

**THE 2019 TAX FILING SEASON  
AND THE 21ST-CENTURY IRS**

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

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## THE 2019 TAX FILING SEASON AND THE 21ST-CENTURY IRS

WEDNESDAY, APRIL 10, 2019

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

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

Present: Senators Crapo, Enzi, Thune, Portman, Toomey, Scott, Cassidy, Lankford, Daines, Young, Wyden, Cantwell, Carper, Cardin, Brown, Casey, Warner, Hassan, and Cortez Masto.

Also present: Republican staff: Jeffrey Wrase, Deputy Staff Director and Chief Economist; Andre Barnett, Tax Counsel; Chris Conlin, Tax Counsel; Mark Warren, Chief Tax Counsel; and John Schoenecker, Senior Investigator. Democratic staff: Joshua Sheinkman, Staff Director; Michael Evans, General Counsel; Christopher Arneson, Tax Policy Advisor; Adam Carasso, Senior Tax and Economic Advisor; Daniel Goshorn, Investigator; and Tiffany Smith, Chief Tax Counsel.

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

The CHAIRMAN. Before I give my opening statement and the ranking member gives his, members should be aware that we do have a vote at 11:45. There are three stacked votes. I hope we can wrap up this hearing by that point, or we could go until 12 o'clock, I think, because they always hold the first vote a long period of time. So I urge Senators who want to ask questions to be ready when your name comes up.

Senator WYDEN. Mr. Chairman, just very briefly. You have always been fair to all the members. I am just going to need to check with our folks on how many are coming with respect to this request. But as we always do, we will try to figure out a way to get some common ground.

The CHAIRMAN. You have always been very cooperative. So thank you.

Commissioner Rettig, we welcome you. Thank you.

I appreciate your willingness to testify today on the 2019 tax filing season and IRS administration of our current laws. The current tax filing season has been the most scrutinized in a long, long period of time. In some ways that is understandable, being the first filing season after our tax code received the largest overhaul in 3 decades.

The IRS has worked to update forms, publications, and systems on top of all the new guidance that the agency has provided in conjunction with the Treasury Department. All of that made you ready for the filing season. But if that were not enough, the filing season began shortly after our government shutdown, the longest in history.

Despite these factors and some early misleading reporting in the press, the filing season has run rather smoothly. The filing season opened on time, and the IRS systems have been functioning as planned.

Consistent with previous years, the IRS has processed over 97 percent of the returns the agency received, and 80 percent of those returns resulted in a refund. The average refund size is \$2,873. That happens to be in line with previous years.

However, some lingering effects of the shutdown persist. The level of phone service is down, and wait times are longer. But I have to add that they are trending in the right direction as the filing season has progressed.

Overall, Commissioner Rettig, you and your employees deserve significant credit for how well the filing season has gone, given headwinds that you face from a new law and from the fact that the government was shut down.

It is no secret that in recent years there has been a contentious relationship between Congress and the IRS due to several instances of mismanagement. Most notably, there was an inappropriate targeting of certain conservative groups for extra scrutiny. We also saw inappropriate spending on conferences and bonuses, as well as a case of IRS employees who had previously been fired for misconduct being improperly rehired.

I saw your confirmation last year as an opportunity to have a fresh start, particularly from some of these things about the mishandling of money at conferences, bonuses, and improper rehiring. Those are subjects that I investigated.

It also provides a chance to move beyond past issues and for us to work together—meaning this committee and you and your staff—to address challenges facing the IRS for the benefit of all of our taxpayers. And, there is no doubt that there are challenges that need to be addressed.

IRS information technology systems are woefully outdated. While there has been improvement, 45 percent of the IT infrastructure that the IRS is currently using is beyond its original useful life. Moreover, IRS has had difficulties retaining and hiring experienced IT personnel.

Tax ID theft also remains a top concern. Great strides have been made in recent years, with the number of reported ID theft victims falling nearly 65 percent between 2015 and 2017. That is very good news for the taxpayers and the government, but as we often say on Capitol Hill when we are not totally satisfied, there is more that needs to be done.

Taxpayers deserve a modernized IRS that offers the same type of online and electronic services they have come to expect in the private sector. Taxpayers also deserve to know that their rights will be respected and they will receive a fair shake in their interactions with your organization.

To help address a number of these challenges, I joined Ranking Member Wyden in introducing the Taxpayer First Act of 2019 last month. That Taxpayer First Act covers a wide range of issues intended to increase taxpayer protection, improve customer service, address identity theft, update cybersecurity and IRS information technology, and modernize the agency. These are just some of the provisions. Others include codifying the independent appeals process to strengthen its independence so taxpayers have equal footing with your organization, requiring your organization to develop a long-term plan to improve customer service, providing the IRS with streamlined critical pay authority so IT positions can be filled with qualified people, and codifying the Security Summit to ensure that the IRS continues to be able to participate fully in partnerships with State tax agencies and the private-sector tax industry to combat ID theft and take other security steps. There are dozens of additional provisions that I will not take time to mention.

The committee received feedback from your team at the IRS about this legislation, which was valuable, and I want to thank you for that cooperation.

I am pleased that the House passed the bill yesterday after several years of work in both chambers. We are working with our leadership now to see if we can get this bill cleared.

The Taxpayer First Act is an important first step towards reforming the IRS and strengthening taxpayer protections, and there is more that can and must be done. I hope that we can continue to work collaboratively on further efforts to improve and modernize IRS to the benefit of all taxpayers.

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

The CHAIRMAN. Senator Wyden?

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

Senator WYDEN. Thank you very much, Mr. Chairman. And as you indicated, there are several issues that we need to zero in on today.

First is oversight of the tax code. Last week the chairman of the House committee, the Ways and Means Committee, exercised his authority under section 6103 of the tax code to request 6 years of the President's tax returns.

I support his request completely. Chairman Neal raised a key point about oversight of the tax system that explains why this step is necessary. The IRS has a policy of auditing the tax returns of sitting Presidents and Vice Presidents each year. It is not clear that system is effective. Congress has an obligation to look into whether it is functioning properly and, if necessary, craft legislative solutions.

Let us also clear up a misconception on the issue. This is not an obscure law that has sat around gathering cobwebs. Both committees that handle tax law, Finance and Ways and Means, use the authority regularly.

The committee's majority used it earlier this year to investigate certain tax-exempt hospitals. This committee also used it between

2013 and 2015 during an investigation into the treatment of tax-exempt organizations.

Because this type of request is so routine, the Treasury Secretary long ago delegated responsibility for complying with it to the IRS Commissioner. IRS Commissioners, in turn, have delegated it to agency employees. These requests do not cross the Treasury Secretary's desk.

Furthermore, Congress is closely familiar with reviewing the tax returns of Presidents and Vice Presidents. The Joint Committee on Taxation reviewed President Nixon's tax returns. Congress reviewed the tax returns of past vice presidential nominees. This committee also reviews the tax returns of all nominees we process.

With respect to Chairman Neal's request, the law says that tax returns shall be provided. The law does not give anyone, not the Treasury Secretary, not a White House official, the power to interfere.

The administration has responded to Chairman Neal's request by launching a campaign of blatant political intimidation. I recall in the very recent past when the prospect of political interference in the IRS mattered greatly to both sides.

So here is the bottom line. Chairman Neal's request is based on legal authority our two committees exercise regularly, and the process of obtaining and reviewing tax returns is routine. I believe this committee ought to make the same request for the President's tax returns. The committee must not punt on oversight and cede that role to the House.

Two other issues I am going to touch on briefly, Mr. Chairman—one with respect to tax policy. Americans who work for a living have long understood that the tax code is rigged to favor the most fortunate. It is now becoming clear that tax enforcement is rigged in the same way.

According to newly released data, the audit rate of corporations and those at the top is in freefall. Audits of those with more than \$1 million in income were cut in half over a decade. Audits of the largest corporations, again, cut in half over a decade.

A new report from ProPublica showed one clear example of how that came to pass. A decade ago there was an effort to bring together skilled investigators to crack down on tax cheating by the mega-wealthy. The mega-wealthy fought back with an army of lobbyists and lawyers. An effort to get the tax cheats to pay a fair share fizzled.

So the most fortunate are off the hook. What about people who work for a living? Another ProPublica report showed that in Humphreys County, MS there is a higher audit rate than any other county in America. It is not because it is packed to the county line with money launderers or shell corporations. It is because Humphreys County is poor. It is poor and most of those folks claim the Earned Income Tax Credit.

I do not take a back seat to anybody when it comes to working against improper payments or abuse. But how can the Congress stand by a tax enforcement system that punishes working people and gives the wealthy and the most powerful a green light to cheat? If a working family makes a simple mistake on their taxes,



it gets hit with an audit. It could snowball into a huge financial setback.

If a Wall Streeter concludes they can get away with tax cheating, it is like they just went out and discovered a new gold mine. One proposal that can help with this unfairness is the bill Senator Cardin and I are introducing tomorrow to require minimum standards for paid tax preparers.

The idea is, if working people are less likely to run into a crooked or incompetent tax preparer, they are less likely to face an audit. Passing our bill would be a good first step. But this issue is going to take a lot more work, and the Commissioner knows a lot about Senator Cardin's and my interests in it.

Finally, I want to wrap up with a quick point about how Americans file their taxes. I start with the proposition that filing ought to be simple, and taxpayers should not have to use a private company to file their taxes online.

I support allowing Americans to file directly online with the IRS. I have also proposed bipartisan legislation several times to create an optional simple return system. Your forms show up completed, and all you have to do is check the numbers. No more headaches from a complicated filing process.

And suffice it to say, the tax preparation industry, their software—tax preparation folks spent millions of dollars, millions of dollars to hold off those important reforms. Now, during the debate on the tax administration bill, the chairman mentioned it. My staff did push back on a longstanding policy that blocks the IRS from competing with private tax preparation companies. I am going to keep fighting, colleagues, for a simple return system and the right to file directly with the IRS online.

In the meantime, the final package—and the chairman mentioned it—limits the role of private debt collection on working Americans, and it permanently extends a highly successful program that helps low-income taxpayers file their returns for free.

And, Mr. Chairman, I did not even have a chance to go into this with you. Just a few minutes ago, I got confirmation from the IRS Chief Counsel that the IRS can terminate Free File and design their own direct-file product with 12-months' notice.

We just received that, so I want to just tell my colleagues, because we just got it. I wanted you all to know about it.

Mr. Chairman, obviously, there is a lot to talk about this morning. I look forward to working with you.

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

The CHAIRMAN. Yes, and now let me introduce the Commissioner. In 36 years of representing taxpayers, he was part of a highly respected law firm in California, where he practiced with individuals and businesses, both large and small, before the IRS, the Department of Justice Tax Division, Federal and State courts, and State taxing authorities. He served as a member and Chair of the IRS Advisory Council from 2008 to 2011; chaired the Taxation Section of the State Bar of California; and served on the advisory boards of the Franchise Tax Board and the Board of Equalization in California.

The Commissioner has received numerous professional honors, been a featured speaker at tax conferences—both in the United States and internationally—authored numerous tax-related articles, received a BA in economics from UCLA, a J.D. with honors from Pepperdine University, and an LL.M. in taxation from New York University.

We are pleased to recognize you, and please proceed with your opening statement.

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

Commissioner RETTIG. Chairman Grassley, Ranking Member Wyden, and members of the committee, thank you for the opportunity to discuss the 2019 filing season and the 21st-century IRS.

I am truly honored to serve as the 49th Commissioner of the Internal Revenue Service. Having spent more than 36 years in the private sector representing taxpayers before the IRS, I understand how important a fully functioning IRS is to the overall success of our country.

Our people interact with more Americans than any other institution, public or private. Our people make a difference, they care, and they take pride in serving the taxpayers and our country.

The IRS is important to every American, and every American is important to the IRS. I am passionate about modernizing our information technology infrastructure and continuing to improve cybersecurity. I am passionate about making sure our workforce receives the resources and training they need to appropriately serve the taxpayer community. We want to do more, and with your assistance, we will be better able to enhance the overall taxpayer experience.

I am passionate about helping all taxpayers with their filing and reporting obligations, but especially those in the underserved and English as a second language communities. Taxpayers who are willing to comply must receive appropriate levels of support and timely guidance while we respect their rights and forever safeguard their information.

I am passionate about making sure we enforce the tax law. A robust enforcement effort assures compliant taxpayers that those who fail to comply risk the consequences of such non-compliance.

I am pleased to report that the 2019 tax filing season opened on time on January 28th and continues to go well. As of April 5th, the IRS has received more than 103 million individual returns, and we have issued almost 78 million refunds for more than \$220 billion.

The fact the filing season has gone so well given these major changes is a tribute to the IRS employees, who have a long history of rising to all types of challenges, demonstrating the strength of dedication to our mission, which should enhance the respect and confidence of every American. I am extremely proud of each and every employee at the Internal Revenue Service.

Turning to the President's budget request, we are asking for an appropriation of \$11.472 billion for the IRS in fiscal year 2020, which is \$170 million or 1.5 percent above the 2019 enacted level. The request proposes increasing funding in several critical areas.

At the top of the list is technology modernization. We are finalizing our modernization business plan, which will cost about \$2.3 billion to \$2.7 billion over 6 years to help bring our critical IT systems up to date. The President's budget request includes \$290 million in additional funding for this plan.

The integrity of the Nation's voluntary tax compliance system depends on a modernized IRS IT infrastructure, and we look forward to working with you to implement this plan.

Another critical area where we propose to increase funding involves the IRS's ongoing efforts to secure our systems and protect taxpayer data. Technology has greatly helped the IRS protect our computer systems from cyber-attacks. It has also helped us in the ongoing battle to protect taxpayers and their information against tax-related identity theft.

The funding called for in the budget is also important to our efforts to maintain a well-trained workforce. This is a critical time for us, given that a large percentage of our workforce is either eligible to retire or will become eligible within the next 2 years. We must hire and train new employees before our most seasoned ones retire and we lose the ability to pass on their knowledge and experience to the next generation.

To help us further in this area, we are asking to restore the streamlined critical pay authority which expired in 2013. Without this authority, we have found that we lose highly qualified candidates to other organizations that can hire them more quickly.

Chairman Grassley, Ranking Member Wyden, and members of the committee, I appreciate the dedication and support that you have shown to the IRS mission. I am committed to working with you to ensure the IRS can continue to fulfill its mission now and in the years to come.

This concludes my statement. I would be happy to take your questions.

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

The CHAIRMAN. We will have 5-minute rounds. Normally I would ask that you not start your last question with 1 second left, but I will permit the Commissioner time to answer it. I hope members will not take advantage of it because of the tight time frame we are under.

My first question: I have been a champion of the IRS whistleblower program. When I revamped the program in 2006, we intended the IRS would use its authority to look to whistleblowers as a resource during the course of an investigation. It is my impression that to date the IRS has never done so.

So one of the modifications in the Taxpayer First Act specifically authorizes the IRS to exchange information with a whistleblower where doing so would be helpful to the investigation. It further makes clear that a whistleblower must keep any taxpayer information received totally confidential.

So, simple question: if enacted—and it has passed the House—will you commit to utilizing this authority fully and use whistleblowers as a resource as appropriate?

Commissioner RETTIG. Yes, the IRS will follow the law.

The CHAIRMAN. Okay.

The Taxpayer First Act also would extend anti-retaliation provisions to IRS whistleblowers that are presently afforded to whistleblowers under other whistleblower laws such as the False Claims Act and the Sarbanes-Oxley Act. And by the way, I was involved in both of those from the whistleblower standpoint.

Do you agree that extending these provisions to IRS whistleblowers is important to ensure whistleblowers can come forward without fear of employer retaliation?

Commissioner RETTIG. Yes.

The CHAIRMAN. You are aware of the recent college admissions scandal being prosecuted in Boston. Last week, Senator Wyden and I sent you a letter discussing some of the apparent tax cheating that is based on publicly available documents from the Department of Justice. These examples included parents claiming charitable deductions for bribes and making illicit payments out of family foundations as well as their businesses, none of which would be proper for tax purposes.

Can you assure us that the IRS is aware of these allegations of tax wrongdoing and will thoroughly investigate these cases?

Commissioner RETTIG. Mr. Chairman, we cannot comment on active investigations. Our Criminal Investigation unit has been co-lead on the investigation with the FBI since the inception of this case. Public records indicate that the lead defendant, Mr. Singer, was charged with and pleaded guilty to his role in a tax-related conspiracy to defraud the IRS.

We expect numerous other individuals to be charged with criminal tax violation as the investigation continues. IRS Criminal Investigation ensures that when appropriate, criminally charged defendants are mandated to cooperate with the IRS to correct their returns and pay the outstanding liability to the U.S. Treasury, including interest and penalties.

The CHAIRMAN. Your testimony discusses IRS's Integrated Modernization Business Plan and the need to modernize the agency's aging technology and information systems. I could not agree more with the importance of that. However, in recent years Congress has appropriated billions of dollars to update and modernize the IRS computer system.

And GAO and the Inspector General for Tax Administration have raised significant concerns that those funds were not spent efficiently and effectively. What steps are you taking in this business plan to ensure that we do not have a repeat of the past? How can we be ensured that this new investment provides real improved service to the taxpayers and better protection of the information we require them to submit to the IRS as part of their tax returns?

Commissioner RETTIG. The plan includes specific goals and metrics that are to be verified by independent third parties. The IRS business divisions have been actively engaged with the IRS IT team and others in designing the plan, which sets specific business goals and includes multiple milestones, significant oversight, and various levels of accountability while expanding the analytics to more effectively serve and bring taxpayers into compliance, and we would look forward to working with your staff as we move forward with the plan.

The CHAIRMAN. I have 25 minutes left. I will reserve it—

Senator WYDEN. Twenty-five minutes?

The CHAIRMAN. Twenty-five seconds. [Laughter.]

Senator WYDEN. Thank you.

The CHAIRMAN. Senator Wyden.

Senator WYDEN. Thank you, Mr. Chairman.

Commissioner, at your confirmation hearing you were asked how you would respond to political pressure. You said, "I would hope that the members of this committee and the American taxpayers see me staunchly independent or more so."

I bring this up because I am of the view that you are now on the receiving end of a very aggressive political campaign by the Trump administration. Last week the President's lawyer, presumably acting at the behest of the President, wrote the Treasury Department a letter insisting that you, the IRS, not comply with Chairman Neal's request.

Yesterday, Secretary Mnuchin stated before another congressional committee that the Treasury Department had been in touch with White House lawyers about House Democrats requesting the President's tax returns. The law says that when the chairman of one of the tax committees makes a request under section 6103, the Treasury Secretary shall furnish such a committee with any return or return information on such requests.

It is my understanding that the Treasury Secretary long ago delegated this authority to the Commissioner. And that delegation can only be withdrawn on notification to Congress. Finally, as far as I know, the Treasury Secretary has never been involved in response under section 6103.

So my reading, putting all this together, is that it is your job, and your job alone, to respond to Chairman Neal's request. Do you agree with that?

Commissioner RETTIG. We received the letter. We are working on the letter with counsel, and we anticipate responding.

Senator WYDEN. So you do agree with me that it is your job, and yours alone, to respond to Chairman Neal's request? That is a "yes" or "no."

Commissioner RETTIG. When you say "alone," remember that we are a bureau of the Treasury. We are supervised by the Treasury.

Senator WYDEN. But you heard me state the history. It is clear it is your job, and yours alone. And I want to move on, but I think it is unfortunate you are just not saying, "It is my job, and my job alone," because that is—

Commissioner RETTIG. I am aware of the delegation order, as is Treasury. But you must be aware that we are a bureau of Treasury, and the Treasury, you know, the Treasury supervises us.

Senator WYDEN. Has anybody in the Trump administration at any time, including during your nominee vetting process, discussed with you how you would comply or not comply with the congressional requests to obtain the President's tax returns?

Commissioner RETTIG. No.

Senator WYDEN. Has anyone in or on behalf of the White House directly or indirectly instructed you to not comply with Chairman Neal's request?

Commissioner RETTIG. No.

Senator WYDEN. Will you pledge to inform this committee if anybody in the White House directly or indirectly asks you to not comply with Chairman Neal's request?

Commissioner RETTIG. Yes, and I believe the law also provides that we would—anybody in the IRS who would get such a request would be required to also advise TIGTA.

Senator WYDEN. I am just going to move on, but I just want to make sure you understand. You told us in the confirmation process, you told me—when we were visiting—you were going to resist political pressure. My reading—and that is why I went through all of the facts—is that it is your job, and yours alone, to respond to Chairman Neal's request, and I hope that will be the case.

Commissioner RETTIG. Senator, I believe based on our personal interactions, you have a pretty good read on me as a person. And I will leave it at that.

Senator WYDEN. Okay.

I want to ask you now about Earned Income Tax Credit recipients being more likely to get audited and millionaires being less likely to get audited. You heard me go through the numbers, and this—I just think it is shameful that poor folks in Humphreys County, MS have the highest audit rate in America. But if you are a high-flyer or somebody running a shell company, you are not as likely to get audited. Earned Income Tax Credit audits make up a higher percentage of total audits since Republicans have taken the budget axe to IRS.

So here is my question. My question is, is it really the intent of the Internal Revenue Service to audit taxpayers who are struggling to make ends meet while increasingly letting millionaires and multinational corporations off the hook? Is that the intent of the agency?

Commissioner RETTIG. No.

Senator WYDEN. What are you going to do about it?

Commissioner RETTIG. We are looking at the Earned Income Tax Credit. Part of the problem with the statistics and where you are is, there is an \$18.4-billion overpayment each year associated with the Earned Income Tax Credit.

We want to work with Congress. We are going back to see every proposal that has happened, I believe, since 1975 to reduce the complexity in the credit. The majority of the issues revolve around the definition of a qualifying child.

We would hope that, working with Congress, we can come up with a better application or an understanding and acceptance that this is a social program, and—

Senator WYDEN. I told the chairman, like him, I would set an example of staying within my 5 minutes.

Look, in my view, the stark contrast between the fact that the poorest and most vulnerable get audited more than these multimillionaires is yet more hard evidence that the tax system is stacked in favor of the wealthy.

I would like you to send us a plan, the chairman and myself, on how you are going to turn this around. Can we have that from you within, say, 30 days?

Commissioner RETTIG. You will. I would be willing to meet with you personally.

Senator WYDEN. I would like to have it in writing.

Commissioner RETTIG. My views on not only the Earned Income Tax Credit, but—

Senator WYDEN. I am over—

Commissioner RETTIG. We are looking at higher-end taxpayers as well.

Senator WYDEN. I am over my time.

