

Hearing on the 2017 Tax Filing Season

HEARING

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT

OF THE

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES

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Hearing on the 2017 Tax Filing Season

U.S. House of Representatives,
Subcommittee on Oversight,
Committee on Ways and Means,
Washington, D.C

WITNESSES

Kirsten Wielobob

Deputy Commissioner for Services and Enforcement, Internal Revenue Service

Michael McKenney

Deputy Inspector General for Audit, Treasury Inspector General for Tax Administration

Jessica Lucas-Judy

Acting Director, Strategic Issues, Government Accountability Office



WAYS AND MEANS

CHAIRMAN KEVIN BRADY

Chairman Buchanan Announces Hearing on the 2017 Tax Filing Season

House Ways and Means Oversight Subcommittee Chairman Vern Buchanan (R-FL) announced today that the Subcommittee will hold a hearing entitled “Examining the 2017 Tax Filing Season.” The hearing will focus on the efforts made by the Internal Revenue Service to provide services to taxpayers, combat identity theft, and collect taxes in the 2017 tax filing season. **The hearing will take place on Wednesday, April 26, 2017 in 1100 Longworth House Office Building, beginning at 2:00 PM.**

In view of the limited time to hear witnesses, oral testimony at this hearing will be from invited witnesses only. However, any individual or organization may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit written comments for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, <http://waysandmeans.house.gov>, select “Hearings.” Select the hearing for which you would like to make a submission, and click on the link entitled, “Click here to provide a submission for the record.” Once you have followed the online instructions, submit all requested information. ATTACH your submission as a Word document, in compliance with the formatting requirements listed below, **by the close of business on Wednesday, May 10, 2017**. For questions, or if you encounter technical problems, please call (202) 225-3625.

FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission not in compliance with these guidelines will not be

printed, but will be maintained in the Committee files for review and use by the Committee.

All submissions and supplementary materials must be submitted in a single document via email, provided in Word format and must not exceed a total of 10 pages. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears. The name, company, address, telephone, and fax numbers of each witness must be included in the body of the email. Please exclude any personal identifiable information in the attached submission.

Failure to follow the formatting requirements may result in the exclusion of a submission. All submissions for the record are final.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-1721 or 202-226-3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Note: All Committee advisories and news releases are available at <http://www.waysandmeans.house.gov/>

THE 2017 TAX FILING SEASON

Wednesday, April 26, 2017

House of Representatives,

Subcommittee on Oversight,

Committee on Ways and Means,

Washington, D.C.

The Subcommittee met, pursuant to notice, at 2:02 p.m., in Room 1100, Longworth House Office Building, Hon. Vern Buchanan [Chairman of the Subcommittee] presiding.

*Chairman Buchanan. The Subcommittee will come to order. Welcome to the Ways and Means Oversight Subcommittee hearing on examining the 2017 tax filing season.

Every year this Subcommittee holds a hearing on tax filing season. The annual hearing is an opportunity to hear about the progress and challenges the IRS has administering the tax code, and to learn what Congress might be able to do to help.

In our country, we have a voluntary tax system. A key element of voluntary compliance is taxpayers being treated fairly. If taxpayers perceive that others are cheating the system and getting away with it, compliance will decrease.

Just last week, in South Florida, it was announced that three people were indicted for stealing personally-identifying information. They filed over 2,000 fraudulent tax returns and claimed more than \$6.8 million dollars. Thankfully, these fraudsters were caught. The good news is that they are facing serious prison sentences and financial penalties. The bad news is that their fraudulent activity existed for roughly seven years before finally being stopped. We have to do better.

One tax credit that has been particularly prone to fraudulent activities is the Earned Income Tax Credit, often referred to as the EITC. Unfortunately, the IRS estimates that approximately 24 percent of all EITC payments are improper. We are talking about big money here: roughly \$16.8 billion dollars was paid out improperly in the 2016 tax year.

However, it is unclear how much of that 16 billion is fraud, and how much is miscalculation or paperwork errors. Income misreporting is a major cause of improper EITC payments. Although the IRS has implemented some corrective actions to prevent erroneous payments and has had some success, we would like to do better. Stopping \$3.6

billion dollars is good, but allowing the idea that four times that amount goes out the door is not acceptable. Taxpayers deserve better.

False reporting of wages and withholding make up more than \$1.3 billion in potentially undetected fraudulent tax returns. Providing the IRS with wage information faster should allow the agency to verify the W-2 information matches the information filed by the taxpayer. Until this year, the IRS only received a small amount of the wage data prior to refunds being sent out to taxpayers.

The majority of the matching was done in the summer, after the filing season was over. This forced the IRS to pay refunds and then determine whether they were properly being paid.

In December of 2015, in the PATH Act, Congress changed the reporting deadline for employers to submit W-2 information to the Social Security Administration, which is then sent to the IRS. Congress also requires that refunds claiming certain refundable tax credits, like the EITC, would be held until February 15th.

The goal of these two provisions is to allow the wage verification before the refund is issued, and to reduce the pay-and-chase method of fraud detection. The 2017 tax filing season is the first time the IRS will be implementing these provisions. Although it is still a bit early to make any judgements, I am eager to receive an update from our witnesses on the outcome of these changes.

I want to thank the witnesses for being here today, and I look forward to your testimony.

*Chairman Buchanan. I now yield to the distinguished Ranking Member, Mr. Lewis, for the purposes of an opening statement.

*Mr. Lewis. Thank you, Mr. Chairman. Mr. Chairman, I hope that you had a wonderful break. And it is good to see you at this hearing. Thank you again, Mr. Chairman, for holding this hearing on the 2017 tax filing season. I would also like to thank all of the witnesses for being with us today.

First, let me congratulate the Internal Revenue Service on a successful filing season. Through mid-April, agents processed over 115 million tax return, and delivered more than 85 million tax refunds worth \$245 billion. There were no major delays.

Last Congress we provided additional funding for taxpayer service, and the results were very encouraging. The level of service continued to improve, and taxpayers' average waiting time went down to about 7 minutes. This is a good start. With bipartisan support it can be better, much better.

Congress must fully fund the IRS. Despite the success of the filing season, I am concerned that the agency does not have the resources to serve taxpayers. Since 2010

Congress cut the IRS budget by almost \$1 billion. This is not right. It is not fair. As I said in the past, and I will say again, you cannot get blood from a turnip.

For some reason the majority seems to think that outsourcing a core government function helps an underfunded agency. For the record, I want to be crystal clear. In today's world, private debt collection will only make a bad situation much worse. We have been down this road before. It has been tried and tried again. Each and every single time private debt collection fails. It creates confusion and wastes taxpayers' dollars.

More -- most importantly, the program does not help serve the American people. Let me explain how things have changed since Congress last repealed this program. In the fall of 2013, the Treasury Inspector General for Tax Administration began investigating a new way of scams. Nearly 2 million victims received telephone calls from people pretending to be IRS or Department of Treasury employees. Some of us, even Members of this very Committee, received calls from these criminals.

If these people are calling Members of the Committee, Members of the Subcommittee of the Ways and Means Committee, Members of the full committee of the Ways and Means Committee, what are they doing to other people? The thieves demand money, they claim that the victim owes unpaid taxes. To date these criminals have swindled taxpayers out of more than \$55 million.

Before the return of the private debt collectors, our best defense for taxpayers was a simple and clear message: the agency will never call you. Now there is confusion. The new message is that the IRS will not call you, but a private debt collector might. It makes absolutely no sense.

Mr. Chairman, today I am introducing the Taxpayer Protection Act. It will repeal this terrible program, and I hope all of my friends on both sides of the aisle will support this common-sense bill.

This afternoon the Administration released its principles for tax reform (sic). I must express my concern about beginning tax reform when the public has no idea how the proposal will personally benefit the first family (sic).

On April 15th, thousands of Americans took to the streets and demanded transparency, truth, and accountability. They know there is no provision in the Internal Revenue Code that prevents the President from releasing his tax return. Failure to meet this standard presents a dangerous and slippery slope for policy makers. The American people expect and deserve better.

Again, thank you, Mr. Chairman, for holding today's hearing. I look forward to hearing from all of the witnesses.

And again I want to thank each and every one of you for being here. I yield back.

*Chairman Buchanan. Thank you, Mr. Lewis.

Without objection, other Members' opening statements will be made part of the record.

Today's witness panel includes three experts: Kirsten Wielobob, Deputy Commissioner, Office for Services and Enforcement, Internal Revenue Service; Michael McKenney, Deputy Inspector General for Audit, Treasury Inspector General for Tax Administration; and Jessica Lucas-Judy, Acting Director for Strategic Issues, Government Accountability Office.

The Subcommittee has received your written statements, and they will all be part of the formal hearing record. You each have five minutes to deliver your oral remarks. We will begin with Ms. Wielobob.

You may go when you are ready.

STATEMENT OF KIRSTEN WIELOBOB, DEPUTY COMMISSIONER FOR SERVICES AND ENFORCEMENT, INTERNAL REVENUE SERVICE

*Ms. Wielobob. Chairman Buchanan, Ranking Member Lewis, and Members of the Subcommittee, I am the new deputy commissioner for services and enforcement at the IRS, having been appointed to this position just over a month ago. I am here today to update you on the 2017 tax filing season.

Through April 21st, the IRS received more than 135 million individual returns. We issued over 97 million refunds for more than \$268 billion in total, with an average amount of \$2,763. While the public's filing season concluded on April 18th, the IRS's filing season continues until we have processed all returns, deposited payments, and sent appropriate refunds.

Filing season 2017 had many achievements. Focusing on 3 areas, we implemented changes and acted under the PATH Act of 2015. We improved taxpayer assistance, and we continue to work to protect taxpayer information against identity theft.

With respect to the PATH Act, IRS was required to hold tax refunds until February 15th if taxpayers claimed the Earned Income Credit or the Additional Child Tax Credit. Not unexpectedly, this change slowed the overall pace of refunds early in this filing season. The pace accelerated after February 15th, when we released more than \$50 billion in EITC and ACTC refunds.

The PATH Act also accelerated the filing date of Forms W-2. These changes, together, helped the IRS improve our ability to spot incorrect or fraudulent returns, as well as to better identify valid returns.

With a year between the passage of the PATH Act and the effective date of the provisions, we had time to work internally and externally to communicate, work with partners, and set expectations about W-2 and refund timing. This was helpful to the taxpaying public, businesses, and the IRS.

With respect to taxpayer assistance, we are improving across all service channels. We understand we need to be available to taxpayers, no matter how they prefer to get information and communicate with us. We improved our level of service on our toll-free telephone lines again this year, as we did in 2016, and anticipate that the average level of service for the full filing season will be about 75 percent.

This improved level of service results from several factors related to Congress. First, the additional funding we received to improve taxpayer service. Second, there was no late-breaking legislation in calendar year 2016. And, third, we had ample lead time to implement PATH Act changes.

The additional funding directly improved phone service and freed resources to reduce our correspondence inventory. In our experience, over-aged correspondence correlates to increased phone demand, as taxpayers call regarding the status of letters they have sent in.

We continue to experience strong demand for our online services. Taxpayers visited our website, IRS.gov, more than 500 million times last year, and more than 320 million times so far this year. The popular electronic tracking tool, "Where's My Refund," was used about 300 million times last year, and more than 246 million times this year.

Service at our taxpayer assistance centers also improved. During recent filing seasons, many TACs saw such heavy demand that taxpayers were lining up for hours before the centers opened. In 2015 we tested the idea of letting people make appointments. This worked so well that we extended the appointment process to all TACs this filing season. We had no reports of long lines, we were able to help taxpayers more effectively, and we still managed to serve many thousands who visited us without an appointment.

With respect to identity theft refund fraud, we continue to make steady progress, which has been advanced since 2015, due to the collaboration with states and industry that we call the security summit. This year the number of people who reported to us that they were victims of identity theft dropped 46 percent. Even with this progress, the fraud filters in our system are still catching a large number of false returns.

Last year our system stopped more than \$6.5 billion in fraudulent refunds on 969,000 returns filed by identity thieves. Identity theft is still a major threat to tax administration, and we will continue fighting to protect taxpayers and secure taxpayer information.

Looking forward, we recognize that tax reform and other tax legislation may be on our horizon. The IRS doesn't take a position on policy questions. Our job is to implement the laws that Congress passes. We do hope to offer our perspective on the administrability of any legislation, however, which helps insure that your goals are reached effectively and efficiently for taxpayers and the tax system, as a whole. Building on the successful implementation of the PATH Act, we also hope that Congress will once again include lead time so we can prepare taxpayers, practitioners, and our own systems for the changes.

Chairman Buchanan, Ranking Member Lewis, and Members of the Subcommittee,
that concludes my statement.

**WRITTEN TESTIMONY OF
KIRSTEN B. WIELOBOB
DEPUTY COMMISSIONER FOR SERVICES & ENFORCEMENT
INTERNAL REVENUE SERVICE
BEFORE THE
HOUSE WAYS AND MEANS COMMITTEE
SUBCOMMITTEE ON OVERSIGHT
ON THE 2017 FILING SEASON
APRIL 26, 2017**

Chairman Buchanan, Ranking Member Lewis, and Members of the Subcommittee, I am the Deputy Commissioner for Services and Enforcement at the IRS and am here today to provide you with the IRS's annual update on the 2017 tax filing season.

UPDATE ON THE 2017 FILING SEASON

The summary is that the 2017 tax filing season has gone well. The Commissioner has stated that it was the smoothest filing season of his tenure. As of April 14 the IRS received more than 118.4 million individual returns. We issued over 87 million refunds for more than \$246 billion, with an average refund of approximately \$2,800.

The smooth operation of the filing season is not automatic or accidental; it has been made possible because of the hard work and dedication of the IRS workforce. Thousands of employees spend months planning and then administering it effectively. In fact, we are already working on delivering the 2018 filing season.

We have had many notable achievements for 2017. We implemented changes enacted in 2015 under the Protecting Americans from Tax Hikes (PATH) Act, we improved taxpayer assistance, and we continued increasing our efforts to protect taxpayer information.

The PATH Act helps us protect taxpayers and revenue in three particular areas. One of those provisions requires the IRS to wait to pay refunds to taxpayers who claimed either the Earned Income Tax Credit (EITC) or the Additional Child Tax Credit (ACTC) until February 15. Although this change slowed the overall pace of refunds at the beginning of the filing season, that pace accelerated once the IRS released approximately \$51 billion in EITC and ACTC refunds after February 15.

The refund delay and a second PATH Act change – to accelerate the filing date of Form W-2s – together helped the IRS improve our ability to spot incorrect or

fraudulent returns. Receiving W-2s earlier also assisted us in releasing legitimate refunds to taxpayers more quickly when returns were stopped by our filters. When we can verify the compliant taxpayer's identity, we can reduce the delay in sending that refund.

A third PATH Act provision requires Individual Taxpayer Identification Numbers (ITINs) to expire if they were issued before 2013 or if they were not used on a federal tax return for three consecutive years. This change was designed to increase the IRS's ability to detect and stop potential tax fraud.

The IRS implemented these changes well, in part because Congress set the effective date for these changes about a year after enactment, which gave the IRS sufficient lead time to get our systems ready and also to prepare taxpayers and tax practitioners for the changes. Further, the lead time meant we could work extensively with many partner groups across the country and use various outreach and communications channels – including press releases, social media, speeches, and the annual IRS Nationwide Tax Forums – to get the word out so people would understand what the changes would mean for them. This reduced the need for taxpayers to call or write us with questions.

TAXPAYER ASSISTANCE EFFORTS

In addition to processing returns and issuing refunds during filing season, the IRS uses various channels to assist taxpayers in fulfilling their tax obligations as quickly and easily as possible. While our research shows that taxpayers prefer more and more to interact with the IRS through digital channels, we continue to offer and improve services to taxpayers through our more traditional channels as well.

With respect to digital services, we understand that taxpayers want digital services similar to those offered by their financial institutions. We have been working to improve and expand our online offerings as a result. We provide a wealth of tax information on IRS.gov, which was visited more than 500 million times during Fiscal Year (FY) 2016 and more than 336 million times so far in FY 2017. 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 was used about 300 million times in FY 2016 and more than 233 million times already this filing season.

We also understand that (as above) we need to continually improve the online content we offer. Over the last few years, we have updated many of the most-often-used sections of IRS.gov. We have also launched a number of digital applications to improve taxpayers' interactions with the IRS. These include:

- Get Transcript, which allows taxpayers to go online, verify their identity with strengthened security, and download a copy of their tax records from prior years. Taxpayers have used this tool 8.3 million times so far in FY 2017;
- Online Payment Agreement, which is a secure, safe, and easy process for taxpayers to set up a payment plan and pay their tax obligations over time. More than 294,000 online agreements have been set up so far in FY 2017; and
- Direct Pay, which is a secure, free, quick, and easy online option for making tax payments. Taxpayers have used this tool more than 4.6 million times in FY 2017.

In November 2016, we took the first step toward a fully functional online account by launching an application on IRS.gov that can answer straightforward balance inquiries. This new feature allows taxpayers to view their IRS account balance, including the amount they owe for tax, penalties, and interest, in a secure, easy, and convenient way. Since its launch, taxpayers have used this tool successfully about 611,000 times.

We recently added another feature that will let taxpayers see payments posted to their accounts. These balance due and recent payment features, when paired with existing online payment options, enhance the self-service options for interacting with the IRS.

Over time and subject to the availability of resources, we will be adding other features to this platform as we develop and test them with taxpayers and tax professionals. We are currently testing Taxpayer Digital Communications, which will provide a secure online messaging capability so that taxpayers, their authorized representatives, and IRS employees can correspond electronically and resolve issues more quickly than through traditional mail while maintaining security.

We also continue to understand that we must serve the needs of all taxpayers, whatever their preferred method of communication. We recognize that some taxpayers may not have access to the digital economy or may prefer to conduct their transactions with the IRS in more traditional ways. As a result, the IRS remains committed to providing the services these taxpayers need through our other channels – by phone, through correspondence, and in person.

During the 2017 filing season, the level of service (LOS) on our toll-free lines improved compared to 2016, as 2016 did from 2015. Our average phone LOS for the 2017 filing season has consistently averaged above 76 percent. We believe these results are attributable largely to three factors: the additional funding Congress provided to improve taxpayer service; the relatively small number of tax law changes in 2016, which reduced the number of taxpayers calling with questions; and, as noted above, adequate time for the IRS to prepare

taxpayers and practitioners for the PATH Act changes, which again we believe reduced the number of taxpayers calling with questions.

We also substantially reduced our correspondence inventory compared to prior years. In 2014 and 2015, this inventory grew well above normal levels because our constrained funding forced us to shorten how long we could employ our seasonal employees who help answer taxpayer correspondence. To illustrate, inventory of pending correspondence stood at 900,000 at the end of FY 2014 and 859,000 at the end of FY 2015. It now stands around 742,000. The connection between correspondence and phones is well known at IRS. When taxpayers do not receive responses to letters, they call; when they are not able to talk with a telephone assistor, they write.

With respect to in-person assistance, the IRS has improved service in our Taxpayer Assistance Centers (TACs) located around the country. In recent years, many TACs experienced such heavy demand during the filing season that taxpayers lined up for hours, sometimes as early as 5 a.m., before the center opened, just to ensure they would get in the door. In some instances, we had to close our doors at 9 a.m. just to be able to serve those who had already come in to the TAC. To address those difficulties, the IRS began testing a new way of doing business in 2015. We began letting people make appointments in advance, which is a process that had already been used successfully in other countries.

The 2015 pilot was so successful that, with some adjustments, we moved to extend the appointment process to all TACs as of this year. Bearing out the results of the pilot, the appointment process has cut wait times dramatically for taxpayers seeking assistance at TACs across the country and we have had no reports of long lines this filing season.

We have also found that this arrangement provides advantages beyond decreased wait times. First, when a taxpayer calls for an appointment, our assistor can tell her what documents she needs to bring for the visit, reducing the need for return trips. Second, the IRS employee making the appointment can often help the taxpayer resolve her issue over the phone or refer her to other resources for help, possibly eliminating altogether the need to visit a TAC. In fact, we have found that about 56 percent of the taxpayers calling for an appointment are able to resolve their issues during those initial phone contacts. This fiscal year, more than 1.8 million people called for an appointment. About 1.0 million no longer needed an appointment following the call. This saves taxpayers time and money and reduces their frustration while resolving their cases earlier. Further, TAC employees can redirect their time to those who do make an appointment and visit, as they tend to have more complex issues that cannot be readily resolved over the phone.

In implementing the appointment process, we realized that it would take time for people to adjust. This fiscal year through April 8, we also served over 222,000 people who walked in without an appointment and another 627,000 people who did not need an appointment, whether it was for customer service, to pick up a tax form, to pay a tax bill, or some other need. That brings the total number served in person in FY 2017 to approximately 1.7 million.

I would note that we accomplished this successful filing season while using antiquated IT systems, as approximately 60 percent of the IRS's hardware and 28 percent of its software are out-of-date and in need of an upgrade, and with little or no dedicated funding to implement several pieces of legislation. This list includes: the Affordable Care Act (ACA); the Foreign Account Tax Compliance Act (FATCA); a new certification program for professional employer organizations; reauthorization of the Health Coverage Tax Credit (HCTC); the registration requirement for newly created 501(c)(4) organizations; and the 2015 PATH Act changes noted above.

SAFEGUARDING IRS SYSTEMS AND TAXPAYER DATA

Throughout the filing season, as well as the rest of the year, we safeguard IRS systems to protect taxpayer information and prevent stolen identity refund fraud. Our core tax processing systems remain secure through a combination of cyber defenses as we currently withstand more than one million malicious attempts to access our systems every day.

The IRS also continues to battle stolen identity refund fraud. Over the last several years, we have made steady progress, even with reduced resources, in protecting against fraudulent refund claims, prosecuting those who engage in this crime, and helping minimize the adverse effect on those who are victimized.

That progress has accelerated since 2015 thanks to the collaborative efforts of the Security Summit. Over the past two years, this strong, unique partnership between the public and private sectors has allowed us to coordinate our efforts on many different levels. As a result, we put in place many new and productive safeguards beginning in the 2016 filing season. The number of people reporting to the IRS that they were victims of identity theft declined from 698,700 in Calendar Year (CY) 2015 to 376,500 in CY 2016 – a 46 percent drop.

Even with this progress, the fraud filters in our processing systems are still catching a large number of false returns, which shows that identity theft continues to be a major threat to tax administration. During FY 2016, our systems stopped more than \$6.5 billion in fraudulent refunds on 969,000 tax returns confirmed to have been filed by identity thieves.

Along with the work being done through the Security Summit, another critical factor in our ability to improve efforts against stolen identity refund fraud has

been the development and phase-in of the Return Review Program (RRP). The RRP delivers an integrated and unified system that enhances IRS capabilities to detect, resolve, and prevent criminal and civil tax noncompliance.

During the 2017 filing season, we have used RRP to improve our anomaly detection for both paper and electronic tax returns and to strengthen our anti-fraud filters to block false returns before a refund can be issued. This year through March 22, the RRP has selected approximately 631,000 potentially fraudulent tax returns claiming approximately \$4.7 billion in refunds. We have developed RRP to identify our fraud cases that were previously identified by our legacy system, the Electronic Fraud Detection System (EFDS).

Despite all the progress we have made, we realize we cannot relax in the fight against identity theft. We are finding that, as the IRS improves monitoring capabilities and shuts off certain avenues for criminal activity, identity thieves look for new ways to commit these crimes. As the IRS enhances return processing filters and catches more fraudulent returns at the time of filing, criminals attempt to become more sophisticated at mimicking taxpayers' identities so they can evade those filters and successfully obtain fraudulent refunds.

Therefore, the IRS is working not just to react better and faster, but also to stay ahead of the criminals.

In that regard, in 2016, the Security Summit began a stronger collaboration with the tax practitioner community. Working with our Summit partners, the IRS has alerted tax practitioners to various identity-theft schemes focused on preparers that have come to light over the past year.

Additionally, the IRS, in conjunction with the states and the tax community, has been conducting a public awareness campaign aimed at return preparers called "Protect Your Clients, Protect Yourself." The goal of this campaign is to get the word out to preparers about steps they can take to safeguard taxpayer data and avoid becoming victims of identity theft. We continue to educate and share similar information with individual taxpayers through the "Taxes Security Together" campaign, which is now in its second year.

Along with these initiatives, we have also undertaken a broader effort to protect the security of data and strengthen authentication standards for programs where we share taxpayer information.

One example of this effort was our decision last year to eliminate the electronic filing Personal Identification Number (PIN) as an option for taxpayers to use to verify their identity when filing their tax return. An electronic tool on IRS.gov allowed taxpayers to enter identifying information to receive the e-file PIN. We discovered that criminals had attempted to obtain PINs using data stolen from

sources outside the IRS, so we stopped using the PIN. Although no personal taxpayer data was compromised or disclosed by IRS systems and no fraudulent refunds were issued, we chose to discontinue the PIN to protect taxpayers and their data.

Our efforts to strengthen authentication standards also extend to programs where taxpayer data is shared routinely with organizations that use it to verify customer eligibility for loans. The Income Verification Express Service (IVES) has been a successful program for the government and the private sector since 2006. It allows lenders to verify income information systemically for customers applying for loans rather than each customer submitting a request to IRS for income verification information. In June 2016, we announced new, stronger requirements for IVES program participants to ensure those companies know their customers. Now, the IRS accepts data requests only from companies that are pre-screened and certify client verification.

Student financial aid is another area where we are working to stop illegal attempts to obtain taxpayer information. We are working with the Department of Education to secure the online process through which student financial aid applicants obtain their family's financial information, which they need in order to complete the Free Application for Federal Student Aid (FAFSA) or apply for an income-driven repayment (IDR) plan for their student loans.

As part of this effort, in early March we disabled our IRS Data Retrieval Tool (DRT), which is accessible from the fafsa.gov website, after we became concerned about criminals masquerading as students and misusing tax data. Our information technology, cybersecurity, and privacy experts spent the next three weeks working with their Federal Student Aid (FSA) counterparts to find a way to secure the data provided to financial aid applicants.

In the process of considering potential short-term technical solutions, we realized that none of them could ensure the protection of student aid applicants' financial information from being stolen and used to file fraudulent tax returns. With that in mind, we chose to mitigate potential risks to taxpayers and their data by taking down the DRT. We announced a few weeks ago that we will not be able to activate the DRT until longer-term system modifications are implemented, which, unfortunately, we anticipate will not happen until at least the start of the next financial aid season in the fall of 2017.

We recognize that this may be inconvenient for applicants and their families, but we have a responsibility to ensure that all of our online tools are secure, and tax return information is protected from identity thieves. However, it is important to note that, while it is less convenient, families can still complete applications for student financial aid by obtaining the financial information from copies of their tax returns. If they do not have their returns, they can obtain copies either online

through our Get Transcript application, by mail, or from their tax return preparer if they authorize one. Families can find additional guidance at studentaid.ed.gov

LOOKING AHEAD

We recognize that tax reform and other tax legislation may be on our horizon. We at IRS do not have a role in the policy choices Congress and the Administration make. Our job is to implement and administer the law. With that in mind, we hope to offer our perspective on the administrability of any legislation to ensure that your goals are reached efficiently and effectively for taxpayers and the tax system as a whole.

We also encourage Congress to carefully consider the impact of the timing of tax law changes. In our experience, implementation is smoother and less costly from both the government's and taxpayers' perspectives if IRS has sufficient lead time to prepare both taxpayers and our own systems for changes as happened with the PATH Act.

Chairman Buchanan, Ranking Member Lewis, and Members of the Subcommittee, this concludes my statement. I would be glad to take your questions.

*Chairman Buchanan. Thank you.

Mr. McKenney, you are up next.

STATEMENT OF MICHAEL MCKENNEY, DEPUTY INSPECTOR GENERAL FOR
AUDIT, TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

*Mr. McKenney. Chairman Buchanan, Ranking Member Lewis, and Members of the Subcommittee, thank you for the opportunity to discuss the 2017 filing season and efforts to combat identity theft.

One of the continuing challenges the IRS faces each year in processing tax returns is the implementation of tax law changes. For the 2017 filing season, tax law changes include those provisions of the PATH Act specifically intended to reduce fraudulent and improper refundable credit claims.

To date, our work has found that the IRS has held refunds, as required, for returns with an EITC or Additional Child Tax Credit claim, and has released those returns, as required, if they were not identified for additional review. We are evaluating the IRS's implementation of key provisions of the PATH Act, and plan to issue our final report later this calendar year.

The IRS is continuing its trend of increasing dependence on technology-based services, such as IRS.gov and other online tools to assist taxpayers. As of April 8th, the IRS reports 276 million visits to the IRS.gov during this filing season. However, with the availability of online tools comes the risk of unauthorized access.

For example, in March 2017 the IRS de-activated the online data retrieval tool, which is used by students and parents to obtain information needed to complete the free application for federal student aid, due to a likely breach of sensitive taxpayer data. Effective authentication of individual identities is critical to maintaining taxpayer confidence that their personal information is safe with the IRS.

For its toll-free assistance lines, the IRS reports that, as of April 8, 2017, 16 million calls have been answered with automation, and telephone assisters had answered nearly 8.4 million calls and provided a 78.6 percent level of service. The IRS plans to assist approximately 3.4 million taxpayers in person at its taxpayer assistance centers this fiscal year: 23.6 percent decrease from the prior year. Although the IRS reports that it has 376 taxpayer assistance centers for this filing season, 24 are not open because they have not been staffed.

The IRS continues to devote significant resources to stopping tax fraud from identity theft and assisting victims. Our ongoing work shows that the IRS is making progress in this area. In February 2017 we reported that the IRS efforts are resulting in improved detection of fraudulent tax returns from identity theft before the refunds are released.

For the 2007 (sic) filing season, the IRS is using 197 identity theft filters to identify potentially fraudulent individual tax returns, and prevent the issuance of fraudulent tax refunds.

TIGTA has reported previously that the IRS does not always effectively provide assistance to victims of identity theft. To better assist victims, the IRS created a centralized unit in July 2015 to combine the identity theft work and multiple functions into 1 directorate. Since this action was taken, there have been improvements in case closure timeframes, and a reduction in case-closing errors.

To help protect identify theft victims and improve authentication, the IRS began issuing unique identification numbers to eligible taxpayers in fiscal year 2011. However, TIGTA has reported that taxpayer accounts were not always consistently updated to ensure that these numbers were generated for taxpayers, as required. This results in the need to use additional resources to review future tax returns received using victims' identities.

Tax scams are constantly evolving, which will require the IRS to continually adapt its detection and prevention processes. In addition to identity theft, the telephone impersonation scam remains on the IRS's list of the top dirty dozen tax scams.

Since the fall of 2013, more than 1.9 million intended victims have received unsolicited telephone calls from individuals falsely claiming to be either the IRS or Department of Treasury employees. The callers demand money under the pretense that the victim owes unpaid taxes. To date, over 10,300 victims have purportedly paid more than \$55 million to these criminals. TIGTA has made several arrests in connection with the scam, and has numerous investigations underway.

TIGTA has continuing audit and investigative work in the areas I have just discussed, and we will keep the committee updated on the results.

Chairman Buchanan, Ranking Member Lewis, and Members of the Subcommittee, thank you for the opportunity to share my views.

**HEARING BEFORE THE
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON OVERSIGHT
U.S. HOUSE OF REPRESENTATIVES**

“The 2017 Tax Filing Season”



**Testimony of
Michael E. McKenney
Deputy Inspector General for Audit
Treasury Inspector General for Tax Administration**

April 26, 2017

Washington, D.C.

