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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

JOSHUA SHEINKMAN, STAFF DIRECTOR
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October 20, 2022

The Honorable Gene Dodaro
Comptroller of the United States
U.S. Government Accountability Office
441 G St., NW
Washington, DC 20548

Delivered via e-mail

Dear Comptroller Dodaro,

With the enactment of recent legislation, the need for increased oversight of and transparency with respect to certain public spending is acute. Public Law No. 117-169 labeled by some as the “Inflation Reduction Act,” was signed into law on August 16 of this year. P.L. 117-169 contains a largely unbridled \$79,621,533,803 appropriation to supersize the Internal Revenue Service (IRS). Supersizing is an appropriate descriptor given that, according to the IRS’s Fiscal Year (FY) 2023 Congressional Budget Justification, the IRS’s total annualized budgetary resources for FY 2022 was \$13,973,097,000. Accordingly, the 10-year, nearly \$80 billion “supplement” to normal annual appropriations from P.L. 117-169 represents 5.7 times the amount of budgetary resources the IRS had to work with in FY 2022.

If the near-\$80 billion is spent out evenly over time, for FY 2023 the IRS will be receiving a supersized 57 percent boost relative to FY 2022. Such an outsized boost to agency funding, derived from legislation developed and passed in partisan fashion, in our view represents a high risk for waste, fraud, abuse, and improper politicized utilization of taxpayer resources.

The near-\$80 billion infusion of funds is distributed in Sec. 10301 of P.L 117-169 as follows:

Purpose	Appropriation	Percent of Total Amount Appropriated
Taxpayer Services	\$3,181,500,000	4.00%
Enforcement	\$45,637,400,000	57.32%
Operations Support	\$25,326,400,000	31.81%
Business System Modernization	\$4,750,700,000	5.97%
Task Force to Design an IRS-Run “Free” Direct eFile Tax Return System	\$15,000,000	0.02%
Treasury Inspector General for Tax Administration (TIGTA)	\$403,000,000	0.51%
Office of Tax Policy	\$104,533,803	0.13%
United States Tax Court	\$153,000,000	0.19%
Treasury Departmental Offices	\$50,000,000	0.06%
TOTAL	\$79,621,533,803	100%

The bulk—more than 57 percent—of added IRS funding is assigned to tax enforcement. Taxpayer services, according to the partisan funding boost, gets shorted, representing a mere four percent of the overall near-\$80 billion of added appropriations.

Among the many unfortunate characteristics of what P.L. 117-169 labels as “enhancement” of IRS resources is the absence of any substantive enhancement to how the supersized funding will be managed and overseen. This works against accountability, transparency, protections against abuse, and improved internal funding controls. While we expect that the Treasury Inspector General for Tax Administration (TIGTA) will continue to perform its oversight, the partisan legislation devoted only 0.51 percent of its supersized funding to TIGTA, while TIGTA will, under P.L. 117-169, be required to oversee enforcement activities that received 57.32 percent of the supersized funding, as well as activities within the vague “operations support” area, which also includes enforcement programs and which obtained 31.81 percent of the added appropriations.

Concerns over lack of additional oversight resources proportionate to the vast increase in IRS funding derived from partisan legislation are especially warranted given recent IRS abuses of taxpayers, including violations of civil rights,¹ inappropriate and systematic targeting of

¹ See “Criminal Investigations Enforced Structuring Laws Primarily Against Legal Source Funds and Compromised the Rights of Some Individuals and Businesses,” TIGTA, March 30, 2017, Reference Number: 2017-30-025.

non-profit applicants and groups based on political beliefs² and inappropriate IRS mixing of politics with religious beliefs.³

Under a fund-now, plan-later approach to funding the IRS that has been pursued in P.L. 117-169, the Secretary of the Treasury has requested that the IRS Commissioner and the Deputy Secretary of the Treasury arrive at some sort of a plan for how the added \$80 billion of IRS resources will be used. Such planning solely within the executive branch does not dampen concerns over major ongoing IRS issues, including the agency’s targeting and inability to protect confidential, private, and legally protected personal taxpayer information.

Congress and the American people rely on inspectors general, fully functional oversight boards, and, importantly, the U.S. Government Accountability Office (GAO), to help provide accountability, transparency, and bipartisan inclusion in agencies use of hard-earned taxpayer resources. That will especially be the case with monitoring and overseeing the outsized partisan infusion of nearly \$80 billion devoted to IRS activities, focused on enforcement, provided in P.L. 117-169.

We ask that GAO provide initial guidance to Congress on its plans to help provide all of the American people eyes into what will transpire with the massive new IRS funding. Specifically, please respond by November 4, 2022, to our following initial inquiries:

1. What high-risk items associated with the IRS and identified by GAO remain outstanding and not yet fully resolved? The IRS no longer has the excuse, at least until Sec. 10301 of P.L. 117-169 is either modified or repealed, that it lacks funds.
2. What, in detail, are the “significant deficiencies in internal controls” identified in GAO’s Financial Audit of IRS’s FY 2021 and FY 2020 Financial Statements (the Audit)⁴ that led GAO auditors to find lack of IRS compliance with requirements of the Federal Financial Management Improvement Act of 1996?
3. As noted in the Audit,

“we determined that unresolved information system security control deficiencies from prior audits, along with new information control deficiencies, collectively represent a significant deficiency over financial reporting...these business process application and general control deficiencies increase the risk of unauthorized access to, modifications of, or disclosure of sensitive financial and taxpayer data

² See, for example, U.S. Senate Committee on Finance, Additional Republican Vies, Executive Summary, at <https://www.finance.senate.gov/imo/media/doc/Chairman%20Hatch%20Executive%20Summary.pdf>.

