to a GAO study in 2014. So 96-percent accuracy rate versus 40 for paid preparers.

Also, it is great; you get a great bang for our taxpayer buck. The IRS spends about only $21 per return prepared through VITA, and ten times that much, about $220 per return, through a tax preparer. So it is clear that VITA is a great deal for taxpayers, and we are getting good results from it.

It saves taxpayers time and money and penalty fees, and it saves the IRS time in correcting incorrect returns. However, the IRS was not specific about its plans for the VITA program in the strategic plan. How does the IRS plan to use the infusion of funds from the Inflation Reduction Act to improve the volunteer taxpayer services in VITA?

Commissioner WERFEL. Thank you for the question, Senator, and I was very—I agree with you. It is a critically important and successful program, and I was pleased to see that the number of VITA-prepared returns increased. It was 1.8 million last tax season; it is over 2 million this year. So it is nice to see the program expanding.

Part of what we are doing in the IRS is working more towards engaging these types of programs and stakeholders to meet taxpayers where they are, better understanding how we can lend that helping hand to taxpayers how they need it. Do they need more digital channels? Do they need more help from trusted partners like VITA? It absolutely has to be an area of investment.

I can provide you with more details in terms of how we might scale and continue to invest in that program. But it absolutely is—you know, I am a personal champion of that program and will continue to work with them.

Senator CASEY. I appreciate that, and I want to salute you and your team on the great success you have had in providing better taxpayer service this year. The numbers are very compelling and irrefutable about better service and the investment that we made.

Another area I want to ask you about is the bonus tax credits in the Inflation Reduction Act that reward companies that are either building new energy projects in coal communities—that's a provision that I worked on and pushed forward—or companies who use American manufactured products.

So, we do not want to just improve supply chains generally; we do not want to simply create the clean energy future which we have to create, but we want to make sure that we can have the elements of those energy products, the content of them, made in America.

We know that last year we gained almost 800,000 manufacturing jobs, or I should say over 2 years, and we want to build on that. So we need strong domestic content rules to reward companies for building their energy components in America. It is not good enough to have a clean energy future if it is all going to be built by some other country, for example like China.

However, the IRS and Treasury have not released guidance on how companies can claim these bonus credits for domestic content. So I would ask you, can you commit to working with me to release a strong and clear domestic content set of rules very soon?

Commissioner WERFEL. Yes, absolutely. It is on—you know, I talked to the team. They are working on that very guidance document, along with others that are coming up in the next few months related to the energy provisions in the Inflation Reduction Act. So the answer is "yes," Senator.

Senator CASEY. Commissioner, thanks very much. I will send a question or two for the record, but thank you.

Commissioner WERFEL. Thank you.

The CHAIRMAN. Commissioner, we are waiting for a moment for Senator Cantwell. I do want to take up just for a minute, as we wait, this last point with respect to these communities that he is speaking of. In designing the clean energy tax credits—and this was something I was involved in for a full decade since Joe Manchin asked me to come to West Virginia—we said we were going to come up with a tax code that was technology-neutral, so as to be market-oriented and be a system that would reward those out there who would reduce carbon emissions. We had a number of Senators in this committee and elsewhere saying, "I want to be part of the future. I want to be part of something better."

But we've got to make sure that we have tangible, concrete tools out there for communities that are serious about being part of the future and want to know how you can actually get it done. Senator Casey, with the effort, and we—I believe sometimes we called it the incentives program, sometimes we called it the bonus tax credit provision. We said very bluntly that these communities had to have an opportunity to be part of the future that Senator Casey and Senator Brown and others envisioned.

So I want you to know, Senator Casey, we are going to be with you every step of the way until all of this is fully implemented. As you know, we have made progress on the other side of the coin, the energy communities. But you just keep raising it. I am going to be pushing for you every step of the way.

Okay. Senator Cantwell has joined us, and——

Senator CANTWELL. Thank you, Mr. Chairman.

The CHAIRMAN. Please go ahead.

Senator CANTWELL. Thank you, Mr. Chairman. I appreciate it. I appreciate it, this important hearing, particularly at this time.

Last week, the IRS announced that nearly 1.5 million Americans have unclaimed tax refunds from 2019. In Washington State, the pandemic and other disruptions prevented as many as 42,000 people from filing their 2019 tax return, leaving a total of $44 million in unclaimed refunds.

When you were here last February, you said that the IRS should be able to communicate in a much more timely and aggressive fashion for taxpayers. I agreed with that. On April 12th, the unclaimed refunds, you stated, frequently see students, part-time workers, and others with little time to really realize this. I know that to ensure these individuals have the money they are owed, they need to be ahead of the July 17th deadline.

So, what is the IRS doing to create greater public awareness for these unclaimed refunds, and do you have plans to reach out to individuals, to ensure they file before the July deadline?

Commissioner WERFEL. Yes, and I was pleased with the type of publicity that was created when we announced the July deadline. A lot of media outlets covered it and basically said, look, the IRS is informing you that you are eligible for a refund, and you should come, because we want people who are eligible, whether if it is for a credit or a refund, to claim it.

Now, how do we continue to build on that outreach? There has to be more that we can do than just issuing a press release. We can use social media. We can engage with intermediaries and associations and groups, and this is part of the vision that we have for improved customer service.

It is not just, "Hey, we are here. We are going to answer your call. That is part of it, and that is critical. But it is also outreach, to meet taxpayers where they are, and so it is two-way. It is us here when you need us, whether it is an assistance center, a walk-in center, or the call. But also, we want to meet you where you are to help, to help small businesses meet their obligations.

Senator CANTWELL. How many taxpayers do you estimate are missing the Earned Income Tax Credit because they failed to file in 2019—overall, besides our State?

Commissioner WERFEL. I do not think we have an exact number, but I think we believe it is over a million people who could be claiming refunds who are not. But I will try to get you more precise numbers.

Senator CANTWELL. Yes, I think it—I mean, just given the numbers in our State, I would think that would easily make a million. Well again, I think we communicated also about this notion that, when it comes to owing money to the IRS, we have a lot of direct communication with people.

So, I am for creating a more virtual experience for taxpayers, particularly by segmentation—these are the problems, these are the issues, right? I know you have frequently asked questions and things of that nature. But I just think the response from the IRS and direct communication with people on these issues would go a long way.

Commissioner WERFEL. I appreciate that.

Senator CANTWELL. All right.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague.

We are going to liberate you momentarily, Commissioner. I just want to give you my sense of where we are. I mean, the reason the tax gap is so important and I started talking about it—it has come up, you know, repeatedly—and my take, looking at all the data we have and what Chuck Rettig and others have said, is closing the tax gap cannot really be addressed unless you also beef up enforcement against those very wealthy individuals who are not paying taxes.

Second, I think you made the case with respect to improving customer service, and I think you have done it in an appropriate way. You have not stood up and shouted, "We are done; we are done." You said, "Look, we are making a lot of progress here." It is high time that we did in terms of calls and shorter waiting times and reducing the backlog.

I like the fact that we have made it clear we have a lot of heavy lifting to do. Nobody is having a victory parade today. Your comments with respect to auditing taxpayers, again with incomes below $400,000—we are going to clearly make progress compared to what we saw a few years ago, and I think that is an important objective as well.

With the release of the strategic operating plan, we have an opportunity to really do this right in terms of making sure we protect people who should not be subjected to audits, and at the same time going after the high-income individuals and corporations and partnerships.

One last point that I think I have kind of touched on is, when I look at this question of the high-fliers and people who have repeatedly skirted the law, I am especially focused on the IRS going after repeat tax evaders. People asked me when they heard about Credit Suisse, they said, "Ron, you are kidding me. I read that they got busted just a few years ago, and their CEO came in and raised their hand and said 'never going to happen again.'"

You cannot explain to taxpayers how you are not doing anything about it if it happens again and you basically—we actually gave them a discount on their penalties the first time because they made all these claims that, you know, we will be honest. So how you deal with these repeat tax evaders is particularly important to me.

I want to close with three quick points. Tomorrow, the Finance members will have a briefing by the Commissioner, Commissioner Werfel, on the strategic operating plan. We thank you for giving the opportunity for members to ask additional questions.

I and Senator Menendez both asked you today about this question of these racially biased audits. Very, very troubling, and you know, from the very first day I asked about whether it would be on time, and for a repeat response, you said, "You bet it will be on time," which is going to be something members pay attention to because you are following through. With respect to that, we will follow through.

And for the information of members, questions for the record are going to be due by 5 p.m. next Wednesday; that's April 26th.

Commissioner WERFEL. Mr. Chairman, before you gavel close, I just wanted to make one procedural point, which is, I mentioned to both you and Senator Crapo that after the plan was issued, we got questions from Congress—both authorizers and appropriators—with questions about numbers, and we have been providing information.

As a result of providing that information, there is now available to you 10-year spend numbers over the life of the IRA, and more detailed FTE numbers over a 3-year window. But I realize that as we provide that information, it is not simple for you to know where it is. So we put together a compendium of that. I would like to introduce that for the record, so that you have a one-stop shop for it and the public can see it as well.

The CHAIRMAN. Without objection, the welcome news that there will be a one-stop shop is introduced in the record at this point. We look forward to tomorrow as well. And again, I just want to thank you for saying you are going to be hands-on and you are going to follow through.

[The compendium appears in the appendix beginning on p. 62.]

The CHAIRMAN. That is what the job is all about, and you are saying that is your focus.

With that, we are adjourned.

Commissioner WERFEL. Thank you.

[Whereupon, at 12:55 p.m., the hearing was concluded.]

APPENDIX

Additional Material Submitted for the Record

Prepared Statement of Hon. Mike Crapo, a U.S. Senator From Idaho

Commissioner Werfel, thank you for testifying this morning, as well as for your conduct in these first few weeks of your tenure. I hope you will continue to be transparent, accessible, and willing to work with me and my colleagues—particularly regarding support for taxpayer services and modernizing outdated IT, which the House-passed IRS funding bill shows Republicans support.

While not the focus of today's hearing, the IRS's recent 150-page response to Secretary Yellen's directive to deliver to her a 10-year operational plan for spending its Inflation Reduction Act funding requires comment.

Secretary Yellen promised a plan that would allow the public and Congress to hold the IRS accountable for the project. While dense, what has been delivered is noticeably light on many essential attributes of a "plan," and it would be extremely challenging to use the document to hold the IRS, Treasury Department, or anyone else accountable for any missteps.

A few things it almost entirely lacks include: quantitative targets to measure against; backup data to analyze; and various key operational details—including, for example, who at the IRS or Treasury Department is ultimately responsible for making decisions on any particular issue.

It does not give any detail on how the IRS will implement Secretary Yellen's $400,000 pledge—and details really matter here. It also does not estimate what any of the 42 "initiatives" or 190-odd "key projects" are expected to cost or clearly answer the basic question of which initiatives or key projects can be fully implemented with the $80 billion in funding.

What the document quietly admits is astonishing. Despite contrary rhetoric, the IRA did not give the IRS enough funding to fully realize the "plan's" vision—this despite having given the agency a slug of funding more than six times its typical annual budget.

The IRS's annual budget justification goes further, asking for 15-percent increases in the IRS's discretionary appropriations to make up in the short term for areas where the IRA funding falls far short, particularly in taxpayer services and IT modernization. The IRS's annual budget justification also warns that if Congress fails to increase future IRS discretionary budgets, on top of the $80 billion—and in particular spend even more for taxpayer services and IT modernization—the IRS's future service delivery will actually suffer.

Finally, the President's budget requests still more IRS funding for future enforcement efforts—$29.1 billion more. That is on top of the $80 billion. Americans rightly have a hard time understanding how an agency provided more than six times its annual funding can still claim poverty. And given that the plan the IRS delivered is not transparent and does not allow for any meaningful accountability, this plea is essentially for another blank check.

I have heard some argue that future uncertainty prevents the IRS from making firm estimates beyond a fiscal year or two. Indeed, that sounds like a tacit admission that circumventing the annual appropriations process for the $80 billion was a huge "spend first, plan later" mistake. But this "uncertainty" excuse falls completely flat when one observes the countless other examples of long-term budget-, revenue-, and cost-estimating—both in the public and private sectors.

When you last testified before us, you promised to regularly update the IRS's spending plan and solicit this committee's feedback. Based upon what has just been delivered, I strongly suggest you accelerate your timeline and return to this committee in short order with an actual plan.

Returning to the subject of this hearing, my colleagues and I eagerly await discussing the IRS's annual discretionary budget request and current performance measures. I have learned more in the last few weeks about the sometimes-puzzling ways the IRS measures its own effectiveness, such as on answering phones. What I have learned would be more troubling if not for the hope that you will adhere to your promise to enhance the rigor and meaningfulness of the IRS's data collection and analysis.

I recognize that you are only a few weeks into your tenure and are already facing momentous decisions that will likely have lasting consequences. I was encouraged by your prior commitments, which include: full and prompt transparency; utilizing best management practices; making decisions based on sound and unbiased data; ensuring the IRS is strictly nonpartisan; not making any policy decisions that are Congress's responsibility; and turning to Congress at every possible opportunity for guidance and authorization.

How well you adhere to these promises will determine the legacy you leave the IRS and American taxpayers, as well as your relationship with Congress. I urge you to walk the straight course, set a positive trajectory and above all, keep the IRS out of partisan gamesmanship.

Prepared Statement of Hon. Daniel I. Werfel, Commissioner, Internal Revenue Service

INTRODUCTION

Chairman Wyden, Ranking Member Crapo, and members of the committee, thank you for the opportunity to discuss the 2023 filing season and the IRS budget.

I am honored to serve as the 50th IRS Commissioner and have the chance to lead a group of extremely dedicated and talented public servants at a pivotal moment in IRS history. My first few weeks as Commissioner have reinforced my belief in the importance of the IRS to the Nation, as I have witnessed the ongoing efforts of our workforce to fulfill the critical mission of administering the Nation's tax system. This includes administering the tax filing season, which has gone smoothly in terms of processing tax returns, the operation of our information technology systems and improvements in taxpayer service.

As I begin my new role, I have a unique opportunity coming into the agency to bring a fresh perspective on our operations, examining them to determine where improvements can be made and what processes and controls need to be strengthened to better fulfill our mission. Ensuring a high-performing IRS is critical for our Nation, as the agency collects more than $4 trillion in revenues each year, generating about 96 percent of the funding that supports the Federal Government's operations—everything from roads and other infrastructure to education and the Nation's military.

We greatly appreciate the funding provided by Congress in the Inflation Reduction Act of 2022 (IRA), which has already allowed us to make improvements in many areas, including our levels of service on the phones and in person during the 2023 filing season. In tandem with the IRS's annual discretionary budget, this critical, sustained multi-year funding will allow the agency to transform its operations—through improved taxpayer service, smarter enforcement, upgraded technology and better data security.

As we continue implementing the IRA, we welcome congressional oversight of our efforts. I believe in the oversight role of this committee and others, and I will always strive to be accountable to you for the investments we make using the IRA funding. Accountability will be essential for the IRS to maintain public trust.

We must be transparent about our work, be responsible stewards of the taxpayer dollars we receive, and collaborate with Congress and other oversight entities. A good example of how we are striving for better transparency is the IRA Strategic

Operating Plan we issued earlier this month. This plan lays out our objectives, initiatives and milestones for transformation of the agency, and will be described in more detail later in this testimony. In all of our efforts, our ultimate goals are to provide all taxpayers with world-class customer service and implement the tax code in a way that safeguards the rights of taxpayers and promotes tax fairness.

UPDATE ON THE 2023 FILING SEASON

I am pleased to report the 2023 tax filing season, which began on time on January 23rd, has gone well. Through April 7th, the IRS received more than 101 million individual Federal tax returns and issued approximately 69 million refunds totaling more than $198 billion. It is important to note that, although we are now past the April 18th filing deadline, the work of the filing season continues, as IRS employees continue to process tax returns, including amended returns and returns for which taxpayers have requested an extension through mid-October.

This filing season, following the infusion of IRA funding, the IRS has been able to provide taxpayers with a substantially better experience than they have seen for several years. Notably, we have answered more calls from taxpayers seeking our help than in 2022, and we have significantly reduced their wait time on the phones, provided more in-person assistance at our Taxpayer Assistance Centers (TACs) around the country, and provided more online services for taxpayers who prefer using this service channel.

Examples of the improvements seen this filing season include:

- **Phone service.** We hired more than 5,000 additional customer service representatives (CSR) for our toll-free lines. That allowed us to achieve a level of service (LOS) on the phones averaging 87 percent this filing season through April 7th. This is a significant increase from approximately 16 percent for the same period last year. Our CSRs have answered over 2 million more calls this filing season compared to this time last year during filing season. The IRA resources also have allowed us to reduce the average time it takes to answer a taxpayer call to about 4 minutes, compared with 27 minutes a year ago.
- **In-person assistance.** We have already hired hundreds of new employees for our TACs, with more to come. So far this year through April 7th, TACs have provided face-to-face service to more than 474,000 taxpayers, compared with 361,000 during the same period last year. IRA funding has also allowed us to reopen many TACs that were closed due to lack of resources. As of early April, 334 of our 362 TACs are open, with 28 closed or not staffed. That compares with August 2022, when we had 317 TACs open out of a total of 359, with 42 closed or not staffed. Additionally, again this year, we have had special Saturday openings of certain TACs in dozens of locations across the country to assist taxpayers.
- **Electronically filed forms.** We launched an online portal, the Information Returns Intake System (IRIS) for businesses to electronically file 1099-series forms, saving time and effort for both businesses that issue these forms and the taxpayers that receive them. Though available to businesses of all sizes, IRIS is especially helpful to small businesses that currently submit their 1099 forms on paper.
- **Scanned returns.** We began a new initiative called Digital Intake to scan paper tax returns to save time and effort for taxpayers and businesses, as well as for the IRS. We have scanned more than 410,000 paper Forms 940, Employer's Annual Federal Unemployment Tax (FUTA) Return, since the start of 2023. In March, we expanded this effort to include scanning of Form 1040, U.S. Individual Income Tax Return, and Form 941, Employer's Quarterly Federal Tax Return. We hope to scan more than a million forms this year, a major accomplishment for the agency.
- **Easier response to IRS notices.** We gave taxpayers the option to respond to a range of IRS notices by uploading documents electronically using our Document Upload Tool. At the current stage of this ongoing effort, we estimate this can help serve more than 500,000 taxpayers each year who respond to these notices, which include military personnel serving in combat areas and recipients of important tax credits such as the Earned Income Tax Credit.
- **Faster refunds on amended returns.** This filing season, for the first time, taxpayers who electronically filed Form 1040–X to amend their tax returns had the option to choose direct deposit for their refund—which can save

weeks over delivery of a paper refund check. This helps a significant segment of taxpayers, as a total of 3 million amended returns are filed each year.

TRANSFORMING THE IRS: IRA STRATEGIC OPERATING PLAN

The IRA legislation provides the IRS with a unique opportunity to transform our agency and the taxpayer experience over the next decade. To ensure we are on the right path in implementing the IRA, we recently issued our Strategic Operating Plan, which provides a long-term vision for how we will use these historic investments to better serve taxpayers. This robust plan provides the roadmap for the IRS to enhance the taxpayer experience, improve fairness in tax administration by reducing the tax gap and strengthen our operations to be more efficient.

By implementing the plan, the IRS will provide the American public the customer experience they deserve, modernize outdated technology and tools for taxpayers, and deliver more effective enforcement of tax laws that apply to high-income taxpayers, large corporations, and complex partnerships which do not pay the taxes they legally owe. This plan, which IRS and Treasury staff started working on in advance of my confirmation as IRS Commissioner, lays out a solid foundation for transforming the IRS. This vision is achievable with the long-term funding provided by the Inflation Reduction Act and assuming the IRS receives sufficient discretionary funding each year through the annual appropriations process.

Taken as a whole, the plan provides a vision for the future of the IRS as an organization that will deliver:

- A world-class customer service operation where taxpayers can engage with the IRS in a fully digital manner if they choose, where helpful tools for taxpayers to navigate the complexity of our tax laws are deployed and then refreshed and updated regularly based on taxpayer feedback, and where our customer service workforce is maintained at the right size and with the right resources and training to always be ready to meet the taxpayer demand for assistance.
- New capacities, including specialized skills, to unpack the complex filings of high-income taxpayers, large corporations, and partnerships so Americans have confidence that all taxpayers, regardless of means, are doing their part to meet their responsibilities under our tax laws.
- Modern technology that provides taxpayers with increased confidence that data is secure and that we are prepared and able to more rapidly meet new requirements or responsibilities as they emerge in the future.

The plan is organized around five objectives:

- Dramatically improve services to help taxpayers meet their obligations and receive the tax incentives for which they are eligible.
- Quickly resolve taxpayer issues when they arise.
- Focus expanded enforcement on taxpayers with complex tax filings and high-dollar noncompliance to address the tax gap.
- Deliver cutting-edge technology, data, and analytics to operate more effectively.
- Attract, retain, and empower a highly skilled, diverse workforce and develop a culture that is better equipped to deliver results for taxpayers.

The IRS that emerges from this plan will deliver an improved taxpayer experience that mirrors what best-in-class public and private organizations now provide. Among the improvements, taxpayers and tax professionals will have the ability to interact with the IRS in the way they prefer, whether online, over the phone, or in person. This approach will also help the IRS reach more underserved communities, providing the assistance to taxpayers in the ways that they want and deserve.

Along with improving the taxpayer experience, another component of the plan involves enforcement to ensure fairness in tax administration and address the tax gap. This focus will not be a concern to compliant taxpayers; the emphasis will be on pursuing those who do not follow the tax law. In conducting these enforcement activities, we are committed to following the Treasury Department's directive not to increase audit rates relative to historical levels for small businesses and households earning $400,000 per year or less.

Instead, our compliance efforts will focus on complex issues and high-dollar noncompliance. This is important, because over the past several years, our ability to enforce the tax laws against non-compliant taxpayers with complex returns—including large corporations, complex partnerships and high-wealth individuals—has been hampered by a lack of resources. We have been unable to audit a reasonable percentage of these groups, and we are often limited in the issues reviewed among those we do audit. Many of these taxpayers can afford to spend large amounts to drag out proceedings unnecessarily or bury the government in paper, leaving us unable to assure a reasonable degree of compliance with the laws passed by Congress.

Funding provided under the IRA will allow us to hire and train more specialists across a wide range of complex areas needed to assist with the audits of the complex issues we will be focusing on. For example, we will focus the IRA enforcement resources on hiring the accountants, attorneys, engineers, economists, and data scientists needed to pursue high-income and high-wealth individuals, complex partnerships, and large corporations that are not paying the taxes they owe. Using improved data and analytics, we will enhance detection of noncompliance and increase enforcement activities for such high-risk and novel emerging issues as digital assets, listed transactions, and certain international issues. All of this will be done with an eye toward fairness and always respecting taxpayer rights.

It is important to note that our plan to focus on these types of complex issues will be resource intensive. But achieving our goals will result not only in a fairer tax system, but also in benefits for taxpayers and the Nation, because detecting and stopping noncompliance in these areas would result in significant additional revenues and reduce the deficit.

This plan is only the beginning of our work. As we stand up the IRS Transformation and Strategy Office and begin specific implementation sequencing and planning efforts, we will provide additional information to the Treasury, to our oversight bodies, and to the American people outlining the details of our transformation.

We will hold ourselves accountable to achieving the plan vision by regularly monitoring and reporting to Congress on our progress. We will also update the plan's details as we learn more about what works and as the operating environment changes. More important than any detail in this plan, however, is our responsibility to improve the customer experience we provide to the American people. The IRS looks forward to demonstrating how the actions under this plan will translate into real improvements in how taxpayers engage with us and in the assistance we provide. The plan articulates how, through both service and technology enhancements, the experience of the future will look and feel much different from the IRS of today.

I also want to note that the IRS will continue looking for feedback from Congress, from people inside and outside the tax community, including taxpayers, as we work to put these changes in place. This feedback is important to make sure that we strengthen IRS operations and transform the agency to serve taxpayers and the Nation.

THE PRESIDENT'S FISCAL YEAR (FY) 2024 BUDGET

The President's FY 2024 budget proposal for the IRS provides $14.1 billion in discretionary appropriations, an increase of $1.8 billion, or about 15 percent, above the 2023 enacted level of $12.3 billion. This request provides funding to maintain basic IRS service, operations and technology functions, which, when paired with IRA funding, will ultimately lead to increased voluntary tax compliance. The request also aims to ensure the IRS stays current with paper inventory and can provide both live phone assistance and in-person service; facilitates optimal oversight of high-income, large corporate and large partnership tax returns; and maintains digital tools to enable efficient and cleaner communication with taxpayers.

As noted above, the historic funding provided by Congress under the IRA will allow us to transform tax administration and taxpayer service in ways not possible under the annual budget alone. Years of underfunding left the IRS understaffed and unable to deliver the modern customer service experience taxpayers deserve, and also left the agency with challenges operating on outdated information technology systems and unable to keep up with a changing economy. But the transformative investments to be made using IRA funding can only be put to work if Congress continues annual funding for steady-state maintenance of agency operations.

The IRS's plan for IRA implementation assumes that IRA funds will support transformation efforts, while day-to-day operations would continue to be supported by annual appropriations. Any reduction in annual discretionary funds—including failing to sufficiently provide for inflationary increases to maintain current levels—would require IRA funding to be shifted to general operations. This would mean worse service for the taxpayer.

The President's FY 2024 budget requests total program increases of approximately $1 billion, including the following:

- **Improving the Taxpayer Experience:** $41.4 million. This investment will allow the IRS to continue helping taxpayers and tax practitioners meet their tax obligations. Funding will be used to maintain and expand the number of digital assistance options taxpayers may use to access resources for complying with the tax laws. Additional online self-service options to be funded include account updates, secure messaging and notice delivery, and refund tracking.
- **Green Tax Credit Implementation:** $105.6 million, which will be used to support the various IRA tax credit provisions. This funding will supplement IRA funding for this area to develop and modify forms, instructions and notifications; conduct taxpayer education and research; address increased taxpayer demand for assistance with the new credits; and ensure compliance with tax credit requirements.
- **Improving Phone Level of Service (LOS)/Reducing Paper Inventory:** $267.2 million. This investment will enable the IRS to achieve and maintain high LOS performance outcomes and exceed FY 2023 levels. This is important, given that taxpayer research continues to indicate phone service is a preferred service channel. Research also shows that inadequate phone service causes taxpayers to increase usage of other service channels, such as paper correspondence, so keeping phone LOS high will reduce incoming paper inventory.
- **Restoration of Staffing Levels:** $167.6 million. This investment will restore discretionary funding for the IRS staffing levels in place prior to enactment of the IRA. While the IRA provided the IRS with significant resources for a transformative expansion of its tax enforcement and taxpayer services efforts, there remains a need for a reversal of the multi-year inflation-adjusted decline in the IRS's foundational staffing resources.
- **Sustaining IT Capabilities:** $55.9 million. The IRS intends to use funds provided under the American Rescue Plan Act and the IRA to accelerate the modernization of its core foundational technology. But it must continue to operate the existing core tax processing system while planning and executing the modernization initiatives. This funding will allow the IRS to fund operations and maintenance of these key existing systems.
- **Business Systems Modernization:** $289.6 million. This investment will restore discretionary IT modernization funding to help IRS continue to develop into a 21st-century tax administration. Although the IRA provides funding for business systems modernization, sustained annual discretionary funding is necessary for the envisioned transformative modernization to be realized and sustained going forward.

LEGISLATIVE PROPOSALS IN THE PRESIDENT'S FY 2024 BUDGET

Along with the funding requested in the President's FY 2024 budget request, we are also requesting legislative proposals that would improve tax administration, including the following:

- **Direct Hire Authority and Streamlined Critical Pay.** The President's Budget includes two administrative provisions within the appropriations language designed to expand Direct Hire Authority (DHA) and provide the ability to offer Streamlined Critical Pay (SCP) to certain new hires to accelerate IRS hiring efforts. DHA provides the ability to expedite the normal hiring process to hire more efficiently when there is a severe shortage of highly qualified candidates or during a critical hiring need. DHA has helped the IRS address the backlog of paper returns and other issues. Expanded DHA will help ensure hiring delays are not an obstacle to implementing plans for utilizing IRA resources and achieving broad mission-related functions. SCP authority gives the IRS a management tool to quickly recruit and retain a limited number of employees with high levels of expertise in technical or professional fields that are crucial to the success of the IRS's transformative efforts.
- **Information reporting by financial institutions and digital asset brokers for purposes of exchange of information.** Over time, the U.S. has established a broad network of information exchange relationships with other jurisdictions based on established international standards. The information obtained through those relationships has been central to recent successful IRS enforcement efforts against offshore tax evasion. The ability to exchange information reciprocally is particularly important in connection with the implementation of the Foreign Account Tax Compliance Act (FATCA). Cur-

rently, however, the U.S. provides less information to foreign governments than we receive from them. The proposal would expand reporting by financial institutions and digital asset brokers in a number of ways—for example, by requiring financial institutions to report the account balance for all financial accounts maintained at a U.S. office and held by foreign persons. These new reporting requirements would enable the IRS to provide equivalent levels of information to cooperative foreign governments in appropriate circumstances to support their efforts to address tax evasion by their residents. The proposal would be effective for returns required to be filed after December 31, 2025.

- **Require reporting by certain taxpayers on foreign digital asset accounts.** Section 6038D(b) of the Internal Revenue Code contains an annual reporting requirement for individuals in regard to two categories of foreign financial assets, but there is no reporting requirement under this section for digital assets. Against this backdrop, tax compliance and enforcement with respect to digital assets is a rapidly growing problem. The global nature of the digital assets market offers opportunities for U.S. taxpayers to conceal assets and taxable income by using offshore digital asset exchanges and wallet providers. The proposal would amend section 6038D(b) to require reporting with respect to a new third category of asset: that is, any account that holds digital assets maintained by a foreign digital asset exchange or other foreign digital asset service provider. Reporting would be required only for taxpayers that hold an aggregate value of all three categories of assets in excess of $50,000. The proposal would be effective for returns required to be filed after December 31, 2023.
- **Extend the statute of limitations for certain tax assessments.** Section 6501 of the Internal Revenue Code generally requires the IRS to assess a tax within 3 years after the filing of a return. But for complex audits in the largest cases, critical issues may not be identified until late in the process of an examination, and in many cases these issues cannot be pursued further due to time and resource constraints. The proposal would amend section 6501 to extend the 3-year statute of limitations to 6 years if a taxpayer omits from gross income more than $100 million on a return. This change would give the IRS enhanced agility and flexibility in evaluating and staffing its case inventory and appropriately allocating its limited enforcement resources.
- **Increase oversight of paid tax return preparers.** Paid tax return preparers have an important role in tax administration because they assist taxpayers in complying with their obligations under the tax laws. The proposal would amend title 31, U.S. Code (Money and Finance) to provide the Secretary with explicit authority to regulate all paid preparers of Federal tax returns, including by establishing mandatory minimum competency standards. The proposal would be effective on the date of enactment.
- **Expand and increase penalties for return preparation and e-filing.** Inappropriate behavior by paid tax return preparers harms taxpayers through the filing of inaccurate returns, erroneous refunds and credits and personal tax return noncompliance. Tax return preparer misconduct continues, in part, because the amounts of the penalties under current law do not adequately promote voluntary compliance. The proposal would increase the amount of the tax penalties that apply to paid tax return preparers for willful, reckless or unreasonable understatements, as well as for forms of noncompliance that do not involve an understatement of tax.
- **Expand authority to require electronic filing for forms and returns.** Under this proposal, electronic filing would be required for returns filed by taxpayers reporting larger amounts or that are complex business entities, including: (1) income tax returns of individuals with gross income of $400,000 or more; (2) income, estate, or gift tax returns of all related individuals, estates, and trusts with assets or gross income of $400,000 or more in any of the 3 preceding years; (3) partnership returns for partnerships with assets or any item of income of more than $10 million in any of the 3 preceding years; (4) partnership returns for partnerships with more than 10 partners; (5) returns of real estate investment trusts, real estate mortgage investment conduits, regulated investment companies and all insurance companies; and (6) corporate returns for corporations with $10 million or more in assets or more than 10 shareholders. Further, electronic filing would be required for the following forms: (1) Forms 8918, "Material Advisor Disclosure Statement"; (2) Forms 8886, "Reportable Transaction Disclosure Statement;" (3) Forms 1042, "Annual Withholding Tax Return for U.S. Source Income of Foreign Persons"; (4) Forms 8038–CP, "Return for Credit Payments to Issuers of Qualified Bonds"; and (5) Forms 8300, "Report of Cash Payments Over $10,000 Re-

ceived in a Trade or Business." Return preparers that expect to prepare more than 10 corporation income tax returns or partnership returns would be required to file such returns electronically. The Secretary would also be authorized to determine which additional returns, statements, and other documents must be filed in electronic form in order to ensure the efficient administration of the internal revenue laws without regard to the number of returns that a person files during a year.

- **Improve reporting for payments subject to backup withholding.** The proposal would treat all information returns subject to backup withholding similarly. Specifically, the IRS would be permitted to require payees of any reportable payments to furnish their TINs to payors under penalty of perjury. The proposal would be effective for payments made after December 31, 2023.

CONCLUSION

Chairman Wyden, Ranking Member Crapo, and members of the committee, thank you again for the opportunity to update you on the filing season and IRS operations. This has been a strong filing season for the IRS, and the future holds great promise for the agency and the taxpayers we serve. As Commissioner, I am committed to leading the IRS's transformation efforts in close collaboration with this committee, and I look forward to working with you to achieve a more modern and high-performing IRS, which will better serve taxpayers and our Nation.

IRS

Chief Financial Officer

CORPORATE BUDGET OFFICE

April 19, 2023

Compendium of IRA Spending and FTE Data

IRS will be focused on using IRA resources to hire the accountants, attorneys, engineers, economists, and data scientists needed to pursue high-income and high-wealth individuals, complex partnerships, and large corporations that are not paying the taxes they owe. IRS faces an urgent need to replace retiring staff and train the next generation of IRS employees. Over the FY 2023 to FY 2025 time period alone, about 26,000 IRS employees are expected to retire or leave the agency, including about 14,500 in taxpayer services and about 8,000 in enforcement. These losses equate to roughly 30% of the employees working at IRS at the end of FY 2022. As a result, IRS will need to hire to both backfill for these losses and bring on additional staff in priority areas where it has historically lacked. From FY 2022-FY 2025, about 61% of the increase in the IRS workforce is in taxpayer services, energy security implementation, operations, and IT. FY 2025 will see IRS ramp up hiring of accountants, data scientists, attorneys, and other staff focused on high-income individuals, large partnerships, and large corporations.