I would like it within 30 days, how we are going to change this system that is stacked against the most vulnerable. And I hope that you will send it to the chairman and me.

Commissioner RETTIG. We will address both the Earned Income Tax Credit and what we are doing with respect to other taxpayers.

Senator WYDEN. Thank you.

Is 30 days all right?

Commissioner RETTIG. It should be.

Senator WYDEN. Thank you.

The CHAIRMAN. Senator Enzi?

Senator ENZI. Thank you, Mr. Chairman.

And, Commissioner Rettig, thank you for your testimony, and especially for your help in reopening the Cheyenne, WY IRS Taxpayer Assistance Center after it was abruptly closed in January. The unannounced closure severely affected taxpayers in my State who sought assistance in complying with changes made by tax reform.

At this point, it remains only partially open for 3 days at a reduced schedule. I am aware that my constituents have continued to have some challenges getting the assistance they need and deserve. Can the IRS expedite the process to have it open full-time?

Commissioner RETTIG. We are working very hard on Cheyenne and Sheridan in terms of trying to make sure the staffing—our issues have to do with attrition. The centers closed with respect to unexpected recent retirements. And so, as you know, we were doing 3 days a week, filling it with people from Denver.

And so we are sensitive to the issues. I cannot confirm something to you sitting here, but I will be back in touch with you quickly on whether it is a 3-day or a 5-day.

I should say that all of the 358 Taxpayer Assistance Centers in the country, 38 of which are unstaffed—but the way the system works now is, taxpayers call in for an appointment. For over 50 percent of the taxpayers who call in for an appointment, our phone assisters are able to resolve the matter on the phone. And so only half of them actually end up in an in-person appointment.

But we are very sensitive to the issue of staffing the Taxpayer Assistance Centers and helping taxpayers.

Senator ENZI. I appreciate that and would ask if you would agree to provide members of Congress with advanced notice about scheduled closures of the Taxpayer Assistance Centers in their States.

Commissioner RETTIG. We will, and I think there is also pending legislation that brings that about as well.

Senator ENZI. Okay.

Sometimes those retirements are not known, but—

Commissioner RETTIG. Right.

Senator ENZI [continuing]. Often they are.

On a different subject, I tell, particularly seniors that if they get a call from the IRS asking them to return the call, it may well be a scam because the IRS works through the post office. Then I looked at a 2010 report that highlighted the IRS at one point was spending almost \$58 million per year on undeliverable taxpayer correspondence, which leads to degraded communication with the taxpayers and waste of taxpayer resources.

Do you have any more recent information on what the Service is spending on undelivered correspondence?

Commissioner RETTIG. I do not, but we will work with your staff and get you some updated figures.

Senator ENZI. Do you know if there are any plans to do something on that?

Commissioner RETTIG. We are looking at it seriously. That and all other budget-related issues have a strong focus internally, as you can imagine.

Senator ENZI. Yes.

Commissioner RETTIG. These are not easy issues for us, nor any other, I guess, similar organization. But paying for undelivered mail is not something we want to be in the business of doing, for sure.

Senator ENZI. It seems like the taxpayers' address ought to be fairly valid, but obviously they move. So I hope you are taking a look at some of the delivery tracking systems that are used by commercial businesses.

But I do appreciate that they can rely on getting it through the mail so that those phone calls are scams and they can do something about it.

I appreciate the advances you made and what you are planning on doing, and I look forward to hearing more of that.

And I will yield back time to help out.

The CHAIRMAN. Thank you.

Senator Cardin, I think you are next.

Senator CARDIN. Thank you, Mr. Chairman.

Mr. Rettig, first of all, thank you very much for your service.

We had a very healthy town hall meeting this week with Senator Wyden and the Commissioner in Maryland with the workforce. And I thank you for your accessibility. You clearly have reached out to our workforce, and I know that they appreciate that.

I say that in light of the fact that this is a budget review hearing on how this tax season is moving forward. There has been a long trend of not providing adequate resources to the IRS. And that has had an impact on the workforce, on their ability to carry out their mission, the modernization of the IRS as far as IT is concerned, being consumer-friendly, to be able to answer telephones and give advice, as well as dealing with the challenging enforcement with a lot of sophisticated taxpayers who can hire very sophisticated help in order to try to avoid paying their fair share of taxes.

So it is important that you have the tools that you need. I am glad you mentioned the critical pay authority. I hope that we can get that resolved in this Congress. That is needed for you to have that ability to hire people to meet the challenges at the IRS.

I also would just point out to the committee the impact of the government shutdown. The IRS itself was affected by that. That



has had an impact on some talent who have decided either not to come to the IRS or to leave the IRS. You are always in competition with the private sector, which has never been thought to be as stable employment as the Federal Government. Now, it looks like it might be more stable than the Federal Government.

So these challenges exist, and I think it is important for the Finance Committee—this committee, which is the authorizing committee—to make sure that we support adequate resources so that you can carry out the work that you are doing. And we are very much committed to what you are doing.

Can you just share with us the challenges you have in recruitment, retention, and getting talent that is necessary to make our system the best that it is?

Commissioner RETTIG. Coming in from the outside—I have been on board about 6½ months now. I was sworn in on October 1st. The human resources side of the operation and workforce itself—all workforce-related issues present a challenge.

The eligibility for retirement—about 45 percent of our workforce is eligible to retire within the next 2 years. I think less than 3 percent of our workforce is under the age of 30. We had a hiring freeze from 2011 to 2018, when essentially we lost an entire generation of IRS employees through the hiring freeze.

I guess across the Federal Government, I have come to learn that the normal process is 8 or 9 months to bring people on board, which in the private sector is almost unheard of. In my prior position, if I met somebody on Friday, they could be in the office next to me on Monday or Saturday. It is a radically different position.

And so as we have had attrition, the experienced, knowledgeable people are leaving. We have had difficulty bringing people on board, and it just takes a while to train experience. And that has even been inside our Human Capital office, which then backs up across all of our business divisions if our Human Capital office cannot get out there to do the hiring.

We have made some modifications inside. We have put some direct connections between Human Capital and the various business divisions. We have moved to a roster system, rather than a sort of specific system of hiring. So we kind of have a pool that has gone through the process. We are in the process of hiring about 4,300 compliance personnel on the enforcement side of the house, which will be significant.

But among the biggest challenges are bringing people onboard and the timeline to bring people onboard. Streamlined critical pay, obviously, to bring people onboard in the IT and cyber functions, is extremely important. It expired in 2017. I think it was passed in 2013. We need the ability to compete with the private sector to get the talent to be able to protect the systems that protect the American taxpayers, and that is something that we will continue to work on with your staff, the committees, and anybody who is willing to work with us.

We receive over 150 million returns a year. We are probably the world's largest data bank, and we receive about 1.4 billion attacks on our system each year. It varies, but you can—

Senator CARDIN. Give me that number one more time.

Commissioner RETTIG. One-point-four billion attacks on our system each year, many of which are sophisticated attacks from nation states.

And we are committed, our people are committed to not having those attacks be successful.

Senator CARDIN. And critical pay authority—this is one of the areas where you would use that authority to protect us against those types of attacks.

Commissioner RETTIG. Absolutely. That is what it is designed for.

Senator CARDIN. Thank you.

Commissioner RETTIG. Thank you.

The CHAIRMAN. Senator Portman?

Senator PORTMAN. Thank you, Mr. Chairman.

Commissioner, thank you for being here, and congratulations on the progress so far in the filing season.

As you know, I have been one of those people who believes the IRS need some fundamental reform. You know I have talked a lot about that. Senator Cardin and I have legislation intended to make the IRS more responsive to taxpayers.

I also support the legislation that passed the House by voice vote just this week. And I know that Chairman Grassley wants to bring that up in the committee.

I must say that I am impressed by the fact that since you have gotten there, we have seen some successes. And I think we are heading in the right direction, although we have a lot to do.

One thing I will tell you that I want to point to is combating tax-related identity theft. This is something we talked about as you went through the confirmation process. You pointed out in your testimony that the number of reported victims of identity theft fell 71 percent since 2015. I will say, just in the last few months we have seen some success.

To put an Ohio spin on this, back a couple years ago, my staff personally handled almost three dozen cases of tax-related identity theft. Last year that number fell to just one case. So we have seen real progress back home too, and we appreciate your doing that.

With regard to the IRS reforms, the streamlining, the critical pay authority for IT employees, is something I think you and Senator Cardin just talked about. And I think that is really important, reinstating that. I assume from your answer that you agree with that, and that having to rely on infrastructure that dates back to the Kennedy administration is another problem.

So this outdated IT infrastructure is costing taxpayers money. It is causing you to have to go back and correct taxpayer information. Maybe you can talk a little about the need for you to have better IT infrastructure and what that is going to take in terms of funding.

Commissioner RETTIG. Yes. It is the code that goes back to the Kennedy administration. The hardware is somewhat newer than that, but nevertheless we have systems that need to be updated. They have been patched through the years, and the IRS systems have been asked to take on more and more tasks.

We have about 60 different applications. I think we have 12,000 or 13,000 servers on 12 mainframes. And it is difficult to contin-

ually patch. At some point, we need to replace. And we are definitely at that point.

We are as well-posed as I think we have ever been to—and I was somewhat familiar with this while I was on the outside. The IRS is as well-posed as it has ever been to be able to modernize both the infrastructure as well as the language. And so we are moving forward with the ability to be agile, flexible, as newer technologies come along.

Senator PORTMAN. And what do you need in terms of funding? I know you have a budget request, but what do you personally think is needed in terms of funding to get this IT modernization effort underway?

Commissioner RETTIG. The funding request on the plan is, over a 6-year period, between \$2.3 billion and \$2.7 billion. And it is essentially two 3-year phases with independent outside appraisers looking at it.

Senator PORTMAN. Do you think that is adequate?

Commissioner RETTIG. From what I have seen, I believe it is today. And if it changes, I would certainly let you know. And I have been significantly involved in that from day one.

Senator PORTMAN. I hope you will continue to talk to this committee and the Ways and Means Committee about specifically what you need. I know that sometimes you are constrained by what is in the President's budget, but to the extent that you can, tell us what you really need to be able to modernize that IT, because that is so essential to taxpayer service and—

Commissioner RETTIG. Senator, if I might add to that. I was reminded that one of the critical functions as we move forward with modernization is the ability to have multi-year funding so we do not start and stop, and start and stop, so that our people can get the job done. And so that would also tie in with all that.

Senator PORTMAN. Yes, and I support that with regard to the infrastructure, with regard to the need to be able to have some certainty on your modernization effort.

On the IRS's strategic direction, as you know, the IRS Oversight Board is something the House took out last year, out of their budget. Their proposal this year, it is back in. It does not have all the provisions of the Portman-Cardin legislation that makes the IRS Oversight Board, in my view, more of a strategic advisory board. It actually decreases the number of individuals. It has become defunct, in essence, over the last 5 or 6 years.

Can you tell us what you think about the IRS Oversight Board? Does it have a role to play, in your mind? And what is your view of the House-passed bill?

Commissioner RETTIG. As you know, previously I participated on the IRS Advisory Council, which was not an oversight board, but it was an outside board. And I thought it was significant for the ability of the agency to bring in outside expertise and put the issues in front of them.

I am in favor of an oversight board. I am actually in favor of oversight, generally, also as well for the IRS itself. I think it brings accountability and responsibility to everyone in the agency, including myself. And I think it allows us the opportunity to possibly get some expertise on a basis that we might not otherwise be able to.

Senator PORTMAN. I appreciate your support of that expertise. You also mentioned accountability. The third thing I would mention is sustainability.

Commissioner RETTIG. Yes.

Senator PORTMAN. In other words, the IRS has gone back and forth over the years with reforms, depending on who the Commissioner is, who the Treasury Secretary is. So this would provide some continuity.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Warner?

Senator WARNER. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Casey was ahead of you. I told Senator Warner he could go next. You will be next then, Senator Casey.

Senator WARNER. Thank you, Mr. Chairman, and thank you, Senator Casey.

The CHAIRMAN. I hate to referee among the opposite party.

Senator WARNER. Just do not be taking my time, Mr. Chairman.

[Laughter.]

The CHAIRMAN. Start his time over.

Senator WARNER. I thank you, Mr. Chairman.

Commissioner, it is good to see you. Thank you. I want to join my colleagues in commending you in terms of getting off to a good start in this tax filing season.

I do want to go back to the line of questioning, though briefly, that the ranking member asked. I personally believe that 6103 is clear that this is a provision that gives the chairman of the Finance Committee, the chairman of the Ways and Means Committee the ability to examine the President's tax returns without any involvement of the Treasury, or White House, or others.

I would simply point out—and I just want to get your view on this. Secretary Mnuchin recently appeared before the Ways and Means Committee in the House, and the statement he made was that he thought in terms of 6103 that this would not be something that he would sign off on, that it would be something that the IRS Commissioner would sign off on.

And I just want to make clear for the record, you do not have any disagreement with the Secretary's interpretation of the law, do you?

Commissioner RETTIG. As I said before, the Treasury supervises the Internal Revenue Service. We are a bureau of the Treasury.

Senator WARNER. Well, I hope you will adhere to the Secretary's comments and make sure that, as you respond to Chairman Neal's request, you do it without any interference from the Treasury Secretary or anybody at the White House.

Let me move my line of questioning, though, to the changing nature of the workforce, something I have been working on for the last couple of years. As people move away from full-time, permanent employment, we have seen estimates as high as one-third of the American workforce today is in some level of contingent work—part-time, independent contractors, gig work.

I have been particularly interested in the component around gig work, people moving off these platforms. I believe this is an area where there is a lot of complexity and also a lot of lack of clarity.

Can you speak to what the IRS has been working on as more and more people go through self-reporting and some of the challenges that folks face with this kind of contingent work?

Commissioner RETTIG. Yes, you know self-reporting is—self-reporting without a withholding, when there is not a third party reporting, does lead to compliance-related issues. I think the statistic is that if there is no third party reporting, about 37 percent of that is actually picked up and reported. But if there is reporting without withholding, I think the statistic is about 90 percent gets picked up because we are able to match information that comes in, whether 1099–MISC, 1099–K, or wherever it might be. And then there is reporting with withholding, which is about a 99-percent accuracy rate.

So we are supportive of reporting by third-parties who are actually handling payments with respect to a lot of these situations that are out there. We are focused on it.

Senator WARNER. Was there any way—because I know that the Treasury IG for Tax Administration issued a report in February that found a 237-percent increase in discrepancies between what is reported on a gig worker's income tax returns and payments reported to the IRS. And that report said that the agency lacked a strategic plan, and part of this was due to the underreporting in the IRS's automated reporting program.

Are there technology fixes here, or is this—how big a focus will this be under your tenure to make sure that—because I do not think we are going to see a slowdown in people moving into different forms of contingent work. And it is, I think, really critical that we make sure that we monitor, follow, collect in that area.

Commissioner RETTIG. I agree with you, and it is an area of concern to me personally, as well as to the agency. And it is one that we are willing to get together on with you and your staff or the other staff here.

We need to put a stop to the underreporting part of this economy.

Senator WARNER. Well, I would welcome that opportunity.

I only point out, for the chairman and the ranking member as well, you know that close to a third of the American workforce—and this is not your bailiwick. I fear that they are operating—they may be doing well on paper, but because of our 20th-century social insurance system, the only people whom we give benefits to are people who are full-time W–2 employees.

So it would be the jurisdiction of this committee. Senator Young and I have an experimentation about portable benefits that I think is going to have to be the wave of the future. I firmly believe that anyone who is working, regardless of what classification of work, there ought to be some social insurance provided. And again, outside your bailiwick, but trying to make sure that we accurately report and collect from all that growing segment of the workforce is really important, and I hope the chairman will work with me and Senator Young on this kind of legislation.

And since you gave me the extra time, I will cede back my last 20 seconds.

The CHAIRMAN. Thank you very much, and both Senator Wyden and I heard what you said.

Senator Casey?

Senator CASEY. Thanks very much, Mr. Chairman.

Mr. Commissioner, thanks for being here. Thanks for your service.

I wanted to start with a quotation from *The Washington Post*, quoting Marv Freeland, a former IRS official with 40 years' experience at the IRS, including its exempt organizations. Here is what Mr. Freeland said after those 40 years. He said, "I personally saw there was corruption," and he lists a whole group of various groups. And then he says, he goes on to say, "And the ability to begin by looking at large donations, whether tax-deductible or not, was a useful tool in pursuing the possibility of corruption."

So that is someone with a lot of experience, obviously, talking about having a useful tool, the tool really of disclosure, as a way to prevent and root out corruption.

In July of 2018, the administration terminated the longstanding requirement that 501(c) nonprofit organizations, including dark money groups, disclose their large donors to the IRS. Another way of saying that is that nonprofit groups engaging in political activities will no longer be required to disclose the names of individual donors no matter how much money those donors give. That is the current state of affairs.

To your knowledge, was IRS's Criminal Investigation division consulted prior to imposing this change in the disclosure of so-called dark money?

Commissioner RETTIG. I would not know that. I was not on board at that time.

Senator CASEY. So you have no knowledge either way about whether or not they were consulted?

Commissioner RETTIG. That notice came out before I was sworn in on October 1st.

Senator CASEY. I understand that. But—

Commissioner RETTIG. Yes, I have no knowledge. That was before me.

Senator CASEY. Do you have an opinion about whether or not when that kind of change would be made—which I think is a consequential change in terms of disclosure, in terms of taxpayers knowing the size of donations and who is giving them—if that were to be debated and you are the Commissioner, would you seek an opinion from the Criminal Investigation division?

Commissioner RETTIG. When the IRS is—I can explain generally. Since I have been on board, when the IRS is putting together information, maybe changing course, or adding and whatnot, the majority of the different divisions are aware of what is happening and have the opportunity to comment.

But I do not have specifics on that as to Criminal Investigation.

Senator CASEY. Would you think it would be better to seek out an opinion or a point of view of the Criminal Investigation division in that kind of—

Commissioner RETTIG. I can certainly confirm that the Chief and Deputy Chief of Criminal Investigation look at everything that comes into their mailbox. And they are highly interactive with the rest of the agency.

Senator CASEY. And as you know, in your work as Commissioner, you are charged to fairly administer and faithfully execute the law. I know you understand that.

A core function of the IRS is to investigate potential criminal violations of the tax code and related financial crimes. In fact, you are the only entity that can do so.

It is shocking to me, and I think a lot of Americans, that in the intervening time since your confirmation you have not determined whether or not your workforce was consulted or signed off on that kind of a serious change in disclosure. What do you think we should do going forward?

Commissioner RETTIG. We can work with you. We can get the information for you with respect to Criminal Investigation and their position on that, if that is what you are looking for.

Senator CASEY. Well, I appreciate that, because I think one of the things that a lot of Americans are concerned about—and this is folks who are, no matter what their political point of view is—they see the rise of very powerful interests, probably now more than ever. That has always been a concern. And then they hear that those same major interests not only get to have a point of view in the public square, but to give sometimes unlimited donations with almost no disclosure.

All I think they are asking for is a measure of disclosure, which was taken away when the administration changed that.

Commissioner RETTIG. When the organizations are examined, the Internal Revenue Service asks for the donor list. So it is just a matter that the donor list—the change was that the donor list was not on part of the form when it came in. And my understanding is part of that change came about because of some mistakes the IRS had with respect to unauthorized disclosures. I believe there were 11, each of which—my understanding is it cost about a million dollars for the unauthorized disclosures of donor information that had to be redacted.

The information is still required to be maintained and be made available to us upon request.

Senator CASEY. I would still argue sunlight is still the best disinfectant.

Thank you, sir.

The CHAIRMAN. Senator Toomey?

Senator TOOMEY. Thank you, Mr. Chairman.

Commissioner Rettig, is a 501(c)(4) taxable or tax-exempt?

Commissioner RETTIG. Tax-exempt.

Senator TOOMEY. That is my understanding.

Contributions to 501(c)(4)s are not tax-deductible, are they?

Commissioner RETTIG. Correct.

Senator TOOMEY. Right.

So an individual making a contribution to a 501(c)(4) is making a contribution that he or she cannot deduct, and giving money to an entity that is not a taxable entity. I do not know what the criminal enforcement division of the IRS has to be concerned about, for the record.

But I want to start with a brief discussion about some wildly misleading media coverage that I have heard recently. And the gist

of it is that somehow people are not getting as big a refund this year, and therefore, they must be paying more in taxes.

So first of all, do you have any data as far as average refund so far this filing season as compared to last filing season? Do you happen to know what the refund levels are?

Commissioner RETTIG. Year-to-date—so; as of April 5th—the average refund per taxpayer for this year is \$2,833, \$2,833.

Senator TOOMEY. Yep.

Commissioner RETTIG. For last year, fiscal 2018, the average refund was \$2,864.

Senator TOOMEY. So it is almost identical. The figures are extremely close.

But more importantly, if the only information you have is that somebody's refund from the IRS went down this year as compared to last year, is it possible to conclude whether they had a tax increase or a tax decrease from that information alone?

Commissioner RETTIG. The refund would be associated with the amounts withheld, not actually necessarily associated with the amounts of tax.

Senator TOOMEY. So, to just answer my question directly, is it possible to know the total tax burden if all you know is what the refund amount was?

Commissioner RETTIG. No.

Senator TOOMEY. Right, because, as you point out, the refund is a reflection of how much was withheld during the course of the year for which the refund applies.

So to your knowledge, did the IRS change withholding tables in response to the tax reform that was enacted recently?

Commissioner RETTIG. The IRS changed the withholding tables in February 2018. The changes were made by career, longtime career IRS employees whom I do know and hold in high respect.

Senator TOOMEY. Right.

Commissioner RETTIG. The changes to withholding tables were reviewed by TIGTA and GAO and approved.

Senator TOOMEY. Right.

And the changes that were made were constructed in a way that resulted in less money being withheld from workers' paychecks for a given dollar amount of income?

Commissioner RETTIG. The changes focused on—remember there is a broad range of taxpayers. So the changes focused—

Senator TOOMEY. I am talking about individuals.

Commissioner RETTIG. Yes. The changes focused on basically single taxpayers, single employment. And so individuals, either married or individuals who had concurrent employment, multiple jobs at the same time, should have adjusted their W-4 withholdings with their employers.

Senator TOOMEY. The point is, the nature of the adjustment was to reduce the amount withheld from workers because the fact is, income tax rates declined in every income bracket. And so with withholdings reduced, people's take-home pay went up.

And as it happens, the average refund is almost exactly the same, as you just testified. I appreciate that.