TESTIMONY
OF
MICHAEL E. MCKENNEY
DEPUTY INSPECTOR GENERAL FOR AUDIT
TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION
before the
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON OVERSIGHT
U.S. HOUSE OF REPRESENTATIVES

“The 2017 Tax Filing Season”
April 26, 2017

Chairman Buchanan, Ranking Member Lewis, and Members of the Subcommittee, thank you for the opportunity to provide a status report on the 2017 Filing Season¹ as well as on identity theft and its impact on the Internal Revenue Service (IRS) and taxpayers.

The Treasury Inspector General for Tax Administration (TIGTA) was created by Congress in 1998 and is mandated to ensure integrity in America’s tax system. It provides independent audit and investigative services to improve the economy, efficiency, and effectiveness of IRS operations. TIGTA’s oversight activities are designed to identify high-risk systemic inefficiencies in IRS operations and to investigate exploited weaknesses in tax administration. TIGTA plays the key role of ensuring that the approximately 83,000 IRS employees² who collected more than \$3.3 trillion in tax revenue, processed more than 244 million tax returns, and issued more than \$400 billion in tax refunds during Fiscal Year (FY) 2016,³ have done so in an effective and efficient manner while minimizing the risk of waste, fraud, and abuse.

TIGTA’s Office of Audit reviews all aspects of Federal tax administration and provides recommendations to improve IRS systems and operations; ensure the fair and equitable treatment of taxpayers; and detect and prevent waste, fraud, and abuse in tax administration. The Office of Audit places an emphasis on statutory coverage required

¹ The period from January 1 through mid-April when most individual income tax returns are filed.

² Total IRS staffing as of January 7, 2017. Included in the total are approximately 16,200 seasonal and part-time employees.

³ IRS, *Management’s Discussion & Analysis, Fiscal Year 2016*.

by the IRS Restructuring and Reform Act of 1998 (RRA 98)⁴ and other laws, as well as on areas of concern raised by Congress, the Secretary of the Treasury, the Commissioner of Internal Revenue, and other key stakeholders.

In this section of my testimony, I will briefly discuss the status of the 2017 tax return Filing Season and the IRS's progress in detecting and resolving identity-theft issues, including providing assistance to those who are victims of identity theft.

STATUS OF THE 2017 FILING SEASON

The annual tax return filing season is a critical time for the IRS, as this is when most individuals file their income tax returns and contact the IRS if they have questions about specific tax laws or filing procedures. During Calendar Year (CY) 2017, the IRS expects to receive approximately 152 million individual income tax returns (approximately 17 million paper-filed and 134.3 million electronically filed (e-filed)). The IRS plans to process individual income tax returns at five Wage and Investment Division Submission Processing sites⁵ during the 2017 Filing Season. In addition, the IRS expects to provide assistance to millions of taxpayers via telephone, e-mail, website, social media, and face-to-face assistance. The IRS began accepting and processing individual tax returns on January 23, 2017, as scheduled. As of April 7, 2017, the IRS received approximately 103.6 million tax returns – 95.5 million (92.1 percent) were electronically filed (e-filed) and 8.2 million (7.9 percent) were filed on paper. The IRS has issued 80.3 million refunds totaling more than \$228.9 billion.

One of the continuing challenges the IRS faces each year in processing tax returns is the implementation of new tax law changes and of changes resulting from expired tax provisions. Before the filing season begins, the IRS must identify the tax law and administrative changes affecting the upcoming filing season. Once it has identified these, the IRS must revise the various affected tax forms, instructions, and publications. It also must reprogram its computer systems to ensure that tax returns are accurately processed based on changes in the tax law. Errors in the IRS's tax return processing systems may delay tax refunds, affect the accuracy of taxpayer accounts, or result in incorrect taxpayer notices.

⁴ Pub. L. No. 105-206, 112 Stat. 685 (1998) (codified as amended in scattered sections of 2 U.S.C., 5 U.S.C. app., 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., and 49 U.S.C.).

⁵ IRS Submission Processing sites in Fresno, California; Kansas City, Missouri; and Austin, Texas, will process paper-filed and e-filed tax returns. Sites in Andover, Massachusetts, and Philadelphia, Pennsylvania, will process only e-filed tax returns.

For the 2017 Filing Season, tax law changes include the continued implementation of the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010⁶ (collectively referred to as the Affordable Care Act or ACA), and those provisions of the Protecting Americans from Tax Hikes Act of 2015 (PATH Act)⁷ specifically intended to reduce fraudulent and improper refundable credit claims. The PATH Act modifies the filing dates for income and withholding documents to January 31st⁸ and includes a number of provisions referred to as “program integrity provisions” that were intended to reduce fraudulent and improper payments for the Earned Income Tax Credit (EITC),⁹ Child Tax Credit (CTC),¹⁰ Additional Child Tax Credit (ACTC),¹¹ and American Opportunity Tax Credit (AOTC).¹²

For example, the law mandates that no refund based on claims for the EITC or the ACTC may be made to a taxpayer before February 15th, which will provide the IRS with additional time to review refund claims based on the EITC and ACTC at the time tax returns are processed, to validate income reported in support of the amount claimed. In addition, the PATH Act includes provisions to prevent EITC, CTC, ACTC, and AOTC claims by individuals filing tax returns for years prior to when a Taxpayer Identification Number was issued. The majority of the program integrity provisions were effective January 1, 2016, and affect the processing of Tax Year (TY) 2016 returns.

TIGTA is in the process of evaluating the IRS’s actions to implement key provisions of the PATH Act and plans to issue our final report later this calendar year. To date, our work has found that the IRS has held refunds as required for returns with an EITC or ACTC claim and has released those returns as required if they were not identified for additional review. In addition, IRS management informed us that all EITC and ACTC claims will be verified against Forms W-2, *Wage and Tax Statement*, data to identify claims that have unsupported income. Those that are identified as potentially

⁶ Pub. L. No. 111-148, 124 Stat. 119 (2010) (codified as amended in scattered sections of the U.S. Code), as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029.

⁷ Consolidated Appropriations Act of 2016, Pub. L. No. 114-113, Div. Q, (2015).

⁸ Previously, employers who filed paper Forms W-2 were not required to file these forms until February of each year. Employers who e-file Forms W-2 had until the end of March each year to file.

⁹ The EITC is used to offset the impact of Social Security taxes on low-income families and to encourage them to seek employment.

¹⁰ A tax credit for families with dependent children that is used to reduce the individual income tax burden for families, better recognize the financial responsibilities of raising dependent children, and promote family values.

¹¹ The ACTC (the refundable portion of the Child Tax Credit) is used to adjust the individual income tax structure to reflect a family’s reduced ability to pay taxes as family size increases.

¹² A partially refundable Federal tax credit used to help parents and college students offset the costs of college.

fraudulent will be addressed as part of the IRS's fraud prevention programs. The remaining returns with an income discrepancy will be addressed as part of the IRS's overall Questionable Refund Program.¹³ In September 2014, TIGTA identified 677,000 TY 2012 tax returns for which third-party Forms W-2 were not sent to the IRS by the employer for either the taxpayer and/or spouse listed on the tax return. These tax returns claimed EITCs totaling more than \$1.7 billion.

In response to the January 20, 2017, Affordable Care Act Executive Order directing Federal agencies to exercise authority and discretion available to them to reduce potential burden on taxpayers, the IRS changed its processes and procedures on February 3, 2017. These changes will now allow electronic and paper-filed tax returns to be accepted for processing in instances in which taxpayers do not indicate their health care coverage status. At the start of the filing season, processes and procedures were developed to reject e-filed tax returns from taxpayers that did not report full-year insurance coverage, claim an exemption from coverage or self-report a Shared Responsibility Payment (SRP).¹⁴ For those taxpayers that filed a paper tax return, the IRS would hold their tax return and correspond with the taxpayer. If the taxpayer did not respond or provide adequate documentation, the IRS would assess the SRP.

As of April 13, 2017, the IRS processed 3.9 million tax returns that reported nearly \$18.5 billion in the Premium Tax Credits¹⁵ that were either received in advance, or claimed at the time of filing. As of April 6, 2017, approximately 2.9 million taxpayers reported a SRP for a decrease of 30.2 percent from the prior year. However, the amount of SRPs reported increased 12.5 percent over the prior year to more than \$1.9 billion. It should be noted that, by statute, the amount of the SRP increases each year.¹⁶

¹³ The Questionable Refund Program is a nationwide multifunctional program designed to identify fraudulent returns, to stop the payment of fraudulent refunds, and to refer identified fraudulent refund schemes to Criminal Investigation field offices.

¹⁴ A payment based on each month that individuals or their dependents are without Minimum Essential Coverage and do not qualify for an exemption.

¹⁵ A refundable tax credit to assist individuals and families in purchasing health insurance coverage through an Affordable Insurance Exchange.

¹⁶ The maximum Shared Responsibility Payment increased significantly from TY 2015 to TY 2016 and will continue to increase as the payment is indexed for inflation. For example, the family maximum increased from \$975 in TY 2015 to \$2,085 in TY 2016.

INCREASED DEPENDENCE ON TECHNOLOGY-BASED ASSISTANCE SERVICES

As they have in past filing seasons, taxpayers have multiple options to choose from when they need assistance from the IRS, including assistance through the toll-free telephone lines,¹⁷ face-to-face assistance at the Taxpayer Assistance Centers (TAC) or Volunteer Program sites, and self-assistance through IRS.gov and various other social media channels (e.g., Twitter, Facebook, and YouTube). The IRS is continuing its trend to depend more on technology-based services and external partners by directing taxpayers to the most cost-effective IRS or partner channel available to provide the needed service. The IRS notes that this approach allows it to focus limited toll-free and walk-in resources on customer issues that can be best resolved with person-to-person interaction. By using this approach, the IRS believes that it is able to improve its service to taxpayers by addressing and resolving more complex matters, such as assistance to identity theft victims and people with tax account issues.

The most notable self-assistance option is the IRS's public Internet site, IRS.gov. The IRS has been actively steering taxpayers to its website as the best source for answers to their tax questions. The IRS reports 276.1 million visits to IRS.gov this filing season as of April 8, 2017. Taxpayers can also interact with the IRS using IRS2Go, which is a mobile application that lets taxpayers access information and a limited number of IRS online tools. As of April 14, 2017, the IRS reports that the IRS2Go mobile application had 4.5 million active users. In addition, the IRS uses various forms of social media including YouTube, Twitter, Tumblr, and Facebook. As of April 14, 2017, there have been 1,152,040 new views of IRS YouTube videos and a total of 160,621 Twitter followers.

However, as we have reported, the risk of unauthorized access to tax accounts increases as the IRS expands its focus on delivering online tools. The increasing number of data breaches in the private and public sectors means more personal information than ever before is available to unscrupulous individuals. Many of these data are detailed enough to enable circumvention of most authentication processes. For example, in March 2017, the IRS announced that it was deactivating its online Data Retrieval Tool due to privacy concerns and to protect sensitive taxpayer data. The IRS Data Retrieval Tool allows students and parents to access their adjusted gross income (AGI) information from the IRS to complete the Free Application for Federal Student Aid (FAFSA) by transferring the data directly into their FAFSA application form from the IRS

¹⁷ The IRS refers to the suite of 29 telephone lines to which taxpayers can make calls as "Customer Account Services Toll-Free."

web site. Identity thieves may have used personal information of individuals which they obtained outside the tax system to start the FAFSA application process form in an attempt to secure the AGI tax information through the Data Retrieval Tool. TIGTA is conducting a joint investigation of this exploitation with IRS Criminal Investigation and the Department of Education Inspector General. In addition, TIGTA is planning to initiate an audit to review this issue.

It is critical that the methods the IRS uses to authenticate individuals' identities provide a high level of confidence that tax information and services are provided only to individuals who are entitled to receive them. The IRS's goal is to eventually provide taxpayers with dynamic online account access that includes viewing their recent payments, making minor changes and adjustments to their accounts, and corresponding digitally with the IRS.

In November 2015, TIGTA reported that, although the IRS recognizes the growing challenge it faces in establishing effective authentication processes and procedures, it had not established a Service-wide approach to managing its authentication needs.¹⁸ As a result, the level of authentication that the IRS uses for its various services was not consistent. The existence of differing levels of authentication assurance among the various access methods increased the risk of unscrupulous individuals accessing and obtaining personal taxpayer information and/or defrauding the tax system.

In response to TIGTA recommendations, the IRS has undertaken a number of steps to provide for more secure authentication, including strengthening application and network controls. However, we continue to have concerns about the IRS's logging and monitoring abilities over all connections to IRS online systems. We are currently assessing the IRS's efforts to improve its authentication. This includes evaluating whether the IRS has properly implemented secure eAuthentication in accordance with Federal standards for public access to IRS online systems and has effectively resolved identified control weaknesses. We expect to issue the final report in September 2017.

TRADITIONAL SERVICES CONTINUE TO BE ELIMINATED OR REDUCED

During the 2017 Filing Season, the IRS has continued to increase its toll-free telephone level of assistance. As of April 8, 2017, taxpayers had made approximately 44.6 million total attempts to contact the IRS seeking help to understand the tax law and

¹⁸ TIGTA, Ref. No. 2016-40-007, *Improved Tax Return Filing and Tax Account Access Authentication Processes and Procedures Are Needed* (Nov. 2015).

meet their tax obligations and 31.9 million net attempts¹⁹ were made by taxpayers to contact the IRS by calling the various customer service toll-free telephone assistance lines. As of April 8, 2017, the IRS reports that 16 million calls had been answered with automation, and telephone assistors had answered nearly 8.4 million calls and provided a 78.6 percent Level of Service²⁰ with a 6.7 minute Average Speed of Answer. The Level of Service for the 2016 Filing Season was 72 percent. The IRS forecasts a 75 percent Level of Service for the 2017 Filing Season.

Besides telephone assistance, each year many taxpayers also seek assistance from one of the IRS's 376 TAC walk-in offices. Although the IRS reports that it has 376 TACs for the 2017 Filing Season, 24 TACs are not open because they have not been staffed. The IRS estimates that the number of taxpayers it will assist at its TACs will continue to decrease this fiscal year. The IRS plans to assist approximately 3.4 million taxpayers at the TACs in Fiscal Year 2017, approximately a 23.6 percent decrease from Fiscal Year 2016. The IRS indicated that budget cuts and its strategy of appointment service at the TACs, along with continued promotion of alternative service options, will result in the reduction of the number of employees available to assist taxpayers at the TACs.

However, the IRS has implemented initiatives to better assist those individuals seeking assistance from a TAC. For example, in CY 2015, the IRS began providing services at selected TACs by appointment, in an attempt to alleviate long lines that sometimes occur at many TACs and to help ensure that taxpayers' issues are resolved. The IRS reports that, as of April 8, 2017,²¹ IRS employees answered over 1.8 million calls resulting in approximately 803,000 appointments at a TAC.

The IRS also offers Virtual Service Delivery, which integrates video and audio technology to allow taxpayers to see and hear an assistor located at a remote TAC. For the 2017 Filing Season, the IRS is offering Virtual Service Delivery at 28 partner site locations, which is a decrease from the previous year when this service was offered at 35 locations.²² The IRS reports that as of April 8, 2017,²³ nearly 1,500 taxpayers have used the service. Finally, the IRS has an initiative to co-locate staff with the Social

¹⁹ Total call attempts represent calls received during open and after hours. Total net call attempts represent calls received during open hours.

²⁰ The primary measure of service to taxpayers. It is the relative success rate of taxpayers who call for live assistance on the IRS's toll-free telephone lines.

²¹ For Fiscal Year 2017 – October 1, 2016, through April 8, 2017.

²² For the 2017 Filing Season, the IRS is no longer offering Virtual Service Delivery at IRS locations. Access to this service is only available through external partner locations.

²³ For Fiscal Year 2017 – October 1, 2016, through April 8, 2017.

Security Administration to better assist taxpayers. For the 2017 Filing Season, the IRS has placed employees in four Social Security Administration locations. TIGTA is planning a follow-up audit to assess the IRS's efforts to expand customer service options to taxpayers seeking face-to-face assistance.

DETECTION AND PREVENTION OF IDENTITY THEFT

Identity-theft tax refund fraud occurs when an individual uses another person's or business's name and Taxpayer Identification Number to file a fraudulent tax return for the purpose of receiving a fraudulent tax refund. Identity theft continues to remain on the IRS's list of "Dirty Dozen" top tax scams. To address the scam, the IRS continues to take steps to more effectively detect and prevent the issuance of fraudulent refunds resulting from identity-theft tax return filings.

Since May 2012, my office has issued a number of reports that address the IRS's efforts to detect and prevent the filing of fraudulent individual and business tax returns by identity thieves, as well as the IRS's efforts to assist victims. In July 2012,²⁴ TIGTA issued its first report on our assessment of IRS efforts to detect and prevent fraudulent tax refunds resulting from identity theft. We reported that the impact of identity theft on tax administration is significantly greater than the amount that the IRS detects and prevents. For example, our analysis of TY 2010 tax returns identified approximately 1.5 million undetected individual tax returns that had the characteristics of identity theft confirmed by the IRS, with potentially fraudulent tax refunds totaling in excess of \$5.2 billion.

Our ongoing audit work shows that the IRS is making progress in detecting and resolving identity-theft issues and providing victim assistance. We have continued to perform follow-up reviews evaluating the IRS's efforts to improve detection processes, including its implementation of TIGTA recommendations. Most recently, we reported in February 2017²⁵ that IRS efforts are resulting in improved detection of identity-theft individual tax returns at the time returns are processed and before fraudulent tax refunds are released. For example, the IRS reported in its October 2016 Identity Theft Taxonomy Analysis that, for TY 2014, it had detected and prevented approximately \$12 billion in identity theft refund fraud.

²⁴ TIGTA, Ref. No. 2012-42-080, *There Are Billions of Dollars in Undetected Tax Refund Fraud Resulting From Identity Theft* (July 2012).

²⁵ TIGTA, Ref. No. 2017-40-017, *Efforts Continue to Result in Improved Identification of Fraudulent Tax Returns Involving Identity Theft; However, Accuracy of Measures Needs Improvements* (Feb. 2017).

For the 2017 Filing Season, the IRS is using 197 identity-theft filters to identify potentially fraudulent individual tax returns and prevent the issuance of fraudulent tax refunds. These filters incorporate criteria based on characteristics of confirmed identity-theft tax returns, including characteristics such as amounts claimed for income and withholding, filing requirements, prisoner status, taxpayer age, and filing history. Tax returns identified by these filters are held during processing until the IRS can verify the taxpayer's identity. The IRS attempts to contact the individual who filed the tax return and, if the individual's identity cannot be confirmed, the IRS removes the tax return from processing. This prevents the issuance of many fraudulent tax refunds. As of March 25, 2017, the IRS reported that it had identified and confirmed 38,728 fraudulent tax returns and prevented the issuance of \$316.1 million in fraudulent tax refunds as a result of the identity-theft filters.

To prevent fraudulent tax returns from entering the tax processing system, the IRS continues to expand its processes to reject e-filed tax returns and prevent paper tax returns from posting. For example, as of April 17, 2017, the IRS locked approximately 33.5 million taxpayer accounts of deceased individuals. The locking of a tax account results in the rejection of an e-filed tax return and the prevention of a paper-filed tax return from posting to the Master File if the Social Security Number (SSN) associated with a locked tax account is used to file a tax return. According to the IRS, as of March 31, 2017, it had rejected approximately 17,461 fraudulent e-filed tax returns and, as of April 13, 2017, it had stopped 3,268 paper-filed tax returns from posting to the Master File.

In addition, in response to concerns raised by TIGTA regarding multiple refunds going to the same address or bank account, the IRS now uses a clustering filter tool to group tax returns based on characteristics that include the address, zip code, and bank routing numbers. For the tax returns identified, the IRS uses criteria designed to ensure that legitimate taxpayers are not included. Tax returns identified are withheld from processing until the IRS can verify the taxpayer's identity. As of April 6, 2017, the IRS reports that, using this tool, it has identified 92,497 tax returns and prevented the issuance of approximately \$444.8 million in fraudulent tax refunds.

The IRS recognizes that new identity-theft patterns are constantly evolving and that, as a result, it needs to continuously adapt its detection and prevention processes. These evolving identity-theft patterns affect not only individuals, but also businesses. The IRS defines business identity theft as creating, using, or attempting to use a business's identifying information without authority, in order to claim tax benefits. In September 2015, we reported that the IRS recognized the growing threat of business related identity theft and, in response, was implementing processes to detect identity

theft on business returns at the time tax returns are processed.²⁶ These efforts included conducting a *Business Identity Theft Project* to detect potential business identity theft relating to the filing of Forms 1120 reporting overpayments and claiming refundable credits.

However, TIGTA also found that the IRS is not using data that it has readily available to proactively identify potential business identity theft. For example, the IRS maintains a cumulative list of suspicious Employer Identification Numbers (EIN) that it has determined to be associated with fictitious businesses. In response to TIGTA's recommendations, the IRS is expanding its filters to identify business identity theft. For the 2017 Filing Season, the IRS is using 25 identity theft filters to identify potentially fraudulent business tax returns and prevent the issuance of fraudulent tax refunds. TIGTA is planning a follow-up audit to assess the IRS's efforts to expand on its processes and procedures to detect business identity theft.

While the IRS's identification and detection strategies have led to many notable improvements, it recognizes the need to continue to explore other initiatives that would assist with its overall detection and prevention efforts. These initiatives include a collaborative effort among IRS officials, representatives from leading tax preparation firms, software developers, payroll and tax financial product processors, and representatives from the State Departments of Revenue to discuss common challenges and ways to leverage collective resources and efforts for identity theft detection and prevention. Additionally, the IRS obtains leads about potential identify-theft tax returns from State tax agencies via its *State Suspicious Filer Exchange Initiative*, and is conducting a pilot initiative with select payroll providers to test the feasibility of using a verification code to authenticate Form W-2 data at the time tax returns are processed.

IRS ASSISTANCE TO VICTIMS OF IDENTITY THEFT

Tax-related identity theft adversely affects the ability of innocent taxpayers to file their tax returns and timely receive their tax refunds, often imposing significant financial and emotional hardships. Many taxpayers learn that they are a victim of tax-related identity theft when they attempt to file their electronic tax return and the IRS rejects it because someone else (an identity thief) has already filed a return using the same SSN. Individuals can also learn that they are victims of employment-related identity theft if they receive a notification from the IRS of an income discrepancy between the amounts reported on their tax returns and the amounts employers reported to the IRS. This can

²⁶ TIGTA Ref. No. 2015-40-082, *Processes Are Being Established to Detect Business Identity Theft; However, Additional Actions Can Help Improve Detection* (Sept. 2015).

occur when an innocent taxpayer's stolen identity is used by someone else to gain employment. It can cause a significant burden, due to the incorrect computation of taxes and Social Security benefits based on income that does not belong to the taxpayer.

TIGTA has reported that the IRS does not always effectively provide assistance to taxpayers who report that they have been victims of identity theft, which also causes an increased burden for those victims. Specifically, TIGTA reviews have identified long delays in case resolution and account errors, and have found that not all tax-related identity-theft victims receive Identity Protection Personal Identification Numbers (IP PIN).²⁷ For example, in March 2015,²⁸ we reported that victims continue to experience long delays while waiting for the IRS to resolve their cases and issue their refunds. Our report also found that IRS employees did not correctly resolve taxpayer accounts, resulting in a delayed issuance of refunds to some victims or in some victims receiving an incorrect refund amount.

In July 2015, the IRS created the Identity Theft Victim Assistance (IDTVA) Directorate to combine into one directorate the skills of employees working tax-related identity-theft cases in multiple functions. The goal is to improve the taxpayer's experience when working with the IRS to resolve his or her tax-related identity-theft case. Approximately 1,300 employees work in the IDTVA Directorate to resolve identity-theft cases. TIGTA's current review²⁹ of cases closed from August 1, 2015, through May 25, 2016, identified improvements in case-closure timeframes and a reduction in case closing errors in comparison to our prior audit completed before the IDTVA Directorate was created. The IRS's efforts to centralize operations under a unified leadership, along with its enhanced procedures and processes, have contributed to the improvements identified since our prior audit. We plan to issue our final report in May 2017.

To provide relief to tax-related identity-theft victims, the IRS began issuing IP PINs to eligible taxpayers in FY 2011. For Processing Year (PY) 2016, the IRS issued more than 2.7 million IP PINs to taxpayers for use in filing their tax returns. In

²⁷ An IP PIN is a six-digit number assigned to taxpayers that allows their tax returns/refunds to be processed without delay and helps prevent the misuse of their SSNs to file fraudulent Federal income tax returns.

²⁸ TIGTA, Ref. No. 2015-40-024, *Victims of Identity Theft Continue to Experience Delays and Errors in Receiving Refunds* (Mar. 2015).

²⁹ TIGTA, Audit No. 201640015, *Identity Theft Victim Assistance Directorate*, report scheduled for May 2017.

March 2017, TIGTA reported that some process improvements are needed.³⁰ Specifically, TIGTA found that taxpayer accounts were not always consistently updated to ensure that IP PINs were generated for taxpayers as required. For example, the IRS did not generate IP PINs for more than 2 million taxpayers for whom the IRS resolved an identity-theft case by confirming that the taxpayer was a victim. This results from inconsistent processes and procedures when closing resolved identity-theft cases. Without the required marker on their accounts to generate an IP PIN, these taxpayers will experience delays when subsequent tax returns are filed.

In August 2016, we reported that, during the period February 2011 to December 2015, the IRS identified almost 1.1 million taxpayers who were victims of employment-related identity theft, but who were not notified of that fact.³¹ During this audit, the IRS announced that it would begin notifying newly identified victims of employment identity theft in January 2017. The notification letter describes steps the taxpayers could take to prevent further misuse of their personal information, including reviewing their earnings with the Social Security Administration to ensure that their records are correct. Because this letter provides victims with useful information and assistance, we recommended the IRS issue it to all victims, including those whose identity was stolen prior to January 2017. However, the IRS responded that, after the first year of its new systemic notification process, it will evaluate the results and determine an appropriate course of action with respect to the previously identified potential victims. TIGTA is currently conducting a review to assess the IRS's actions to notify victims of identity theft.³²

We have an ongoing audit that is evaluating the IRS's processes to identify and mark victims' tax accounts and to notify the Social Security Administration so that individuals' Social Security benefits are not affected by imposters who are misusing their identities to gain employment.³³ TIGTA's work to date has found that IRS processes are not sufficient to identify all employment identity-theft victims. In addition, IRS processes do not identify employment identity theft when processing paper tax returns, nor does the IRS have a process to notify the Social Security Administration of employment identity theft when both the victim's name and SSN are used by imposters to gain employment. TIGTA expects to issue its report in May 2017.

³⁰ TIGTA, Ref. No. 2017-40-026, *Inconsistent Processes and Procedures Result in Many Victims of Identity Theft Not Receiving Identity Protection Personal Identification Numbers* (Mar. 2017).

³¹ TIGTA, Ref. No. 2016-40-065, *Processes Are Not Sufficient to Assist Victims of Employment-Related Identity Theft* (Aug. 2016).

³² TIGTA, Audit No. 201740033, *Notification Letters to Victims of Employment Identity Theft*.

³³ TIGTA, Audit No. 201640028, *Employment Related Identity Theft – Returns Processing*, report scheduled for May 2017.

TELEPHONE IMPERSONATION SCAM

Since the fall of 2013, a significant amount of our Office of Investigations' workload has consisted of investigating a telephone impersonation scam in which more than 1.9 million intended victims have received unsolicited telephone calls from individuals falsely claiming to be IRS or Department of the Treasury employees. The callers demand money under the pretense that the victim owes unpaid taxes. To date, over 10,300 victims have purportedly paid more than \$55 million to these criminals.

The telephone impersonation scam continues to be one of TIGTA's top priorities; it has also landed at the top of the IRS's "Dirty Dozen" tax scams. The numbers of complaints we have received about this scam have cemented its status as the largest, most pervasive impersonation scam in the history of our agency. It has claimed victims in every State.

Here is how the scam works: the intended victim receives an unsolicited telephone call from a live person or from an automated call dialer. The caller, using a fake name and sometimes a fictitious IRS employee badge number, claims to be an IRS or Treasury employee. The scammers use Voice over Internet Protocol technology to hide their tracks and create false telephone numbers that show up on the victim's caller ID system. For example, the scammers may make it appear as though the calls are originating from Washington, D.C., or elsewhere in the United States, when in fact they may be originating from a call center located in India.

The callers may even know the last four digits of the victim's SSN or other personal information about the victim. The caller claims that the intended victim owes the IRS taxes and that, if those taxes are not paid immediately, the victim will be arrested or charged in a lawsuit. Other threats for non-payment include the loss of a driver's license, deportation, or loss of a business license. They often leave "urgent" messages to return telephone calls and they often call the victim multiple times.

According to the victims we have interviewed, these scammers then demanded that the victims immediately pay the money using Apple iTunes® gift cards, Target gift cards, prepaid debit cards, wire transfers, Western Union payments or MoneyGram® payments in order to avoid being immediately arrested. They are typically warned that if they hang up, local police will come to their homes to arrest them immediately. Sometimes the scammers also send bogus IRS e-mails to support their claims that they work for the IRS. By the time the victims realize that they have been scammed, the funds are long gone.

TIGTA has made several arrests in connection with this scam and has numerous investigations underway. In July 2015, in one of the largest prosecutions on this scam that we have had to date, an individual pled guilty to organizing an impersonation scam ring. He was sentenced to over 14 years of incarceration and ordered to forfeit \$1 million. In October of 2016, after an extensive three-year investigation, TIGTA, the Department of Justice and the Department of Homeland Security announced the indictment of 56 individuals and five call centers located in India. Although the investigations and prosecutions have reduced the number of scam calls being placed by over 90 percent, we are still receiving reports that between 5,000 and 10,000 people are receiving calls each week.

In addition to the criminal prosecutions, to thwart scammers using robo-dialers, we have created and instituted an “Advise and Disrupt” strategy. The strategy involves cataloguing the telephone numbers that have been reported by intended victims. We then use our own automated call dialers to make calls to those telephone numbers to advise the scammers that their activity is criminal and to cease and desist their activity. Utilizing this technique, we have placed more than 142,000 automated calls back to the scammers. We are also working with the telephone companies to have the scammers’ telephone numbers shut down as soon as possible. Of the 1,160 telephone numbers that have been reported by victims, we have successfully shut down 94 percent of them, some of them within one week of the number’s being reported to us.

TIGTA is also publishing those scam related telephone numbers on the Internet. This provides intended victims an additional tool to help them determine if the call is part of a scam. All they have to do is type the telephone number in any search engine, and the response will indicate whether the telephone number has been identified as part of the impersonation scam. These efforts are producing results: our data show it now takes hundreds of calls to defraud one victim, whereas in the beginning of the scam it took only a double digit number of attempts.

Further, TIGTA is engaged in public outreach efforts to educate taxpayers about the scam. These efforts include publishing press releases, granting television interviews, issuing public service announcements, and providing testimony to Congress. The criminals view this scam as they do many others; it is a crime of opportunity. Unfortunately, while we plan on arresting and prosecuting more individuals, the scam will not stop until people stop paying the scammers money. Our best chance at defeating this crime is to educate people so they do not become victims in the first place. Every innocent taxpayer we protect from this crime is a victory.