FY 2024 Congressional Justification –
Summary of Discretionary Funding and Other Resources by Appropriation and Budget Activity

1.1 – Appropriations Detail Table

Dollars in Thousands

Internal Revenue Service Appropriated Resources	FY 2022 Operating Plan[1,2]		FY 2023 Enacted[3,4]		FY 2024 Request		FY 2023 to FY 2024 % Change	
New Appropriated Resources	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
Taxpayer Services	26,698	$2,807,606	26,881	$2,780,606	31,585	$3,422,449	17.5%	23.1%
Pre-Filing Taxpayer Assistance and Education	4,337	680,261	4,985	784,380	5,018	823,344	0.7%	5.0%
Filing and Account Services	22,361	2,127,345	21,896	1,996,226	26,567	2,599,105	21.3%	30.2%
Enforcement	35,550	$5,363,622	34,340	$5,437,622	34,890	$5,904,441	1.6%	8.6%
Investigations	3,004	700,876	3,076	744,590	3,130	818,021	1.8%	9.9%
Exam and Collections	31,599	4,447,716	30,320	4,521,758	30,735	4,897,493	1.4%	8.3%
Regulatory	947	215,030	944	171,274	1,025	188,927	8.6%	10.3%
Operations Support	10,133	$4,147,826	11,406	$4,100,826	11,506	$4,520,076	0.9%	10.2%
Infrastructure		925,539		922,682		1,053,129		14.1%
Shared Services and Support	5,233	1,179,189	5,097	1,164,430	5,113	1,232,149	0.3%	5.8%
Information Services	4,900	2,043,098	6,309	2,013,714	6,393	2,234,798	1.3%	11.0%
Business Systems Modernization	267	$275,000			197	$289,619		
Subtotal New Appropriated Resources	**72,648**	**$12,594,054**	**72,627**	**$12,319,054**	**78,178**	**$14,136,585**	**7.6%**	**14.8%**
Other Resources								
Reimbursable	521	127,319	698	168,000	734	176,400	5.2%	5.0%
Offsetting Collections (Non-reimbursable)		29,687		33,836		35,625		5.3%
User Fees	85	413,082	86	31,827	71	3,900	-17.4%	-87.7%
Recoveries from Prior Years		24,294		53,633		53,633		0.0%
Unobligated Balances from Prior Years	6,338	1,518,612	1,843	884,175		259,000	-100.0%	-70.7%
IRA Funding Usage[5,6,7]		105,962	10,021	2,822,260	19,545	5,818,533	95.0%	106.2%
Transfers In/Out		85		119		119		0.0%
Resources from Other Accounts[8]	414	114,272	469	161,471	469	161,471	0.0%	0.0%
Subtotal Other Resources	**7,358**	**$2,333,313**	**13,117**	**$4,155,321**	**20,819**	**$6,508,681**	**58.7%**	**56.6%**
Total Budgetary Resources[9]	**80,006**	**$14,927,367**	**85,744**	**$16,474,375**	**98,997**	**$20,645,266**	**15.5%**	**25.3%**

FY 2024 Congressional Justification (continued)
Footnotes to Table 1.1

[1] The FY 2022 Operating Plan includes an Inter-Appropriation Transfer amount of $74 million from Enforcement to Taxpayer Services ($27 million) and Operations Support ($47 million). It does not include $29.7 million of Ukraine supplemental funding enacted via P.L. 117-128 and does not include COVID supplemental funding.

[2] FY 2022 Other Resources and Full-Time Equivalents (FTE) represent actuals.

[3] The FY 2023 Enacted level does not include COVID supplemental funding or the proposed Inter-Appropriation Transfer from Enforcement ($271.9 million) to Taxpayer Services ($100 million), Business Systems Modernization ($150 million), and Operations Support ($22 million).

[4] FY 2023 Enacted may differ slightly from the amounts reported in the IRS FY 2023 Operating Plan due to timing of legislative actions and agency decisions.

[5] FY 2022 IRA Funding Usage includes amounts for Taxpayer Services ($1 million), Operations Support ($61 million), and Business Systems Modernization ($44 million).

[6] 85 percent of the IRA funded estimated FTE levels support non-Enforcement activities. FY 2023 IRA Funding Usage includes amounts for Direct e-File ($15 million), Taxpayer Services ($838 million and 7,394 FTE), Enforcement ($372 million and 1,543 FTE), Operations Support ($1,018 million and 727 FTE), and Business Systems Modernization ($580 million and 357 FTE).

[7] 63 percent of the IRA funded estimated FTE levels support non-Enforcement activities. FY 2024 IRA Funding Usage includes amounts for Energy Security tax credits ($180 million and 1,810 FTE), Taxpayer Services ($816 million and 6,489 FTE), Enforcement ($1,408 million and 7,239 FTE), Operations Support ($2,380 million and 3,810 FTE), and Business Systems Modernization ($1,034 million and 197 FTE).

[8] Resources from Other Accounts reflect planned spending from Private Collection Agency retained earnings.

[9] In FY 2023 and FY 2024 IRS is expected to lose more than 8,000 employees per year from retirements and losses to the agency. If unable to backfill these losses, IRS FTE would decline by nearly 6,000 FTE per year.

FY 2024 Congressional Justification

Summary of IRA Funding and FTE by Appropriation

1.2 – Inflation Reduction Act Implementation

Dollars in Thousands

Internal Revenue Service Budgetary Resources	FY 2022 Enacted	FY 2022 Actual Obligations		FY 2023 Estimated Obligations		FY 2024 Estimated Obligations	
	AMOUNT	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
Taxpayer Services	3,181,500		$1,073	7,394	$837,735	6,489	$815,966
Enforcement	45,637,400			1,543	$371,767	7,239	$1,408,470
Operations Support	25,326,400		$60,965	727	$1,017,758	3,810	$2,380,097
Business Systems Modernization	4,750,700		$43,924	357	$580,000	197	$1,034,000
Direct eFile	15,000				$15,000		
Energy Security	500,000					1,810	$180,000
Total Budgetary Resources	**$79,411,000**	**0**	**$105,962**	**10,021**	**$2,822,260**	**19,545**	**$5,818,533**

FY 2022 – FY 2024 IRA Funding Plan By Appropriation and Activity

1.2 IRA Appropriations Detail Table

Dollars in Thousands

Internal Revenue Service Budgetary Resources	FY 2022 Enacted	FY 2022 Actual Obligations		FY 2023 Estimated Obligations		FY 2024 Estimated Obligations	
	AMOUNT	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
Taxpayer Services	**3,181,500**		**$1,073**	**7,394**	**$837,735**	**6,489**	**$815,966**
Prefiling Taxpayer Assistance and Education				643	69,387	457	108,092
Filing and Account Services			1,073	6,751	768,348	6,032	707,874
Enforcement	**45,637,400**			**1,543**	**$371,767**	**7,239**	**$1,408,470**
Investigations					46,142	165	96,354
Exams and Collections				1,543	320,757	7,074	1,308,759
Regulatory					4,868		3,357
Operations Support	**25,326,400**		**$60,965**	**727**	**$1,017,758**	**3,810**	**$2,380,097**
Infrastructure					157,432		124,454
Shared Services and Support			12,289	539	129,641	2,420	596,866
Information Services			48,676	188	730,685	1,390	1,658,777
Business Systems Modernization	**4,750,700**		**$43,924**	**357**	**$580,000**	**197**	**$1,034,000**
Direct eFile	**15,000**				**$15,000**		
Energy Security	**500,000**					**1,810**	**$180,000**
Total Budgetary Resources	**$79,411,000**		**$105,962**	**10,021**	**$2,822,260**	**19,545**	**$5,818,533**

IRA Strategic Operating Plan

Financial Summary showing IRA appropriations by Transformation Objective

IRA allocations financial summary – FY 2022-FY 2031 ($ billion)

	Appropriations account ($ billion), rounded					
Transformation objective	**Taxpayer services**	**Enforcement**	**Operations support**	**Business systems modernization**	**Clean energy**	**Total proposed investment**
1. Dramatically improve services to help taxpayers meet their obligations and receive the tax incentives for which they are eligible	1.5	0.1	2.1	0.7	0.0	**4.3**
2. Quickly resolve taxpayer issues when they arise	0.1	1.8	0.7	0.6	0.0	**3.2**
3. Focus expanded enforcement on taxpayers with complex tax filings and high-dollar noncompliance to address the tax gap	0.2	41.7	5.5	0.0	0.0	**47.4**
4. Deliver cutting-edge technology, data, and analytics to operate more effectively	0.0	0.1	9.2	3.1	0.0	**12.4**
5. Attract, retain, and empower a highly skilled, diverse workforce and develop a culture that is better equipped to deliver results for taxpayers	0.2	0.7	6.9	0.4	0.0	**8.2**
Energy security	1.2	1.3	0.9	0.0	0.5	**3.9**
Total IRA allocations	**3.2**	**45.6**	**25.3**	**4.8**	**0.5**	**79.4**

FY2022-FY2025 Preliminary IRA and Discretionary Funding by Appropriation and Activity and FY2022-FY2031 Preliminary IRA Funding Plan by Appropriation

1.2 Discretionary and IRA Appropriations Detail Table

Dollars in Millions

Internal Revenue Service	FY 2022 Actual Obligations			FY 2023 Estimated Obligations (FY24 CJ)			FY 2024 Estimated Obligations (FY24 CJ)			FY 2025 Estimated Obligations		
	Disc.	IRA	Total	Disc.	IRA	Total	Disc.	IRA	Total	Disc.	IRA	Total
Taxpayer Services	**2,789**	**1**	**2,790**	**2,781**	**838**	**3,618**	**3,422**	**816**	**4,238**	**3,501**	**822**	**4,323**
Prefiling Taxpayer Assistance and Education	678	-	678	784	69	854	823	108	931	N/A	127	N/A
Filing and Account Services	2,111	1	2,112	1,996	768	2,765	2,599	708	3,307	N/A	695	N/A
Enforcement	**5,119**	**-**	**5,119**	**5,438**	**372**	**5,809**	**5,904**	**1,408**	**7,313**	**6,040**	**2,194**	**8,234**
Investigations	675	-	675	745	46	791	818	96	914	N/A	154	N/A
Exams and Collections	4,268	-	4,268	4,522	321	4,843	4,897	1,309	6,206	N/A	2,038	N/A
Regulatory	176	-	176	171	5	176	189	3	192	N/A	1	N/A
Operations Support	**4,042**	**61**	**4,103**	**4,101**	**1,018**	**5,119**	**4,520**	**2,380**	**6,900**	**4,624**	**2,813**	**7,437**
Infrastructure	913	-	913	923	157	1,080	1,053	124	1,178	N/A	1,931	N/A
Shared Services and Support	1,142	12	1,154	1,164	130	1,294	1,232	597	1,829	N/A	88	N/A
Information Services	1,988	49	2,037	2,014	731	2,744	2,235	1,659	3,894	N/A	794	N/A
Business Systems Modernization	**228**	**44**	**272**	**0**	**580**	**580**	**290**	**1,034**	**1,324**	**297**	**1,005**	**1,302**
Direct eFile		-	-		15	15		-	-		-	
Energy Security		-	-		-	-		180	180		184	184
Total Budgetary Resources	**$12,179**	**$106**	**$12,285**	**$12,319**	**$2,822**	**$15,142**	**$14,137**	**$5,819**	**$19,955**	**$14,462**	**$7,018**	**$21,480**

Notes: FY 2023 Discretionary Estimated Obligations represent Enacted levels as shown in the FY 2024 President's Budget Request. FY 2024 Discretionary Estimated Obligations represent the FY 2024 President's Budget Request. FY 2025 Discretionary Estimated Obligations represent the 2.3 percent increase assumed for non-defense discretionary allocations in the FY 2024 Budget and are not reflective of IRS-specific discretionary costs.

Amount Funded in IRA

Dollars in Millions

Appropriation	FY22 Actual	FY23	FY24	FY25	FY26	FY27	FY28	FY29	FY30	FY31	Total
Taxpayer Services	1	838	816	822	705	-	-	-	-	-	3,182
Enforcement	-	372	1,408	2,194	3,120	4,303	5,722	7,422	9,438	11,658	45,637
Operations Support	61	1,018	2,380	2,813	3,289	3,578	3,797	3,326	2,681	2,383	25,326
BSM	44	580	1,034	1,005	1,006	908	174	-	-	-	4,751
Direct eFile		15									15
Energy Security			180	184	136						500
Total	$106	$2,823	$5,818	$7,018	$8,256	$8,789	$9,693	$10,748	$12,119	$14,041	$79,411

FY2022-FY2025 Preliminary IRA and Discretionary FTEs by Appropriation and Activity

1.2 Discretionary and IRA Appropriations Detail Table

FTE

Internal Revenue Service	FY 2022 Actual FTE			FY 2023 Estimated FTE (FY24 CJ)			FY 2024 Estimated FTE (FY 24 CJ)			FY 2025 Estimated FTE		
	Disc.	IRA	Total	Disc.	IRA	Total	Disc.	IRA	Total	Disc.	IRA	Total
Taxpayer Services	**26,698**	**-**	**26,698**	**26,881**	**7,394**	**34,275**	**31,585**	**6,489**	**38,074**	**31,585**	**6,784**	**38,369**
Prefiling Taxpayer Assistance and Education	4,337		4,337	4,985	643	5,628	5,018	457	5,475	5,018	631	5,649
Filing and Account Services	22,361		22,361	21,896	6,751	28,647	26,567	6,032	32,599	26,567	6,153	32,720
Enforcement	**35,550**	**-**	**35,550**	**34,340**	**1,543**	**35,883**	**34,890**	**7,239**	**42,129**	**34,890**	**13,265**	**48,155**
Investigations	3,004		3,004	3,076		3,076	3,130	165	3,295	3,130	495	3,625
Exams and Collections	31,599		31,599	30,320	1,543	31,863	30,735	7,074	37,809	30,735	12,770	43,505
Regulatory	947		947	944		944	1,025		1,025	1,025	-	1,025
Operations Support	**10,133**	**-**	**10,133**	**11,406**	**727**	**12,133**	**11,506**	**3,810**	**15,316**	**11,506**	**4,601**	**16,107**
Infrastructure	5,233		5,233			-			-		-	-
Shared Services and Support			-	5,097	539	5,636	5,113	2,420	7,533	5,113	1,684	6,797
Information Services	4,900		4,900	6,309	188	6,497	6,393	1,390	7,783	6,393	2,917	9,310
Business Systems Modernization	**267**		**267**		**357**	**357**	**197**	**197**	**394**	**197**	**550**	**747**
Direct eFile			-			-			-		-	-
Energy Security			-			-		**1,810**	**1,810**		**1,810**	**1,810**
Total Budgetary Resources	**72,648**	**-**	**72,648**	**72,627**	**10,021**	**82,648**	**78,178**	**19,545**	**97,723**	**78,178**	**27,009**	**105,187**

1. FY 2022 Discretionary FTE shown are actuals and exclude FTE funded with supplemental allocations, user fees, reimbursables, carryover funds, and other resources including retained earnings from Private Collection Agencies. Through the Sept 30th, 2022, IRS realized an additional 483 FTE funded with prior year carryover money (20 FTE in Taxpayer Services; 460 FTE in Operations Support; and 3 FTE in BSM) and 5,854 FTE funded by the American Rescue Plan (4,476 FTE in Taxpayer Services; 1,357 FTE in Operations Support; and 20 FTE in BSM); and 2 FTE funded by the No Surprises Act in Enforcement.
2. FY 2023 Discretionary FTE represent Operating Plan levels.
3. FY 2024 Discretionary FTE represent the levels in the President's Budget Request.
4. FY 2025 Discretionary FTE straight lines FY 2024 FTE.

8

QUESTIONS SUBMITTED FOR THE RECORD TO HON. DANIEL I. WERFEL

QUESTIONS SUBMITTED BY HON. RON WYDEN

Question. The IRS Strategic Operating Plan for IRA funding says the IRS will help taxpayers avoid errors at the point of filing, such as math errors, missing forms, or missing income. Can you expand on how this would work?

Answer. Initiative 2.1 of the Strategic Operating Plan (SOP) aims to identify potential issues as early as possible during filing to help taxpayers get it right the first time. When a taxpayer submits a tax return electronically, we will systematically check for errors in real time, match the return against available third-party and internal data, and evaluate the taxpayer's eligibility for credits and deductions. We will explain each potential issue in plain language in notifications that could be delivered to taxpayers or preparers directly or through their tax software. Each notification will include instructions on how to correct the issue and resubmit the return. For example, beginning in 2024, taxpayers will be able to receive prompts to correct simple processing errors at the timing of filing, ensuring refunds are delivered quickly. In the future, taxpayers will receive real time notifications. Implementation will require improvements to technology and data, as well as testing and policy development to continue to protect taxpayer privacy and security.

Question. At the hearing you mentioned that some people don't file returns even if they're eligible to claim a refund of the EITC. The plan says the IRS will "develop tailored treatments to help taxpayers claim missed incentives for which they are eligible." Can you explain how this would work?

Answer. Currently, the IRS identifies taxpayers who filed tax returns but did not claim the Earned Income Tax Credit (EITC) or the Additional Child Tax Credit (ACTC) even though they seem to meet the eligibility criteria. Throughout the filing season, the IRS reviews tax returns as we receive them. To avoid unnecessarily burdening taxpayers, we use all data sources available to determine potential eligibility. For example, we check the validity of taxpayers' Social Security numbers (SSNs) and the SSNs of their qualifying children listed on their tax returns. In addition, we check other requirements based on age, income, foreign earned income and investment income.

The IRS sends notifications to taxpayers when system filters flag them for potential eligibility. We use a series of computer paragraph (CP) notices to inform these taxpayers of potential eligibility for credits. We send the CP08 notice for the ACTC for qualifying children, the CP09 notice for the EITC for qualifying children, and the CP27 notice for the EITC without qualifying children. Typically, we send these notifications within two to 4 weeks of the filing date. The notices explain to taxpayers the reason they are receiving the notice and provide a simple worksheet for them to complete and return electronically or by mail. Once we receive the worksheet, the IRS calculates the amount of credit and issues a refund to the taxpayer. Based on information available at filing, we issue notices to taxpayers who are apparently eligible for a refundable credit, but do not claim it on their return. We issued a total of more than one million of the above notices for tax year 2021.

The IRS and the Treasury Department also previously leveraged the "Non-Filers: Enter Payment Info Here Tool" to create an enhanced 2022 non-filer portal that allowed individuals to claim the EITC, as well as the CTC and 2021 recovery rebate credit. The 2022 non-filer portal leveraged lessons that the Treasury Department and the IRS learned from prior non-filer portals to create a significantly enhanced electronic process for individuals not otherwise required to file 2021 Federal income tax returns to claim those expanded Federal tax benefits, and a refund of withheld Federal income tax for taxable year 2021.

We will continue to engage with Federal agencies whose programs (Supplemental Nutrition Assistance Program, Temporary Assistance for Needy Families, Federal Student Aid, etc.) can provide information on life changes that could impact refundable credit eligibility The interactions taxpayers have with those programs and data collected by the administering agency will inform the IRS on projects to improve the administration of refundable credits, such as creating proactive alerts as referenced in the IRS SOP Initiative 1.8 and helping taxpayers accurately claim credits that they are eligible for as referenced in IRS SOP Initiative 1.9.

The IRS pursues a variety of efforts to ensure those taxpayers eligible for refundable credits can receive them with minimal burden. We leverage internal and external stakeholders in carrying out a robust outreach and education program to reach the approximately 4.3 million non-claimants. EITC Awareness Day, for example, is an annual collection of local events across the country where the IRS invites community organizations, elected officials, State and local governments, and other entities throughout the Nation to raise awareness of EITC publications and online tools. We also collaborate with members of the private, public, and nonprofit sectors by hosting the Refundable Credit Summit, an annual gathering where IRS executives share current modernization efforts and updates to IRS forms and publications. The IRS's Stakeholder Partnership, Education, and Communication organization leads outreach activities at the summit. The summit also includes breakout sessions of the Refundable Credits Participation and Software Development Working groups to strategize future awareness and compliance approaches. We further engage with the public by collaborating with State and local municipalities and presenting information at the National Tax Forums, as well as conferences such as the Latino Tax Festival. Partnering with information technology and our online services organization, we have created tools and content on *IRS.gov* dedicated to EITC such as EITC Central *(https://www.eitc.irs.gov/)* and the EITC Assistant *(https://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit/use-the-eitc-assistant)*.

QUESTIONS SUBMITTED BY HON. JOHN BARRASSO

Question. In the Internal Revenue Service Inflation Reduction Act Strategic Operating Plan, it says that $3.9 billion will be needed to implement the energy tax incentives from Public Law 117–169. This is far above the $500 million given to the IRS for this specific purpose.

How much is the IRS pulling from taxpayer services to implement the energy tax portion of the so-called Inflation Reduction Act? How is the IRS using existing dollars to come up with $3.9 billion and where are those dollars coming from, specifically?

Answer. The IRS estimates it will need about 1,800 Customer Service Representatives annually beginning in Fiscal Year 2024 to handle phone calls associated with the energy security tax provisions included in the Inflation Reduction Act. To fund these positions through implementation, we plan to use the $500 million in Energy Security appropriations and estimate requiring an additional $1.2 billion, which could come from the IRA Taxpayer Services appropriations. This would further speed the funding cliff for Taxpayer Services. Additionally, the IRS anticipates using $1.3 billion in IRA Enforcement appropriations to fund approximately 480 legal and compliance enforcement staff and reimbursable agreement costs with the Department of Energy, as well as about $900 million in IRA Operations Support appropriations to fund required support staff, information technology costs, rent, and facilities costs.

Question. In the Internal Revenue Service's budget justification, the IRS says, ". . . unless the IRS realizes sustained increases in discretionary funding, service quality will continue to suffer."

In this situation, would the IRS first look to cut back on providing taxpayer services, instead of enforcement? If so, please explain the reasoning behind this decision.

Answer. The IRS delivered dramatically improved service in filing season 2023. Thanks for the 5,000 new hires made possible by IRA resources, IRS customer service representatives answered more than 6.5 million taxpayer calls this year, 2.4 million more calls with live assistance since the start of the year through April 7th, compared to the same period in 2022. The IRS cut phone wait times to 4 minutes, down from 27 minutes in filing season 2022. The IRS achieved an 87-percent Level of Service (LOS) with live assistance this filing season. This is a more than fivefold increase in LOS over filing season 2022.

IRS discretionary funding is split into four discrete appropriations—Taxpayer Services, Enforcement, Operations Support, and Business Systems Modernization—and the IRS has some ability to move funds across these appropriations as prescribed in Administrative section 101 of our appropriations bill. On its own, the current level of discretionary resources for Taxpayer Services is insufficient to provide the service quality taxpayers deserve. As a result, the IRS plans to use IRA resources to supplement appropriated Taxpayer Services funds to continue the high levels of customer service that it achieved this year. If taxpayer services discretionary funding increases are not appropriated, the IRS anticipates exhausting Taxpayer Services IRA funding by FY 2025. Without sustained long-term increases in taxpayer service funding, many taxpayers will be unable to reach a representative on the phone for assistance in future years.

Question. Public Law 117–169 provided $15 million to conduct a study on a possible IRS run direct filing initiative. Though the IRS has no statutory authority to prepare or directly assist taxpayers in preparing returns as envisioned by the direct filing initiative, a direct filing initiative would greatly expand the IRS and its authority. It would also make the IRS a one-stop shop as tax preparer, tax collector, and tax enforcer.

Will the report include an unbiased estimate about the cost of creating the program and the projected annual cost of maintaining such a program over an expanded period (*e.g.,* 2-, 5-, and 10-year estimates)?

Answer. The IRS's Direct File Report to Congress includes an unbiased estimate on the cost of creating and maintaining such a program on an annual basis. The cost estimates for the Direct File report are based on IRS subject matter experts' experience with launching new IRS digital services, and the experience of other digital projects from across the Federal Government.

The cost estimates recognize that providing a Direct File service is not a one-time cost. As with most IRS systems, it will need to provide ongoing taxpayer support and to keep pace with changes to tax law. Therefore, the report includes the cost of building a long-term team necessary to develop and maintain Direct File. That team would include both Federal employees and contractors.

The intent of the estimates in the report is twofold. We provide Congress with a general estimate of the cost of such a system, including the range of uncertainty of such costs. In addition, the estimates show the effect of different assumptions, including the complexity of the supported tax situations and uptake by taxpayers. In particular, we see that costs increase with the number of users, mainly due to the cost of providing customer support.

Question. What steps were taken to ensure the study is free from bias so as to give American taxpayers a clear, honest picture of the positive and negative factors of the IRS running a direct file program?

Answer. In its report, the IRS covers both the benefits and operational challenges that it will have to consider and overcome if we move forward with a direct file system. Further, as required by the IRA, the report includes the opinion of an independent third party that provides an independent, external perspective on the IRS's ability to run a direct file program.

Question. What steps would be taken to deal with the inherent conflicts of interest in having the Nation's tax collecting and enforcement authority also be in charge of preparation independent of any study?

Answer. Running a direct file system does not create a conflict of interest for the IRS. Authority for the IRS to run a direct electronic filing option is not in question as the IRS possesses the authority to develop and run such a system. There is substantial precedent for the IRS providing tax preparation assistance and advice to taxpayers to meet their tax filing obligations and complete their returns accurately, such as through the Tele-File program, that allowed taxpayers to file simple tax returns by telephone. The IRS also offers individualized tax preparation assistance by phone, through calculators and other tools on its website, through formal private letter rulings, and by partnering with third-party volunteer organizations including those participating in the Volunteer Income Tax Assistance (VITA)/Tax Counseling for the Elderly (TCE) programs to provide tax advice. We also launched the new Information Returns Intake System (IRIS) application this year, allowing payers to file Forms 1099 electronically.

Direct file offers taxpayers an additional option allowing taxpayers to accurately and directly file returns for free with the IRS. Taxpayers can still use commercial tax filing software, professional preparation services, or other options.

Question. What is the agency's current view on its ability to create, manage, and maintain a direct filing program?

Answer. As the IRS discusses in its report, while there are operational challenges, we have the capacity to create, manage, and maintain a direct file program.

Question. On April 19th Commissioner Werfel explained that the pledge applies to taxpayers with "total positive income" in excess of $400,000, and the "historical level" means the audit rate on 2018 tax returns. It was also reported Commissioner Werfel opened the possibility that the IRS would revisit that audit rate some years down the road but doubted that the threshold would rise to "any historical average" for a long time.

Why was "Total Positive Income" selected and not another measure (*e.g.,* adjusted gross income)? What forms, schedules, and lines will be added to calculate Total Positive Income? Could you expand on your comment about changing the audit rate for those making $400,000 or less, including if such an adjustment could increase the audit rate for those making $400,000 or less? What factors could increase the probability that audit rates for those making $400,000 or less would rise?

Answer. Since 1981, the IRS has used Total Positive Income (TPI) as a method to group individual tax returns (Form 1040). The IRS's computer system currently computes TPI at the time returns are processed, so no new forms, schedules, or lines will be added to calculate TPI. The IRS also publishes examination statistics for returns classified by TPI as part of the annual Data Book. The IRS switched from adjusted gross income (AGI) to TPI, which is the sum of all positive income values appearing on a return with losses treated as zero, to ensure that high income return filers were not able to use losses to reduce AGI and appear as low income return filers for examination selection purposes.

The IRS is committed to ensuring that none of the funds provided by the IRA will be used to increase audit rates for small businesses and households making less than $400,000 annually, relative to historical levels. Instead, the IRS's compliance efforts will focus on complex issues and high-dollar noncompliance. This is important, because over the past several years, the IRS ability to enforce the tax laws against noncompliant taxpayers with complex returns—including large corporations, complex partnerships, and high-wealth individuals—has been hampered by a lack of resources. The IRS been unable to audit a reasonable percentage of these groups and is often limited in the issues reviewed among those it does audit. Many of these taxpayers can afford to spend large amounts to drag out proceedings unnecessarily or bury the government in paper, leaving us unable to assure a reasonable degree of compliance with the laws passed by Congress. The IRA resources will enable us to reverse those trends.

Question. In Secretary Yellen's August 10, 2022 letter to Commissioner Rettig, she states, "I direct that any additional resources—including any new personnel or auditors that are hired—shall not be used to increase the share of small business or households below the $400,000 threshold that are audited relative to historical levels."

For purpose of Secretary Yellen's directive, how does the IRS define a "small business?" Considering many small businesses operate as a pass-through entity, how will separately stated items reported on Schedule K–1 be calculated for purposes of Total Positive Income? How would Total Positive Income be calculated for a small business operating as a C corporation, including whether the C corporation's Total Positive Income would be imputed to its shareholders?

Answer. As stated above, the IRS is committed to ensuring that none of the funds provided by the IRA will be used to increase audit rates for small businesses and households making less than $400,000 annually, relative to historical levels. Instead, the IRS's compliance efforts will focus on complex issues and high-dollar noncompliance. The IRS only uses TPI for individual income tax returns (Form 1040).

QUESTIONS SUBMITTED BY HON. MARSHA BLACKBURN

Question. Last week, you reiterated the importance of ensuring that taxpayers under $400,000 would not see an increase in audits beyond historical levels.

Can you provide detailed information on how the historical level will be calculated?

Answer. The IRS is committed to ensuring that none of the funds provided by the Inflation Reduction Act will be used to increase audit rates for small businesses and households making less than $400,000 annually, relative to historical levels. Instead, the IRS' compliance efforts will focus on complex issues and high-dollar noncompliance. This is important, because over the past decade, the IRS's ability to enforce the tax laws against non-compliant taxpayers with complex returns—including large corporations, complex partnerships, and high-wealth individuals—has been hampered by a lack of resources. The IRS has been unable to audit a reasonable percentage of these groups and is often limited in the issues reviewed among those it does audit. Many of these taxpayers can afford to spend large amounts to drag out proceedings unnecessarily or bury the government in paper, leaving us unable to assure a reasonable degree of compliance with the laws passed by Congress. The IRA resources will enable us to reverse those trends.

Question. Can you provide detailed information on how total positive income will be calculated and how the IRS determined that total positive income should be used compared to adjusted gross income?

Answer. Since 1981, the IRS has used Total Positive Income (TPI) as a method to group individual tax returns (Form 1040). The IRS switched from adjusted gross income (AGI) to TPI, which is the sum of all positive income values appearing on a return with losses treated as zero, to ensure that high income return filers were not able to use losses to reduce AGI and appear as low income return filers for examination selection purposes. The IRS currently publishes examination statistics for returns classified by TPI as part of the annual Data Book.

Question. Can you provide a numerical breakdown of which IRS employees are considered essential versus nonessential at the beginning of the pandemic as compared to now?

Answer. "Essential" and "nonessential" describe functions and personnel associated with sustaining continuity of operations during a catastrophic event, which would otherwise severely impact operations. Department of Homeland Security Federal Continuity Directive 1 requires all Federal agencies to identify essential functions and implement safeguards to ensure that an agency's mission is accomplished with minimal or no interruption in any threat environment. Federal Continuity Directive 2 further categorizes essential functions into Mission Essential Functions (MEF) or Essential Supporting Activities (ESA). MEFs are essential functions directly related to accomplishing an agency's mission, as set forth in its statutory or executive charter. ESAs are functions that support performance of MEFs. ESAs are important facilitating activities performed by most organizations (for example, providing a secure workplace, or ensuring computer systems are operating).

The IRS has three MEFs—processing remittances, processing tax returns, and processing refunds; the IRS has nine ESAs—physical security, facilities, information technologies, legal advice/counsel, finance, procurement, communication, payroll, and workforce relations. IRS MEFs and ESAs remained the same before, during, and after the COVID–19 pandemic.

During the COVID–19 pandemic, the IRS instituted previously developed protocols from our "Infectious Disease in the Workplace" plan, along with guidance from the Centers for Disease Control and other Federal entities. By applying the protocols, the IRS was able to ensure employee safety while maintaining business operations.

Question. Last year through the Inflation Reduction Act, the IRS received $80 billion in taxpayer dollars. Now, the IRS has requested taxpayer dollars from Congress to make up for apparent insufficient Inflation Reduction Act funding for taxpayer services and IT modernization, culminating in budget increases in all four budgetary accounts.

The IRS recently released its strategic operating plan for the Inflation Reduction Act Funding, and it was devoid of specifics on how the resources would be spent.

Do you commit to providing a complete, transparent, and detailed account to this committee of how this money will be spent and what the initiatives will cost within 3 months?

Answer. The IRS is committed to being transparent about how it plans to use the funds provided in the IRA. We will share staffing information as we move forward, and more detailed technology spending in advance of major technology investments. We're refining initiative cost estimates and anticipate sharing additional details as they are available. Our annual budget submission in FY 2024 provided IRA spending and staffing information by account and activity; we will continue to include that data going forward.

Question. There continue to be significant delays in processing the Employee Retention Tax Credit (ERTC), with the IRS site stating that the 941–X backlog is 929,000 as of April 5th, up from 135,000 in August of 2022. This delay is causing significant financial hardship for small businesses waiting for their refund for up to 2 years. Some have had to shut down their businesses, and many that are still operating have had to lay off employees, take high-interest loans, or even mortgage personal residences.

What steps do you intend to take to resolve the ERTC backlog? And specifically, that for aggregate filers?

Answer. The IRS has received approximately 3.6 million ERTC claims over the course of the program. While we experienced a backlog in processing these claims earlier this year, the IRS has cleared the backlog. Our current inventory is over 600,000, virtually all of which was received within the last 90 days.

Since enactment, the IRS has taken steps to modify how we process the claims to provide better service to businesses, but we've faced challenges in ensuring the accuracy and integrity of the credits. These challenges stem from the ERTC's complicated eligibility requirements, limited data availability, resources to process claims and balance phone demand, limited enforcement resources, and the aggressive promotion of ERTC schemes.

As we worked to get current with our inventory this summer, we noticed a fundamental change taking place with a growing amount of aggressive marketing touting misleading information about the requirements and documentation necessary to qualify for the credit. This is adding risk for businesses improperly claiming the credit at the advice of these promoters. They are scamming many small businesses who fall victim to the aggressive marketing. To protect honest small business owners from scams, the IRS announced an immediate moratorium starting on September 14, 2023 through at least the end of the year on processing new ERTC claims. The moratorium will help protect taxpayers by adding a new safety net onto this program to focus on fraudulent claims and scammers taking advantage of honest taxpayers.