Let me move on to another quick topic. And that is, last year before you arrived, the Treasury Inspector General issued a report



stating that the IRS was not then in compliance with the improper payment requirements. And in fact, a number that is absolutely stunning to me is the improper payment rate for the EITC program. My information suggests that that was \$16.2 billion of improper payments in 2017.

I think I heard you refer to a slightly larger number.

Commissioner RETTIG. Eighteen-point-four billion for 2018.

Senator TOOMEY. So it went from \$16.2 billion, improper payments. So these are payments presumably to people who were not supposed to receive them, or payments above the amount that a person was supposed to receive. Is that right?

Commissioner RETTIG. Essentially payments to people who should not have received it, did not have the right information.

Senator TOOMEY. And that is, again, in 2017. It was almost a quarter of all EITC payments. Is that consistent—

Commissioner RETTIG. Correct.

Senator TOOMEY. So what are we doing about this?

Commissioner RETTIG. I have been on board 6 months. We have had numerous meetings involved with EITC. And my understanding is, every Commissioner since 1975 has tried to deal with the EITC issue.

The complexity of the code provision itself on what is the definition of a qualifying child is something that we would ask Congress to take a look at. We are hoping to be able to come in with some proposals.

Some people look at it as a social program. And if so, it should be, I think, acknowledged as a social program, rather than a tax-related program. It is very, very difficult to administer based on filed information.

And so where the audit rates happen is, correspondence audits go out. Letters go out asking to verify how this is your child. The definition of child is well beyond child or stepchild. It includes a lot of other capacities.

So the ability for the Internal Revenue Service to verify some of that information is exceedingly difficult.

Senator TOOMEY. Thank you.

Mr. Chairman, I look forward to working with you. This is a big problem.

The CHAIRMAN. Senator Thune?

Senator THUNE. Thank you, Mr. Chairman.

I agree on that issue and then also associate myself with the comments of the Senator from Pennsylvania with regard to all the media coverage of tax refunds, which seems to be sort of missing the point about people's actual tax liability.

Mr. Rettig, would the best way to compare tax liability from one year to the next be to go to your tax return and look at the amount owed on the 2017 return versus the 2018 return?

Commissioner RETTIG. The tax figures would be on both returns.

Senator THUNE. Correct.

So it seems to me that if you were going to get an assessment—now the liberal Tax Policy Center says that 90 percent of middle-income families got a tax cut. So it seems like a lot of the coverage of this has been very misleading at best.

Mr. Rettig, in your testimony you ask for Congress's help legislatively to improve clarity in work classification requirements. As you probably know, I have introduced legislation that would do just that. I have a bill called The New Gig Act which addresses the classification of workers and creates a safe harbor for those who meet a set of objective tests that would qualify them as an independent contractor, both for income and employment tax purposes.

Given the importance of this issue to gig workers, to the administration, and to me, will you commit to working with me to add much-needed certainty to our worker classification rules as provided for by my bill?

Commissioner RETTIG. Yes.

Senator THUNE. Yesterday, the House passed the Taxpayer First Act, bipartisan legislation to modernize the IRS in a major pro-taxpayer way. It is a big first step, and I look forward to working with my colleagues here on the Finance Committee and in the Senate more generally to get this reform bill across the finish line in this chamber.

As you know, improved taxpayer service is something that I feel passionately about. I think it is something that I have long worked on, along with the chairman and with other members of this committee, and I know it is an area that you feel strongly about as well.

As you work to implement a comprehensive customer service strategy, what do you believe will be the biggest obstacles to delivering the high-quality service that South Dakotans and other American taxpayers deserve and expect?

Commissioner RETTIG. The current issue we have is our equipment. It is certainly not the employees. It is not the dedication, or desire, or care of the employees. But we need to modernize the agency. And when we modernize the agency, I think we will be able to deliver real-time high-quality service to people, whether it is on the phone, whether it is online, or whether it is in person. I think that is what taxpayers expect, and certainly it is what they deserve. And it is certainly what our workforce wants to be able to provide.

So it brings me back to the request for modernization of the agency itself. And we think there is appropriate oversight on the modernization plan, and I am always willing to listen if people have additional ideas. But I think that it is something that every member of Congress, that every person inside the Internal Revenue Service, and every person in this country could be proud about. And we should be able to deliver high-quality service.

Senator THUNE. Well, that is something that—as I mentioned—Senator Grassley and I and others worked a long time on, and hopefully it can continue to make headway to make sure that taxpayers in this country are treated fairly, properly, and with the respect that they deserve.

I want to follow up just on a question that was asked by Senator Toomey, and that has to do with the EITC number, which you mentioned was \$18 billion in improper Earned Income Tax Credit payments this last year. And you mentioned that you have not been in there all that long.

But with a quarter of those being made incorrectly, do you have any sense of what percentage of those improper payments are due to fraud, or what are due to the complexity of the rules? I mean, do you have a way of assessing that?

Commissioner RETTIG. We really do not, without doing a complete audit of the entire pool. And this is where people make comments that we are going after the appropriateness of the Earned Income Tax Credit.

It is up to Congress and others to decide, should we leave it alone or should we go after it, with the net result that it is an \$18-billion overpayment. If we can get the complexity out for a qualifying child, we should be able to readily identify fraud. But having that in there, it makes it more complex, more difficult for the IRS to actually be able to determine what is fraud and what is not.

Senator THUNE. Well, I hope that you will, as you continue in your efforts in this regard, come up with a way, a plan, that would be effective and successful. I mean, you are talking about, over a period of time, tens of billions of dollars over the course of several years.

And to the degree that we can screen out those who are gaming that program or taking advantage of it in some way that is inconsistent with its intent and with the law, we need to figure that out. So, thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Hassan?

Senator HASSAN. Well, thank you, Mr. Chairman. And thanks to you and Ranking Member Wyden for holding this hearing.

Commissioner Rettig, thank you as well for being here today to testify about the filing season.

Before my questions, I want to address one of the biggest tax issues facing many Granite State businesses this filing season. It is the Supreme Court's backward *Wayfair* ruling which now requires small businesses in New Hampshire to collect Internet sales taxes for other States. You may know that New Hampshire does not have a sales tax.

Last month a poll of federally licensed tax preparers indicated that 86 percent believe small businesses are unprepared to deal with the impact of the *Wayfair* decision. This is very concerning. And though State tax filing is not the subject of today's hearing, Internet sales tax collection requirements are under the jurisdiction of this committee.

That is why, Mr. Chairman, I sent you and Ranking Member Wyden a letter today requesting that the Finance Committee hold a hearing on how these new sales tax collection requirements are impacting small businesses across the country. And I would appreciate your consideration of this request and would look forward to working with you on this issue.

The CHAIRMAN. Obviously, we will do what you ask, consider it, and let you know. The only caution I have is, I get so many requests for hearings.

Senator HASSAN. Of course.

The CHAIRMAN. So we have to prioritize them. I would ask your staff to talk to Senator Wyden and my Chief of Staff as well.

Senator WYDEN. Mr. Chairman, just for 2 seconds? The Senator is talking about something that is enormously important to my State as well as hers. So we would like to work with you.

Senator HASSAN. Thank you.

Now, Commissioner Rettig, I want to turn to another topic. In 2017, Republicans promised that their tax law would simplify the tax code so much that it would allow taxes to be filed on a postcard. And after the tax law passed, Treasury tried to make good on that political promise.

It shortened the core tax form, the 1040 form, by removing all of the real tax information that you need to actually determine your tax liability, and instead put that—really tried to hide that information on six separate, equally complicated schedules. So people now have the postcard, but then they have six additional schedules they have to fill out to do what the former 1040 used to do.

So now we are learning that this hasty gimmick may be having serious real-world consequences, including disrupting financial aid for the 20 million students who use the Free Application for Federal Student Aid every year. That form, called FAFSA, allows students to use an IRS retrieval tool to automatically and accurately fill in their families' tax information.

However, the tool draws from the Form 1040. And now that postcard no longer has that information. It no longer exists.

Through its so-called "postcard," the Treasury has broken FAFSA's tax data retrieval tool. As a result, millions of students may need to manually input their own tax data, leading to inaccuracies that could cause serious delays and even some students losing their financial aid.

Commissioner Rettig, will you ensure that the IRS securely transfers tax information for students and families into the FAFSA despite the political games that Treasury played with these tax forms?

Commissioner RETTIG. Senator, we are working with the Department of Education on this issue. We are sensitive to the importance of the issue and will work with your staff as well.

Senator HASSAN. Well, thank you. We may only have several weeks to solve this problem before the FAFSA form is locked in for the application cycle that starts soon. So I am taking your answer as an assurance that the IRS retrieval tool will be ready in time for the upcoming FAFSA cycle that begins this fall.

Commissioner RETTIG. We will do our best. We are focused on the issue and working with Education.

Senator HASSAN. It is, as you know, a huge issue for so many students.

Commissioner RETTIG. I am very aware.

Senator HASSAN. Another question I had is about the research and development tax credit. It is one of the most important tools in the tax code for promoting innovation and small business growth. This tax credit incentivizes innovative work by startups all across New Hampshire, from new tech companies in the Manchester Mill Yard to small businesses grown within the New Hampshire business incubator network.

The refundable R&D tax credit in particular is vital for new businesses that are not yet profitable enough to have taxable business

income. I know the IRS has faced some challenges in administering the refundable R&D tax credit, some of which were highlighted in the Treasury Inspector General report from last December.

As this committee looks at ways to build on the success of the R&D tax credit, it would be valuable to hear directly from you about steps the IRS is taking to ensure that the program is effectively administered. What progress has the IRS made in implementing the Inspector General's recommendation for the R&D tax credit?

Commissioner RETTIG. Senator, I do not have the information with me today. But we will work with you and your staff and get that information to you.

Senator HASSAN. All right, I would look forward to that. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Now, Senator Cortez Masto.

Senator CORTEZ MASTO. Thank you, Mr. Chairman. Thank you for holding this hearing and to the ranking member as well.

Commissioner, welcome. It is good to see you.

I want to jump back to the Taxpayer Assistance Centers, and they are key. And in Nevada, I have had the opportunity to sit down with some of the folks who work there and talk about the impact—and the positive impact—they have on our taxpayers who need assistance.

I also know in Las Vegas, the Taxpayer Assistance Center—it was originally staffed by 20. And I think they are down now to seven staff in that Las Vegas office.

So I guess—and I know you talked a little bit about it, but can you explain? Are you downsizing these centers?

Commissioner RETTIG. Not intentionally. People are retiring. People unexpectedly retire. As I indicated, I think 45 to 55 percent of our workforce is eligible to retire within 1- and 2-year time frames.

We are hiring. We are trying to staff them to the extent we can. One of the things we did was, instead of just having it be a walk-in type service, we went to appointments, but we also do accept walk-ins at the TACs. And we found that for over 50 percent of the people who call in for an appointment to a Taxpayer Assistance Center, our customer service representative on the phone whom they interact with, has been able to resolve their matter or steer them to a direction where they can resolve the matter. So it has brought down the actual foot traffic on the individual Taxpayer Assistance Centers.

But personally I can tell you, I am a strong believer in interpersonal interaction rather than—

Senator CORTEZ MASTO. I am too.

Commissioner RETTIG. And particularly with respect to sort of the elderly communities and the generally underserved communities, unrepresented taxpayers, English as a second language. From day one, everybody inside our organization has heard me express personal concerns in that regard, as far as it being a community that we need to pay particular attention to.

And the TACs are one of the front lines on that.

Senator CORTEZ MASTO. So can I ask a question? I do not have much time.

Commissioner RETTIG. Sorry.

Senator CORTEZ MASTO. So I noted you highlighted a figure that you are hiring 4,300 FTE for enforcement. Is that correct?

Commissioner RETTIG. We are hiring elsewhere as well.

Senator CORTEZ MASTO. And so, how many would you say you are hiring with respect to the centers here to provide assistance to taxpayers?

Commissioner RETTIG. We have 358 TACs, 34 of which, I believe is the number, are not fully staffed. And so we are looking to staff our TACs to the extent we can.

Now we move people from one location to another in order to accomplish that.

Senator CORTEZ MASTO. Okay.

Commissioner RETTIG. But we are focused on it, and we take the issue seriously.

Senator CORTEZ MASTO. So as you are dealing with your challenges in the staffing, what other options are available to taxpayers? Do you support the Volunteer Income Tax Assistance counseling—

Commissioner RETTIG. Absolutely.

Senator CORTEZ MASTO [continuing]. For the elderly program? And are there other programs that are available that also are staffed and can help individuals?

Commissioner RETTIG. We can coordinate with your staff. We do have quite a few programs. We are very engaged with that. We actually have—I was recently down in Texas and interacted with a high school group that is doing VITA for the 19th year in the high school. So we can help implement that.

And in the bill, there is support for funding of VITA sites, matching programs for VITA sites, and we are really supportive of that.

Senator CORTEZ MASTO. What is your overall turnover rate per FTE?

Commissioner RETTIG. Pardon?

Senator CORTEZ MASTO. What is your overall turnover rate for FTE? I am curious. For your FTE, turnover rate?

Commissioner RETTIG. I would have to get back to you.

Senator CORTEZ MASTO. Okay; I would be curious about that.

And then one final thing. I also understand, and the reason why I say this—and I know you have a staffing issue—but my understanding, after working and talking with our taxpayer advocates in the State of Nevada, I am also told that their phones are ringing nonstop. Taxpayers are calling the office because they cannot get through to the IRS.

Telephone service is one area where the IRS has been performing sub-optimally. The level of service has dropped from nearly 80 percent to the mid-60 percent range from the last filing season. Is that correct, and if so, what are you doing to address the issue with calls?

Commissioner RETTIG. We are currently answering 6 out of 10 calls. The modernization plan includes a lot of assistance with respect to calls, including a customer call-back service that we have in a pilot program now, which is, you place a call, you go into a

wing, and then you do not lose your place. You come back exactly where you were.

Senator CORTEZ MASTO. So you do not have a system like that now?

Commissioner RETTIG. We have a pilot program.

Senator CORTEZ MASTO. But it does not—other than the pilot program—

Commissioner RETTIG. It depends on the line. We have 97 different phone lines.

Senator CORTEZ MASTO. Right.

Commissioner RETTIG. So we put it on a line to test it for us, and we expect to roll it out—

Senator CORTEZ MASTO. And just so I know, when you first testified, you talked about a tech modernization program that is going to cost anywhere from \$2.3 to \$2.7 billion over a 2-year period. Is that right?

Commissioner RETTIG. Six years.

Senator CORTEZ MASTO. Six years.

Commissioner RETTIG. It is two 3-year phases.

Senator CORTEZ MASTO. Included within that is the phone system and trying to address that.

Commissioner RETTIG. That is correct.

Senator CORTEZ MASTO. Okay.

Thank you.

Commissioner RETTIG. We take our level of service very seriously. It is the front lines, and we want taxpayers to have a positive experience with us.

Senator CORTEZ MASTO. Thank you.

I appreciate you being here.

The CHAIRMAN. Thank you.

Senator Cassidy?

Senator CASSIDY. Hey, Mr. Commissioner.

Let me first give some credit where credit is due. A few years ago, I was the victim of identity theft. It wrapped my tax return around an axle in terms of getting my return.

I noticed that, through your Security Summit, you have decreased the number of fraudulent returns identified from close to, I guess, \$858 million in 2017, down to \$15 million in 2019. So, good job for you and the folks with whom you work. So just to say that.

Commissioner RETTIG. Thank you.

Senator CASSIDY. Now, let me go on. In your testimony, you reference correction procedures for specific errors. And I think that you may have been alluding to that somewhat in your answer to Senator Thune.

Your proposal would allow the IRS to correct errors in cases where the information provided by the taxpayer does not match the information in government databases or the W-2 form: they have exceeded the lifetime limit for claiming the deduction or credit, or they fail to provide certain documentation.

Now, going back to your conversation with Senator Thune in terms of prior improper payments, we have to do something. We have to formulate a solution.

Can you lay out the financial impact if we do not formulate these solutions for the taxpayer?

Commissioner RETTIG. Well in EITC, it is \$18.4 billion in overpayment for 2018.

Senator CASSIDY. In just 1 year.

Commissioner RETTIG. In just 1 year.

Senator CASSIDY. But also the education tax credits, I gather, are also—

Commissioner RETTIG. And the child care credits. There are a lot of areas.

If we have the ability to correct based on information otherwise available to us, internal information, we also look at that as a taxpayer service. Because if we do not have the ability to correct on our end, then we issue notices that can either be in the form of an audit, a correspondence audit, et cetera, et cetera.

And if a taxpayer does not respond to that, then they get another notice. So it is resources on our side. But it also uses up a lot of the taxpayer information.

Senator CASSIDY. So it is \$18 billion in 1 year for EITC. Assuming that it did not grow, but it most likely will, over the course of 10 years, the 10-year window, that would be \$180 billion?

Commissioner RETTIG. Correct.

Senator CASSIDY. And you add all the others. So this is real money.

Commissioner RETTIG. We are trying to get the returns correct based on information we have.

Senator CASSIDY. Now, when I was subject to my identity theft, the person who stole my identity had no dependents. So you can see on my previous tax returns, I had dependents.

So now it could have been a car wreck and all my family killed, but also they had no dependents; formerly I did. That clearly—they told me at the time though that there was no way for these computer systems to interrelate.

Yes, they knew it. But somehow they could not correlate with the current fraudulent return. Has that now been corrected?

Commissioner RETTIG. Yes. I cannot go into the—I should not in a public forum go into the specifics of some of the filters that we do have. But we have some pretty spectacular filters that have allowed us to bring the numbers into where they are. And we are continuing to—

Senator CASSIDY. So it is my point that if we actually put the enabling legislation out there, you now have the capability—whereas, formerly you did not—you currently have the capability to use that to save the taxpayer \$180 billion a year, even from the EITC alone—thereabouts or approaching that?

Commissioner RETTIG. That would be part of the intent.

Senator CASSIDY. Yes. And I do know that—I think Senator Wyden raised the point: why are we going after EITC as opposed to millionaires? We should go after millionaires if they are fraudulent. But I also point out that, of all the programs we have here, the IRS programs, the type of program and the level of risk identified, EITC is the only one that is listed at high-risk. And the rest of these are at medium or low risk.

And so that does seem to be kind of the Willie Sutton law: that is where the money is. And obviously if somebody deserves it, they



should get it. But if somebody is somehow gaming the taxpayer, we have to be fair to the taxpayer. And so I am with you on that.

Let us see what else I have. You have a separate legislative proposal which requests authority to require minimum qualifications for tax preparers. Would this require additional—if you have a CPA or someone who is already accredited by a licensing agency, will there be further requirements upon them?

Commissioner RETTIG. No. The CPAs have their own—in terms of education requirements—and their education requirements would satisfy for this. This is really for the unlicensed people, to be able to regulate them. Also, to make sure they get the appropriate education and training so they can provide—

Senator CASSIDY. And this would be a Federal, not a State requirement, because it is a Federal reform?

Commissioner RETTIG. That is correct.

Senator CASSIDY. Okay.

Thank you. I yield back.

The CHAIRMAN. Senator Young?

Senator YOUNG. Mr. Commissioner, thanks so much for being here, and welcome. You can be at ease for a moment. I do not typically start off with a statement, but I will have a question for you, sir.

I would like to speak to the medical device tax. The suspension of this tax is set to expire at the end of this year. And with that in mind, medical device companies must make contingency plans to potentially pay this onerous tax.

The money to pay the tax must be set aside now and cannot be used to hire new workers, invest in R&D, or expand businesses. A Department of Commerce study projects that in 2 years the tax, when it was in effect, cost an estimated 29,000 jobs.

Beyond the tax, there are also significant compliance costs to allowing the medical device tax to resume. I think it is good for all of us on the committee to recognize that these compliance costs would not be recoverable even with a retroactive fix, or a fix just weeks away from the tax resuming, which we have a habit of doing around here.

This is why I am working with my colleagues here in the Senate to eliminate or immediately delay this harmful tax before it comes into effect. I want to spend a minute focusing on the IRS's role in the collection of the medical device tax. It is an excise tax that taxpayers will be required to pay on a semi-monthly basis if the suspension ends, beginning in January of 2020.

And as I understand it, the IRS would have to go through a cumbersome process, for both it and for industry, of refunding payments to companies if we were to be in a position to retroactively address this problem. I have been told that the process of refunding any retroactive payments to companies could take months, leading to a further delay in deploying capital, in hiring new workers, or spending more on research and development.

So with those thoughts in mind, I just ask my colleagues on this committee, I ask colleagues who may be watching these proceedings, to not allow this devastating tax to be reinstated on the American economy. Retroactive action by Congress next year can-

not fully undo the impact of allowing this tax to be triggered on January 1, 2020.

And just as an aside, I should certainly add that Indiana is a robust medical device development and production State. So this is really important to Indiana's economy.

Turning now to the Earned Income Tax Credit. I believe that the EITC has been an incredibly positive part of our tax code for a number of years. It encourages Americans to work, reduces poverty, and can help move folks off of traditional welfare programs, just as Milton Friedman sort of envisioned it as the negative income tax a number of years ago.

I agree with my colleagues across the aisle that we need to look at the EITC as a model that might be expanded when we know the credit is getting to the taxpayer it is designed to help. However, EITC continues to suffer from a high improper payment rate. This is due at least in part to the complexity of applying the credit to the individual taxpayers' particular situations. It is also due to some measure of fraud.

I believe if we could work together in a bipartisan fashion and drive down the improper payment rate, we could start a real conversation about putting those savings towards a more robust EITC. I really want this to happen.

Commissioner Rettig, what lessons have you learned about how to improve the EITC this past filing season? Is it all enforcement and compliance, or are there ways the IRS could simplify EITC for taxpayers?

Commissioner RETTIG. From the IRS perspective, the IRS has provided much outreach and education, not only to taxpayers, but also to preparers. It is a routine topic at a lot of different—they are called tax forums that IRS hosts around the country trying to educate preparers, trying to educate taxpayers, online information, hard copies of information.

And with that, the effort went from \$16 billion in overpayment in 2017 to \$18 billion in 2018. So it is an issue that we have a lot of resources devoted to. My personal reaction is, it requires a congressional fix to the statute itself to make it a statute that is easier to administer. And the majority of the issues come down to, what is the definition of a qualifying child, which does not necessarily mean it is a child who in the ordinary sense we would say is related to me, but they do qualify.

And then we need to verify that. And so that process is very complex for us.

Senator YOUNG. So you answered my second question. You need greater guidance from or leadership in Congress on this issue.

Would you or members of your team dedicate yourselves to working with my staff on this?

Commissioner RETTIG. Absolutely. We are very interested in it.