PRIVATE DEBT COLLECTION

In 2015, a law was enacted that mandated the IRS's use of private collection agencies (PCAs) to collect certain "inactive receivables."³⁴ Certain inventories were specifically excluded from the definition of inactive receivables.³⁵ TIGTA initiated an audit soon after the enactment of the legislation to evaluate the IRS's establishment of policies, procedures, and other infrastructure necessary to operate this program, as well as to assess the IRS's efforts to mitigate risks to the program.³⁶ We have identified numerous concerns during our audit, including the IRS's lack of commitment to assist taxpayers concerned that the PCAs are part of an impersonation scam as well as our concerns related to the IRS's process for receiving taxpayer complaints about PCAs. In addition, TIGTA is planning a future audit related to the operations of the program, as well as a review evaluating the PCA contractors' performance.

Further, TIGTA's Office of Investigations provided the IRS with insight on how the widespread IRS impersonation scam might impact the Private Debt Collection program. Specifically, based on what TIGTA learned during its investigation of the impersonation scam, the Office of Investigations provided the IRS with different ways it could consider notifying taxpayers about the program and that their accounts have been assigned to the PCAs. In addition, the Office of Investigations has also provided integrity and safety briefings to the PCAs' employees. TIGTA will closely monitor incoming impersonation complaints involving the PCAs, and we will work take appropriate action and notify the IRS, the PCAs and the public if we identify an impersonation scheme growing within the Private Debt Collection program.

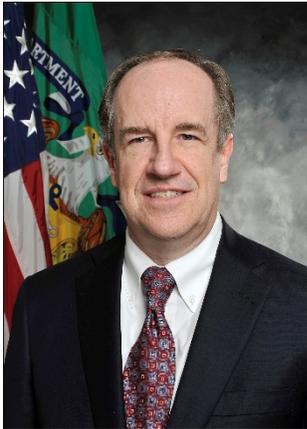
We at TIGTA take seriously our mandate to provide independent oversight of the IRS in its administration of our Nation's tax system. Accordingly, we plan to provide continuing audit coverage of the IRS's efforts to operate efficiently and effectively.

³⁴ Fixing America's Surface Transportation Act, Pub. L. No. 114-94, Div. C, Title XXXII, § 32102, 129 Stat. 1312, 1733-36 (2015), codified in Internal Revenue Code (I.R.C.) Section (§) 6306. The term "inactive receivables" means: receivables removed from active inventory due to inability to locate the taxpayer; inventory in which one third of the collection statute of limitations has expired; or assigned inventory in which more than 365 days have passed since contact with the taxpayer occurred.

³⁵ I.R.C. § 6306(d) excludes inventory that is subject to a pending or active offer-in-compromise or installment agreement; is classified as an innocent spouse case; or involves a taxpayer identified as deceased; under the age of 18; in a designated combat zone; a victim of tax-related identity theft; is currently under examination, litigation, criminal investigation, or levy; or is currently subject to a proper exercise of a right of appeal.

³⁶ TIGTA, Audit No. 201630029, *Planning and Implementation of the IRS's Private Debt Collection Program*, report scheduled for September 2017.

Chairman Buchanan, Ranking Member Lewis, and Members of the Subcommittee, thank you for the opportunity to share my views.



Michael E. McKenney
Deputy Inspector General for Audit
Treasury Inspector General for Tax
Administration

Mike McKenney serves as the Deputy Inspector General for Audit for the Treasury Inspector General for Tax Administration (TIGTA). He leads a nationwide audit function consisting of 270 staff members who strive to promote the economy, efficiency, and effectiveness of tax administration.

The Audit program's reports and recommendations to the Internal Revenue Service (IRS) have focused on improving tax administration and addressing the IRS's management challenges in the areas of data and employee security, computer modernization, tax law compliance and complexity, human capital, and improper and erroneous payments.

Prior to this, Mike served as the Assistant Inspector General for Audit (Returns Processing and Account Services) for TIGTA, where he was responsible for providing audit oversight of IRS operations related to the preparation and processing of tax returns and the issuing of refunds to taxpayers. This includes customer service activities, outreach efforts, tax law implementation, taxpayer assistance, accounts management, notices, submission processing, and upfront compliance such as the Frivolous Returns Program and the Questionable Refund Program.

Mike served in various managerial positions with TIGTA, covering a broad range of IRS areas including the IRS Oversight Board, Agency-Wide Shared Services, Chief Human Capital Office, Office of Appeals, Taxpayer Advocate Service, Office of Research and Analysis, and the Office of Professional Responsibility. Mike also opened and managed TIGTA's Denver field office for the Office of Audit. He began his Federal auditing career in 1992 with the IRS Inspection Service in Los Angeles. Mike graduated from California State University, Fullerton with a B.A. in Business (Accounting).

*Chairman Buchanan. Thank you.

Ms. Lucas-Judy, please proceed with your testimony.

STATEMENT OF JESSICA LUCAS-JUDY, ACTING DIRECTOR,
STRATEGIC ISSUES, GOVERNMENT ACCOUNTABILITY OFFICE

*Ms. Lucas-Judy. Chairman Buchanan, Ranking Member Lewis, Members of the Subcommittee, thank you for this opportunity to discuss GAO's work on the 2017 tax filling season. My statement today focuses on 2 areas: IRS's implementation of requirements to help address identity theft, refund fraud, and improper payments, and its performance in 2017 compared to prior years.

As you have heard, wage information reported on W-2s had not been available to IRS until after most refunds had been processed and paid. We had previously reported that earlier access to that information could allow IRS to verify income reported on returns before issuing billions of dollars in fraudulent refunds.

Consistent with our findings, Congress advanced the deadline for filing W-2s to January 31st. Congress also required IRS to hold all refunds for taxpayers claiming the Earned Income Tax Credit, EITC, or the Additional Child Tax Credit, ACTC, to provide time to use W-2 data to verify returns. As of February 17th, IRS had over 214 million W-2s available from the Social Security Administration. That is more than twice as many as the same time last year.

All returns were subject to a process that IRS calls systemic verification, where it uses wage and withholding information on the W-2 to verify what is reported on the tax return. The difference is IRS had to hold refunds until February 15th for returns that were claiming EITC or ACTC, even if it was able to verify the information earlier.

By contrast, IRS released refunds for returns that were not claiming those credits, even if the W-2s were not yet available for verification. Because of the earlier reporting deadline, more W-2s were available for both types of returns, and the verification results were similar.

There were, however, 3 challenges that caused delays in having W-2 data available in time for verification. First, IRS received electronic W-2 information daily from Social Security, but could only process it on a weekly basis, due to its aging technology. Second, employers requested extensions, or they missed the reporting deadline. And third, SSA did not begin transmitting paper W-2s to the IRS until March.

SSA estimated it had approximately 17.4 million paper W-2s as of February 15th. As of the end of March, it had transmitted about 3.8 million of those to IRS. Consequently, IRS processed refunds without W-2 information for taxpayers whose employers submitted paper W-2s, although their returns were still subject to other fraud checks.

IRS does not yet know how effective systemic verification was in preventing identity theft refund fraud or improper payments. However, IRS's initial review showed it identified about 162,000 returns worth about \$863 million as potentially fraudulent. These returns had claimed EITC or ACTC and, therefore, IRS had to hold them until February 15th.

W-2 information had not been available when IRS first processed the returns, and they had not been flagged by IRS's other fraud filters. During the hold period, IRS kept cycling the returns through its verification process, and eventually the corresponding W-2s arrived and showed that there was a mismatch. IRS sent those for further investigation.

Switching now to filing season performance, IRS provided better telephone service to callers during the 2017 filing season compared to recent years. More people who wanted to speak to an assister were able to get through. In addition, wait times continued to decrease, down to less than 7 minutes compared to almost 10 minutes last year.

Overall, the call volume decreased about 30 percent. And, as a result, IRS redirected assisters to reduce the backlog of written correspondence. It also launched a new online account service that provides taxpayers the ability to view their account balance and access IRS's online payment system.

Security continues to be an issue, however. In March IRS and the Department of Education responded to security concerns and removed an online tool for obtaining tax information that is used for student financial aid. IRS expects the tool to be unavailable until at least October.

In summary, legislative changes for W-2 reporting show promise for detecting potentially fraudulent returns, although full results are still unknown. And IRS faced some challenges in implementing them. IRS also continued to improve service during the filing season. My written statement describes the status of recommendations that we have previously made for improving IRS's online services and customer service more broadly.

Chairman Buchanan, Ranking Member Lewis, Members of the Subcommittee, this concludes my remarks and I will be happy to answer any questions you have.



Testimony

Before the Subcommittee on Oversight,
Committee on Ways and Means, House
of Representatives

For Release on Delivery
Expected at 2 p.m. ET
Wednesday, April 26, 2017

2017 FILING SEASON

New Wage Verification Process Holds Promise but IRS Faced Implementation Challenges

Statement of Jessica Lucas-Judy, Acting Director,
Strategic Issues

GAO Highlights

Highlights of [GAO-17-525T](#), a testimony before the Subcommittee on Oversight, Committee on Ways and Means, House of Representatives

Why GAO Did This Study

IRS processes over 100 million tax returns during the filing season. In the past several years, IRS has been confronted with the ongoing problem of identity theft refund fraud and improper payments. Wage information that employers report on Form W-2 had not been available to IRS until after it issued most refunds. As GAO previously reported, earlier access to W-2 wage data—as now provided in recent legislation—could allow IRS to more timely match this information to taxpayers' returns and identify discrepancies before issuing billions of dollars of fraudulent refunds.

GAO was asked to review the 2017 filing season to-date (January through late March to mid-April). This testimony describes IRS's (1) implementation of W-2 systemic verification, and (2) performance in providing telephone and other customer service and processing individual income tax returns during the 2017 filing season.

GAO reviewed IRS systemic verification data and documents and interviewed IRS officials. To evaluate IRS's performance during the 2017 filing season, GAO compared data and documents to IRS's prior years' performance and interviewed IRS officials.

What GAO Recommends

GAO is not making new recommendations but provides a status update on previously recommended actions that IRS could take to further improve service and operations.

View [GAO-17-525T](#). For more information, contact Jessica Lucas-Judy at (202) 512-9110 or LucasJudyJ@gao.gov.

April 26, 2017

2017 FILING SEASON

New Wage Verification Process Holds Promise but IRS Faced Implementation Challenges

What GAO Found

To help combat identify theft refund fraud and improper payments, in 2017 the Internal Revenue Service (IRS) implemented provisions of the Protecting Americans from Tax Hikes Act of 2015 (the Act). Consistent with GAO's prior reporting, the Act advanced the deadline for employers filing Form W-2, *Wage and Tax Statement (W-2)* with the Social Security Administration to January 31, allowing IRS to verify information reported on tax returns (such as wages and withholding) before issuing refunds, a process IRS calls W-2 systemic verification. As of February 17, 2017, IRS received over 214 million W-2 forms (a 125 percent increase over the same time last year). The Act also required IRS to hold refunds until February 15 for taxpayers claiming the Earned Income Tax Credit (EITC) and Additional Child Tax Credit (ACTC) to provide time to use W-2 data to verify returns. Although IRS applied the verification process to all returns, preliminary data suggest the following:

- For returns where the taxpayer claimed the EITC or ACTC, IRS verified the wage information for over 35 percent of these returns before February 15. Moreover, the refund hold allowed IRS time to verify returns when it received more W-2 data, resulting in approximately \$863 million in additional refunds being identified as potentially fraudulent. However, since not all W-2 data were available before February 15, IRS was unable to verify wage information for over 58 percent (7.7 million) of tax returns with refunds claiming the EITC or ACTC for a total of \$38.1 billion.
- IRS did not hold returns that did not claim the EITC or ACTC because it was not required to do so, although those returns were subject to systemic verification and other checks. Preliminary data show that IRS verified wages reported on 8.6 million (41 percent) returns that did not claim the EITC or ACTC before February 15. However, IRS was unable to verify wage information reported on over 58 percent (12.3 million) of tax returns claiming \$28.1 billion in refunds, because not all W-2 data were available.

Several issues contributed to delays in availability of W-2 information. IRS processes W-2 electronic data weekly rather than when received due to the age of its computer system, resulting in a lag between when IRS has the data and can use it. In addition, some employers can request and be granted 30-day filing extensions and some file paper W-2s, which take longer to process. IRS continues to analyze the W-2 systemic verification process and its outcomes.

IRS's telephone wait times and level of service—those seeking live assistance and receiving it—improved in the 2017 filing season compared to prior years. Average wait time decreased from 9.7 to 6.8 minutes compared to last year, and telephone level of service was more than 77 percent compared to 74 percent. Further, IRS reduced the number of written correspondence that is late, or "overage," compared to prior years. IRS also experienced minor disruptions during return processing with two brief electronic filing system interruptions. Finally, IRS launched a new online service, but others were unavailable or discontinued due to security concerns.

Chairman Buchanan, Ranking Member Lewis, and Members of the Subcommittee:

Thank you for the opportunity to discuss how the Internal Revenue Service (IRS) is using wage information earlier in the filing season to help prevent improper payments and identity theft (IDT) refund fraud and how it is providing customer service.

This filing season is notable for legislative changes that affected certain taxpayers. As we have reported, IRS has been confronted with the ongoing problems of improper payments and IDT refund fraud over the past several years.¹ IDT refund fraud occurs when a fraudster obtains an individual's Social Security number, date of birth, or other personally identifiable information, and uses it to file a fraudulent tax return seeking a refund. IRS estimates that at least \$14.59 billion in IDT tax refund fraud was attempted in calendar year 2015—of which it prevented at least \$12.35 billion (85 percent)—but at least \$2.24 billion (15 percent) was paid.

We previously reported that the wage information that employers report on Form W-2, *Wage and Tax Statement (W-2)*, had not been available to IRS until after it issued most refunds.² With earlier access to W-2 data, IRS could use this information to verify taxpayers' returns and identify discrepancies before issuing billions of dollars in fraudulent refunds. Such verification could also provide benefits for other IRS enforcement programs such as preventing some Earned Income Tax Credit (EITC) improper payments. Consistent with our prior reporting, in an effort to

¹Improper payments are a long-standing, significant problem in the federal government, estimated at \$144 billion in fiscal year 2016. We previously reported that one strategy to help prevent improper payments is up-front verification of eligibility through data sharing and matching. See GAO, *Improper Payments: Strategy and Additional Actions Needed to Help Ensure Agencies Use the Do Not Pay Working System as Intended*, [GAO-17-15](#) (Washington, D.C.: Oct. 14, 2016). In addition, for fiscal year 2016, the Department of the Treasury estimated \$16.8 billion in improper payments for only one program—the Earned Income Tax Credit—which accounted for over 24 percent of that program's outlays. U.S. Department of the Treasury, *Agency Financial Report Fiscal Year 2016*, at 225 (Nov. 15, 2016). Furthermore, in 2015, we expanded our high risk area on the enforcement of tax laws to include IRS's efforts to address IDT refund fraud. See GAO, *High-Risk Series: Progress on Many High-Risk Areas, While Substantial Efforts Needed on Others*, [GAO-17-317](#) (Washington, D.C.: Feb. 15, 2017).

²See [GAO-17-317](#) and GAO, *Identity Theft: Additional Actions Could Help IRS Combat the Large, Evolving Threat of Refund Fraud*, [GAO-14-633](#) (Washington, D.C.: Aug. 20, 2014).

address these issues, in 2015, Congress enacted the Protecting Americans from Tax Hikes Act (the Act), which included provisions that took effect this year.³ The Act required employers to submit W-2s to the Social Security Administration (SSA) by January 31, which is about 1 to 2 months earlier than in prior years.⁴ SSA then provides W-2 data to IRS for verifying employee wage and withholding data on tax returns. The Act also required IRS to hold refunds for all taxpayers claiming the EITC or Additional Child Tax Credit (ACTC) until February 15.⁵ Now that IRS has earlier access to W-2 information, IRS is using it in a process it calls W-2 systemic verification.

My statement today describes IRS's (1) implementation of early W-2 verification in accordance with the Protecting Americans from Tax Hikes Act and SSA's role in providing W-2 information to IRS, and (2) performance in providing telephone and other service and processing individual income tax returns during the 2017 filing season compared to its performance in prior years.

My statement is based on our review of data and documents describing the implementation of IRS's systemic verification of W-2 data and summarizing IRS's performance on the 2017 filing season to date.⁶ To understand IRS's process for performing systemic verification of W-2 data against individual income tax returns affected by the Act (those claiming the EITC or ACTC), as well as other returns not affected by the Act (those not claiming the EITC or ACTC), we reviewed the Act and related tax laws, regulations and IRS data and documentation and interviewed IRS officials. Additionally, to understand SSA's role in providing W-2 information to IRS, we reviewed SSA data and information.

³Consolidated Appropriations Act, 2016, (the Protecting Americans from Tax Hikes Act of 2015 was included as a provision of the Consolidated Appropriations Act, 2016), Pub. L. No. 114-113, div. Q, 129 Stat. 2242, 3040 (Dec. 18, 2015).

⁴Pub. L. No. 114-113, div. Q, Title II, § 201, 129 Stat. 2242, 3076 (*codified at* 26 U.S.C. §§ 6071 and 6402). Prior to enactment of the amending provisions of the Protecting Americans from Tax Hikes Act, paper W-2s were due on or before the last day of February and electronically-filed W-2s were due March 31.

⁵Pub. L. No. 114-113, § 201(b), *codified at* 26 U.S.C. § 6402(m).

⁶The filing season generally takes place between January and mid-April. The information presented in this statement is through late March to mid-April.

To describe trends in IRS's performance providing customer service and processing tax returns, we reviewed IRS filing season performance data covering January through late March to mid-April for 2012 through 2017. We also interviewed IRS officials on the benefits and challenges in implementing W-2 systemic verification as well as planned improvements, selected filing season operations, and data reliability. To further assess the reliability of the data we used for this statement, we reviewed IRS data and documentation, assessed documentation for data limitations, and compared those results to our data reliability standards. We determined that the data presented in this statement are sufficiently reliable for our purposes. We provided a draft of this statement to IRS and SSA for technical review and addressed their views and technical comments as appropriate.

We conducted this performance audit from January to April 2017 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

IRS Performed Early W-2 Verification, but Faced Implementation Challenges

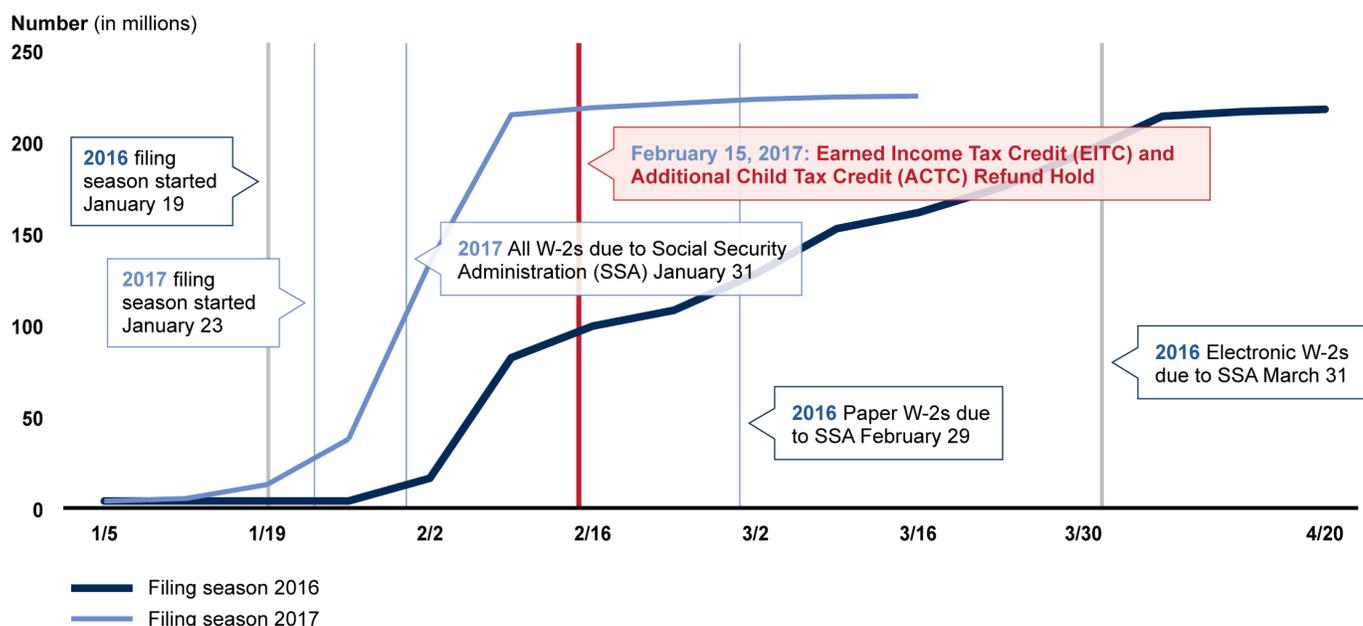
IRS Verified Wages and Withholding for Some Returns but Did Not Receive All W-2 Data before Releasing Refunds

Before the Protecting Americans from Tax Hikes Act was enacted, IRS did not receive the majority of W-2 data until after most refunds had been issued. As we reported in 2014, IDT refund fraud took advantage of IRS's "look-back" compliance model.⁷ Under this model, rather than holding refunds until completing all compliance checks, IRS issued refunds after conducting selected reviews. Since IRS did not receive most employer-reported W-2 data until late in the filing season, IRS did not begin

⁷[GAO-14-633](#).

matching that data to tax returns until July, following the tax season. However, with the Act's new reporting deadline, as of February 17, 2017, IRS received over 214 million W-2 forms from SSA, an increase of 125 percent from the same time last year (see fig. 1).⁸

Figure 1: Number of W-2s IRS Received for the 2016 and 2017 Filing Seasons



Source: GAO analysis of Internal Revenue Service and Social Security Administration information. | GAO-17-525T

Notes: Dates on the x-axis represent the day in 2017 that IRS loaded the W-2 data into its systems and correspond to similar dates in 2016. Data for 2017 are as of March 16. IRS received only electronically-filed W-2 data through mid-April in 2016 and mid-March in 2017. Data after those timeframes include both electronically- and paper-filed W-2s.

For the 2017 filing season, IRS used the W-2 data it had available to verify wages and withholding reported on all tax returns during initial processing. Under the new legal requirements of section 6402(m) of the tax code, IRS held refunds for returns claiming the EITC or ACTC (EITC/ACTC returns) until February 15 regardless of whether IRS had the

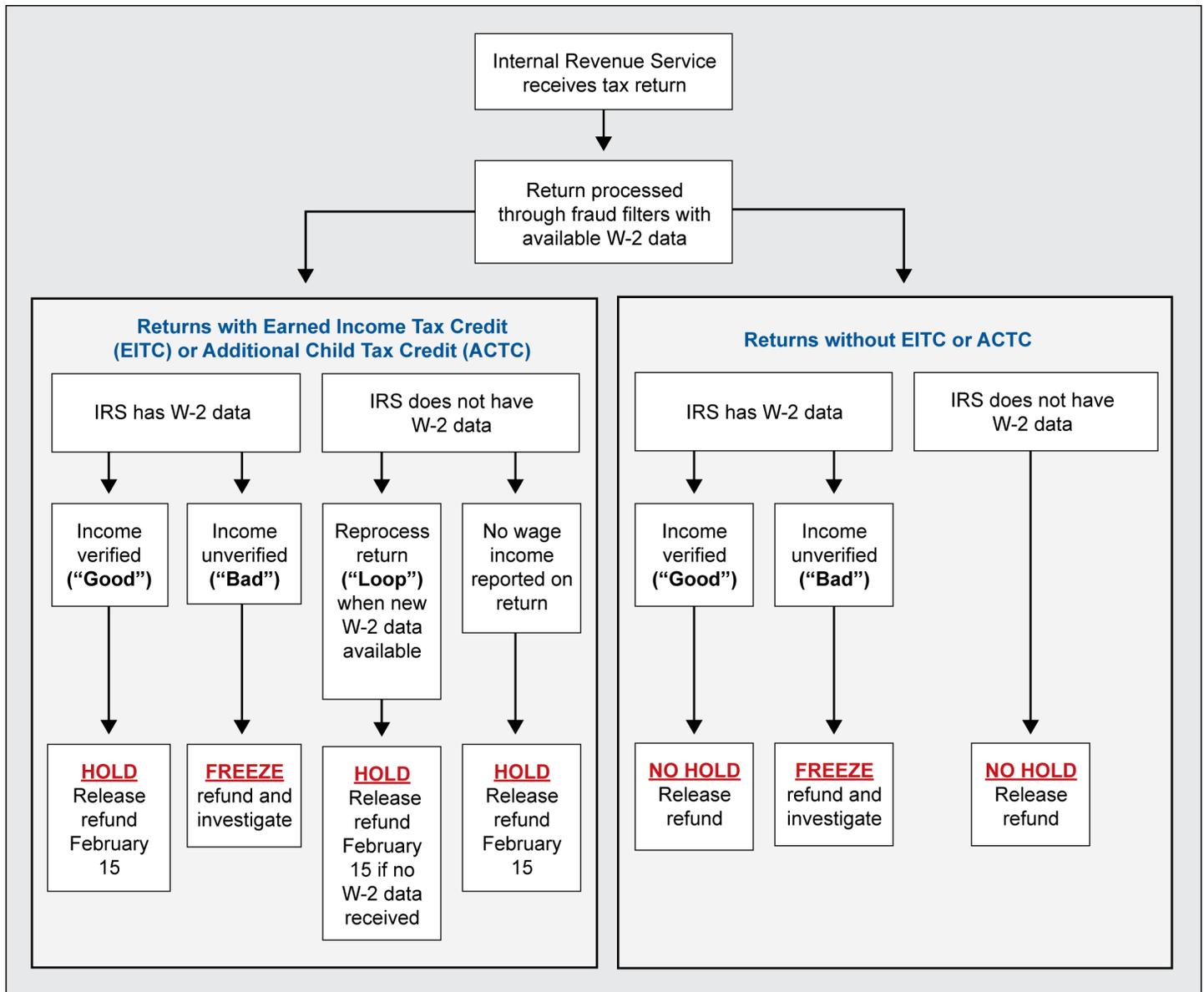
⁸Beginning in 2016, IRS requested W-2 information from employers to validate information on returns selected by fraud filters. This provided IRS with a limited amount of W-2 data earlier in the filing season to use for pre-refund validation checks. See GAO, *Identity Theft and Tax Fraud: IRS Needs to Update Its Risk Assessment for the Taxpayer Protection Program*, GAO-16-508 (Washington, D.C.: May 24, 2016).

W-2 data available to verify wage information and had determined the corresponding refund was valid (see fig. 2).⁹ IRS, in consultation with the Department of the Treasury (Treasury), elected not to hold any refunds for returns without EITC or ACTC (non-EITC/ACTC) because it was not required to do so, as discussed later in this testimony. However, all returns—with EITC or ACTC and without EITC or ACTC—are subject to IRS’s verification process as well as other fraud filters.¹⁰

⁹26 U.S.C. § 6402(m).

¹⁰The EITC and ACTC provide tax benefits to millions of taxpayers—many of whom are low income—who are working or raising children. These credits are refundable in that, in addition to offsetting tax liability, any excess credit over the tax liability is refunded to the taxpayer. The refundable portions of the EITC and ACTC in 2016 are estimated by Treasury to be valued at \$62 billion and \$30 billion, respectively. As we previously reported, the administration and design of these two credits contribute to errors and improper payments. For more information on refundable tax credits, see GAO, *Refundable Tax Credits: Comprehensive Compliance Strategy and Expanded Use of Data Could Strengthen IRS’s Efforts to Address Noncompliance*, [GAO-16-475](#) (Washington, D.C.: May 27, 2016).

Figure 2: IRS’s W-2 Systemic Verification Process for Returns With and Without Earned Income and Additional Child Tax Credits



Source: GAO analysis of IRS information. | GAO-17-525T

Note: IRS holds any refunds (including those for which W-2 data are not available) for which the return is flagged for further review by its identity theft fraud filters or other pre-refund filters.

While IRS conducts quality and enforcement checks throughout return processing, preliminary data suggest that using its W-2 systemic verification, including allowing time to input the data for matching, are important steps in IRS's ability to determine whether the refund amount claimed and taxpayer are legitimate for returns with EITC/ACTC as well as for returns without those credits. Specifically, we found that:

- For returns where the taxpayer claimed the EITC or ACTC, preliminary data show that IRS verified the wage information for over 35 percent of these returns before February 15. Moreover, the refund hold allowed IRS time to check returns using its systemic verification when it received more W-2 data. For example, IRS reported it reprocessed about 1 million returns during the hold period as more data became available. As a result, IRS said it identified approximately 162,000 returns claiming about \$863 million in refunds as potentially fraudulent. According to IRS, those refunds were not allowed to be released on February 15, and the returns were directed for follow up. However, IRS was unable to verify wage information for over 58 percent (7.7 million) of tax returns with refunds claiming the EITC or ACTC—for a total of \$38.1 billion—before February 15. This was in part due to the timing of when W-2 information was available, as discussed later in this statement.
- IRS did not hold returns that did not claim the EITC or ACTC unless the return was selected by its other filters (such as for potential IDT refund fraud). On such returns, while IRS also used available W-2 information, it did not hold refunds solely because W-2 information was not available. Preliminary data show that by using systemic verification, IRS verified wages of 8.6 million (41 percent) of returns that did not claim the EITC or ACTC before February 15. However, IRS was unable to verify wage information reported on over 58 percent (12.3 million) of these tax returns for a total of \$28.1 billion, as not all W-2 data were available and IRS was not required to hold these returns.

IRS Faced Challenges with the W-2 Systemic Verification Process

IRS faced challenges related to the availability and timing of the W-2s while implementing its W-2 systemic verification process.

As noted previously, IRS was unable to verify wage income for the majority of both EITC/ACTC and non-EITC/ACTC returns received by February 14, because it did not have W-2 information available for those taxpayers. There were three reasons for this delay:

-
1. IRS received electronic W-2 data from SSA daily, but because IRS is using older technology in this instance (a legacy system), it could only load the data weekly.¹¹ For EITC/ACTC returns, the law provided an approximate 2-week delay between the W-2 due date (January 31) and the refund release date (February 15), to allow time for IRS to load the data and verify wage information on the returns before releasing the refunds.
 2. Some W-2 data were delayed past February 15 because employers requested extensions or missed the new deadline. This year, IRS allowed employers a one-time 30-day, non-automatic extension to file W-2 data if the deadline would cause undue hardship that would also prevent the employer from furnishing the W-2s to employees by January 31 (such as if a flood damaged the documentation and equipment needed to file). This is a change from prior years in which employers could request one 30-day extension from either the due date on the last day of February (if filing on paper) or last day of March (if filing electronically).
 3. While SSA begins receiving W-2 forms on paper in December, it did not begin to transmit these data to IRS until March 2017. SSA officials reported that they cannot report the number of employers who filed paper W-2s until they complete transcribing those forms for tax year 2016.¹² As of February 15, SSA estimated that it had approximately 17.4 million paper W-2s. As of March 31, 2017, SSA had processed and transmitted to IRS about 3.8 million of these. Consequently, IRS processed refunds without W-2 information for those taxpayers whose employers had submitted paper W-2s.

