

Congress of the United States

Washington, D.C. 20515

March 1, 2017

The Honorable Ron Wyden
Ranking Member, Committee on Finance
U.S. Senate
Washington, D.C. 20510

Dear Senator Wyden,

We are writing in response to your March 1, 2017 letter, in which you request the use of statutory authority granted to the chairmen of the tax-writing committees to obtain and release President Donald Trump's tax returns. We strongly consider the approach you suggest to be an abuse of the tax-writing committees statutory authority. The American people have made it clear that they want Washington to fix our broken tax code – not target the tax returns of individual citizens.

As you are aware, the confidentiality and limited disclosure of tax returns and return information are governed by Section 6103 of the Internal Revenue Code (IRC), which establishes the general rule that tax returns and tax return information are confidential and shall not be disclosed except as expressly authorized by the IRC. Under Section 6103(f)(1) of the IRC, upon written request from the Chairman of the House Ways and Means Committee, Senate Finance Committee, or Joint Committee on Taxation, tax returns or return information may be furnished to such committee. To protect against abuses, Section 6103 sets significant limits to the authority granted to the tax-writing committees under the disclosure law. For instance, to ensure the privacy of the individual, the IRC requires that any return or return information that can be associated with or otherwise identifies a particular taxpayer is only furnished to such committee in a closed executive session unless the taxpayer provides written consent. These current rules were codified with the Tax Reform Act of 1976, when Congress overhauled Section 6103 specifically in response to widespread concerns about the use of tax information by government agencies for purposes other than tax administration, including partisan political purposes.

This proposed use of the committees' statutory authority to access and make public an individual's tax returns undermines the core intent of the reforms enacted by Congress and sets forth a dangerous precedent that could allow Congress to improperly access the tax returns of any American, regardless of whether or not the individual authorized their disclosure. Furthermore, exercising this authority beyond the bounds of the committees' legislative responsibilities and oversight of tax administration would not only be outside the letter and the spirit of the law but it would also be unprecedented. The committees have never used this authority to target an individual in the manner suggested, and instead have a strong history of protecting the privacy of taxpayer information.

Moreover, these authorities have typically only been used to investigate specific allegations of misconduct by federal officials, and as necessary for the committees to carry out their legislative

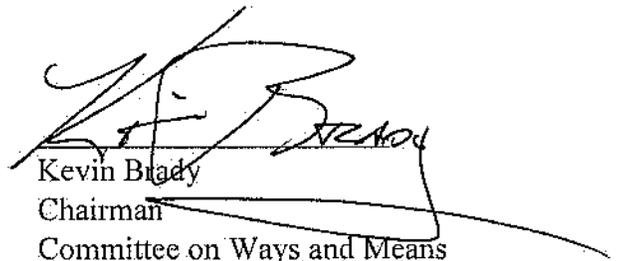
responsibilities and conduct oversight of Executive Branch activity as it relates to the tax system. While, as your letter correctly stated, under Section 6103(f)(4) the committees' subsequently may decide to submit confidential information received pursuant to 6103(f)(1) to the Senate or House of Representatives or both, the committees' use of this authority has been exceptionally rare. For instance, in 2013 the House Ways and Means Committee and Senate Finance Committee conducted a bipartisan investigation of political targeting at the Internal Revenue Service. In this case, the committees used Section 6103 authorities because investigating alleged wrongdoing by federal officials required the review of tax returns and return information, and the questioning of federal officials about that information. In that case, there were specific claims of wrongful Executive Branch activity as it related to the tax system, the administration of the tax code, and abuse of taxpayers.

As Chairmen of the Senate Finance Committee and the House Ways and Means Committee, we take our authority and responsibilities under the IRC very seriously, including the use of Section 6103(f)(1) to obtain tax return information when necessary to carry out our legislative and oversight responsibilities.¹ To date, we have not seen or received any specific allegations of tax-related misconduct by federal officials or abuses of taxpayer rights that would lead us to invoke it at this time. In light of these considerations, as well as the history and purpose of Section 6103(f)(1), we strongly believe that it would be inappropriate for us to use this authority to access and release the President's tax returns. Furthermore, this request is a distraction from more pressing needs, such as fundamental reforms of our tax and health care system on behalf of the American people. We instead suggest that the energies being spent on this endeavor be redirected to the American people's top priority – the economy.

Sincerely,



Orrin G. Hatch
Chairman
Committee on Finance



Kevin Brady
Chairman
Committee on Ways and Means

CC: Senators Debbie Stabenow, Maria Cantwell, Thomas Carper, Ben Cardin, Michael Bennet, Robert P. Casey, Jr.

¹ The duties of the Joint Committee on Taxation relate to tax administration. The IRC provides that the Joint Committee on Taxation duties are to: (1) investigate the operations and effects of the Federal system of internal revenue taxes; (2) to investigate the administration of such taxes by the Internal Revenue Service or any executive department, establishment, or agency charged with their administration; (3) make such other investigations in respect of such system of taxes as the Joint Committee may deem necessary; and, (4) investigate methods and measures for the simplification of such taxes. 26 U.S.C. sec. 8022.