Senator YOUNG. Thanks so much.

Mr. Chairman, I yield back.

Senator DAINES [presiding]. Senator Lankford?

Senator LANKFORD. Thank you, Mr. Chairman.

Commissioner, thanks for being here. Thanks for all the work. This is an incredibly busy season for you to be able to walk through

this, for you and for your team. So I appreciate your time and your engagement.

Walk me through something you and I have talked about before, that is, the question of legacy hardware and legacy software at the IRS, what the status is of getting that up to speed.

Commissioner RETTIG. Our systems—you know, the IRS has been tasked with a lot of new projects almost on an annual basis. And so they need to—essentially they had one project on top of an existing project. And at some point, the entire system needs to be brought about and replaced.

We also have legacy in terms of the code, the language that is being used. That is actually what goes back to—there was a comment about the Kennedy era. It is not the hardware, but it is the code that we have that goes back to that era.

And the private sector would not be operating in the sense that we are operating. I think it is a tribute to our IT and other folks inside the Internal Revenue Service, to the level and extent that we are operating. They delivered not only a seamless implementation of the tax act, but also a seamless filing season so far.

Senator LANKFORD. So what is the time period on getting the code up to date?

Commissioner RETTIG. Well, under the modernization plan, it is within a 6-year time frame, and we expect that that plan is realistic. It has been reviewed by outside, independent third parties, both as to the schedule and the capacity to deliver, and approved.

Senator LANKFORD. Okay.

So we are in year one of the 6-years right now, or next year is year one?

Commissioner RETTIG. We are in year one now.

Senator LANKFORD. Okay.

What about the staffing side of it? It has to be progressively harder and harder to be able to get IT folks to be able to work on software that is 40 years old.

Commissioner RETTIG. Not only that, but part of the same issue is cyber. There are 300,000 cyber positions available in our country with a zero-percent unemployment rate, which brings me back to streamlined critical pay. We are competing with all the other entities that you can imagine. Onboarding people is a difficult process outside of that.

We have worked really hard trying to raise the morale of our employees. I like to say that each employee in the Internal Revenue Service is an ambassador for the Internal Revenue Service and works hard with us to try to bring other people on. The hiring is a very difficult issue.

Senator LANKFORD. Any way that we can help, that you need help from us directly on?

Commissioner RETTIG. Streamlined critical pay would help us a lot. I have read some general circulation articles about efforts to streamline the normal onboard hiring process, cut us down from an 8- or a 9-month process, allow us to be somewhat competitive with the private sector. That would help significantly.

Senator LANKFORD. Okay.

Let us talk about the tax gap. You and I have talked about this before. The tax gap number out there is very old. So we are all guessing on what the tax gap really is.

How do we get an updated number?

Commissioner RETTIG. June 2019, we will release tax gap figures for the 2011 to 2013 time frame.

We are actually looking at other ways of—tax gap comes about as a result of actual physical audits.

Senator LANKFORD. Right.

Commissioner RETTIG. We are looking at, and I have tasked a department of the Internal Revenue Service to try to use data analytics to maybe get us a more current, possibly more accurate number—not that the other one is not, but using current information.

The world has changed from 2011 to 2013 to 2019.

Senator LANKFORD. Yes, quite a bit.

So you and I have also talked about prioritization, in that when I talk to attorneys who handle tax issues in the private sector, and I will pull them aside and say, “As a taxpayer, what drives you crazy about what you do?”, the first thing that they mention is the lack of prioritization at IRS, that they will have three cases in front of them, and they will randomly draw one.

But this one may be a million dollars in tax and this one may be \$10,000 in tax, and they are just as likely to go get the \$10,000 and allow the one that is a million dollars in tax liability to expire 3 years from now as they go through the process.

Commissioner RETTIG. Yes. That is not my personality.

Senator LANKFORD. Yes.

So how are we fixing that?

Commissioner RETTIG. My personality is that we should use our resources across the board. We need to touch everybody, and we need to be in as many neighborhoods as possible.

We do not need to take over the neighborhood, but we need to touch the neighborhoods. And we intend to do that. We have a lot of concepts that we are working on in terms of changing maybe the structure of how we operate on the enforcement side. We are not there yet, but I did come in with a lot of ideas to try to improve the enforcement side of the house and compliance.

I believe that strong, robust, visible enforcement is a definite component of taxpayer service. The person who is doing it right needs to know that the other people are at risk. We intend to get there.

Senator LANKFORD. And that is a great challenge. We have a lot of taxpayers who do it right. They go through the process, from millions and millions of people filling out their forms, going through all the software, talking to their CPA. They want to get it right, and it really bugs them when somebody is ripping the system off.

Our job is not to protect people cheating the Federal Government. We want to be able to get good, low taxes and the fairest system that we can possibly get, but not to protect a tax cheat in the process.

Commissioner RETTIG. I completely agree.

Senator LANKFORD. Okay. Thank you, Mr. Commissioner.

Thank you, Mr. Chairman.

Senator DAINES. Senator Brown?

Senator BROWN. Thank you, Mr. Chairman. Mr. Chairman, I liked Senator Wyden's opening statement.

I find it curious, Commissioner, that virtually every Republican, at least since I have been sitting here, almost everyone has brought up EITC and the \$18 billion, in some cases suggesting most of it is fraud. It is not at all clear that it is.

I just find it curious they bring that up, but rarely or never the kind of fraud—Senator Lankford just mentioned, any kind of fraud. I appreciate that.

But when you look at corporate audits in the last number of years, they have plunged by 50 percent. In 2010, 96 percent of the largest companies, \$20 billion or more in assets, were audited compared to only 28 percent in 2018. And we also know that the audits, they found \$23 billion in unpaid taxes in 2010; now it is \$12 billion.

So this is the same political party that fell all over itself in this committee a year ago to give tax cuts to the richest people in this country, and I just do not get it. I call out those—Senator Young, and what he said in his comments, that he really does want to find ways to expand the Earned Income Tax Credit, especially to people without children and others, and we are going to work together. And I always appreciate his approaching us and working together like that.

I just have a series of mostly yes/no questions, if I could just ask you, Commissioner.

Is it true under our current tax code that someone can earn enough working to be above the poverty line and then because of the payroll tax, other taxes, be pulled into poverty?

Commissioner RETTIG. I do not actually have the information to be responsive.

Senator BROWN. But you can see that that would be the case?

Commissioner RETTIG. If you are looking at hard dollars, and then you end up with less than that amount of hard dollars, the concept certainly makes sense to me. And I can certainly work with you and get back on specifics.

Senator BROWN. Can you tell me how many workers not raising children are actually taxed into poverty or taxed deeper into poverty?

Commissioner RETTIG. I do not have that information.

Senator BROWN. Okay.

Commissioner RETTIG. We could try to figure out—

Senator BROWN. Well, the answer is 5 million who are already in poverty or slightly above poverty. The Earned Income Tax Credit is not enough to buoy them, if you will, and the payroll tax pulls them further into poverty.

Can you tell me what level of Earned Income Tax Benefit a 65-year-old in Mansfield, OH working full-time at a low-wage job is eligible for, a 65-year-old?

Commissioner RETTIG. I think the married figure is \$6,437, and the individual figure is \$3,000.

Senator BROWN. At 65, it is zero. At 64 and under, that would be the answer.

Commissioner RETTIG. Okay.

Senator BROWN. If they are 65, they are not eligible, as you know. Maybe I did not ask the question clearly enough.

Can you tell me what level of Earned Income Tax Credit benefit a 19-year-old recent high school grad is eligible for working full-time at minimum wage, hoping to save for community college? Is he or she going to get any EITC benefit at 19?

Commissioner RETTIG. No.

Senator BROWN. Okay. Thank you.

So the President's tax law, as we know, gave massive tax cuts to millionaires and corporations, the same corporations that, as we have seen in the case of General Motors, send jobs overseas. And yet it did nothing to make sure hard-working people cannot be taxed into poverty and did not boost the EITC for people who are starting out in their careers or still working hard at age 65, as so many people who are barely making it have to.

Let me switch to CTC in my last couple minutes. A recent report from the National Academy of Sciences told us an increased CTC alone could reduce deep poverty by half. Experts across the political spectrum, left to right, agree that expanding the Child Tax Credit is critical to lifting millions of kids out of poverty.

While President Trump and congressional Republicans claim to have doubled the Child Tax Credit, millions of low-income families are not eligible for that expansion; correct?

Commissioner RETTIG. That is correct.

Senator BROWN. Okay. It is 26 million kids who are left out of the CTC increase.

And another question: is it true the President's tax law made couples who make up to \$400,000 per year—and if you are making \$400,000 year after year as a couple, you are probably a millionaire. The President's tax law made those people eligible for the maximum Child Tax Credit, but chose to say that low-income families do not get the maximum Child Tax Credit? Is that true?

Commissioner RETTIG. I will have to accept your statement. I have not personally looked at that.

Senator BROWN. Okay. I would not say it if it were not true.

The conclusion of this, Mr. Chairman, is there are 441,000 kids—and in my State of Ohio, a State of 12 million people, families get a token \$75 increase or less in their CTC from the President's tax law.

The average household in the top 1 percent is estimated to get a \$55,000 tax cut. It means the President's tax law gives some Americans a tax break larger than the entire median annual income, \$55,000, while a single mom in Ohio gets an extra \$75. That \$75 does not go very far, obviously, paying for day care.

And I will just conclude with this. Senator Bennet, who has been a real leader in this, Senator Wyden, the ranking member, many of our colleagues, have introduced a bill to fix that and put more money in the pockets of workers and families who were left behind by the President's tax cuts for the wealthy. It is called The Working Families Tax Relief Act.

It expands two programs we know work: the Earned Income Tax Credit and the Child Tax Credit. It will give a much-needed raise to millions of hardworking Americans and help give more kids a fighting chance.

It could be the basis, as Senator Young suggests, for real bipartisan tax reform to make our tax system work better.

Commissioner, thanks for the service.

Commissioner RETTIG. Senator, we are supportive of working with Congress on the Earned Income Tax Credit and in other arenas. We are actually trying to pull information together that we hope would be helpful for all your consideration.

Senator BROWN. For the expansion of EITC and CTC?

Commissioner RETTIG. And where the difficulties are. We are tax administrators, and so we do not necessarily do messaging or policy, but we need to administer. So where the practical aspects of ease of administration would help everybody—

Senator BROWN. Thank you, sir.

Senator DAINES. Senator Carper?

Senator CARPER. Thanks, Mr. Chairman.

Commissioner, how are you?

Commissioner RETTIG. Good. How are you doing?

Senator CARPER. Great to see you.

Commissioner RETTIG. Good to see you.

Senator CARPER. Thank you for your willingness to tackle a very difficult and challenging job, but an enormously important one for our country.

Commissioner RETTIG. Thank you.

Senator CARPER. John Koskinen was your predecessor, as you know. And when you and I met before you were confirmed, I urged you to continue a conversation with him. He was so good at what he did, a very good leader, so I hope that you have had that opportunity. I am sure he would be pleased to continue to be a resource.

Commissioner RETTIG. I have talked to every Commissioner going back to Mort Caplin, who was Commissioner under President Kennedy.

Senator CARPER. Yes.

I was elected State Treasurer at the age of 29 in Delaware, right out of the Navy, right at the end of the Vietnam War. And we had the worst credit rating in the country. We could not balance our budgets for nothing. We were not very good at collecting revenues.

And years later when I was Governor, the Delaware Quality Award went to the Delaware Division of Revenue. We went from worst to first in terms of the quality of our service and our ability to collect revenues that were owed.

And one of the things we sought to do was make sure we had the resources within the Division of Revenue to collect the revenues owed on the corporate side, the individual side, and also to make sure we were able to provide good advice to taxpayers who would come in our doors or call us or contact us by mail or by email.

For our country, we had balanced budgets for 4 years. I think it was 1998, 1999, 2000, and 2001, with a Democratic President, Republican House and Senate. And during those 4 years, revenue as a percentage of GDP was about 20 percent. Spending as a percentage of GDP was about 20 percent.

Today, revenue as a percentage of GDP, I believe it is somewhere between 16 and 17 percent. Spending is over 20 percent. And that delta led us to a budget deficit last year of \$750 billion. This year

we are looking at about \$850 billion. Next year may be a trillion dollars.

We need to collect revenues from folks who owe taxes, whether they happen to be in businesses, or whether they happen to be individuals. We need to collect revenues. We need to provide better service to people who darken our doors, or contact us to ask, "How do I file my taxes?" We just changed the tax code and made it more difficult in some cases and, in some cases, maybe a little easier.

But from my time as Treasurer, Congressman, Governor, and now, I have loved to do customer calls. I do customer calls every week. I visit businesses, large and small, all over my State.

I ask them three questions. How are you doing? How are we doing—our congressional delegation, Federal Government, State of Delaware? And what can we do to help?

Just give me three quick things that we can do to help you, your employees, your team, and then help us to do a better job of answering people's questions about the tax code, help them to file, and also collect the revenues that are owed. Just give me three quick ideas, and that will be our to-do list.

Commissioner RETTIG. And this not only comes from me, but, Senator, I have had visits throughout the metro DC area with IRS, also down in Atlanta Service Center, and in Austin, TX Service Center. I am going to Kansas City Service Center.

Senator CARPER. Going to Kansas City. Kansas City here I come.

Commissioner RETTIG. Yep; I will be there next week.

Senator CARPER. All right.

Commissioner RETTIG. And I met with thousands and thousands of IRS employees one-on-one. I got on a number of calls where taxpayers call in. And I did not get to talk to them, but I got to listen to the calls.

Senator CARPER. Okay.

Commissioner RETTIG. So I can tell you that, not only from my perspective, but from the perspective of our front-line employees, as I have indicated, modernization is huge for us. The ability of our employees to provide top-quality service to the taxpayers, the ability of taxpayers to receive the service similar to what they get in the private sector when they call any other organization, I think is critical. It will enhance the respect and credibility of the IRS as an agency, which I think will positively impact the voluntary compliance rate that now hovers around 83 percent.

I think that is a huge issue. It will bring a morale boost to our employees.

I have talked a lot today about streamlined critical pay, the ability of the IRS to bring on IT and cyber workforce quickly, the ability for us to compete with the private sector, where there is little or no unemployment for these particular people. We draw people in based on their desire for government service, to serve this country, and the value of service to this country. And I draw on my own experience, as you know, both my wife and my son, in talking to people about that.

And then maybe an indirect one; there are other things that I could add, but—

Senator CARPER. How about paid tax preparers; anything there?



Commissioner RETTIG. Regulation of preparers, education of preparers—and the regulation of preparers is significant to help us, both so that the returns that come into the system get it right, also so that the preparers who operate in certain communities in this country who do not get it right, maybe intentionally or maybe, you know—there are pockets of the preparer community that prey upon individuals who do not otherwise know. Often these are in the underserved, under-represented communities.

Regulation allows us to help identify who did what return, allows us to require minimum standards for education and knowledge and whatnot. And that helps the quality of the returns that come into our system.

Senator CARPER. Great.

The last thing I would say—I know we are out of time. Just very briefly.

One of the things we used to do with John Koskinen is, we would meet with him, members of this committee. And I would welcome the opportunity—actually, to host, maybe, a small meeting with Democrats and Republicans from this committee and go through a to-do list addressing some of the three issues that you just discussed. We cannot get anything done here without you doing it on a bipartisan basis.

Commissioner RETTIG. We would welcome the opportunity. We would welcome the opportunity for you to come and visit us at the Internal Revenue Service.

I think, as you know, I eat in the cafeteria every single day at a community table. Anybody there who wants to sit down, sits down. We have had members of Congress come and join us at the table and interact with our employees. And everybody on the committee is invited. Staffers are invited as well to come join.

I would give you the menu, but I did that yesterday at the Appropriations Committee, and my wife said, “Honey, I cannot believe you told everybody the menu in the cafeteria.” So I will hold back to show I have some filter.

Senator CARPER. Thank you. Thank you. Thank you.

Senator DAINES. Commissioner Rettig, thank you for being here today. I appreciate your efforts to modernize the agency’s IT infrastructure, reduce identity theft, and combat fraud and tax evasion.

Speaking of fraud, in late 2016, the IRS issued a notice to combat the abuse of the conservation tax easement deduction. The IRS notice considered these tax shelters as listed transactions if the deduction equals 250 percent of the land’s initial cost.

Abusing this deduction robs Montanans of their hard-earned taxes and discourages the legitimate conservation projects that are helped by it. I have introduced legislation, The Charitable Conservation Easement Program Integrity Act, to put a stop to this bad behavior permanently by codifying the parameters set out in the IRS notice.

Mr. Rettig, have the abusive transactions declined since the IRS issued its notice, and if not, why have promoters been allowed to continue to sell these abusive tax shelters?

Commissioner RETTIG. Syndicated transactions have absolutely not declined. They are still there. I think that you may also be aware of the fact that, at our request, the Department of Justice

not long ago filed an injunction action against a promoter down in Georgia. We have a number of the syndications under examination, both as to the taxpayer side and as to the promoter side.

The promoter side indicates they have valuations that say that something that—there is an example that is in one of the statements that somebody buys something for \$2 million. They sell it to a syndication for \$8 million. And then it goes out to the taxpayers at \$40 million, and all those values happened within 1 year.

That is what we are seeing. So we would like to work with you on your legislation. It is an area that we are focused on.

Senator DAINES. Thank you.

What it does is, it undermines the legitimacy of conservation easements, which are a great tool for us in Montana. And my various land trusts are strongly supporting this legislation, because they are doing it the right way. We have to get rid of these very bad actors who are abusing it.

I want to go back to the Bipartisan Budget Act from last year. Congress reformed and significantly increased the section 45Q tax credit for carbon sequestration. This provision requires Treasury to issue regulation defining what companies have to do to show that captured CO<sub>2</sub> stays in the ground, which unlocks their ability to claim the tax credit.

The issuance of the Treasury's guidance is integral to ensuring the effectiveness of the law. Especially important for me in Montana is that the 45Q tax credit could help save Montana's Colstrip power plant, one of our largest economic drivers, one of the largest parts of our tax base, and it could save it from the obstruction brought by Washington State by helping this plant sell carbon captured for oil production in the Cedar Creek Anticline, but only if the Treasury guidance is fixed.

While I work on legislation to clarify this guidance and statute, the first step towards getting this rule done is to gather information from stakeholders. The IRS has drafted a document to do this. I am told it is sitting on the General Counsel's desk awaiting publication.

My question, Mr. Rettig, is, when does the IRS plan to issue this document to kick-start the rulemaking process at Treasury?

Commissioner RETTIG. As you know, the IRS is actively working on that. We have a new Chief Counsel who came on board about 3, 4 weeks ago.

There will be an announcement seeking public comments that will go out within 45 days. We have received comments from many others before even issuing the announcement.

So we are focused on it and moving forward. And when the public announcement goes out seeking guidance, we will let your office know.

Senator DAINES. Thank you.

And it sounds like I have your commitment, then, that you will get this document published expeditiously so the stakeholders can engage the IRS on how to implement this very vital credit.

Commissioner RETTIG. We are working on it.

Senator DAINES. Thank you.

My last question regards section 199A. The IRS created a new presumption standard for independent contractors, whereby these

ICs, independent contractors, will be ineligible for applying the 199A deduction to any payments they receive from former employers unless they can proactively prove to the IRS that they are bona fide ICs.

While the final regs did clarify a couple of outstanding questions about how this new presumption standard will be applied, I still have some questions about how it is going to actually work in practice.

The question is, how will the IRS determine which payments are ineligible for 199A under this new presumption standard?

Commissioner RETTIG. The IRS is working with Treasury on additional guidance with respect to this issue. And we will work with your staff on that going forward. It is an issue that we are aware of.

Senator DAINES. Great.

And then there is a question about how the appeals process is going to work.

Commissioner RETTIG. Correct.

Senator DAINES. Will a contractor have to go through a formal audit to appeal the determination that a payment was ineligible, or can they send supporting docs when they file their return?

Commissioner RETTIG. Generally speaking, we are trying to streamline everything, and to the extent we could, a one-stop shop so things will be resolved at the earliest moment possible.

So we are supportive of that.

Senator DAINES. Yes; I appreciate that.

And as an example, if a contractor is audited as part of investigating whether they are a bona fide independent contractor, will the IRS also investigate whether the contractor is misclassified for payroll tax purposes?

Commissioner RETTIG. Correct. We are looking at everything.

Senator DAINES. Okay.

Thank you. That concludes my questions, and I think we are out of Senators here.

Commissioner RETTIG. And I do not have any questions.

Senator DAINES. So this is a chance to end the hearing here. So I will do so.

I want to thank you, Commissioner Rettig, for your testimony today on the 2019 filing season and the IRS's continuing efforts to improve taxpayer service while collecting the Nation's tax revenues. I truly appreciate you being here. You are very knowledgeable on the subjects, and I thank you for your hard work during this tax season. I look forward to you testifying before this committee in the future.

And I will close by noting that any written questions members may have for the record need to be submitted by close of business on Wednesday, April 24th. With that, the hearing is adjourned.

[Whereupon, at 12:08 p.m., the hearing was concluded.]



## APPENDIX

### ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

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

Commissioner Rettig, thank you for joining us this morning. I appreciate your willingness to testify today on the 2019 tax filing season and IRS administration matters generally. The current tax filing season has been the most scrutinized season I can remember. In some ways that's understandable. It's the first filing season after our tax code received the largest overhaul in 3 decades.

The IRS has worked to update forms, publications, and systems on top of all the new guidance the agency has provided in conjunction with the Treasury Department, all to be ready for the filing season. And if that was not enough, this filing season began shortly after our government experienced the longest shut down in history. Despite these factors, and some early misleading reporting in the press, this filing season has run rather smoothly. The filing season opened on time and all IRS systems have been functioning as planned.

Consistent with previous years, the IRS has processed over 97 percent of the returns the agency received, and 80 percent of those returns resulted in a refund. The average refund size of \$2,873 is also in line with previous years. However, some lingering effects of the shutdown persist.

The level of phone service is down, and wait times are longer. But both have been trending in the right direction as the filing season has progressed. Overall, Mr. Commissioner, you and your employees deserve significant credit for how well the filing season has gone given the headwinds you faced.

It is no secret that in recent years there has been a contentious relationship between Congress and the IRS due to several instances of mismanagement. Most notably, there was the inappropriate targeting of certain conservative groups for extra scrutiny. We also saw inappropriate spending on conferences and bonuses, as well as the case of IRS employees who had previously been let go for misconduct issues being improperly rehired.