IRS Continues to Analyze Results of Systemic Verification

As of March 29, IRS officials were still assessing the W-2 systemic verification process and its outcomes. IRS does not yet know the full effect of its W-2 systemic verification process on the number of IDT fraudulent refunds it was able to prevent paying. However, as noted earlier, IRS officials reported that the initial review of the W-2 verification process for EITC/ACTC returns showed that IRS identified approximately

¹¹For more information on legacy systems, see GAO, *Information Technology: Federal Agencies Need to Address Aging Legacy Systems*, [GAO-16-696T](#) (Washington, D.C.: May 25, 2016).

¹²SSA reported it estimates the volume of W-2s received by weighing the envelopes that come in and, based on that, generates an estimate of the number of W-2s. Since this is just an estimate based on weight, SSA cannot accurately estimate the number of employers associated with the W-2s until SSA actually processes the reports.

162,000 returns worth about \$863 million as potentially fraudulent that it would not have identified without the early W-2 data coupled with the refund hold. IRS's fraud filters did not select these returns for further review; however, the W-2 systemic verification process did because IRS received the W-2 data before it would have released the refunds on February 15.

IRS officials also reported a decrease in the number of IDT cases this filing season compared to last year. Through February 28, 2017, the number of new cases decreased by 51 percent compared to the same time last year (from 63,102 to 30,850). However, it is difficult to determine whether this decline is due to IRS's efforts, fewer attempts by fraudsters, or other factors. IRS is continuing to review its verification process before determining what steps it needs to take, if any, to improve its fraud selection filters.

IRS officials stated that they are confident that IRS did not systematically release EITC/ACTC refunds covered by the new hold requirement prematurely.¹³ IRS said its pre-filing season testing confirmed that the holds would work as intended, and that it conducted individual reviews of EITC/ACTC cases in which data indicated that a refund may have been released early. IRS identified nine such cases, but the payouts occurred after February 15. IRS is considering a number of scenarios that may require legislative action, including adjusting the timing of holding refunds it has not yet verified, and releasing refunds for wages it has verified.¹⁴

One concern that officials noted about the refund hold was the potential effect on the economy. According to IRS officials, in consultation with Treasury, IRS opted not to hold all refunds until February 15. Although IRS has authority to hold these refunds, officials explained that doing so would have too great of an effect on the economy on top of the refunds

¹³According to IRS officials, they identified one refund that was prematurely released due to employee error.

¹⁴In addition, in August 2014, we suggested that Congress consider providing the Secretary of the Treasury with the regulatory authority to lower the threshold for electronic filing of W-2s from 250 returns annually to between 5 to 10 returns as appropriate. See [GAO-14-633](#).

they were required to hold by law.¹⁵ For example, there could be impacts to business models of large retailers that rely on the cycle of federal income tax refund distribution, especially in communities with lower-income taxpayers, according to IRS officials. Even a short delay in a one-time cash infusion, especially if it represents a significant portion of some taxpayers' income, can cause them to delay paying bills or making important spending decisions. In addition, IRS officials said that the surge in refunds released February 15 could have had a significant impact on check-cashing businesses and retailers and the amount of cash required on hand to pay refunds to taxpayers. For EITC/ACTC returns, IRS estimated the effect on the economy to be about \$60 to \$64 billion in total refunds that IRS would not release to taxpayers until February 15. If IRS also held non-EITC/ACTC returns, it estimated those refund amounts would affect the economy by an additional \$40 billion.

IRS Improved Telephone Customer Service, Experienced Few Disruptions Processing Returns, and Added an Online Application While Suspending or Discontinuing Others

Telephone Service Improved in the 2017 Filing Season

While implementing tax law changes, it is important that IRS ensures timely and quality service. During the filing season, IRS enforces tax laws, provides service to tens of millions of taxpayers, and processes over 100 million tax returns. In recent years, IRS has experienced declining

¹⁵Under section 6201 of the Internal Revenue Code, IRS is authorized and required to make the inquiries, determinations, and assessments of all taxes as necessary. 26 U.S.C. § 6201. IRS has the authority to hold refunds in conjunction with those determinations. However, Section 6611(e) of the Code generally requires the payment of interest on refunds if any overpayment of tax is not refunded within 45 days after the last day prescribed for filing the return tax (determined without regard to any extension of time for filing the return). 26 U.S.C. § 6611(e).

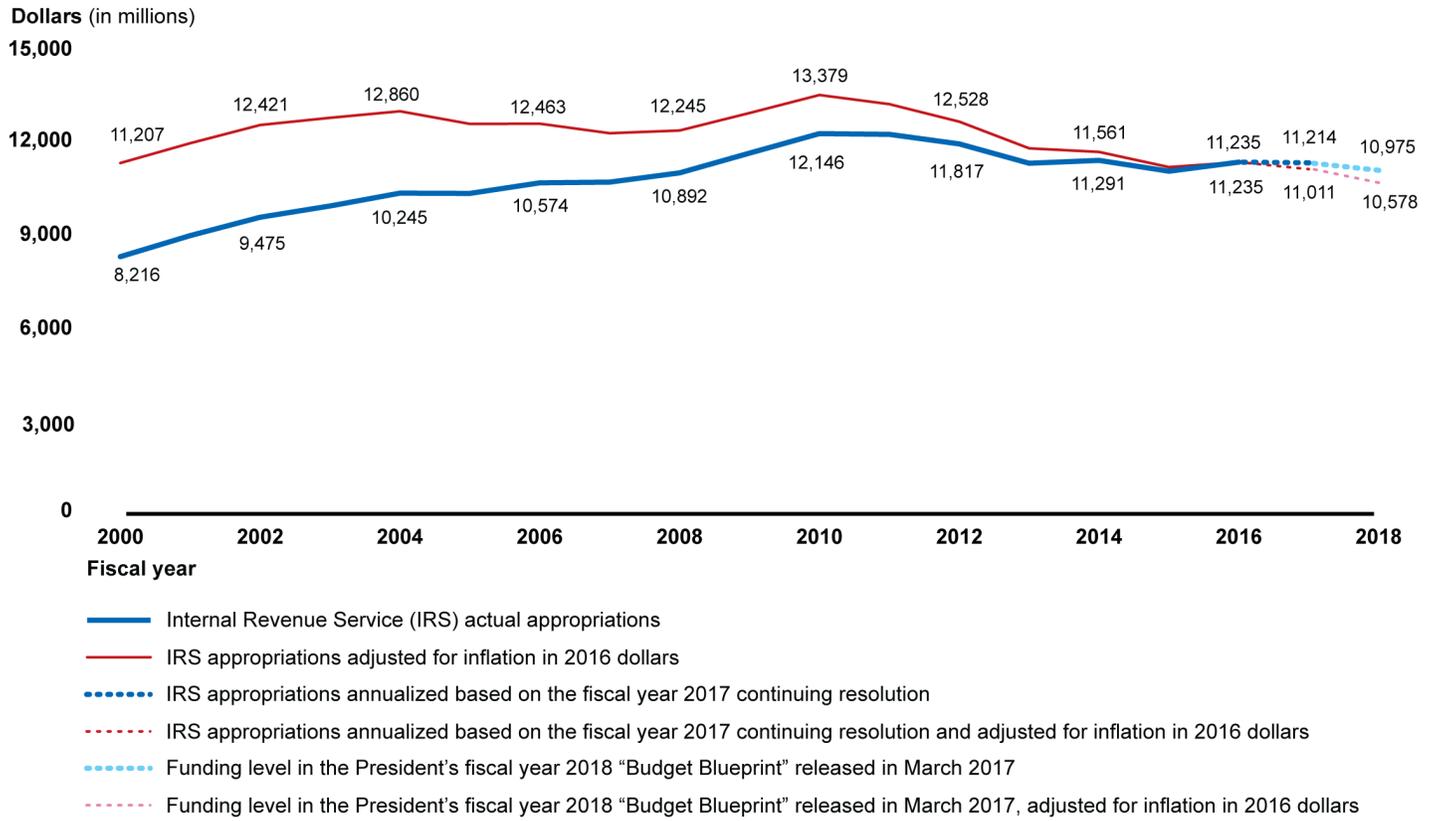
resources and an increased workload. We have reported that IRS's budget declined by about \$900 million between fiscal years 2011 and 2016.¹⁶ Furthermore, full-time equivalents (FTE) funded with annual appropriations declined by 12,000 (13 percent) between fiscal years 2011 and 2016.¹⁷ The President's fiscal year 2018 "Budget Blueprint" released in March 2017 proposes funding IRS below the fiscal year 2000 level, after adjusting for inflation (see fig. 3).¹⁸

¹⁶For additional information about IRS's budget, see GAO, *IRS 2017 Budget: IRS Could Improve Presentation of Budget Data in Its Congressional Justification*, [GAO-16-695](#) (Washington, D.C.: July 21, 2016) and GAO, *Internal Revenue Service: Preliminary Observations on the Fiscal Year 2017 Budget Request and 2016 Filing Season Performance*, [GAO-16-459R](#) (Washington, D.C.: Mar. 8, 2016).

¹⁷Full-time equivalents represent the total number of hours worked based on IRS payroll data divided by the number of compensable hours applicable to each fiscal year. For example, in fiscal year 2016 there were 2,096 compensable hours.

¹⁸Office of Management and Budget, *America First - A Budget Blueprint to Make America Great Again* (Washington, D.C.: March 2017).

Figure 3: IRS Appropriations for Fiscal Years 2000 to 2017 and Proposed Fiscal Year 2018 Appropriation



Sources: GAO analysis of Congressional Research Service reports for fiscal years 2000 through 2004, Internal Revenue Service Congressional Justifications for fiscal years 2005 through 2014, fiscal year 2015 Omnibus, Pub. L. No. 113-235 (Dec. 16, 2014), fiscal year 2016 Omnibus, Pub. L. No. 114-113 (Dec. 18, 2015), and IRS 2017 and 2018 budget data. | GAO-17-525T

Note: Inflation adjustments were made using Bureau of Economic Analysis data and Congressional Budget Office projections of the fiscal year chain weighted gross domestic product price index. Values for 2017 are annualized amounts based on the fiscal year 2017 continuing resolution.

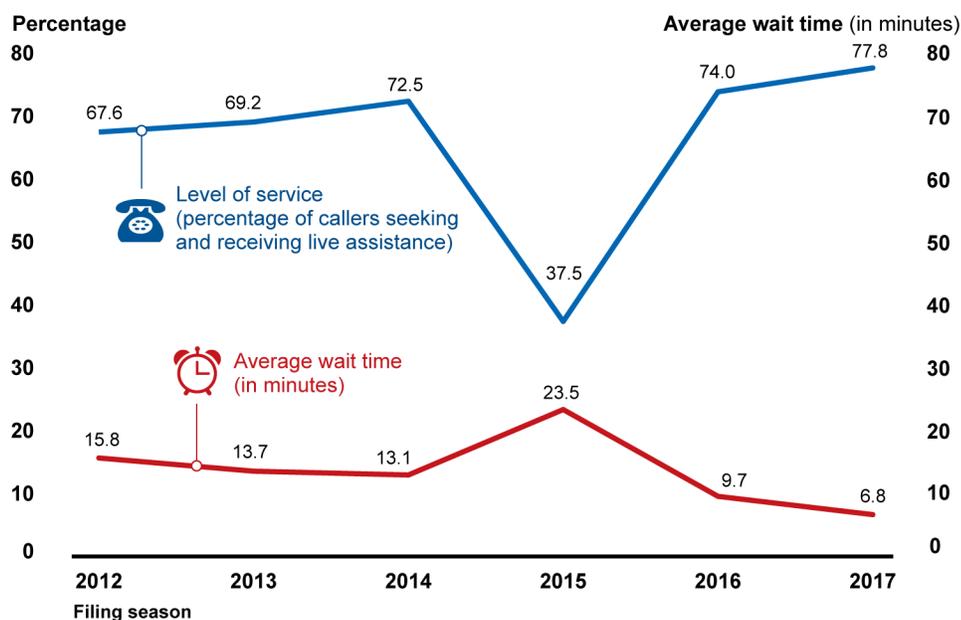
The decline in IRS's budget has contributed to fluctuations in service and longer telephone wait times. For example, in December 2015, we reported that IRS provided the lowest level of telephone service—the percentage of people who wanted to speak with an IRS assistor and were able to reach one—during fiscal year 2015 compared to prior years.¹⁹

¹⁹GAO, *2015 Tax Filing Season: Deteriorating Taxpayer Service Underscores Need for a Comprehensive Strategy and Process Efficiencies*, GAO-16-151 (Washington, D.C.: Dec. 16, 2015). For additional information see our Key Issues web page on tax administration, http://www.gao.gov/key_issues/tax_administration/issue_summary.

Callers experienced long wait times and difficulty in reaching an IRS assistor. IRS received additional funding for the 2016 filing season and service improved considerably. For instance, the 2016 level of service was the highest since 2011. Maintaining quality customer service is important because it helps taxpayers comply with the tax code.

We found that IRS’s telephone service continued to improve in the 2017 filing season. As shown in figure 4, from January 1 through March 25, 2017, IRS’s telephone level of service increased by almost 4 percentage points from the same time last year. In addition, the average wait time to speak to an assistor decreased from 9.7 to 6.8 minutes. IRS officials attributed the improvements to decreased telephone volume and its ability to hire more assistors before the filing season started and prior to the executive branch hiring freeze.²⁰

Figure 4: IRS Improved Telephone Level of Service and Wait Times during the 2017 Filing Season



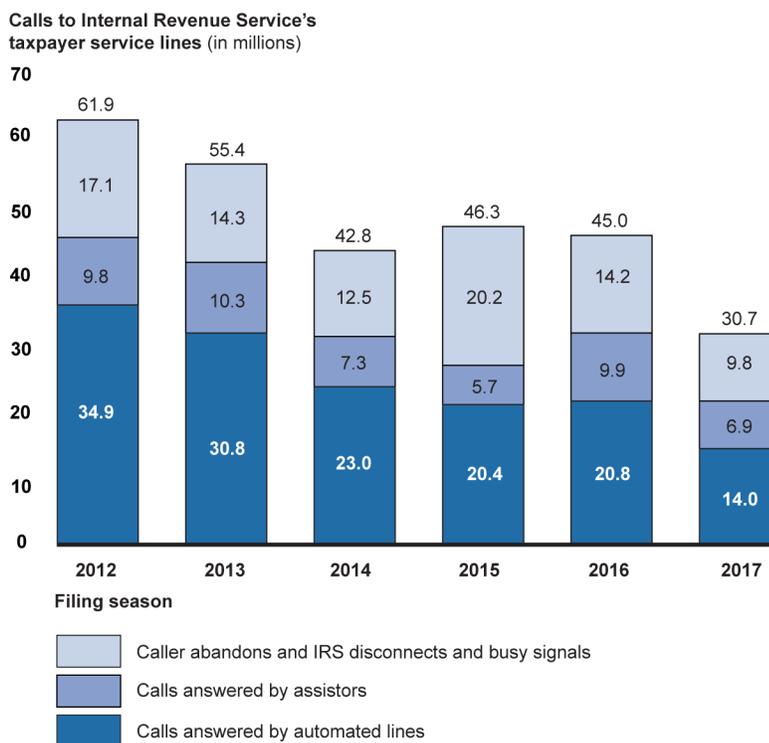
Source: GAO analysis of Internal Revenue Service data. | GAO-17-525T

²⁰The White House, *Presidential Memorandum, Regarding the Hiring Freeze*, 82 Fed. Reg. 8493, (Jan. 25, 2017), and Office of Management and Budget, *Immediate Actions and Initial Guidance for Federal Civilian Hiring Freeze*, M-17-17 (Jan. 25, 2017).

Note: Telephone level of service and average wait time data for the filing season are cumulative from January 1 of each year to March 24, 2012; March 23, 2013; March 22, 2014; March 28, 2015; March 26, 2016; and March 25, 2017. Level of service and wait time can be affected by multiple factors including the number of assistors available to answer telephone calls and total calls received, both of which vary each year.

As of March 25, 2017, IRS had received about 30.7 million calls to its automated and live assistor-answered telephone lines, an almost 32 percent decrease from the same time in 2016 (see fig. 5). Accordingly, IRS assistors answered 6.9 million calls, approximately a 30 percent decrease from the 9.9 million calls answered during the same time last year. IRS officials told us they are still evaluating the reasons for the decrease in call demand.

Figure 5: IRS’s Total Call Volume for the Period January through late-March for 2012 through 2017



Source: GAO analysis of IRS data. | GAO-17-525T

Notes: Telephone call data for the filing season are cumulative from January 1 of each year to March 24, 2012; March 23, 2013; March 22, 2014; March 28, 2015; March 26, 2016; and March 25, 2017. Numbers may not sum to totals due to rounding.

During the 2017 tax filing season, IRS experienced a disruption in telephone service on one of its busiest days due to equipment issues. During an 11-hour period on February 21, the day after the President's Day holiday, which is the single busiest day of the year to call IRS, IRS's telephone equipment malfunctioned, resulting in about 775,000 calls that could not be completed or were disconnected. IRS officials explained that a workaround solution to manage a known bug in the telephone equipment failed to work. IRS officials told us that they are working with the telephone vendor to resolve the issue. In the meantime, IRS officials stated that they are monitoring telephone call volume manually to avoid a repeated failure. Officials explained that this bug will be fixed when IRS can upgrade its telephone equipment, which they expect to do by the end of calendar year 2017.

IRS officials noted that the lower call volume IRS has experienced this filing season has allowed assistors to work through more written correspondence inventory than in prior years rather than letting it build up while answering calls. As a result, through March 25, 2017, the overage rate of correspondence—the percentage of cases generally not processed within 45 days of receipt by IRS—had decreased to 31 percent compared to 46.3 percent at the same time last year.²¹

IRS Experienced Few Processing Disruptions during the 2017 Filing Season

According to IRS officials, return processing during the 2017 filing season has proceeded as expected with a few minor challenges. As of April 14, 2017, IRS had processed 115 million individual tax returns and issued 87.5 million refunds totaling \$246 billion.

IRS's electronic filing system experienced two periods of interruptions, but they were short in duration with one lasting about a day and the other including intermittent outages over the course of about a week. In addition, some return processing was delayed as a result of the hiring freeze. IRS officials stated that the hiring restriction did not significantly disrupt processing tax returns and refunds, in part because the number of returns filed in the beginning of the filing season was lower compared to last year. IRS officials stated that they authorized use of overtime to help

²¹IRS classifies correspondence in its inventory as "overage" from 2 to 180 days after IRS receives them depending on the type of work performed by assistors. For example, correspondence cases generated internally age 75 days from the date IRS receives such cases, while international adjustment cases generated by taxpayers age 90 days from the date IRS receives them.

facilitate processing and meet performance deadlines. Between October 1, 2016 through April 1, 2017, IRS used 23 FTEs of overtime and estimates that it will use about 106 FTEs through the fiscal year.

In addition to the W-2 systemic verification process, the Protecting Americans from Tax Hikes Act also required taxpayers that filed a U.S. federal tax return containing an Individual Taxpayer Identification Number (ITIN) to renew the number if the ITIN was not used on at least one tax return in the past 3 years or it was issued prior to 2013 and contained certain middle digits.²² IRS deactivated approximately 11.5 million ITINs and notified affected taxpayers via mail and public notices. If affected taxpayers did not renew their ITIN either before filing or in conjunction with filing, their refund may have been delayed. As of April 15, 2017, IRS had renewed over 130,000 ITINs and rejected approximately 16,300 ITIN renewal applications.

IRS Launched a New Online Application, but Others Were Unavailable or Discontinued

IRS established its new online application in November 2016, but other key applications were unavailable or discontinued. IRS's new online application is designed to assist taxpayers with straightforward balance inquiries. It allows taxpayers to view their IRS account balance—including the amount they owe for tax, penalties, and interest—and take advantage of various online payment options.²³ For example, through the online account application, taxpayers can access IRS's Direct Pay application, which allows taxpayers to pay their individual tax bill or estimated tax payment directly from their checking or savings account at no cost. As of April 1, 2017, IRS's new online account application had been accessed more than 550,000 times since its launch. In addition, IRS has processed over 35,000 Direct Pay transactions totaling \$109.4 million since November 2016.

As we previously reported, in June 2016, IRS discontinued its e-file Personal Identification Number (PIN) tool, with which taxpayers could

²²Pub. L. No. 114-113, § 203(a), codified at 26 U.S.C. § 6109(i). An Individual Taxpayer Identification Number (ITIN) is a tax processing number issued by the IRS. IRS issues ITINs to individuals who are required to have a U.S. taxpayer identification number but do not have, and are not eligible to obtain, a Social Security number. IRS is reviewing ITINs in batches, based on, for example, the numbers in the ITIN, until all are reviewed.

²³Users must authenticate their identities through a two-step authentication process, which means returning users must have their credentials (username and password) plus a security code sent as a text to their mobile phones.

retrieve their e-file PINs online or via telephone.²⁴ The e-File PIN served as an alternative signature verification method on the Form 1040 series and helped assist taxpayers with electronically filing their tax returns. Discontinuing this tool followed IRS's announcement in February 2016 that cybercriminals had stolen more than 100,000 e-file PINs through the tool. In addition, in March 2017, IRS and the Department of Education responded to security concerns and removed access on fafsa.gov and StudentLoans.gov to IRS's Data Retrieval Tool—the online process through which student financial aid applicants obtain their family's tax information. IRS suspects that fraudsters used personal information obtained elsewhere to access the Data Retrieval Tool in an attempt to access tax information, particularly the adjusted gross income. As of April 6, IRS reported that fewer than 8,000 fraudulent returns from this incident had been filed, processed, and refunds issued but estimated that about 100,000 taxpayers may have been affected. IRS said that it expects the Data Retrieval Tool to be unavailable until October 2017 while IRS and the Department of Education make updates.

Implementing GAO's Prior Open Recommendations Could Help IRS Improve Service

IRS is making progress implementing our prior recommendations to improve its service, particularly in the following areas:

- **Customer service strategy.** We have made several recommendations for IRS to improve taxpayer service. For example, in 2012, we recommended that IRS outline a strategy that defines appropriate levels of telephone and correspondence service and wait time and lists specific steps to manage service based on an assessment of time frames, demand, capabilities, and resources.²⁵ In 2014, we recommended that IRS systematically and periodically compare its telephone service to the best in business to identify gaps

²⁴GAO, *2016 Filing Season: IRS Improved Telephone Service but Needs to Better Assist Identity Theft Victims and Prevent Release of Fraudulent Refunds*, [GAO-17-186](#) (Washington, D.C.: Jan. 31, 2017). Before IRS discontinued the e-file PIN application, if taxpayers did not have a self-select PIN, or their prior year's adjusted gross income, they could obtain an e-file PIN. The e-file PIN required taxpayers to authenticate their name, Social Security number, date of birth, address, and filing status. Since IRS discontinued the application, it instructs taxpayers to use their prior-year adjusted gross income, which can be found on their prior year return. For taxpayers without a copy of their prior year tax return, they may obtain one using the Get Transcript service.

²⁵GAO, *2012 Tax Filing: IRS Faces Challenges Providing Service to Taxpayers and Could Collect Balances Due More Effectively*, [GAO-13-156](#) (Washington, D.C.: Dec. 18, 2012).

between actual and desired performance.²⁶ Moreover, in December 2015, we suggested that Congress should consider requiring the Secretary of the Treasury to develop a comprehensive customer service strategy in consultation with IRS to enable the agency to make a more informed request to Congress about resource requirements needed to deliver specific levels of service, similar to what we recommended in December 2012.²⁷ In February 2016, IRS announced a “Future State” initiative for agency-wide operations, which aims to improve services across different taxpayer interactions such as individual online account assistance, exams, and collections. As part of this initiative, IRS completed a study benchmarking its telephone performance against the best in the business, and we are reviewing the report to determine whether it addresses our December 2014 recommendation.²⁸

IRS officials have told us that many of our other service-related recommendations will ultimately be incorporated into IRS’s Future State initiative. However, it is unclear the extent to which and when our recommendations will be fulfilled by IRS’s initiative. For example, in November 2016, IRS provided us with documentation on the goals of the initiative, which included goals on improving taxpayer service. However, the documentation does not detail levels of telephone and correspondence service and wait times, as we recommended in December 2012.²⁹ We will continue to assess the Future State initiative as IRS works to develop it. Finalizing a long-term, comprehensive strategy for customer service will help ensure IRS is maximizing the benefit to taxpayers and possibly reduce costs in other areas, such as for IRS’s telephone operations.

- **Online services.** IRS has made progress in addressing our December 2011 and April 2013 recommendations to improve its online services strategy; however, as of March 2017, IRS had not yet

²⁶GAO, *Tax Filing Season: 2014 Performance Highlights the Need to Better Manage Taxpayer Service and Future Risks*, [GAO-15-163](#) (Washington, D.C.: Dec. 16, 2014).

²⁷[GAO-16-151](#).

²⁸[GAO-15-163](#).

²⁹[GAO-13-156](#).

completed its efforts.³⁰ For example, IRS's Future State initiative aims to improve services across different taxpayer interactions such as individual account assistance, exams, and collections. IRS also revised its business case template in 2014 for new online services to include, among other things, a discussion of costs, benefits, and risks of future projects, consistent with our April 2013 recommendation. However, we reviewed IRS documentation and found that the business case contained some of the information we recommended, such as high-level time frames, but was missing other information, such as the benefits and costs of the project. Further, it is unclear how IRS plans to use the business case to prioritize future projects. IRS told us it implemented a new process for online investments that requires details on expected benefits and costs to be reviewed by the senior executives for prioritization and follow-up. As of March 2017, IRS has not provided additional documentation concerning this process. Analyses of benefits and costs can help agencies decide which new projects to start in a manner that maximizes the benefits derived from agency resources. IRS also requested funding in the fiscal year 2017 budget justification to enhance web applications, including the online account previously discussed.

In conclusion, W-2 systemic verification shows promise of being a powerful tool for addressing IDT refund fraud and possibly other types of fraud. IRS has also continued to improve its telephone service, which is important in helping taxpayers comply with the tax code. Addressing our open recommendations—including developing long-term strategies for customer and online services to ensure that IRS is maximizing the benefit to taxpayers and reducing costs in other areas, such as for IRS's telephone operations—could further help IRS in those endeavors.

Chairman Buchanan, Ranking Member Lewis, and Members of the Subcommittee, this concludes my prepared remarks. I look forward to answering any questions that you may have.

³⁰See GAO, *IRS Website: Long-Term Strategy Needed to Improve Interactive Services*, [GAO-13-435](#) (Washington, D.C.: Apr. 16, 2013) and GAO, *2011 Tax Filing: Processing Gains, but Taxpayer Assistance Could Be Enhanced by More Self-Service Tools*, [GAO-12-176](#) (Washington, D.C.: Dec. 15, 2011).

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*Chairman Buchanan. Well, thank you. And I want to thank all of you for your excellent testimony. We will now proceed to the question-and-answer session. As is my custom, I will hold my question until the end.

I now recognize the gentleman from Arizona, Mr. Schweikert, for any question he might have.

*Mr. Schweikert. Thank you, Mr. Chairman. There are so many things to ask, so we will sort of do this at, like, the speed round.

First off, there was a number you were saying that -- I believe it was almost a 40 percent reduction in identity fraud use on filings. Did I get that number correct? And what got you to that number?

*Ms. Wielobob. We had a 46 percent reduction in those folks calling us to report that they were victims of identity theft.

*Mr. Schweikert. Okay, so it was not -- so it was from individuals contacting the IRS, saying, "My identity was used fraudulently."

*Ms. Wielobob. Reporting themselves as victims of identity theft, yes.

*Mr. Schweikert. Okay. Ms. Lucas-Judy, can you walk me through? Because in sort of the data metrics, you were saying, okay, you have had great success in matching W-2 data to the requests for refunds and those.

How much outside data -- do you ever use proprietary data, or purchase other data, or bounce requests for refunds off of private databases?

*Ms. Lucas-Judy. We were reporting specifically on IRS's use of the W-2 wage data --

*Mr. Schweikert. Yes. My question was the next level out.

*Ms. Lucas-Judy. Right.

*Mr. Schweikert. Are there other identifications used in the adherence of making the decisions of an Earned Income Tax Credit? Are those things going out the door, or is it just solely the delay and the match to W-2?

*Ms. Lucas-Judy. In this case it was about the delay and the matching of the W-2s, because the W-2s were coming in, in some cases, after the refunds were being paid.

Now, IRS does have a number of other checks that it does throughout the process to determine which returns would be potentially fraudulent.

*Mr. Schweikert. Well, my concern is the difference in the designs of an algorithmic look and an actual match look.

*Ms. Lucas-Judy. Right.

*Mr. Schweikert. They are two very different things. One is, hey, you know, the attributes of this filing look like it meets our statistical model of potentially being dodgy, where this one, this person saying they made this income, therefore they do qualify for child care tax credit, you know, with these attributes, we can bounce it off and get red light, green light almost instantly if the attributes match. And if the attributes don't match, then you know -- because if I was hearing the discussion that there may have been a concern saying, hey, this waiting until the February date -- well, there is an alternative to the delay, but that is -- requires using data matching with other databases.

*Ms. Lucas-Judy. Right, and they are still matching against other things.

And one of the issues is that when IRS identifies a potential mismatch, it still has to go through and do some form of additional verification, additional investigation to determine whether or not it is actually fraudulent.

*Mr. Schweikert. Back to the question. Sorry -- and I may not be communicating very crisply -- what are you matching to? Is that algorithmic, is it W-2? Are you using any outside data sets to match to?

*Ms. Lucas-Judy. Well, we are -- GAO is not doing the matching --

*Mr. Schweikert. No, no, I meant --

*Ms. Lucas-Judy. It is through IRS --

*Mr. Schweikert. -- as the observation at the --

*Ms. Lucas-Judy. Right. So one of the things that we have recommended, we have pointed out that the more third-party information that is available for doing that kind of matching, the more effective it is going to be. And also that IRS -- we have also recommended that Congress expand IRS's correctable error authority, its math error authority, to be able to handle mismatches more quickly without having to go through and do audits of individual instances.

*Mr. Schweikert. From the IRS standpoint, is that something that has been -- has there ever been a test, a data run, a look at -- on being able to sort of do an A and a B -- I know statute right now is you have to hold and wait so you have the W-2 data in the system. But there is other ways to get a quick match.

I mean when some of these private databases know what ice cream I eat, they know my attributes and my income, my lifestyle, those things, wouldn't that be a faster,

cheaper, better way? And that way also, as all of us have a concern on the IRS's ability to produce and maintain large IT systems, this way there is no IT system for the IRS to own and manage. It is just data matching.

*Ms. Wielobob. So currently, we do, as my co-panelist was describing, we do match income against the W-2s. And we also have a --

*Mr. Schweikert. Okay, but that is still --

*Ms. Wielobob. We also have --

*Mr. Schweikert. But that is still --

*Ms. Wielobob. But --

*Mr. Schweikert. -- internal. I mean do you do any matching to anything in the outside world?

*Ms. Wielobob. We have a series of filters that we run the returns through to detect --

*Mr. Schweikert. Okay, but the filter --

*Ms. Wielobob. -- whether there is fraud.

*Mr. Schweikert. But the filters would all be algorithmic, internally produced.

*Ms. Wielobob. I would have to get back to you on that. You are beyond my level of expertise right here.

*Mr. Schweikert. Okay, sorry.

Mr. Chairman, thank you, but it is an interesting idea. There may be a cheaper, better, more elegant way to get these benefits out the door and at the same time deal with the amount of fraud that is still built into the system.