During the moratorium, the IRS will continue to work ERTC claims filed prior to September 14, 2023. However, because of increased fraud concerns, we're undertaking stricter compliance reviews for these claims. That means that the processing times for them will be longer, increasing from 90 days to 180 days and perhaps longer if a claim faces further review or audit. We may also seek additional documentation from taxpayers to ensure their claims are legitimate. Payouts for these claims will continue during the moratorium period but at a slower pace due to the detailed compliance reviews. The detailed compliance reviews will include audit work and criminal investigations on promoters and businesses filing dubious claims. These enhanced compliance reviews of existing claims submitted before the moratorium are critical to protect against fraud but also to protect businesses from facing penalties or interest payments stemming from bad claims pushed by promoters.

The IRS is developing new initiatives to help businesses who found themselves victims of aggressive promoters. The first is to provide businesses an opportunity to withdraw current claims. Tax professionals report they have businesses ready to come in after realizing they had been lured into claiming the credit. This option will allow the taxpayers, many of them small businesses who were misled by promoters, to avoid possible repayment issues and paying promoters contingency fees. Filers of these more than 600,000 claims awaiting processing will have this option available. In addition, we also are exploring a voluntary disclosure program for repayments for those who received an improper ERTC payment.

QUESTIONS SUBMITTED BY HON. SHERROD BROWN

Question. The backlog of Form 941–X has grown from 500,000 to 929,000. Please outline what steps you are currently taking to reduce this backlog. How many IRS employees and/or contract employees are currently working on processing the backlog of 941–X forms? Approximately how many forms are they processing a day? When do you expect the backlog numbers to start to drop?

Answer. The IRS has received approximately 3.6 million Employee Retention Tax Credit (ERTC) claims over the course of the program. While we experienced a backlog in processing these claims earlier this year, the IRS has cleared the backlog. Our current inventory is over 600,000, virtually all of which was received within the last 90 days.

Since enactment, the IRS has taken steps to modify how we process the claims to provide better service to businesses, but we've faced challenges in ensuring the accuracy and integrity of the credits. These challenges stem from the ERTC's complicated eligibility requirements, limited data availability, resources to process claims and balance phone demand, limited enforcement resources, and the aggressive promotion of ERTC schemes.

As we worked to get current with our inventory this summer, we noticed a fundamental change taking place with a growing amount of aggressive marketing touting misleading information about the requirements and documentation necessary to qualify for the credit. This is adding risk for businesses improperly claiming the credit at the advice of these promoters. They are scamming many small businesses who fall victim to the aggressive marketing. To protect honest small business owners from scams, the IRS announced an immediate moratorium starting on September 14, 2023 through at least the end of the year on processing new ERTC claims. The moratorium will help protect taxpayers by adding a new safety net onto this program to focus on fraudulent claims and scammers taking advantage of honest taxpayers.

During the moratorium, the IRS will continue to work ERTC claims filed prior to September 14, 2023. However, because of increased fraud concerns, we're undertaking stricter compliance reviews for these claims. That means that the processing times for them will be longer, increasing from 90 days to 180 days and perhaps longer if a claim faces further review or audit. We may also seek additional documentation from taxpayers to ensure their claims are legitimate. Payouts for these claims will continue during the moratorium period but at a slower pace due to the detailed compliance reviews. The detailed compliance reviews will include audit work and criminal investigations on promoters and businesses filing dubious claims. These enhanced compliance reviews of existing claims submitted before the moratorium are critical to protect against fraud but also to protect businesses from facing penalties or interest payments stemming from bad claims pushed by promoters.

The IRS is developing new initiatives to help businesses who found themselves victims of aggressive promoters. The first is to provide businesses an opportunity to withdraw current claims. Tax professionals report they have businesses ready to come in after realizing they had been lured into claiming the credit. This option will allow the taxpayers, many of them small businesses who were misled by promoters, to avoid possible repayment issues and paying promoters contingency fees. Filers of these more than 600,000 claims awaiting processing will have this option available. In addition, we also are exploring a voluntary disclosure program for repayments for those who received an improper ERTC payment.

Question. Will you commit to have your staff engage with the historic preservation community to address concerns with respect to the conservation easement safe harbor? Will you consider whether the safe harbor should provide additional clarity to historic building owners that account for the differences between deeds conveying easement rights over open space and those protecting certified historic structures?

Answer. Section 605(d) of the SECURE 2.0 Act of 2022 (the Act) directed the IRS to issue safe harbor language for extinguishment clauses and boundary line adjustments within 120 days of enactment. Section 605(d)(2) of the Act gives taxpayers a 90-day period to amend an easement deed to substitute the safe harbor language for the corresponding language in the original easement deed. The 90-day period began on April 24, 2023, when the IRS published Notice 2023–30, and ended on July 24, 2023. Nothing in section 605(d) of the Act authorizes the IRS to supplement or amend the safe harbor guidance within the 90-day window; therefore, the IRS doesn't have current plans to supplement or amend Notice 2023–30.

The legislation excluded certain taxpayers from using the safe harbor, including taxpayers with contributions that were part of a reportable transaction, taxpayers engaged in transactions described in Notice 2017–10, and taxpayers with cases concerning disallowance of the related deduction that are docketed in Federal court. The safe harbor language, if used, will enable eligible taxpayers to qualify for retroactive relief under section 605(d)(2)(A)(ii). The IRS is committed to continuing to administer the Internal Revenue Code in a way that encourages preservation of historic buildings and open space while curbing the abuses that have overshadowed the true purpose of the law.

Question. What specific lessons has the IRS learned from the Fall 2022 outreach effort to potential EITC filers? What steps will IRS take to build on this effort moving forward?

Answer. Our outreach efforts have demonstrated that we need to develop tailored, easy-to-understand communications based on a taxpayer's unique circumstances to educate, minimize burden, and use multiple communication formats, including texts and email.

The IRS will take a comprehensive approach to help taxpayers claim any incentives for which they are eligible. We will use appropriate channels to alert taxpayers of potential credits and deductions that they may qualify for but did not claim on their return. For example, we will redesign and digitalize notices and ensure that notices written in other languages are as simple and accessible as plain-English documents. We will build two-way communication channels so that taxpayers can respond to notices online.

The IRS pursues a variety of efforts to ensure those taxpayers eligible for refundable credits can receive them with minimal burden. We leverage internal and external stakeholders in carrying out a robust outreach and education program to reach the approximately 4.3 million non-claimants. EITC Awareness Day, for example, is an annual collection of local events across the country where the IRS invites community organizations, elected officials, State and local governments, and other entities throughout the Nation to raise awareness of EITC publications and online tools. We also collaborate with members of the private, public, and nonprofit sectors by hosting the Refundable Credit Summit, an annual gathering where IRS executives share current modernization efforts and updates to IRS forms and publications. The IRS's Stakeholder Partnership, Education, and Communication organization leads outreach activities at the summit. The summit also includes breakout sessions of the Refundable Credits Participation and Software Development Working groups to strategize future awareness and compliance approaches. We further engage with the public by collaborating with State and local municipalities and presenting information at the National Tax Forums, as well as conferences such as the Latino Tax Festival. Partnering with information technology and our online services organization, we have created tools and content on *IRS.gov* dedicated to EITC such as EITC Central *(https://www.eitc.irs.gov/)* and the EITC Assistant *(https://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit/use-the-eitc-assistant)*.

The IRS continues to engage with taxpayers, including small business taxpayers, in underserved rural and urban communities to deliver education and technical tools that directly address issues or opportunities identified on filed returns. Through our Volunteer Income Tax Assistance (VITA)/Tax Counseling for the Elderly (TCE) programs, we will continue to strategically target populations eligible for the EITC. We continue to share communications focused on refundable credits including the EITC with VITA/TCE partners. We've asked our VITA/TCE partners to share this information directly with their clients, post information on their web pages and social media, etc. During 2022, in addition to eligible taxpayers who have a filing requirement, the IRS educated individuals that may not have a filing requirement on how to claim the EITC. The IRS conducted a series of targeted outreach events to individuals raising children who lost both parents, foster parents, and those living in domestic abuse centers or homeless shelters. With our community partners, we accomplished this outreach by identifying and sharing information with individuals, agencies and organizations that actively serve these populations. During fiscal year 2023, we've expanded our outreach activities to rural communities, persons with disabilities, and Native American/Hawaiian and Pacific Islander/Alaskan communities. We realize the importance and the need to inform as many taxpayers as possible about the EITC, as 1 out of every 5 eligible taxpayers do not claim the credit. The IRS will continue to strategically target underserved populations through its VITA/TCE partners and/or direct contact with agencies and organizations to educate individuals and families on how to claim the EITC.

We will continue to engage with Federal agencies whose programs (Supplemental Nutrition Assistance Program, Temporary Assistance for Needy Families, Federal Student Aid, etc.) can provide information on life changes that could impact refundable credit eligibility The interactions taxpayers have with those programs and data collected by the administering agency will inform the IRS on projects to improve the administration of refundable credits, such as creating proactive alerts as referenced in the IRS Strategic Operating Plan (SOP) Initiative 1.8 and helping taxpayers accurately claim credits that they are eligible for as referenced in IRS SOP Initiative 1.9.

QUESTIONS SUBMITTED BY HON. ROBERT P. CASEY, JR.

CLEAN ENERGY TAX CREDITS AND NURSING HOMES

Question. In February, Chairman Wyden and I released *Left in the Dark,* an investigative report that tells the story of older adults and people with disabilities living in long-term care facilities affected by extreme weather events, which are becoming more frequent due to climate change.[1] The investigation examined the 2021 Texas winter blackout, which resulted in half the State's 1,200 federally certified nursing homes reporting emergency incidents such as power loss, water loss, or evacuations. The Texas Long-Term Care Ombudsman described the blackout as the worst disaster she has experienced in her 15-year career.

However, the Texas blackout is just one example of larger, more frequent, and longer-lasting power outages caused by the growing incidence of extreme weather. The report identified hurricanes, wildfires, tornadoes, floods, and other extreme weather events since 2018 that resulted in evacuations, building damage, resident injuries, and deaths at nursing homes and assisted living facilities in at least 17 States. One such event occurred in December 2022, when a blackout cut power to 1.5 million people, including people living in my home State of Pennsylvania.[2] Despite more frequent power outages, Federal regulations do not require nursing homes to have backup power in case electricity goes out. Most States also do not require assisted living facilities to maintain backup power.

The report recommended that renewable energy be incorporated into emergency preparedness plans, particularly as the costs of renewable energy and energy storage continue to decline (see Recommendation 6, "Incorporate Renewable Energy into Emergency Preparedness," at 54). The report called on the Centers for Medicare and Medicaid Services to work with the Internal Revenue Service to offer guidance that educates nursing homes about the availability of Federal tax credits, that further reduce clean energy installation costs because of provisions in the Inflation Reduction Act, and other programs.

Question. Will you work with me and Chairman Wyden to see this recommendation through this year?

Answer. We welcome the opportunity to work with you and Chairman Wyden, as well as with the Centers for Medicare and Medicaid Services, to educate nursing

[1] *https://www.aging.senate.gov/press-releases/casey-wyden-examine-long-term-care-shortfalls-during-texas-winter-blackout.*

[2] *https://www.reuters.com/world/us/us-regulators-probe-power-outages-during-historic-winter-storm-2022-12-28/.*

homes on the available Federal tax credits reducing clean energy installation costs. We will work with our colleagues in the Department of Treasury to coordinate with CMS and determine what guidance would be helpful.

QUESTIONS SUBMITTED BY HON. BILL CASSIDY

Question. Federal historic preservation programs are extremely important to Louisiana, and specifically to urban cities like New Orleans that have an abundance of at-risk historic buildings. Last year, other members of the Senate Finance Committee and I crafted and included reforms to protect historic preservation conservation easements in reforms others were pushing as part of SECURE 2.0, which moved in the omnibus that passed at the end of session. Our goal was to ensure that the historic preservation community in Louisiana and elsewhere across the country can utilize historic preservation easements to protect and rehabilitate historic buildings in our urban centers. We also directed the IRS to issue a safe harbor to clear up some of the most litigated issues surrounding conservation easements, related to the extinguishment clause.

On April 10, 2023, Treasury and the IRS issued safe harbor deed language for extinguishment clauses. Unfortunately, this language is deficient in a number of ways, including: (1) it will do nothing to clear the backlog of 1,200+ cases that I understand are headed to Tax Court relating to conservation easements, many of which include controversy related to the extinguishment clause; (2) the safe harbor language essentially restates a number of IRS positions that were already deemed invalid; and (3) most concerningly, the safe harbor does not account for new exceptions included in our conservation easement reform law that treat historic preservation conservation easements differently, and issues generic language that doesn't account for inherent differences between deeds on historic buildings and those on open space land.

Will you please consider amending the safe harbor language to specifically addresses the unique characteristics of historic buildings in urban neighborhoods?

Answer. Section 605(d) of the SECURE 2.0 Act of 2022 (the Act) directed the IRS to issue safe harbor language for extinguishment clauses and boundary line adjustments within 120 days of enactment. Section 605(d)(2) of the Act gives taxpayers a 90-day period to amend an easement deed to substitute the safe harbor language for the corresponding language in the original easement deed. The 90-day period began on April 24, 2023, when the IRS published Notice 2023–30, and ended on July 24, 2023. Nothing in section 605(d) of the Act authorizes the IRS to supplement or amend the safe harbor guidance within the 90-day window; therefore, the IRS doesn't have current plans to supplement or amend Notice 2023–30.

The legislation excluded certain taxpayers from using the safe harbor, including taxpayers with contributions that were part of a reportable transaction, taxpayers engaged in transactions described in Notice 2017–10, and taxpayers with cases concerning disallowance of the related deduction that are docketed in Federal court. The safe harbor language, if used, will enable eligible taxpayers to qualify for retroactive relief under section 605(d)(2)(A)(ii). The IRS is committed to continuing to administer the Internal Revenue Code (IRC) in a way that encourages preservation of historic buildings and open space while curbing the abuses that have overshadowed the true purpose of the law.

Question. Will you engage with taxpayers, historic building owners, non-profits, and stakeholders from across the historic preservation community who utilize this tool to save historic buildings to ensure that safe harbor language provides clear guidance?

Answer. The IRS issued the safe harbor notice within 120 days as required by law. Taxpayers who are not excepted by the legislation may amend their deeds to include the safe harbor language for boundary line and extinguishment clauses. We look forward to working with the historic preservation community to raise awareness about these distinctions and to help develop our efforts toward future potential guidance. The IRS will work with taxpayers, historic building owners, non-profits, and other stakeholders who use the safe harbor provisions in Notice 2023–30 to preserve historic buildings as well as those who preserve open space.

Question. Will you ensure that such guidance accounts for State-law property rights and that events after the original donation may have created or transferred property rights to individuals or entities other than the original donor and donee?

Answer. Yes, we will be mindful of property rights, which are governed by State law, as we consider additional IRC section 170 guidance. Through the normal guidance process, the IRS will work with stakeholders in this area to ensure taxpayers have clear guidance regarding the opportunity for the deduction under IRC section 170(h) for contributions that meet the IRC requirements.

Question. Will you ask your team to ensure that historic preservation easements, operating as Congress intended, are not inadvertently being captured in broader conservation easement enforcement campaigns?

Answer. The IRS has taken necessary steps to ensure that taxpayers who donate conservation easements that satisfy the IRC requirements and applicable Treasury Regulations are not inadvertently captured in broader conservation easement enforcement efforts and will continue to do so.

Question. Will you report back to me on these issues to ensure that historic preservationists are not being deterred from using this important tool to protect historic buildings?

Answer. As stated previously, the IRS is committed to continuing to administer the IRC in a way that encourages preservation of historic buildings and open space while curbing the abuse that has overshadowed the true purpose of the law. The IRS will address any future inquiries you may have on this topic.

Question. On September 9th of last year, I sent Former Commissioner Rettig and Secretary Yellen a letter and have yet to receive a response. The body of the letter was as follows:

Dear Secretary Yellen and Commissioner Rettig,

Last year Louisiana was devastated by Hurricane Ida, on top of major storms in 2020. As a consequence, millions of Louisiana residents were left without electricity for days, and in some cases weeks. Today, the State of Louisiana remains committed to repairing and upgrading its critical infrastructure, such as electric transmission and distribution systems, that the people of our State rely on for their own health, safety, and productivity.

To facilitate this commitment, the State of Louisiana recently enacted legislation that will decrease borrowing costs to our utilities which will lessen the financial burden on Louisiana ratepayers of necessary infrastructure repairs and upgrades. Other States have passed similar laws. When a major storm or natural disaster hits, whether it is a hurricane, wildfire, or devastating winter storm, utilities are required to take prompt action to remediate damage as quickly as possible. Typically, utilities will recover the costs of the repairs from ratepayers over time through regulator-approved surcharges. The legislation passed in Louisiana would allow utilities to raise required funds through an instrumentality of the State by securitizing these surcharges. This type of arrangement will benefit ratepayers by reducing the overall borrowing costs for the utility.

For over 15 years, guidance from the IRS has facilitated the ability of utilities to finance certain costs that can be recovered from ratepayers over time through a special purpose financing entity owned by the utility. However, such guidance would not apply to a special purpose vehicle owned by the State of Louisiana. As such, we write to respectfully request that you consider broadening existing IRS guidance to cover State owned special purpose vehicles. Doing so would have the same tax consequences to utilities as the existing IRS guidance, while enhancing the benefits to ratepayers through lower borrowing costs.

We sincerely appreciate your consideration of this matter. Thank you in advance for any assistance you are able to provide.

Will you please respond to this letter as soon as possible?

Answer. We provided a response to you and Senator Kennedy on July 21, 2023. We apologize for the delay. We understand the importance of considering guidance that expands the ability of utilities to finance repair and upgrade costs through State-owned special purpose vehicles. We are actively considering how to proceed on this important issue.

QUESTIONS SUBMITTED BY HON. JOHN CORNYN

Question. In October 2022, the Internal Revenue Service released tax gap estimates for tax years 2014 through 2016. The gross tax gap is the difference between what the IRS believes is the "true" tax liability for a given period and the amount of tax paid on time by taxpayers. What percentage of the tax gap is not collectible?

Answer. The gross tax gap is the amount of true tax liability that is not paid voluntarily and timely. The net tax gap is the gross tax gap less tax that subsequently will be paid, either voluntarily but late, or collected through IRS administrative and enforcement activities. The net tax gap, which reflects the enforcement and other resources available at a particular point in time, is the portion of the gross tax gap that will never be paid. Changes in the level of enforcement and other resources available will change the relative size of the gross and net tax gap.

The estimated annual gross tax gap for Tax Years (TYs) 2014 through 2016 is $496 billion. An estimated $68 billion of the gross tax gap eventually will be paid, resulting in an annual net tax gap for TYs 2014 through 2016 of $428 billion. The Net Compliance Rate (NCR) is defined as the sum of "tax paid voluntarily and timely" and "enforced and other late payments," divided by "total true tax," expressed as a percentage. The estimated NCR is 87 percent.

The October 2022 release of the tax gap estimates includes tax gap projections for the TYs 2017 through 2019. The projected annual gross tax gap for TYs 2017 through 2019 is $540 billion. An estimated annual $70 billion of the gross tax gap is expected to be paid eventually resulting in an annual net tax gap of $470 billion. The NCR projection is 87 percent.

Question. Please provide a breakdown of the tax gap by income. Specifically, what percentage of the tax gap is attributable to households making less than $50,000; $100,000; $250,000; $400,000; $1,000,000 and over $1,000,000? Please also include a breakdown by income—for the numbers of taxpayers/households contributing to the tax gap for each group and the dollars for each group.

Answer. Although the IRS does not currently have an approach for estimating the overall tax gap by income, the IRS published a working paper that includes 2011 to 2013 estimates of selected components of the tax gap—the individual income tax and self-employment tax underreporting tax.[3] Of note, our best estimate of the distribution of the tax gap for 2011 to 2013 associated with underreporting by individuals with $500,000 of income, including self-employment taxes, is nearly $41 billion per year. This would be higher if adjusted for inflation to 2022 dollars. In addition, we believe that the estimates for higher-income taxpayers may understate the actual noncompliance for that taxpayer segment. This is because higher-income taxpayers are more likely to have opaque sources of income and complex business arrangements. Decades of IRS research show that noncompliance is higher for this type of income, which is not subject to third-party reporting.

Question. Please provide a breakdown of the tax gap attributable to sole proprietorships; pass-through entities; and C corporations—in terms of percentage, numbers, and dollars.

Answer. In Publication 5365, we break down the tax gap attributable to certain types of taxpayers for TYs 2014–2016, including individuals and large and small corporations.[4] This summarizes the information in Publication 1315. Table 2 in Publication 1315 shows our current tax gap estimates by tax gap component.[5] Table 5 from Publication 1315 provides additional detail on the Individual Income Tax Underreporting tax gap by source of income, including proprietorship income and other pass-through income. Because compliance data is lacking, the IRS does not currently have an approach for breaking down the tax gap attributable to partnerships versus sole proprietorships. Also, due to the complex nature of partnerships and the difficulty in uncovering noncompliance associated with these entities, we believe the true tax gap associated with partnership income may be larger than what we are currently able to capture.

[3] *See https://www.taxpolicycenter.org/event/12th-annual-irstpc-joint-research-conference-tax-administration* for the distributional analysis tables.

[4] Internal Revenue Service, *Tax Gap Map,* IRS Publication 5365 (Rev. 10–2022), Washington, DC 2022, *available at https://www.irs.gov/pub/irs-pdf/p5365.pdf.*

[5] Internal Revenue Service, *Federal Tax Compliance Research: Tax Gap Estimates for Tax Years 2014–2016,* IRS Publication 1415 (Rev. 10–2022), Washington, DC 2022, *available at https://www.irs.gov/pub/irs-pdf/p1415.pdf.*

Table 2. Tax Gap Estimates for Tax Years 2014–2016 [1]

[Money amounts are in billions of dollars]

Tax Gap Component	TY 2014–2016 [1]	Share of Gross Tax Gap
Estimated Total True Tax	**$3,307**	
Gross Tax Gap	**$496**	**100%**
Voluntary Compliance Rate	***85.0%***	
Enforced and Other Late Payments	**$68**	
Net Tax Gap	**$428**	
Net Compliance Rate	***87.0%***	
Nonfiling Tax Gap	**$39**	**8%**
Individual Income Tax	$32	7%
Self-Employment Tax	$7	1%
Estate Tax	[3]	[2]
Underreporting Tax Gap	**$398**	**80%**
Individual Income Tax	**$278**	**56%**
Non-Business Income	$60	12%
Business Income	$130	26%
Adjustments, Deductions, Exemptions	$25	5%
Filing Status	$5	1%
Other Taxes [4]	$4	1%
Unallocated Marginal Effects [5]	$11	2%
Credits	$42	9%
Corporation Income Tax	**$37**	**7%**
Small Corporations (assets under $10M)	$14	3%
Large Corporations (assets of $10M or more)	$23	5%
Employment Tax	**$82**	**17%**
Self-Employment Tax	$53	11%
Uncollected Social Security and Medicare Tax	[3]	[2]
FICA and FUTA Tax	$29	6%
Estate Tax	**$1**	[2]
Underpayment Tax Gap	**$59**	**12%**
Individual Income Tax	$47	9%
Corporation Income Tax	$4	1%
Employment Tax	$5	1%
Estate Tax	$3	1%
Excise Tax	[3]	[2]

[1] The estimates are the annual averages for the Tax Year 2014–2016 time frame.
[2] Less than 0.5 percent.
[3] Less than $0.5 billion.
[4] The Other Taxes component includes the Alternative Minimum Tax, Excess APTC Repayment, and taxes reported in the "Other Taxes" section of the Form 1040 except for self-employment tax and unreported Social Security and Medicare tax (which are included in the employment tax gap estimates).
[5] The Unallocated Marginal Effects component reflects the difference between (1) the estimate of the individual income tax underreporting tax gap where underreported tax is calculated based on all misreporting combined and (2) the estimate of the individual income tax underreporting tax gap based on the sum of the tax gaps associated with each line item where the line item tax gap is calculated based on the misreporting of that item only. There may be a difference whenever more than one line item has been misreported on the same return and the combined misreporting results in a higher marginal tax rate than when the tax on the misreported amounts is calculated separately.

Detail may not add to total due to rounding.

Table 5. Individual Income Tax Underreporting Tax Gap by Source: Tax Years 2014–2016 [1]

[Money amounts are in billions of dollars]

Tax Return Line Items	Tax			Line Item Amount
	Tax Gap	Share of Gross Tax Gap	Share of Individual Income Tax Underreporting Tax Gap	Net Misreporting Percentage [2]
Gross Tax Gap	**$496**	**100%**	**n.a.**	**n.a.**
Individual Income Tax Underreporting Tax Gap	**$278**	**56%**	**100%**	**17%**
Items Subject to Substantial Information Reporting and Withholding	**$7**	**1%**	**2%**	**1%**
Wages, salaries, tips	$7	1%	2%	1%
Items Subject to Substantial Information Reporting	**$15**	**3%**	**5%**	**6%**
Interest income	$1	[3]	[3]	4%
Dividend income	$1	[3]	[3]	4%
State income tax refunds	$1	[3]	[3]	9%
Pensions & annuities	$7	1%	2%	4%
Unemployment Compensation	[3]	[3]	[3]	12%
Taxable Social Security benefits	$6	1%	2%	13%
Items Subject to Some Information Reporting	**$43**	**9%**	**15%**	**15%**
Partnership, S-Corp, Estate & Trust, etc.	$25	5%	9%	12%
Alimony income	[4]	[4]	[4]	[4]
Capital gains [5]	$18	4%	6%	18%
Short-term Capital Gains	$6	1%	2%	17%
Long-term Capital Gains	$12	2%	4%	16%
Items Subject to Little or No Information Reporting	**$126**	**25%**	**45%**	**55%**
Form 4797 income	$4	1%	1%	35%
Other income	$16	3%	6%	42%
Nonfarm proprietor income	$80	16%	29%	57%
Farm income	$5	1%	2%	64%
Rents & royalties	$21	4%	7%	53%
Other Taxes	**$4**	**1%**	**1%**	**6%**
Unallocated Marginal Effects	**$11**	**2%**	**4%**	**n.a.**
Income Offsets (Adjustments, Deductions, Exemptions)	**$25**	**5%**	**9%**	**6%**
Total Credits	**$42**	**9%**	**15%**	**38%**
Filing Status	**$5**	**1%**	**2%**	**n.a.**

[1] The estimates are the annual averages for the Tax Year 2014–2016 time frame.
[2] The net misreporting percentage is the net misreported amount divided by the sum of the absolute values of the amounts that should have been reported, expressed as a percentage.
[3] Less than 0.5 percent or $0.5 billion.
[4] The estimate is based on a very small sample size. The estimated tax gap is less than $0.5 billion and net misreporting percentage is less than 5%.
n.a.: not applicable.
Detail may not add to total due to rounding.

Question. For every dollar initially assessed against taxpayers, what percentage is collected by the IRS?

Answer. The IRS collects 76 percent of every dollar initially assessed post-filing against taxpayers. Results are based on assessments made between Fiscal Years 2010 and 2020 and collected by February 2023.

Question. What is the current "no-change" audit rate? Please break it down by type of audit (that is, mail/correspondence, office, field, National Research Program).

Answer. The Internal Revenue Service Data Book, 2022, released on April 14, 2023,[6] provides no-change rates by type and size of return for TYs 2012 through 2020.

Question. During your confirmation hearing in February 2023, I raised the issue of Notice 2016–66, which identifies micro-captives as a "transaction of interest," and the "one-size-fits-all" approach that the IRS appears to have taken in this area. This approach reportedly forced many taxpayers to settle due to the high cost of litigation and effectively eliminated the opportunity to have a hearing in the Independent Office of Appeals, resulting in a backlog in the courts. As you know, the Taxpayer First Act (Pub. L. 116–25) provides taxpayers with an Appeals hearing on the merits of their case. I have also authored legislation called the Small Business Taxpayer Bill of Rights that, among other things, would improve the Appeals process.

Last year, a Federal district court vacated Notice 2016–66 on two grounds: (1) the IRS did not comply with the Administrative Procedure Act's (APA) notice and public comment requirements and (2) the agency acted arbitrarily and capriciously in issuing the notice. On April 10, 2023, the IRS decided to start the process over by issuing notice of a new proposed rulemaking relating to micro-captives and asking for public comment on the proposed regulation. Upon examination, it appears that the proposed notice fails to include a supporting record of facts and data that would support IRS claims that micro-captives have the potential for tax avoidance or evasion.

Does the IRS intend to follow the requirements of the APA, which requires that an agency examine relevant data and articulate a satisfactory explanation for a rulemaking, should the new proposed rule move forward?

Answer. The Department of the Treasury (Treasury) and the IRS will follow the requirements of the APA in promulgating any rule finalizing the current proposed rule relating to micro-captive transactions. Treasury and the IRS are committed to a tax regulatory process that encourages public participation, fosters transparency, affords fair notice, and ensures adherence to the rule of law. We will carefully consider public feedback on the proposal before issuing any final rule.

Question. In addition, please provide the following:

a. A list of all section 831(b) cases currently docketed in the U.S. Tax Court, the U.S. District Courts, and the U.S. Circuit Courts, with captions and docket numbers.

Answer. Please see attachment. We list all currently docketed Internal Revenue Code (IRC) section 831(b) cases, with captions and docket numbers.