I saw your confirmation last year as an opportunity for a fresh start. It provides a chance to move beyond past issues and for us to work together to address challenges facing the IRS for the benefit of all taxpayers. And there's no doubt that there are challenges to be addressed.

IT systems are woefully outdated. While there has been improvement, 45 percent of the IT infrastructure that the IRS is currently using is beyond its original useful life. Moreover, the IRS has had difficulties retaining and hiring experienced IT personnel.

Tax ID theft also remains a top concern. Great strides have been made in recent years, with the number of reported ID theft victims falling nearly 65 percent between 2015 and 2017. That's very good news for taxpayers and the government, but more needs to be done.

Taxpayers deserve a modernized IRS that offers the same type of online and electronic services they have come to expect from the private sector. Taxpayers also deserve to know that their rights will be respected and they will receive a fair shake in their interactions with the IRS.

To help address a number of these challenges, I joined Ranking Member Wyden in introducing the Taxpayer First Act of 2019 last month. The Taxpayer First Act

covers a wide range of issues intended to increase taxpayer protections, improve customer service, address identity theft and cybersecurity, update IRS information technology, and modernize the agency.

Some of the more prominent provisions include:

- Codifying the independent appeals process to strengthen its independence so taxpayers are on equal footing with the IRS;
- Requiring the IRS to develop a long-term plan to improve customer service, modernize the IRS, and implement an information technology strategy;
- Providing the IRS with streamlined critical pay authority for IT positions to help the IRS compete with the private sector for top-notch IT personnel; and
- Codifying the Security Summit to ensure the IRS continues to be able to fully participate in a partnership with State tax agencies and the private-sector tax industry to combat tax ID theft and cybersecurity threats.

There are dozens of additional provisions that are just as important.

Mr. Commissioner, the committee received feedback from your team at the IRS about this legislation, which was very valuable in putting it together. So I want to thank you for your willingness to work with us on this package. I am pleased that the House passed the bill yesterday after several years of work in both chambers. We're working with our leadership now to try to clear it in the Senate so the President can sign this bill into law.

The Taxpayer First Act is an important first step toward reforming the IRS and strengthening taxpayer protections. But there's more that can and must be done.

I hope we can continue to work collaboratively on further efforts to improve and modernize the IRS to the benefit of all taxpayers and successful future filing seasons.

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

INTRODUCTION

Chairman Grassley, Ranking Member Wyden and members of the committee, thank you for the opportunity to discuss the IRS budget and provide you with an update on the 2019 tax filing season.

I am honored to serve as the 49th Commissioner of the IRS and lead an agency of dedicated and talented public servants. Having spent more than 36 years in the private sector representing taxpayers before the IRS, I understand how important the agency is to the functioning of government and our Nation. In fiscal year (FY) 2018, the IRS collected \$3.5 trillion, or 95 percent, of all Federal receipts.

Our people interact with more Americans than any other institution, public or private. Our people make a difference, they care, and they take pride in serving taxpayers and our country. It is clear our Nation needs a fully functioning IRS, and I am committed to ensuring the agency fulfills its mission of providing top-quality service to taxpayers and administering the tax laws in a fair, efficient and impartial manner, with neither a government nor taxpayer point of view.

UPDATE ON THE 2019 FILING SEASON

I am pleased to report that the 2019 filing season opened on time on January 28th. On that first day, we saw an hour when taxpayers e-filed more than 1.9 million returns, at a rate of 536 submissions per second. This set a 1-hour record for our systems, breaking the previous record of 1.6 million submissions in an hour at 443 per second on January 29, 2018.

The filing season continues to go well in terms of tax return processing and the operation of our information technology systems. As of March 22, the IRS received more than 84 million individual returns, and we have issued more than 65 million refunds for more than \$191 billion. It is important to note that, although the tax filing deadline for individuals is less than two weeks away, the work of the filing season continues well beyond the deadline, as IRS employees continue to process tax returns, including amended returns, and returns for which taxpayers had requested an extension beyond April 15th.

During my first few months here, I have been extremely impressed by how hard IRS employees all across the agency have worked to make sure taxpayers have a smooth filing experience this year. This is especially impressive given the need to implement so many major changes made by the Tax Cuts and Jobs Act (TCJA). With hundreds of provisions providing relief to American families and making America's businesses more competitive, the TCJA required extensive work by the IRS to ensure taxpayers would be able to meet their filing obligations this filing season.

The IRS's efforts to implement the TCJA's provisions and prepare for the 2019 filing season began even before the legislation was signed into law on December 22, 2017, and they continued throughout 2018 and into 2019. These efforts included:

- Creating or revising more than 500 forms and publications;
- Reprogramming information technology systems with special focus on return processing, payment and fraud detection systems;
- Providing clear, timely legal guidance to taxpayers and tax professionals—an effort that will continue throughout 2019;
- Training IRS employees so they could assist the public in understanding how the tax law changes applied to them; and
- Providing education and outreach to taxpayers and tax professionals to increase their understanding of the various tax changes.

I would like to note that our TCJA implementation team was recognized by a national tax publication as the "Tax Person of the Year" for 2018 based on their extensive efforts.

Taxpayer demand for online services continues to be strong this filing season. For example, our website, *IRS.gov*, has been visited more than 320 million times in 2019 through mid-March. Taxpayers use *IRS.gov* to get forms and publications, find answers to their tax questions, and perform transactions such as paying their tax bills. The most heavily visited part of our website is the "Where's My Refund?" electronic tracking tool, which has been used more than 270 million times this filing season.

We continue to experience strong demand on our more traditional service channels as well. Through March 15, our customer service representatives answered 4.5 million taxpayer calls. IRS automated information systems provided helpful information and answers to more than 12 million taxpayers calling those automated lines. We have also provided in-person assistance to approximately 434,000 people who visited one of our 358 Taxpayers Assistance Centers (TACs) around the country.

As important as all these efforts are, everyone at the IRS wants to do more. As technology evolves, we will continue to explore additional methods of providing assistance to taxpayers. That includes continuing to improve the use of online tools and modernizing the taxpayer experience. It also means continuing to enhance opportunities for taxpayers and their representatives who may prefer other channels, including over the phone and in-person.

#### MODERNIZING THE IRS

One of my highest priorities as Commissioner is putting the agency's information technology (IT) infrastructure on a path toward modernization. Modernization is vital to all of our core functions: successfully delivering the annual tax filing season, ensuring the health of the Nation's tax system and supporting the Federal Government's financial strength.

The IRS recently developed the Integrated Modernization Business Plan that provides a 6-year roadmap for modernizing IRS systems and taxpayer services. The IRS estimates gross costs of \$2.3 billion to \$2.7 billion over 6 years—including \$290 million requested in the FY 2020 President's budget—to fully implement the plan. This investment will position the IRS to greatly improve and expand the services we provide to taxpayers—with new technologies such as customer call back and online notifications—while strengthening our enforcement capabilities. It will also help us operate more efficiently and effectively, by stabilizing the cost of operating and maintaining our systems. The integrity of the Nation's voluntary tax compliance system depends on modernizing IRS service and compliance systems, and we look forward to working with Congress to implement this plan.

Importantly, the IRS Modernization Plan will also help us in our ongoing efforts to secure our systems and protect taxpayer data. The IRS is responsible for safeguarding a vast amount of sensitive financial and personal data, so investing and

modernizing in this area will forever remain a top priority for this agency. IRS systems withstand approximately 1.4 billion cyberattacks annually (including denial-of-service attacks, unsuccessful intrusion attempts, probes or scans, and other unauthorized connectivity attempts). Many of these attempts are sophisticated in nature or represent advanced, persistent threats. To combat tomorrow's threats, the IRS will need to continue investing in cyber-defenses as proposed in the plan.

The IRS is also waging an ongoing battle to protect taxpayers and their information against tax-related identity theft. I'm pleased to report that we continue to see significant progress on this front, both as a result of using technology to increase protections at the point of filing and also collaborating with our partners in the Security Summit, which was launched in 2015 and includes State tax agencies and private-sector tax and financial partners. The Summit members work in partnership to put in place protections that safeguard the Nation's taxpayers.

As a result of these efforts, the IRS is doing a better job of stopping identity theft tax returns up front. This means fewer fraudulent returns enter the processing system, which translates into fewer taxpayers reporting themselves as victims of identity theft and fewer fraudulent refunds being issued. Our efforts on the front end have significantly lessened the burden on taxpayers that arises from identity theft. The IRS has seen dramatic declines in several key areas.

Between 2015 and 2018:

- The number of taxpayers who reported they were victims of identity theft fell 71 percent. In 2018, the IRS received 199,000 identity theft affidavits from taxpayers compared to 677,000 in 2015. This was the third consecutive year this number declined.
- The number of confirmed identity theft returns stopped by the IRS declined by 54 percent, falling from 1.4 million in 2015 to 649,000 in 2018.
- The number of suspicious refunds recovered has declined by 66 percent. The financial industry is a key partner in fighting identity theft, helping the IRS and States recover suspicious refunds. But as fewer false tax returns enter the system, fewer fraudulent refunds are being issued. In 2018, financial institutions recovered 84,000 Federal refunds totaling \$112 million for the IRS. By comparison, institutions recovered 249,000 refunds totaling \$852 million in 2015.

Despite all the progress that has been made, the IRS and its Summit partners will not let up in our efforts against tax-related identity theft. Identity thieves continue to become more sophisticated and look for new ways of obtaining taxpayer information so they can file false tax returns and claim fraudulent refunds. These criminals have the resources, the technology and the tax skills to carry on this fight. The IRS and its partners are committed to continuing to work together to protect taxpayers and our Nation's tax system against this common enemy.

#### THE PRESIDENT'S FY 2020 BUDGET

The President's FY 2020 budget request is \$11.472 billion, which is \$170 million, or 1.5 percent, more than the FY 2019 enacted level of \$11.303 billion. In addition to the base appropriations request, the budget proposes a program integrity cap adjustment that would provide an additional \$362 million in FY 2020 to fund investments in the IRS's tax enforcement program. It also proposes additional adjustments in future years to fund new initiatives and inflation. The proposed investments will generate about \$47.1 billion in additional revenues over 10 years and would cost about \$14.5 billion, for a net revenue of \$32.6 billion. We must ensure we have a strong, visible, robust tax enforcement presence to promote voluntary compliance. The President's request provides funding to carry out the IRS mission and invest in high-priority programs that will allow the agency to become more efficient and effective in administering the tax laws.

The President's request will allow the IRS to: help taxpayers meet their tax obligations by improving service on our various channels; protect the integrity of the tax system by enforcing the tax code; and partner with key stakeholders in the State and local tax administration, tax preparation, and international communities.

The President's request will also help us cultivate and retain a well-equipped, diverse, flexible, and engaged workforce. Our employees are the backbone of the Service, and it is imperative that we provide them with the tools and training they need to do their jobs. We also must recruit, train and motivate the next generation of IRS leaders. This is especially important given that a large portion of the IRS workforce is eligible to retire in the next several years.



The President's request includes \$344 million to invest in four high-priority areas:

- *Technology modernization.* The budget provides initial funding for the 6-year IRS Integrated Modernization Business Plan mentioned earlier in this testimony. The IRS continues to rely on legacy IT systems, aged hardware and software, and outdated programming languages, all of which make it increasingly difficult for the IRS to carry out its mission. The technologies provided for in the plan, such as customer call back and online notifications, will simplify taxpayer interactions with the IRS across all service channels and improve the overall taxpayer experience. Modernization will also simplify identity verification and expand access to online services while protecting taxpayer data. In addition, the agency will be able to stabilize and eventually reduce the growing cost of operating and maintaining legacy systems.
- *Cybersecurity and identity theft.* These funds will improve the IRS's ability to combat tax-related identity theft in a number of ways, including: improving fraud filters that catch false returns before processing; acting on additional tax fraud leads in real time to stop more fraudulent refunds; strengthening safeguards for W-2 data; and increasing staffing in the Criminal Investigation division to conduct more investigations related to identity theft.
- *Data analytics.* This investment will enhance the IRS's ongoing efforts to use data analytics to more effectively identify tax compliance risks. While the IRS has made strides in this area, the agency faces a constantly changing data environment and needs to transform with it. The IRS will use these resources to, for example: identify emerging trends in noncompliance and build effective enforcement strategies; identify previously unknown areas of noncompliance; and make effective use of new data sources, such as the Organisation for Economic Co-operation and Development's Country-by-Country reporting regime. The investment will also aid the IRS in enforcing the TCJA by adapting current risk-assessment tools to account for significant changes made by the new tax law.
- *Infrastructure.* These funds will help the IRS deliver IT services and solutions that drive effective tax administration. Funding will be used to deliver core operation and maintenance services and address aging infrastructure, reducing the percentage of aged IT hardware from the FY 2019 target of 44 percent to 39 percent. The funds will also cover maintenance on various investments, including those necessitated by tax reform implementation.

#### LEGISLATIVE PROPOSALS IN THE PRESIDENT'S FY 2020 BUDGET

Along with the funding requested in the President's FY 2020 budget request, we are also asking for Congress's help legislatively in several important areas that would improve tax administration and support the IRS in fulfilling its mission, including the following:

*Streamlined Critical Pay Authority.* The IRS Restructuring and Reform Act of 1998 increased the IRS's ability to recruit and retain a small number of key executive-level staff by providing the agency with streamlined critical pay authority. This allowed the IRS, with approval from Treasury, to move quickly to hire well-qualified individuals to fill positions deemed critical to the agency's success and that required expertise of an extremely high level in an administrative, technical or professional field. This authority expired at the end of FY 2013. The last appointment made under streamlined critical pay authority expired on September 29, 2017. Without this authority, the IRS continues to face challenges recruiting and retaining top-level talent, especially IT professionals who can help modernize our IT systems and protect taxpayer data from cyberattacks. The President's FY 2020 Budget request proposes reinstating this authority through FY 2023.

*Correction Procedures for Specific Errors.* Under current law, the IRS has authority in limited circumstances to identify certain computation mistakes or other irregularities on returns and automatically adjust the return for a taxpayer. At various times, Congress has expanded this limited authority on a case-by-case basis to cover specific, newly enacted tax code amendments. The IRS would be able to significantly improve tax administration—including reducing improper payments and cutting down on the need for costly audits—if Congress were to enact a proposal in the President's FY 2020 budget to provide the IRS with greater flexibility to correct specific errors on taxpayer returns. This proposal would allow the IRS to correct errors in cases when: the information provided by the taxpayer does not match the information contained in government databases or Form W-2; the taxpayer has exceeded the lifetime limit for claiming a deduction or credit; or the taxpayer has failed to provide certain documentation required to be included with his or her return. This

proposal would significantly lessen the burden on taxpayers from the IRS having to pursue the necessary adjustments administratively.

*Authority to Require Minimum Qualifications for Return Preparers.* The President's budget request proposes providing the Secretary with explicit authority to require that all paid tax return preparers have a minimum knowledge of the code. This is especially important to ensure that the estimated 400,000 non-credentialed tax preparers can meet minimum standards for competency. Incompetent and uninformed tax return preparers harm taxpayers by subjecting them to potential audits and by potentially subjecting them to penalties and interest as a result of incorrect returns. Requiring all paid tax preparers to keep up with changes in the Code would help promote high-quality service from preparers, improve voluntary compliance and foster taxpayer confidence in the fairness of the tax system. This proposal would significantly lessen the burden on taxpayers having to otherwise administratively resolve errors in their returns.

*Lower Employer Threshold for Mandatory Electronic Reporting of W-2 Data:* Under current law, employers who file 250 or more Forms W-2 in a year must e-file these information returns, but those filing fewer than 250 Forms W-2 in a year may choose to file on paper. The budget proposes increasing the number of employers subject to mandatory electronic reporting of W-2 data, by reducing the W-2 e-file threshold from 250 to 10. Providing the IRS with more timely and accurate W-2 information facilitates pre-refund verification of wage and withholding information, which in turn reduces the issuance of questionable tax refunds through early detection of identity related fraud and other erroneous refund claims. This proposal would significantly lessen the burden on taxpayers by accelerating the ability of the IRS to electronically match return information.

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

In addition, the President's FY 2020 budget request also includes these two provisions related to tax administration:

*Require a Social Security Number (SSN) to Claim Certain Tax Credits:* The proposal would require an SSN that is valid for work in order to claim the Earned Income Tax Credit (EITC), Child Tax Credit (CTC), and the credit for other dependents (ODTC). This requirement would apply to all taxpayers, including all qualifying children and dependents. This proposal would close an administrative gap to strengthen enforcement of these credit provisions, by ensuring that only individuals who are authorized to work in the U.S. could claim the credits.

*Exempt Certain Federal Student Aid Programs from Section 6103:* Section 6103 of the code provides that tax returns and tax return information are confidential and cannot be disclosed or used unless permitted under the Internal Revenue Code. The administration proposes to authorize the IRS to disclose tax return information directly to the U.S. Department of Education for administering programs authorized by title IV of the Higher Education Act of 1965. The section 6103 exception is expected to improve administration of student aid programs, enhance program cost estimation, increase servicing efficiency, and reduce improper payments.

#### CONCLUSION

Chairman Grassley, Ranking Member Wyden, and members of the committee, thank you again for the opportunity to provide you with an overview of the filing season and budget request. The IRS is dedicated to improving service to taxpayers, modernizing its systems and maintaining the integrity of the tax system. The IRS is not just a large government institution, it is an institution run by people—people who care.

Taxpayers expect and deserve a high-quality customer experience when interacting with the IRS. Rapid advancements in the digital service experience offered

by the private sector increase expectations of a similar service from government agencies, including the IRS. We want to provide that experience. To do that, the IRS must be properly resourced—consistent with the President’s budget—to provide the best possible service to taxpayers.

We must continue our efforts to strike the appropriate balance between service to taxpayers with an appropriate degree of enforcement. The integrity of the Nation’s tax system will be strengthened through enhanced taxpayer services as well as enhanced enforcement activities. To be successful, we need both.

Again, I am personally committed, during my term as Commissioner, to ensuring we administer the tax laws passed by Congress in a fair and impartial manner. With Congress’s help, we will continue our efforts to operate the IRS efficiently and effectively, as we move the agency forward into the future. This concludes my statement, and I would be happy to take your questions.

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

QUESTIONS SUBMITTED BY HON. CHUCK GRASSLEY

*Question.* Recently, the Taxpayer First Act, which was introduced in the House and Senate with bipartisan support, has come under criticism for a provision that codifies the IRS Free File program. Critics claim this provision bans the IRS from ever developing its own online filing software that might be offered for free to individual taxpayers.

Does the IRS regard section VII.D of the October 2002 Free Online Electronic Tax Filing Agreement as well as article 10.3 of the October 2018 Eighth Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File, Incorporated as language that allows the IRS to opt out of its non-compete agreement with industry members of the Free File program when it comes to providing free filing software to individual taxpayers?

*Answer.* Yes. The IRS may opt out pursuant to the non-compete clause in the agreement with Free File, Inc. and its industry members. These sections permit the IRS to offer free, online tax return preparation to taxpayers and require only that the IRS provide immediate notification to Free File, Inc. if it takes certain steps to do so. The notice requirement in section 10.3 of the current (Eighth) MOU would be triggered if the Service “commit[s] funding” to such efforts. Free File, Inc. would then have the option to terminate the agreement governing the Free File Program in accordance with the provisions of that section.

*Question.* Recently, critics of the Free File program have called for the IRS to provide individual taxpayers with free online filing software in time for the 2020 filing season. Is this feasible?

*Answer.* The IRS would need to consider the full scope of eligible taxpayers and which forms would be included before estimating how long and how much it would cost to provide this service. It is highly unlikely the IRS could create and appropriately test free online software for the 2020 filing season, which will likely open sometime in late January 2020.

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QUESTION SUBMITTED BY HON. PAT ROBERTS

*Question.* On May 7, 2018, I sent a letter to Acting Commissioner Kautter regarding Federal excise tax refund and credit claims for diesel fuel exports, and the ongoing confusion in the marketplace surrounding eligibility and proper procedures for claimants. On June 19, 2018, Acting Commissioner Kautter sent a response letter on this issue stating that the IRS was aware of this confusion, and that additional information from market participants would help to determine whether published guidance would bring clarity to this situation. It is my understanding that additional information was provided by market participants and that the IRS was considering including this issue in its Priority Guidance Plan.

This topic was not included in the recently published second quarter update to the 2018–2019 Priority Guidance Plan. Would you please provide an update on whether the IRS has plans to issue guidance to provide greater certainty to market participants?

Answer. We are aware that there is some uncertainty about who is the proper claimant for a credit or refund when diesel fuel is exported, which has led to inconsistent market practices. Aside from your May 7, 2018 letter identifying the problem, we have not received any requests for guidance or any other information from market participants outlining whether and how published guidance could provide clarity to this situation. Such requests for guidance or information would help us as we determine additional projects to include on future Priority Guidance Plans (PGP). As explained more fully in our Notice 2018–43 and Notice 2019–30 (which invites recommendation for items that should be included on the PGP, recognizing our current focus on implementing the Tax Cuts and Jobs Act), the Treasury Department and Internal Revenue Service select projects based on several conditions. These include whether the recommended guidance resolves significant issues relevant to many taxpayers and whether the recommended guidance can be drafted in a manner that will enable taxpayers to easily understand and apply the guidance. The public guidance process is most successful if we have the benefit of the experience and knowledge of taxpayers and practitioners who must apply the rules implementing the tax law, so we welcome additional information on this issue.

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QUESTIONS SUBMITTED BY HON. MICHAEL F. BENNET

*Question.* What was the effect of the shutdown on taxpayers during the tax filing season? What kind of disruptions occurred at IRS as a result of the shutdown? Would you agree that shutdowns are bad for the American taxpayer?

Answer. The lapse in appropriations presented an opportunity for us to demonstrate to the American people our strength of dedication to our mission. I am proud of our employees. They care deeply about their duties and responsibilities and have consistently delivered for the Nation every tax season and through national disasters and emergencies. The shutdown created challenges for our employees, who generally were unpaid during this period. Despite the lapse, the IRS implemented the largest tax law change in over 30 years, started the filing season on time and as planned, and issued nine out of ten refunds within 21 days. Almost 96 million refunds were issued this filing season, totaling over \$260 billion paid to taxpayers.

Nevertheless, the lapse in appropriations did impact some of the services the IRS provides to taxpayers. For example, taxpayer meetings and responses to correspondence and phone calls were delayed. This means that some taxpayers with outstanding tax balances, lien requests, seized property, and other issues faced delays in having their cases addressed. Self-help tools on IRS's website were available during the shutdown. We anticipate that examinations that were open at the time of the shutdown require an additional 45 days to complete.