With that I yield back, Mr. Chairman.

*Chairman Buchanan. I now recognize the distinguished Ranking Member, Mr. Lewis, for any questions that he might have.

*Mr. Lewis. Thank you very much, Mr. Chairman. I just want to make a short statement before asking my question. In 2015 the Republican majority insisted that the Congress pass a law that requires the agency to hire private companies to collect unpaid taxes from taxpayers. And IRS, under the law, is required to turn over Social Security numbers and identifying information for tens of thousands of taxpayers to private debt collectors who will soon start collecting from the public.

Do any of you have any concern about what is happening? Do you have any information, Ms. Lucas-Judy, about what has happened, is about to happen, that happened in the past?

*Ms. Lucas-Judy. GAO reported back in -- I believe it was 1997 -- on the pilot project that IRS did at that time using private debt collectors. And one of the things that we found was that the cost of the program at that time -- the collection and -- didn't necessarily outweigh the costs. Sorry, the costs of the collection didn't really outweigh the benefits of what they were bringing in. They were spending more on the private debt collectors.

It was also additional opportunity costs involved in having to train the private debt collectors and to oversee their work, because there were limitations due to privacy concerns about what information they could have.

*Mr. Lewis. Do you have any information or any history of citizens calling to the IRS saying they are being harassed by some private organizations all times of night, all times of day?

*Ms. Lucas-Judy. Well, as you have heard --

*Mr. Lewis. Any for the record?

*Ms. Lucas-Judy. Oh, I am sorry, go ahead.

*Mr. Lewis. Do you have any information to support that people are being harassed?

*Ms. Lucas-Judy. Not necessarily of harassment. I mean, as you heard, the -- it has been a very common scheme to have people impersonate IRS collectors and threaten people with imprisonment or, you know, losing benefits, or things like that. So that is something that would be a concern, and that IRS has expressed a concern about with using private debt collectors.

They did put out a statement recently trying to explain what to expect if you are going to be contacted by a private debt collector who is under IRS's authority to try to deal with that concern.

*Mr. Lewis. Do you know whether the head of the IRS or any official at the IRS have made statements to the Congress saying this is not working, why are we going down this road again? Can we remember our history, what we have lost, what it is doing to the average taxpayer?

*Ms. Lucas-Judy. The program did just start, I believe, a few weeks ago. I don't know if either of the other panelists has any comments on that.

*Mr. McKenney. I guess I have a couple of comments. TIGTA has looked at the -- kind of the creation of the program, the processes that they are putting in place. And I guess the concerns that we have expressed so far -- and they have a lot to do with the concerns about that telephone impersonation scam, you know, kind of coinciding with the implementation of this -- and a few of the concerns we have -- or I will mention 2 significant ones is -- that we have expressed to the IRS.

One is the authentication process. Authenticating who you are talking to. The process that IRS has for that, we believe, need to be strengthened, because there is just a potential that, you know, people will use this new process to, you know, perpetrate the scams that have already been underway.

And then the other issue that we think is really important is the lack of a complaint panel, which helps identify problems early on and, you know, improve the program in case there is, you know, issues that people need to complain about.

So those are the 2 main issues we brought up early on in the process, and we are continuing, and we will be reporting periodically on that program.

*Mr. Lewis. Do you have any idea what effect the high-end taxpayers, or the low, middle-to-low-income taxpayers -- what type of people are being harassed? What class of people?

*Mr. McKenney. Well, ultimately, the -- it calls for, really, inactive inventory, and the definition -- anything that has been removed from inactive inventory will be involved in this program, and that is inventory which -- one-third of the collection statute has been -- has expired or it has been at least a year since anybody has contacted the person.

Beyond that, what the criteria may be --

*Mr. Lewis. What I am trying to get to -- whether the high rollers, people who make a lot of money, millions and billions of dollars, whether they are being harassed, or whether it is the middle-income, the working people that are being harassed by the private collectors.

*Mr. McKenney. It is pretty early on in the program. I don't really have any information yet. They just started sending those letters out, you know, in April. So I think, as far as what --

*Ms. Wielobob. That is true. We just started sending out the letters -- I think we are in the second week of sending accounts, actually, to the private collection agencies. So we don't have many -- we don't have much data or results to share at the moment.

But as far as the range of taxpayers who are -- who may hear from a private collection agency, I think that it can cover the waterfront.

*Mr. McKenney. And one other thing I should mention is, to date, TIGTA has received no complaints about the programs.

*Mr. Lewis. Well, Mr. Chairman, if I may?

*Chairman Buchanan. Yes.

*Mr. Lewis. In September 2014, Commissioner Koskinen sent a letter to the Senate Finance Committee outlining his concern with the private debt collecting program. Without objection, I would like to enter this letter into the record.

*Chairman Buchanan. Yes, not a problem, yes.

SFR1



COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

May 9, 2014

The Honorable Orrin Hatch
Ranking Member
Committee on Finance
United States Senate
Washington, DC 20510

Dear Senator Hatch:

I am writing to provide you with an assessment of our ability to administer certain pending provisions – qualified tax collection contracts and modification of research credit – that were marked up by the Senate Committee on Finance on April 3, 2014, as part of the EXPIRE Act. There is also considerable uncertainty related to several tax provisions that expired at the end of 2013 known as "extenders."

Each year, we conduct in-depth planning to ensure that we are prepared for all aspects of the upcoming filing season — from training our customer service employees, to modifying forms and publications, to programming our technology systems to reflect changes in the tax law. This year will be particularly challenging due to several unresolved tax issues. When the Congress takes action well after this planning process is underway, there is potential for substantial disruption to the filing season ahead.

As you further consider the tax extender legislation, I wanted to provide you with a detailed description of the impact if the Congress enacts certain provisions in the current version of the legislation, and if the current uncertainty regarding extenders continues beyond the end of this year.

Qualified Tax Collection Contracts

This provision would require the Secretary of the Treasury to enter into qualified tax collection contracts for the collection of inactive tax receivables. We must begin entering into these contracts within three months of the date of enactment. Consistent with current-law Code Section 6306, we must retain and use a portion of the collected revenues for collection enforcement activities. The provision would require that we use those revenues for compliance personnel funding.

Our scarce IT resources are currently being fully utilized in preparing IRS systems and programs for the 2015 filing season which includes ACA and FATCA implementation. We do not have the IT resources to implement this provision without diverting these resources from ACA and FATCA. Such diversion could place the 2015 filing season at risk. The 2016 filing season will also require full utilization of IT resources due to ACA

and FATCA. Since diversion of IT resources results in considerable risk to the 2015 and 2016 filing season, the IRS would not be able to implement this provision for at least two years.

In addition, we would like to highlight the two previous experiences with pilot programs – those cost the IRS \$8.9 million in 1996 through 1997, and \$67.8 million in 2006 through 2009, for personnel and IT support funding.

In 1996 and 2006, we contracted with private collection agencies (PCAs) to work cases that the IRS would otherwise be unable to work because of limited resources. Both the IRS and independent studies concluded that, from a cost-per-dollar evaluation, PCA firms were unable to outperform IRS employees. As a steward of the American tax system, this fact weighs heavily on me.

The three year effort, between 2006 and 2009, utilizing PCAs resulted in IRS direct costs that exceeded the revenue retained and forced the agency to absorb a difference of \$12.4 million out of appropriated funds. Additionally, these costs did not include startup costs for business and information technology (IT) development. Overall, the total IRS costs were \$67.8 million to implement this program, resulting in a net loss of \$4.4 million.

Considering the costs of prior efforts, it is important to note that if we were to deploy another PCA program, it would require that we incur significant dollars in up-front start-up costs that were not planned for nor budgeted. The IRS is the appropriate agency to collect revenues with our employees. Prior efforts required significant IRS oversight and management, quality review, and PCA contractual oversight, as well as IT resources. More importantly, the \$67.8 million total costs of the 2006 effort could have been invested in an additional 700 full time equivalent (FTEs) for ACS personnel. These 700 FTEs would have produced an estimated \$1.4 billion in enforcement revenue. Given the current IRS budget situation, it seems unwise to divert scarce enforcement resources to fund a new program at this time.

Modification of Research Credit

This provision would expand the research and experimentation (R&E) tax credit to qualifying startup businesses, allowing such companies to claim the credit against taxes it pays on employee wages. The benefit is capped at \$250,000 per year and available only to companies less than five years old with less than \$5 million in gross receipts.

Expanding this credit has an impact on IRS IT resources similar to enacting a new credit. That is, it will require IT resources to change our return processing, financial accounting and compliance computer systems. We are currently devoting our scarce IT resources to implementing ACA and FATCA for the 2015 filing season. We would need to incorporate late IT requirements into the already-strained IT resource plan. In addition, we have identified abuses in the claiming of this credit on income tax returns. Having an optional credit against Federal Insurance Contributions Act (FICA) taxes

adds additional complexity and further complicates our ability to identify those businesses that abuse the credit.

Health Coverage Tax Credit

As currently drafted, the IRS is not able to reinstate the administration of HCTC if this provision is enacted retroactively. The IRS relied on outside contractors for assistance with this program previously and has closed-out HCTC activities following the December 31, 2013, expiration of HCTC. Ending the HCTC program required the IRS to decommission 100 servers, close numerous contractor sites, disconnect data transmissions with the Department of Labor/Pension Benefit Guarantee Corporation, end stakeholder and health plan administrator interactions and dispose of all HCTC records, data and stakeholder collateral. After May 15, 2014, the HCTC program will no longer have access to the infrastructure, software and data needed to run the program. The IRS would require significant funding and an extended effective date (a year or longer) to reinstate administration of this program. Initial start-up costs for the HCTC were more than \$69 million and additional costs would also be needed for maintenance and operations of HCTC systems for two years.

Tax Extenders

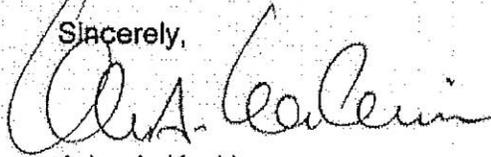
A number of other tax provisions affecting individuals also expired at the end of 2013. These include tax deductions for educators' out-of-pocket classroom expenses, tuition and related fees for higher education, and state and local sales taxes. The last provision is of particular importance to taxpayers in states with no income tax.

These tax law changes are generally not as complex and do not present anything near the operational risk associated with the above-mentioned provisions. Provided enough advance notice, the IRS could implement these provisions. On January 2, 2013, Congress enacted legislation extending these provisions retroactively. As a result, the IRS made the necessary changes to its forms and systems, and delayed the opening of the 2013 filing season for some taxpayers until late February or early March. Among the taxpayers affected were individuals claiming residential energy credits, depreciation of property, or general business credits.

If we were presented with a similar scenario of legislation containing the late enactment of unmodified tax extenders this year, I would anticipate a similar outcome.

I hope this information is helpful, and I would be happy to discuss any of these issues in more detail. I am also writing to Chairman Ron Wyden and Chairman Dave Camp and Ranking Member Sander Levin of the House Ways and Means Committee. If you have questions, please contact me, or a member of your staff can contact Leonard Oursler, Director, Legislative Affairs, at (202) 317-6985.

Sincerely,

A handwritten signature in cursive script, appearing to read "John A. Koskinen".

John A. Koskinen

*Mr. Lewis. Thank you. I yield back, Mr. Chairman.

*Chairman Buchanan. I now recognize Mrs. Walorski.

*Mrs. Walorski. Thank you, Mr. Chairman.

Deputy Commissioner, I share your interest in eliminating tax fraud and identity theft, and have been following a couple of different programs. And I know you are new. I just wanted to at least talk to you about a program specifically to kind of -- to just have a chance to talk about it and kind of see where the IRS is on it.

It is the focus on the Return Review Program, or RRP. And I apologize, there are acronyms in all the names of these programs. But the RRP is the successor to the Electronic Fraud Detection System, which is EFDS, which, in 2010, the IRS said was too risky to maintain, upgrade, or operate beyond 2015. But here we are in 2017, the EFDS is still the principal fraud detection system because, despite starting development in 2009, the RRP really still isn't ready for prime time. It has only run as a pilot, didn't perform particularly well, having a false positive rate and missing \$313 million in actual fraudulent findings.

So it is troubling to me that the IRS initially selected to undertake a unique blend -- a unique build in the first place. But even more troubling to me is that, after such dramatic under-performance, delays, overruns, it seems to have simply been rubber-stamped on these contract renewals in 2013 and 2016 without looking at alternatives or vetting new technology.

So I know this doesn't necessarily fall under your purview of services and enforcement, but you are here representing the IRS, so I wanted to at least throw this to you and say in section 12.101 of the Federal Acquisition Regulation, or FAR, requires federal agencies, including the IRS, to conduct market research to determine whether commercial items are available, and to acquire those items when they meet the needs of the agency.

So, was there any market research completed, as well as 13 and 16, to see if any commercial items could accomplish this mission of the RRP?

*Ms. Wielobob. So in addition to acronyms, we also make words out of acronyms. So we call that one EFDS.

*Mrs. Walorski. Okay, EFDS.

*Ms. Wielobob. So, Congresswoman, as you said, I am new. And I would be glad to get back to you on these questions, but they are really not only outside of services and enforcement, but beyond my scope, sitting here today.

*Mrs. Walorski. Can I ask just a couple more questions for the record, and have those sent back in writing? I would really --

*Ms. Wielobob. Absolutely.

*Mrs. Walorski. -- really appreciate it, because here is my question, is in 2013 the IRS justified a sole-source contract for the RRP on the grounds that it was the only way to meet the project's aggressive schedules. Obviously, those goals have still not been met in 4 years.

So, given that failure to deliver, my other question is what did the IRS do to hold the awardee and the program management staff accountable?

And then my final question is the period of performance for the current RRP contract expires this month. The IRS's original cost for the RRP was \$57.5 million. But, as I pointed out earlier, the cost overruns alone were 86.5 million, as of a couple of years ago. I really want to know how much the IRS has actually spent developing, testing, and implementing this program. Bottom line.

*Ms. Wielobob. Okay. We will be glad to get back to you.

*Mrs. Walorski. And I would very much appreciate it. Thank you, Mr. Chairman. I yield back.

*Chairman Buchanan. I now recognize Ms. DelBene.

*Ms. DelBene. Thank you, and thanks to all of you for being here with us today.

Ms. Wielobob -- hopefully I pronounced that right.

*Ms. Wielobob. That was very well done, thank you.

*Ms. DelBene. Good.

[Laughter]

*Ms. DelBene. I was very pleased to see that the IRS is making progress combating identity theft and fraud, and definitely believe we need to keep up the work and bolster programs that we know are working in this area.

However, I would like to bring your attention to a possible negative side-effect of the program, and see if we might be able to work together to address it. In my district there seems that this past filing season to be an uptick in false positives. Constituents would receive a confirmation that their returns were being processed as normal. And then, after about 6 weeks or so, they would receive notification that they had been flagged for

additional review. Then some saw additional wait times of 9 weeks or more, with very little communication about the status of their returns, or the reason for the delay.

So I wondered if you could highlight some steps that are currently being taken to avoid false positives, to ensure that taxpayers who are flagged for review are receiving regular communication on their status, and prompt resolution. Are there additional things the IRS is considering to improve processing times for returns that are flagged in the taxpayer protection program?

*Ms. Wielobob. So I have not heard of -- about an uptick in false positives until your statement. I mean we will check into our data, for certain.

One of the things this filing season that has benefitted us is the earlier availability of the W-2 information. That has been -- that has allowed us to detect fraudulent returns, but then also understand whether we have a valid return. And when we do have a valid return, release any refund that the taxpayer is due. So that was a big help to us this year.

We are always looking to -- we are always modifying our filters, we are finding our filters to become better, more adept at detecting both the fraudulent returns and the good returns, as we call them.

*Ms. DelBene. Now, would the regular communications -- so if someone was flagged, the other thing we had heard is they didn't really get very good feedback on what was happening, going forward.

*Ms. Wielobob. Did they give you any more specifics, like --

*Ms. DelBene. I can give you more specifics on some of the individual cases that we had, and calls that we got into our office. But they -- you know, we had heard, you know, from folks up to 9 weeks of just not hearing anything after they found out that they had been flagged.

*Ms. Wielobob. Okay. I am sure that we have timeframes laid out for when we get back to folks, back to taxpayers, and we can look into those --

*Ms. DelBene. Okay. We will follow up on that.

*Ms. Wielobob. Okay, thank you.

*Ms. DelBene. The other one was I know there have been improvements in handling call volumes. But there still seems to be a serious challenge for many taxpayers who need assistance. This season some of my constituents reported getting kicked off of the IRS phone system due to call volumes.

And so, we ended up with many of the calls, where we would pass individuals on to taxpayer advocates to -- due to their inability to get through. And I wondered if you

could speak to this at all. Beyond what I assume are staffing issues, are there any technology issues that would cause folks who are on hold to be kicked off?

*Ms. Wielobob. You know, as you noted, we do face significant technology issues. And we did have a couple outages this year on our phones, but have got them -- quickly resolved them, and hopefully as few taxpayers are disadvantaged as possible.

We face a large call volume. Some of our systems -- as we have money and we work to upgrade our systems, there are still systems that we do need to upgrade to prevent problems like that.

*Ms. DelBene. Okay. If there is any more information on --

*Ms. Wielobob. Okay.

*Ms. DelBene. -- what might be able to be done to help resolve that, I would appreciate it.

*Ms. Wielobob. Sure.

*Ms. DelBene. Thank you. I yield back.

*Chairman Buchanan. I now recognize Mr. Curbelo.

*Mr. Curbelo. Thank you, Mr. Chairman, for this hearing. I admire your commitment to protecting American taxpayers and that of the Ranking Member, as well.

Ms. Lucas-Judy, one of GAO's recommendations was that the IRS should develop a comprehensive customer strategy. Can you expound a little bit on that recommendation?

*Ms. Lucas-Judy. We have actually had a number of related recommendations over the years. The first, I think, was in 2011 or 2012. We were recommending that they establish the levels of service that they wanted for phones and for correspondence and other areas, and then really lay out a strategy for how they were going to achieve those, what kind of resources would be required to get that particular level of service.

We also recommended that -- in 2014, that they do some sort of benchmarking study to determine, with their telephone service, how it relates to those that would be considered the best in the business, you know, other large call centers that deal with a large volume of people across the country, what would be an appropriate amount of time to wait, what is considered to be an appropriate amount of time, you know, to resolve a call.

And then, because there wasn't a whole lot of action being taken to address our prior recommendations, we also made a matter for congressional consideration to require Treasury to have IRS do comprehensive customer service strategy.

So, IRS is making progress in addressing these. It did go ahead and do a benchmarking study, and we are evaluating -- looking at the results of the study to see if it addresses our recommendation. I think they looked at 12 or 13 different public sector and private sector entities, and benchmarked themselves against that.

In addition, they have also started to design what they call a future state initiative, which is a vision for future IRS services that accounts for in-person services, phone service, online service, just sort of a comprehensive picture. And that is the kind of thing that we were recommending.

But some of the specifics are still lacking, in terms of, again, the sort of numeric targets for the different components of service, and specifically tying the resources in. What would it take to get you to these particular levels of service?

*Mr. Curbelo. Thank you very much. And, Ms. Wielobob, in addition to the IRS, outside groups also have the opportunity to provide taxpayers with assistance, specifically through VITA -- Volunteer Income Tax Assistance -- grants, Tax Counseling for the Elderly, and taxpayer advocate services. These programs are targeted to ensure taxpayers, especially those with lower incomes and limited proficiency in English, can confidently file returns without fear of being scammed by fraudulent preparers.

I was actually proud to lead a bipartisan letter with 55 of my colleagues, including eight Members of Ways and Means, to the House Appropriations Committee calling for increased funding as Congress crafts our fiscal year 2018 budget. Can you discuss the IRS's efforts to promote and educate taxpayers on options available, and how the agency is interacting or promoting these programs?

*Ms. Wielobob. The programs that you mention, particularly VITA and TCE, we provide grants to those organizations. We also work through partner organizations in what -- through what is called our spec organization in wage and investment, where we reach out through those organizations to partners to provide assistance to taxpayers.

We do a fair amount of marketing, we do a lot of communication through the media. We have space on our website for VITA, TCE publication, essentially, or publicity -- it is probably a better word to say that.

*Mr. Curbelo. Would you say there is room for growth for these programs, that they can do a lot more? Do you find them to be effective?

*Ms. Wielobob. Oh, they are very effective. They have -- I have been around the IRS for 20 years, and they have been effective the whole time that I have been there, and we are very proud of the work that they do and our partnership with them.

*Mr. Curbelo. Well, thank you. And I again invite my colleagues to bolster these programs, because the more we can do to help the elderly, low-income individuals understand how the tax system works, and interact with the IRS, the better we are, as a country.

So thank you very much, Mr. Chairman, I yield back.

*Chairman Buchanan. I now recognize the gentleman from Oregon, Mr. Blumenauer.

*Mr. Blumenauer. Thank you, Mr. Chairman. If I could, I would like to request unanimous consent to enter into the record a half-dozen articles about private debt collection in the IRS.

*Chairman Buchanan. Yes, that is fine.

Collection Agencies Get Another Shot at Your Back Taxes

ALEX RICHARDS & BRAD WOLVERTON April 6, 2017



If you're far behind on paying federal taxes, get ready to be muscled by private collection agencies.

The IRS has hired four companies to go after long-delinquent taxpayers — often poor people — by using tactics forbidden to government employees who pursue unpaid taxes.

The IRS' own [Taxpayer Advocate Service](#) and other critics warn that private collectors often resort to deceptive methods, forcing people of little means to make choices that can be financially disastrous. One of the four private agencies going to work for the IRS was discharged by the U.S. Education Department two years ago amid department allegations that the company used misleading tactics while trying to collect student loan debt.

But advocates of the IRS outsourcing, including congressional leaders who approved it in 2015, say the IRS uses most of its resources going after major tax delinquents and does not have the personnel to pursue everyone who has long-due taxes.

They say the collection agencies, which begin work this week, will be monitored to ensure they follow strict rules of conduct.

1 | Richards, A. and Wolverton, B. (2017) "Collection Agencies Get Another Shot at Your Back Taxes". *NerdWallet, Inc.*, [online]. Available at: <https://www.nerdwallet.com/blog/taxes/warning-collection-agencies-coming-back-taxes/>. Accessed 24 April 2017].

Outsourcing failed before

Congress insisted on the use of private collectors despite the failure of two similar outsourcing programs over the last two decades. Each cost the Treasury Department more money than it received in overdue taxes.

The last time, starting in 2006, congressional tax analysts predicted that the companies could collect as much as \$4.8 billion over a decade. The IRS eliminated the program three years later after losing about \$4.5 million, according to a 2014 report from the Taxpayer Advocate Service, an independent organization within the IRS.

Sen. Charles Grassley, R-Iowa, a former chair of the Senate Finance Committee, has disputed the Taxpayer Advocate's analysis, arguing that it was not a fair accounting. He called for the IRS to continue outsourcing collections.

Lawmakers argue that private companies have more resources and different tools than the budget-strapped IRS. Those include allowing collection agencies to target tax delinquents by phone, something the IRS has never done.

Debt collectors will be required to comply with the Fair Debt Collection Practices Act, which is designed to curtail abusive or deceptive behavior. The IRS says it will review the companies regularly and examine the taxpayer complaints that the companies are required to report.

Critics say collection agencies have been known to call delinquent debtors six or more times a week, give inaccurate information and use dubious methods to force payment.

Another fear is that taxpayers won't know the difference between callers the IRS has approved and con artists threatening arrest,

deportation and other outlandish consequences for not paying up. The IRS has warned about such scams, [calling](#) them a “major threat” to taxpayers.

AARP says it has fielded thousands of phone calls in recent years from people complaining about IRS imposters. “They get you because people are afraid of the IRS,” says Kristin Keckeisen, campaign director for the association’s [Fraud Watch Network](#).

If you owe taxes and are called by a debt collector claiming to work for the IRS, you should verify the phone number with the IRS, Keckeisen says. And if you’re the target of an unscrupulous collector, you can report the company to the IRS and demand in writing to have direct contact with the agency. (NerdWallet has also [detailed](#) other ways to protect yourself from collectors.)

Collection agencies benefit

Two of the companies, Pioneer Credit Recovery and ConServe, are in the home state of the chief advocate for outsourcing the work: Sen. Charles Schumer, D-N.Y.

Schumer is a longtime proponent of privatizing tax collection, in part because of its benefit to collection agencies. He said the IRS contract is expected to help Pioneer and ConServe add a total of some [600 jobs](#).

Navient, Pioneer’s parent company, gave \$4,000 in campaign contributions to Schumer last year, according to Federal Election Commission filings. Since 2002, Schumer has received at least \$35,000 from Navient, its predecessor Sallie Mae, its subsidiaries and their employees.

Schumer’s staff did not respond to requests for comment.

The four debt collection companies — which also include Iowa-based CBE Group and California-based Performant — will be

allowed to keep about 25% of the money they recover for the government. The IRS also gets 25%, while the rest goes to the Treasury Department.

Pioneer has done similar work for the U.S. Department of Education but was dropped from its roster in 2015 for tactics the department deemed improper when collecting on defaulted student loans.

The Education Department paid Pioneer about \$175 million between 2013 and 2015. But the department terminated its contract after **alleging** the company misled student loan borrowers about the benefits of repaying.

The Consumer Financial Protection Bureau and attorneys general in two states have also sued Navient and Pioneer, accusing them of similar problems.

Pioneer denies that it did anything wrong and has appealed its dismissal by the Education Department: The company says it is a leader in enrolling borrowers in income-driven repayment plans and has helped nearly 250,000 students rehabilitate their loans. Pioneer says the allegations by the CFPB and the attorneys general were not based on evidence of harm.

Pioneer also was part of the IRS' last experiment with outsourcing collection of back taxes under a program that was viewed critically by consumer advocates and some lawmakers.

In 2007, about a year after Pioneer and the CBE Group started collecting tax debts, then-U.S. Rep. Charlie Rangel, D-N.Y., held a hearing to investigate. Among the topics: domineering methods used by companies when dealing with taxpayers over the phone.

“[W]e are not selling Florida swampland here and taxpayers are not marks,” Nina Olson, leader of the Taxpayer Advocate Service, testified at the hearing.

An internal Pioneer document discussed at the hearing instructed call center workers to encourage taxpayers to borrow cash to pay their overdue tax debt, including taking a loan from a private bank, cashing out their 401(k) — even hitting up friends and family. Some of those options, like taking out personal loans, could drive people further into debt.

Pioneer’s training materials introduced at the hearing also instructed collectors to tell taxpayers their money was due immediately and then ask them for a solution. The collector was supposed to follow that question with a “psychological pause” — silence the taxpayer would feel compelled to fill with a payment offer or information about their finances.

Materials reviewed at the hearing also showed that other companies working for the IRS directed collectors to use a psychological pause, with one characterizing its effect bluntly: **“The next person to speak loses.”**

Pioneer parent Navient says the IRS approved the scripts its collectors used during the calls and noted that those scripts no longer include description of a psychological pause.

New problem could be created

The IRS **said Tuesday** that it plans to hand over hundreds of delinquent accounts to Pioneer and its fellow collectors starting this week. The program will continue to ramp up over the spring and summer.

The Taxpayer Advocate Service has estimated that some 380,000 accounts will be transferred.

It's not clear how much better the companies will fare than the IRS did at collecting money. Many of those accounts belong to low-income families. For those with a recent tax filing, about 40% **report an annual income** below \$20,000, according to the Taxpayer Advocate Service.

If enough people with old debts turned over to collectors elect to work directly with the IRS instead, it could create a new problem for the Treasury Department, a loophole left unaddressed since the last time the IRS outsourced collections: The agency has **no staff lined up** to ensure that taxpayers make good on these old debts.

Accounts returned to the "inactive" pile won't help the companies or the government's bottom line, and the transfer could embolden the most delinquent taxpayers. If they think the IRS is no longer on their trail, they might never pay their bill.

Outsourcing IRS debt collection a terrible idea

Citrus County Chronicle Online

Monday, April 24, 2017 at 10:23 pm

THE ISSUE: Internal Revenue Service using private debt collectors.

OUR OPINION: A bad idea.

The Internal Revenue Service has recently announced it will use private debt collection agencies to collect some overdue taxes.

According to the agency, the private debt collectors will work on accounts where taxpayers owe money, but the IRS is no longer actively working on the account.

This is the third time the IRS has tried using private agencies to collect tax debt. Two other efforts, in 1996 and 2006, both led to failure.

The latest version of using private collectors comes courtesy of a provision in the 2015 law aimed at raising funds for road construction projects. The legislation, called "Fixing America's Surface Transportation Act," contained a specific provision mandating that the IRS use private collection agencies to collect some of the \$138 billion overdue tax debt owed by 14 million taxpayers.

Earlier this month, the IRS announced that letters are going out to some delinquent taxpayers notifying them their debt has been turned over to a private agency for collection.

Whether the latest version of using private collectors is any more successful than earlier versions remains unanswered, but history is not kind to the concept.

In 2006 the IRS started a three-year pilot program where \$1.6 billion in tax debt was turned over to private collection agencies. Three years

later, when the program was ended, debt collectors had collected \$81 million.

The remaining debt was turned over to IRS agents, who collected \$139 million, substantially more than private collectors. And, with administrative costs figured in, the private program cost the IRS about \$4.4 million.

And still, the IRS is marching forward with another private program, one driven both by legislative desires to collect tax revenue and by cutbacks in funding for the IRS.

For example, according to the New York Times, the size of the IRS audit staff has fallen by 30 percent, resulting in a decades-low audit rate of seven-tenths of 1 percent for individual taxpayers. For large corporations, the number of returns audited fell by nearly half in 2016 compared with 2006. Meanwhile, the enforcement unit lost 7,000 employees, resulting in fewer cases, fewer prosecutions, and fewer convictions.

Aside from questions about the effectiveness of private collection efforts, the new policy looks like an open door to fraud.

In a Feb. 2 press release, the IRS noted that “aggressive and threatening phone calls by criminals posing as IRS agents remains a threat to taxpayers, heading the ‘dirty dozen’ list of tax scams.” The agency also noted that the IRS sends letters to taxpayers and does not call demanding payment of taxes.

But of course, all of that will change for those taxpayers whose debt gets turned over to collection agencies, because the private collectors will call. The agency says it will send letters to notify people if their debt is turned over, but unless you are following IRS rules closely, you are not likely to catch this subtlety.

If this sounds like an invitation to fraudsters, we agree. If the agency wants to collect more taxes, it should hire more tax collectors.

According to the NY Times, every dollar invested in IRS collections yields \$4 in revenue for the federal government, and as much as \$10 when invested in enforcement activities.

It is encouraging that the new Treasury secretary, Steven Mnuchin, said during his confirmation hearings that he wants to increase the IRS workforce, and is no fan of private agencies collecting IRS debt.

However, President Trump's budget proposal calls for cutting \$239 million from the IRS budget, so it is unclear whether there will be more funds for IRS agents and enforcement.

Outsourcing tax debt collection to private agencies is bad policy. It should never have been enacted and should be reversed. The sooner the better.

Why Tax Collection Scams Are Getting Harder to Stop

Credit.com

April 20, 2017 • 3 min read by [Adam Levin](#)

I've written about tax-related crime for years, and have always offered this fail-safe rule to avoid tax scams: If you ever receive a call from the IRS about back taxes or any other money you supposedly owe the government, hang up because it's a scam.