Tax Court Cases

Docket Number	Case Name
25368–22	ABSOLUTE ASSURANCE COMPANY INC
12913–20	Absolute Paramount Insurance
25070–22	ADAM AMERICA CONDOS LLC
24700–18	ADS INDEMNITY INC
20562–19	ADS INDEMNITY INC
13804–20	ADS INDEMNITY INC
5915–21	ADVANCED MANAGEMENT SOLUTIONS, LLC
12090–18	AERO INSURANCE GROUP INC
1341–21	AERO INSURANCE GROUP INC
23964–17	AERO INSURANCE GROUP INC
27686–16	AERO INSURANCE GROUP INC
6610–19	AERO INSURANCE GROUP INC
12088–21	AERO INVESTMENT GROUP INC
22143–22	AERO INVESTMENT GROUP INC
12274–22	AHMED WASEEF & ROSALIA
24409–16	AIRBORNE SERIES OF FORTRESS/
5032–23	ALINK INSURANCE SERVICES LLC
23191–16	ALKADRI AMJAD & SAHAR TAHRANI
3367–23	ALLEN BRUCE & JULIE
3369–23	ALLEN BRUCE & JULIE
3370–23	ALLEN BRUCE & JULIE

[6] *See* Table 17, available at *https://www.irs.gov/statistics/soi-tax-stats-irs-data-book.*

Tax Court Cases—Continued

Docket Number	Case Name
5304–18	ALVA D ONEILL DYNASTY ESBT
5305–18	ALVA D ONEILL DYNASTY ESBT, JOHN T/
21085–18	ALVA D O'NEILL DYNASTY ESBY
5303–18	ALVA D ONEILL DYNASTY SIMPLE TRUST
21088–18	ALVA D O'NEILL DYNASTY SIMPLE TRUST
21087–18	ALVA D O'NEILL DYNASTY TRUST
5306–18	ALVA D ONEILL–TRUST/
11946–20	AMAYA INSURANCE COMPANY INC
23054–22	AMAYA INSURANCE COMPANY INC
31517–21	AMAYA INSURANCE COMPANY INC
3446–21	American Bread
30022–21	American Bread
294–23	AMICALOLA INSURANCE GROUP INC
1565–23	ANCIRA ENTERPRISES INC & SUBS
24217–22	ANDERSON HEART INS CO INC
21528–18	ANDERSON JOHN & SHIRLEY
13017–20	ANDERSON JOHN J & SHIRLEY
29138–21	ANDERSON JOHN JOSEPH & SHIRLEY
19926–17	ANTIQUITY SERIES OF FORTRESS LLC
21091–16	ANTIQUITY SERIES OF FORTRESS/
2635–19	ARAGON ANTONIO V & KATHLEEN
15619–18	ARAGON ANTONIO V & KATHLEEN CLARK II
17241–21	ARAGON ANTONIO V II & KATHLEEN CLARK
24736–33	ARNOLD COHEN
19935–22	ASHFORD GYPSUM SERVICES INC
26342–22	ASHTON, JOHN & Kimberly
10612–16	ASPENMARK ROOFING SOLUTIONS LLC
25265–17	ASPENMARK ROOFING SOLUTIONS LLC
9241–17	ASPENMARK ROOFING SOLUTIONS LLC
15403–22	B & D INSURANCE COMPANY INC
21752–16	B&A SERIES OF FORTRESS INS LLC
13543–16	B&D Insurance Co.
1803–16	B&D Insurance Co.
14398–22	BAILEY JAMES E & LENA D
17419–18	BAKER ALLISON A
17418–18	BAKER JEFFREY A & HALEY J
17206–19	BALLEW CHRIS
21197–18	BAMBOO INSURANCE COMPANY INC
19467–19	BARAKHSHAN KAVEH R & JESSIE
22142–22	BARGE CHARLES A
12089–21	BARGE CHARLES ALAN
12092–18	BARGE CHARLES ALAN
1348–21	BARGE CHARLES ALAN
23965–17	BARGE CHARLES ALAN
27685–16	BARGE CHARLES ALAN
6611–19	BARGE CHARLES ALAN
11783–22	BARRETT THOMAS J & KERRI A
9065–19	BARTO CRAIG C
27569–15	BARTO CRAIG C & GISELE M
4391–19	BARTO JERREL C
27570–15	BARTO JERREL C & JANICE D
24411–16	Bates, Matthew & Mary
12908–18	BATLINER LINDA
11048–19	BATLINER LINDA M
16016–16	Bauscher Randy & Mary Bauscher
25527–22	Bayou City Holdings, Inc.
27233–15	BAYSHORE INSURANCE COMPANY INC
19308–19	BDL INSURANCE COMPANY INC
23962–17	BDL INSURANCE COMPANY INC
24931–18	BDL INSURANCE COMPANY INC
8336–20	BEAR ARBOR BURLINGTON LLC
1651–20	BEDFORD WEST LIMITED
24537–22	BELL EDWARD F & PAMELA J
13666–19	BELMONT INSURANCE COMPANY INC

Tax Court Cases—Continued

Docket Number	Case Name
15705–17	BELMONT INSURANCE COMPANY INC
6791–19	BELMONT INSURANCE COMPANY INC
26763–22	BENBOW BRYCE & TANYA
26111–22	BENTZ MARK AND SHARI
26110–22	BENTZ SUZANNE
23699–22	BERRY RICHARD A & JANET A
10623–16	BETUEL JONATHAN R
2038–17	BETUEL JONATHAN R
19821–16	BEVELED EDGE INSURANCE COMPANY INC
25420–22	BIERMAN ANTHONY J & CHERIE C
25426–22	BIERMAN JAMES M
25429–22	BIERMAN JOSEPH P & JANA S
23184–16	BLEZA MAXIMO V & SANDRA
8914–21	BNJ LEASING INC
19894–16	BOEHLE JAMES O & DEBORAH L
16822–22	BOULDER INSURANCE COMPANY, INC
15093–18	BOWSER HAROLD R & DEBRA L JR
25431–16	BOWSER HAROLD R JR & DEBRA L
22360–17	BOWSER HAROLD R JR & DEBRA L
19528–19	BOWSER HAROLD R JR & DEBRA L
13258–20	BOYDS EQUIPMENT CO INC
4681–19	BOYDS EQUIPMENT CO INC
7686–22	BOYD'S EQUIPMENT CO., INC
24812–22	BRADLEY COHEN
10168–18	BRANCH VERNON R & GRETA
13758–22	BRAR HARBINDER S & BARBARA P
18325–17	BRAR HARBINDER S & BARBARA P
19657–18	BRAR HARBINDER S & BARBARA P
21908–19	BRAR HARBINDER S & BARBARA P
12187–20	BRAR HARBINDER S. & BARBARA P.
12091–18	BRIDGEWORKS INSURANCE GROUP INC
1346–21	BRIDGEWORKS INSURANCE GROUP INC
23966–17	BRIDGEWORKS INSURANCE GROUP INC
6608–19	BRIDGEWORKS INSURANCE GROUP INC
12090–21	BRIDGEWORKS INVESTMENT GROUP INC
22141–22	BRIDGEWORKS INVESTMENT GROUP INC
20138–22	BROADWAY DAVID R & HOLLY A
6935–19	BROCK G MATTHEW & NICOLE M
12460–22	BROWN II EDWIN & MAUREEN BROWN
21548–22	BUCKLEY TIMOTHY P & JENNIFER J
25010–22	BULLER ELIZABETH
25011–22	BULLER MARK & SARAH BEATTY
21727–19	BUNNELL JUSTIN M & SARAH E PELTZIE
22317–22	Burlingame Insurance Company, Inc.
14348–22	BURNS JAY O & LORI L
24546–21	Burris Byron & Lori
24396–21	Burris Cypress Lake Ranch LLC
24689–21	BURRIS QUINT T & LISA C
24208–21	Burris Walter & Demaray
26560–22	BURT KELLY D & LAURIE J
8390–19	BUSA ANTHONY J & REBECCA S
8407–19	BUSA ROME P JR & MARGARET F
11043–19	BUSH JEFFREY L & DIANE L
12903–18	BUSH JEFFREY L & DIANE L
10251–20	CADWELL CARLTON & LYNDA
19281–18	CADWELL CARLTON & LYNDA
19533–19	CADWELL CARLTON & LYNDA
25667–16	CADWELL CARLTON & LYNDA
7753–21	CADWELL CARLTON & LYNDA C
22855–17	CADWELL CARLTON & LYNDA CADWELL
22853–17	CADWELL ERIC & BRIANNA L
10252–20	CADWELL JOHN & PRISCILLA
19282–18	CADWELL JOHN & PRISCILLA
25668–16	CADWELL JOHN & PRISCILLA

Tax Court Cases—Continued

Docket Number	Case Name
7760–21	CADWELL JOHN & PRISCILLA C
19534–19	CADWELL JOHN & PRISCILLA
22854–17	CALDWELL JOHN & PRISCILLA
11280–20	CANCIENNE CHRISTIAN M & KIRSCH
11281–20	CANCIENNE CHRISTIAN M & MYRA FABRE
15068–18	CANDLAND ARTHUR D & MICHELLE M
25000–22	CAPITOL RISK MANAGEMENT GROUP INC
12016–20	CARDENAS JOSEPH A R & MACHELLE I
23628–22	CARLSON DANE & TATIANA
193–23	CARLTON MATTHEW W & ELLEN N
12000–20	CARSON JOHN & LANETTE C
10258–20	CARSON JOHN B & LANETTE
13158–20	CARSON JOHN B & LANETTE CARSON
11931–20	CAVALLO NERO INSURANCE INC
19824–16	CAVALLO NERO INSURANCE INC
20159–19	CAVALLO NERO INSURANCE INC
13251–20	CC CLARK INC & SUBSIDIARIES
14357–22	CC CLARK INC & SUBSIDIARIES
11369–16	CD LISTENING BAR INC
3429–19	CD LISTENING BAR INC
10703–19	CFM INSURANCE INC
6793–19	CH AG LLC
15707–17	CHAMBERLAIN CONSULTING GROUP LP
8050–19	CHAMBERLAIN CONSULTING GROUP LP
5239–20	CHAMBERS THOMAS M MATHESON CHAMBER
11434–18	CHARARA MARINA
24591–18	CHARARA MARINA
16938–19	CHARIKER MARK & JULIA
14769–22	CHARLES L DIETZEK DO PC
17201–19	CHASE JEFFREY D & LISA R
1248–23	CHIAWANA ORCHARDS LLC
15131–19	CHRISTOU REGAS S
15310–18	CIRCLE D FARMS PARTNERSHIP
6118–19	CIRCLE D FARMS PARTNERSHIP
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3171–20	CLARK CAROL K
23838–22	CLARK DISTRIBUTING COMP IN & SUB
17169–19	CLEAR SKY INSURANCE COMPANY INC
5916–18	CNE INSURANCE MANAGEMENT INC FKA CN
22760–22	COHEN ALISON M
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12459–22	COUSINS ANDREW P & AMY L
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25193–16	CRAVENS ROBERT B & KARRIE A
5672–18	CRAVENS ROBERT B & KARRIE A
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14341–22	CREATION INSURANCE COMPANY INC
11935–20	CROWE MICHAEL J
19823–16	CROWE MICHAEL J & JULIE W
20158–19	CROWE MICHAEL J & JULIE W
11934–20	CROWE MICHAEL J & JULIE WERNER
9259–16	CUMMING FAMILY TRUST D
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23839–22	David A. Barish and Linda S. Jayaram
14013–21	DAVIS HENRY A
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6299–20	DAVIS ZACHARY S & WHITNEY N
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25194–16	DEAN ROBERT L & KAY C
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25856–22	DERMSEA INSURANCE INC
6288–18	DETWILER PAUL & A OLSSON AKA
6289–18	DETWILER PAUL & ALEKSANDRA O
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15377–22	DIALECTIC DISTRIBUTION LLC
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13912–20	DOMINGUEZ FELIPE E & BERLIZA
5302–18	DOREEN ANN ZISKA FAMILY IRREV TRUST
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22641–22	GALLANT INCORPORATED CELL INC
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20439–22	GUPTA AKSHAY KUMAR & NEETU TALREJA
12665–20	GUSTAFSON RYAN & SHANNON
6101–19	GUSTAFSON RYAN & SHANNON
11577–21	Hackett Ag Management
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24598–22	HANLON JOHN J & CATHY L
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14800–17	HARBINDER S BRAR FLP II THE
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25393–22	HILLTOP INSURANCE COMPANY INC
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24447–22	Import Casualty Corp
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11646–19	INDUSTRIAL FURNACE COMPANY INC
2763–19	INTEGRATED CONSTRUCTION LLC
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11041–19	JACKSON ANTHONY L & CHERYL A
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26060–22	JENKINS ARTHUR REX & SUNNI P
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20373–22	KNETSCHE ROBERT P & LISA T
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5561–18	KNETSCHE ROBERT P & LISA TURNER
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15524–19	LYNCH TIMOTHY M & ROBERTA B
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22941–18	MCCORMACK MATTHEW C & TIFFANY
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11882–18	McGuire Desmond & Cory Lynne Brame
15581–18	McGuire Desmond & Cory Lynne Brame
5689–23	MCGUIRE DESMOND E & CORY BRAME
9074–19	MCGUIRE MICHAEL & TRACEY
24218–22	MCLAURIN BRENT T & SONYA R
3836–22	MEDFORD JOSH
26433–22	MEHLENBACHER LAWRENCE & ELIZABETH
25430–22	MERCURY INSURANCE COMPANY INC
14439–16	Meschkat Bodo & Deborah Meschkat
22384–17	Meschkat Bodo & Deborah Meschkat
3373–23	MEYER ROBERT S
3374–23	MEYER ROBERT S
3365–23	MEYER WALTER G
3366–23	MEYER WALTER G
26974–22	MICHELLE COHEN
20160–19	MICRO CAP KY INSURANCE COMP INC
11932–20	MICRO CAP KY INSURANCE COMPANY INC
19825–16	MICRO CAP KY INSURANCE COMPANY INC
7798–20	MILLS ELIZABETH J
7740–20	MILLS ENTERPRISES—PRAIRIE LLC
7737–20	MILLS HOTEL KENOSHA LLC
7689–20	MILLS HOTEL WYOMING LLC
7814–20	MILLS KATHLEEN F
7801–20	MILLS MARTHA L
7799–20	MILLS STEPHEN C
7841–20	MILLS STEPHEN R
23182–16	MISHRA VIVEK & SONALI SHUKLA
12078–19	MMS INSURANCE LLC—SERIES B
2674–20	MMS INSURANCE LLC—SERIES B
17126–21	MMS INSURANCE LLC—SERES A
2549–20	MMS INSURANCE LLC—SERIES A
17008–19	MMS INSURANCE LLC—SERIES A
12509–21	MMS INSURANCE LLC—SERIES B
22516–18	MMS INSURANCE LLC—SERIES A
22303–18	MMS INSURANCE LLC—SERIES B
26589–22	MOBLEY JASON A
13820–20	Morton Kirshner
13888–20	Morton Kirshner
16169–18	MOUSHEGHIAN JOHN R & DANIELLE C

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10682–20	MOYER ALLEN D
24406–16	MRAA Series of Fortress
8838–19	MYERS BEAU R & CHRISTIN F
5024–23	MYERS PHILLIP T & JAMIE L SOMMERS
17520–18	MYERS RICHARD III & INGELEIN S
22848–17	MYERS RICHARD III & INGELEIN S
24255–16	MYERS RICHARD III & INGELEIN S
8823–19	MYERS RICHARD III & INGELEIN S
8788–19	MYERS WALLIN H & LESLIE S
2210–20	NASIEK DARIUSZ J & SARA
12178–17	NASTANSKI FRANK C
12179–17	NASTANSKI FRANK C
2373–23	NASTANSKI FRANK C & JENNIFER L
5729–18	NASTANSKI FRANK C & JENNIFER L
6898–19	NASTANSKI FRANK C & JENNIFER L
4291–19	NATUVU SERIES OF FORTRESS/
13828–19	NELLIGAN RUSSELL & JULIE
11994–20	NEW MILLENNIUM CONCEPTS LTD
3427–19	NEW MILLENNIUM CONCEPTS LTD
9243–18	NEW MILLENNIUM CONCEPTS LTD
295–23	NIALL INSURANCE GROUP INC
21562–22	NOBLE INSURANCE COMPANY INC
24311–22	North Harbor Insurance Company, Inc.
11368–20	NORTHTOWN AUTOMOTIVE COMPANIES INC
12181–17	Northwoods Insurance
15415–18	Northwoods Insurance
10579–19	NORTHWOODS INSURANCE CO LTD
19904–16	NORTHWOODS INSURANCE COMPANY LTD
23835–22	NSI SERVICES INC
23509–22	NUGENT ASSURANCE INC
23695–22	NUGENT KENNETH S
12296–22	NZR MANAGEMENT INSURANCE CO, LLC
20024–22	O'Brien Sheilah
16937–19	O'DANIEL THOMAS G & KELLY M
21749–16	Offroad Series of Fortress Insurance
10904–17	Offroad Series of Fortress Insurance
23180–16	OLTHOFF TIMOTHY D & BRENDA L
20797–22	ON POINT CAPTIVE INSURANCE CORP INC
21086–18	ONEILL ALVA D ESBT FBO
21098–18	ONEILL JOHN T & DEBORAH
5315–18	ONEILL JOHN T & DEBORAH F
7152–22	OPTIMA INSURANCE COMPANY, INC
15309–15	OROPEZA JESUS R
11871–18	OROPEZA JESUS R & FABIOLA ANAYA
22352–17	OROPEZA JESUS R & FABIOLA ANAYA
25462–16	OROPEZA JESUS R & FABIOLA ANAYA
9623–16	OROPEZA JESUS R & FABIOLA ANAYA
22755–22	ORTEGA THOMAS A & STACIA A
12911–20	ORTNER STEVEN A & COURTNEY M
11047–16	OSMAN KHIDIR & SIIDIGA ELMOSTAFA
11898–15	OSMAN KHIDIR & SIIDIGA ELMOSTAFA
25466–16	OSMAN KHIDIR & SIIDIGA ELMOSTAFA
23630–22	OVERTURF JAMES & JACQUELYN C
15819–21	PAG INSURANCE COMPANY INC
23763–17	PAGE MILTON E & MARY S
8154–19	PAHL FRIEDA J–DECD & GREGORY L
10453–18	PAHL GREG & JULIE A
6141–19	PAHL GREG & JULIE A
8103–19	PAHL JAMES M—ESTATE
10345–18	PAHL JEFF J & TANA
13926–19	PAHL JEFF J & TANA
6128–19	PAHL JEFF J & TANA
23837–22	PALISADE SURETY INC

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8391–19	PALLADIUM INSURANCE CO
26888–16	Pappas Robert S & Buffi R Pappas
11205–17	Pappas Robert S & Buffi R Pappas
27825–15	PARAGON OIL COMPANY—LTD PTNRSHIP
21822–19	PARKER FORREST W
21837–19	PARKER FORREST W
16170–18	PARKER JAMES R
21158–18	PARKER JAMES R & CHELSIE
14764–22	PARKS BILLY S & ELIZABETH W
25195–16	PARRY DAVID A & HILARY P
5670–18	PARRY DAVID A & HILARY P
9212–17	PARRY DAVID A & HILARY P
23192–16	PATEL DIVYESH G & SHILPA M
23055–22	PATEL JITESH V & SHITAL S
31518–21	PATEL JITESH V & SHITAL S
5924–21	PATEL JITESH V & SHITAL S
26130–22	PATEL RAVISHANKER & JAYASREE P
11352–18	PATEL SUNIL S & LAURIE M MCANALLY-
25268–18	PATEL SUNIL S &LAURIE MCANLLY-PATEL
5293–19	PECK JOHN W II & LEIGH
5028–23	PEDERSEN JEREMIAH T & LESLEY ANNE
4466–19	PELHAM JR JERRY & HAMMONDS STACIE
214–23	PEREZ JAIRO M
8360–21	PERLOW DAVID & JOAN
22448–16	PERLOW DAVID & JOAN
2256–18	PERLOW DAVID & JOAN
6298–20	PERLOW DAVID & JOAN
17497–17	PERLOW DAVID & JOAN P
2257–18	PERLOW INSURANCE CO II INC
6330–20	PERLOW INSURANCE CO II INC
17495–17	PERLOW INSURANCE COMPANY II
22447–16	PERLOW INSURANCE COMPANY II INC
8368–21	PERLOW INSURANCE COMPANY II, INC
23885–22	PETERS LUKE S & MARIELLA L
21027–16	Pipeline Series of Fortress Insurance
22075–17	Pipeline Series of Fortress Insurance
22402–22	Plastic Services and Products LLC
22403–22	Polymer Compounding LLC
10704–19	PRESTA ROBERTINO & ANTONELLA
22229–22	PRIMUS INSURANCE COMPANY INC
16469–18	PRYOR BARRY E—ESTATE
16470–18	PRYOR PACKERS INC
11413–20	PUNJAB INVESTMENTS LLC
13006–20	PURE MEDICAL DEVELOPMENT INC
28530–21	PURE MEDICAL DEVELOPMENT INC
13603–20	Purus Indemnity
12910–20	PURUS INDEMNITY GROUP INC
12156–17	Puttus Series of Fortress Insurance
5890–18	Puttus Series of Fortress Insurance
9997–19	Puttus Series of Fortress Insurance
10133–20	Puttus Series of Fortress Insurance
10262–21	Puttus Series of Fortress Insurance
7717–17	Rachis Casualty Corp.
14563–17	RADFORD PHILLIP
23223–16	RADIOLOGIC ASSOCIATES OF NW IND PC
10576–19	RAJEK GARY A & KAREN L
19965–16	Rajek, Gary & Karen
15416–18	Rajek, Gary & Karen
10905–17	Ramelot Scott & Hannah Ramelot
12026–16	Ramelot Steven T
10906–17	Ramelot Steven T and Michelle Ramelot
24166–22	RANDY SPORN
6798–23	RANDY SPORN
19440–19	RATLIFF JOHN R

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15238–17	REBEL OIL COMPANY INC & SUBSIDIARIES
11880–18	REBEL OIL COMPANY INC & SUBSIDIARIES
1350–23	REDBARN PET PRODUCTS LLC
25100–22	Redwood City Insurance
22405–22	Reese Real Estate and Investment Co.
11184–18	REID THAD K & AMY M
4469–19	REID THAD K & AMY M
692–20	REID THAD K & AMY M
6291–18	RENFRO MARK B
15056–18	RHEE HENRY C & GRACE JUNGIMKI
15516–16	RHEE HENRY C & GRACE JUNGIMKI
16385–19	RHEE HENRY C & GRACE JUNGIMKI
3722–17	RHEE HENRY C & GRACE JUNGIMKI
33328–21	RHEUDE GARY & CATHLEEN A
23768–22	Richard N. and Jill P. Reese
22404–22	Richard N. Reese Family LLC
26587–22	RICKERT SCOTT & LISA R
22752–22	RIESTER INSURANCE INC
22753–22	RIESTER TIMOTHY W & MIRJA
9167–22	RIGGIO CONSTRUCTION INC
9164–22	RIGGIO ROBERT
18605–22	RIVEROS RAUL E
16870–16	RIVERVIEW HEALTH INSTITUTE LLC
5358–17	RIVERVIEW HEALTH INSTITUTE LLC
5765–18	RIVERVIEW HEALTH INSTITUTE LLC
6767–19	RIVERVIEW HEALTH INSTITUTE LLC
6768–19	RIVERVIEW HEALTH INSTITUTE LLC
11360–20	RMS INSURANCE COMPANY INC
12116–17	ROBERTS HENRY L & LINDA C
15047–18	ROBERTS HENRY L & LINDA C
21750–16	ROBERTS HENRY L & LINDA C
17773–19	ROCK BOTTOM II INC FKA ROCK BOTTOM
27828–15	ROSARIO SIGNAL LLC
13918–20	ROSE GARDEN INDEMNITY PROTECTED
3823–19	ROYALTY MANAGEMENT INSURANCE/
22320–22	RUDOLPH RAYMOND & LAUREN P
15362–22	RUSHMORE INSURANCE CO INC
4907–19	RUSSELL WILLIAM B & ALICE L
3586–20	RUSSELL WILLIAM B & ALICE L
25431–22	RUTHERFORD INSURANCE COMPANY INC
622–23	S R FREEMAN INC
17606–22	SAC INSURANCE INC
13747–20	Sackler, Allen
21748–16	SACKS DAVID B & RENEE M
22308–17	SACKS DAVID B & RENEE M
20440–22	SAFEGUARD INCORPORATED CELL INC
25278–22	SAGE INSURANCE COMPANY INC
20438–18	SAIEDY SAMER
14192–22	SANBORN ROGER W & MICHELLE M
27081–22	SANDRA COHEN
11866–20	SAREYA STEVE & LORRIE
11020–20	SAREYKA ARMIN & LORETTA
18624–21	SAREYKA ARMIN & LORETTA
7761–21	SAREYKA ARMIN G & LORETTA A
11865–20	SAREYKA KYLE & TRACY
18628–21	SAREYKA KYLE & TRACY
7763–21	SAREYKA KYLE & TRACY
18629–21	SAREYKA STEVE & LORRIE
7765–21	SAREYKA STEVEN C & LORRIE A
11880–19	Scaia James & Mary Ann
4188–22	Scaia James & Mary Ann
25672–16	SCALINI FERNANDO
22295–17	SCALINI FERNANDO

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13153–20	SCALINI FERNANDO
31590–21	SCALINI FERNANDO
25718–22	SCALINI FERNANDO
13154–20	SCALINI JAVIER
31591–21	SCALINI JAVIER
25720–22	SCALINI JAVIER
25671–16	SCALINI JAVIER M
22294–17	SCALINI JAVIER M
21966–19	SCALINI JAVIER M
19183–18	Scalini, Fernando
19184–18	Scalini, Javier
16285–22	SCC HOLDING COMPANY OF PINELLAS INC
14350–22	SCHLEICH KURT & WANDA L
11046–19	SCHNELLER GEORGE F & RENEE L
12906–18	SCHNELLER GEORGE F & RENEE L
11040–19	SCHNELLER JAMES L & TANA S
12900–18	SCHNELLER JAMES L & TANA S
11044–19	SCHNELLER JEFFREY A & MICHELLE M
12904–18	SCHNELLER JEFFREY A & MICHELLE M
11039–19	SCHNELLER JEROME P
12899–18	SCHNELLER JEROME P
11047–19	SCHNELLER JOHN R & JULIE A
11050–19	SCHNELLER JOSEPH P & MARILYN S
12907–18	SCHNELLER JULIE A & JOHN R SR
11049–19	SCHNELLER KAREN L
11045–19	SCHNELLER MARY KAY
12905–18	SCHNELLER MARY KAY
33334–21	SCHULTZ CHRISTOPHER
14346–22	SCHUSTER DANIEL G & JEAN K
25714–22	SCIARETTA DONALD & DEBRA L
25715–22	SCIARETTA STEPHEN & SARAH TOEPFER
12463–22	SCIORTINO DAVID R & THERESA M
25369–22	SCODELLER PETER D & TERESA L
14765–22	SEDITA MARY ANN
3838–22	SERIES 3 OF OXFORD INSUR CO NC LLC
3835–22	SERIES 4 OF OXFORD INSUR CO NC LLC
26294–22	SERIES BV OF OXFORD INSURANCE LLC
26295–22	SERIES BW OF OXFORD INSURANCE LLC
14897–20	SERIES DC OF OXFORD INSURANCE CO
23404–22	SERIES DD OF OXFORD INS CO LLC
26296–22	SERIES FF OF OXFORD INSURANCE LLC
23407–22	SERIES FZ OXFORD INS CO LLC
14898–20	SERIES GT OF OXFORD INSURANCE CO
14987–20	SERIES IC OF OXFORD INSURANCE INC
15015–20	SERIES IK OF OXFORD INURANCE CO LLC
14754–22	SERIES JL OXFORD INS COMPANY LLC
15017–20	SERIES JN OF OXFORD INSURANCE CO
23409–22	SERIES KP OF OXFORD INS CO LLC
22387–22	SERIES KR OF OXFORD INSURANCE CO LL
18986–22	SERIES OF OXFORD INSURANCE CO LLC
20615–22	SERIES PROTECTED CELL 108
22028–22	SERIES PROTECTED CELL 20–CS
23411–22	SERIES PROTECTED CELL 2–CS
25324–22	SERIES PROTECTED CELL 40–OF
25571–22	SERIES PROTECTED CELL 56–CS
14768–22	SERIES V OF OXFORD INS COMPANY LLC
24783–22	SETH COHEN
15180–20	SHEMIA JEFFREY AND AGNES
4421–19	SHEPERD JOHN B & ANDREA
9242–18	SHEPHERD JAMES B TRUST
8065–15	SHEPHERD JAMES BRYSON—TRUST
26293–22	SHIELDS KEVIN A & EILEEN S
8331–19	SHIELDS RYAN P

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12258–18	SHKAROVSKY IGOR & INNA
17332–18	SHKAROVSKY IGOR & INNA
10626–16	SHOHADAI PAYAM
2037–17	SHOHADAI PAYAM
17187–19	SHOR RICHARD J & THEODOSIA E
11566–21	Sierra Agribusiness Insurance
25495–22	Sierra Agribusiness Insurance
27827–15	SIGNAL COMPANY—LTD PARTNERSHIP
27826–15	SIGNAL HILL WEST—LTD PARTNERSHIP
31593–21	SKYLAB SERIES INC
25669–16	SKYLAB SERIES OF FORTRESS/
22292–17	SKYLAB SERIES OF FORTRESS/
19186–18	SKYLAB SERIES OF FORTRESS/
19535–19	SKYLAB SERIES OF FORTRESS/
13152–20	SKYLAB SERIES OF FORTRESS/
380–20	SLONE DONNIE E JR & RHONDA M
11414–20	SOBOSI INVESTMENTS LLC
11265–19	SOUTHWEST EMERGENCY PHYSICIANS PLLC
13157–20	SOUTHWEST EMERGENCY PHYSICIANS PLLC
4523–21	SOUTHWEST EMERGENCY PHYSICIANS PLLC
8795–16	SOUTHWEST EMERGENCY PHYSICIANS PLLC
9161–17	SOUTHWEST EMERGENCY PHYSICIANS PLLC
20140–22	SOUTHWEST RETINA SPECIALIST LLP
428–19	SOUTHWEST RETINA SPECIALIST LLP
15697–18	SOUTHWEST RETINA SPECIALISTS LLP
2847–21	SOUTHWEST RETINA SPECIALISTS LLP
13005–20	SPENCER LOREN K & CLAIRE L
18989–22	SPORT CLIPS INC & SUBSIDIARIES
25095–22	ST LANDRY INDEMNITY INC
22406–22	Standard Insurances Company
22407–22	Standard Logistic Services LLC
22408–22	Standard Plumbing Supply Company Inc.
5029–23	STENNES TODD A & ANN MARIE
24567–22	Stephen & Debbie Bryant
22221–22	STERLACCI MICHAEL T & HEIDI L
24312–22	Steven Urvan
11042–19	STEVENS JEFFREY L & SUSAN E
12902–18	STEVENS JEFFREY L & SUSAN E
24566–22	Stratford Indemnity
12458–22	STRICKLAND WILLIAM J & OKEMAH
13225–18	STROOT ERIC H & KRISTI L
11198–18	STUKEY KENNETH L & LEA
4473–19	STUKEY KENNETH L & LEA A
943–20	STUKEY KENNETH L & LEA A
14396–17	STURM ELLEN
14443–16	STURM ELLEN
5676–18	STURM ELLEN
14675–17	STURM KENNETH & MICHELLE
8877–17	SUFRLINE SERIES OF FORTRESS INSUR /
23406–22	SULLO JOSEPH A & GIOVANNA
24941–22	SUMMERS INSURANCE COMPANY
26006–22	SUN DEVIL INSURANCE COMPANY INC
13574–20	SUNCOAST PATHOLOGY ASSOCIATES INC
26468–17	SURFLINE SERIES OF FORTRESS
10982–16	SURFLINE SERIES OF FORTRESS INS LLC
6769–18	SUTHERLAND MARK L & SUSAN
25265–18	SWARUP JITENDRA & ARUNA
13705–16	SWIFT BERNARD T JR & KATHY L
5354–18	SWIFT BERNARD T JR & KATHY L
26559–22	TALON SURETY COMPANY INC
13968–20	TANSY GARDEN INDEMNITY PROTECTED
10156–20	TDS RENTALS & LEASING LLC
19231–16	TDS RENTALS & LEASING LLC
3454–19	TDS RENTALS & LEASING LLC

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9184–17	TDS RENTALS & LEASING LLC
11366–20	TDS TESTING & START UP SERVICES LLC
19230–16	TDS TESTING & START UP SERVICES LLC
3453–19	TDS TESTING & START UP SERVICES LLC
9183–17	TDS TESTING & START UP SERVICES LLC
5917–18	TDS TESTING & STARTUP SERVICES LLC
6751–23	TECH DIAGNOSTIC MGMT & OPERATION
6752–23	TECH DIAGNOSTIC MGMT & OPERATIONS
19229–16	TECHNICAL DIAGNOSTIC MANAGEMENT & /
5918–18	TECHNICAL DIAGNOSTIC MANAGEMENT &
9182–17	TECHNICAL DIAGNOSTIC MANAGMENT & /
9168–22	TELECOMMUNICATION UNDERWRITERS INC
11995–20	TEXADO LTD
3426–19	TEXADO LTD
9244–18	TEXADO LTD
7734–20	TEXAS CITY VENTURE LTD
17765–19	THE HARBINDER S BRAR IV AKA BRAR
14695–17	THE HARBINDER S BRAR FLP I
12022–18	THE HARBINDER S BRAR FLP I A.K.A.
17763–19	THE HARBINDER S BRAR FLP II
14700–17	THE HARBINDER S BRAR FLP III
17766–19	THE HARBINDER S BRAR FLP III
12027–18	THE HARBINDER S BRAR FLP III A.K.A.
14688–17	THE HARBINDER S BRAR FLP IV
17767–19	THE HARBINDER S BRAR FLP V
14678–17	THE HARBINDER S BRAR FLP VII
12023–18	THE HARBINDER S BRAR FLP VII A.K.A.
17784–19	THE HARBINDER S BRAR FLP VIII KSB
14703–17	THE HARBINDER S BRAR FLPVI
17790–19	THE HARBINGER S BRAR FLP VII
11204–17	The Pappas Family Trust, Sherri McGuffey TTE
28525–21	THE PEOPLESERIES OF FORTRESS INSLLC
2783–23	THE SIEGFRIED GROUP LLC
17496–17	THOMPSON LAWSON III & SYLVIA
22449–16	THOMPSON LAWSON III & SYLVIA
2258–18	THOMPSON LAWSON III & SYLVIA
6331–20	THOMPSON LAWSON III & SYLVIA
13821–19	THOMPSON TODD P & KEVIN R
12861–22	TICORAS CHRIST J & HEATHER D
26341–22	TIFFANY, MICHAEL E. & C.M. DELORD
28527–21	TIMBERLINE FISHERIES CORP
21554–22	TJB INSURANCE COMPANY INC
11430–20	TKS INVESTMENTS LLC
11572–21	TMAK Insurance
25496–22	TMAK Insurance
138–23	TONOYAN, ANNA
23788–17L	*Tonya Binig* v. *Commissioner*
4292–19	TOOMA TOM S & MARTA KALBERMATTER
20789–22	TOP 1 PERCENT COACHING LLC
4619–23	TOWNSQUARE TITLE OF WYOMING LLC
1183–22	TRANSTEC GLOBAL CORPORATION
434–23	TRANSTEC GLOBAL CORPORATION
15760–18	TRENK ABIGAIL S
15759–18	TRENK ALVIN
5027–23	TRINITY TITLE OF TEXAS LLC
11933–20	TRUETT ARTIS P & ALLISON H
19822–16	TRUETT ARTIS P & ALLISON H
20157–19	TRUETT ARTIS P & ALLISON H
23876–22	TSM Trust
4290–19	TST HOLDINGS LLC THOMAS S TOOMA
22669–16	TTT Series of Fortress Insurance LLC
17560–17	TTT Series of Fortress Insurance LLC
19903–16	TTT Trading LP, Tonya Binig TMP

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27008–16	TUCSON ENT ASSOCIATES PC
5673–18	TUCSON ENT ASSOCIATES PC
9213–17	TUCSON ENT ASSOCIATES PC
13885–20	TULIP GARDEN INDEMNITY PROTECTED
6292–18	TYLER NEUROSURGICAL ASSOCIATES PA
17041–19	U.S. SCREEN CORPARATION
5641–19	U.S. SCREEN CORPORATION
4620–23	UNIFIED TITLE CO OF N COLORADO LLC
4326–23	UNIFIED TITLE COMPANY LLC
6210–22	U.S. SCREEN CORPORATION
6760–18	U.S. SCREEN CORPORATION
244–16	VARON JACOBO & HAYA
24338–22	VASILOUDES KRITOS
24337–22	VASILOUDES PANAYIOTIS & HELEN
24339–22	VASILOUDES SOPHIA
24340–22	VASILOUDES THEODOROS
24341–22	VASILOUDES VASILIS
10603–22	VEKSLER ALEKSANDR & MARINA
11811–20	VEKSLER ALEKSANDR & MARINA AYZENZON
4429–19	VEKSLER ALEKSANDR & MARINA AYZENZON
14894–20	VERGHESE INDEMNITY INC
7301–19	VERTEX INSURANCE COMPANY INC
8693–18	VERTEX INSURANCE COMPNAY INC
17077–18	WADA ALBERT T & CHRISTINE
17339–19	WADA ALBERT T & CHRISTINE
20944–19	WADA FAMILY LLC
20486–17	WADLEY ROBERT D & IRENE P
25115–16	WADLEY ROBERT D & IRENE P
16843–19	WAGNER MARK D & JENNIFER A
23891–21	WAGNER MARK D & JENNIFER A
24531–22	WAGNER MARK D & JENNIFER A
16830–19	WAGNER RICK A & ANGELA D
23894–21	WAGNER RICK A & ANGELA D
24532–22	WAGNER RICK A & ANGELA D
14762–22	WALKER CHARLES T & DONNA T
24973–22	WANN KEVIN L & NICKI L
24657–18	WARREN MARK L & NORMA K REIN
14339–22	WATLEY ANDY M & SHEILA N
16025–18	WATLEY ANDY M & SHEILA N
21416–18	WATLEY ANDY M & SHEILA N
28740–21	WATLEY ANDY M & SHEILA N
14342–22	WATLEY ENTERPRISES INC
15216–20	WATLEY ENTERPRISES INC
16180–18	WATLEY ENTERPRISES INC
21415–18	WATLEY ENTERPRISES INC
12223–21	WATSON FAMILY INSURANCE CO LTD
30613–21	WATSON FAMILY INSURANCE COMPANY LLC
17350–21	WATSON INSURANCE COMPANY LTD
30612–21	WATSON INSURANCE COMPANY LTD
12220–21	WATSON MICHAEL J & TRACEY L
30615–21	WATSON MICHAEL J & TRACEY L
24438–22	WEINBERGER AARON & BARI Z
22619–22	WEST LIBERTY INSURANCE COMPANY
24408–16	WESTERN AMERICAN SPECIALTIES INC
4327–23	WESTERN TITLE COMPANY LLC
31954–21	WESTOVER INVESTMENTS INC
35399–21	WESTOVER INVESTMENTS INC
8804–22	WESTOVER INVESTMENTS INC
2414–23	WHEATLEY PROPERTIES LLC
14345–22	WICKESSER III DONALD R & MAUREEN E
11804–22	WILBUR RICHARD G
21751–16	WILL MICHAEL J & DEBRA H
9609–16	WILL MICHAEL J & DEBRA H

Tax Court Cases—Continued

Docket Number	Case Name
23764–17	WILLIAMS GARY & KRISTA
15429–18	WILLIAMS GROUP HOLDINGS LLC
6820–19	WILLIAMS GROUP HOLDINGS LTD
23765–17	WILLIAMS JEB D & DESTINEE R
17607–22	WILLIAMS JEFFERY M & MARTHA R
15638–18	WILLIS DANIEL J & AMY M
26008–22	WILSON DAVID W & HOLLY F
13309–20	WILSON JOSHUA P
26594–22	WOLASKY, JERRY & SUSAN
14163–18	WORMAN JAMES
21161–18	WORMAN JAMES
14793–22	WORRALL MARC & SUE J
25277–22	WU SHIRLEY
9174–16	XR LLC, Ari Suss TMP
9162–17	XR LLC, The Ari H. Suss Revocable Trust, Ari H. Suss Trustee
22857–17	XR LLC, The Ari H. Suss Revocable Trust, Ari H. Suss Trustee
13088–17	YECHEZKELL EYAL & YIFAT
23896–16	YECHEZKELL EYAL & YIFAT
14790–21	YSASAGA JASON E & STELLA D
15620–18	YSASAGA JASON E & STELLA D
24344–17	ZAITSEV ALEXANDER & ALLA
15375–22	ZELTZER ZACHARY & LAUREN
5912–23	ZENITH ASSURANCE LLC
9053–19	ZINK JAMES H & KARIN M
21099–18	ZISKA JOHN C& DOREEN O
15380–22	ZMZ GLOBAL INC

Refund Suits in District Court

Docket Number	Case Name
No. 9:21–CV–82056 (S.D. Fla.)	CELIA CLARK
No. 2:21–CV–0331–SPC–NPM (M.D. Fla.)	CJA & ASSOCIATES, INC.
No. 2:21–CV–0330–JES–NRM (M.D. Fla.)	RAYMOND ANKNER
No. 2:21–CV–0334–JLB–NPM (M.D. Fla.)	RMC CONSULTANTS, LTD.
No. 2:21–CV–00333–JLB–MRM (M.D. Fla.)	RMC PROPERTY & CASUALTY, LTD.

b. The total approximate dollar amount of aggregate assessments asserted against taxpayers in section 831(b) related cases that are currently pending in the U.S. Tax Court.

