

January 25, 2022

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Commissioner Rettig:

As we enter the tax filing season, it is important that American taxpayers believe that their privacy will be protected by the Internal Revenue Service (IRS), and that all taxpayers will obtain unbiased treatment from the agency. Unfortunately, recent events have called into question assurances of privacy protection and fairness. I write today to express concern about the IRS's ability to process Americans' private information in a secure, neutral, and efficient fashion.

On June 8, 2021, the media outlet ProPublica published an article titled "The Secret IRS Files: Trove of Never-Before-Seen Records Reveal How the Wealthiest Avoid Income Tax."¹ This article, the first in a series of politicized articles identifying individual taxpayers' identities, states that ProPublica has obtained a "vast trove" of IRS data on the returns of thousands of Americans, covering more than 15 years. Such information is legally protected and is supposed to be kept private and confidential by the IRS and the Treasury Department.

These articles, aligning closely with specific partisan objectives and targeting individuals by name, is sadly reminiscent of the IRS's mismanagement and targeting of conservative nonprofit organizations during the Obama Administration. While the inappropriate targeting of applicants for tax-exempt status by IRS employees took place nearly a decade ago, the recent consideration of Christians Engaged's tax-exempt status application has, yet again, called into question the neutral and respectful fashion of IRS reviews.² While the IRS has assured my staff that applications for tax-exempt status are to be reviewed in a neutral fashion, void of politics or an agent's personal beliefs, and with adherence to the law and facts of each application at the forefront, the perceived hostility towards Christians Engaged as they sought tax-exempt status and the continued publication of private taxpayer data has generated concern for the IRS's impartial and secure consideration of taxpayer data.

To date, Congress has not been provided any substantive data regarding the alleged massive leak of taxpayer information to ProPublica. While I understand that investigations into these publications are underway, the responses I have received from this Administration to date, including your agency, are unsatisfactory. Despite ProPublica's consistent claims of having "secret IRS data," the IRS has not been able to determine whether there has been a data breach or even a threat of a data breach. Our tax system of voluntary compliance relies on the American public's confidence in a secure and impartial Internal

¹ "The Secret IRS Files: Trove of Never-Before-Seen Records Reveal How the Wealthiest Avoid Income Tax," ProPublica, June 8, 2021, at <https://www.propublica.org/article/the-secret-irs-files-trove-of-never-before-seen-records-reveal-how-the-wealthiest-avoid-income-tax>.

² See letter to the Honorable J. Russell George, August 16, 2021, at <https://www.lankford.senate.gov/imo/media/doc/Lankford%20Sasse%20TIGTA%20Letter%208.16.2021.pdf>

Revenue Service. Unfortunately, this Administration’s appearance of causal indifference to this issue undermines such confidence and threatens the public’s trust.

I am also concerned about recent findings from the Government Accountability Office (GAO) and Treasury Inspector General for Tax Administration (TIGTA) showing that IT operational challenges and security flaws at the IRS are threatening the agency’s ability to complete its mission, and specifically, could risk unauthorized access to taxpayer information. For example, just recently, in TIGTA’s *Annual Assessment of the IRS’s Information Technology Program for Fiscal Year 2021*,³ TIGTA declared that “Until the IRS takes steps to improve its security program deficiencies and fully implement all security program components in compliance with FISMA requirements, taxpayer data could be vulnerable to inappropriate and undetected use, modification, or disclosure.” This is of great concern.

On top of this, I continue to hear from constituents experiencing refund delays and difficulty contacting the IRS, unable to get issues resolved. It is my understanding that as of December 31, 2021, the IRS had 6 million unprocessed individual returns, and that in some instances it may take 90 to 120 days to issue a refund.⁴ For amended returns, the wait is even longer. I understand the broad impact of COVID-19 on IRS operations, along with the slate of new responsibilities the agency has been tasked with, however, with the start of this year’s filing season on January 24, I am concerned about the difficulties taxpayers will face this tax season.

While Treasury officials, in reference to this tax filing season, warn of “enormous challenges” and a “frustrating season,” it seems clear that this Administration, instead of surveilling bank accounts and boosting audits, should instead prioritize the efficient and secure processing of taxpayer information. It is wildly inappropriate for this Administration to call for extensive financial account reporting requirements and billions in enforcement funds at a time when we do not have assurances that the taxpayer data the IRS already collects is secure or evidence that the IRS can process incoming data efficiently. Instead of sending agents after everyday Americans, improving taxpayer services, safeguarding taxpayer information, and eliminating backlogs should be the priority.

As disclosures, security flaws, and backlogs continue, the secure, neutral, and efficient processing of taxpayer information must be prioritized. As a Member of the Senate Finance Committee, with oversight over the IRS, I ask that you please provide my staff and I continued updates on all of the issues I have outlined above.

Thank you for your attention to these matters.

In God We Trust,



James Lankford
United States Senator

³ “Annual Assessment of the IRS’s Information Technology Program for Fiscal Year 2021,” Treasury Inspector General for Tax Administration, December 14, 2021, at <https://www.treasury.gov/tigta/auditreports/2022reports/202220005fr.pdf>

⁴ “IRS Operations During COVID-19: Mission-critical functions continue,” Internal Revenue Service, updated January 21, 2022, at <https://www.irs.gov/newsroom/irs-operations-during-covid-19-mission-critical-functions-continue>