Other processing programs that experienced a backlog due to the shutdown include Certified Professional Employer Organization application and renewals; Form 637, Application for Registration for Certain Excise Activities; and Form 8300, Report of Cash Transactions over \$10,000 Received in a Trade or Business processing into the FinCEN system.

*Question.* In response to my questions when you were here for your confirmation hearing, you said that “bringing the IRS’s IT systems into the 21st century is one of my top goals.” I share that goal. Can you please tell me what you’ve done in your time at IRS so far to improve the IRS’s IT systems and what you plan to do? What level of funding would allow you to completely overhaul the IRS’s IT systems to your satisfaction and bring them into the 21st century?

Answer. Modernizing the IRS continues to be one of our highest priorities. Modernization is essential to all our core functions which include delivering a successful tax filing season every year, improving service to taxpayers, securing our systems and taxpayer data, and maintaining the overall health of the Nation’s tax system.

During my short time at the IRS, we have successfully delivered an historic filing season. Beginning on January 28th, after resuming full operations following the lapse, the IRS opened the 2019 filing season with its systems ready to handle a new streamlined version of the Form 1040 and the largest number of mandated legislative changes in decades—the Tax Cuts and Jobs Act. IT systems maintained 100-percent uptime, which ensured return processing, fraud detection, and the ability for taxpayers to make online payments continued without interruption. On April 15, 2019, the IRS processed the largest single-day filing volumes ever recorded (approximately 15.3 million returns) and observed record-breaking utilization of IRS Online Account and Direct Pay applications. During the 2019 filing season, we also proc-

essed the largest hourly and per-second filing volume ever recorded (1.9 million returns and 536 returns, respectively). Visits to the IRS website, which has tools to help taxpayers address most tax law questions, continued to rise as well, with a nearly 9-percent increase compared to the same period during the 2018 filing season. In filing season 2019, even with myriad programming changes required by the Tax Cuts and Jobs Act, the IRS Return Review Program (RRP) systems continued to perform well. Between 2015 and now, RRP has protected more than \$9 billion, with another \$4 billion protected by other legacy systems such as the Dependent Database, which continue to provide value. RPP is now estimated to be delivering a return on investment of more than 1,700 percent.

We also focused on ensuring the resiliency of the agency's IT systems with strategic investments that build in redundancy and backup measures for the primary filing season storage array. This helps mitigate the risk of major outage events such as the one that occurred during last year's closing day on April 17, 2018. These new resiliency measures extended to the Modernized e-File and systems that allow taxpayers to make online payments and are enabling taxpayers to file and pay electronically, independent of the mainframe systems. One result of these investments is greater revenue collection. We collected more than \$1 billion through IRS Direct Pay at times when in the past the tool would have been unable to accept payments due to maintenance, momentary network communication issues, or other unplanned outages.

Dedicated investments over the last year have also helped the IRS to significantly reduce its aged hardware infrastructure. The challenge of operating a large technology ecosystem is significant. On average, of the agency's more than 200,000 hardware assets, approximately 20 percent ages each year, which requires rigorous planning and deployment schedules and strong cybersecurity measures to keep our dynamic environment well-protected and current.

Although it may be common to think that the IRS runs on equipment from the 1960s because the IRS continues to use legacy programming languages from that era, the agency's hardware infrastructure is modern. We continue phasing out old equipment, and the percent of aged infrastructure is declining, from 52.3 percent in FY 2017 to 45.5 percent in FY 2018, and anticipate even more success in FY 2019. We are also refreshing IRS employees' equipment every 4 years, upgrading operating software on employee work stations and replacing over half of the agency's work stations over the next year.

We also recognize that reaching modernization goals and bringing the IRS into the 21st century requires a strong workforce. As Commissioner, I am extremely focused on the training, career opportunities, recruitment and retention of employees, and we are making gains in some areas. Since I became Commissioner on October 1, 2018, we have hired and trained a new cadre of IRS technologists to fill gaps in the IT organization. Investing in our employees remains among our highest priorities; our employees are the absolute strength of the agency.

Going forward, with consistent and appropriate funding from Congress, we will continue the positive momentum coming out of filing season by delivering on the IRS Integrated Modernization Business Plan submitted to Congress in April of this year. This plan outlines a bold strategy to enable business transformation with a focus on protecting taxpayer data, improving service for taxpayers and the tax community, and modernizing IRS systems. This strategy will enable the IRS to pursue areas of significant tax noncompliance as we continue to drive achievement of all six strategic goals in the IRS Strategic Plan FY 2018–2022. The modernization plan builds on the agency's taxpayer-focused objectives and will enable modernized IT over the next 6 years (and beyond) by delivering capabilities that allow the IRS to:

- Significantly improve the taxpayer experience by standardizing customer workflows and by expanding access to information;
- Reduce call wait and case resolution times with customer callback technology, online notices, and live online customer support;
- Simplify identity verification to expand access to online services while protecting data;
- Increase systems availability for taxpayers and tax practitioners; and
- Make implementation of new tax provisions more straightforward.

The plan has two, 3-year phases beginning in FY 2019 and through FY 2024. The IRS budgeted \$300 million for this mission-critical effort in FY 2019 (including discretionary appropriations and user fees) and requests \$290 million in discretionary appropriations in FY 2020.

We have *already* delivered several key capabilities that deliver significant value to taxpayers and the government in terms of operational efficiencies.

We are offering new on-line Identity Theft Verification (ID Verify), a service offered previously only through phone and walk-in. This helps the taxpayer when the IRS receives a Federal income tax return with the person's name and taxpayer identification number that appears suspicious. In these situations, the IRS must verify the person's identity before processing the return and until we have verified the identity, the IRS locks the taxpayer's account and holds any refund until the IRS receives sufficient verification. In prior years, a taxpayer would be required to travel to a Taxpayer Assistance Center or call the IRS and possibly wait on hold. This new online verification capability allows the taxpayer the opportunity to conveniently provide that important information online to the IRS, without the taxpayer calling or traveling to an IRS office, and this helps prevent an identity thief from getting a refund using the legitimate taxpayer's account. The final phase of the new application became available in October 2018, and in the first 2 months of operation during the tax filing season (through March 31), nearly 60,000 taxpayers logged in and 86 percent of the unique cases reached final determination online. This has significantly benefited taxpayers, especially those in more remote locations.

We also deployed a new customer callback capability on the "balance due" toll-free line used by taxpayers and on IRS's Enterprise Service Desk used by our employees to resolve workplace equipment issues. Customer callback is an established industry technology that allows a person to hold their place in queue without remaining on hold on the phone. For taxpayers offered this new service when calling the IRS to make a payment, the overall experience has clearly improved. Approximately 77 percent of those offered the option to receive a call back chose the option, and over 90 percent of callbacks successfully reconnected the taxpayer to an IRS customer service representative.

As we invest in new processes and tools, we are making measurable improvements in delivering systems and applications rapidly, frequently and more reliably. This results in low-risk releases, faster digital services for users, lower costs, greater efficiency, and better overall quality. For example, in some scenarios or instances, we are seeing build, test and deployment times reduced from several hours to minutes.

The IRS is striving to enhance the taxpayer experience by operating "through the eyes of the taxpayer." It is necessary to pursue the next generation of IT infrastructure in order to be able to leverage ever-advancing technologies in a way that benefits both taxpayer and practitioner communities as well as our workforce. As we expand available digital options and the delivery of services across multiple channels, we will not ignore traditional methods of taxpayer interactions. We are committed to the effort to modernize the IRS.

The integrity of the Nation's voluntary tax compliance system depends on modernized IT, and we look forward to working with Congress to implement the IRS Integrated Modernization Business Plan. Success depends, in part, on a number of legislative proposals and regulatory authorities such as ensuring the continuation of direct hire authority for IT modernization positions streamlined critical pay authority, and funding our budget requests.

*Question.* Mr. Rettig, what would the ideal tax system look like in your view? What would we have to provide in funding and what kind of services would you be able to deliver to the American people?

*Answer.* The IRS, working closely with Treasury and partners, has developed an ambitious plan to modernize and transform the Nation's tax agency to enhance taxpayer services and to better serve the Nation. Released in April, the Integrated Modernization Business Plan is a 6-year plan in two separate, 3-year phases beginning in 2019 through FY 2024.

The plan envisions leveraging every dollar and every opportunity to improve both taxpayer service and enforcement, modernize IRS operations, and further secure sensitive taxpayer data and systems.

This plan is critical to helping the IRS make progress toward an ideal tax system.

Under an ideal tax system, interactions with the IRS would be convenient for the taxpayer, robust, and seamless. The IRS is responsible for supporting diverse, often unrepresented, taxpayer communities. It should be able to do so across multiple channels, including options with customized, in language, culturally-sensitive services that allow them to satisfy their filing and reporting obligations. The IRS should

be able to maintain appropriate levels of staffing at points of significant taxpayer contact, enabling it to provide timely, clear and meaningful guidance to all taxpayers. In providing service to taxpayers, the IRS should be able to interact in the same way that individuals interact with their banks and financial institutions.

The IRS plans to provide taxpayers with an account where they, or their authorized representatives, can log in securely, get information about their tax account, and interact with the IRS as needed. The IRS realizes that not all taxpayers are capable of, able to, or comfortable with interacting with us online, and for this reason we will maintain the ability for taxpayers to discuss their tax situation with us in person at an IRS assistance center or by telephone through our toll-free taxpayer assistance line. Our goal is to make online systems available for the many taxpayers who want to interact with us this way, freeing up more resource-intensive in-person assistance for those taxpayers who are unable or uncomfortable communicating with us electronically.

On enforcement, the IRS also aims to make interactions with taxpayers about issues or potential noncompliance timelier, which means identifying issues earlier, contacting taxpayers sooner, and resolving issues faster. Self-correction and early opportunities to provide additional information and explain anomalies could help reduce contentious compliance issues in later years. The ability for the IRS to find errors and issues in a tax return within a short time after the taxpayer files that return is central to detecting and resolving discrepancies early and efficiently. This contrasts with today, when the taxpayer may wait months or more after filing a return to hear from us. Developing better up-front issue identification capabilities would help us take immediate actions such as keeping a false refund out of the hands of an identity thief or finding an unclaimed tax credit on the taxpayer's return. Under the ideal tax system, the IRS would ensure that taxpayers experience seamless interactions with us, no matter which of our employees or teams are working with them. An integrated case management capability would also increase IRS efficiencies by allowing us to move information to and among the right workgroups electronically, without delays caused by mailing of case files.

To help put us on this path, the Integrated Modernization Business Plan calls for an investment of \$2.3 to \$2.7 billion over the next 6 years. The IRS, along with Treasury, believes this plan is the right approach. We are pursuing this plan to enhance the taxpayer experience, as seen through the eyes of the taxpayer.

Further, to appropriately support those who voluntarily comply with their filing and reporting obligations, we must also maintain a constant, visible, robust enforcement presence across the taxpayer spectrum. The IRS must be able to effectively coordinate cross-functional enforcement efforts throughout the agency. Where possible, an ideal tax system would incorporate increased electronic third-party information reporting (and withholding); improved compliance matching; enhanced e-filing capabilities; expanded correctable error authority, return preparer oversight; enhanced data and information sharing opportunities and compliance strategies with States and foreign governments; enhanced guidance and educational opportunities for taxpayers and return preparers; modernized operating systems allowing the IRS to better leverage emerging technologies; and maintain appropriate levels of trained enforcement staffing at points of significant taxpayer contact.

*Question.* A recent ProPublica article found that “while the number of [IRS] audits has fallen across the board, the impact has been different for the rich and poor. For wealthy taxpayers, the story has been rosy: not only has the audit rate been cut in half, but audits now tend to be less thorough. . . . In 2017, EITC recipients were audited at twice the rate of taxpayers with income between \$200,000 and \$500,000. Only households with income above \$1 million were examined at significantly higher rates.”

When ProPublica reached out to the IRS for a comment, the agency declined to answer questions about EITC audits. I'd like to give you another chance—can you explain why there is an imbalance here?

*Answer.* The IRS enforces the tax law in a number of ways. The primary way is through the examination of individual tax returns that are identified as having the highest potential noncompliance. IRS employees conduct examinations or audits in one of two ways. The first is by mail (called correspondence) and the second is face-to-face examinations. Correspondence examinations are performed at IRS campus locations by tax examiners who are a grade 5, 6, 7 or 8. Generally, the questionable issues include the EITC, Additional Child Tax Credit, American Opportunity Tax Credit, medical expenses, contributions, taxes, or employee business expenses. Tax

examiners receive training on these issues but are not required to have accounting skills.

We continue to administer refundable credits through a balanced program which includes education, outreach, and compliance efforts. The IRS staffs a year-round toll-free telephone line to answer questions on EITC correspondence audits. We employ several EITC educational tools such as the EITC Assistant on *IRS.gov*, which is an interactive online tool that helps taxpayers determine if they have met the eligibility requirements for the EITC, and the Form 886-H Toolkit, which is an online tool that helps taxpayers determine the correct documents needed if selected for an EITC audit. Our annual EITC Awareness Day promotes increased participation, decreased erroneous payments, and improved accuracy of filed returns. Since resources are limited, we use a variety of treatments to address noncompliance. For example, in some cases when we identify a discrepancy between information provided by a taxpayer and existing third-party information, we may send an educational notice to allow the taxpayer to correct their information prior to any compliance activity.

During tax year (TY) 2018, over 25 million taxpayers received over \$63 billion in EITC benefits (refundable in excess of taxes paid or withheld). In FY 2017 and FY 2018 the IRS sent correspondence to 326,500 EITC claimants and 330,460 EITC claimants, respectively. That is a coverage rate of 1.2 percent of all EITC claimants for each year. EITC correspondence examinations are single-issue audits worked at IRS campus locations and take an average time of 5 hours in examination time per return to complete. Return selection is based on the likelihood of EITC noncompliance; income is not a factor in determining which returns will be selected for audit.

Estimates from the IRS National Research Program indicate that the EITC is overclaimed on approximately 50 percent of the returns claiming an EITC. In other words, the 50 percent represents the proportion of returns claiming EITC where the taxpayer claimed more EITC than they should have. The improper payment rate is estimated to be about 25 percent. The improper payment rate, which is an estimate of dollars and not return counts, reflects the proportion of the dollar amount of EITC claims that were improper payments. This includes overclaims, but is limited to those that were actually paid to the taxpayer and not stopped by IRS pre-refund enforcement activities. It also includes underpayments where the IRS incorrectly disallowed some or all of the taxpayer's claim during processing, although those are rare. In addition, the IRS estimates that the tax gap attributable to credits, which includes the EITC, is about \$40 billion per year and the EITC accounts for about two-thirds of that.

The exchange of correspondence with EITC claimants is the least intrusive method by which the IRS can maintain the integrity of the EITC program, assist EITC claimants in complying with the EITC's statutory complexities, and prevent others from submitting erroneous or fraudulent claims for the refundable EITC. For years, many have called upon Congress to modify the EITC statute in a manner that would enhance both taxpayer compliance and ease the burden on EITC claimants and tax administration. The IRS would welcome such efforts and recognizes the 2020 President's Budget proposes changes to help accomplish these goals, including providing the IRS with greater authority to address errors and regulate paid preparers.

Face-to-face examinations involve the most complex returns, such as high-income, high-wealth individuals, corporate, partnership, and other flow-through returns. These examinations require our most highly trained and experienced employees with substantial tax and accounting skills. These employees are generally highly experienced revenue agents who are grade 9, 11, 12, 13, and 14.

The IRS groups taxpayers for applying audit resources by total positive income (TPI). TPI is the sum of all positive amounts shown for the various sources of income reported in the individual tax return and, therefore, excludes losses, such as losses from flow through entities. Audit coverage in the \$10 million and over TPI class was 15.6 percent for FY 2017 and 8.1 percent in FY 2018. The average time to complete these audits ranges from 61 hours to 251 hours. Even with limited resources, face-to-face examinations audit coverage in the larger TPI grouping is far greater than correspondence contacts with EITC claimants that fall in a lower TPI range.

Every interaction with every taxpayer is important to us and to our country. At the IRS, we value our diverse and inclusive community of IRS employees located around the world and are proudly respectful and reflective of the taxpayer commu-



nities that interact with us. Further, we value our efforts in running a balanced enforcement program to ensure integrity in our tax system. A voluntary compliant tax system requires a presence across all income groups, including high- and middle-income taxpayers as well as EITC claimants.

*Question.* I am all for fair audits, but can you explain why there is so much of an emphasis on lower-income taxpayers while audits of higher-income taxpayers have been falling?

*Answer.* There is no emphasis on lower-income taxpayers because of their income. The IRS's focus on EITC overpayments is based on available information about the risk of EITC overclaims as reflected in the share of taxpayers who have filed returns where the EITC is overclaimed and the amounts of EITC that have been overclaimed as is explained in my response above. Also, in the short term, the IRS has continued expanding audits in the category of TPI of \$10 million and over. At the end of FY 2018, the IRS had 5,220 audits open in this TPI grouping and has increased the number of open audits in this TPI grouping.

*Question.* The ProPublica article notes that "The five counties with the highest audit rates are all predominantly African-American, rural counties in the Deep South. [ . . . ] The States with the lowest audit rates tend to be home to middle-income, largely white populations."

Mr. Rettig, can you please explain how this has come to be the case?

*Answer.* The selection criteria do not include any components or factors related to the geographic location (including mailing address) or ethnicity of the taxpayers. Audit selection criteria are determined by dedicated, diverse, career IRS employees based upon various other factors, including having a historically high rate of non-compliance based upon actual examination data. At the IRS, we value our inclusive community of career IRS employees located around the world and are proudly respectful and reflective of the taxpayer communities that interact with us. The tax-gap estimates of the Net Misreporting Percentages (NMP) indicate that the percentage of income misreported is 1 percent for income subject to substantial information reporting and withholding. This rate increases to 5 percent without withholding and to 55 percent if there is little or no information reporting or withholding. The IRS would welcome congressional support for more substantial information reporting and withholding. The 2020 Budget also includes several proposals to increase information reporting.

*Question.* Can you also please commit to reviewing the audit priorities of the IRS to ensure that resources are allocated fairly and in a manner that most efficiently targets efforts to close the gap between taxes owed and taxes paid?

*Answer.* See responses above. The IRS is continually evaluating examination priorities in an effort to maintain a balanced enforcement program to ensure integrity in our tax system. Although resource challenged, the IRS is pursuing all reasonable efforts to close the tax gap. Further, the 2020 budget includes proposals to increase information reporting, expand correctable error authority, and allow oversight of paid tax return preparers. In addition, the 2020 budget includes additional resources for enforcement staffing. The proud, diverse IRS workforce wants to do more to enhance the experience of every taxpayer interaction, improve voluntary compliance, and increase appropriate enforcement efforts in support of those who voluntarily comply.

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

##### LOCAL OFFICES UNDERSTAFFED

*Question.* In Nevada alone, our Las Vegas Taxpayer Assistance Center used to be staffed by approximately 20 Individual Taxpayer Advisory Specialists to assist taxpayers who could walk in for help. The Las Vegas Taxpayer Assistance Center is only staffed by seven Individual Taxpayer Advisory Specialists and services are by appointment only. Taxpayers say they have difficulty getting appointments in time to resolve their concerns. Clearly these local offices are understaffed and overworked, particularly in growing communities like those in Nevada.

Are you downsizing the Taxpayer Advocate Offices?

Are personnel moving within the Department and away from Taxpayer Assistance Centers?

Answer. The IRS recognizes that some taxpayers' issues are complex and must be handled with the help of an employee. Our efforts to modernize taxpayer interactions will not ignore traditional methods of interaction, including both telephone and face-to-face services. The proud, diverse IRS workforce wants to do more to enhance the experience of every taxpayer interaction.

Previously, the IRS operated two separate groups within the Las Vegas, Nevada Taxpayer Assistance Center (TAC) consisting of 16 permanent full-time and 3 seasonal technical employees. Over time, many employees retired or accepted positions in other organizations or agencies. The Las Vegas TAC is currently staffed by one group with eight technical employees. I have personally visited the Las Vegas TAC and, like others, the TAC personnel are dedicated, helpful, and caring individuals. We are pleased to report that we are in the process of hiring additional technical employees for this office.

Most taxpayers can resolve their issue by visiting our website or by calling our toll-free line, 800-829-1040, from the convenience of their home or office. Resources available on *IRS.gov* include:

- Forms and publications.
- Interactive tax law tools.
- Get Transcript by Mail.
- Where's My Refund?
- Direct Pay.
- Online Payment Agreement.
- Understanding Your IRS Notice or Letter.

In addition, the IRS2Go mobile application allows taxpayers to check their refund status, make a payment, find free tax preparation assistance, sign up for helpful tax tips, and more. IRS2Go is available in both English and Spanish.

Taxpayers without Internet access can use their telephones to access our toll-free automated response systems that provide recorded information on a variety of topics. We also created Publication 5136, IRS Services Guide, to help taxpayers and practitioners locate the services they need.

Starting 3 years ago, all TACs began offering appointments in advance, a process that the IRS has found cuts wait times for TAC customers and allows some taxpayers to avoid an in-person visit. Taxpayers in the Las Vegas area who are seeking an appointment in our TAC can call the dedicated TAC appointment line at 844-545-5640. The IRS assistor will attempt to resolve the issue immediately or offer a convenient self-service option. Our trained assistors are able to resolve a substantial portion of the issues presented in the initial call, avoiding the need for the taxpayer to visit the TAC. When a face-to-face service is still needed, the assistor schedules an appointment and reminds the taxpayer what documents they need to bring, increasing the likelihood of a productive appointment. Appointments are not needed to drop off a non-cash payment or a current year tax return, or to pick up individual tax forms during operating hours. However, these services are conveniently available through the mail or online at *IRS.gov*.

Taxpayers in Nevada also have access to volunteer tax return preparation services in their community. Volunteer Income Tax Assistance/Tax Counseling for the Elderly (VITA/TCE) sites, throughout the State, offer free assistance with return preparation. VITA sites serve people who generally make \$55,000 or less and people with disabilities or limited English ability. Military VITA sites serve active military personnel on military bases. TCE offers free tax preparation for all taxpayers, particularly those who are 60 years of age or older. It specializes in questions about pensions and retirement-related issues unique to seniors. Last year, there were nearly 11,000 VITA sites (including 78 high school locations where students prepared returns) with more than 82,000 trained volunteers (600 IRS employees) and 2,300 local, State, and national partners. There are also numerous low-income taxpayer clinics (LITCs) providing legal assistance throughout the country, supported by the IRS and others.