There was something comforting about that advice — maybe even a little satisfying. I mean, who secretly doesn't want to hang up on the taxman? But it seemed no amount of repetition was enough to stem the tide of tax-related scams, and no matter how many times I wrote about that simple, satisfying tactic, the message never reached the people most vulnerable to such shenanigans.

Taxpayers still got taken in by scam artists dialing for dollars every day. It didn't matter if the crook posed as an IRS employee, or if he ventured into the truly absurd with a claim that he worked for a collection agency that bought back tax debt from the agency. It was wacky stuff, the IRS selling debt. But it was wackier than that ...

All you had to know was this: The IRS did all its own collecting, and it conducted all its business via snail mail. It never called. The advice was solid: Let your spirit fly! Do or say whatever you want when the IRS called about back taxes or an audit because it wasn't them!

1 | Levin, A. (2017) "Why Tax Collection Scams Are Getting Harder to Stop". Credit.com. (online) Available from: <http://blog.credit.com/2017/04/why-tax-collection-scams-are-getting-harder-to-stop-170171/> [accessed 20 April 2017].

You know where I'm going with this, right? Yep, leave it to our friends in Washington to take a bad situation and make it worse.

Earlier this month, IRS chief John Koskinen announced that the IRS would be immediately outsourcing certain debt collection activities to one of four debt collection companies: CBE Group of Cedar Falls, Iowa; Conserve of Fairport, New York; Performant of Livermore, California; and Pioneer of Horseheads, New York.

You read that right. The IRS is outsourcing debt to collection agencies.

When this was initially announced last September, I was convinced that it was a joke—and a pretty good one. Extra points for coming up with something more or less unthinkable— since truly, debt collection agencies could not be a more problematic solution to the IRS's back tax problem — but it turns out it wasn't their joke.

You can thank Congress for this epic face palm. Although it didn't get much attention when it passed in 2015, one of the provisions of the Fixing America's Surface Transportation Act required the IRS to hire private-sector debt collectors to pay for it.

Since consumers are going to have to handle this year's post-tax season a little different as a result, here are some telltale giveaways that you're getting scammed and should hang up:

1. You get a call from a collection agency not listed above. Only those four agencies are approved for these collections.
2. You do not owe back taxes.
3. The person calling you has asked you to send money somewhere other than the IRS. Even though the four collection agencies are making the call, the check goes to the Fed.
4. The caller asks you to pay in the form of gift cards, prepaid cards or asks you to wire funds.
5. The caller is aggressive or rude — [a violation of your debt-collection rights](#).

6. You are asked for any information that can be used to conduct a financial transaction: Social Security number, bank account, credit or debit card number. (If you do turn over personal information, keep an eye on your credit for signs of identity theft. You can [view your free credit report summary](#) on Credit.com.)
7. If you are low-income, there may be other options for you. Contact the IRS to find out what they may be before discussing your debt with a collection agency.

By now we've gotten pretty good at surviving the ridiculous decisions made on Capitol Hill, but this latest one is a doozy. Happily, my old advice still stands. If you get a call from a debt collector, don't engage until you verify the debt. If it was a legit collector, they'll furnish written verification within five days of calling you, and [here's what to do when that happens.](#)

This story is an Op/Ed contribution to Credit.com and does not necessarily represent the views of the company or its partners.

The IRS Is Using Private Debt Collectors Again And it may not end well.

Slate

By [Adam Chodorow](#)



Turning tax collection over to private collectors increases the likelihood for fraud.

Photo illustration by Natalie Matthews-Ramo. Photo by KatarzynaBialasiewicz/Thinkstock.

Last year, Congress authorized the Internal Revenue Service to use private debt collectors to go after unpaid tax liabilities—and this month, if you are one of the unfortunate, you may have already had the pleasure first-hand. The U.S. Treasury hopes to assign up to 1,000 delinquent accounts a month to each of four different companies, which will be able to keep 25 percent of the tax bills they collect.

We've been here before—twice, in fact—and **the government actually lost money.** It is not at all clear why this time should be different. And even if the program does save the government money, as its proponents promise, turning over delinquent tax accounts to private debt collectors raises a host of issues that should give us pause.

1 | Chodorow, A. (2017) "The IRS Is Using Private Debt Collectors Again: And it may not end well". Slate. Available at: http://www.slate.com/articles/business/moneybox/2017/04/the_irs_is_using_private_debt_collectors_again_that_s_a_problem.html [accessed 25 April 2017].

First, there is the philosophical question of whether certain government functions are just too important to turn over to private contractors. Private business is reputed to be more efficient and effective than government. We already outsource garbage collection. Why not tax collection?

Being a tax law professor, I may be biased, but I think tax collection is different. Administering the tax system lies at the heart of the government's duties, and hiring private collectors is different from hiring private garbage collectors. Taxes are one of the few ways people interact directly with their government. How they are collected has the potential to shape our view of the government and our obligations as citizens. Just ask the folks at United how even one bad experience can affect public perceptions.

But perhaps we now live in a world in which no government function is so essential that it cannot be outsourced. After all, we rely heavily on private firms to help collect intelligence and fight our wars. It's hard to imagine a more central government job. Let's set aside philosophical quibbles and focus on the practical.

Keeping tax collection in-house offers a number of advantages. The IRS has a detailed manual that clearly lays out what agents can and cannot do. The IRS can easily monitor its employees and discipline those who violate the rules. It can also modify the rules as issues arise. When considering how best to proceed against delinquent taxpayers, agents are instructed to take a variety of considerations into account, including whether pursuing a taxpayer is in the government's best interests; the potential impact on the taxpayer's ability to meet basic living needs; and alternatives to simply seizing property, such as compromising on the debt or initiating installment plans. Absent the profit motive, they may make more humane decisions.

Absent the profit motive, IRS agents may make more humane decisions.

Outsourcing proponents argue that private enterprise will be more efficient than government. But it is not clear that this is true. Comparing Medicare to the private insurance market reveals that private firms can be more expensive than government-run programs. Remember, private entities must build in a profit, which could easily overcome any efficiency cost savings. Indeed, aligning private and public interests is far more difficult than most people think, and private firms

often earn more by being less efficient. And that doesn't even take into account the potential corruption of public policy as private actors, feeding at the public trough, lobby the government to continue policies that serve their interests.

Turning tax collection over to private collectors also increases the likelihood for fraud. Currently, private parties pretending to be the IRS harass innocent taxpayers and pressure them into paying debts they don't actually owe. The IRS never calls taxpayers, but most people don't know this. With this new program, fraudsters won't have to pretend to be the IRS—they can credibly claim to be private firms—and phone calls taxpayers receive might actually be legitimate. How are taxpayers supposed to distinguish between real and bogus calls from purported debt collectors?

The IRS argues that it will have communicated with taxpayers several times to inform them that they have debts and that they have been turned over to debt collectors. However, chances are that many of these taxpayers, in misguided but perhaps understandable efforts to avoid their problems, toss those letters without reading them. I'm not suggesting that this is a good strategy. **It's just that the move to private tax collectors will facilitate fraud, regardless of the precautions the IRS takes.**

Years ago, the Democratic nominee for president, Michael Dukakis, said that he would enhance the IRS's enforcement capabilities, only to be pilloried by his opponent, George H.W. Bush, who claimed that we would have an army of IRS agents at our doorsteps. Under the current plan, we may have an army of private debt collectors. Raise your hand if you have ever been contacted by a debt collection agency. Was it a good experience? Thought not. My wife's old cellphone number used to belong to someone who owed some money. It took us years to convince the company that they had the wrong person. **The high-pressure tactics employed by many debt collectors became so bad that Congress enacted the Fair Debt Collection Practices Act to regulate the behavior of debt collectors.**

The debt collectors assure us they will comply with the law, and the IRS insists that it will monitor the debt collectors, setting up a complaint hotline for citizens who have experienced problems. Color me skeptical. The best way to monitor behavior and enhance accountability is to increase control, not cede it.

3 | Chodorow, A. (2017) "The IRS Is Using Private Debt Collectors Again: And it may not end well". Slate. Available at: http://www.slate.com/articles/business/moneybox/2017/04/the_irs_is_using_private_debt_collectors_again_that_s_a_problem.html [accessed 25 April 2017].

We have come to a point where audits have fallen to their lowest levels in over a decade, in large part because we have refused to fund the IRS at levels sufficient for it to carry out its mission. While these cuts have been touted as necessary in an era of tight budgets, the IRS falls into that rare category of government spending that actually raises revenues. Studies suggest that every \$1 spent on enforcement yields \$10 of revenue. And it is hard not to notice the distributional impact of our current policy, which reduces enforcement for larger taxpayers, while unleashing private debt collectors on the little guys.

It is sometimes fashionable to draw parallels between perceived degeneracy in the U.S. and Rome, suggesting that we are walking a Roman path to the end of our American empire. Another key factor in the Roman collapse was the abuses heaped upon the people by private tax collectors.

Let's take another path—and start by fully funding the IRS.

Adam Chodorow is a professor of law at the Sandra Day O'Connor College of Law at Arizona State University who has written on tax topics from the sublime to the ridiculous.

I.R.S. Enlists Debt Collectors to Recover Overdue Taxes

By **JESSICA SILVER-GREENBERG** and **STACY COWLEY**

New York Times

APRIL 20, 2017

The Internal Revenue Service is about to start using four private debt-collection companies to chase down overdue payments from hundreds of thousands of people who owe money to the federal government, a job it has handled in house for years.

Unlike I.R.S. agents, who are not usually allowed to call delinquent taxpayers by telephone, the outside debt-collection agencies will have free rein to do so. Consumer watchdogs are fearful that some of the nation's most vulnerable taxpayers will be harassed and that criminals will take advantage of the system by phoning people and [impersonating I.R.S. collectors](#).

Additionally, one of the four companies that the I.R.S. has hired, Pioneer Credit Recovery, a subsidiary of Navient, was [effectively fired](#) two years ago by the Education Department from its contract to collect delinquent debt for misleading borrowers about their loans at what the department called "unacceptably high rates."

Proponents of the plan, who include Democrats and Republicans, point out that the debtors are shirking their tax obligations and that collecting from them will add to the Treasury's coffers. The congressional Joint Committee on Taxation [estimated](#) that the new debt-collection program had the potential to gain a net \$2.4 billion over the next 10 years.

"Collecting tax debt that's due and not in dispute is a matter of fairness to the many taxpayers who pay what they owe," said Senator [Charles E. Grassley](#), Republican of Iowa. "It's been clear

for a long time that the I.R.S. isn't collecting the debt that these contractors will focus on."

Twice before, in 1996 and 2006, the I.R.S. has tried to farm out some of its collection duties. Both times, the programs were shut down and deemed failures. The most recent attempt cost millions more than it took in. It also generated thousands of complaints, including one oft-repeated horror story about an older couple who received more than 150 phone calls in less than a month.

Even so, Congress passed a law in 2015 ordering the I.R.S. to once again outsource some of its delinquent debt. The provision was buried in a \$305 billion highway funding bill. The agency hired four companies — CBE Group, ConServe, Performant and Pioneer Credit Recovery — and started giving them cases this month.

The companies will work on commission, earning up to 25 percent of the delinquent debt they collect.

The I.R.S. is owed some \$138 billion in severely overdue payments on 14 million accounts, according to [agency data](#), and that huge sum drives lawmakers crazy. Enlisting the private sector's expertise to solve the problem is an idea that comes up again and again.

High-profile lawmakers on both sides of the aisle backed the latest debt-collection plan. In addition to Mr. Grassley, Senator Chuck Schumer of New York, the Democratic leader, has been a proponent of using private collectors for years. Three of the four companies that won the latest I.R.S. contracts are based in the two senators' states.

Mr. Schumer [held a news conference](#) in October to announce the 300 new jobs Pioneer planned to add in upstate New York as a result of the I.R.S. contract. The jobs "will help inject new life into the regional economy," he said.

Proponents of this kind of outsourcing say that the benefits go beyond jobs. During his confirmation hearing, Steven T. Mnuchin, President Trump's Treasury secretary, said that employing for-profit collectors to pursue money owed to the government "seems like a very obvious thing to do."

But [Nina E. Olson](#), whose job at the Internal Revenue Service is to be an advocate on behalf of taxpayers, strongly disagrees.

Outsourcing the collection of federal tax debt is "a bad idea," she [wrote](#) in a letter to Congress. "It disproportionately impacts low-income and other vulnerable taxpayers, and despite two attempts at making it work, the program has lost money both times, undermining the sole rationale for its existence."

In years past, Ms. Olson said, the outside collectors employed by the government used psychological tricks that may have coerced some debtors into payments they could not afford.

According to a [study](#) by the I.R.S.'s Taxpayer Advocate Service, which Ms. Olson runs, the last time the agency used outside collectors — from 2006 to 2009 — the companies collected a net amount of around \$86 million while pursuing \$1.6 billion in debt.

After the remaining debt was returned to the I.R.S. for renewed collection attempts, agents brought in another \$139 million — 62 percent more than their private counterparts.

With the administrative cost of running the program factored in, the I.R.S. lost \$4.4 million, an agency analysis found.

John A. Koskinen, the commissioner of the I.R.S., said the new program takes a "streamlined" approach, with significantly lower overhead than the last attempt. The plan is to turn 140,000 accounts over to the four companies this year, all with a balance of \$50,000 or less.

“We will do everything we can to make sure this program is effective,” Mr. Koskinen said at a congressional hearing this month. “Because if it works, that would be fine. If it doesn’t work, I don’t want anyone saying, well, we actually sandbagged it some way or the other.”

Both the I.R.S. and the debt collectors say they will be mindful of taxpayers’ rights. Pioneer will “comply with debt collection rules and consumer protections,” the company said in a [statement](#) posted on its website. (The other three collectors did not respond to requests for comment.)

That has done little to assuage consumer advocates’ concerns about the potential for abuse. More than two dozen groups [sent a letter](#) to Mr. Koskinen last year urging the agency to adopt additional safeguards, such as excluding debtors whose incomes are less than 250 percent of the poverty level.

Ms. Olson warned that the program appeared “to place a bull’s-eye on the backs of low-income taxpayers.”

The I.R.S. does not try to collect from those who make only enough to [afford basic living expenses](#). Some 1.8 million taxpayers have debts that the agency deems uncollectable because of economic hardship.

But there are no legal protections to keep those taxpayers out of the private collection program. Ms. Olson’s office analyzed 360,000 delinquent accounts that could be turned over for private collection; among those who filed recent tax returns, more than a third had income of less than \$20,000.

“You don’t want to be going after folks like that,” said Chi Chi Wu, a lawyer with the National Consumer Law Center. “If you turn the screws on them to the point where they can’t afford their rent, that’s not good for anyone.”

In February, the I.R.S. put out [its annual list of the biggest tax frauds](#). Phone calls from criminals posing as I.R.S. agents were the top problem. “During filing season, the I.R.S. generally sees a surge in scam phone calls that threaten police arrest, deportation, license revocation and other things,” the report said.

At the time, the commissioner, Mr. Koskinen, was quoted in a news release saying: “If you’re surprised to get a call from the I.R.S., it almost certainly isn’t the real I.R.S. We generally initially contact taxpayers by mail.” Now that private companies are authorized to call taxpayers on behalf of the agency, that advice may no longer hold.

“This is like putting out barrels of honey for scammers,” said David C. Vladeck, a professor at Georgetown Law School and the former director of the Federal Trade Commission’s consumer protection bureau.

He also is among the people alarmed by the agency’s selection of Pioneer, a unit of Navient, a debt-collection giant that the Consumer Financial Protection Bureau sued in January. The bureau accused Navient of [failing at nearly every stage](#) of the student loan collection process.

“What is the I.R.S. thinking?” Mr. Vladeck said. “There’s a very dark cloud hanging over Pioneer. The idea that the I.R.S. would engage it nonetheless to be its agent in debt collection is just stunning.”

The I.R.S. declined to comment on its selection of Pioneer, which along with CBE was [one of the three outside companies the agency used in 2006](#).

The consumer agency’s lawsuit asserts that Pioneer misled troubled borrowers about the benefits of resuming payments on lapsed accounts. Navient is fighting the lawsuit and has [denied any wrongdoing](#).

The I.R.S. says that delinquent taxpayers whose accounts are turned over to the private collection agencies will have already received many letters by mail from the agency, urging them to pay and warning them that the debt would be turned over to a third party for collection.

A version of this article appears in print on April 21, 2017, on Page B1 of the New York edition with the headline: I.R.S. Hires Debt Collectors, Raising Fears of Scams and Abuse.

*Mr. Blumenauer. Thank you. I appreciate our getting into the weeds here a little bit. This is important work, in terms of being able to provide appropriate service. The notion of the potential for scammers taking advantage of our constituents, people who are looting the treasury because they have found ways to be able to penetrate the system and get fraudulent returns.

The numbers, however, are kind of staggering, in terms of what Congress has not invested. And I appreciate people holding the IRS accountable, but we have -- just since my friends in the majority took over, we have dramatically reduced funding. Every year costs of households, businesses, and government goes up. The budget has gone down almost 10 percent, and that is not inflation-adjusted.

There were over 92,000 employees who are trying to deal with 230 million returns. And I appreciate the witnesses pointing out one of the nice things now is that, for once, Congress finished its job in time so you could actually print the forms. That hasn't been the case, complicating both compliance by individual citizens, and opening windows for the people who are going to cheat.

It strikes me that now we have less than 75,000 employees. We have 244 million returns, and they are more complex, and that we, as Congress and this Committee have not done a very good job of, I think, diving in to understand how we acquit this agency. What we have heard about their challenges, in terms of computer systems that you have to sort of get people out of cold storage to operate them, because nobody is trained on this stuff any more. They were talking language that I remember from computer classes from the early seventies.

So we have made their task much more difficult, I think. And the thing that I guess concerns me the most is that Congress has been unwilling, for all the talk about private debt collection, Congress has been unwilling to invest in our own enforcement procedures.

Now, Mr. Chairman, you were very successful in the private sector, and I will venture that you -- one area that you didn't under-fund in your successful businesses was your accounts receivable department. I would venture you followed that pretty closely.

The IRS, we have lost 6,800 positions, 30 percent of the enforcement staff. And for every dollar we invest there, we get \$6 back. That would seem to me to be something that we on this Committee -- and I really appreciate working with you, Vern, and -- excuse me, Mr. Chairman, Mr. Ranking Member -- to get down into the details. And I think this is one that really deserves our attention.

One of the things that I find a little interesting in all of this discussion is we have got private debt collection now that has been mandated. You know, that wasn't something we did on this Committee. The Subcommittee didn't weigh all the evidence, look at the past failures of private debt collection, the abuses, and the fact that they ended up losing

money for the Federal Government. This was passed in the highway bill. The highway bill. You know, it is a head-scratcher.

The record -- and we have gone through this, some of us old-timers on the committee went through this, where this was dusted off and offered up. And I remember the last time we were having this discussion, we were going, well, what is different? What is different? What is going to make that successful?

Well, the point is we didn't get the answer. But it wasn't successful the last time. It ended up losing money. And there was a parade of horrors, in terms of the abuse of individual taxpayers. Now, we are all sensitive to the way that they are treated, and we get complaints. They don't -- but this is an open invitation to scam. And the track record has been horrific with the past 2 experiments like this.

Mr. McKenney, you have a reference to the private debt collection at the end of your testimony, but you really didn't elaborate on that. Can we talk for a moment about what you are going to be able to do to monitor, to make sure that taxpayers aren't abused, and that it is successful, and if there is anything that is different now than what happened the 2 previous times that this was attempted and failed?

*Mr. McKenney. Yes. You know, it is still very early in the process, but TIGTA actually is going to be providing oversight on this from 2 aspects.

One, our office of investigations handles anything that may be, you know, improper misconduct-related or taxpayers are being scammed or mistreated. Office of audit looks at the systemic issues, as far as how that is working. We will be reporting out on that as it progresses. It is very early. They just started it.

But in terms of monitoring whether it is, you know, cost effective, we will be reporting on that and any other problems we have seen.

The early problems, obviously, I mentioned. But we will continue with that --

*Mr. Blumenauer. Have you seen anything that has changed that will suggest that there is a dramatic improvement of the climate in which this is going to be conducted, as opposed to last couple times?

*Mr. McKenney. It is really too early to comment on that. I think so.

*Mr. Blumenauer. Fair enough. We will look forward to your progress.

*Mr. McKenney. Okay.

*Mr. Blumenauer. Thank you, Mr. Chairman. I appreciate your courtesy.

*Chairman Buchanan. Thank you. They have moved votes up, so we will recess to vote and reconvene as soon as possible after votes. The committee stands in recess.

[Recess]

*Chairman Buchanan. Well, thank you. Welcome back. I would like to recognize Mr. Bishop from Michigan.

*Mr. Bishop. Thank you, Mr. Chair. Thank you to the panel for your time today. I am going to have to gather my thoughts here and get to my question.

I, like the other Members of the committee, are very concerned about taxpayer protections and taxpayer rights. But I want to shift a little bit in my focus here to something more specific. The taxpayer bill of rights was adopted by the IRS in 2014, and then by Congress in 2017. That is the facts in which I have started this, and my research on this Committee hearing today.

I then read the March treasury inspector general of tax administration's report, specifically with regard to the IRS's activities in the area of civil asset forfeiture and bank structuring cases. And, of course, bank structuring is the practice of making multiple cash deposits in a bank of less than \$10,000 so you don't hit that threshold for purposes of reporting requirements.

It -- in the report the recommendation portion of it number 3, page 21, provides that when the IRS investigates a citizen, the IRS should ensure they are informing the citizen of their rights. Now, the taxpayer bill of rights, in that document, the number-1 of those rights is the right to be informed. And I am just wondering if you can advise me, because I am -- the way I am looking at it right now, it appears as though it does not apply to cases -- in title 31 cases with regard to civil asset forfeiture.

In fact, the report found that in 229 interviews, only 5 of them were advised of their rights. That concerns me, as a citizen, it concerns me as a lawyer, a former prosecutor. I believe in due process and the right of every citizen to be advised, and especially in something as important as civil asset forfeiture.

And I am wondering, Mr. McKenney. I guess this question best goes to you. If you can tell me a little bit more of what the agency found that prompted that recommendation, and tell me -- give me your opinion as to what you think about how the IRS should proceed.

*Mr. McKenney. Sure, thank you. Yes, you know, the real concern that we have on that is the taxpayers that were mostly affected were legal-source income, so there weren't, you know, illegal activities, and they weren't, you know, aware of the situation when they were being questioned. They weren't informed as far as, you know, what the nature -- what had previously happened, that their assets had already been seized, and that

they -- you know, didn't -- weren't really made aware of, you know, their right not to talk to an attorney, and all of that (sic).

And our view is, regardless of the type of case it is, since it is not always known at the beginning, that those rights would apply, and the IRS's response, we felt, was somewhat incomplete, and that they would provide those rights in certain instances, but in any instances they concluded were grand jury cases, they wouldn't necessarily apply.

And our concern about that is they don't really have a good definition in their procedures, as far as what is a grand jury case. Grand jury -- you know, a lot of times they use grand jury subpoenas, but the case never really makes it in front of a grand jury. So we didn't think it was an adequate response. We believe they should be providing the taxpayers -- they should be informing taxpayers, and providing their rights on a much more consistent basis, with possibly limited exceptions, but not to the extent that they responded -- that was included in the response.

*Mr. Bishop. Thank you, Mr. McKenney. And I guess I just -- I ask Ms. Wielobob on follow-up, does the taxpayer bill of rights constitutional provisions regarding due process, does that apply in title 31 cases?

*Ms. Wielobob. In August of 2016 we actually changed our policy, so that we provide non-custodial rights in title 31 cases.

The difference with some of our cases is that those that are under the control of the Department of Justice, we have to -- they have to give us permission to provide non-custodial rights in the title 31 cases. And so, we have -- we did change that policy in August of 2016.

*Mr. Bishop. So the taxpayer bill of rights applies in title 26 cases?

*Ms. Wielobob. I am sorry --

*Mr. Bishop. Not title -- excuse me. Title -- the taxpayer bill of rights provision, the law, applies to title 31 cases, civil asset forfeiture, as it would, say, in title 26 cases?

*Ms. Wielobob. We have -- the -- what I can tell you is in -- we changed the policy to provide non-custodial rights in title 31 cases.

*Mr. Bishop. But --

*Ms. Wielobob. But you know what? I don't have the exact provision in my head.

*Mr. Bishop. Got you, okay. I guess that is it for me, and time is up. I yield back.

*Chairman Buchanan. I now recognize the gentleman from New York, Mr. Crowley.

*Mr. Crowley. I thank my friend and colleague from the great state of Florida for yielding me this time. Mr. Chairman, thank you. Thank you all for being here, as well, this afternoon. This is a really good time and opportunity to discuss taxpayer filing issues.

I understand that, as of April 14th, the IRS had received over 115 million tax returns from individuals and families, and that is really remarkable. And the task before the IRS is enormous, and we thank the men and women who are engaged in this process. It is not easy.

And even as individuals across America filed their tax returns, many of whom have been protesting for the President, President Trump, to release his tax returns -- even though he promised to do so, he refuses to release those taxes, will not make good on that promise, as well.

So I would like to clarify with you an issue of IRS operations, and this is a question for the entire panel. And if you could please answer yes or no, I would appreciate it.

Does section 6103 of the tax code bar a taxpayer from releasing his or her tax returns? Ms. Wielobob?

*Ms. Wielobob. Wielobob. Yes, it does not.

*Mr. Crowley. Does not. Mr. McKenney?

*Mr. McKenney. My understanding is no.

*Mr. Crowley. Ms. Judy?

*Ms. Lucas-Judy. No.

*Mr. Crowley. Thank you. This also is for the entire panel. And again, a yes-or-no answer I would appreciate. Under the tax code, may a taxpayer consent to the release of his or her tax return, even if they are under audit?

*Ms. Wielobob. Yes.

*Mr. McKenney. Yes.

*Ms. Lucas-Judy. To the best of my knowledge, yes.

*Mr. Crowley. So, as I understand it, there is nothing stopping a taxpayer who holds the position of, let's say, President of the United States, from releasing his or her tax returns, even if they are under audit. Is that correct?

*Ms. Wielobob. A taxpayer can release returns that are under audit.

*Mr. Crowley. Even if they are President?

*Ms. Wielobob. Regardless of one's line of employment.

*Mr. McKenney. The same answer.

*Mr. Crowley. Ditto, ditto?

*Ms. Lucas-Judy. Defer to my colleagues on that.

*Mr. Crowley. We need an answer to the basic question who is President Trump fighting for, himself or the American people. Without his tax returns showing whether he is controlled by foreign banks and other outside influences, we simply can't know.

But for now, without direct knowledge on the conflicts this President is under, we don't know why he is saying one thing, making one promise -- that he will release his returns -- and yet, when the rubber meets the road, doing the exact opposite. Again, not fulfilling his commitment and, quite frankly, lying to the American people.

It is not easy for me to say that, having grown up with "I shall never tell a lie", "who cut down the cherry tree", or "Honest Abe". But this is not Honest Donald.

And as we hear -- as we near the conclusion of the first 100 days of this presidency, all we know is the end result is an uneven playing field for the working American. This is becoming of particular importance, as President Trump has now released his tax reform proposal. We don't know how much President Trump has paid in taxes, but from his public statements we can guess that he has done his best to avoid paying them at all.

So, will this tax plan allow more wealthy Americans and corporate fat cats to dodge paying taxes the same way? On first blush, it appears to. Being able to use pass-through entities to, in effect, give a -- an ability of the wealthiest in our country a massive tax break, it is not tax reform, it is just a tax giveaway.

The question will continue to hang over him and Republicans, quite frankly, who continue to protect him, until we get definite answers. And, as we discuss the tax filing season, I don't want there to be any question over whether President Trump can release his or -- his tax returns, as he has promised to do so, regardless of being under audit. The answer is clear. He can and he should.

It is important information the American people deserve that nearly every president since the 1970s has released, including Richard Nixon. Let's go to the bottom of these questions now, so that the American people win, not President Trump and his business interests.

With that, I yield back the balance of my time.

*Chairman Buchanan. I now recognize the gentleman from North Carolina, Mr. Holding.

*Mr. Holding. Thank you, Mr. Chairman. Deputy Commissioner Wielobob, in answer to a question before we took a break for votes you said that the IT folks -- IT at the IRS has serious problems. I believe that is -- you characterized it as serious problems, or as trouble. I don't know if you remember how you characterized it, but the -- are you -- how much money was appropriated for IRS IT in 2016?

*Ms. Wielobob. I don't know, sir.

*Mr. Holding. The -- I know in 2014 it was \$2.4 billion for IT investments in the IRS. And it has been consistently around that number for a number of appropriations. I mean the IRS has literally gotten billions upon billions of dollars to increase the IT capacity that you have, your IT infrastructure.

We had a meeting with your IT folks -- this has been about 2 years ago now -- the Oversight Committee, and they said they are just having a terrible difficulty trying to integrate programs, and so forth. And they made mention that the IRS still uses computer programs from the Kennedy Administration. Are you aware of that?

*Ms. Wielobob. Yes. We actually wrote -- a publication had us with the oldest -- the top 2 oldest --

*Mr. Holding. Yes, I find it just incredibly troubling that we appropriate billions of dollars to fix it -- if this happened in the private sector, heads would roll. I mean you couldn't continue on in this way.

Are you aware in -- how many hours in 2016 were devoted to union activities in the IRS, paid hours of union activities in the IRS?

*Ms. Wielobob. I am not aware of the specific number, sit.

*Mr. Holding. The -- again, from a hearing that we had a few years ago in 2014, the number was almost 500,000 hours of paid union activity in the IRS.

There is one agency of government that has more paid hours of union activity. Are you aware what that agency is?

*Ms. Wielobob. No.

*Mr. Holding. It is the Veterans Administration.

All right. I want to turn your attention to the IRS criminal investigation unit. I worked in the Department of Justice for a long time, and our local U.S. Attorney's office, and had great success with IRS CI agents. They were great to have on the team, if you had a

complex case. You always wanted one on your team. The FBI does a good job, but IRS CI does a better job on complex fraud cases, anywhere where you have got to track payments and net worth and so forth.

Are you aware how much the IRS has reduced in personnel of IRS CI between 2010 and 2016?

*Ms. Wielobob. I believe it is approximately the same level of decrease that we have experienced across the agency.

*Mr. Holding. So 23 percent? About --

*Ms. Wielobob. We are down, yes.

*Mr. Holding. So is that -- you think it is consistent with --

*Ms. Wielobob. That sounds in line --

*Mr. Holding. -- across the agency?

*Ms. Wielobob. Yes.

*Mr. Holding. The -- but I would imagine the IRS special agents, CI agents, are pretty valuable, as far as combating tax fraud and other crimes that seem to be on the rise, and fraud cases, and so forth. They are valuable?

*Ms. Wielobob. Of course they are, just as all of our employees are valuable to the tax administration system.

*Mr. Holding. So if you can get back to me with the decrease in IRS agents across the -- our indication, our preliminary information, is that CI employees have been reduced at a higher rate than other IRS employees. Let's make sure we are on the same page there.

And with that, Mr. Chairman, I yield back.

*Chairman Buchanan. Thank you. Let me pose a few questions.

First, I want to thank you for the opportunity to visit today. But we have a lot of CPAs in our area -- and this has been going on for two or three years. I will say up front it seems like it has gotten better, in terms of identity theft. But I just met with a group of CPAs from all over the state of Florida. They have a quarterly meeting or something they do. We talk so it sounds like it has gotten better, but it is still a big problem.