Answer. The total approximate dollar amount of deficiencies and penalties asserted against taxpayers in IRC section 831(b) cases pending in the U.S. Tax Court is $661,268,170.51.

c. The number of Tax Court cases referenced immediately above where the judgment or settlement amount represented 10 percent or less of the deficiency or assessment, including penalties and interest, asserted against the plaintiffs.

Answer. The cases in which a judgment has been entered or a settlement has been reached are no longer docketed. As a result, there are no cases responsive to this request. The following paragraphs discuss previously docketed cases in which there was a judgment or settlement.

Generally, each examination related to an entity that has elected to be treated as a IRC section 831(b) insurance company (the "section 831(b) company") that results in cases docketed in the Tax Court involves a "family" of related cases. These related cases may include: each entity that claimed deductions for amounts characterized as premiums paid to the section 831(b) company (the "insured entity") if that entity is a C corporation; the partners or shareholders of each insured entity that is a partnership or S corporation for Federal income tax purposes; the section 831(b) company; and the owners of the section 831(b) company.

There were no previously docketed Tax Court cases resolved by judgments in which the judgment amount represented 10 percent or less of the deficiency. In fact, as discussed in the response to question (d) below, the judgments in each of the IRC section 831(b) cases represented 100 percent of the portion of the deficiency attributable to the disallowance of the claimed deductions for payments to the section 831(b) company and 80 percent or more of the deficiency attributable to the claimed deductions for payments to the section 831(b) company including penalties.

Since January 2020, the IRS Office of Chief Counsel ("Counsel") has offered to settle certain docketed cases pursuant to the terms of a settlement initiative. The settlement initiative resolves both docketed tax years and all non-docketed tax years involving the section 831(b) company for which the statute of limitations is open ("open years").

For example, because the terms of the settlement initiative characterize the section 831(b) company income as income to the owners of the section 831(b) company on liquidation (or deemed liquidation) of the section 831(b) company in a year that is generally not docketed, the settlement of the docketed case with respect to the section 831(b) company generally reflects no deficiency for the years docketed.

Counsel has settled a small number of families of docketed cases for 10 percent or less of the deficiency. These settlements do not reflect a conclusion by Counsel that the adjustments were incorrect, but instead result from decisions in the interest of sound tax administration to preserve scarce examination and litigation resources for other cases.

In certain circumstances, Counsel has settled for 10 percent or less of the deficiency in one or more cases within a family of cases. These settlements include:

- Cases in which substantial unrelated adjustments were conceded.
- Cases asserting that the section 831(b) company was required to include the amounts it received in income that have been conceded on grounds unrelated to that substantive issue. The adjustments to deny the deductions claimed by the taxpayers who paid the premiums to these section 831(b) companies have not been conceded, and litigation continues with respect to those taxpayers.
- Cases in which the taxpayer received credit for additional taxes paid during the course of the controversy or was allowed a net operating loss carryback that reduced or eliminated the deficiency.

Some of the previously docketed cases were within the jurisdiction of and were resolved by the Independent Office of Appeals ("Appeals"), rather than as part of the Counsel settlements. In general, Appeals has consistently held that taxpayers claiming deductions in these transactions face significant litigating hazards. Accordingly, to the best of our knowledge, all Appeals settlements as to deductions by the insured entity have been government-favorable.

Considering all of these circumstances, we do not believe the number of previously docketed Tax Court cases in which the settlement amount represented 10 percent or less of the deficiency, including penalties and interest, asserted against the Tax Court petitioners is meaningful. We have, however, determined the number of previously docketed Tax Court cases in which the settlement amount represented 10 percent or less of the deficiency, including penalties, but excluding interest, which continues to accrue until the liability is paid in full. The total number of previously docketed Tax Court cases resolved through settlement is 546. In 150 of these cases, the settlement amount represented 10 percent or less of the deficiency, including penalties.

d. The number of Tax Court cases referenced immediately above where the judgment or settlement amount represented 90 percent or more of the deficiency or assessment, including penalties and interest, asserted against the plaintiffs.

Answer. There are no cases responsive to question (d) because cases in which a judgment has been entered or a settlement has been reached are no longer docketed. However, in each of the IRC section 831(b) cases decided on the merits, the Tax Court held that the transactions at issue did not meet the requirements for treatment as insurance for Federal income tax purposes and denied the claimed deductions. In one of these cases, the court imposed penalties and in another of these cases, the court required the electing entity to include the alleged premiums in income.[7] The judgments in each of the IRC section 831(b) cases represented 100 percent of the portion of the deficiency attributable to the disallowance of the claimed deductions for payments to the section 831(b) company and 80 percent or more of the deficiency attributable to the claimed deductions for payments to the section 831(b) company including penalties.

The total number of previously docketed Tax Court cases resolved through settlement is 546. In 79 of those cases, the settlement amount represented 90 percent or more of the deficiency including penalties.

Question. To be eligible for the $7,500 electric vehicle tax credit (section 30D), what critical mineral and battery sourcing requirements must be met?

Answer. IRC section 30D(e)(1)(A) provides that the Critical Minerals Requirement with respect to the battery from which the electric motor of a vehicle draws electricity is satisfied if the percentage of the value of the applicable critical minerals (as defined in IRC section 45X(c)(6)) contained in such battery that were (i) extracted or processed in the United States, or in any country with which the United States has a free trade agreement in effect, or (ii) recycled in North America, is equal to or greater than the applicable percentage (as certified by the qualified manufacturer, in such form or manner as prescribed by the Secretary). The applicable percentage for the Critical Minerals Requirement is set forth in IRC section 30D(e)(1)(B)(i) through (v) and varies based on when the vehicle is placed in service. In the case of a vehicle placed in service after the date of issuance of the proposed guidance described in IRC section 30D(e)(3)(B) and before January 1, 2024, the applicable percentage is 40 percent. In the case of a vehicle placed in service during Calendar Year 2024, 2025, and 2026, the applicable percentage is 50 percent, 60 percent, and 70 percent, respectively. In the case of a vehicle placed in service after December 31, 2026, the applicable percentage is 80 percent.

IRC section 30D(e)(2)(A) provides that the Battery Components Requirement with respect to the battery from which the electric motor of a vehicle draws electricity is satisfied if the percentage of the value of the components contained in such battery that were manufactured or assembled in North America is equal to or greater than the applicable percentage (as certified by the qualified manufacturer, in such form or manner as prescribed by the Secretary). The applicable percentage for the Battery Components Requirement is set forth in IRC section 30D(e)(2)(B)(i) through (vi) and varies based on when the vehicle is placed in service. In the case of a vehicle placed in service after the date of issuance of the proposed guidance described in new IRC section 30D(e)(3)(B) and before January 1, 2024, the applicable percentage is 50 percent. In the case of a vehicle placed in service during Calendar Year 2024 or 2025, the applicable percentage is 60 percent. In the case of a vehicle placed in service during Calendar Year 2026, 2027, and 2028, the applicable percentage is 70 percent, 80 percent, and 90 percent, respectively. In the case of a vehicle placed in service after December 31, 2028, the applicable percentage is 100 percent.

Treasury issued a Notice of Proposed Rulemaking, published in the Federal Register on April 17, 2023. These proposed regulations have not been finalized; there was a 60-day window for the submission of public comments and a public hearing.

Part III, The Critical Minerals and Battery Components Requirements, of the Background section for the proposed regulations provides detailed information concerning the component requirements to qualify for the credit. Proposed section 1.30D–3(a) proposes a three-step process for determining the percentage of the value of the applicable critical minerals in a battery that contribute toward meeting the Critical Minerals Requirement. Proposed Code of Federal Regulations (CFR) section 1.30D–3(b) provides rules for determining compliance with the Battery Components Requirement, outlining a four-step process for determining the percentage of the value of the battery components in a battery that contribute toward meeting the Battery Components Requirement. We will carefully consider public comments before issuing final rules.

[7] *See Avrahami v. Commissioner,* 149 T.C. 144 (2017); *Caylor Land & Development, Inc. v. Commissioner,* T.C. Memo. 2021–30 (accuracy-related penalty sustained); *Syzygy Ins. Co., Inc. v. Commissioner,* T.C. Memo. 2019–34 (company required to recognize the premiums it received as income); *see also Reserve Mechanical Corp. v. Commissioner,* 34 F.4th 881 (10th Cir. 2022) (concluding transactions entered into by Reserve, which filed as an insurance company exempt under IRC section 501(c)(15), did not meet the requirements for treatment as insurance for Federal income tax purposes for a number of reasons, including that the arrangement with the pool was a sham, and imposing withholding on amounts Reserve received from domestic entities), aff'g T.C. Memo. 2018–86.

Question. To be eligible for the (i) $4,000 tax credit for used electric vehicles (section 25E); (ii) the $40,000 tax credit for commercial electric vehicles (section 45W) and; or (iii) the tax credit for fuel cell vehicles, what critical mineral and battery souring requirements must be met?

Answer. IRC section 30D(e) sets forth the critical mineral and battery component requirements. In contrast, neither IRC Sections 25E nor 45W provide any critical mineral nor battery component sourcing requirements in their respective IRC sections. Similarly, although IRC Sections 25E and 45W cross-reference specific subsections of IRC section 30D, neither IRC section 25E nor 45W cross-reference IRC section 30D(e) to incorporate those requirements into their respective code sections. Consequently, neither IRC section 25E nor section 45W provide any requirements regarding critical minerals or battery component requirements.

Question. I wish to bring to your attention a tax issue that is critically important to public school systems across Texas. The Texas Permanent School Fund (PSF) is a multibillion-dollar public endowment belonging to the State of Texas. Since its inception in 1845, the PSF has evolved to support public education in two very important ways: (1) it provides direct funding to help pay for the cost of public and charter school education that is backed by physical assets owned by the State of Texas; and (2) it serves as a financial backstop to the bond issues underwritten by individual school and charter districts across Texas. PSF's bond guarantee program means lower borrowing costs for school construction, saving Texas taxpayers millions annually.

Unfortunately, the bond guarantee program is subject to an obsolete IRS regulation that limits its capacity based on an outdated value of the PSF. In fact, the IRS regulation forced the program to close recently, causing dozens of Texas school districts to incur either avoidable financing costs or delays in the construction and renovation of much needed educational facilities. It is important to note that Treasury and IRS provided the program with relief when it faced a similar issue in 2009.

In 2020, the PSF began discussions with Treasury and IRS to seek relief once again, providing the agencies with options that would ensure the bond guarantee program could remain open and provide Texas school districts that include both public and charter schools with access to the lowest possible financing.

Treasury has the authority to fix the issue again. However, despite over a year of attempted communication with IRS and Treasury, it appears that the status of the current request for relief remains uncertain. This is not a sustainable situation for students, parents, or hardworking taxpayers across Texas. A growing public and charter school population requires many Texas school systems to build new school facilities and make critically necessary updates and repairs to current facilities. And without the bond guarantee program, the borrowing costs combined with today's high inflation, will drastically limit the ability of school districts across Texas to meet demand.

It is my understanding that Treasury and IRS have been in communication on this issue for some time now but that stakeholders have not received an update for more than 6 months. What is the status of the PSF's request for relief?

Answer. Treasury and the IRS released Notice 2023–39 on May 10, 2023, which addresses whether certain perpetual trust funds created and controlled by States, and pledged as credit enhancements to guarantee tax-exempt bonds, will be treated as replacement proceeds for purposes of the arbitrage investment restrictions.

Briefly, the existing regulations under IRC section 148 provide an exception to the arbitrage investment restrictions that applies to certain perpetual trust funds that are created and controlled by a State and pledged as credit enhancement to guarantee tax-exempt bonds. The existing regulations limit the outstanding amount of bonds subject to the exception to 500 percent of the total costs of the assets held by the fund as of December 16, 2009. Notice 2023–39 provides that Treasury and the IRS intend to issue proposed regulations that would remove the "as of December 16, 2009," limitation from the existing exception. In general, the guidance described in Notice 2023–39 may be relied upon for bonds sold on or after May 10, 2023.

QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO

Question. In response to my recent letter regarding phasing in changes in tip rates for Nevada workers covered by Tip Rate Determination Agreements, the Department of Treasury wrote in its March 7, 2023 letter to me that ". . . tip rates are a product of significant work by the IRS, employers, and tipped employees over the last 2½ years, which include compiling and reviewing data for each establishment, position, and shift. There is an administrative burden on both the employers and the IRS to implement tip rate changes." I appreciated at your nomination hearing that you pledged to work with me on this issue.

Does this response indicate the IRS is ruling out phasing in the changes to tip rates?

Answer. The IRS is committed to implementing fair, consistent, and accurate tip rates across the country. Our tip reporting programs—voluntary for both the employer and employee—are data driven and have the flexibility to correct tip rates when employer and employee data shows that the amount of cash and charged tips received (or shared) by tipped employees is less than the established tip rate. Factors the IRS considers when adjusting tip rates include changes in sales, staffing, or employee tip-sharing policies. Because tip agreements are specific to each employer, venue, and employee position, tip rate reductions are applied on an individualized basis. In making tip rate adjustments for a particular establishment, the IRS welcomes and considers any data that shows a tip rate adjustment is needed and considers any approach that may fairly implement those changes. In considering any approach, data would need to be presented showing evidence of deficiencies in current tip rates. As noted above, the tip program has a current process in place to reduce tip rates when warranted on an individualized basis. The IRS is dedicated to ensuring the tax law is administered fairly and welcomes suggestions and comments to improve our voluntary compliance programs.

Question. Currently, the IRS does not allow Individual Taxpayer Identification Numbers (ITINs) applications to be processed electronically and requires that ITIN applicants file a tax return along with their applications. Would the IRS consider eliminating these barriers for ITIN applicants?

Answer. As part of our efforts to become fully digital and modernize processes to improve the taxpayer experience and organizational efficiency, the IRS continues to consider ways to streamline and improve the ITIN application process to help ensure that all eligible applicants receive the Federal income tax benefits for which they qualify. The parameters of any electronic filling and intake process would need to conform to the statutory requirements set forth in Internal Revenue Code (IRC) section 6109, which provides special rules regarding the IRS's issuance of ITINs.

In general, IRC section 6109 authorizes the IRS to issue an ITIN to an eligible individual only if the eligible individual submits an application that meets all requirements under that statute, as well as guidance published by the Secretary.[8] IRC section 6109 describes documentation that an eligible individual must submit with their ITIN application in order for their application to be valid. Specifically, IRC section 6109(i)(2)(A) requires eligible individuals to submit all documentation that the Secretary may require that proves the individual's identity, foreign status, and residency. For purposes of making a final determination on an eligible individual's ITIN application, IRC section 6109(i)(2)(B) provides that the IRS may accept only original documents or certified copies meeting the requirements of the Secretary. Lastly, IRC section 6109(c) provides general authority to the Secretary to require such information as may be necessary for the IRS to assign an identifying number to any person. Based on those statutory rules and current Treasury Department guidance, the IRS currently requires a manual submission of Form W–7, Application for IRS Individual Taxpayer Identification Number. Once the IRS assigns an ITIN, individuals can file tax returns in subsequent years electronically using an ITIN.

The IRS is committed to improving the ITIN application process in a manner that reflects Congress's continued strengthening of the ITIN program. Therefore, any potential application process that incorporates electronic processing components, and any revised intake procedures published by the Treasury Department and the IRS, would balance the benefits of improving the ability for eligible individuals to receive an ITIN with the IRS's responsibility to administer and enforce the integrity of the ITIN program.

Question. There is currently a moratorium on new applications for Certified Acceptance Agents (CAA), which provide crucial service to immigrants so that they can verify original documents as part of their applications for Individual Taxpayer Identification Numbers (ITINs). When will the CAA moratorium be lifted?

[8] The term "Secretary" in IRC section 6109 refers to the Secretary of the Treasury, including her delegate.

Answer. The IRS placed a moratorium on the Acceptance Agent Application Process on August 15, 2022, lasting until the end of 2023. When we lift the moratorium, we'll issue a notification of rescission. The moratorium allows for significant modernization efforts resulting in a more efficient application process. In the interim, there are currently over 9,000 approved Acceptance Agent locations, with representation in all 50 States and 51 foreign countries, that are available to assist individuals that need ITIN services. Additionally, the IRS also provides this service at local Taxpayer Assistance Centers (TAC). As of April 29, 2023, the local TAC offices have recorded 63,335 document authentications so far for fiscal year 2023.

Question. Would the IRS consider allowing Certified Acceptance Agents (CAA) to electronically upload copies of documents they have verified?

Answer. Yes. In May 2022, the IRS made the Documentation Upload Tool (DUT) available to Certified Acceptance Agents (CAA). This provides CAAs with the ability to send documentation electronically to the IRS. After receiving more than 200 submissions, we paused CAA use of the DUT to design and implement features that will improve application process efficiency and the overall taxpayer experience. We expect to make the DUT available again to CAAs later this year.

QUESTIONS SUBMITTED BY HON. CHUCK GRASSLEY

TAXPAYER SERVICES

Question. The Treasury Department and Democrats have been touting that Inflation Reduction Act resources have enabled the IRS to achieve an 87-percent level of service on its taxpayer help line. However, this is largely because there's been 30 million fewer taxpayer calls this year than last, not because of a dramatic improvement in service. In fact, when accounting for all calls, including those answered through automation, 4 million fewer taxpayer calls have even been answered.

Given the additional resources and personnel, why hasn't the IRS been able to answer a greater number of taxpayer calls either live or through automation?

Answer. The IRS delivered dramatically improved service in filing season 2023. Thanks to the 5,000 new hires made possible by Inflation Reduction Act resources, IRS customer service representatives answered more than 6.5 million taxpayer calls this year, 2.4 million more calls with live assistance since the start of the year through April 7th, compared to the same period in 2022. The IRS cut phone wait times to 4 minutes, down from 27 minutes in filing season 2022. The IRS achieved an 87-percent Level of Service (LOS) with live assistance this filing season. This is a more than fivefold increase in LOS over filing season 2022.

Question. Since only around $3 billion of the $80 billion provided to the IRS in the IRA was for taxpayer services, according to information shared with tax writing committees, that taxpayer services money will run out by FY 2026. What impact will the exhaustion of taxpayer services money from the IRA have on the ability of the IRS to answer the phone, and how much money do you recommend Congress reallocate from enforcement to taxpayer services to keep up levels of service?

Answer. Overall, the IRS expects to need approximately $1.9 billion more in taxpayer services funding than Fiscal Year 2023 discretionary levels. For FY 2024, the IRS requested an additional $642 million in discretionary funding for taxpayer services. In FY 2024, the IRS is also apportioning $969 million in IRA taxpayer services funding. To deliver the LOS taxpayers expect and deserve, the IRS would need to make up the remaining different with an inter-appropriation transfer request and/or allocation of user fees. This level includes inflationary increases needed in FY 2024, but inflationary increases will be needed annually thereafter. Without sustained, long-term increases in taxpayer services, many taxpayers won't be able to reach a representative on the phone for assistance once we exhaust the IRA funding, which we estimate will be exhausted after FY 2025.

STRATEGIC PLAN/LACK OF DETAIL

Question. The recent IRS "Strategic Operating Plan" is full of lofty aspirations, but short on details. It falls far short of the detailed spending plan than would be required by the IRS Funding Accountability Act that Senators Thune and I introduced earlier this year. When can Congress expect the IRS to provide a fully detailed plan that includes cost estimates for individual projects and metrics for determining project success?

According to plan documents "progress updates will be provided at least annually." During your confirmation process you spoke at length about your dedication to transparency and openness. A single annual progress update with respect to several multibillion-dollar spending projects hardly fits that bill. Will you commit to providing progress updates on at least a quarterly basis?

Answer. The Strategic Operating Plan (SOP) is comprehensive and will involve hundreds of projects, some short-term and some longer-term. We are committed to transparency and want to regularly highlight the progress we are making. For example, we have committed to report to Congress quarterly on actual obligations and number of full-time employees, and we are posting quarterly management updates on *IRS.gov*.[9]

Additionally, the Treasury Inspector General for Tax Administration (TIGTA) plans to provide quarterly reporting of the IRS's use of IRA funding, the first report to include funds expended through June 30, 2023, with subsequent reports issued after the end of each quarter. The reports will provide cumulative results along with specific expenditures for the quarter being reported.

Finally, you will also see visible improvements to tax administration announced regularly. In the first full year of the IRA, we have published results[10] from improvements like increased levels of service, new online taxpayer tools, new digital forms, increased scanning, customer call back features, with much more to come.

STRATEGIC PLAN/WHO IS IN CHARGE?

Question. The "Operating Plan" was due February 17th, but wasn't completed until April 5th. You of course were not confirmed as Commissioner until March 9th. Between your confirmation and the release of the plan on April 5th, how much, if any, input did you have into what was included in the plan?

Answer. I was briefed about the SOP components after I was confirmed, and I provided feedback. While much of the SOP was developed prior to my confirmation, the final document represents my priorities and strategic vision for the agency.

Question. Who, in your understanding, was the primary person in charge of making decisions related to the plan prior to your confirmation? What role did Secretary Yellen or other Treasury Official's play in writing the plan?

Answer. Prior to my confirmation, the then-Acting Commissioner worked with the former Chief Transformation Officer to develop the SOP as part of a collaborative process with the Department of Treasury.

Question. According to plan documents, implementation of the funding plan will be coordinated by a newly formed "Transformation and Strategy Office." Will you have complete control over this new office, including determining who will serve as its "Chief Officer"?

Answer. Yes. The Chief Transformation Coordination Officer is responsible for spearheading improvement efforts under the SOP. The official ultimately reports to me.

HISTORY OF IRS COST OVERRUNS

Question. The "Operating Plan" includes aspirations to replace the outdated Individual Master File and Business Master File, which still use technology architecture dating back to the 1960s. This has been a stated goal of the IRS for decades. After the 1998 IRS Restructuring Act, IRS received multiple years of funding in the hopes of retiring these legacy systems. However, that attempt was plagued by cost overruns, a lack of functionality, and to this day the legacy systems persist. What steps are you taking to ensure history doesn't repeat itself?

Answer. We are committed to complete transparency and accountability in delivering for America's taxpayers with the funding provided. We have numerous oversight measures in place to track the performance and intended outcomes of our technology investments.

By congressional directive, the U.S. Government Accountability Office (GAO) provides continuous oversight of IRS technology spending plans and delivery. In addi-

[9] *Available at https://www.irs.gov/pub/irs-pdf/p5803.pdf.*
[10] *Available at https://www.irs.gov/newsroom/inflation-reduction-act-1-year-report-card-irs-delivers-dramatically-improved-2023-filing-season-service-modernizes-technology-pursues-high-income-individuals-evading-taxes.*

tion, the IRS submits reports on major information technology project activities to the Appropriations Committees and to GAO. The reports include detailed, plain language explanations of the cumulative expenditures and schedule performance to date, any changes in schedule, and current risks and mitigation strategies. The Department of the Treasury also conducts a semiannual review of the IRS's technology investments to ensure the cost, schedule, and scope of the projects' goals are transparent. This reporting structure provides more certainty and clarity to Congress as the IRS becomes a fully digital agency.

We are already seeing the impacts from modernizing IRS technology within the first year of the Inflation Reduction Act, which has contributed to a dramatically improved 2023 filing season. These include:

- Expanding the availability of customer callback option to cover up to 95 percent of callers seeking live assistance. The main goal of the customer callback feature is to enhance the taxpayer's experience by giving them more options when call volumes are high.
- Making significant progress scanning and e-filing paper returns as part the Paperless Processing Initiative. The IRS has scanned about 849,000 forms this year, including about 481,400 Forms 940, 304,000 Forms 941, and 64,000 Forms 1040. This is 225 times more forms than were scanned the previous year.
- Providing taxpayers with the ability to respond to notices online. During filing season 2023, taxpayers were able to respond to 10 of the most common notices for credits, and we have since provided this capability to an additional 51 notices and letters received from the IRS.
- Launching an online portal to allow businesses to file Form 1099 series information returns electronically. These forms previously needed to be submitted through the mail. Small business owners often prepare their own taxes, rather than hire professional preparers, and this new tool is saving thousands of small business owners time and money.
- Offering new voice and chatbots to help taxpayers with a wide range of issues, including securing account transcripts, getting answers to questions about balances due, and getting help from the Taxpayer Advocate Service. Whether people call the IRS or visit online, there are new self-service options available around the clock.
- Enabling a direct-deposit refund option for 1040–X amended returns. These refunds were previously only available by paper check, delaying taxpayers' receipt of their refunds.

Technology modernization will also enable the IRS paperless processing initiative, which will eliminate up to 200 million pieces of paper annually, cut processing times in half, and expedite refunds by several weeks. By filing season 2024 taxpayers will be able to go paperless if they choose to do so, and by filing season 2025, the IRS will achieve paperless processing digitizing all paper-filed returns when received. In effect, this means all paper will be converted into digital form as soon as it arrives at the IRS.

In 2021, we developed an Individual Master File (IMF) Retirement Plan that a third party independently verified and validated; the plan continues to guide our approach. Retiring the IMF is incredibly complex, and we have developed an aggressive schedule to achieve it by fiscal year 2028. The plan may evolve over time to maintain alignment with IRS priorities, strategic initiatives, and advances in technology. We are happy to provide these independent reviews upon request.

Transforming core tax processing is vital to all our essential functions: successfully delivering the annual tax filing season, ensuring the health of the Nation's tax system, and supporting the Federal Government's financial strength. The IRS has migrated to cloud-based technologies and embraced modern technology practices—resulting in major improvements to our legacy systems. However, more work remains. For the IMF, we will soon begin testing to ensure our modernized alternative operates as intended, providing accurate and reliable results for taxpayers and the agency.

As noted in the SOP, we have dedicated resources to retiring outdated databases including the IMF and Business Master File (BMF). Replacing legacy databases with a modern, flexible system will ensure the data in the IMF and BMF is captured timely and is accurate and complete for both taxpayers and employees. Part of the reason the IRS has methodically replaced components of the IT infrastructure slowly over time is due to the complexity of our ecosystem. The IRS maintains hundreds of interrelated systems that collectively have major impacts on the financial workings of the Federal Government, as well as individuals, families, small businesses, and corporations. Changes to the heart of core tax processing systems have a ripple effect, requiring the IRS to move iteratively and carefully to avoid disrupting tax processing operations.

IRS WHISTLEBLOWER PROGRAM

Question. According to the "Operating Plan" IRS intends to develop and implement a plan to improve the IRS Whistleblower Program. I appreciate that the IRS recognizes the value and benefit of the whistleblower program. The improvements identified include "using high-value whistleblower information effectively, rewarding whistleblowers fairly and as soon as possible" and "keeping whistleblowers informed of their claims." These are all common-sense initiatives that the IRS ought to be doing today. When do you expect to implement these and other Whistleblower Program improvements?

Answer. The IRS is developing a Whistleblower Program Improvement Plan. The draft plan has seven objectives:

1. Increase the capacity for claim submissions the IRS can act on.
2. Use high-value whistleblower information effectively.
3. Reward whistleblowers fairly and as soon as possible.
4. Keep whistleblowers informed of the status of their claims and the basis for IRS decisions on claims.
5. Strengthen collaboration with Whistleblower Program stakeholders.
6. Safeguard whistleblower and taxpayer information.
7. Ensure that our workforce is supported with effective tools, technology, training, and other resources.

These objectives serve as the framework for the improvement plan. Within each of the objectives, the IRS Whistleblower Office is identifying initiatives to improve the Whistleblower Program. For example, under the first objective, initiatives include increasing staffing resources where needed, making it easier to file a claim by obtaining an on-line digital intake portal for whistleblower claims, and expanding digitalization. The current draft of the improvement plan has specific initiatives to support the seven objectives.

We shared an early draft of the Whistleblower Program Improvement Plan with internal and external stakeholders so that we could receive feedback. At the same time, the Whistleblower Office is not waiting for full development of the plan before starting or continuing specific efforts to improve the program. For example, the Whistleblower Office has already made foundational changes such as revising its mission and vision statements. The Whistleblower Office is prioritizing disaggregation of claims to allow for earlier award payments to whistleblowers. It is working with Counsel to evaluate how the IRS can use Internal Revenue Code section 6103(k)(13)(A) to work more closely with whistleblowers. It partnered with Counsel to provide training to IRS attorneys and others on the value of whistleblower information in fraud cases. Also, it is temporarily adding staff members on detail assignments to help with claim processing matters until it can make permanent selections. In addition, the Whistleblower Office is testing a new digital Document Upload Tool to receive electronic documents from whistleblowers through a secure online portal.

IRS COMPLIANCE WITH TIGTA RECOMMENDATIONS

Question. During a conversation with members of the Finance Committee held on Thursday, April 20, 2023, you commented that the IRS would now have the resources to comply with recommendations made by the Treasury Inspector General for Tax Administration (TIGTA).

Please list all outstanding TIGTA recommendations and note which recommendations had not been implemented due to a lack of funding, and note the timeline for their implementation.

Please note which unimplemented TIGTA recommendations relate to protection of taxpayer data, information technology systems, and IRS use of cloud systems.

Answer. Please see below.

Detailed below are specific items of note for understanding the data provided in the "QFR Final" tab.

* The data was pulled from the Joint Audit Management Enterprise System (JAMES), the system that is used to monitor and approve planned corrective actions arising from TIGTA or GAO audits. The date of this data pull was May 15, 2023.

* There are a number of recommendations whose text is redacted. This is because the Final Report issued by TIGTA had redactions on those recommendations. The information provided is equivalent to what is provided by TIGTA on their public-facing website. Since QFRs are on the record and publicly available, Counsel advised us that the submission for Question 6 on the QFR should reflect TIGTA's Final Report.

* This information was prepared by Enterprise Audit Management (EAM), which is part of the Office of the Chief Risk Officer.

* The F#, R# and P# shown in columns B, C and D are the "finding number," "recommendation number," and "planned corrective action (PCA) number." This sequence is generally referred to as the "PCA number."

* The current number of open recommendations is low in comparison to other times during the year. IRS currently has 11 pending TIGTA Final Reports, three pending Management Responses that will be coupled with the Draft Report to formulate the TIGTA Final Report, and nine Discussion Draft Reports which are projected to become final reports late in FY23. The response is a snap-shot in time.

TOTAL POSITIVE INCOME

Question. During a conversation with members on the Finance Committee held on Thursday, April 20, 2023, when asked how the IRS would determine the $400,000 number that has been used as a threshold for whether taxpayers would face increased scrutiny from the IRS, you said the IRS would use Total Positive Income.

Total Positive Income is not a concept defined in statute, but is referenced in the Internal Revenue Manual. The IRS Data Book says that "[i]n general, total positive income is the sum of all positive amounts shown for the various sources of income reported on an individual income tax return and, thus, excludes losses."[11]

Will the Total Positive Income concept used to determine which taxpayers fall below the $400,000 threshold disregard losses?

Answer. Response below.

Question. If so, why did the IRS decide to use a measure of income that excludes losses? Wouldn't such a measure include many small businesses, including sole proprietorships and family farms with adjusted gross income or taxable income far below $400,000?

Answer. Response below.

Question. In 2018, how many taxpayers would have been at or below the $400,000 threshold based on Total Positive Income, or adjusted gross income, or taxable income. Please note the number of taxpayers that would meet each separate threshold.

Answer. Since 1981, the IRS has used Total Positive Income (TPI) as a method to group individual tax returns (Form 1040). The IRS switched from adjusted gross income (AGI) to TPI, which is the sum of all positive income values appearing on a return with losses treated as zero, to ensure that high income returns were not able to use losses to reduce AGI and appear as low income returns for examination selection purposes. The IRS currently publishes examination statistics for returns classified by TPI as part of the annual Data Book. Based on tax year 2018 filings, over 98 percent of individual returns had less than $400,000 TPI.