#### AUDIT RATE FOR TRIBAL PEOPLE AND PEOPLE OF COLOR

*Question.* We are at a tipping point regarding tax compliance, enforcement, and administration. We see in the news very high-profile cases of tax abuse by some of the wealthiest Americans, while at the same time working poor families—especially native families and families of color—are more likely to be audited than higher income white taxpayers. Data released by ProPublica shows a heat map where coun-

ties that are most audited include tribal lands especially apparent in South Dakota, North, Dakota, Montana, and Arizona.

Given your years of practice, what do you believe accounts for this rise in audits for families of color and tribal families?

Answer. The audit selection process applies the same business rules, filters, and scoring to all returns to identify potentially non-compliant taxpayers. We continue to administer refundable credits through a balanced program which includes education, outreach, and compliance efforts. The IRS staffs a year-round toll-free telephone line to answer questions on EITC correspondence audits. We employ several EITC educational tools such as the EITC Assistant on *IRS.gov* which is an interactive online tool that helps taxpayers determine if they've met the eligibility requirements for the EITC; the Form 886-H Toolkit which is an online tool that helps taxpayers determine the correct documents needed if selected for an EITC audit. Our annual EITC Awareness Day promotes increased participation, decreased erroneous payments, and improved accuracy of filed returns. Since resources are limited, we use a variety of treatments to address noncompliance. For example, in some cases when we identify a discrepancy between information provided by a taxpayer and existing third-party information, we may send an educational notice to allow the taxpayer to correct their information prior to any compliance-related activity.

During tax year (TY) 2018, over 25 million taxpayers receive over \$63 billion in EITC benefits. In FY 2017 and FY 2018 the IRS closed 326,500 EITC audits and 330,460 EITC audits respectively. That is an audit coverage rate of 1.2 percent for each year. EITC examinations are single issue correspondence audits worked out of our campus locations. EITC examinations take an average time of 5 hours in examination time per return to complete the audit.

Estimates from the IRS National Research Program indicate that the EITC is overclaimed on approximately 50 percent of the returns claiming an EITC. In other words, the 50 percent represents the proportion of returns claiming EITC where the taxpayer claimed more EITC than they should have. The improper payment rate is estimated to be about 25 percent. The improper payment rate, which is an estimate of dollars and not return counts, reflects the proportion of the dollar amount of EITC claims that were improper payments. This includes overclaims, but is limited to those that were actually paid to the taxpayer and not stopped by IRS pre-refund enforcement activities. It also includes underpayments where the IRS incorrectly disallowed some or all of the taxpayer's claim during processing, although those are rare. In addition, the IRS estimates that the tax gap attributable to credits, which includes the EITC, is about \$40 billion per year and the EITC accounts for about two-thirds of that.

The IRS actually groups taxpayers for applying audit resources by total positive income (TPI). TPI is the sum of all positive amounts shown for the various sources of income reported in the individual tax return and, therefore, excludes losses, such as losses from flow through entities. Audit coverage in the \$10 million and over TPI class was 15.6 percent for FY 2017 and 8.1 percent in FY 2018. The average time to complete these audits range from 61 hours to 251 hours. audit coverage is greater in the larger TPI grouping than coverage of EITC returns that fall in a lower TPI range.

The IRS cannot simply shift examination resources from single issue correspondence audits to more complex higher income audits because of employee experience and skillset. The rate of attrition is significantly higher among the more experienced examiners. It is also important to maintaining the voluntary compliance level that the IRS has an audit presence across all income groups, including EITC filers.

*Question.* What is the IRS doing to ensure that tribal families are not unfairly targeted for audit?

Answer. The audit selection process applies the same business rules, filters, and scoring to all returns to identify potentially non-compliant taxpayers. The selection criteria do not include any components or factors related to the geographic location (including mailing address), immigration or tribal status, or ethnicity of the taxpayers. At the IRS, we value our diverse and inclusive community of IRS employees located around the world and are proudly respectful and reflective of the taxpayer communities that interact with us.

*Question.* Do you believe if taxpayers lose confidence in our tax system, or feel they are being unfairly targeted, then they are more likely to be noncompliant?

Answer. Based upon my 36 years in private tax practice and year as Commissioner, I am confident that the IRS expends every effort to administer the tax law in a fair and impartial manner, and the IRS should be able to further enhance efforts aimed at taxpayer education and guidance such that taxpayers would be better able to understand and comply with their filing and reporting obligations. In this manner, taxpayers would be more confident in the IRS, as well as in the IRS workforce.

The audit process aligns with the IRS mission statement which includes enforcing the tax law with integrity and fairness to all. The IRS enforces the tax law in a number of ways. The primary way is through the examination of tax returns that are identified as having the highest potential noncompliance.

We continually reinforce expectations related to fairness and integrity when developing or changing selection criteria for audit selection. To ensure integrity and accountability, all changes to the selection criteria require input from all impacted functions and executive approval. Additionally, we advise all employees of the fair and equitable treatment of taxpayers under the law. Our dedicated, diverse, career IRS employees generally reside within the local communities, are reflective of such communities, and proudly give back to such communities through organized and individual charitable and social activities. Although the IRS is a large Federal institution, it should not be ignored that it is operated throughout by people who care—who care about fairness and integrity, everyone they interact with on behalf of this country, and this country (almost 10 percent of our workforce are proud military veterans; many more are members of military families).

#### INABILITY TO MEET TAXPAYER DEMAND FOR ASSISTANCE

*Question.* In Nevada, our State Taxpayer Advocate said to me that their office phones are ringing non-stop. Taxpayer's are calling the office because they cannot get through to the IRS. Telephone service is one area where the IRS has been performing sub-optimally. The "Level of Service" has dropped from near 80 percent to the mid-60s percent from last filing season. I am concerned that the term "Level of Service" does not accurately reflect calls answered by the IRS. Rather, it represents callers waiting on hold, only to receive an automated message to call back later—too many calls from taxpayers do not get through, or end up resulting in taxpayer hang-ups or automated responses. It is reported that the percentage of calls answered by a human is closer to 20 percent.

Does that sounds accurate? Does that seem adequate and responsive to answer the call volume?

Answer. The IRS defines level of service (LOS) as the relative success rate of taxpayers that call for services seeking assistance from a Customer Service Representative (CSR). As a result, the CSR LOS measure represents a subset of all calls. Roughly 68 percent of all call attempts, annually across the enterprise, come in to the customer service telephone lines during the open hours of operation (generally 7 a.m.–7 p.m. local time). The IRS's toll-free telephone line constitutes one of the world's largest customer service phone operations. It is a key part of the IRS's taxpayer service delivery and is just one of the many channels available to taxpayers for assistance. Taxpayers calling the IRS toll-free customer service line first navigate through automated menus informing them how to get their questions answered by selecting from menu options of frequently asked topics such as refund status, transcripts, tax reform law, individual and business tax topics, and how to find information on *IRS.gov*. Many taxpayers have their questions answered through automated responses or choose the option to go to *IRS.gov*. Calls answered through automated self-service options are not included in the CSR LOS measure because an assistor was not needed.

At the "annualized fiscal year 2018 Continuing Resolution" level, our CSR LOS was targeted at 80 percent for Filing Season (FS) 2019 and 75 percent for Fiscal Year (FY) 2019. Following the shutdown, and calculation of resulting budget and workload impacts, the LOS targets were reset to 65 percent for filing season and 63 percent for the fiscal year. As of April 20, 2019, CSR LOS for FS 2019 was about 66.9 percent and 68.5 percent for FY 2019.

Although toll-free is a high-service channel, the IRS also services taxpayers who write or respond via mail to the IRS, which is received as paper inventory. The IRS receives general correspondence from taxpayers requesting information, changes to their accounts, or other activities. Due to the lapse in appropriations, no inventory was worked from December 21st through January 21st and, due to excessive phone

demand, only limited paper was worked the first 2 weeks following the shutdown. The impacts of not working inventory can result in duplicate work, follow-up calls to the IRS, and a significant amount of resources and time to become current on receipts. As of the week ending May 4, we had nearly 1.3 million pieces of inventory compared to only 1.1 million the same time last year (an increase of 10 percent).

The average speed of answer (wait time), a measure of the average amount of time taxpayers spend on hold prior to being connected to an assistor, is steadily improving. The wait time this filing season has been less than 10 minutes (as of April 20, 2019), with an average of 9.7 minutes from October 1st through April 27th. These results are specific to contacts from tax practitioners, individuals, and business owners seeking assistance regarding their accounts or general tax law questions. Performance results for other types of calls involved in compliance activity, *i.e.*, balance due, are reported separately.

We received 53 million customer service calls between January 1st and April 27, 2019. About 9.3 million calls came in after our hours of operation (although 3.4 million of those calls were still answered through self-service automation). Almost 14.8 million callers hung up or were otherwise disconnected (calls are often disconnected, or blocked, when the system reaches capacity) and 8.1 million callers transferred out to non-taxpayer service lines (*e.g.*, Automated Collection System). Of the roughly 21 million calls remaining, almost 13 million were answered in automation and over 8 million were answered by CSRs.

#### IMPACT OF TCJA ON AUDITS

*Question.* As you know, *The Wall Street Journal* reported that audits have fallen to a 15-year low. The rate of audits has fallen significantly more, however, for high-income taxpayers than for those of working families. When Congressman Crist asked you about this during your hearing before the House Appropriations Committee, you cited wealthier individuals utilizing one or more forms of pass-through income as complicating the audit process for individuals in those cases.

How has implementation of the Tax Cuts and Jobs Act impacted your ability to thoroughly vet and audit tax filers?

Answer. Implementation of the Tax Cuts and Jobs Act has not impacted our ability to vet and audit tax filers. The IRS will continue to utilize available internal and external information to select tax returns for examination and document matching activities.

*Question.* Have portions of the tax bill such as the creation of the section 199A pass-through deduction eased or further complicated the process for taxpayers and for the IRS in properly vetting those returns?

Answer. The Tax Cuts and Jobs Act has not complicated the process for the IRS to review tax returns. While some provisions of the law, such as section 199A, Qualified Business Income Deduction, added complexity for some taxpayers, other provisions, such as the increase in the standard deduction, have reduced complexity for many taxpayers since they no longer need to itemize deductions.

*Question.* Does the complexity of a filer's tax report regularly discourage the IRS from auditing them?

Answer. No, the complexity of a tax return is not a factor in identifying or selecting returns for examination.

#### TAX EVASION

*Question.* How can the IRS reduce tax evasion?

Answer. IRS can reduce tax evasion through criminal and civil enforcement. Technology plays an increasingly important role in the IRS's enforcement strategy and has increased our capacity to identify and prevent noncompliance while also making it easier for taxpayers to comply voluntarily. IRS Criminal Investigation (CI) in particular is leveraging technological advances and is now using more advanced data analytics systems to help identify and develop high-value criminal investigations. These systems are significantly more advanced and efficient compared to the technology available 10 years ago. CI's Nationally Coordinated Investigations Unit (NCIU) is in its second year of operation and is already making an impact by providing a roadmap to identifying areas of noncompliance in an environment where financial crimes are increasingly complex.

CI's investigative efforts in the international tax fraud arena continue to grow. CI has ten foreign attaché posts already in service around the globe.

Civil enforcement through examinations also plays a role in deterring tax fraud and minimizing the tax gap. Our compliance employees have a commitment to fraud awareness.

The IRS recently made progress in the area of transparency of entity ownership through newly effective rules that provide an information reporting requirement for foreign-owned LLCs. These rules, in addition to revisions to the form used to apply for taxpayer identification numbers, will increase availability of beneficial ownership information and help prevent those using shell entities from disguising beneficial ownership and facilitating tax evasion.

IRS CI and Treasury are pleased to provide a briefing to the committee to discuss any of the issues or pending legislation in further detail.

*Question.* In your testimony to the House Ways and Means Committee, you called yourself an “enforcement guy” and spoke of your vision for IRS enforcement. However, a budget cut in enforcement would tell a different story.

How do you reconcile this vision and cuts to enforcement?

Answer. The funding level for the enforcement account is important but is not the only indicator of the IRS's tax enforcement efforts.

We use a multi-prong approach to identify the highest potential noncompliance, using scoring mechanisms, data driven algorithms, third party information, whistleblowers and information provided by the taxpayer, and we are making great strides. I believe a strong, robust, and visible enforcement presence promotes public confidence in our voluntary compliance system and supports the vast majority of taxpayers who voluntarily comply. Those who do not comply continue to run a substantial risk of being detected.

We are investing in both people and technology as we pursue areas of significant tax noncompliance. Investments in data analytics and modernized fraud detection capabilities are delivering significant returns on investment. The voluntary compliance rate remains steady and year-over-year, the Return Review Program (RRP) continues protecting billions of potential fraud revenue and delivering a return on investment of more than 1,700 percent.

Our Integrated Modernization Business Plan will also innovate and support the future of tax administration. To modernize core enforcement activities, the IRS will make targeted investments that help improve the fairness of the tax system and the ability to adapt with changing tax laws. For example, we will create new models and filters based on emerging schemes and patterns of noncompliance. We have coordinated certain enforcement efforts on key issues across our functions. We will also develop new fraud detection functionalities and enhance automated verifications for certain business returns using RRP. We are leveraging technologies to develop new enforcement tools made possible by advanced data and analytics.

Enforcing the tax law with integrity and fairness requires ensuring fairness to the taxpaying public, equitable processes, and a focus on taxpayer rights to due process and appeal. All taxpayers have certain responsibilities and obligations, and we continue to pursue those individuals and businesses who fail to comply with their tax obligations. Our vision is to continue taking enforcement actions using leading-edge technologies in a sophisticated, scalable and adaptable manner. A visible, robust enforcement effort helps deter those who fail to comply and supports those who exercise their best efforts to voluntarily comply.

#### IRS BUDGET AND RESOURCES FOR LOW-INCOME FAMILIES AND ELDERLY

*Question.* Like many of my colleagues here, and tax professionals I speak to in Nevada, are concerned that after the Tax Cut and Jobs Act Federal income tax withholding tables were adjusted to generate larger paychecks and reduced Federal income tax withholding. Now, about 8 million individuals who received a tax refund last year may owe this year.

Besides the online “Paycheck Checkup” resource, what is the IRS doing to support taxpayers who may not have access to computers or online resources, or frankly the sophistication to navigate these resources?

Answer. We recognize that our obligation to serve all taxpayers requires the IRS to provide multiple ways to get assistance. To support the major changes following

TCJA and withholding, the IRS embarked on a sweeping, year-long effort encouraging people to check their withholding. This effort did not just focus on those with digital access, it reached out to partner groups and others that directly interact with taxpayers. The effort encouraged employers and payroll providers to share information with their employees, along with information to share about how to check their withholding and adjust their form W-4. This effort also focused on sharing information with the tax community, since many people use a tax professional and filing the tax return is an ideal time to think about withholding for the following year. And to reach non- or limited English-speaking audiences, key information about withholding, such as news releases, was translated into multiple languages, including Spanish, and shared widely with partner groups active in a diverse set of communities.

*Question.* If the local Taxpayer Assistance Centers are understaffed, like in Las Vegas, what are other options for taxpayers?

Answer. Taxpayers in Nevada also have access to volunteer tax return preparation services in their community. Volunteer Income Tax Assistance/Tax Counseling for the Elderly (VITA/TCE) sites, throughout the State, offer free assistance with return preparation. VITA sites serve people who generally make \$55,000 or less and people with disabilities or limited English ability. Military VITA sites serve active military personnel on military bases. TCE offers free tax preparation for all taxpayers, particularly those who are 60 years of age or older. It specializes in questions about pensions and retirement-related issues unique to seniors. Last year, there were nearly 11,000 VITA sites (including 78 high school locations where students prepared returns) with more than 82,000 trained volunteers (600 IRS employees) and 2,300 local, State, and national partners. There are also numerous low-income taxpayer clinics (LITCs) providing legal assistance throughout the country, supported by the IRS and others.

The IRS provides a wealth of tax information on *IRS.gov*. In late summer 2017, we launched a redesigned *IRS.gov* website. The refreshed design improves how taxpayers interact with the IRS online. While tax issues can often be complex, the *IRS.gov* transformation should make it easier for taxpayers to navigate both the IRS website and tax law. One of the most important changes was to make *IRS.gov* mobile-friendly. This means the site will resize and adapt based on the screen size or the type of device used, including a smartphone, laptop, tablet or desktop.

We have also provided more ways for taxpayers who need to come into compliance, easier ways to do so. For example, the IRS

- Online Payment Agreement, a secure, safe, and easy process taxpayers can use to set up a payment plan and pay their tax obligations over time. A total of 571,000 online payment agreements have been set up so far, this fiscal year.
- Direct Pay, which provides taxpayers with a secure, free, quick and easy online option for making tax payments. This tool was used 10.2 million times in FY 2017. The IRS is also continuing the development of online accounts at the IRS where taxpayers can log in securely, obtain the information they need about their account, and interact with the IRS as needed.

Online account: In 2016, the IRS took the first step toward a fully functional IRS online account with the launch of an application on *IRS.gov* that provides information to taxpayers who have straightforward balance inquiries. The IRS followed that up with another feature that lets taxpayers see recent payments posted to their account.

#### BURDENSOME TAX COMPLIANCE AND SCAMS

*Question.* I am concerned that cuts in the IRS budget undermine access to tax justice for many millions of taxpayers, including Nevadans who do not have the resources to deal with a complicated and underfunded tax system. Tax compliance becomes burdensome and overwhelming for hardworking families. With ever changing tax forms and complicated tax rules, filing has become more and more expensive and is not well regulated, inviting unscrupulous participants.

What interagency partnerships does the IRS engage in to combat the increase in phone scams and mail scams, particularly those targeting our senior citizens and low-income families?

Answer. We conducted an aggressive, extensive consumer education effort on tax scams and schemes for several years, making it a key part of filing season informa-

tion for taxpayers, sharing information with hundreds of partners such as AARP and conducting major media campaigns and highlighting this as part of our annual Dirty Dozen tax scam news releases.

In addition, we have made this a central component of communications work in the Security Summit effort. The Summit, a joint project between the IRS, State tax agencies, and the private-sector tax industry, has highlighted Identity Theft (IDT) and tax scams in joint communications since 2015. This outreach effort has included working with numerous private-sector partners as well as government agencies, including the Federal Trade Commission (FTC). We have actively participated for several years with the FTC's identity theft efforts, participating in panels, issuing joint communications, and sharing information on their respective websites. To help push this information out to as many groups as possible, the IRS and the Summit partners have conducted National Tax Security Awareness Weeks, holding press conferences and events across the country to share information about scams and schemes as well as raising awareness about how people can protect themselves from identity theft, whether on the phone or online.

Locally, IRS representatives meet with various stakeholder groups and routinely discuss the need for taxpayers as well as tax professionals to maintain a heightened awareness of the possibility of such scams. These scams are harmful to taxpayers and adversely impact taxpayer confidence in the IRS. As these scams continue to evolve and change, the IRS will continue to respond aggressively to raise awareness and help protect taxpayers from these threats.

*Question.* What procedures can you implement to expand efforts to combat the increased rate of IRS phone scams?

*Answer.* We have devoted and continue to devote significant resources to fighting tax scams and our work has had a measurable effect. The criminal prosecutions by India and the United States resulted in a measurable drop in calls by scammers. Initially, the number of calls reported to TIGTA dropped from 40,000 a week to 1,000 a week.

A major part of our effort related to scams has focused on the Security Summit and protecting taxpayers against identity theft. Over the last several years, the IRS and partners in the States and the private-sector tax industry have made steady progress against identity theft, thanks to the unique and collaborative efforts of the members. This strong, unique partnership between the public and private sectors has allowed us to coordinate efforts on many different levels and put in place many new and productive safeguards. These efforts to date have significantly affected the tax ecosystem. We continue to devote significant time and attention to this challenge and are committed to doing all that we can to prevent the payment of fraudulent refunds, pursue the perpetrators, and assist the victims.

Our work is showing results, reflected in the falling number of taxpayers who are victims of identity theft between 2015 and 2018:

- The number of taxpayers who reported they were victims of identity theft fell 71 percent. In 2018, the IRS received 199,000 identity theft affidavits from taxpayers compared to 677,000 in 2015. This was the third consecutive year this number declined.
- The number of confirmed identity theft returns stopped by the IRS declined by 54 percent, falling from 1.4 million in 2015 to 649,000 in 2018.
- The number of suspicious refunds recovered has declined by 66 percent. The financial industry is a key partner in fighting identity theft, helping the IRS and States recover suspicious refunds. But as fewer false tax returns enter the system, fewer fraudulent refunds are being issued. In 2018, financial institutions recovered 84,000 Federal refunds totaling \$112 million for the IRS. By comparison, institutions recovered 249,000 refunds totaling \$852 million in 2015.

*Question.* I am concerned with the increased reliance on mail correspondence audits for EITC recipients, including the fact that 99 percent of EITC audits are through mail correspondence, and the transitory nature of these taxpayers. Do you think this is an efficient and secure use of resources?

*Answer.* Correspondence audits are an efficient and effective manner to conduct most EITC audits. Correspondence audits are less expensive than face-to-face audits and generally take less time to resolve. Unlike face-to-face audits, which often require taxpayers to take time off work, correspondence audits allow taxpayers to submit their documentation by mail.



Correspondence audit procedures require employees to research taxpayer accounts for a new address whenever IRS correspondence is returned undelivered. If a new address is found before the issuance of the Statutory Notice of Deficiency (SNOD), IRS will resend the notice and provide the taxpayer additional time to submit the documentation. If IRS has issued the SNOD and the notice was mailed after the address change, IRS will reissue the notice and give the taxpayer an additional 106 days to respond.

We continue to administer refundable credits through a balanced program which includes education, outreach, and compliance efforts. The IRS staffs a year-round toll-free telephone line to answer questions on EITC correspondence audits. We employ several EITC educational tools such as the EITC Assistant on *IRS.gov* which is an interactive online tool that helps taxpayers determine if they've met the eligibility requirements for the EITC; the Form 886-H Toolkit which is an online tool that helps taxpayers determine the correct documents needed if selected for an EITC audit. Our annual EITC Awareness Day promotes increased participation, decreased erroneous payments, and improved accuracy of filed returns. Since resources are limited, we use a variety of treatments to address noncompliance. For example, in some cases when we identify a discrepancy between information provided by a taxpayer and existing third-party information, we may send an educational notice to allow the taxpayer to correct their information prior to any compliance activity.