I mentioned one case in particular in Florida. It did finally get resolved, or you caught him after seven years, but it was 2,000 fraudulent tax returns that were filed. They took

in \$6.8 million in the last year. I mean over a period of time. How does something like that happen? And do you have the mechanisms or whatever in place to try to prevent that, going forward?

And let me just open it up to any of you that would like to respond. So identity theft in general, where are we at -- I heard that you said 46 percent improvement, but are we really making those kinds of strides, or is there -- it seems like there is still a lot more work that needs to be done.

*Ms. Wielobob. I think there is always going to be work that needs to be done in this area. What we have found is we have increased our ability to detect identify theft. We have made our system stronger. What we have found is that if criminals can't get in through the front door, they try the side door. And so we are understanding that we need to work with partners.

Right now we are heavily involved with what we call the security summit, which is the public-private partnership with industry and states, to try to share information across, again, the private sector and state governments to understand where the next attacks are coming from.

So, we have made strides, not only in detecting identity theft and refund fraud, but trying to anticipate where the next attack is coming from.

*Chairman Buchanan. Yes. I talked with the Commissioner, and it was pretty clear that it is a lot of criminal enterprise. It is not just in the United States, but throughout the world, to some extent. So it is an ongoing battle.

But do you have anything you would like to add to that, in terms of identity theft? I would like both of you to take a minute or so and comment on it.

*Mr. McKenney. Yes, our view is some of the integrity provisions in the PATH Act are certainly going to help, because it provides IRS some information that can help in the verification. And I think that will help on 2 fronts. One is to avoid the false positives, and the other is to catch the identity thieves. So it helps reduce burden and stop fraud.

And the other, I think, is a lot of the initiatives that IRS has going on with the security summit and different data elements it is getting, the more data it can use to try to, you know, validate who is coming into the system, the more likely they will catch those returns that aren't supposed to be in --

*Chairman Buchanan. But is it your sense that we are getting better at it. I mean, it just seems like you plug one hole, then you have penetrated --

*Mr. McKenney. Well, that is the problem. It is -- certainly recent statistics look like it has significantly improved, but you have to, you know, constantly be watching, because they seem to be able to morph and figure out the next way to get through and to

validate themselves. And there is more and more information, as there is more systems that are hacked, or more personal information that is out there, more criminals can get their hands on it, they can use that information to make themselves appear to be the taxpayer. So that is a big problem that still needs to be overcome.

*Chairman Buchanan. Ms. Lucas-Judy?

*Ms. Lucas-Judy. I would echo what Mr. McKenney just said. I mean the statistics show that it seems to be getting better, but we have reported before in looking at IRS's methods for estimating identity theft refund fraud, it has gotten better at detecting the things that it knows about. But there is still an unknown element out there of fraud, and so we are working with IRS on -- as it is improving its estimations, its taxonomy for figuring out the extent of the problem.

And then we have also been looking at how IRS authenticates users to determine whether or not taxpayers are who they say they are.

And then, also, with the pre-refund systemic verification that they have been doing now, we think that is definitely a positive step. As I mentioned in my opening statement, the -- one of the issues is that there is still the paper W-2s are not coming in in time for IRS -- or, at least for this filing season, weren't coming in in time for IRS to be able to use it. And we had previously identified that as a potential problem, and had suggested that Congress consider lowering the threshold for employers to electronically file W-2s.

Currently the threshold is they have to have 250 W-2s to have to file electronically. And Treasury has suggested that it would be effective to have that down to 5 to 10 to be the requirement to have to file electronically --

*Chairman Buchanan. Well, that is one area I would think that identity theft -- that we could work together on.

But give us your ideas about what we can do to be more helpful, because this is an area that I think is better, but there is still a lot of work to be done in this space.

The other thing I just wanted to touch on is the Earned Income Tax Credit. They claim -- this is your number -- met with the Commissioner, I thought -- I don't want to put words in his mouth, but it is about -- the abuse is about 24 percent up to \$16 billion, or something in that range. It might not be all fraudulent, it might be some improper documentation, or whatever. But it is another area that seems ripe with fraud.

I would be interested just in your thoughts about where that is at, what are we doing about it, and how we deal with this going forward. And any of you who would like to start off, go ahead.

*Ms. Lucas-Judy. Well, for the Earned Income Tax Credit, as you said, that is one of the highest estimated levels of improper payments in the Federal Government. Of the

\$144 billion in improper payments, this is the -- got the third highest error rate. And one of the issues is that the program is very complex. It is a complex tax credit, and it is difficult to determine, you know, who is eligible, and who is supposed to be getting it.

It is not all fraud. Certainly it is -- you know, some of it is overpayment, some of it is under-payments. Some of it possibly is fraud. We have recommended that regulating paid tax preparers would be something that Congress could do --

*Chairman Buchanan. Yes, that was one suggestion that was told to me that makes some sense.

*Ms. Lucas-Judy. Right.

*Chairman Buchanan. Go ahead.

*Ms. Lucas-Judy. Right, because a large number of returns claiming the EITC are prepared by paid preparers. And IRS did a study a number of years ago, and found that more than half of those had errors. And likewise, we also 2 years ago did some undercover work, where we sent people in to 19 different paid preparers, and only 2 of the 19 were able to basically give us the right answer. A number of them also over-claimed, had our undercover investigators over-claiming the credit.

So we think that is something, regulating paid preparers, and then also, as I said, reducing the threshold for W-2 filing.

*Chairman Buchanan. Mr. McKenney?

*Mr. McKenney. The Earned Income Tax Credit is an area where the IRS actually identifies a lot more returns that they believe are, you know, invalid claims than they can address, because it requires an audit.

So, I think one of the things the IRS has requested is expanded correctable error authority in those cases where it has reliable information that it can compare to indicate that that claim is not a valid claim, and they can correct it, and provide the taxpayer the opportunity, if the corrected amount -- the taxpayer does have the opportunity to let them know, no, here is why it is actually the correct amount.

But it is a much less expensive process to deal with in an audit. And that process to resolve that is a much lower cost, you know, closer to, like, a few dollars, compared to an audit, which, you know, can be hundreds of dollars to --

*Chairman Buchanan. I think we made progress, but still a gigantic number.

Would you like to add anything?

*Ms. Wielobob. I agree with both of my co-panelists about the W-2 thresholds, and then also the correctable error authority.

I would also just suggest that the provisions in the Earned Income Credit area are quite complex, considering the fluidity of family situations. They are very difficult for IRS to verify. And so, any move towards simplification would be helpful, as well.

*Chairman Buchanan. Well, let me just say in closing, from my standpoint, any thoughts or suggestions or ideas that you could work with us, with this panel, we want to be helpful, make your job easier. I mean, I have heard some good ideas today.

I guess, just in closing, I would like to thank all of you witnesses for appearing before us today. Please be advised Members have two weeks to submit written questions to be answered in writing. Those questions and your answers will be made part of the formal hearing record.

With that, the Subcommittee stands adjourned.

[Whereupon, at 4:07 p.m., the Subcommittee was adjourned.]

MEMBER QUESTIONS FOR THE RECORD

**Chairman Buchanan (FL-16) Questions for the Record
Ways and Means Subcommittee on Oversight
Hearing on the 2017 Tax Filing Season
April 26, 2017**

Questions for Ms. Wielobob, IRS

According to the testimony presented at the hearing, it appears that the W-2 matching has worked to some degree. Some fraudulent returns have been identified and held. However, more than half of the claims filed prior to February 15 were not able to be verified.

1) Has the IRS assessed why the agency was only able to verify about 35-40% of the wage information on the returns prior to February 15? If so, please provide a summary of the findings.

The earlier availability of Form W-2 data enhances the IRS's defenses against identity theft and refund fraud and allows the IRS to determine return consistency with known third party reporting. As of February 16, 2017 (first year the new provision is effective), the Return Review Program (RRP) received data for 220 million Forms W-2, compared to 97 million at that time last year. However, we could only verify wage information for about 35-40 percent of tax returns filed before February 15, 2017 because not all employers are required to file their W-2 forms electronically and the Social Security Administration (SSA) needs time to process and to send information from paper Forms W-2 it processes to the IRS which did not happen until March. In addition, some employers requested extensions to file Form W-2 after February 15.

Nonetheless, receiving earlier Form W-2 data plus having additional time during the refund hold period, provided by the Protecting Americans from Tax Hikes Act of 2015 (PATH Act), allowed us to select additional returns for closer review that otherwise would not have been selected. We identified 162,000 such returns, involving \$862.7 million in refunds, for further review. We continue to evaluate the return data and impact of the PATH Act for this filing season.

2) Would a reduction in the number of employers filing paper W-2 forms help IRS obtain wage data from the Social Security Administration (SSA) faster? If it would not, please propose other solutions that would help expedite the transfer of wage information from SSA to IRS.

SSA has informed us that we would get wage data faster if the number of paper Forms W-2 they receive is reduced. Similarly, we would get nonemployee compensation data faster from an employer or payroll provider if the number of paper Forms 1099 – MISC (with the Nonemployee compensation box checked) was reduced. Currently, under Internal Revenue Code sections 6011(e) and 6724, employers that are required to file 250 or more information returns, including Forms W-2, must file them electronically.

Lowering that threshold would reduce the number of paper Forms W-2 and 1099s to be processed.

3) In addition to the wage information provided by SSA, does the IRS utilize any third-party wage data from non-governmental entities when verifying eligibility for refundable tax credits such as the Earned Income Tax Credit (EITC)? If it does, please describe the source of that data as well as the agency's specific use of it and the number of claims for which the data is used for EITC verification?

We use external third-party information, internal historical taxpayer filing data, business rules, and sophisticated algorithms to identify potentially improper and erroneous EITC claims. There is no single comprehensive government database or third-party data source that we can use to confirm all EITC eligibility requirements. For this reason, we use a variety of sources.

To verify eligibility for EITC, we use information from SSA to confirm Social Security numbers (SSNs), age, parental relationship, and other information. We also use the SSA Death Master File, Prisoner Update Processing System, and Prisoner Address Source database as information sources. To verify the residency of a child claimed for EITC, we use information from the Federal Case Registry maintained by the Office of Child Support Enforcement of the U.S. Department for Health and Human Services.

We use Form W-2 wage information from SSA, which was available earlier in the filing season this year through the PATH Act, and from employers to detect fraudulent and erroneous returns claiming EITC. We also coordinate with SSA to receive a data extract of SSN issuance dates. We used this information to implement another new provision in the PATH Act that denies EITC claims for taxpayers whose SSN is issued after the due date of the return.

The Return Review Program (RRP) also allows us to prevent criminal and civil tax noncompliance related to the EITC using external and internal data, robust tax fraud detection models, and income information. We prevented the payment of more than \$2 billion in suspicious EITC claims in fiscal year 2016 through the fraud and identity theft prevention enforcement programs in RRP. We continued to use RRP this year to address EITC fraud and identity theft.

After RRP identifies potential identity theft and fraudulent returns, the Dependent Database (DDb), an IRS system that uses a set of sophisticated rules and scoring models, along with the internal and external data noted above, identifies further potential EITC non-compliance during processing of tax returns. Last fiscal year we closed almost 380,000 examinations of EITC claims protecting almost \$1.9 billion in revenue, with 75 percent of this being from pre-refund audits.

As part of our post-refund document matching program, we also protected almost \$1.6 billion on EITC returns. In addition, through our EITC return preparer strategy, we

protected \$465 million in EITC and Child Tax Credits by addressing paid preparer errors that our business rules and a scoring algorithm identify.

We continue to look for new sources of data and new tools to stop refundable credit improper payments. However, we need further statutory authority. Currently we lack statutory authority to address, at the time of filing, claims in excess of lifetime limits and the lack of required documents. Instead we must address these errors through audits, which takes longer and requires more resources. Granting the IRS the authority to correct such errors at filing (correctable error authority) would increase our ability to address more of the improper claims and errors we identify and decrease improper payments of refundable credits. The 2018 Budget requested this additional authority.

4) If the IRS does not utilize third party non-governmental wage data, would such data help the IRS reduce improper payments and fraudulent tax refunds from being issued? If the IRS does not believe such data would reduce improper payments, please propose alternative solutions to gathering additional wage information in order to boost verification above the roughly 40% of taxpayer claims currently being verified prior to returns being issued on February 15.

We use external third party information, internal historical taxpayer filing data, business rules, and sophisticated algorithms to identify potentially improper and erroneous refund claims.

As GAO mentioned, the IRS could obtain wage data from the SSA faster if the threshold for mandatory electronic filing of returns was lowered, which would reduce the number of paper Forms W-2 an employer or a payroll provider can submit to the SSA. Similarly, reducing the threshold for mandatory electronic filing of information returns would also reduce the number of paper Forms 1099-MISC that are filed with us, allowing the IRS to more efficiently use data regarding nonemployee compensation on Forms 1099-MISC.

5) Are there any statutory or regulatory obstacles to the IRS using non-governmental third-party wage data to verify taxpayer eligibility for certain refundable tax credits?

We do not have any statutory or regulatory obstacles to using non-governmental third-party wage data to verify a taxpayer's eligibility for income-based tax credits. However, there are no comprehensive government databases or third-party data that we can use to reliably confirm all eligibility requirements for most tax credits, such as the EITC. We continue to look for new sources of relevant data and will seek any necessary authority to obtain access to relevant data, if found. Proposals to provide us with greater flexibility to address correctable errors, and to increase oversight of paid tax return preparers appear in the Administration's 2018 Budget.

**Rep. Walorski (IN-02) Questions for the Record
Ways and Means Subcommittee on Oversight
Hearing on the 2017 Tax Filing Season
April 26, 2017**

Questions for Ms. Wielobob, IRS

6) As you may know, Section 12.101 of the Federal Acquisition Regulation, or FAR, requires federal agencies, including the IRS, to conduct market research to determine whether commercial items are available and to acquire those items when they meet the needs of the agency. What market research was completed vis-à-vis the Return Review Program (RRP) initially as well as in 2013 and 2016 to determine if commercial items could accomplish the RRP mission?

We put RRP into full production after a successful identity theft pilot in 2015, where we tested a new package of commercially available technologies that significantly enhanced detection of identity theft fraud. RRP is replacing the fraud detection components of our legacy Electronic Fraud Detection System (EFDS) in the tax processing system pipeline in filing season 2016. In 2017, it is running as the government's primary line of defense against the perpetration of tax refund identify theft, fraud, and non-compliance, selecting approximately 865,000 potentially fraudulent tax returns claiming approximately \$7.6 billion in refunds (as of May 3, 2017). RRP is far outperforming our legacy EFDS in terms of fraud detection, and since 2015 its return on investment (ROI) is 1,342 percent (based on revenue protected).

We conducted market research in 2009 when we issued a Request for Information (RFI) on December 22, 2009. Twelve vendors responded to the RFI with oral presentations. The outcome revealed that no single product could replace EFDS because this legacy system comprises multiple components supporting a wide variety of separate business functionalities. We ultimately decided to purchase a package of commercially available products and integrate these products to collectively meet RRP requirements for enterprise anomaly detection. The commercial products include: SAS Fraud Framework for Tax for fraud analytics, Fair Isaacs Blaze Advisor (FICO) for Business Rules Engine, and Greenplum for data computing appliances.

A leading industry vendor (IBM) submitted the winning proposal, which included leading industry analytics (SAS Fraud Framework for Tax) and Business Rules engine (FICO). The initial contract was re-competed in 2015. Since the RRP was already operating, we did not do additional market research for commercial products to address the IT solution. However, we conducted market research on the service aspect of the RRP, and specifically, the technical support needed to maintain the RRP system, incorporate legislative mandates, and add any system enhancements. We received three offers, and made the award to the incumbent contractor (IBM) based on a "best value" determination. We rated IBM's proposal as an excellent technical solution that also offered the lowest total overall price.

7) Is the IRS aware of any commercial products currently in use by the IRS or other agencies that could fulfill the existing, unmet requirements of the RRP?

Currently, RRP is running as the government's primary line of defense against the perpetration of tax refund identity theft, fraud and non-compliance, with a ROI of 1,342 percent (based on revenue protected). We are using a package of commercially available products that collectively meet RRP requirements for enterprise anomaly detection. The commercial products include: SAS Fraud Framework for Tax for fraud analytics, Fair Isaacs Blaze Advisor (FICO) for Business Rules Engine, and Greenplum for data computing appliances. As advanced technologies evolve in the fraud analytics and data processing areas, we continue to monitor latest technology products available in the industry that could play a role in delivering future capabilities for the RRP.

8) In 2013, the IRS justified a sole-source contract for the RRP on the grounds that it was the only way to meet the project's aggressive schedule goals. Obviously, those goals have still not been met four years later. Given that failure to deliver, what did the IRS do to hold the awardee and program management staff accountable?

We believe RRP has met its goals as it is fully operational as the government's primary line of defense against the perpetration of tax refund identity theft, fraud, and non-compliance, with additional functionality that has enhanced its performance beyond its original intent. It has replaced our legacy EFDS fraud detection capabilities, performing all identity theft (ID) and pre-refund fraud anomaly detection for filing season 2017, feeding downstream systems with potential fraud selections, and serving as the system of record for ID theft and anomaly detection. In 2017, RRP selected approximately 865,000 potentially fraudulent tax returns claiming approximately \$7.6 billion in refunds (as of May 3, 2017). RRP is far outperforming our legacy EFDS in terms of fraud detection, and since 2015 its current return on investment (ROI) is 1,342 percent (based on revenue protected).

For example, RRP expanded our fraud detection capabilities with the systemic verification of taxpayer wage and withholding data. RRP uses third-party data from employers to match taxpayer wage and withholding information. In 2017, the RRP systemic verification is providing great value to the government by using earlier employer data (provided by the PATH Act) to identify taxpayers with false income and incorrect amounts reported for their wage and withholding.

Also in 2017, RRP is using taxpayer data collected from industry tax software providers. By building stronger and more timely tax fraud detection models, RRP's identity theft detection capability is even more effective and accurate.

The prime contractor for RRP is IBM U.S. Federal, and the subcontractors are Alltech International, Inc.; Deloitte Consulting LLP; Interimage, Inc.; Intervise Consultants, Inc.; JSL; and Tidal. Each contractor agreed to comply with the performance standards described in their contracts and included in the Quality Assurance Surveillance Plan.

The IRS contracting officer's representative (COR) assesses the prime contractor's performance annually. In its performance assessment, the COR rated IBM "very good."

9) The period of performance for the current RRP contract expires this month. The IRS' original cost estimate for the RRP was \$57.5 million, but as I pointed out earlier, cost overruns alone were \$86.5 million as of a couple of years ago. Can you tell me how much the IRS has actually spent developing, testing, and implementing the RRP?

The total cost of RRP as of April 30, 2017, is \$317.7 million, which is higher than the original cost estimate of \$57.5 million in 2010 and later adjusted to \$89.5 million for RRP Transition State 1 (TS1). The reason for the cost increase is that in 2014 we added new, more effective and modern technologies to the RRP to increase its anomaly detection, and in 2015 we expanded the scope of RRP to include the Withholding and Refund (W&R) project to support compliance for our Foreign Account Tax Compliance Act (FATCA) program. These changes added costs that were not a part of the original RRP estimate.

10) How does the Return Review Program compare to the 1994 era EFDS system in terms of success metrics for false positives? Please include data on both identity theft and non-identity theft-based metrics.

In filing season 2017, we retired all EFDS models and RRP successfully took over the analytics processing for identity theft and non-identity theft (formerly scored by EDFS). In addition, we significantly expanded RRP analytics to identify potential fraudulent refund return activity. Therefore, a comparison of the false-positives (or false-detection rates) is not possible between the two systems.

11) During the 2017 Tax Season, how many IRS analysts/users performed analytical work using analytics tools that were delivered as part of the RRP?

In filing season 2017, 1,072 IRS employees performed analytical work using the RRP analytics tools, including 930 employees in Wage & Investment, 120 employees in Criminal Investigations, and 22 employees in Research, Applied Analytics, and Statistics.

**Rep. Bishop (MI-08) Questions for the Record
Ways and Means Subcommittee on Oversight
Hearing on the 2017 Tax Filing Season
April 26, 2017**

Questions for Ms. Wielobob, IRS

12) Ms. Wielobob, 31 U.S.C. 5317 is the statute which authorizes both civil and criminal asset forfeiture. Please indicate the frequency with which the IRS Criminal Investigations (CI) unit utilized its civil and criminal authority, respectively.

Since Fiscal Year (FY) 2007, there have been 343 civil judicial forfeitures and 86 criminal judicial forfeitures under Title 31 U.S.C. 5317 out of a total 72,147 criminal investigations (including primary investigations (PI) and subject criminal investigations (SCI)), as described below.

FY	Administrative Forfeitures	Civil Judicial Forfeitures	Criminal Judicial Forfeitures	Criminal Investigations (PI & SCI)
2007	7	5	4	6,719
2008	12	9	4	6,010
2009	33	25	4	6,814
2010	31	14	8	7,392
2011	30	34	6	7,599
2012	52	61	7	8,183
2013	59	65	16	8,132
2014	70	68	14	6,726
2015	46	49	10	5,974
2016	6	10	11	5,306
2017	3	3	2	3,292
Total	349	343	86	72,147

13) Ms. Wielobob, your testimony indicated that the IRS's procedures related seizure and forfeiture in Title 31 investigations changed in August 2016. Specifically, you indicated that IRS CI agents are now required to provide noncustodial rights, unless acting in support of the Department of Justice (DOJ) grand jury proceedings. In those cases--cases that are under the control of the DOJ—you stated: "They have to give us permission to provide non-custodial rights in the Title 31 cases." Is there a legal requirement that IRS gain permission from DOJ in order to provide non-custodial rights to taxpayers in some Title 31 investigations? If not, then why does the IRS believe permission from DOJ is required in these cases?

Although there is no legal requirement that IRS CI agents get permission from DOJ to provide non-custodial rights to taxpayers in Title 31 grand jury investigations, a grand jury investigation is not controlled by CI. Rather, it is an investigation controlled by the U.S. Attorney's Office or more particularly, the assigned Assistant United States Attorney (AUSA). The AUSA provides instructions for advising taxpayers of their rights. For example, an AUSA may instruct a special agent to advise a target of "advice of rights" when the target is (1) in custody; or (2) when a target is subpoenaed to testify before the grand jury. See *Miranda v. Arizona*, 384 U.S. 436 (1966); U.S. Attorney's Manual, 9-11.151 - Advice of "Rights" of Grand Jury Witnesses.

14) Does the IRS interpret the Taxpayer Bill of Rights (TBOR) codified in Section 7803 as rights that do not apply to Title 31 investigations?

The IRS takes taxpayer rights seriously and we comply with all applicable laws, including those designed to protect the rights of individuals and entities that are the subject of government investigations.

15) Does the IRS interpret the TBOR to apply to any titles outside of Title 26?

The IRS takes taxpayer rights seriously and we comply with all applicable laws, including those designed to protect the rights of individuals and entities that are the subject of government investigations.

16) As a rule, does the IRS apply the TBOR subject to certain exceptions? If so, what exceptions? If not, why does IRS CI believe TBOR does not apply outside of Title 26?

The IRS takes taxpayer rights seriously and we comply with all applicable laws, including those designed to protect the rights of individuals and entities that are the subject of government investigations.

17) Please provide a timeline of the IRS CI consultation with the DOJ in asset forfeiture investigations. Does IRS work with the AUSAs to get warrants? If not, at what time does the IRS first approach the DOJ with the potential for criminal prosecution?

For civil judicial and criminal forfeiture actions, communication with the United States Attorney's Office (USAO) begins during the pre-seizure phase. The AUSAs specifically assigned to forfeiture cases generally consult with IRS CI throughout the entire judicial forfeiture action.

For administrative and judicial seizure warrants, the AUSA will work with IRS CI after the pre-seizure phase to apply for a seizure warrant. The AUSA is responsible for submitting with the court an application of the seizure of the particular property. The application includes the IRS CI Special Agent's affidavit setting forth the facts that provide probable cause for the seizure.

For administrative forfeitures, if a claim is filed on a particular property, then IRS CI must refer the forfeiture to the USAO for judicial forfeiture.

For warrants of arrest in rem, the USAO must review IRS CI's affidavit for the warrant.

18) If a taxpayer is informed that criminal prosecution is a possibility, who is informing the taxpayer of that fact, and when? Are IRS CI agents offering non-prosecution for settlement?

In administrative investigations, IRS CI special agents inform taxpayers that criminal prosecution is a possibility at the initial contact. IRS CI special agents also advise taxpayers of their non-custodial rights during non-custodial interviews involving administrative investigations.

In grand jury investigations, there are a number of means to advise taxpayers of a criminal prosecution, including by a Department of Justice (DOJ) target letter, by a special agent during an initial contact, or by interaction with an AUSA through issuance of a grand jury subpoena to the taxpayer. IRS CI follows the advice of the USAO as to the timing of notification to the taxpayer of potential criminal prosecution.

IRS CI agents are prohibited from offering non-prosecution for settlement because the IRS does not have the authority to engage in plea negotiations. Only the USAO or the DOJ, Tax Division, can conduct plea negotiations.

19) The Free File Program provides an important option for low and moderate income taxpayers to file their taxes. Please provide an update on the performance of the Free File program as well as the IRS efforts to make the public aware of the program. Are there any suggestions on how Congress can improve the Free File Program?

Since the inception of the program in 2003, Free File has provided a means for over 51 million taxpayers to file their federal, and in many cases their state, tax returns free of charge, saving them an estimated \$1.5 billion.

During the past five years, 3,131,994 Free File returns were filed in 2012; 2,971,702 in 2013; 3,260,821 in 2014; 2,961,032 in 2015; 2,592,136 in 2016; and 2,455,422 as of May 12, 2017. Although there has been a slight decline, this may be attributable to Free File companies marketing customers to file directly through the company's web site instead of through IRS.gov.

We use the following channels to notify the public: IRS.gov landing page; news releases; fact sheets; social media, including Twitter and Tumblr; field media interviews with local media; internal messaging to IRS employees; Form W-2 or payroll statements for certain government agencies; and filing season tax tips. Congress can help us

increase public awareness by providing line-item funding for IRS to resume a marketing campaign for Free File.

We continue to improve the program by adding Free File to the IRS2Go app for filing season 2017 and redesigning the Free File web pages on IRS.gov and the company partner web sites for clarity and to offer a better experience for the mobile marketplace.

20) The fight against identity theft refund fraud is incredibly important. The IRS recently stood up an Information Sharing and Analysis Center (ISAC) in order to combat tax fraud and identity theft. In a November 3, 2016, briefing, Commissioner Koskinen said, “participants in the ISAC will provide data in, as well as receive data out, so that it will be a total sharing environment.” What are the obstacles, if any, to IRS being able to be a full participant and share information in the new ISAC? If obstacles are identified, are any of them insurmountable under current law? If any are perceived to be insurmountable under current law, please make suggestions on how Congress may be able to address the obstacles.

We chartered the Identity Theft Tax Refund Fraud Information Sharing and Analysis Center (IDTTRF-ISAC) in December 2016 and began pilot operations at the beginning of this filing season on January 23, 2017. The IDTTRF-ISAC is a natural outgrowth of our Security Summit activities which began in 2015 to look holistically at the tax refund identity theft problem across a return’s lifecycle. The purpose of the IDTTRF-ISAC is to share identity theft tax refund fraud data and related analysis with public and private entities in order to detect, prevent, and deter identity theft tax refund fraud. As of late April 2017, the IDTTRF-ISAC has 36 member organizations from state departments of revenue and the tax software and tax preparation industries.

The two primary capabilities being piloted this year are: (1) sharing of tax ecosystem alerts; and (2) analysis of leads generated by the tax software and tax preparation industry as well as other member data. Tax ecosystem alerts are akin to a neighborhood listserv for the tax ecosystem. Members report any tax ecosystem threats they encounter so that others can protect themselves against the threat. Thus far, threats have included employer W-2 breaches, compromised return preparers, new schemes, and dark web chatter about system vulnerabilities. Allowing one member’s detection to be another member’s prevention is a powerful paradigm. Already, the IDTTRF-ISAC has received indicators that members are using alerts to identify suspicious returns in their own systems and stop the further processing of returns seeking fraudulent refunds.

With regard to the second capability, namely the analytical function, members submit data to the IDTTRF-ISAC for the purposes of finding anomalies indicative of potentially fraudulent activity. This capability, of course, depends on the volume and quality of the data the IDTTRF-ISAC receives. In preparation for filing season 2018, the IDTTRF-ISAC plans several data experiments this summer to help identify data with the greatest predictive capacity. We anticipate the IDTTRF-ISAC will realize fuller capability in the

next filing season with its increased number of members and a better understanding of what data is most relevant to identifying and reducing identity theft fraud.

Under the law, we are limited in the ability to share with the IDTTRF-ISAC and certain other external organizations fraudulent or potentially fraudulent data received on a tax return. Section 6103 protects largely all data on a return received by the IRS or gathered by it in connection with the processing of the return, whether the return was filed by the true taxpayer or a fraudulent taxpayer.

IRS is currently exploring all options, to enable better sharing of fraudulent and/or potentially fraudulent tax return information with the tax preparation industry and information sharing and analysis centers such as the IRS' new Identity Theft Tax Refund Fraud ISAC for the purposes of identifying and preventing identity theft tax refund fraud. IRS is also exploring options for it to share fraudulent and/or potentially fraudulent tax return information with other government agencies for the purposes of detecting and preventing cyber threats. IRS would be pleased to discuss where best to target its options in order to implement the necessary changes.

**Rep. Meehan (PA-07) Questions for the Record
Ways and Means Subcommittee on Oversight
Hearing on the 2017 Tax Filing Season
April 26, 2017**

Questions for Ms. Wielobob, IRS

21) How often does the IRS conduct a risk assessment of the FAFSA Data Retrieval Tool (DRT)?

We follow National Institute of Standards and Technology (NIST) 800-63 and OMB guidance on e-authentication risk assessments (eRAs). In accordance with OMB Memorandum M-04-04, *E-Authentication Guidance for Federal Agencies*, we conduct an eRA when an application meets the following criteria: (1) web-based, (2) requires authentication per OMB guidance, and (3) externally facing (or extends beyond border of enterprise). After an initial eRA for these applications, we perform an eRA before system-development to aid in developing the application's architecture and design. We also perform an eRA any time there is intent to change the parameters or data of an online transaction. We review all eRAs annually to ensure their identified assurance level is consistent with our online risk profile and any applicable policies.

The Federal Student Aid – Datashare (FSA-D) Data Retrieval Tool (DRT) meets the OMB Memorandum criteria, and in December 2009, we conducted an initial eRA. In 2015, we started to reassess the level of authentication and associated e-authentication risks for higher risk external customer-facing system. We reassessed the FSA-D at that time and again in 2016.

22) And prior to this incident, when was the last time that the IRS conducted a risk assessment of DRT?

We conducted internal security assessments of the FSA-D, which includes the DRT, in September 2016, resulting in the completion of an updated eRA on October 25, 2016.

23) Did the last risk assessment identify any vulnerabilities?

The eRA indicated the need for stronger authentication.

24) After identifying vulnerabilities with the tool, how long did it take for the IRS to take the tool offline?

We completed the eRA for the FSA-D on October 25, 2016, and we shut down the DRT approximately four months later, on March 3, 2017.