IRS FY 2024 BUDGET REQUEST

Question. The President's FY 2024 budget request requests around $29 billion in additional mandatory funding for enforcement and attributes around $105 billion in

[11] *https://www.irs.gov/statistics/soi-tax-stats-irs-data-book-glossary-of-terms.*

deficit reduction to this funding. This suggests the calculation of a return on investment (ROI) of 4.6.

The IRS FY 2024 Budget Justification includes ROI's for various enforcement programs that range from an ROI of 33.2 for collections in FY 2022 to an ROI of 2.2 for Examinations in FY 2020.

How was the ROI for the request for new mandatory funding made in the FY 2024 budget request calculated? Which enforcement programs would receive additional funding, and what specific ROI was assumed for those programs.

Is mandatory funding for enforcement, either already enacted or requested, allocated to maximize revenues or to achieve a policy or social outcome?

Answer. IRS research maintains detailed historical records for enforcement programs that allow for the calculation of the return on investment of enforcement spending. To estimate revenue for the budget proposal, the IRS used these ROIs to generate revenue estimates for extending investments funded by the Inflation Reduction Act because IRA enforcement funding expires in 2031.

QUESTIONS SUBMITTED BY HON. JAMES LANKFORD

Question. According to a February 2023 GAO report (GAO–23–104719), the IRS suspended initiatives to replace the Individual Master File (IMF), including the Customer Account Data Engine 2. The IRS Inflation Reduction Act Strategic Operating Plan projects retiring the Individual Master File (IMF) by fiscal year 2028.

Given the suspended initiatives and high-level explanations in the strategic operating plan, please provide a breakdown of costs by fiscal year to achieve retirement of the IMF by FY 2028.

What is the timeline to deliver a comprehensive IT modernization plan with specific time frames and cost tracking?

Answer. Retiring the IMF is incredibly complex, and we have developed an aggressive for doing so. We currently estimate the breakdown of costs by fiscal year as follows and will update estimated spending in future updates of the IRS Inflation Reduction Act Strategic Operating Plan (SOP) and budget submissions.

If the total allocated funding—whether from discretionary or mandatory Business Systems Modernization (BSM)—falls below the estimated costs, then delivery of IMF Modernization will be delayed, with potential impacts such as: taxpayers will not receive faster account updates and real time data/view of their actions with IRS; refunds will not be provided faster or account adjustments like payments posting quicker; calls for assistance will continue impacting level of service without faster/more available information to share with taxpayers.

Fiscal Year	Estimated Cost (in millions)*
2024	$265
2025	$215
2026	$210
2027	$200
2028	$200
FY24–28 Total	**$1,090**

The IRS SOP represents an integrated holistic plan for how we will deliver transformational change for taxpayers. It supersedes any previous IRS strategic planning documents including the IRS Integrated Modernization Business Plan. There is no intention to release a separate technology modernization plan because comprehensive technology modernization is woven into the IRA SOP. The SOP assumed that modernization would be funded from a combination of IRA and annual discretionary BSM funding. Full success is dependent on restoring the annual BSM funding that was eliminated in the FY 2023 appropriations bill. Time frames and cost tracking will be reflected within supplemental budget materials and progress reporting. Additionally, the IRS will continue to submit reports on major information technology project activities to the Appropriations Committees and to the Government Accountability Office. These reports will include detailed, plain language explanations of the cumulative expenditures and schedule performance to date, any changes in schedule, and current risks and mitigation strategies.

Question. The Taxpayer Advocate Service has advocated adopting multiple measures of customer service measurements, including the First Contact Resolution metric. The measure would account for the percentage of calls that are resolved on the first attempt, without the agent needing to refer the taxpayer to a colleague, their manager, or calling the taxpayer back. Taxpayers and Congress deserve to have the full understanding of how the IRS is bringing resolution to taxpayer's inquiries, especially during high call volume times during tax season.

What is currently preventing the IRS from adopting the First Contact Resolution Metric? Could the metric be applied for the 2024 tax season?

Answer. The IRS is implementing its new SOP. First Contact Resolution is one of the key performance indicators that we are exploring. Part of the IRS customer service strategy is to adopt an omnichannel service that seamlessly routes customers between channels and service representatives to get them to the right person quickly and resolve their issue in a single contact. The IRS will need to ensure it has the right data and policies in place to define and assess progress toward the goal of resolving issues on the first contact accurately and consistently. In addition, the IRS is exploring ways to measure effectiveness of service channels more broadly than just phone service. As we move toward more self-service and automated options, we want to ensure all service points are effective. Instituting First Contact Resolution as a key performance indicator would be complex and we are still exploring this as an option.

Question. The IRS Inflation Reduction Act Strategic Operating Plan notes the use of digital transformation dollars to enable flexibility for all employees and points to the need for employees to "have control over how and where work gets done." However, the plan does not go into detail on current work-from-home policies or estimates on costs for the expanse of policy. As such, please provide the following information.

What is the current work-from-home policy for the IRS by department? Please provide the number of employees that are working full time from home and employees that have a hybrid model option.

Answer. The IRS offers telework as a workplace flexibility for employees across the agency; the IRS does not have a separate policy by business unit, excluding Chief Counsel. Additionally, the 2022 national agreement with the National Treasury Employees Union (NTEU) contains provisions on telework for bargaining unit employees. Approval for participation in the IRS telework program is within a supervisor's authority and is not guaranteed for an employee. Telework may not be suited for all positions and is not an employee entitlement. The operational needs of the IRS are paramount. The mission of the IRS, roles and responsibilities of a particular office, and the extent that the employee meets the eligibility requirements determine how often and to what extent a supervisor approves telework.

The IRS does not currently offer permanent, full-time telework to any employees. The only exception would be those with an approved reasonable accommodation. Employees are offered three types of telework options: ad hoc, recurring, or frequent telework.[12] Under each of these IRS telework options, an employee is required to report to their official post of duty a minimum of twice per pay period as required by OPM and Internal Revenue Manual (IRM) section 6.800.2, IRS Telework Program.

Currently, the IRS is testing a remote work project to assess whether remote work can become a permanent workplace flexibility. This 15-month project began on March 12, 2023. We will measure key performance indicators during this period.

[12] A telework agreement is required for all types of telework. Under a recurring telework agreement, eligible employees work from an approved telework location (typically home) and perform recurring work assignments for 80 hours or less per month. Recurring telework is appropriate for low hours of repeat telework. Under a frequent telework agreement, eligible employees work from an approved telework location (typically home) and perform regular and recurring duties for more than 80 hours each month. Under an ad hoc telework agreement, eligible employees telework on a short-term or episodic basis at the approved telework location (typically home). Ad hoc telework is not appropriate for repeat instances of telework over time. It requires that an employee request and receive manager approval in advance of each instance of telework. *See* IRM 6.800.2.3.1.3.1, *available at https://www.irs.gov/irm/part6/irm_06-800-002.*

Those measures include: productivity; technology; collaboration; and location and physical workspace.

Question. Please provide what IRS departments you expect to expand work-from-home policies and costs associated with the expansion.

Answer. The IRS must remain compliant with Departmental requirements and abide by the NTEU 2022 National Agreement and any other NTEU negotiated agreements. The IRS offers telework as a workplace flexibility for its employees. However, approval for participation in the IRS telework program is within a supervisor's authority and is not guaranteed for an employee. Telework may not be suited for all positions and is not an employee entitlement. The operational needs of the IRS are paramount. The mission of the IRS, roles and responsibilities of a particular office, and the extent to which the employee meets the eligibility requirements determine how often and to what extent a supervisor approves telework. The IRS launched a 15-month Remote Work Project to a limited IRS population in March 2023. It is too early to determine the cost-savings of this new workplace flexibility. Currently, the IRS does not have plans to introduce any expanded work-from-home policies.

Question. How are you going to ensure that taxpayer services is not negatively impacted by employees working from home? Please provide what systems you will put in place to ensure that employees are doing their necessary duties.

Answer. Not all IRS positions are eligible for telework. For example, employees who perform certain face-to-face compliance activities, regular face-to-face interactions, tax return processing and correspondence, handle more than intermittent mail volume, have a recurring need to shred documents, or work with high security and/or highly sensitive documents that may not be transported to an alternate worksite are not eligible.

Moreover, for any employee to participate and to continue participating in the IRS's telework program, they must receive a "fully successful" rating on their annual review. Any employee who does not receive a "fully successful" rating is removed from the telework program and is required to work from their official post of duty until their next rating of record is completed. The Telework Program Office and the business unit telework leads in each business unit manage the process of removing employees. Performance management is the responsibility of each employee's manager. IRS business units set the goals and metrics for each employee's annual review to ensure employees meet the business unit's goals, and, thereby, IRS goals.

IRS employees continue to work to deliver for taxpayers. IRS employees worked throughout the COVID–19 pandemic delivering results for taxpayers including hundreds of millions of Economic Impact Payments and advanced payments of the Child Tax Credit. We have continued to improve our service, eliminating return and Employee Retention Tax Credit processing backlogs, and reaching an 87-percent Level of Service on our main taxpayer help line.

Question. The IRS Fiscal Year 2024 budget cites a 145-day average to hire. What, if any, consultation has the IRS has sought from OPM to address accelerating hiring to accomplish its workforce needs?

Answer. The IRS requested and received approval for three direct hire authorities from OPM and will request extensions as necessary. Our ability to have immediate access to the applicants and to make immediate job offers not only increased the rate of acceptance but has also resulted in onboarding applicants using direct hire authority in an average of 56 days, a savings of 94 days in comparison to the delegated examining process.

Question. A 2019 GAO report found that it takes 4 to 5 years to train a new hire to become an experienced senior or expert revenue officer at the IRS. The IRS Inflation Reduction Act Strategic Operating Plan projects that 63 percent of the IRS workforce becoming eligible for retirement over the next 6 years and then another 4 to 5 years of training to make up for the loss of skill.

What are you doing to address the almost 12 years of IRS training gaps?

Answer. To address training gaps, the IRS is redesigning and revising its training curricula to align to the various competency levels for a given position and for delivery using a blended learning approach. We're revising the training in a modular fashion. This practice will allow us to provide flexibility to address any competency gaps identified by targeted modules without an employee having to retake the entire training. We've also developed career path guides for Mission Critical Occupations (MCOs). These guides help IRS employees progress into more complex positions in their occupational series. The guides also provide training for a different position. Consistent with the Taxpayer First Act (TFA) training strategy, the IRS is using technology to enhance the employee training experience and ensure they have resources on the job to support their training and development needs.

In fiscal year 2024, the IRS plans to launch IRS University. This will be a corporate training organization with a blended learning model that uses a combination of traditional classroom training, virtual training, asynchronous (self-directed) learning, on the job instruction, and coaching to optimize training and development activities for various positions. This will allow the IRS to tailor training and development activities to equip individuals with the competencies required for success in their current role. It will also ensure that individuals gain proficiency as they progress in their career at the IRS.

Question. What departments face the steepest learning curves and where are early retirements going to be the most impactful to those departments?

Answer. Individual competency levels, position complexity, and the quality and level of training support provided to employees all influence learning curves. The Wage and Investment, Large Business and International, Small Business/Self Employed, Taxpayer Advocate Service, and Tax Exempt and Government Entities divisions face the steepest learning curves given the complexity of the Internal Revenue Code and the challenging nature of their work. It takes time for an individual to learn to apply our Nation's tax laws and IRS policy and procedures to advise taxpayers, resolve taxpayer issues, examine tax returns, and collect taxes.

The IRS is implementing the TFA Training Strategy included in the TFA Report to Congress (2021) to ensure our entire workforce is equipped with the competencies necessary to deliver on the IRS mission. The TFA Training Strategy will streamline and organize learning and development activities. The IRS is establishing a corporate university called IRS University that consists of academies and schools with specialized curricula. Learning teams are comprised of learning and development professionals and technical subject matter experts who will identify, develop, acquire, and deliver employee training.

IRS workforce demographic data and analyses indicate the actual retirement eligible population is declining overall. The data indicate age is the prime driver of retirements. The IRS permanent/full-time workforce has historically maintained a stable age distribution with 53 percent of the population over age 50. That trend declined to 48.8 percent in Fiscal Year 2022.

The percentage of retirement eligible population in the 10 most populated MCOs has declined over the past 5 years. The volume of retirements has also declined over the past 5 years for the 10 most populated MCO positions.

As the IRS continues to grow under the IRA, this trend is expected to continue to decline because our new hires tend to be younger.

QUESTIONS SUBMITTED BY HON. ROBERT MENENDEZ

Question. What percentage of users are able to proceed through the ID.me enrollment process without any issues?

Answer. From June 20, 2021 through May 13, 2023, approximately 80 percent of taxpayers successfully completed the ID.me enrollment (verification) process to access IRS services. This pass rate is much higher than before the IRS modernized its authentication platform. The legacy system the IRS used prior to modernizing resulted in a 40-percent pass rate on average. The improved pass rate means the IRS has been able to reach previously underserved taxpayers.

This metric excludes taxpayers who voluntarily abandoned the verification process without any failures. It also excludes verification attempts that ID.me halted due to suspected fraud.

Question. What percentage of people experience problems with ID.me, and what are the main challenges they encounter in using it?

Answer. From June 20, 2021 through May 13, 2023, 21 percent of new users failed a step in the verification process when attempting to access IRS services. The two main challenges taxpayers encounter during the self-service process are: trouble uploading identity documents (for example, blurry images that cannot pass document security checks); and failed financial records and telecom verification checks (for example, information entered does not match third-party records or third-party records for the user do not exist).

Question. What percentage of filers experiencing issues with ID.me are Black, Hispanic, Asian, Asian American, or Pacific Islander?

Answer. The IRS does not collect data on the race of taxpayers.

Question. How will you ensure that verification of taxpayers is done in an equitable manner?

Answer. Taxpayer assistance services are in place to ensure all taxpayers are able to authenticate in an equitable manner. Any taxpayer who encounters issues or fails a step in the self-service verification process is given the option to verify on a video call with a trained ID.me Trusted Referee. To verify using video call, taxpayers are prompted to upload accepted identity documents and show the physical copies to an ID.me Trusted Referee. Taxpayers are also given the option to start the verification process by going directly to a video call, also referred to as Direct to Trusted Referee. Additionally, the ID.me Member Support team is available 24 hours a day, 7 days a week, and 365 days a year at *https://help.id.me* to assist taxpayers with technical issues.

QUESTIONS SUBMITTED BY HON. TIM SCOTT

Question. The delayed processing of payroll tax credits, particularly the Employee Retention Tax Credit (ERTC), is creating significant hardship for thousands of small businesses and their employees across the country. Employers are now even having to pay ERTC tax liabilities prior to receiving ERTC funds, which is further exacerbating liquidity hardships in this tight credit and inflationary environment. Since your confirmation hearing, the backlog of 941–X filings—the IRS form used to apply for ERTC—is now over 929,000. This is an increase of 400,000 since December 2022 and over half a million since August 2022. I realize you were asked multiple questions pertaining to the ERTC backlog during your confirmation hearing in February. Your consistent response was that: "if confirmed, I commit to prioritizing this issue."

Now that it has been over a month since the Senate voted to confirm your nomination, how have you prioritized this issue? What is the IRS doing to expedite the processing of the ERTC and reduce the payroll tax credit backlog? When will the IRS be in a position to timely deliver ERTC and other payroll tax credits to businesses?

Answer. The IRS has received approximately 3.6 million ERTC claims over the course of the program. While we experienced a backlog in processing these claims earlier this year, the IRS has cleared the backlog. Our current inventory is over 600,000, virtually all of which was received within the last 90 days.

Since enactment, the IRS has taken steps to modify how we process the claims to provide better service to businesses, but we've faced challenges in ensuring the accuracy and integrity of the credits. These challenges stem from the ERTC's complicated eligibility requirements, limited data availability, resources to process claims and balance phone demand, limited enforcement resources, and the aggressive promotion of ERTC schemes.

As we worked to get current with our inventory this summer, we noticed a fundamental change taking place with a growing amount of aggressive marketing touting misleading information about the requirements and documentation necessary to qualify for the credit. This is adding risk for businesses improperly claiming the credit at the advice of these promoters. They are scamming many small businesses who fall victim to the aggressive marketing. To protect honest small business owners from scams, the IRS announced an immediate moratorium starting on September 14, 2023 through at least the end of the year on processing new ERTC claims. The moratorium will help protect taxpayers by adding a new safety net onto this program to focus on fraudulent claims and scammers taking advantage of honest taxpayers.

During the moratorium, the IRS will continue to work ERTC claims filed prior to September 14, 2023. However, because of increased fraud concerns, we're undertaking stricter compliance reviews for these claims. That means that the processing times for them will be longer, increasing from 90 days to 180 days and perhaps longer if a claim faces further review or audit. We may also seek additional documentation from taxpayers to ensure their claims are legitimate. Payouts for these claims will continue during the moratorium period but at a slower pace due to the detailed compliance reviews. The detailed compliance reviews will include audit work and criminal investigations on promoters and businesses filing dubious claims. These enhanced compliance reviews of existing claims submitted before the moratorium are critical to protect against fraud but also to protect businesses from facing penalties or interest payments stemming from bad claims pushed by promoters.

The IRS is developing new initiatives to help businesses who found themselves victims of aggressive promoters. The first is to provide businesses an opportunity to withdraw current claims. Tax professionals report they have businesses ready to come in after realizing they had been lured into claiming the credit. This option will allow the taxpayers, many of them small businesses who were misled by promoters, to avoid possible repayment issues and paying promoters contingency fees. Filers of these more than 600,000 claims awaiting processing will have this option available. In addition, we also are exploring a voluntary disclosure program for repayments for those who received an improper ERTC payment.

Question. Can you speak to how you plan to leverage modern cloud-based commercial technology to improve IRS operations, taxpayer experience, case selection and anomaly detection to prevent fraud, etc.? And will you be leveraging those proven commercial technology systems to retire failing legacy systems?

Answer. We have leveraged cloud-based commercial technology for more than a decade and consider cloud our single most important guiding principle for our information technology enterprise's architecture. Many if not most of our public-facing services, such as *IRS.gov,* are operated from the cloud. In addition, we use numerous software as service capabilities for service delivery, which traditionally have "low code" capabilities that require less customization than custom-build platforms. Looking ahead, we will continue to leverage proven commercial technology systems to improve IRS operations across the full range of mission-critical work:

- **Transforming the IRS data ecosystem.** We are moving to a data architecture on par with institutions of similar size and scale as the IRS. For example, the agency's Enterprise Data Platform is a cloud-based platform built using cloud-native tools and developed as a component-based open architecture. It will deliver universal data access for authorized users and systems at the enterprise level, meeting a range of needs while also supporting case management workflows. We protect data within our Enterprise Data Platform while at-rest and in-transit using strong encryption to ensure only appropriate and authorized use.
- **Cloud-smart acceleration.** Many of the IRS's information systems already operate in the cloud, particularly those providing customer-facing services. The IRS is investing heavily in building its new modernized systems and transforming legacy systems to leverage the benefits of the cloud. We are using cloud-native technologies and services to accelerate time-to-market and automatic scalability for new capabilities that quickly improve the taxpayer experience. One of our guiding principles is cloud smart. This means that building to an on-premise infrastructure is the destination of last resort, only to be considered after we've fully exhausted viable cloud alternatives.
- **Transforming the enterprise IT architecture.** We are shifting to an event-based architecture that is modular and technology-agnostic. By using common services and micro-services, we can process in real or near real-time and quickly change tools and technologies to keep up with industry advancements. This approach allows us to stack technologies more quickly and more efficiently and to provide taxpayers with a personalized and seamless customer service experience. We're also enhancing customer service by offering self-service capabilities through cloud-based tools, such as chatbots and voicebots, and providing employees with access to these capabilities to address taxpayer requests and concerns more efficiently. An event-based architecture also enables the IRS to more efficiently implement digitalization capabilities that speed up processing time for paper-based submissions and other taxpayer interactions.

QUESTIONS SUBMITTED BY HON. JOHN THUNE

Question. Earlier this year, South Dakotans experienced severe winter storms. My office heard from a number of farmers, ranchers, and certified public accountants in the State that experienced significant burdens with filing before the March 1st deadline. Some South Dakota producers, for example, were forced to delay tax appointments in order to clean up the storm's aftermath and tend to their livestock. Farmers who file hardcopy returns were especially burdened, as mail services were delayed to many rural areas.

The IRS may postpone deadlines for federally declared disasters, but not State-declared disasters. As IRS Commissioner, what do you find to be the advantages and disadvantages of allowing State-declared disasters eligible for temporary tax relief (that is, extended deadlines)?

Answer. Currently, Internal Revenue Code section 7508A allows the IRS to postpone certain deadlines for up to 1 year in response to a federally declared disaster, a significant fire, or a terroristic or military action. Under Treasury regulations, "federally declared disaster" includes both a major disaster declared under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act and an emergency declared under section 501 of the Stafford Act.[13] A "significant fire" is any fire that received assistance under section 420 of the Stafford Act.[14]

The IRS is not in a position to assess or make determinations about disasters, damage, local conditions, etc. The IRS does not have a role in the declaration process, but instead relies on FEMA. That is why IRS disaster relief definitions are based on the Stafford Act.

It is important for the IRS to apply a standard across all States fairly and consistently. FEMA applies rules across the entire country which provides that standard.

The Governor can request FEMA Individual Assistance along with the public assistance already rendered under the Stafford Act (if a previous request was denied an appeal can be initiated).

Question. The IRS Inflation Reduction Act Strategic Operating Plan States that "The IRS has been significantly underfunded for the past decade, with a budget reduction of 22 percent in real terms from 2010 to 2021," but that is compared to the agency's all-time high budget of 2010, which spiked under all-Democratic rule.

In order to gain a more complete picture of IRS funding, please provide the fiscal year appropriation and enacted IRS budget for each year from 2000 through 2023, with both the nominal amount and the amount adjusted for inflation.

Answer. Please see attachment.

IRS Enacted Appropriations

($ in Millions)

Fiscal Year	Taxpayer Services	Enforcement	Operations Support	Business Systems Modernization	Total	Administrative Provisions [10]	Total w/ Administrative Provisions	Supplemental Appropriation Bills [10]	Total w/ Supplemental
FY 2000					8,216.5		8,216.5		8,216.5
FY 2001				71.6	8,840.7		8,840.7	66.2	8,906.9
FY 2002				405.6	9,427.1		9,427.1	47.5	9,474.6
FY 2003				363.6	9,834.9		9,834.9		9,834.9
FY 2004				387.7	10,184.5		10,184.5		10,184.5
FY 2005				203.4	10,236.1		10,236.1		10,236.1
FY 2006				197.0	10,573.7		10,573.7		10,573.7
FY 2007				212.7	10,597.1		10,597.1		10,597.1
FY 2008 [1]	2,155.6	4,780.0	3,689.7	267.1	10,892.4		10,892.4	202.1	11,094.5
FY 2009 [2]	2,308.4	5,117.3	3,867.0	229.9	11,522.6		11,522.6	80.0	11,602.6
FY 2010	2,294.3	5,504.0	4,083.9	263.9	12,146.1		12,146.1		12,146.1
FY 2011	2,308.8	5,493.0	4,056.7	263.4	12,121.8		12,121.8		12,121.8
FY 2012	2,239.7	5,299.4	3,947.4	330.2	11,816.7		11,816.7		11,816.7
FY 2013	2,135.6	4,949.2	3,800.9	312.9	11,198.6		11,198.6		11,198.6
FY 2014 [3]	2,122.6	4,953.0	3,810.1	312.9	11,198.6	92.0	11,290.6		11,290.6
FY 2015	2,186.6	4,769.0	3,699.4	290.0	10,945.0		10,945.0		10,945.0

[13] 26 CFR 1.165–11(b)(1).
[14] IRC section 7508A(e).

IRS Enacted Appropriations—Continued

($ in Millions)

Fiscal Year	Taxpayer Services	Enforcement	Operations Support	Business Systems Modernization	Total	Administrative Provisions [10]	Total w/ Administrative Provisions	Supplemental Appropriation Bills [10]	Total w/ Supplemental
FY 2016 [4]	2,156.6	4,710.0	3,788.4	290.0	**10,945.0**	290.0	**11,235.0**		**11,235.0**
FY 2017 [4]	2,246.6	4,640.0	3,768.4	290.0	**10,945.0**	290.0	**11,235.0**		**11,235.0**
FY 2018 [5]	2,493.6	4,617.0	3,890.0	110.0	**11,110.6**	320.0	**11,430.6**		**11,430.6**
FY 2019 [6]	2,491.6	4,665.6	3,918.4	150.0	**11,225.6**	77.0	**11,302.6**		**11,302.6**
FY 2020 [7]	2,535.6	4,909.5	3,885.0	180.0	**11,510.1**		**11,510.1**	765.7	**12,275.8**
FY 2021 [8]	2,587.6	5,004.6	4,104.1	222.7	**11,919.1**		**11,919.1**	2,370.7	**14,289.8**
FY 2022 [9]	2,780.6	5,437.6	4,100.8	275.0	**12,594.1**		**12,594.1**	79,440.7	**92,034.8**
FY 2023	2,780.6	5,437.6	4,100.8	–	**12,319.1**		**12,319.1**		**12,319.1**

Note: Inflation adjustments made based on OMB Table 10.1—GROSS DOMESTIC PRODUCT AND DEFLATORS USED IN THE HISTORICAL TABLES: 1940–2028.

[1] Supplemental funding for the "Economic Stimulus Act of 2008," Pub. L. 110–85, available for obligations through FY 2009.

[2] Supplemental funding for the "American Recovery and Reinvestment Act of 2009," Pub. L. 111–5, available for obligations through FY 2010.

[3] Administrative Provision funding for improve the delivery of services to taxpayers; to improve the identification and prevention of refund fraud and identity theft; and to address international and offshore compliance issues, Pub. L. 113–76, available for obligations through FY 2015.

[4] Administrative Provision allocation to specifically to support customer level of service, Identity Theft and Cyber Security, available for obligations through FY 2017.

[5] Administrative Provision allocation to support the implementation of Tax Reform Plan, available for obligations through FY 2019.

[6] Administrative Provision allocation to support the implementation of Tax Reform Plan, available for obligations through FY 2020.

[7] Supplemental funding for the "Families First Coronavirus Response Act," Pub. L. 116–127 ($15 million before inflation), available for obligations through FY 2022 and the "CARES Act," Pub. L. 116–136 ($750.7 million before inflation), available for obligations through FY 2021.

[8] Supplemental includes funding from the Consolidated Appropriations Act, FY 2021, Pub. L. 116–260, Div. N for EIP2 ($509 million before inflation), available for obligations through FY 2021, and supplemental funding from the American Rescue Plan Act, Pub. L. 117–2, for Advance CTC ($397.2 million before inflation) available for obligations through FY 2022 as well as and EIP, Modernization, and Taxpayer Services ($1.465 billion before inflation) available for obligations through FY 2023.

[9] Supplemental funding for the "Inflation Reduction Act," Pub. L. 117–169 ($79.4 billion before inflation), available for obligations through FY 2031 and "Additional Ukraine Supplemental Appropriations Act," Pub. L. 117–128 ($29.7 million before inflation), available for obligations through FY 2023.

[10] Administrative provisions and supplemental funding typically provide money for executing new programs, legislation, or to supplement existing key programs, and thus are not available for core recurring IRS base functions.

IRS Enacted Appropriations

(Inflation Adjusted FY 2023 $ in Millions)

Fiscal Year	Taxpayer Services	Enforcement	Operations Support	Business Systems Modernization	Total	Administrative Provisions [10]	Total w/ Administrative Provisions	Supplemental Appropriation Bills [10]	Total w/ Supplemental
FY 2000	–	–	–	–	**13,880.2**	–	**13,880.2**	–	**13,880.2**
FY 2001	–	–	–	**118.0**	**14,571.8**	–	**14,571.8**	109.1	**14,680.9**
FY 2002	–	–	–	**660.0**	**15,339.3**	–	**15,339.3**	77.3	**15,416.6**
FY 2003	–	–	–	**578.9**	**15,656.8**	–	**15,656.8**	–	**15,656.8**
FY 2004	–	–	–	**602.5**	**15,828.3**	–	**15,828.3**	–	**15,828.3**
FY 2005	–	–	–	**306.5**	**15,429.2**	–	**15,429.2**	–	**15,429.2**
FY 2006	–	–	–	287.4	**15,426.6**	–	**15,426.6**	–	**15,426.6**
FY 2007	–	–	–	302.2	**15,060.5**	–	**15,060.5**	–	**15,060.5**
FY 2008 [1]	2,963.4	6,571.3	5,072.4	367.2	**14,974.3**	–	**14,974.3**	277.9	**15,252.2**
FY 2009 [2]	3,177.5	7,043.9	5,322.9	316.5	**15,860.9**	–	**15,860.9**	110.1	**15,971.0**
FY 2010	3,102.5	7,442.6	5,522.3	356.8	**16,424.3**	–	**16,424.3**	–	**16,424.3**
FY 2011	3,053.7	7,265.5	5,365.7	348.4	**16,033.3**	–	**16,033.3**	–	**16,033.3**
FY 2012	2,902.0	6,866.4	5,114.7	427.9	**15,310.9**	–	**15,310.9**	–	**15,310.9**
FY 2013	2,723.7	6,312.3	4,847.8	399.1	**14,282.9**	–	**14,282.9**	–	**14,282.9**
FY 2014 [3]	2,665.4	6,219.8	4,784.6	393.0	**14,062.8**	115.5	**14,178.4**	–	**14,178.4**
FY 2015	2,731.0	5,956.4	4,620.6	362.2	**13,670.2**	–	**13,670.2**	–	**13,670.2**
FY 2016 [4]	2,675.5	5,843.3	4,700.0	359.8	**13,578.5**	359.8	**13,938.3**	–	**13,938.3**
FY 2017 [4]	2,739.1	5,657.3	4,594.7	353.6	**13,344.7**	353.6	**13,698.3**	–	**13,698.3**
FY 2018 [5]	2,974.2	5,507.0	4,639.9	131.2	**13,252.3**	381.7	**13,634.0**	–	**13,634.0**
FY 2019 [6]	2,921.3	5,470.3	4,594.2	175.9	**13,161.7**	90.3	**13,251.9**	–	**13,251.9**
FY 2020 [7]	2,915.9	5,645.9	4,467.7	207.0	**13,236.5**	–	**13,236.5**	880.6	**14,117.1**
FY 2021 [8]	2,894.1	5,597.3	4,590.1	249.1	**13,330.6**	–	**13,330.6**	2,651.5	**15,982.1**
FY 2022 [9]	2,934.4	5,738.3	4,327.6	290.2	**13,290.5**	–	**13,290.5**	83,833.9	**97,124.5**
FY 2023	2,780.6	5,437.6	4,100.8	–	**12,319.1**	–	**12,319.1**	–	**12,319.1**

Note: Inflation adjustments made based on OMB Table 10.1—GROSS DOMESTIC PRODUCT AND DEFLATORS USED IN THE HISTORICAL TABLES: 1940–2028.

[1] Supplemental funding for the ''Economic Stimulus Act of 2008,'' Pub. L. 110–85, available for obligations through FY 2009.
[2] Supplemental funding for the ''American Recovery and Reinvestment Act of 2009,'' Pub. L. 111–5, available for obligations through FY 2010.
[3] Administrative Provision funding for improve the delivery of services to taxpayers; to improve the identification and prevention of refund fraud and identity theft; and to address international and offshore compliance issues, Pub. L. 113–76, available for obligations through FY 2015.
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[5] Administrative Provision allocation to support the implementation of Tax Reform Plan, available for obligations through FY 2019.
[6] Administrative Provision allocation to support the implementation of Tax Reform Plan, available for obligations through FY 2020.
[7] Supplemental funding for the ''Families First Coronavirus Response Act,'' Pub. L. 116–127 ($15 million before inflation), available for obligations through FY 2022 and the ''CARES Act,'' Pub. L. 116–136 ($750.7 million before inflation), available for obligations through FY 2021.
[8] Supplemental includes funding from the Consolidated Appropriations Act, FY 2021, Pub. L. 116–260, Div. N for EIP2 ($509 million before inflation), available for obligations through FY 2021, and supplemental funding from the American Rescue Plan Act, Pub. L. 117–2, for Advance CTC ($397.2 million before inflation) available for obligations through FY 2022 as well as and EIP, Modernization, and Taxpayer Services ($1.465 billion before inflation) available for obligations through FY 2023.
[9] Supplemental funding for the ''Inflation Reduction Act,'' Pub. L. 117–169 ($79.4 billion before inflation), available for obligations through FY 2031 and ''Additional Ukraine Supplemental Appropriations Act,'' Pub. L. 117–128 ($29.7 million before inflation), available for obligations through FY 2023.
[10] Administrative provisions and supplemental funding typically provide money for executing new programs, legislation, or to supplement existing key programs, and thus are not available for core recurring IRS base functions.

Question. Please also provide the total amount of additional IRS appropriations for COVID–19-related purposes (examples: Families First Coronavirus Response Act, CARES Act, Appropriations to Carry Out Rebates and Address COVID-Related Tax Administration Issues, and the American Rescue Plan Act of 2021).

Answer. Please see attachment.