³ In 2021, IRS Exempt Organizations initially denied 501(c)(3) status to a Texas Christian organization, with the IRS identifying that, in the view of the IRS, “Bible teachings are typically affiliated with the [Republican Party] and candidates.” Relatedly, see, for example, the August 16, 2021 letter to TIGTA from Senate Finance Committee Members, led by Senator James Lankford, at <https://www.lankford.senate.gov/imo/media/doc/Lankford%20Sasse%20Letter%208.16.2021.pdf>.

⁴ GAO-22-104649, November 10, 2021, U.S. Government Accountability Office, available at <https://www.gao.gov/assets/gao-22-104649.pdf>.

and disruption of critical operations and are therefore important enough to merit the attention of those charged with governance of IRS.”

Please provide details regarding that finding, which caused GAO auditors to also write:

“...unresolved and newly identified control deficiencies continue to exist. For example, deficiencies exist in the business process application and general controls concerning (1) improper configuration of security settings, (2) inadequate implementation of access controls, and (3) inadequate enforcement of encryption mechanisms to protect systems and data.”

4. Please confirm that the IRS received, prior to P.L. 117-169, more than \$3 billion of supplementary funding during fiscal years 2020 and 2021 for FY 2020 and FY 2021, in part purportedly for COVID-19 related activities and in part including \$1.862 billion from the partisan American Rescue Plan Act.
5. Given billions of supplemental appropriations to the IRS prior to the supersizing of IRS funding in P.L. 117-169, the IRS is positioned to clean up outstanding unresolved failures and shortcomings, many of which have been reflected in recommendations by GAO, TIGTA, Congress, and others. GAO identifies 168 total Open Recommendations on its website.⁵ Some are labeled as priority, and some “high risk.” Please provide a list, by GAO prioritization, of outstanding recommendations to the IRS from GAO for agency improvement and adherence to the law. In addition, please identify the status of the 25 priority recommendations made by GAO to the IRS found in GAO’s June 2021 report titled “IRS Priority Recommendations.”⁶

We appreciate the fact-based, non-partisan work by the GAO directed at improving federal government activities, working toward efficient and unbiased utilization of hard-earned taxpayer dollars, and monitoring agencies adherence, or not, to laws governing their activities.

With supersized IRS funding having been set in place by P.L. 117-169, it is essential that oversight of the IRS be increased commensurate with the outsized boost in resources provided to the IRS. We request that you respond to our inquiries provided in items 1-5 above by November 4, 2022 and expect that further IRS oversight requests will be forthcoming.

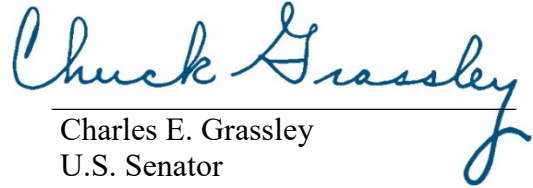
⁵ Open Recommendations (168 total), Government Accountability Office, available at <https://www.gao.gov/agencies/internal-revenue-service> (last accessed on Oct. 13, 2022).

⁶ GAO-22-105632, Government Accountability Office, June 6, 2022, available at <https://www.gao.gov/assets/gao-22-105632.pdf>.

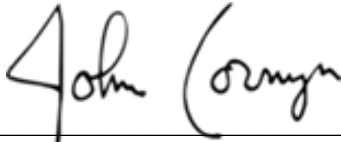
Sincerely,



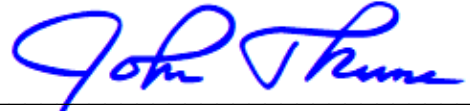
Mike Crapo
U.S. Senator



Charles E. Grassley
U.S. Senator



John Cornyn
U.S. Senator




John Thune
U.S. Senator



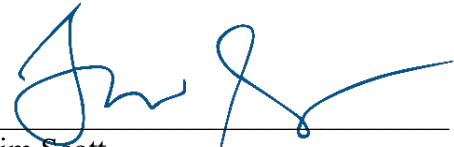
Richard Burr
U.S. Senator



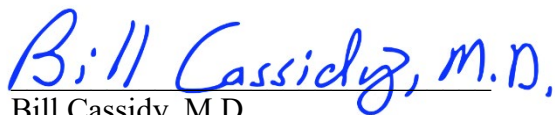
Rob Portman
U.S. Senator



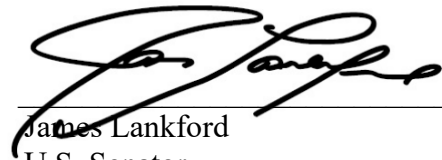
Pat Toomey
U.S. Senator




Tim Scott
U.S. Senator



Bill Cassidy, M.D.
U.S. Senator



James Lankford
U.S. Senator



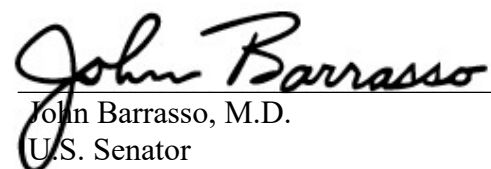
Steve Daines
U.S. Senator



Todd Young
U.S. Senator



Ben Sasse
U.S. Senator



John Barrasso, M.D.
U.S. Senator