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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

September 28, 2023

The Honorable Danny Werfel
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Commissioner Werfel:

As Chairman of the Senate Finance Committee (“the Committee”), I write to urge the Internal Revenue Service (IRS) to significantly increase enforcement action against wealthy tax cheats who refuse to file tax returns. New data provided to the Committee by the IRS has identified staggering levels of noncompliance and criminality by high-income non-filers. While I commend the new IRS enforcement initiative focusing on high-income earners and large corporations, I believe resources from the Inflation Reduction Act should also be used to crack down on this particularly brazen form of tax evasion.

As you are aware, under 26 U.S. Code § 7203, the willful failure to file a tax return and pay taxes owed is a federal crime. In response to a request from my staff, on July 21st the IRS provided detailed information on the population of high-income taxpayers for tax years 2017 – 2020 that had not yet satisfied their filing obligations with the IRS. This data revealed that over 1.4 million wealthy tax cheats had still not filed required tax returns for these years and that the total amount of unpaid taxes potentially owed by this population is a whopping \$65.7 billion.¹

Many of these high-income non-filers are repeat offenders. According to IRS data, 10,272 taxpayers still had multiple years of unfiled returns and six figure balances of unpaid taxes going back to 2017 – 2020.² In fact, nearly 1,000 taxpayers making more than \$1 million

¹ *Response to Senate Finance Committee Majority staff inquiry on High Income Non-Filers*, Internal Revenue Service, Jul. 21, 2023, (at pg. 2: “1,465,067 high-income non-filers for tax years 2017-2020 have not yet satisfied their filing obligations with the IRS. The total amount of unpaid taxes potentially owed by this population is \$65.7 billion.”)

² *Id.* at pg. 2: “As of May 2023, there were 10,272 high-income non-filers with at least \$100,000 balance due looking back to tax year 2017, at least one return reporting adjusted gross income (AGI) of \$200,000 or more for Tax Years looking back to 2017, and who had multiple years of unfiled returns between 2015 and 2020. These taxpayers owed \$68,658,459,724 in total unpaid assessments (tax, penalties, and interest) as of May 2023. There

per year have failed to file tax returns over multiple recent years.³ Due to resource constraints and prosecutorial discretion, most of these cases never get referred to the Department of Justice (DOJ) for criminal prosecution. Of these 10, 272 repeat offenders, only 154 have ever been under criminal investigation, and only 31 were in active criminal investigation this year.⁴

Perhaps most alarming was the extraordinary amount of unpaid taxes owed by a small subset of ultra-wealthy non-filers. According to the data, 8,729 high-income non-filers for tax years 2017 – 2020 *each* had potential balance of unpaid taxes in excess of \$500,000.⁵ I also received information related to the top 500 high-income non-filers for each of these years (a total of 2,000 taxpayers total). This group represents a select group of sophisticated individuals earning millions of dollars every year. These taxpayers have access to professional advisors and are well aware of their filing obligations with the IRS. The IRS found that this select group of 2,000 non-filers owed \$923 million.⁶ This subset of taxpayers has almost never been referred to the DOJ for civil or criminal prosecution, or subject to other enforcement actions such as liens and levies. Of this group, only 2 were in active criminal investigation and only 58 have been subjected to liens and levies.⁷

Over the last decade, Congressional Republicans have led the push to cut IRS resources in order to let wealthy tax cheats off the hook—and according to this data they’ve succeeded. Odds are, if you’re a wealthy tax cheat that doesn’t even bother to file a tax return, you’ll get away with it. As Republicans continue to clamor for a highly selective prosecution and the incarceration of Hunter Biden, the evidence shows that thousands of other wealthy scofflaws have managed to avoid prosecution without ever filing tax returns or paying the large sums of back-taxes owed.⁸ What’s more, those same Republicans are insisting on more cuts to IRS enforcement funding, in order to shift more of the burden of tax enforcement from the wealthy and onto working people.

While I appreciate the impact that resource constraints and a significant decline in enforcement personnel have had on the IRS’s ability to pursue non-filers in prior years, more must

were 981 high income non-filers in this population with AGI of at least \$1 million. These taxpayers owed \$34,277,321,852 in total unpaid assessments (tax, penalties, and interest) as of May 2023. There were 58 high income non-filers in this population with AGI of at least \$10 million. These taxpayers owed \$16,685,980,639 in total unpaid assessments (tax, penalties, and interest) as of May 2023.”

³ *Id.* at pg. 2.

⁴ *Id.* at pg. 2: “SB/SE Collection does not record how many cases have been referred to DOJ for criminal prosecution, however, we can report that of the 10,272 taxpayers, 154 were under criminal investigation at one time and 31 were in active criminal investigation as of May 2023.”

⁵ *Id.* at pg. 3: “8,729 high-income non-filers for tax years 2017 – 2020 have a potential balance of unpaid taxes in excess of \$500,000.”

⁶ *Id.* at pg. 3: “The amount of unpaid taxes owed by the top 100 high-income nonfilers for each tax year 2017 – 2020 (2,000 taxpayers) was \$991,124,861 after deducting non-enforcement payments. As noted above, \$67,481,404 has been collected, leaving \$923,643,457 owed.”

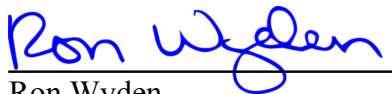
⁷ *Id.* at pg. 3: “SB/SE Collection does not record how many cases have been referred to DOJ for civil or criminal prosecution, however, we can report that of the 2,000 case population, 2 were in active criminal investigation as of May 2023.”; and at pg. 4: “Of the top 500 high-income nonfilers for each tax year 2017-2020 (2,000 cases) the IRS has pursued a levy in 27 cases and a lien in 31 cases.”

⁸ *Tax and Firearm Charges Filed Against Robert Hunter Biden*, U.S. Department of Justice, Jun. 20, 2023 available online at <https://www.justice.gov/usao-de/pr/tax-and-firearm-charges-filed-against-robert-hunter-biden> (Robert Hunter Biden was charged with one count for willful failure to timely file and pay tax under Title 26 USC 7203)

be done to address this egregious level of noncompliance by sophisticated taxpayers who know better. This data makes clear that despite current political narratives peddled by my Republican colleagues, it remains exceedingly rare that wealthy individuals are subject to prosecution for willful failure to file violations, and thousands continue to evade responsibility for failure to file. I urge the IRS to initiate enforcement actions against every single millionaire non-filer as part of its ongoing effort to use Inflation Reduction Act funding to restore fairness in tax compliance. I also urge IRS to utilize the enforcement tools available to it for instances of willful millionaire non-filers, including referrals to DOJ for civil or criminal prosecution, liens and levies.

Thank you for your attention to this important matter and the important work the IRS is doing to ensure compliance with our nation's tax laws. Should you have any questions or would like to discuss these issues, please do not hesitate to reach out to me or my staff.

Sincerely,



Ron Wyden
United States Senator
Chairman, Committee on
Finance