Coronavirus Response Discretionary Appropriations— Internal Revenue Service

Appropriation $ in Thousands	Initial Spend Plan	Net Realignments	Current Spend Plan as of March 31, 2023
CARES Act and Families First Coronavirus Response—Expired			
Taxpayer Services	$352,900	$7,891	$360,791
CARES Act—Rebates (Pub. L. 116–136)	293,500	7,891	301,391
CARES Act—Supplemental (Pub. L. 116–136)	59,400		59,400
Enforcement	$79,200	($16,497)	$62,703
CARES Act—Rebates (Pub. L. 116–136)	37,200	(16,497)	20,703
CARES Act—Supplemental (Pub. L. 116–136)	42,000		42,000
Operations Support	$333,600	$8,606	$342,206
Families First Coronavirus Response Act (Pub. L. 116–127)	15,000		15,000
CARES Act—Rebates (Pub. L. 116–136)	170,000	8,606	178,606
CARES Act—Supplemental (Pub. L. 116–136)	148,600		148,600
Total CARES Act and Families First Coronavirus Response	$765,700		$765,700
Consolidated Appropriations Act, FY 2021 (EIP2)—Expired			
Taxpayer Services	$196,435		$196,435
Consolidated Appropriations Act, FY 2021 (Pub. L. 116–260)	196,435		196,435
Operations Support	$312,565		$312,565

Coronavirus Response Discretionary Appropriations— Internal Revenue Service—Continued

Appropriation $ in Thousands	Initial Spend Plan	Net Realignments	Current Spend Plan as of March 31, 2023
Consolidated Appropriations Act, FY 2021 (Pub. L. 116–260)	312,565		312,565
Total Consolidated Appropriations Act, FY 2021	$509,000		$509,000
American Rescue Plan			
Taxpayer Services	$422,125	$244,953	$667,078
Advance Tax Year 2021 Child Tax Credit (Pub. L. 117–2)–Expired	206,300	42,095	248,395
Cost of Economic Impact Payment 3 (Pub. L. 117–2)	215,825	37,212	253,037
Taxpayer Assistance (Pub. L. 117–2)		165,6461	65,646
Operations Support	$939,575	($63,353)	$876,222
Advance Tax Year 2021 Child Tax Credit (Pub. L. 117–2)—Expired	190,900	(42,095)	148,805
Cost of Economic Impact Payment 3 (Pub. L. 117–2)	248,675	(37,212)	211,463
Cost to Integrate, Modernize, and Secure IRS Systems (Pub. L. 117–2)	500,000	15,954	515,954
Business Systems Modernization	$500,000	($181,600)	$318,400
Cost to Integrate, Modernize, and Secure IRS Systems (Pub. L. 117–2)	500,000	(181,600)	318,400
Total American Rescue Plan	$1,861,700		$1,861,700
Total by account			
Taxpayer Services	971,460	252,844	1,224,304
Enforcement	79,200	(16,497)	62,703
Operations Support	1,585,740	(54,747)	1,530,993
Business Systems Modernization	500,000	($181,600)	318,400
Total	$3,136,400		$3,136,400

Question. Our Nation has a relatively high and stable voluntary tax compliance rate. In fact, tax compliance levels remain substantially unchanged since at least the 1980s.

What is the IRS's latest data on the percentage of taxes paid voluntarily and on time? Please include the year.

After enforcement efforts and late payments are taken into account, what percentage of taxes were paid? Please include the year.

Answer. Our latest estimates are for tax years (TYs) 2014 through 2016. We estimate that 85 percent of taxes were paid voluntarily and on time. After considering enforcement efforts and late payments, the estimated share of taxes eventually paid is 87 percent.

The TYs 2014 through 2016 estimates also included projections of the tax gap for TYs 2017 through 2019. Based on these projections, 86.1 percent of taxes are estimated to have been paid voluntarily and on time for TYs 2017 through 2019. After enforcement efforts and late payments are considered, we project that 87 percent of taxes will eventually be paid.

Question. What percentage of IRS employees are currently working in a full-time telework capacity?

Answer. The IRS does not offer a full-time telework option for its employees. The only employees that may have a full-time telework agreement are those that have an approved reasonable accommodation that requires them to telework full-time. However, the IRS is currently testing a remote work project to a small participant group, and it is not offered to all employees at this time. The project began in March 2023 with an anticipated 15-month timeline to test the effectiveness and efficiency of remote work in the IRS.

Question. Was a competitive bid process followed for the $15 million allocated by the Inflation Reduction Act to study the feasibility of a direct "free" e-file tax return system? If so, please elaborate on the process and the criteria considered.

Answer. The IRS considered several options for the independent third party required by the IRA, including contractors, non-profit organizations, academics, and other government agencies. New America is a non-partisan, non-profit think tank dedicated to public problem solving with expertise in technological change, the tax code, and the taxpayer experience of everyday Americans. Professor Ariel Jurow-Kleiman is a nationally recognized expert on tax law and policy and Associate Professor of Law at Loyola Law School. The IRS selected these two highly qualified parties because of their expertise in the areas needed for an independent evaluation of the study. The IRS entered into Gratuitous Services Agreements with both parties, meaning that neither is receiving compensation from the IRS for their contributions.

The IRS's Direct File Report to Congress includes an unbiased estimate on the cost of creating and maintaining such a program on an annual basis. The cost estimates for the Direct File report are based on IRS subject matter experts' experience with launching new IRS digital services, and the experience of other digital projects from across the Federal Government.

The cost estimates recognize that providing a Direct File service is not a one-time cost. As with most IRS systems, it will need to provide ongoing taxpayer support and to keep pace with changes to tax law. Therefore, the report includes the cost of building a long-term team necessary to develop and maintain Direct File. That team would include both Federal employees and contractors.

The intent of the estimates in the report is twofold. We provide Congress with a general estimate of the cost of such a system, including the range of uncertainty of such costs. In addition, the estimates show the effect of different assumptions, including the complexity of the supported tax situations and uptake by taxpayers. In particular, we see that costs increase with the number of users, mainly due to the cost of providing customer support.

In its report, the IRS covers both the benefits and operational challenges that it will have to consider and overcome if we move forward with a Direct File system. Further, as required by the IRA, the report includes the opinion of an independent third party that provides an independent, external perspective on the IRS's ability to run a direct file program.

QUESTIONS SUBMITTED BY HON. THOM TILLIS

Question. I appreciated our conversation during the April 19th Senate Finance Committee hearing regarding the ongoing study of the feasibility of the Internal Revenue Service (IRS) developing and implementing a system to prepare returns for taxpayers or allow them to file directly with the IRS using a government-run software. During the hearing, Senator Crapo and I both asked you if you believe the IRS currently has the authority, without new authorizing legislation and appropriations, to develop and implement such a system. As part of the study on the feasibility of the IRS providing a free-file tax system, I believe it is necessary to address that question.

Does the IRS require new authorizing legislation and appropriations before it would have the authority to develop and implement a free-file system? Please provide both your personal view as well as any legal opinion held by IRS as an agency.

Answer. Running a Direct File system does not create a conflict of interest for the IRS. Authority for the IRS to run a direct electronic filing option is not in question as the IRS possess the authority to develop and run such a system. There is substantial precedent for the IRS providing assistance and advice to taxpayers to meet their tax filing obligations and complete their returns accurately, such as through the Tele-File program, that allowed taxpayers to file simple tax returns by telephone. For example, we administered the Tele-File program that allowed taxpayers to file simple tax returns by telephone. The IRS also operates taxpayer assistance centers (TACs), in which IRS employees previously provided in-person tax preparation services (note that the IRS stopped providing tax return preparation assistance at the TACs in 2014). The IRS also offers by phone as well as through calculators and other tools on its website, through formal private letter rulings, and by partnering with third-party volunteer organizations including those participating in the Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) programs to provide tax advice. We also launched the new Information Returns Intake System (IRIS) application this year, allowing payers to file Forms 1099 electronically.

Direct File offers taxpayers an additional option allowing taxpayers to accurately and directly file returns for free with the IRS. Taxpayers can still use commercial tax filing software, professional preparation services, or other options.

QUESTIONS SUBMITTED BY HON. ELIZABETH WARREN

Question. For months, House Republicans have threatened to refuse to raise the debt ceiling unless Democrats acquiesce to massive spending cuts. Last week, Speaker McCarthy and House Republicans unveiled their official legislative proposal. Disingenuously entitled the Limit, Save, and Grow Act, the bill takes a hacksaw to critical government spending.

One specific provision of the bill targets the IRS. According to former IRS Commissioner Charles Rettig, the tax gap—the difference between true total tax liability and the amount paid on time [15]—sits at roughly $1 trillion, due largely to the agency's lack of resources to be able to catch tax cheats.[16] Democrats recognized that the solution is to provide the agency with the resources it needs, and secured $80 billion in additional funding for the IRS in last year's Inflation Reduction Act.[17] But House Republicans instead want to nix that funding.

By cutting the additional IRS funding passed in the IRA, how would the Limit, Save, and Grow Act affect the IRS's ability to go after wealthy tax cheats?

What impact would cutting this funding have on agency efforts to improve taxpayer services for working families?

What effect would cutting this funding have on tax receipts and on the tax gap?

Answer. We are transforming tax administration to dramatically improve service to taxpayers, ensure fairness in all we do, build a workplace that attracts and retains top talent, and modernize our technology. Inflation Reduction Act funding is an investment that complements our annual funding to dramatically improve tax administration.

Cutting Enforcement resources from the IRA funding would halt the IRS's efforts to ensure high-income, high-wealth individuals, large corporations, and complex partnerships pay the taxes they legally owe, undermining the IRS' ability to enforce tax laws with integrity and fairness. Our ability to significantly increase audit coverage on high-income/high-wealth individuals, partnerships, and large corporations would be at the unacceptably low levels that we have seen over recent years. Where-

[15] Internal Revenue Service, "IRS The Tax Gap," *https://www.irs.gov/statistics/irs-the-tax-gap#:~:text=The%20gross%20tax%20gap%20is,underpayment%20(or%20remittance)%20gap.*

[16] *New York Times,* "Tax cheats cost the U.S. $1 trillion per year, IRS chief says," Alan Rappeport, updated October 13, 2021, *https://www.nytimes.com/2021/04/13/business/irs-tax-gap.html.*

[17] CBS News, "What's in House Republicans' bill to lift the debt ceiling and cut spending?", Melissa Quinn and Kathryn Watson, April 20, 2023, *https://www.cbsnews.com/news/debt-ceiling-house-republicans-bill-limit-save-grow-act/.*

as audit coverage on Tax Year (TY) 2010 returns was 9.1 percent for individuals with income over $1 million, it had fallen to just 1.6 percent for TY 2018 returns (the last year of complete audit coverage data), while the number of returns filed for individuals with income over $1 million increased by 91 percent over that same time period. The amount of additional recommended tax on those audits fell from $1.284 billion to $468 million, a loss of $815 million (not accounting for inflation). The IRS audited just 2,700 TY 2018 partnership returns, versus 15,700 TY 2010 returns, even though the number of partnership returns increased by 23 percent over that same time period (4.01 million in TY 2018 vs. 3.25 million in TY 2010). Audit coverage on corporations with balance sheet assets over $250 million fell from 28.5 percent on TY 2010 returns to 12.6 percent on TY 2018 returns, while there were 15 percent more corporations of that size, and additional recommended tax was $12.4 billion less for TY 2018 returns vs. TY 2010 returns.[18]

The IRS delivered dramatically improved service in filing season 2023. Thanks to the 5,000 new hires made possible by Inflation Reduction Act resources, IRS customer service representatives answered more than 6.5 million taxpayer calls this year, 2.4 million more calls with live assistance since the start of the year through April 7th, compared to the same period in 2022. The IRS cut phone wait times to 4 minutes, down from 27 minutes in filing season 2022. The IRS achieved an 87-percent Level of Service (LOS) with live assistance this filing season. This is a more than fivefold increase in LOS over filing season 2022.

Annual appropriations are a recognition that we need to continue to operate while we transform. Both of these funding streams are critical to deliver and improve service for taxpayers. Cutting additional IRS funding provided by the IRA will increase the tax gap, undermine taxpayer services, and compromise the modernization of tax administration. For example, the IRS used over $800 million of IRA funding (one-quarter of the total in taxpayer services) in FY 2023 to provide the significantly higher service levels that you all have heard about this past filing season. In future years, if Congress doesn't provide sufficient discretionary funding to cover inflation and pay raises, we anticipate exhausting all IRA taxpayer services funding by the end of FY 2025. This would lead to worse service for our small businesses, working families, and other taxpayers: fewer calls answered, less help in person at taxpayer assistance centers, and more.

The IRS has requested in our FY 2024 budget that Congress fund all inflationary increases and pay raises. We also requested that it fund program increases to add over 4,700 full-time equivalents (FTEs) to taxpayer services to pay for increased phone coverage to answer calls and assist walk-in taxpayers on regular tax issues. We also need this funding to answer questions specific to the Green Tax credits that the IRA authorized. The IRS will need continued increases for pay raises and inflation on top of the FY 2024 budget level in order to keep our overall level of service at high levels through FY 2031, when the IRA funding expires.

Question. A new analysis from Moody's Analytics examines the impacts of the cuts proposed by the Limit, Save, and Grow Act. The analysis lays out the macroeconomic effects: 780,000 jobs lost by the end of 2024 and a roughly 40-percent decrease in GDP growth.[19] And these effects would persist, with nondefense discretionary spending at 2 percent of GDP by Fiscal Year 2033, its lowest level since the 1960s. But as Dr. Mark Zandi, one of the authors of the analysis, noted in a hearing of the Senate Banking, Housing, and Urban Affairs Subcommittee on Economic Policy that I chaired, the estimates produced by Moody's models are static, meaning they don't "account for the economic consequences of those cuts on the economy and what that means for revenue and spending."[20] Dr. Zandi added that taking revenue impacts into account would likely increase the effect of the cuts.[21] A proposal like the Limit, Save, and Grow Act that makes massive cuts and simultaneously diminishes revenue, then, does not seem to promote "growth."

[18] IRS Data Book, 2022, Table 17, and IRS Data Book, 2020, Table 17, available at *https://www.irs.gov/statistics/soi-tax-stats-all-years-irs-data-books.*

[19] Moody's Analytics, "The Debt Limit Drama Heats Up," Mark Zandi and Bernard Yaros, April 2023, *https://www.moodysanalytics.com/-/media/article/2023/debt-limit-drama.pdf.*

[20] Office of Senator Elizabeth Warren, "ICYMI: At Hearing, Warren Warns Republicans' Debt Ceiling Hostage Demands Would Cut 2.6 Million Jobs and Trigger Recession," press release, March 8, 2023, *https://www.warren.senate.gov/newsroom/press-releases/icymi-at-hearing-warren-warns-republicans-debt-ceiling-hostage-demands-would-cut-26-million-jobs-and-trigger-recession.*

[21] *Id.*

What would be the impact on tax receipts of the lessened economic growth caused by the Limit, Save, and Grow Act?

Answer. The IRS does not maintain models appropriate for the macroeconomic analysis of proposed legislation nor does it score legislation apart from legislation affecting tax administration. We recommend reaching out to the Congressional Budget Office.

QUESTIONS SUBMITTED BY HON. TODD YOUNG

Question. The most common complaint my office receives about the IRS is that Hoosiers still cannot reach anyone via the IRS's customer service line. In investigating this issue, I have learned some illuminating things about the way the IRS measures its phone performance, which make me wonder if the IRS is evaluating the right things to actually measure and improve the service taxpayers are receiving. For example, the IRS apparently does not track how long it takes callers to navigate through the automated screening systems for the IRS's toll-free lines, measures average "wait times" by only looking at callers who successfully connect to a live or automated assistor, and considers a live assistor call to be "answered" the moment an assistor connects to a caller on hold regardless of whether the call continues from that point.

The IRS has also long portrayed its reported phone data as reflecting the entire universe of its toll-free phone performance, or allowed the data to be characterized as such, when in fact the stats are being reported only for a fraction of the hundred-plus toll-free lines the IRS operates.

Would you agree that it is imperative that the IRS increases its transparency in how it reports phone data and also enhances the scope and utility of information it collects, yes or no?

Answer. The IRS currently reports phone data for all public-facing toll-free phone lines in various forums, including the Treasury Inspector General for Tax Administration (TIGTA), Government Accountability Office (GAO), congressional briefings, congressional budget requests, and to the public on *irs.gov*. Additionally, phone performance is a topic for congressional hearings and media requests, that provide additional avenues for public awareness.

Question. Will you commit to having measures in place before next filing season to do these things, and if so, what will those measures be?

Answer. In addition to the publicly shared information, an IRS project team is working to identify the best metrics to provide a more complete view of the taxpayer experience. This team conducted a benchmark study of private business, other government agencies, and other countries' tax administration performance metrics, with specific focus on call sites to determine the data being reported by other organizations. In 2024, we will begin testing new performance metrics as recommended by this team, with the goal of fully implementing the metrics by 2025. This time frame allows for modifying existing systems and reports, testing the data and outcomes, and confirming data accuracy and integrity.

Question. Some of my Senate Finance colleagues and I wrote a letter to your predecessor regarding a company called "EnQ" that floods the IRS with robocalls and sells front-of-the-line access to individuals who pay as much as $1,000 a year.

Do you believe taxpayers should have to pay money to a private company in order to reach someone at the IRS in a timely manner?

Answer. No, taxpayers should not have to pay money to a private company in order to reach someone at the IRS in a timely manner. These types of companies came into existence in response to inadequate resources that left IRS staff unable to meet increased telephone demand in past years. The IRS leveraged Inflation Reduction Act funds in the 2023 filing season along with its annual discretionary budget to provide an exemplary Customer Service Representative Level of Service (LOS) of 87 percent. As a result, we saw some robocall services reduce the number of calls.

Question. Do robocall services such as EnQ ultimately increase wait times on the IRS call lines?

Answer. Yes, robocall services have the potential to increase wait times on the IRS call lines. However, in many instances these services don't have a paid subscriber on the line when the IRS assistor answers the call. These short calls are considered answered and reduce handling times on the IRS call lines. In addition to potentially increasing wait times, robocall services have the ability to deny service to taxpayers who are unwilling or unable to pay for what should be a free service.

The IRS is partnering with industry leaders to identify solutions to nuisance calls from bots. The IRS completed a 6-month pilot from October 2022 to March 2023 on the Practitioner Priority line. The pilot used speech recognition to help ensure a live person was calling and not an automated system. The pilot was successful in reducing the number of calls from bots during a low Level of Service (37.5 percent) period from October 2022 through December 2022. However, because the IRS experiences more bot calls during periods with lower LOS, the increased staffing for the 2023 filing season, which improved the LOS to 87 percent, played a more significant role in changing calling behavior from companies owning bots. The average answer speed during the first half of the pilot (October 2022 to December 2022) was 27 minutes compared to 3 minutes in the second half of the pilot (January 2023 to March 2023).

The IRS continues to research alternatives to combat bots. We plan to launch another 6-month pilot with a second technology vendor in January 2023.

Question. In response to a question asked by my colleague, Senator Blackburn, during your live questioning, you noted that during your first few weeks as Commissioner you had focused your time asking several questions, including whether the IRS was ". . . in [its] Taxpayer Assistance Centers and walk-in centers keeping the lines short, meeting all of [its] appointments . . . ," and you commented that it was. This stands in contrast to what I heard from my constituents at the beginning of this year. Specifically, many of my constituents struggled to get appointments as they were unable to get through to the nationwide telephone scheduling service to set up said appointments and were unable to set up walk-in appointments as many of the centers were not open during regular business hours.

In response to the questions for the record submitted following your nomination hearing before the Senate Finance Committee earlier this year, you committed to "ensuring taxpayers can access Taxpayer Assistance Centers."

Can you please provide updated data, broken down by city and State, on the number of Taxpayer Assistance Centers (TACs) that are currently fully staffed and open for walk-in appointments during normal business hours?

Answer. If a TAC is not operating during normal business hours, it's generally due to employee attrition. However, we are focused on hiring to fully staff our TACs and keep them open to assist taxpayers. (Please see attachment).

Taxpayer Assistance Centers (TACs)

(currently fully staffed and open for walk-in appointments)

City	State	City	State	City	State	City	State
Aberdeen	SD	Eau Claire	WI	Mankato	MN	Richland	WA
Abilene	TX	Evansville	IN	Mansfield	OH	Rochester	MN
Akron	OH	Fairview Heights	IL	Mayaguez	PR	Saginaw	MI
Albany	GA	Fitchburg	MA	Merrillville	IN	Saint Joseph	MO
Amarillo	TX	Florence	AL	Monroeville	PA	Salinas	CA
Annapolis	MD	Fort Wayne	IN	Myrtle Beach	SC	San Angelo	TX
Appleton	WI	Frederick	MD	New York—Queens Elmhurst	NY	Shreveport	LA
Asheville	NC	Fredericksburg	VA	Norfolk	NE	Silverdale	WA
Augusta	GA	Freehold	NJ	North Platte	NE	Smyrna	GA
Bakersfield	CA	Gulfport	MS	Norwich	CT	Springfield	IL
Beckley	WV	Hilo	HI	Olympia	WA	Springfield	MO
Billings	MT	Hopkinsville	KY	Orlando (Maitland)	FL	Springfield	NJ
Bowling Green	KY	Hyannis	MA	Overland Park	KS	Staunton	VA
Bridgeport	CT	Idaho Falls	ID	Owensboro	KY	Texarkana	AR

Taxpayer Assistance Centers (TACs)—Continued

(currently fully staffed and open for walk-in appointments)

City	State	City	State	City	State	City	State
Bridgeport	WV	Jackson	TN	Paducah	KY	Traverse City	MI
Cedar Rapids	IA	Jamestown	NY	Paterson	NJ	Tupelo	MS
Champaign	IL	Jonesboro	AR	Pensacola	FL	Utica	NY
Columbia	SC	Joplin	MO	Plantation	FL	Vancouver	WA
Columbus	GA	Lake Charles	LA	Pocatello	ID	Waterloo	IA
Danbury	CT	Lakeland	FL	Poughkeepsie	NY	Yakima	WA
Danville	VA	Las Cruces	NM	Presque Isle	ME	Youngstown	OH
Davenport	IA	Long Beach	CA	Prestonsburg	KY		
Daytona Beach	FL	Longview	TX	Quincy	IL		
Dothan	AL	Lynchburg	VA	Rapid City	SD		
Duluth	MN	Madison	WI	Reno	NV		

Question. For the centers that are not operating during normal business hours, can you please provide information on why this is the case and how the IRS plans to ensure taxpayers have access to in-person TAC services?

Answer. If a TAC is not open and operating during normal business hours, it's generally due to employee attrition. However, we are focused on hiring to fully staff our TACs and keep them open to assist taxpayers. (Please see attachment). With IRA funding, we will enable taxpayers to schedule service through digital and in-person channels. We are also developing a plan to provide estimated wait times and on-demand service through all channels, including at TACs.

Taxpayer Assistance Centers (TACs)

(not operating during normal business hours)

City	State	Comment
Bellingham	WA	Currently Circuit Riding
Harrisburg	PA	Currently Circuit Riding

Note: Updates as of 10/17/2023.

Question. Earlier this year following your nomination hearing, you stated in response to a question for the record related to the ProPublica leak, where troves of confidential taxpayer information were leaked to the public:

> Working with this committee and other oversight entities will be an important priority of mine, if confirmed. I commit to learning more about this issue and timely follow-up with you and this committee, in line with applicable laws and regulations.

Since your swearing in on April 4, 2023, have you requested a status update on the ProPublica investigation from the Office of Inspector General, the Treasury Inspector General for Tax Administration, and the Department of Justice, yes or no?

Answer. Yes.

Question. If your response is "yes," please provide details as to the dates and relevant offices for each and every status update request you have placed during that time. If your response is "no," please explain why you have not requested a status update despite your commitment to learning more about this matter in a timely manner. If you requested status updates prior to April 4, 2023, please provide details on those inquiries.

Answer. We cannot comment about law enforcement procedures outside IRS authority. This matter falls under the jurisdiction of the appropriate authorities, TIGTA and the Department of Justice. These authorities conduct their investigations, and any related briefings, independently.

Question. At any point following your March 9, 2023, confirmation, have you or anyone on your staff briefed the Senate Finance Committee chairman or majority staff on the matter, yes or no? If your answer is "yes," please provide dates and attendee details.

Answer. As noted in the prior response, the appropriate authorities conduct their investigations, and any related briefings, independently.

Question. As the IRS looks to bring in additional contract workers to continue to address the processing backlog, what guardrails has the IRS put in place to ensure that a leak like ProPublica does not happen again?

Answer. Protecting taxpayer information is a fundamental IRS principle. We continue to leverage congressionally provided funds to implement a multilayered information protection strategy. We also continuously identify and implement the most current cybersecurity protections available. Guard rails that help ensure the protection of taxpayer data include:

- **Policy:** Taxpayers have a right to privacy and confidentiality. The IRS protects taxpayer information, and discloses such information only as authorized by the taxpayer or by law. The IRS takes appropriate action against government employees, return preparers, and others who wrongfully use or disclose taxpayer return information. The IRS fosters a culture of privacy and confidentiality. We ensure that employee and contractor access to information is limited to what is relevant and necessary to administer the tax laws.
- **Training:** Every employee, must complete mandatory training which clearly defines when access to taxpayer information is authorized. The training also details the consequences of unauthorized access and disclosure under IRC section 6103. Consequences include potential termination of employment, fines, and imprisonment.[22] Any unauthorized disclosure of confidential government information is illegal, and we take allegations or indications of any such disclosures seriously.
- **Protective Controls:** The IRS implemented the Privileged User Management and Access System (PUMAS) to manage privileged access accounts to servers, mainframes, and network devices. This system also manages software on IRS endpoints with white/blacklisting of software applications to ensure we use the most secure technology products. Our Business Entitlement Access Request System (BEARS) allows us to rigorously control who can access what types of data on which system within the IRS using an entitlement approval process that often includes multiple levels of review. We aggressively manage our physical access control systems and other associated physical security measures, limiting facility access to only those with requisite approvals.
- **Detective Controls:** The IRS has several different methods of monitoring audit logs for multiple security threat and compliance purposes, including Unauthorized Access, which we call UNAX. We evaluate the audit logs and reports on a daily, weekly, and monthly basis. Data availability drives variation of frequency, analytic platform capabilities, and policy. As a result of these efforts, the IRS has processed over 460 violations resulting in suspension, resignation, and removal over the past 10 years. The IRS requires that individuals recertify their access to IRS applications on a regular schedule. For "non-privileged" roles such as an employee's access to the agency's official timekeeping system, the recertification process occurs annually. For "privileged" roles, the recertification process occurs every 6 months.
- **Oversight:** TIGTA regularly audits employee access to taxpayer information. As required by law, the IRS provides an annual report to the Joint Committee on Taxation that describes disclosures of taxpayer information during the year and the statutory authorization for each type of disclosure. GAO also provides oversight on the protection of taxpayer information. IRS systems undergo a variety of assessments throughout the year to test the efficiency of the detection and protective controls we have in place.

Question. Based on your testimony, I understand the IRS is preparing to spend vast sums of taxpayer dollars on data warehousing and analytics. There is a significant debate underway in our country about Big Tech, privacy, and misuse of data. How are you going to avoid the IRS becoming the focal point of that discussion?

Answer. The IRS is building an enterprise data platform that will store the data we use to fulfill our diverse missions, from performing research and analysis to fighting identify theft. We are building the platform in the cloud, which will allow

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[22] *See* IRC Sections 7213 (criminal penalty for unauthorized disclosure) and 7431 (civil damages provision).

us to proactively weave protective and detective data security controls directly into the platform's operational fabric. This development comes as a contrast to dated data security management approaches in which data security controls are wrapped around platforms, or "bolted on." The platform will also absorb thousands of databases we use in our current operations, which are individually operated and secured.

While we have always been a data-centric organization and have a robust, multilayered data protection strategy, we have taken strategic steps to ensure that posture does not change as we begin to embrace the promise of automation and analytics more fully. We very deliberately established responsible, ethical use of data as a core principle in the Strategic Operating Plan (SOP). Reinforcing this, we are standing up a Data Security Executive Steering Committee. The committee will focus executive attention on advancing how we protect taxpayer and mission-support data to enable the IRS to achieve its priorities, build agency credibility, and develop taxpayer trust. This Executive Steering Committee will take a cross-functional, collaborative approach to ensuring data security guiding principles.

Additionally, in 2022, we initiated a security and privacy program focused on increasing the rigor of our application of "least privilege." Within this program, users have the minimum amount of data required to fulfill their responsibilities in data and analytics. This program has greatly strengthened our security posture, ushering in opportunities for data segmentation, advanced data classification, anonymity, streamlined access controls, enhanced auditing and monitoring, the use of data loss prevention tools, and the development of security and privacy awareness training. Finally, the IRS has dedicated staff who are developing training, tools, and policies that we will use to validate analytics and models before implementation. We will ensure the analytics training models are not subject to bias and work as expected.

Question. In response to my question for the record submitted following your nomination hearing this year, you committed to (i) investigating whether high net worth individuals' tax information is set aside in a separate location (whether physically or electronically) from the taxpayer information of the general population, and (ii) reporting back to me and the committee on your findings within 4 months of confirmation.

Can you please reaffirm your commitment to conducting that investigation and maintaining the requested timeline for reporting back to me and the committee?

Answer. We take the security of all taxpayer data seriously; all data is protected in the same way. We have the same security standards for all taxpayers.

Question. Last year, my Democratic colleagues enacted a 1-percent excise tax on stock buybacks as part of the Inflation Reduction Act. At the time, my constituents expressed concern over the lack of clarity as to how that tax would be applied to preferred stocks. While there was initially an indication that the IRS would exempt preferred stocks from this excise tax, recently released guidance indicates that the IRS is going to take the position that the tax does apply. This interpretation seems out of line with the general intent of the new law.

As an example, let's say a corporation has outstanding common stock that is traded on an established securities market, as well as mandatorily redeemable preferred stock that is not traded on an established securities market. The preferred stock is stock for Federal tax purposes. On January 1, 2023, that same corporation redeems the preferred stock pursuant to its terms. Under some practitioners' interpretation of the IRS's Notice 2023–2,[23] redemption by the corporation of its mandatorily redeemable preferred stock would be considered a repurchase and is therefore taxed as such.

Do you agree with the interpretation that, pursuant to the IRS's initial guidance, the 1-percent excise tax would apply in this circumstance, yes or no? Why or why not?

Answer. Yes. Notice 2023–2 explicitly addresses the fact pattern that you described above. Example 1 of Notice 2023–2[24] provides a fact pattern in which a corporation (Corporation X) has outstanding common stock that is traded on an established securities market, as well as mandatorily redeemable preferred stock that is not traded on an established securities market. Example 1 further provides that (i)

[23] *https://www.irs.gov/pub/irs-drop/n-23-02.pdf.*

[24] Notice 2023–2, section 3.09(1) (entitled "Example 1: Redemption of Preferred Stock").

the Corporation X preferred stock is stock for Federal tax purposes, and (ii) on January 1, 2023, Corporation X redeems the preferred stock pursuant to its terms.

Based on this fact pattern, Example 1 provides the following analysis and conclusion: "The redemption by Corporation X of its mandatorily redeemable preferred stock is a repurchase because (i) Corporation X redeemed an instrument that is stock for Federal tax purposes (that is, mandatorily redeemable preferred stock issued by Corporation X), and (ii) the redemption by Corporation X is a [Internal Revenue Code (IRC)] §1A317(b) redemption."[25]

Accordingly, all practitioners should interpret Notice 2023–2, and the excise tax statute, as providing that a redemption by a corporation of its mandatorily redeemable preferred stock is a repurchase and therefore is taxed as such under the excise tax statute.

Question. If your answer to previous question is "yes," please explain whether you believe this outcome is consistent with the Inflation Reduction Act.

Answer. The first rule of the excise tax statute provides that the tax is imposed on "the fair market value of *any stock of the corporation* which is repurchased by such corporation during the taxable year."[26] Similarly, that statute defines a "repurchase" to mean "a redemption within the meaning of [IRC] § 317(b) with regard to *the stock* of a covered corporation" and any transaction determined to be economically similar to such a redemption.[27] Congress's decision not to provide any exception for preferred stock (or any other type of stock) is confirmed by IRC 4501(f)(2), in which Congress explicitly requested the Treasury Department to consider regulations or other guidance to address special classes of stock and preferred stock.

Notice 2023–2 mirrors the excise tax statute by defining the term "stock" in relevant part to mean "*any instrument issued by a corporation that is stock* or that is treated as stock for Federal tax purposes at the time of issuance."[28] To implement Congress's request that the Treasury Department consider special treatment for preferred stock and other special classes of stock, Notice 2023–2 provides the following request for public comments:

> Are there circumstances under which special rules should be provided for redeemable preferred stock or other special classes of stock or debt (including debt with features that allow the debt, whether by the issuer, the holder, or otherwise, to be converted into stock)? If so, please provide objectively verifiable criteria that such special rules should incorporate to provide certainty for taxpayers and the IRS.[29]

The Treasury Department will consider such public comments for purposes of the proposed excise tax regulations.

Question. As part of the Inflation Reduction Act, the IRS received over $80 billion in additional funding. At the request of Congress, on April 6th, the IRS released the Internal Revenue Service Inflation Reduction Act Strategic Operating Plan detailing how the agency would allocate the appropriated funds. It is important for members of Congress in our oversight role and for the public at large to be educated on and understand the IRS's plans for the $80 billion. Therefore, this topic deserves public discussion. We discussed this issue in a private Senate Finance Committee member briefing, but I wanted to ensure my concerns here are noted in the record.

Will you be willing to testify before the Senate Finance Committee before the end of June 2023 on the IRS's Strategic Operating Plan, yes or no?

Answer. Yes. I intend to regularly update Senate Finance Committee members on the IRS's progress toward the SOP goals. We are committed to transparency and want to regularly highlight the progress we are making. For example, we have committed to report to Congress quarterly on actual obligations and number of full-time employees, and we are posting quarterly management updates on *IRS.gov.*[30] In ad-

[25] *Id.*
[26] IRC section 4501(a) (emphasis added).
[27] IRC section 4501(c)(1) (emphasis added).
[28] Notice 2023–2, section 3.02(25) (providing a definition for the term "stock") (emphasis added).
[29] Notice 2023–2, section 6.01(1) (under the heading entitled "Comments Regarding Rules Included in Notice").
[30] *Available at https://www.irs.gov/pub/irs-pdf/p5803.pdf.*

dition, in the first full year of the IRA, we have published results[31] from improvements like increased levels of service, new online taxpayer tools, new digital forms, increased scanning, customer call back features, with much more to come.

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

This morning the Finance Committee welcomes Commissioner Werfel back to the Senate to discuss the IRS budget and this filing season, which came to a close yesterday.

Let me start off by thanking the staff at the IRS for their hard work that made this the smoothest filing season in many years. Democrats made a big investment in taxpayer service with the Inflation Reduction Act, and it goes without saying that taxpayers have a right to know what they got with that investment.

The numbers paint a clear picture. Last filing season, the IRS was able to answer 15 percent of the phone calls it got. This year it was 87 percent. The IRS answered 2 million more calls and helped 100,000 more taxpayers in person. The return backlog is way down. Tech upgrades are helping get refunds out the door more quickly. A big improvement all the way around.

Next, looking ahead, right at the top of our agenda is reducing the tax gap. The official estimate says that $540 billion of taxes owed go unpaid each year. Other estimates, even from Donald Trump's IRS Commissioner, say it could be $1 trillion. Those estimates are so far apart because sophisticated, wealthy tax cheats excel at hiding in the shadows. The IRS can't measure the law-breaking that's going on if it doesn't have the resources to identify it in the first place.