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

There are a few subjects I need to address today. First, oversight of the tax code. Last week the chairman of the House Committee on Ways and Means exercised his authority under section 6103 of the tax code to request 6 years of the President's tax returns. I support his request completely. Chairman Neal raised a key point about oversight of the tax system that explains why this step is necessary. The IRS has a policy of auditing the tax returns of sitting Presidents and Vice Presidents every year. It's not clear that system is effective. Congress has an obligation to look into whether it's functioning properly, and if necessary, craft legislative solutions.

Let's also clear up a misconception on this issue. This is not an obscure law that has sat around gathering cobwebs. Both committees that handle tax law—Finance and Ways and Means—use this authority regularly. The committee's majority side used it earlier this year to investigate certain tax-exempt hospitals. This committee also used it between 2013 and 2015 during an investigation into the treatment of tax-exempt organizations.

Because this type of request is so routine, the Treasury Secretary long ago delegated responsibility for complying with it to the IRS Commissioner. IRS Commissioners in turn have delegated it to agency employees. These requests do not cross the Treasury Secretary's desk.

Furthermore, Congress is closely familiar with reviewing the tax returns of Presidents and Vice Presidents. The JCT reviewed President Nixon's tax returns. Congress reviewed the tax returns of past vice presidential nominees. This committee also reviews the tax returns of all nominees we process.

With respect to Chairman Neal's request, the law says the tax returns "shall" be provided. The law does not give anyone—not the Treasury Secretary, not a White House official—the power to interfere.

The administration has responded to Chairman Neal's request by launching a campaign of blatant political intimidation. I recall in the very recent past when the prospect of political interference in the IRS mattered to both sides of this committee.

So here's the bottom line. Chairman Neal's request is based on legal authority our two committees exercise regularly, and the process of obtaining and reviewing tax returns is routine. I believe this committee ought to make the same request for the President's tax returns. This committee must not punt on oversight and cede that role to the House.

Now to shift to another key tax policy issue. Americans who work for a living have long understood that the tax code is rigged to favor the most fortunate. It's now becoming painfully clear that tax enforcement is rigged in the same way.

According to newly released data, the audit rate of corporations and those at the top is in freefall. Audits of those with more than a million dollars in income—cut

in half over a decade. Audits of the largest corporations—again, cut in half over a decade. A new report from ProPublica showed one clear example of how that came to pass. A decade ago there was an effort to bring together skilled investigators to crack down on tax cheating by the mega-wealthy. The mega-wealthy fought back with an army of lobbyists and lawyers. The effort to get the tax cheats to pay a fair share fizzled.

So the most fortunate are off the hook. What about people who work for a living? Another ProPublica report showed that Humphreys County, MS has a higher audit rate than any other county in America. It's not because it's packed to the county line with money launderers or shell corporations. It's because Humphreys County is poor, and most of them claim the Earned Income Tax Credit.

I take a back seat to nobody when it comes to working against improper payments or abuse. But how can the Congress stand by a tax enforcement system that punishes working people and gives the wealthy a green light to cheat?

If a working family makes a simple mistake on their taxes and gets hit with an audit, it can snowball into a major financial setback. If a Wall Streeter concludes they can get away with tax cheating, it's like they've discovered a gold mine.

One proposal that could help fix this unfairness is the bill Senator Cardin and I are introducing tomorrow to require minimum standards for paid tax preparers. The idea is, if working people are less likely to run into a crooked or incompetent tax preparer, they're less likely to face an audit. Passing our bill would be a good first step, but this issue is going to take a lot more work.

As I wrap up, I want to address an issue regarding how Americans file their taxes. I start with the propositions that filing should be simple, and taxpayers should not have to use a private company to file their taxes online. I support allowing Americans to file directly online with the IRS. I've also proposed bipartisan legislation to create an optional "simple return" system: your forms show up completed, and all you have to do is check the numbers. No more headaches from a complicated filing process.

During the debate on the tax administration bill, my staff pushed back on a long-standing policy that blocks the IRS from competing with private tax preparation companies. I'm going to continue fighting for a "simple return" system and the right to file directly with the IRS online. In the meantime, the final package limits the role of private debt collection on working Americans, and it permanently extends a highly successful program that helps low-income taxpayers file their returns for free. Just this morning, I've also gotten confirmation from the IRS Chief Counsel that the IRS can terminate Free File and design their own direct-file product with 12 months' notice. So, colleagues, there's a lot to discuss this morning. I look forward to questions.

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## COMMUNICATIONS

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Chairman Grassley and Ranking Member Wyden, thank you for the opportunity to address this issue. Our focus will be on tax reform and how we can make taxation easier in the future, rather than the present season. For most people, this year will be much the same as last year, although many will no longer itemize, but they will also lose exemptions. The new forms will at least let paper filers know that there is a change. For those who use tax preparers or preparation software, there will be little difference.

The Tax Cut and Jobs Act gave most people neither a real tax cut or jobs. The goal was to stimulate an already growing economy by giving tax breaks to “job creators.” The reality is that these cuts went to asset speculators, as they always do. It does not matter what the asset markets do, they are their own master and their prices are about too much money chasing too few good instruments, which leads to funding such garbage as Bitcoin. Eliminating that inflation through bond sales is a good method, as is making such sales unnecessary through higher tax rates on the wealthy, preferably from an income and inheritance surtax.

Even with inequality growing, many enjoy their civic duty to file taxes, but those who use preparers probably do not, which is most people. The rich will likely use accountants who have other money management duties and who, like the IRS employees, must figure out the new tax rules on pass-through income. For some, these rules equalize the treatment of ownership income between corporate and non-corporate firms, to others this is just another giveaway to donors. For all businesses, the ending of corporate income taxation and its replacement with a value-added tax and/or a net business receipts/subtraction VAT or our new Asset VAT proposal would have been so much easier, save for the resistance of the former Chairman.

The reality is that an implicit hidden value-added tax is already in force. It is the tax withheld by employers for the income and payroll taxes of their labor force. A VAT simply makes these taxes visible while an NBRT makes them more manageable, allowing employers to adjust pay more easily for larger families, pay for health care or insurance and fund public and non-public schools for dependents and college or technical training for workers, as well as retirement plans that give employees a stake and a say in the firm and a more secure retirement.

We preface our remaining comments with our newly revised comprehensive four-part approach, which will aid members’ familiarity with its points, inform new committee members and provide context for our comments.

- A Value-Added Tax (VAT) to fund domestic military spending and domestic discretionary spending with a rate between 10% and 13%, which makes sure every American pays something. Carbon taxes are included in this category.
- Personal income surtaxes on joint and widowed filers with net annual incomes of \$100,000 and single filers earning \$50,000 per year to fund net interest payments, debt retirement and overseas and strategic military spending and other international spending, with graduated rates. Capital gains taxes will be replaced by an Asset VAT or A-VAT of between 20% and 30%. At inheritance or at the exercise of options, previous tax payments will be set to zero. Brokers will collect these taxes and remit them to the SEC. Sales to qualified ESOPs will remain tax free. Short-term trades will be subject to a Tobin Tax.

- Employee contributions to Old-Age and Survivors Insurance (OASI) with a lower income cap, which allows for lower payment levels to wealthier retirees without making bend points more progressive.
- A VAT-like Net Business Receipts Tax (NBRT), which is essentially a subtraction VAT with additional tax expenditures for family support, health care and the private delivery of governmental services, to fund entitlement spending and replace income tax filing for most people (including people who file without paying), the corporate income tax, business tax filing through individual income taxes and the employer contribution to OASI, all payroll taxes for hospital insurance, disability insurance, unemployment insurance and survivors under age 60.

The collection of the Employee Contribution to Social Security will be exactly as it is now. Like proposals for a FairTax, the Value-Added Tax and NBRT/Subtraction VAT will be collected by the states. If the basic structure of reform is adopted in the states, the biggest change will be the need for a common base between federal and state consumption taxes.

Shifting from retail sales taxes and gross receipts taxes to value added taxes and VAT like net business receipts taxes will change the nature of most state taxation, while enabling ease of collection of taxes on online sales, since taxes would be levied at every stage of the production process. The IRS will assist states in this process, which will likely take the form of some federal-state compact commission to draft and approve the transitional rules.

If a common base agreement can be negotiated for these taxes, state treasurers can collect both their own taxes and the federal taxes, as well as analytical information on tax credit usage, which can then be shared with the U.S. Internal Revenue Service in order to track income accruing to payers of the federal high income surtax, as well as to recipients of the federal child tax credit, which would be paid to employees with wages under the NBRT and then verified by a mailing from both the employer and the Internal Revenue Service, with employees verifying that their employees paid every dollar to them reported as a credit.

There will likely be problems to resolve in our proposed system, where the states collect by the Value Added Tax and the Net Business Receipts Tax and forward the money and records to the Internal Revenue Service. This will not impact most taxpayers, since once they have bought a product, no further action is necessary.

The IRS will likely supplement state-based auditing with reviews of their own, but this is a small price to pay for a reform that will reduce the income tax payment and audit workload by at least 80%. Indeed, income tax simplification (through the elimination of all but a few deductions), will further eliminate the workload generated by remaining income tax payers. As you see, this is a much bigger change than reform around the edges.

Employees with children will need to annually verify the information provided by employers and, if they received less than was reported to the government, notify the IRS who will send a refund and collect the difference from the employer. This may trigger a dispute, but likely most employers will simply pay if there was an error. Fraud is another matter, which is criminal not a dispute to be settled. Other disputes may involve parents double dipping on two jobs or two earners, but these will likely work out a payment plan or contact their divorce lawyers to negotiate who pays.

Individuals making over \$50,000 per year and joint filers making over \$100,000 will have their wage and dividend income information submitted to the IRS as part of NBRT filings, which will be stored to compare to tax filings, unless the Congress authorizes an automatic filing system where all income surtax payers will receive notification when all data should have arrived and what their refund or payment will be once they correct the information or certify it is correct already. Banking information should be on file, so authorization for payment, either at once or installments should be easy. Very little IRS Administration will be required to do this. Indeed, data management and mailing could be contracted out. All IRS employees could fit in a bathtub with room for Grover Norquist.

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.

Strata	Boundary in \$Thousands	Effective Tax Rate	Taxes Paid In \$Billions	Amount of Debt Owed in \$Trillions
Bottom 50%	\$0	3.7%	\$43.9	\$0.57
50% to 75%	\$40	15.6%	\$158.5	\$2.06
75% to 90%	\$81	17.8%	\$238.0	\$3.09
90% to 95%	\$140	21.1%	\$162.1	\$2.11
95% to 99%	\$198	23.5%	\$301.6	\$3.92
Top 1%	\$481	26.9%	\$538.3	\$7.00
Top 1,409 Households			\$46.9	\$0.61

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#### Statement of Anthony M. Reardon, National President

Chairman Grassley, Ranking Member Wyden, and distinguished members of the committee, I would like to thank you for allowing me to provide comments on the Administration's FY 2020 budget request for the IRS. As President of the National Treasury Employees Union (NTEU), I have the honor of representing approximately 150,000 federal workers in 33 agencies, including the men and women at the IRS.

Since FY 2010, IRS funding has been cut by almost \$845 million and those funding reductions have forced the IRS to reduce the total number of full-time employees by more than 23,000 across every state. In addition, since FY 2011, the IRS has had to operate under an exception-only hiring policy, which has limited its ability to replace employees lost through attrition.

At the same time the IRS has been operating with reduced funding and a declining workforce, workloads and responsibilities for the agency have increased. In particular, since FY 2010, several unfunded legislative mandates, including the Affordable Care Act (ACA), the Foreign Account Tax Compliance Act (FACTA), the Achieving a Better Life Experience (ABLE) Act, reauthorization of the Health Coverage Tax Credit (HCTC), the seriously delinquent debt certification program and the 2015 Protecting Americans from Tax Hikes (PATH) Act, have expanded the IRS's responsibilities and required the diversion of resources from core tax administration responsibilities.

In addition, last year the IRS was tasked with implementing and carrying out the most extensive changes to the U.S. tax code since 1986. Implementation of this drastic overhaul of the tax code required the IRS to, among other things, (1) interpret the law; (2) create or revise nearly 500 tax forms, publications, and instructions; (3) publish guidance and additional materials; (4) reprogram 140 interrelated return processing systems; and (5) hire additional staff and train its workforce to help taxpayers understand the law.

The lack of sufficient staffing coupled with a rising workload has strained IRS's capacity to provide America's taxpayers with top quality service to enforce our nation's tax laws.

NTEU was disappointed that the Administration's FY 2020 budget calls for just \$11.4 billion in base funding for the IRS, a minimal increase over the current FY 2019 level. We believe the \$11.4 billion in proposed base funding is wholly inadequate and will do little to help the IRS reverse the adverse impact of previous budget reductions. Indeed, despite calling for an overall increase in funding, the administration's request is projected to reduce overall staffing at the IRS by more than 1,600 FTEs.

While we are disappointed in the Administration's proposal for funding base taxpayer service and enforcement activities, we strongly support the Administration's request for an additional \$362 million in enforcement funding for FY 2020 through

a program integrity cap adjustment for high revenue generating enforcement activities. This \$362 million would fund new and continuing investments in expanding and improving the effectiveness and efficiency of the IRS's overall tax enforcement program. These investments are expected to generate an additional \$47 billion in additional tax revenue over 10 years.

Recognizing the wisdom of small spending increases when they will be more than offset by larger returns on investment, both Democratic and Republican Administrations have requested, and Congress has approved, integrity cap adjustments for IRS enforcement activities. The Budget Control Act of 2011 specifically allows for other program integrity cap adjustments for Social Security disability claim reviews and health care fraud and abuse programs. Legislation recently introduced by the Chairman of the House Budget Committee and co-sponsored by House Appropriations Chairwoman Lowey, H.R. 2120, the "Investing for the People Act of 2019" also includes an IRS enforcement program integrity cap adjustment.

NTEU strongly supports providing the IRS with additional enforcement funding for FY 2020 via a program integrity cap allocation adjustment.

### **Taxpayer Services**

Continued reductions in funding and staffing have seriously impaired IRS's ability to provide taxpayers with the service they need to comply with their tax obligations. Providing quality taxpayer service is a critical component of the IRS's efforts to help the taxpaying public understand its federal tax obligations while making it easier to comply with the tax system. Unfortunately, the IRS's ability to provide quality taxpayer service has been severely challenged due to reduced funding in recent years which has forced the IRS to reduce the overall number of staff supporting taxpayer service activities by more than 8 percent, including Customer Service Representatives (CSRs) which fell from 10,209 in 2010 to 9,209 in 2017.

The reduction in employees assigned to answer taxpayer inquiries in recent years led to a rapid decline in the phone level of service (LOS), resulting in just 38 percent of taxpayer calls being answered during the 2015 filing season, down from 74 percent in FY 2010. In addition, wait times to speak to IRS representatives increased to an average of 23 minutes.

Recognizing the adverse impact that funding reductions were having on IRS taxpayer service activities, Congress provided the IRS with \$290 million in targeted funding in fiscal years 2016 and 2017 to improve the phone level of service rate, among other things. With this funding, the IRS was able to hire additional temporary telephone assistants which drastically reduced taxpayer wait times and helped the IRS raise the phone level of service from 38 percent during the 2015 filing season to 72 percent during the 2016 filing season, and to 79 percent during the 2017 filing season. The Administration has noted additional resources in FY 2018 helped the IRS achieve an 80 percent FY 2018 filing season LOS.

Unfortunately, despite acknowledging that additional funding enabled the IRS to drastically reduce taxpayer wait times and improve the phone level of service during recent filing seasons, the Administration's FY 2020 budget request calls for reducing funding for taxpayer services by almost \$90 million below the current level and reducing overall staffing for taxpayer services by almost 2,200 FTEs from the FY 2019 CR level. The Administration acknowledges this level of funding would lower the phone level of service from 76% in FY 2018 to just 68% in FY 2020.

NTEU believes it is critical that the IRS is able to provide taxpayers with timely assistance, particularly for those that are 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, to investigate identity theft-related crimes when they do occur, and to help taxpayers who have been victimized by identity thieves as quickly as possible.

Mr. Chairman, it is clear that drastic funding reductions in recent years have seriously eroded the IRS's ability to provide taxpayers with the services they need. Without additional 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's efforts to enhance voluntary compliance, combat the rising incidence of identity theft, and reduce the tax gap.

Unfortunately, funding reductions in recent years are undermining the Service's ability to maximize taxpayer compliance, prevent tax evasion and reduce the deficit. Since FY 2010, funding for enforcement activities has been slashed by almost \$645 million which has forced the IRS to reduce overall enforcement staffing by 27 percent, including IRS revenue officers (ROs) who are critical to IRS enforcement efforts. According to data from the Office of Personnel Management (OPM), the total number of ROs declined by nearly 40 percent between FY 2011 and FY 2017 and entry level ROs declined by 86 percent during the same period.

The adverse impact of funding and staffing reductions to IRS enforcement was highlighted in a March 2019 report by the GAO (GAO-19-176). The report noted that reduced staffing for enforcement has forced the IRS to scale back a number of program activities, including audits of individuals and large corporations. According to the report, between FY 2011 through 2017, the number of individual returns audited has declined by 40 percent. Additionally, audit rates of large corporations with assets \$10 million or greater declined from 17.7 percent in FY 2011 to 7.9 percent in FY 2017.

The report also noted budget reductions had resulted in the loss of more than 18 percent of IRS tax examiners who are responsible for responding to taxpayer's inquiries regarding preparations of variety of tax returns, related schedules and other documentation, resolving account inquiries, advising taxpayers of enforcement actions, adjusting taxpayer accounts, preparing and issuing manual refunds and computing tax, penalty and interest. According to the IRS, in 2018, and in response to declining tax examiner personnel, IRS doubled the dollar amount threshold examiners use to select refunds for additional audit. The IRS said this means thousands of refunds that would have received additional scrutiny due to errors or anomalies are no longer considered for follow-up review by examiners. This means the government is potentially missing significant opportunities to collect revenue and enforce tax laws.

Concerns over IRS's ability to enforce tax laws has led GAO to include tax enforcement in its high-risk list since 1990. In particular, GAO has identified IRS's ability to address the tax gap, and combat identify theft refund fraud as major challenges. In their most recent report, (GAO-19-157), GAO notes IRS's capacity to implement new initiatives, carry out ongoing enforcement and taxpayer service programs, and combat identity theft (IDT) refund fraud under an uncertain budgetary environment remains a challenge.

NTEU knows that if the IRS is to continue making progress in combating identify theft and closing the tax gap, it must be provided with additional staffing. Without sufficient staffing to effectively enforce the law, ensure compliance with tax responsibilities and combat fraud, our voluntary tax compliance system is at risk. And as the former IRS Commissioner repeatedly noted, a simple one-percent decline in the compliance rate translates into \$30 billion in lost revenue for the government.

Despite the clear evidence that reductions to enforcement funding and staffing are hampering IRS's efforts to enforce our nation's tax laws, NTEU was disappointed to see the Administration's FY 2020 budget request would reduce funding for enforcement by almost \$154 million below the current level. Because it will have fewer staff available to work cases, the IRS announced it is lowering the target rate for collection coverage, as well as for exam coverage, for individuals and businesses with assets of more than \$10 million for FY 2020.

Mr. Chairman, the adverse impact of recent and continued funding cuts on the IRS's ability to provide taxpayers with the service they need and to enforce our nation's tax laws is clear. NTEU strongly believes that only by providing the IRS with additional resources will the IRS be able to meet the rising workload, stabilize and strengthen tax compliance and customer service programs, and allow the Service to address the federal deficit in a serious and meaningful way.

### GOVERNMENT SHUTDOWN

Mr. Chairman, I would be remiss if I didn't mention the 35-day partial government shutdown and the devastating impact it had on the IRS and its employees. The shutdown impacted nearly 70,000 employees at the IRS who were furloughed or were designated "excepted/exempt" and forced to work without pay. These dedicated employees went over a month without pay and were terrified about how they would pay their mortgage, rent, student loans, child care, and credit card bills. The uncertainty of their financial situation caused employees to pull back on expenses and inquire about or even file for unemployment. And those employees who were forced to work without pay were left without the ability to earn additional income with part-time work and were unable to get unemployment benefits. At the same time, they incurred additional expenses going to work every day which exacerbated their financial distress.

In addition to the human toll on IRS employees, the shutdown severely impacted IRS's ability to provide critical services to American taxpayers and, in particular, to prepare for the 2019 filing season when most provisions from the most extensive change to the U.S. tax code in 30 years were being reported on tax returns for the first time.

Among the critical functions that IRS was unable to carryout was the processing of amended returns, all audit functions, and IRS call sites and taxpayer assistance centers (TACs) around the country were closed. Additionally, because the shutdown occurred immediately prior to the start of the filing season, it prevented the IRS from completing hiring and training of seasonal employees. In recent testimony before congress, Nina Olson, the National Taxpayer Advocate, highlighted the adverse impact the shutdown on IRS's ability to deliver a successful filing season, and in particular, on the phone level of service (LOS) and correspondence inventories.

According to Olson, through Feb. 23, 2019, the LOS for all IRS telephone lines dropped from 71 percent last season to 48 percent and hold times increased from 10 to 17 minutes. As a result, taxpayers, businesses and tax professionals have struggled to get the answers they need to file accurate returns. If taxpayers are not provided the assistance they need to understand their tax obligations, they may inadvertently file an incorrect return which could necessitate the need for IRS to undertake post-filing actions that are costly and burdensome to both the taxpayer and the IRS.

In addition, the shutdown led to a drastic increase in corresponding inventories. According to Olson, by the final day of the shutdown, the IRS had over 5 million pieces of unprocessed mail. Olson noted that typically the IRS shifts employees in Accounts Management between answering calls on the toll-free phone line and processing correspondence, but with correspondence inventories up 152 percent compared with the previous filing season, the IRS could not shift employees to improve telephone responsiveness without falling further behind in addressing taxpayer correspondence.

Mr. Chairman, during the shutdown, IRS employees suffered both personal hardship and, because of their dedication to their public service work, they were troubled by the critical services they knew were not being carried out on behalf of American taxpayers. It is essential that the Congress and the President never allow such a shutdown to happen again.

### CONCLUSION

Mr. Chairman, thank you for the opportunity to provide NTEU's views on the Administration's FY 2020 budget request for the IRS. We believe that to ensure the IRS is able to continue making improvements in taxpayer services while handling a growing workload, it is imperative that the agency is provided with the resources and staffing necessary to meet these challenges. With the complexity of tax administration and future workloads only expected to rise, the IRS will be under a great deal of pressure to improve customer service standards while simultaneously enforcing the nation's tax laws.