Here's the bottom line on this issue. You cannot get at the tax gap without focusing on wealthy tax cheats and highly complex businesses like large partnerships. That's what Democrats sought to accomplish with the tax enforcement funding in the Inflation Reduction Act. The IRS plan for that funding came out a few weeks ago. I'm sure members will have a lot to say about it, but it's clear to me that the IRS is following the law as intended.

And the reality is, there are big challenges for the Congress to address: shoring up Medicare and Social Security; child care and education for families; paid leave for workers. Both sides want to address our country's fiscal health. Reducing the tax gap helps create the headroom to address those issues.

If the first priority is making it harder for wealthy tax cheats to get away with breaking the law, the next priority is making tax filing easier for everybody else. The Inflation Reduction Act took an important step on a free, direct-filing system. It would provide another option for taxpayers who are sick of the hassle and expense that comes with filing online today.

There's a study underway looking at how to go about building such a system. Republicans and the tax prep lobby have reacted as if this is going to bring on the end of western civilization.

There used to be bipartisan interest in building a free-file system that saved taxpayers time and money every year. Making it easier to file was a key component of the tax reform proposal I wrote with Senator Dan Coats a little more than decade ago. These days, Republicans are siding with the big tax prep companies that squeeze Americans for billions of dollars every year with various fees and markups. They've even objected to the organization conducting the free-file study.

I'm sure Republicans would prefer to have the tax prep lobby in charge of studying this issue to smother it from the get-go. It's always the same pattern every time this proposal comes up. An army of well-paid lawyers and lobbyists descends on the Congress to squash it. Republicans are standing with them.

That cannot happen this time. Democrats are committed to the proposition that it shouldn't cost hundreds of dollars and many, many hours of time simply to follow the law and pay what you owe. When it comes to filing taxes online, the status quo is unacceptable.

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[31] *Available at https://www.irs.gov/newsroom/inflation-reduction-act-1-year-report-card-irs-delivers-dramatically-improved-2023-filing-season-service-modernizes-technology-pursues-high-income-individuals-evading-taxes.*

Those are some of the agenda items for Democrats—reducing the tax gap by going after the cheating by the wealthy, and making tax filing easier for everybody else. What are Republicans up to?

For all their talk about our country's fiscal health, they're still committed to giving billionaires a free pass to cheat on their taxes. Speaker McCarthy is also working overtime to rally Republicans around a plan that would gut health care and increase hunger among tens of millions of Americans. If he doesn't get what he wants, he's threatening a catastrophic default.

The Congress ought to take a smarter approach. That includes making sure the IRS can meet the needs of the American people and enforce the law when billionaires skip out on paying what they owe.

There's a lot for us to talk about today. I want to thank Commissioner Werfel for joining the committee. I look forward to our discussion.

COMMUNICATIONS

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Statement of Michael Bindner

Chairman Wyden and Ranking Crapo, thank you for the opportunity to address this issue.

It is a tradition to hold a hearing about this time of year concerning the IRS filing season. Perhaps this would be better done after most refund checks have been mailed and the number of taxpayers filing after an extension is known—including their income class.

On the IRS budget, as I mentioned last year, support contractors could be more widely used for customer and information technology services. This would identify the balance of spending to justify the budget request for FY 2024.

Additional analytical resources are required for tax reform initiatives such as Fair Tax initiative and exploration of options due to expiration of the Trump/Ryan/Brady tax cuts.

The repeal of *Roe v. Wade* makes returning to the Pandemic era child tax credit essential. Increased funding is included in the President's Budget.

As we have said before, to end the "stink of welfare" that Senator Manchin so objects to, CTC payments should be included with wages for all employees—not just those with three or more children. They should also be distributed through other federal and state assistance programs—some of which can be reduced to do so.

For middle-income taxpayers whose increased credits are less than their annual tax obligation, a simple change in withholding tables is adequate. Procedures are already in place to deliver refundable credits to larger families. For the coming year, they merely need to be expanded to all families with children.

Employers can work with their bankers to increase funds for payroll throughout the year while requiring less money for their quarterly tax payments (or estimated taxes) to the IRS. The main issue is working out those situations where employers owe less than they pay out. This is especially true for labor intensive industries and even more so for low-wage employers.

A higher minimum wage would make negative quarterly tax bills less likely. Indeed, no one should have to subsist mainly on their child tax payments.

Please ask, either orally or in written form, how such a CTC proposal might work and how it would make things easier for taxpayers whose returns would be simpler—with fewer having to file at all.

As usual, we have attached the latest version of our tax reform plan, with a separate attachment on how implementation of this plan would affect IRS manpower. The answer is that the change would be drastic. It would also allow the Committee to focus more on how social welfare is being delivered in general, as well as eliminating current roadblocks to promptly filing for Social Security Disability Income.

Thank you, again, for the opportunity to add our comments to the debate. Please contact us if we can be of any assistance or contribute direct testimony.

Attachment One—Tax Reform, Center for Fiscal Equity, March 24, 2023

Synergy: The President's Budget for 2024 proposes a 25% minimum tax on high incomes. Because most high income households make their money on capital gains, rather than salaries, an asset value-added tax replacing capital gains taxes (both long- and short-term) would be set to that rate. The top rate for a subtraction VAT surtax on high incomes (wages, dividends and interest paid) would be set to 25%, as would the top rate for income surtaxes paid by very high income earners. Surtaxes collected by businesses would begin for any individual payee receiving $75,000 from any source at a 6.25% rate and top out at 25% at all such income over $375,000. At $450,000, individuals would pay an additional 6.25% on the next $75,000 with brackets increasing until a top rate of 25% on income over $750,000. This structure assures that no one games the system by changing how income is earned to lower their tax burden.

Individual payroll taxes. A floor of $20,000 would be instituted for paying these taxes, with a ceiling of $75,000. This lower ceiling reduces the amount of benefits received in retirement for higher-income individuals. The logic of the $20,000 floor reflects full-time work at a $10 per hour minimum wage offered by the Republican caucus in response to proposals for a $15 wage. The majority needs to take the deal. Doing so in relation to a floor on contributions makes adopting the minimum wage germane in the Senate for purposes of Reconciliation. The rate would be set at 6.25%.

Employer payroll taxes. Unless taxes are diverted to a personal retirement account holding voting and preferred stock in the employer, the employer levy would be replaced by a goods and receipts tax of 6.25%. Every worker who meets a minimum hour threshold would be credited for having paid into the system, regardless of wage level. All employees would be credited on an equal dollar basis, rather than as a match to their individual payroll tax. The tax rate would be adjusted to assure adequacy of benefits for all program beneficiaries.

High-income surtaxes. As above, taxes would be collected on all individual income taxes from salaries, income and dividends, which exclude business taxes filed separately, starting at $400,00 per year. This tax will fund net interest on the debt (which will no longer be rolled over into new borrowing), redemption of the Social Security Trust Fund, strategic, sea and non-continental U.S. military deployments, veterans' health benefits as the result of battlefield injuries, including mental health and addiction and eventual debt reduction.

Asset Value-Added Tax (A–VAT). A replacement for capital gains taxes and the estate tax. It will apply to asset sales, exercised options, inherited and gifted assets and the profits from short sales. Tax payments for option exercises, IPOs, inherited, gifted and donated assets will be marked to market, with prior tax payments for that asset eliminated so that the seller gets no benefit from them. In this perspective, it is the owner's increase in value that is taxed. As with any sale of liquid or real assets, sales to a qualified broad-based Employee Stock Ownership Plan will be tax free. These taxes will fund the same spending items as high income and subtraction VAT surtaxes. There will be no requirement to hold assets for a year to use this rate. This also implies that this tax will be levied on all eligible transactions.

The 3.8% ACA–SM tax will be repealed as a separate tax, with health care funding coming through a subtraction value-added tax levied on all employment and other gross profit. The 25% rate is meant to be a permanent compromise, as above. Any changes to this rate would be used to adjust subtraction VAT surtax and high-income surtax rates accordingly. This rate would be negotiated on a world-wide basis to prevent venue seeking for stock trading.

Subtraction Value-Added Tax (S–VAT). Corporate income taxes and collection of business and farm income taxes will be replaced by this tax, which is an employer paid Net Business Receipts Tax. S–VAT is a vehicle for tax benefits, including:

- Health insurance or direct care, including veterans' health care for non-battlefield injuries and long-term care.
- Employer paid educational costs in lieu of taxes are provided as either employee-directed contributions to the public or private unionized school of their choice or direct tuition payments for employee children or for workers (including ESL and remedial skills). Wages will be paid to students to meet opportunity costs.
- Most importantly, a refundable child tax credit at median income levels (with inflation adjustments) distributed with pay.

Subsistence-level benefits force the poor into servile labor. Wages and benefits must be high enough to provide justice and human dignity. This allows the ending of state administered subsidy programs and discourages abortions, and as such enactment must be scored as a must pass in voting rankings by pro-life organizations (and feminist organizations as well). To assure child subsidies are distributed, S–VAT will not be border adjustable.

As above, S–VAT surtaxes are collected on all income distributed over $75,000, with a beginning rate of 6.25%. replace income tax levies collected on the first surtaxes in the same range. Some will use corporations to avoid these taxes, but that corporation would then pay all invoice and subtraction VAT payments (which would distribute tax benefits). Distributions from such corporations will be considered salary, not dividends.

Invoice Value-Added Tax (I–VAT). Border adjustable taxes will appear on purchase invoices. The rate varies according to what is being financed. If Medicare for All does not contain offsets for employers who fund their own medical personnel or for personal retirement accounts, both of which would otherwise be funded by an S–VAT, then they would be funded by the I–VAT to take advantage of border adjustability.

I–VAT forces everyone, from the working poor to the beneficiaries of inherited wealth, to pay taxes and share in the cost of government. As part of enactment, gross wages will be reduced to take into account the shift to S–VAT and I–VAT, however net income will be increased by the same percentage as the I–VAT. Inherited assets will be taxed under A–VAT when sold. Any inherited cash, or funds borrowed against the value of shares, will face the I–VAT when sold or the A–VAT if invested.

I–VAT will fund domestic discretionary spending, equal dollar employer OASI contributions, and non-nuclear, non-deployed military spending, possibly on a regional basis. Regional I–VAT would both require a constitutional amendment to change the requirement that all excises be national and to discourage unnecessary spending, especially when allocated for electoral reasons rather than program needs. The latter could also be funded by the asset VAT (decreasing the rate by from 19.25% to 13%).

Carbon Added Tax (C–AT). A Carbon tax with receipt visibility, which allows comparison shopping based on carbon content, even if it means a more expensive item with lower carbon is purchased. C–AT would also replace fuel taxes. It will fund transportation costs, including mass transit, and research into alternative fuels. This tax would not be border adjustable unless it is in other nations, however in this case the imposition of this tax at the border will be noted, with the U.S. tax applied to the overseas base.

Attachment Two—Tax Administration, Treasury Budget, February 12, 2020

Shifting to a single system for all business taxation, particularly enacting invoice value-added taxes to collect revenue and employer-based subtraction value-added taxes to distribute benefits to workers will end the need for filing for most, if not all, households. Any remaining high salary surtax would be free of any deductions and credits and could as easily be collected by enacting higher tiers to a subtraction VAT.

Subtraction VAT collection will closely duplicate the collection of payroll and income taxes—as well as employment taxes—but without households having to file an annual reconciliation except to verify the number of dependents receiving benefits.

Tax reform will simplify tax administration on all levels. Firms will submit electronic receipts for I–VAT and Carbon Added Tax (C–AT) credit, leaving a compliance trail. S–VAT payments to providers, wages and child credits to verify that what is paid and what is claimed match and that children are not double credited from separate employers.

A–VAT transactions are recorded by brokers, employers for option exercise and closing agents for real property. With ADP, reporting burdens are equal to those in any VAT system for I–VAT and A–VAT and current payroll and income tax reporting by employers.

Employees with children will annually verify information provided by employers and IRS, responding by a postcard if reports do not match, triggering collection actions. The cliché will thus be made real.

High-salary employees who use corporations to reduce salary surtax and pay I–VAT and S–VAT for personal staff. Distributions from such corporations to owners are considered salary, not dividends.

Transaction-based A–VAT payments end the complexity and tax avoidance experienced with income tax collection. Tax units with income under $84,000 or only one employer need not file high salary surtax returns. Separate gift and inheritance tax returns will no longer be required.

State governments will collect federal and state I–VAT, C–AT, S–VAT payments, audit collection systems, real property A–VAT and conduct enforcement actions. IRS collects individual payroll and salary surtax payments, performs electronic data matching and receive payments and ADP data from states. SEC collects A–VAT receipts.

I–VAT gives all citizens the responsibility to fund the government. C–AT invoices encourage lower carbon consumption, mass transit, research and infrastructure development. A–VAT taxation will slow market volatility and encourage employee ownership, while preserving family businesses and farms. Very little IRS Administration will be required once reform is fully implemented. All IRS employees could fit in a bathtub with room for Grover Norquist.

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May 3, 2023

The Honorable Ron Wyden
Chairman
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The Honorable Mike Crapo
Ranking Member
U.S. Senate
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Washington, DC 20510

RE: April 19, 2023 Hearing entitled "The President's Fiscal Year 2024 IRS Budget and the IRS's 2023 Filing Season"

We congratulate the IRS on taking a fresh perspective on its operations. A high-performing IRS will increase tax revenue, contributing to balancing the budget while avoiding unduly burdening either taxpayers or IRS employees. Countries like Estonia, Finland, and Sweden demonstrate that effective processes that simplify and facilitate filing build trust with taxpayers and improve compliance, which results in a steady and predictable revenue stream.

U.S. persons residing abroad are in particular need of such process improvements. Tax filing for non-residents is made difficult by three concerns: (1) insufficient information as to filing requirements, (2) complex reporting obligations that demand weeks of work to complete and a level of expertise that exceeds that of most CPAs, and (3) extremely high administrative penalties for any error, omission, or lateness. We here explore these concerns by examining three forms that are commonly required of non-residents: Forms 3520/3520–A (*e.g.,* for foreign private pensions), 8621 (for "passive foreign investment corporations" (PFICs) also held by the foreign private pensions, or any non-U.S. mutual fund), and Form 5471/8992 (for those starting a small business).

Incomplete information:

U.S. persons residing abroad are not adequately informed about what they need to do to be in compliance with tax laws. Tax forms and related documentation lack clear explanations of laws and IRS procedures. For example, Publication 54—described as general guidance for non-residents—does not alert non-residents to reporting obligations with respect to foreign pensions, passive foreign investment companies, or foreign corporations. Form 3520 and 3520–A, for example, are information filings for foreign trusts that do not imply any tax liability. While most ordinary citizens would not have any reason to think that their pensions and investments may be foreign trusts, U.S. citizens residing abroad can inadvertently find themselves acquiring what the IRS classifies as a foreign trust through a normal-life activity like investing in a private pension plan where they live. Non-residents do not learn about these obligations from the IRS or guidance in tax-preparation software, but rather from advocacy groups and social media—or an IRS audit. There is no systematic notification to U.S. non-residents of these requirements.

For these common reporting types, the instructions available from the IRS cannot be understood by a non-expert, and do not allow ordinary non-resident taxpayers to know how it might apply to their situation and what action they need to take. A non-expert taxpayer who suddenly learns from a Facebook group or webinar organized by an organization like Democrats Abroad that their private pension may require the filing of 3520 and 3520–A and who goes to the IRS website is not able to connect the IRS material to their own situation.

U.S. persons residing abroad who understand the requirement to file Form 8621 typically decide against investments that might require it because of the punitive tax treatment, the extraordinarily heavy reporting burden, and the draconian administrative penalties that risk resulting from even *non-willful* errors in such reporting. But, because there is no warning in places like Publication 54 of the possible need to consider whether a given investment might be classified as a PFIC, such individuals often only discover the consequences after investment, when it is too late to avoid the 8621 filing requirement. The same individual investing in an equivalent pension or mutual fund domestically benefits from clear guidance, a functional process, and no punitive taxes or disproportionate administrative penalties.

This lack of information is compounded by the difficulties that non-residents have in reaching the IRS. It is difficult for non-residents to set up an online IRS account. Reaching the IRS by telephone—already difficult for residents—is even more difficult for non-residents. Democrats Abroad regularly receive desperate calls from non-residents who have not been able to reach the IRS—or if they reached someone at the IRS, that person lacked the expertise to answer their questions about these common obligations.

The first Right of the Taxpayer Bill of Rights specifies that "Taxpayers have the right to know what they need to do to comply with the tax laws. They are entitled to clear explanations of the laws and IRS procedures in all tax forms, instructions, publications, notices, and correspondence."[1] This Right is denied to non-resident U.S. citizens simply because of their place of residence.

Excessively burdensome reporting obligations:

The IRS website estimates the filing burden of Forms 3520 and 8621 at over 50 hours per form per year. The IRS is not able to estimate the filing burden of Forms 5471 and 8992, but it is generally considered to take weeks rather than hours. A U.S. citizen who starts a small business and looks to save for retirement in a private pension will typically find themselves needing to file all of these forms. Suppose the pension fund invests in 35 mutual funds. The filing burden is now measured in *months or tens of thousands of dollars for professional support.* Not only does this have a devastating effect on the small business owner, but it requires considerable processing by the IRS, yet it produces little in tax revenue. The key revenue source for these filings appears to come from penalties. In a number of cases, such as retirement accounts where the PFIC cannot be disposed of, the cost of annual ongoing compliance will exceed gross income.

This excessive reporting burden is compounded by the need for the taxpayer to make multiple filings. Form 3520 is due in paper form on April 15th: It is not filed together with the tax return. The deadline is the same as that for the tax return, and it is automatically extended with a request for an extension. Form 3520–A, however, is due on March 15th. An extension can be requested, but requires a separate request from the general extension request. The information on timing provided in the IRS instructions is difficult to understand, making accidental late filing likely.

The last Right of the Taxpayer Bill of Rights specifies the Right to a Fair and Just Tax System: "Taxpayers have the right to expect the tax system to consider facts and circumstances that might affect their underlying liabilities, ability to pay, or

[1] *https://www.irs.gov/taxpayer-bill-of-rights.*

ability to provide information timely." For non-residents, there is no mechanism to ensure that the reporting burden on individuals is reasonable. The cost of the expertise required to complete these forms is high, adding to the burden on these ordinary citizens. The IRS seeks to ensure that the tax reporting burden for domestic residents stays reasonable. This care and attention do not exist for non-residents. Note that the reporting requirements described here come from efforts to identify assets held by ultra-wealthy citizens who hold foreign bank accounts, most of whom are U.S. residents. The ultra wealthy are able to use their resources to hire expert advisors and navigate the system. Wealth is also needed to pay the $5,000–$15,000 that is required to apply for regulatory relief. The millions of non-residents of modest income are left on their own, with no protection from being crushed by this burden.

Excessive penalties:

The IRS has increasingly adopted a penalty-as-revenue model over recent years due to the difficulties of collecting taxes from the ultra-wealthy, most of whom are U.S. residents. Penalties of $10,000 and more can easily be assessed against ordinary non-residents who don't realize that they have reporting requirements for ordinary actions that would not entail reporting requirements were they U.S. residents. Draconian penalties for errors easily wipe out a lifetime of savings for an individual or small business, and this occurs solely because that individual or small-business owner happens to live abroad.

Here we will add FinCEN's FBAR to the set of forms that we have considered so far. Failure to file the FBAR because of not knowing that it is required (recalling that there has been no systematic notification of the obligation to file to the large number of U.S. persons living abroad, many of whom do not even have a U.S. passport or social security number due to being a dual citizen born abroad to a U.S. parent) incurs penalties of up to $10,000 per year even when it is clear that the person involved was not aware of the obligation to file. The April 7, 2022 report from the Treasury Inspector General for Tax Administration [2] described a potential penalty gap of $3.3 billion for the 330,082 potential non-filers of Form 8938 identified by the system for taxpayers with a TIN, calling for action to improve collection of these penalties. U.S. persons living outside of the U.S. are at risk of non-compliance because understanding FATCA and FBAR is objectively hard (recalling that the U.S. no longer offers any tax help to those living outside of the U.S. aside from an international phone line—and those who are confused by FBAR and FATCA are typically those who are least equipped to place such a call). It is important to note that this $3.3 billion does not represent a tax liability, but a penalty for those caught in a trap because they lacked the wealth and sophistication to understand this complex filing requirement.

A recent article by Hale Sheppard [3] describes the "decision tree" instructions that IRS auditors are given to decide whether to abate the penalty that had been automatically assessed when Form 5471 was filed late or is otherwise counted as incomplete. Auditors are informed that being unaware of the filing requirements, financial problems short of bankruptcy, complicated transactions/laws/business structure, or delays due to difficulties in obtaining foreign information or multiple layers of ownership do not count as reasonable cause: They are told to deny abatement requests that give these reasons. Completing the form requires the use of GAAP and the conversion of all financial information into USD, creating a major reporting burden that goes beyond the capacity of any ordinary taxpayer. That the conversion to GAAP and USD would cause excessive cost to the taxpayer was taken by the IRS to not warrant a penalty abatement.[4] These requirements do not apply to the taxpayer living in the U.S. who starts a similar small business.

We request the following process improvements from the IRS to protect U.S. persons residing abroad:

1. Commit to making filing processes for non-resident individuals reasonable and consistent with the filing burden for residents;

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[2] *https://www.tigta.gov/sites/default/files/reports/2022-06/202230019fr.pdf,* Highlights.

[3] *https://www.chamberlainlaw.com/assets/htmldocuments/Rare%20Use%20of%20Form%2054 71%20Penalty%20Defense.pdf.* The decision tree is found in Exhibit 21.8.2–1 of Part 21 of the IRS Internal Revenue Manuals, available from *https://www.irs.gov/irm/part21/irm_21-008-002r.*

[4] Chief Counsel Advice 200645023, *https://www.irs.gov/pub/irs-wd/0645023.pdf,* Sheppard, 2021, p. 54.

2. Update materials such as Publication 54 to advise non-residents of their filing obligations and provide detailed guidance on the steps that an ordinary taxpayer needs to take to be in compliance;
3. Publish clear information about how common retirement account types for each country are regarded with regards to tax treaties and obligations to file forms 3520, 3520A, and 8621 for the account or its contents;
4. Terminate the use of penalties aimed at non-residents to compensate for the failure to collect ordinary domestic tax liabilities from wealthy individuals residing in the U.S.;
5. Collect and publish data about the use of penalties to ensure that they are not used to target weaker individuals who have fewer resources to defend themselves;
6. Reduce the penalties to a level that is commensurate with the tax liability and proportional to any alleged violation;
7. Adjust penalties for the context, such that ordinary taxpayers are not charged penalties designed to punish those who are ultra-wealthy;
8. Remove information reporting requirements that do not add value such as FBAR;
9. Urgently take action to mitigate the harm that U.S. citizens abroad face in opening bank accounts, saving for pensions, or having access to other financial services as an unintended consequence of measures taken relative to the ultra wealthy. Once an individual has around $500,000 in liquid assets, the difficulties of the extraterritorial tax code are greatly reduced—the ultra-wealthy are not harmed by the annual cost of compliance and face no problems with denials of accounts, while ordinary U.S. citizens are unable to obtain necessary financial services because they lack the financial resources necessary to justify their compliance risk and burden to banks.
10. Continue to improve access to help from the IRS, including help with issues specific to U.S. persons that reside abroad;
11. Publish information about the decision processes and standard operating procedures used by the IRS in audits. These decision processes and standard operating procedures should be overseen by Congress to ensure due process and equal treatment of all U.S. citizens.

The United States imposes unique, burdensome, and ruinous tax obligations and penalties on its overseas citizens, yet its efforts to inform citizens are limited to a footnote on page 52 of passports that refers to IRS Publication 54. The use of complex procedures and lack of information and guidance to entrap ordinary U.S. non-residents who legally owe little in taxes to the U.S. so that they can be charged large administrative penalties goes against every principle of fairness and justice.

In Section 611 of Public Law 95–426, Congress began by affirming that *U.S. citizens living abroad should be provided fair and equitable treatment by the U.S. Government with respect to taxation* and other areas, and that *U.S. statutes and regulations should be designed so as not to create competitive disadvantage for individual American citizens living abroad.* No one disagrees with this affirmation, which aligns with Constitutional protection of equal rights for U.S. citizens who are non-resident. The Taxpayer Bill of Rights applies to non-residents as well as residents.

A first step is improving the process to ensure that filing requirements for these ordinary U.S. citizens are reasonable, clearly and systematically communicated to those with potential filing obligations, and freed from unreasonable penalties.

Our belief in effective, administrable, and progressive taxation is what motivates the support of Democrats Abroad for Residency Based Taxation.

Please do not hesitate to contact Rebecca Lammers of our Taxation Task Force with any questions about the information and recommendations provided here.

Sincerely,

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Statement of Anthony M. Reardon, National President

Chairman Wyden, Ranking Member Crapo, and distinguished members of the Committee, I would like to thank you for allowing me to provide comments on the IRS budget request for FY 2024. As President of the National Treasury Employees Union (NTEU), I have the honor of representing over 150,000 federal workers in 34 agencies and departments, including the men and women at the IRS.

Mr. Chairman, NTEU strongly supports the Administration's FY 2024 budget request of $14.1 billion for the IRS, an increase of more than $1.8 billion above the current level. We are particularly pleased the Administration's request would provide the IRS with the resources necessary to maintain recent improvements in customer service and continue rebuilding its depleted workforce which is down by more than 15,000 since FY 2010.

Taxpayer Services

Providing quality customer service to the taxpayer is an important part of IRS efforts to help the taxpaying public understand their tax obligations while making it easier to comply. Unfortunately, the IRS' ability to provide excellent taxpayer service has been severely challenged due to reduced funding in recent years. Without additional resources, recent gains in customer service will be reversed, jeopardizing our voluntary compliance system.

Impact of Funding Reductions on IRS Taxpayer Services

Mr. Chairman, funding reductions in recent years have had a devastating impact on IRS' ability to provide taxpayers, including victims of identity theft, with the service they need in a timely manner. Since FY 2010, the IRS customer service workforce has shrunk by over 40 percent. In particular, the reduction of Customer Service Representatives (CSRs) and other employees assigned to answer taxpayer inquiries in recent years led to a rapid decline in the phone level of service (LOS). In 2010, there were 21,057 CSRs—11 years later, the number was down to 15,482. The drastic decline in CSRs resulted in just 21 percent of taxpayer calls being answered during FY 2021, down from 74 percent in FY 2010. In addition, wait times to speak to IRS representatives more than doubled to 21 minutes on average.

In addition, as a result of budget cuts, the IRS was forced to reduce the number of Taxpayer Assistance Centers (TACs) located around the country from 401 to 362, reduce hours of operation, and move to appointment-only. Taxpayers are able to visit the TACs when they have complex tax issues, need to resolve tax problems relating to their tax accounts, have questions about how the tax law applies to their individual income tax returns, or feel more comfortable talking with someone in person.

The importance of providing taxpayers with timely assistance over the phone or in person is of particular importance for victims of identity theft and other types of tax refund fraud. These cases are extremely complex cases to resolve, frequently touching on multiple issues and multiple tax years and the process of resolving these cases can be very frustrating for victims.

While the IRS has made considerable progress in this area, additional work remains. Fighting identity theft is an ongoing battle as identity thieves continue to create new ways of stealing personal information and using it for their gain. Therefore, it is critical that the IRS has the resources and staffing necessary to prevent refund fraud from occurring in the first place, investigate identity theft-related crimes when they do occur and help taxpayers who have been victimized by identity thieves as quickly as possible.

That is why NTEU strongly supports the President's request of $3.4 billion in funding for taxpayer services in FY 2024. This additional funding will enable the IRS to increase overall staffing for taxpayer services by more than 4,700 FTEs, including an additional 3,450 FTEs to improve the telephone level of service to 80 percent for the fiscal year and drastically reduce the correspondence inventory.

Mr. Chairman, it is evident that funding reductions in recent years have seriously eroded the IRS' ability to provide taxpayers with the services they need. Without stable funding, taxpayers will continue to experience a degradation of services, recent progress in providing taxpayers with timely assistance on the phone will be reversed, and correspondence inventories, including letters from victims of identity theft and taxpayers seeking to resolve issues with taxes due or looking to set up payment plans, will increase.

Enforcement

Mr. Chairman, NTEU believes a strong enforcement program that respects taxpayer rights, and minimizes taxpayer burden, plays a critical role in IRS' efforts to enhance voluntary compliance, combat the rising incidence of identity theft and reduce the tax gap.

Impact on Funding Reduction on Efforts to Reduce the Federal Deficit

Unfortunately, funding reductions in recent years has also undermined the Service's ability to maximize taxpayer compliance and generate critical revenue that can be used to reduce the federal deficit or pay for critical services.

Since FY 2010 overall enforcement staffing has been reduced by 30 percent, including IRS revenue officers (ROs) and revenue agents (RAs) who are critical to ensuring the integrity of the tax code and reducing the tax gap. According to the IRS the number of RAs who handle complex enforcement cases, fell by 41 percent, while ROs, who manage difficult collections cases, dropped by 52 percent.

The loss of so many highly trained enforcement staff has led to drastic declines in audit coverage for wealthy individuals and large corporations. In particular, the audit rate for millionaires is down roughly 75 percent in the last decade, while audits of corporations with more than $20 billion in assets are down almost 50 percent, which increases the risk to the integrity of the nation's voluntary tax compliance system.

Sufficient enforcement staffing is also critical if the IRS is to make further progress on closing the tax gap which former Commissioner Rettig believes could total $1 trillion this year, and an estimated $7.5 trillion over the next decade. And as previous IRS Commissioners have repeatedly noted, a simple one-percent decline in the compliance rate translates into $30 billion in lost revenue for the government.

While the tax gap can never be completely eliminated, even an incremental reduction in the amount of unpaid taxes would provide critical resources for the federal government. At a time when Congress is debating painful choices of program cuts and tax increases to address the federal budget deficit, NTEU believes it makes sense to invest in one of the most effective deficit reduction tools: collecting revenue that is owed but hasn't yet been paid.

That is why NTEU was happy to see the Administration's budget request would provide an increase of more than $466 million for tax enforcement above the current level, ensuring IRS has the ability to maximize taxpayer compliance and close the tax gap. This includes dedicated funding to hire additional specialized examination personnel that will help facilitate optimal oversight of high income, large corporate, and large partnership tax returns.

Impact of Limiting FY 2024 Funding to FY 2022 Levels

Mr. Chairman, I would be remiss if I did not mention NTEU's concern with Congressional Republicans' proposals to cap overall FY 2024 discretionary funding at the FY 2022 enacted level. Such a plan would force the IRS to divert funding provided in the IRA to simply maintain current levels of operation and would undermine its' ability to meet its long-term plans to improve customer service, modernize its aging technology and building up its enforcement capacity.

In particular, the IRS has warned that if it does not receive funding for FY 2024 at the level requested by the President, it will be forced to use 100 percent of IRA taxpayer service funds to ensure it is able to provide acceptable levels of phone and walk-in assistance, and that these funds would be fully exhausted in less than four years.

Failing to fund the IRS at the FY 2024 requested level would also prevent IRS from meeting its long-term IT modernization project goals. Funding for BSM was zeroed out in the FY 2023 Consolidated Appropriations Act, and because current funding for operations support is insufficient to cover normal IT operations costs, the IRS would be forced to delay or withdraw approximately one-third of the planned modernization.

The Inflation Reduction Act of 2022

Last August Congress approved the Inflation Reduction Act (IRA) of 2022 which included more than $79 billion in funding over the next decade for the IRS to improve taxpayer services, modernize its outdated technological infrastructure, and restore IRS' capacity to ensure tax compliance among high-income individuals, complex partnerships, and large corporations.

Taxpayers are already seeing the benefits of this historic investment in the form of improved service during the current filing season. With funding provided by the IRA, the IRS was able to hire an additional 5,000 CSRs to answer taxpayer calls and process correspondence in advance of the filing season. These additional hires have helped IRS achieve a live assistance level of service of 87 percent, up from around 15 percent during the previous filing season, while the wait time to speak to an IRS employee has been reduced to about four minutes, compared with 27 minutes a year ago.

The IRS plans to hire another 5,300 CSRs by the end of 2023, and coupled with funding requested for FY 2024, the IRS projects it will achieve an 85 percent level of service for the current filing season, and an 80 percent level of service for FY 2024.

Funding from the IRA has also allowed the IRS to reopen more Taxpayer Assistance Centers (TACs) around the country where taxpayers can meet face-to-face with an agency professional to get answers to their questions. As of early April, 335 of the IRS 362 TACs were open, with 27 closed or not staffed. That compares with August 2022, when the IRS had 317 TACs open out of a total of 359, with 42 closed or not staffed.

Prior to passage of the IRA, the IRS lacked the resources to modernize its outdated IT infrastructure hampering efforts to better service taxpayers in this digital age. This inability to plan for stable IT funding led to a "start and stop approach" to modernization that did not allow for sustained progress. But with funding provided in the IRA, the IRS will finally be able to advance significant technology modernization initiatives that directly benefit taxpayers. These initiatives will greatly improve the taxpayer experience and include more options for digital communications, secure document exchange, expanded payment options, digital signature authorizations and an automated callback program, all of which will allow our customer service staff to provide more comprehensive service to taxpayers.

NTEU strongly supports the Strategic Operating Plan released by the IRS proposes to use the IRA funding to rebuild and modernize the agency by providing the necessary staffing to deliver services to taxpayers, technology to make compliance with the tax laws easier and expand enforcement efforts for large corporations and partnerships and for high wealth individuals with complex returns. The plan recognizes that as our nation grows and the tax system is increasingly complex the IRS requires appropriate funding, staffing and technology to meet its mission.

NTEU strongly supported the influx of funding provided by the IRA and encourages Congress to continue providing proper annual appropriations. As the IRS notes, its employees are its greatest asset, and the plan rightly focuses on the importance of a workforce that has the tools and resources it needs to deliver for American taxpayers. That includes increased staffing, proper training, modern technology, and systems.

CONCLUSION

Mr. Chairman, thank you for the opportunity to provide NTEU's views on the Administration's FY 2024 budget request for the IRS. NTEU believes that only by providing stable funding for effective enforcement and taxpayer service programs can the IRS provide America's taxpayers with quality service while maximizing revenue collection that is critical to reducing the federal deficit.