25) According to reports, it took the IRS 5 months to take the tool offline. Why would the IRS wait 5 months—waiting until it is prime time for students filling out the student aid applications – to take the tool offline?

When we discovered the potential DRT vulnerability in September 2016, we took immediate action by increasing monitoring and blocking IP addresses as a short-term solution. We also started working with the Department of Education to implement longer-term solutions, which required changes to both the DRT and to the Department of Education applications. We agreed with the Department of Education that since we did not have any confirmed criminal activity we would monitor the DRT application, rather than shut it down immediately and thereby burden students applying for financial aid. But we advised the Department of Education that if we confirmed the criminal misuse of the DRT application, we might need to shut down the application.

On February 27, 2017, we became concerned about the misuse of the DRT by criminals masquerading as students. After a preliminary investigation confirmed our concerns, we disabled the DRT on March 3, 2017.

26) A March 9, 2017 statement released by the Department of Education reads: “As part of a wider, ongoing effort at the IRS to protect the security of data, the IRS decided to temporarily suspend the Data Retrieval Tool (DRT) as a precautionary step following concerns that information from the tool could potentially be misused by identity thieves.” Is the IRS conducting risk assessments of other outward facing tools?

We review all eRAs annually to determine if the underlying application needs a new or updated eRA. The 2017 eRA review is underway. We assembled a team of experts from our cybersecurity, engineering, and applications development practices to review the eRAs.

**Rep. Holding (NC-02) Questions for the Record
Ways and Means Subcommittee on Oversight
Hearing on the 2017 Tax Filing Season
April 26, 2017**

Questions for Ms. Wielobob, IRS

27) Ms. Wielobob, isn't it true that the number of full time employees in the Criminal Investigation division has decreased by 919 people, a total of 23 percent between fiscal year 2010 and fiscal year 2016?

From Fiscal Year (FY) 2010 to FY 2016, the attrition rate for the Criminal Investigation (CI) division was 22 percent, based on 3,964 full-time permanent employees at the end of FY 2010 and 3,088 in FY 2016. The attrition rate for CI was only slightly higher than the 20 percent attrition rate across the IRS, based on 84,962 full-time permanent employees in FY 2010 and 67,723 in FY 2016. One factor in higher attrition for CI as compared to the rest of the IRS is the mandatory retirement rules for federal law enforcement officers, including CI special agents. Nevertheless, the attrition rate for CI was lower than the rate for other IRS divisions with similar workforce characteristics (higher-graded and longer-tenured) from FY 2010 to FY 2016, such as the Large Business & International division, which had an attrition rate of 27 percent, and the Office of Appeals, which had an attrition rate of 33 percent.

28) The loss of nearly a quarter of CI employees over the span of a handful of years is higher than the overall drop in full time employees experienced throughout the rest of the agency. Are criminal investigations no longer a priority for the IRS?

We take very seriously our obligation to administer the tax law, and we maintain an active enforcement presence to promote equal application of the law to all taxpayers. Criminal tax investigations continue to be a priority.

PUBLIC SUBMISSIONS FOR THE RECORD



April 26, 2017

The Honorable Kevin Brady
Chairman
U.S. House Committee on Ways & Means
1011 Longworth House Office Building
Washington, DC 20515

The Honorable Richard Neal
Ranking Member
U.S. House Committee on Ways & Means
341 Cannon House Office Building
Washington, DC 20515

RE: April 26, 2017 Hearing on Examining the 2017 Tax Filing Season

Dear Chairman Brady and Ranking Member Neal:

The American Institute of CPAs (AICPA) respectfully submits the enclosed statement for the record of the hearing on April 26, 2017 on “Examining the 2017 Tax Filing Season.” We appreciate the efforts of the Members of the Committee for examining the Internal Revenue Service (IRS) operations and reviewing ways to combat identity theft and improve the tax filing season.

The AICPA is the world’s largest member association representing the accounting profession with more than 418,000 members in 143 countries and a history of serving the public interest since 1887. Our members advise clients on federal, state, local and international tax matters and prepare income and other tax returns for millions of Americans. Our members provide services to individuals, not-for-profit organizations, small and medium-sized businesses, as well as America’s largest businesses.

If you have any questions, please feel free to contact me at (408) 924-3508, or annette.nellen@sjsu.edu; or Melissa Labant, AICPA Director of Tax Policy & Advocacy, at (202) 434-9234, or melissa.labant@aicpa-cima.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Annette Nellen".

Annette Nellen, CPA, CGMA, Esq.
Chair, AICPA Tax Executive Committee



WRITTEN STATEMENT

OF

THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

SUBMITTED FOR THE RECORD OF THE

APRIL 26, 2017

HEARING OF

THE UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS

ON

EXAMINING THE 2017 TAX FILING SEASON

The American Institute of CPAs (AICPA)¹ applauds the leadership taken by the Committee to address ways to improve the tax filing season, review the complexity faced by taxpayers, and examine how the Internal Revenue Service (IRS or "Service") can better serve the public. While tax season always causes some level of anxiety for taxpayers, in recent years, the repeated delays in information returns, lack of guidance on emerging issues, and the IRS's inability to timely respond to written communications have added to the growing trepidation America's taxpayers have towards the annual filing season.

We hear a resounding echo of confusion from tax practitioners as our members advise clients and continue to work on filing 2016 returns. The issuance of delayed guidance has been a significant factor since it increases compliance uncertainty. For example, on March 30, 2017, the IRS released partial guidance for small business use of the research credit per law changes made in 2015.² This guidance affects the 2016 returns of individuals and business entities, some of which were due by March 15, 2017. In addition, the IRS issued Notice 2017-09 on January 4, 2017 to provide guidance on 2015 law changes relevant to information returns starting from 2016, many of which were due by January 31, 2017. As a result, many taxpayers were in a state of confusion regarding not only how to comply with this season's new rules but also how to proceed with tax planning.

In the interest of good tax policy and effective tax administration,³ we are submitting feedback and recommendations on IRS taxpayer services, tax-related identity theft, information reporting and Forms 1099, Individual Taxpayer Identification Numbers (ITINs), due diligence requirements, deadlines related to disasters, guidance needed on emerging issues, and other tax filing season concerns, where legislative changes can help improve future filing seasons.

1. IRS Taxpayer Services

As we approach the 20th anniversary of the Report of the National Commission on Restructuring the IRS⁴ ("Restructuring Commission"), we recommend that any effort to modernize the IRS and its technology infrastructure build on the foundation established by the Restructuring Commission. The current degradation of the IRS taxpayer services is unacceptable. The percentage of calls from taxpayers the IRS answered between 2004 and 2016 dropped from 87% to 53%. Comparing 2004 to 2016, the number of calls the IRS received from taxpayers increased from 71 million to 104 million, yet the number of calls answered by telephone assistants declined from 36 million to 26 million.⁵

¹ See AICPA Tax webpage at: <http://www.aicpa.org/InterestAreas/Tax/>.

² [Notice 2017-23](#) (3/30/17) and [IR-2017-70](#) (3/30/17).

³ AICPA, *Guiding Principles for Good Tax Policy: A Framework for Evaluating Tax Proposals*, 2017; <http://www.aicpa.org/Advocacy/Tax/DownloadableDocuments/tax-policy-concept-statement-no-1-global.pdf>.

⁴ Report of the National Commission on Restructuring the IRS, "A Vision for a New IRS," June 25, 1997; <http://www.house.gov/natcommirs/report1.pdf>.

⁵ National Taxpayer Advocate, "Annual Report to Congress 2016, Executive Summary: Preface, Special Focus and Highlights," 2016, page 16; https://taxpayeradvocate.irs.gov/Media/Default/Documents/2016-ARC/ARC16_ExecSummary.pdf.

As tax professionals, we represent one of the IRS's most significant stakeholder groups.⁶ As such, we are both poised and committed to being part of the solution for improving IRS taxpayer services. We recently submitted a letter⁷ to House Ways and Means Committee and Senate Finance Committee members in collaboration with other professional organizations. Our recommendations include modernizing IRS business practices and technology, re-establishing the annual joint hearing review, and enabling the IRS to utilize the full range of available authorities to hire and compensate qualified and experienced professionals from the private sector to meet its mission. The legislative and executive branches should work together to determine the appropriate level of service and compliance they want the IRS accountable for and then dedicate appropriate resources for the Service to meet those goals.

Additionally, we recommend the IRS create a new dedicated practitioner services unit to rationalize, enhance, and centrally manage the many current, disparate practitioner-impacting programs, processes, and tools. As part of this new unit, the IRS should provide practitioners with an online tax professional account with access to all of their clients' information. The IRS should offer robust practitioner priority hotlines with higher-skilled employees that have the experience and training to address complex issues. Furthermore, the IRS should assign customer service representatives (a single point of contact) to geographic areas in order to address challenging issues that practitioners could not resolve through a priority hotline.

2. Tax-Related Identity Theft

The AICPA supports efforts to combat identity theft and tax fraud.⁸ The growing amount of fraudulent tax refunds⁹ paid and the economic and emotional impact to individual victims of identity theft are unacceptable. Therefore, we recommend a single point of contact for identity theft victims to streamline the process and help identify areas of duplication and causes for

⁶ Sixty percent of all e-filed returns in 2016 were prepared by a tax professional, according to the Filing Season Statistic for Week Ending Dec.2, 2016; <https://www.irs.gov/uac/newsroom/filing-season-statistics-for-week-ending-december-second-2016>.

⁷ AICPA comment letter, "Ensuring a Modern-Functioning IRS for the 21st Century," dated April 3, 2017; <http://www.aicpa.org/Advocacy/Tax/DownloadableDocuments/IRS-Service-Improvement-Practitioner-Report.pdf>.

⁸ See AICPA comment letter, "Tax Reform Discussion Draft on Tax Administration," dated January 16, 2014; <http://www.aicpa.org/Advocacy/Tax/DownloadableDocuments/AICPA-Comments-on-Discussion-Draft-on-Tax-Administration.pdf> and AICPA comment letter, "Chairman's Mark of a Bill to Prevent Identity Theft and Tax Refund Fraud," dated September 15, 2015; <https://www.aicpa.org/Advocacy/Tax/DownloadableDocuments/2015-09-15-Prevent-ID-Theft-and-Tax-Refund-Fraud-Comment-Letter-FINAL.pdf>.

⁹ AICPA Comment letter, "Comments on the Identity Theft and Tax Fraud Prevention Act of 2013 and Recommendations on Efforts to Combat Identity Theft," dated June 27, 2013; http://www.aicpa.org/Advocacy/Tax/DownloadableDocuments/2013_06_27_Comments_on_Identity_Theft_and_Tax_Fraud.pdf. See AICPA Testimony to U.S. Senate Committee on Finance hearing on, "Tax Fraud, Tax ID Theft and Tax Reform: Moving Forward with Solutions," April 16, 2013; http://www.aicpa.org/Advocacy/Tax/DownloadableDocuments/2013.04.16_Testimony_on_Tax_Fraud_Tax_ID_Theft_and_Tax_Reform.pdf.

delays, and support a criminal penalty for misappropriating taxpayer identity.¹⁰ We are also concerned about certain other measures intended to address identify theft.

a. Driver's License Requirements

In recent years, the IRS and some state tax agencies have started requiring additional personal data, such as a driver's license number, for electronic filing. Taxpayers and their return preparers are reluctant to provide additional personal data to online tax software databases and state agencies as this process could increase identity theft risk. Therefore, the AICPA supports consideration of alternatives to reduce the need for submitting personal identification data in the tax compliance process beyond the personal data traditionally requested (taxpayer identification number, address, employer, etc.).

b. Enhancements to the IRS PIN Program

Congress should require the IRS to provide a report on its operation and the results of the current identity protection personal identification number (IP PIN) system. We believe this report would encourage and support the expansion of the PIN system, which is currently used on a limited basis, to help prevent identity theft.

c. Increase Electronic Filing of Returns

The AICPA supports the increase in electronic filing of returns. Many states already require tax return preparers to e-file taxpayer returns, therefore, it is not overly burdensome to require e-filing of all individual tax returns prepared by a tax return preparer. We recognize that many individual taxpayers remain uncomfortable with the internet or do not have secure online connections. Therefore, the taxpayer should still have the ability to opt out of e-filing a paid-preparer tax return without subjecting the tax return preparer to a penalty. In addition, individual taxpayers who prepare their own returns and do not e-file should have the ability to waive out of e-filing.

d. Internet Platform for Form 1099 Filings

We recommend the Secretary of the Treasury to make available an internet website or other electronic media to allow taxpayers to securely prepare, file and distribute Forms 1099.¹¹ Furthermore, we suggest that the website make available to taxpayers all relevant Forms 1099 and Forms W-2 needed to file their tax returns. We believe the website will reduce the cost of compliance, accelerate the receipt of information and enable the IRS to more efficiently and effectively match reported amounts against individual tax returns.

¹⁰ An adoption TIN is a temporary identification number for a child in the process of an adoption where the SSN is not obtained or unattainable at that moment.

¹¹ See SFC Chairman's Staff Discussion Draft on Tax Administration Provisions, Subtitle A, Sec. 03: "Internet Platform for Form 1099 Filings," <https://www.finance.senate.gov/imo/media/doc/Chairman's%20Staff%20Discussion%20Draft%20of%20Tax%20Administration%20Reform%20Language.pdf>.

e. **Require Electronically-Prepared Paper Returns to Include Scannable Code**

We recommend requiring taxpayers who prepare returns using computer or internet-based software, but file on paper, to print the returns with a scannable bar code.

f. **Improvement in Access to Information in the National Directory of New Hires for Tax Administration Purposes**

We support the granting of limited access to the IRS in utilizing the National Directory of New Hires (NDNH), a database established to assist child support agencies by providing wage and employment information of individuals. Specifically, the IRS should gain access for the sole purpose of identifying and preventing fraudulent tax return filings and claims for refund. Restricting immediate access of the NDNH to users with legitimate fraud prevention needs and delaying access to other users will offer support to fraud prevention efforts.

3. Information Reporting and Forms 1099

Taxpayers and the tax practitioner community are burdened by the growing volume of corrected and delayed information returns. Taxpayers receiving corrected Forms 1099 are obligated to file amended tax returns in order to report the corrected amounts. This process compresses the tax filing season and causes time-consuming and expensive efforts for corrections that often result in insignificant differences. Congress should not require taxpayers that receive corrected information returns to file amended tax returns for relatively minor dollar amounts. A simplified safe harbor would not only reduce burdens on taxpayers and practitioners to repeatedly correct returns, but also reduce the expenditure of IRS resources in processing such returns.

a. ***De Minimis* Error Safe Harbor for Taxpayers**

Under Notice 2017-09, if an inadvertent error is made by the payor (or “issuer”) in the preparation of information returns, such that the amount of the error does not exceed \$100 or an error in reporting taxes withheld does not exceed \$25, then the penalties¹² authorized under these sections are waived. However, if the payee (recipient of the incorrect information return) elects a corrected statement but one is not issued, the penalty is not automatically waived.

The election process outlined in the statute and notice will create compliance burdens for information return issuers, some of which are large brokerage firms with thousands of individual recipients. Issuers will need to track whether elections were made to waive the *de minimis* error safe harbor. Small businesses that issue Forms 1099-MISC will have the administrative burden of using their limited resources to comply with these new rules and track their information return recipients' elections.

¹² Under Internal Revenue Code (IRC) sections 6721 and 6722.

Under the current rules, there is no *de minimis* safe harbor for recipient taxpayers. If the issuer decides to issue a corrected Form 1099 for an immaterial amount (even if not required), the taxpayer must file an amended tax return. Throughout this filing season, our tax practitioner members continue to receive corrected Forms 1099, including those under the *de minimis* error safe harbor threshold. As a result, we have seen no easing of the burdens on taxpayers and their return preparers.

In the interest of effective tax administration, the AICPA proposes a simplified approach for the *de minimis* error safe harbor rules under sections 6721 and 6722,¹³ as follows:

1. If a recipient of information returns notifies the issuer of an error, the issuer has thirty days in which to provide a corrected document to the recipient. If the issuer fails to provide a corrected document, it is subject to the penalties (unless the IRS determines there is other justification for a penalty waiver).¹⁴
2. Recipients of incorrect information returns have 18 months from the original issuance date to request corrected information returns from the issuer.¹⁵ This timeline protects issuers from incurring penalties many years past their original year of error.
3. Recipients of corrected information returns are allowed a *de minimis* safe harbor such that small changes do not require the filing of amended Forms 1040, 1041, 1065, 1120-S or 1120. In such cases, the IRS would not issue a matching notice (such as, a CP2000). The section 6721 and 6722 *de minimis* error dollar amount guidelines are used for these purposes. Thus, if corrected amounts on any information return do not change by more than \$100 or change tax withholding by more than \$25, the recipient of the corrected information return would not incur penalties for failure to file an amended tax return.
4. If a corrected information return changes the reported amount by more than \$100, but less than \$200, the recipient can “true-up” the error on the next year’s tax return.
5. Allow reporting entities (including employers, partnerships, corporations, estates and trusts) to “roll over” small information return errors, contained on Forms 1099 and W-2 and Schedules K-1, in the following year rather than file amended or corrected forms if the corrected amount for a recipient exceeds \$100 but is no more than \$200 in income.

For example, if ordinary dividends of \$200 are reported on a client’s tax return for 2016, the client should not file an amended tax return if the client receives a corrected Form 1099 showing \$210 of dividends. Offering this safe harbor to taxpayers will not

¹³ All references in this letter to the Internal Revenue Code are to the Internal Revenue Code of 1986, as amended.

¹⁴ Issuers could still file corrected information returns addressing *de minimis* errors.

¹⁵ Section 6722(c)(2)(B) would need to include this time limit.

only save individuals from costly tax preparation expenses, but will improve efficiency for both tax preparers and the IRS.

b. Corrected and Late Forms 1099

An important concern to both taxpayers and tax preparers is the growing problem of delayed information reporting. Tax filing seasons have become increasingly challenging for practitioners because brokerage firms issue “preliminary” Forms 1099. The “final” versions of these forms are generally provided after the February 15th information reporting deadline. Additionally, some brokerage firms also request extensions from the IRS to issue Forms 1099 after the reporting deadline.

While we recognize that the brokerage firms face challenges to meet reporting requirements in a timely manner after close of the calendar year, corrected and late forms create anxiety, confusion, and an increase in tax preparation fees. Taxpayers are willing to file an amended return if necessary, but strongly prefer to file only once. As a result, many taxpayers now tend to wait until they have received their annually-anticipated corrected or late Forms 1099 before bringing their tax records to their CPA. Although taxpayers can file an amended Form 1040 after April 15,¹⁶ clients want to ensure they do not owe any late payment penalty or obtain their refund as soon as possible, thus preferring to complete amended returns as soon as possible. Tax practitioners are suffering a more compressed tax filing season as a result of this increasingly shortened timeline.

We believe our recommendations listed above regarding *de minimis* errors will also address the common problem of corrected and late Forms 1099 with *de minimis* changes.

4. Individual Taxpayer Identification Numbers (ITINs)

It is critical for the IRS to effectively administer the ITIN program, including ITIN renewals, without disrupting the tax filings of the individual taxpayers who want to remain compliant with their annual filing obligations. We have submitted comments to the Service¹⁷ on the provisions amended by P.L. 114-113, also known as the Protecting Americans from Tax Hikes Act of 2015 (PATH Act),¹⁸ and their implementation by the IRS as outlined in Notice 2016-48.

¹⁶ See IR-2016-167: The filing deadline to submit 2016 tax returns is Tuesday, April 18, 2017, rather than the traditional April 15 date; <https://www.irs.gov/uac/2017-tax-filing-season-begins-jan-23-for-nations-taxpayers-with-tax-returns-due-april-18>.

¹⁷ AICPA Comment Letter, “Notice 2016-48, Implementation of PATH Act ITIN Provisions,” dated September 27, 2016; <https://www.aicpa.org/Advocacy/Tax/DownloadableDocuments/AICPA-Comment-Letter-Notice-2016-48-Implementation-of-PATH-Act-ITIN-Provisions-9-27-16.pdf>.

¹⁸ P.L. 114-113 (12/18/15), “Protecting Americans from Tax Hikes Act of 2015,” amending sections 6109(i) and 6213(g) regarding ITINs; <https://www.congress.gov/114/plaws/publ113/PLAW-114publ113.pdf>.

The PATH Act changes to the ITIN processes require technical corrections for effective tax administration to occur. We suggest that Congress reintroduce and enact the Tax Technical Correction Act of 2016¹⁹ previously introduced on December 6, 2016 in the 114th Congress. Specifically, we support the provision in the bill regarding procedures used by overseas taxpayers to obtain or renew their ITIN. This provision would simplify the application and renewal process for millions of overseas taxpayers who are affected by the changes to the procedures. Under current law, overseas taxpayers can no longer use community-based Certified Acceptance Agents (CAA) to process their ITIN applications. On April 17, 2017, the IRS rescinded the termination of foreign CAAs, reinstating that they are again authorized to assist foreign applicants as they did prior to their termination.²⁰ However, the law that still exists imposes an unduly harsh burden on those taxpayers who are attempting to fulfill their U.S. tax filing obligations. The proposed technical corrections in the Tax Technical Correction Act of 2016 would permanently allow ITIN holders living abroad to use CAAs.

5. Due Diligence Requirements

The PATH Act added the Child Tax Credit (CTC) and the American Opportunity Tax Credit (AOTC) to the due diligence requirements of paid preparers that claim these refundable credits. Prior to this new requirement for paid preparers to complete Form 8867, *Paid Preparer's Due Diligence Checklist*, many tax preparers were already subject to due diligence rules with penalty consequences. Congress likely expanded the section 6695(g) penalty to these additional refundable credits due to taxpayer errors in claiming them.

However, this additional checklist is an unnecessary burden to professional preparers that are already subject to multiple levels of due diligence requirements. These existing requirements include the section 6694 preparer penalty regulations, the U.S. Department of the Treasury's ("Treasury") Circular 230 rules, professional association ethical standards, and state licensing board regulations.

The AICPA recommends that Congress modify section 6695(g) by adding an additional sentence as follows:

“The Secretary must consider simplified approaches that recognize that taxpayers are responsible for the accuracy of their return and that certain tax return preparers are already subject to additional due diligence requirements.”

Most professional preparers properly adhere to the requirements listed in the Form 8867 checklist (even without such a specific checklist) and we question if the additional burden to

¹⁹ S. 3506, “Tax Technical Corrections Act of 2016,” <https://www.congress.gov/114/bills/s3506/BILLS-114s3506is.pdf>, Additionally, the AICPA supports technical corrections included in the bill relating to partnership audit rules, which are included in the Bipartisan Budget Act of 2015, to mitigate negative impacts on the IRS and taxpayers. These corrections would improve the IRS's ability to fairly and equitably administer the new partnership audit regime and reduce the administrative burdens on the IRS and taxpayers.

²⁰ See IRS page: <https://www.irs.gov/individuals/general-itin-information>.

complete a multi-page checklist is a true deterrent for those practitioners who are failing to fulfill their due diligence requirements. We urge Congress and the IRS to consider whether the information obtained from Form 8867 provides enough value to the IRS to warrant the added administrative burdens to professional tax preparers.

6. IRS Deadlines Related to Disasters

Similar to IRS's authority to postpone certain deadlines in the event of a presidentially-declared disaster, Congress should extend that limited authority to state-declared disasters and states of emergency. Currently, the IRS's authority to grant deadline extensions, outlined in section 7508A, is limited to taxpayers affected by federal-declared disasters. State governors will issue official disaster declarations promptly but often, presidential disaster declarations in those same regions are not declared for days, or sometimes weeks after the state declaration. This process delays the IRS's ability to provide federal tax relief to disaster victims. Individuals have the ability to request waivers of penalties on a case-by-case basis; however, this process causes the taxpayer, tax preparer, and the IRS to expend valuable time, effort, and resources which are already in shortage during times of a disaster. Granting the IRS specific authority to quickly postpone certain deadlines in response to state-declared disasters allows the IRS to offer victims the certainty they need as soon as possible.

This past year, multiple states along Southeastern U.S. were affected by Hurricane Matthew, including Florida, Georgia, North and South Carolina, and Virginia. From October 6 through 10, Matthew traveled north along the southeast coast. A federal state of emergency was declared for Florida on October 6 and later extended to include Georgia and South Carolina. Tax preparers and taxpayers living in the affected regions not only lost access to power and the internet, but lost tax documents and financial information due to flooding and destruction of both their homes and businesses. On October 13, 2016, the IRS issued IR-2016-132 offering federal tax relief to regions of North Carolina. The relief arrived two days before the major October 15 individual extended tax filing deadline – which caused tax practitioners unnecessary stress and burden for the days leading up to the issuance of the relief. Three days *after* the extended filing deadline, on October 18, the IRS issued relief for Florida and Georgia – which was, unfortunately, too late to make a substantial difference.

More recently, on March 13, 2017, Winter Storm Stella hit the Northeast and Mid-Atlantic U.S. covering many states in multiple feet of snow two days before the March 15 business return due date. Before 2:00 pm (ET) on the first day of the storm, governors in New York and other states began issuing emergency declarations while the AICPA and state CPA societies along the northeast received calls from members needing federal filing relief from the IRS. Two days later, at approximately 4:30 pm (ET) on the March 15 filing due date, the IRS finally issued IR-2016-61 offering business taxpayers affected by Winter Storm Stella additional time to file. Receiving federal extensions are helpful, but the sooner the IRS can grant this relief, the greater the beneficial impact on victims.

The AICPA has long supported a set of permanent disaster relief tax provisions²¹ and we acknowledge both Congress's and the IRS's willingness to help disaster victims. To provide more timely assistance, however, we recommend that Congress allow the IRS to postpone certain deadlines in response to state-declared disasters or state of emergencies.

7. Guidance Needed on Emerging Issues

Online crowdfunding and the sharing economy are quickly expanding mediums through which individuals obtain funds or seek new sources of income. Individuals may understand the steps through which they can use these new crowdfunding and sharing economy opportunities to their advantage. However, many tax preparers and their clients do not have the guidance necessary to accurately comply with the complex, out-of-date, or complete lack of tax rules in these emerging areas.

Lawmakers and tax administrators must regularly review existing laws, against new changes in the ways of living and doing business, to determine whether tax rules and administration procedures need modification and modernization. We urge Congress and the IRS to develop simplified tax rules and related guidance in the emerging sharing economy and crowdfunding areas. Some of the areas in need of modernization include information reporting (such as to avoid reporting excluded income, such as a gift, as income), simplicity in reporting and tracking rental losses from year to year, and simplified approaches for recordkeeping for small businesses. Offering clarity on these issues will allow taxpayers to follow a fair and transparent set of guidelines while the IRS benefits from a more efficient voluntary tax system.

8. Other Tax Filing Season Concerns

a. IRS Private Debt Collection

Taxpayers have growing concerns about the actions of private collection agencies and their legal authority. Due to the proliferation of fraudulent tax return scams, we believe the use of private collection agencies will add security, authentication, verification, and complexity concerns to an already overburdened system. We urge Congress to repeal section 6306(c)(1) as it will likely harm taxpayers and further degrade the trust in our voluntary tax compliance system while increasing the costs of collections.

From 2006 to 2009, the IRS employed private debt collection agencies to assist in locating and contacting taxpayers, and requesting installment agreements for unpaid tax liabilities. However, in 2009, the IRS announced that it would not renew the private collection agencies' contracts because the Service's internal collection activities were more successful and cost-effective. Now that the private debt collection program is reestablished, taxpayers are concerned, or many are unaware, that these collectors do not recognize economic hardships nor do they offer taxpayers the same relief that the

²¹ AICPA Comment Letter, "Request for Permanent Tax Provisions Related to Disaster Relief," dated November 22, 2013; <https://www.aicpa.org/Advocacy/Tax/Individuals/DownloadableDocuments/11-22-13 Permanent Tax Related Disaster Relief Provisions Comment Letter.pdf>.

IRS is required to provide under statutory law. Additionally, the IRS does not have the ability to ensure consistent and fair treatment of taxpayers across multiple private collection agencies.

b. Publication of Preparer Tax Identification Numbers (PTINs)

Paid return preparers are concerned about the online IRS publication of PTIN registration information.²² Many practitioners are small business owners who operate tax services from their homes and register PTINs to home addresses. The IRS's release of registration data includes the home addresses and phone numbers of many practitioners who value their privacy. PTIN holders are also experiencing a higher number of unwanted vendor solicitation as third parties that want to sell products to CPAs can now download lists of contact information at any time from the IRS website. According to the Freedom of Information Act (FOIA), the IRS is required to release PTIN holders' names, business names, mailing addresses, phone numbers, websites, email addresses, and professional credentials. Previously, this information was available only on a CD-ROM for a \$35 fee for those who submitted a special request to the IRS, but individuals can now access the data easily and cost free.

The purpose of PTINs is to allow the IRS to track tax preparers and offer them an identification number to use on signed tax returns other than their Social Security Numbers (SSN). Releasing the contact information of PTIN holders online minimizes the original intent of PTINs and the identity protection it offers to tax practitioners. We urge Congress to allow the IRS to continue issuing PTIN holder information on a case-by-case request basis in order to limit the publication of tax preparers' personal contact information. Alternatively, the IRS can remove the posting of email and business addresses from the downloadable online database.

CONCLUDING REMARKS

The AICPA appreciates this opportunity to submit a statement for the record and we urge this Committee to consider our suggestions as Congress decides how to improve tax compliance and IRS taxpayer services. We look forward to working with the Committee as you continue to address the needs of tax preparers and taxpayers.

The AICPA is the world's largest member association representing the accounting profession with more than 418,000 members in 143 countries and a history of serving the public interest since 1887. Our members advise clients on federal, state, local and international tax matters and prepare income and other tax returns for millions of Americans. Our members provide services to individuals, not-for-profit organizations, small and medium-sized businesses, as well as America's largest businesses.

²² See IRS page: <https://www.irs.gov/tax-professionals/foia-awareness-for-ptin-holders/>.

Statement for the Record of

Thomas A. Schatz

President, Citizens Against Government Waste

Before the House Ways and Means Committee

Hearing on the 2017 Tax Filing Season

April 26, 2017

My name is Thomas A. Schatz, and I am president of the Citizens Against Government Waste (CAGW). CAGW was founded in 1984 by the late industrialist J. Peter Grace and nationally-syndicated columnist Jack Anderson to build support for implementation of President Ronald Reagan's Grace Commission recommendations and other waste-cutting proposals. Since its inception, CAGW has been at the forefront of the fight for efficiency, economy, and accountability in government. CAGW has more than one million members and supporters nationwide, and, over the past 33 years, it has helped save taxpayers \$1.5 trillion through the implementation of Grace Commission findings and other recommendations.

CAGW does not accept government funds. Eighty-five percent of the organization's funding comes from individual contributors around the nation. Corporate and foundation gifts account for the remaining 15 percent.

CAGW's mission reflects the interests of taxpayers. All citizens benefit when government programs work cost-effectively, when deficit spending is eliminated, and when government is held accountable. Not only will representative government benefit from the pursuit of these interests, but the country will prosper economically because government

mismanagement, fiscal profligacy, and chronic deficits soak up private savings and crowd out the private investment necessary for long-term growth.

CAGW appreciates the committee's ongoing efforts to oversee the Internal Revenue Service (IRS), particularly modernizing information technology (IT) systems and uncovering and preventing the filing of fraudulent tax returns.

In 1994, the IRS created the Electronic Fraud Detection System (EFDS), which is intended to identify fraudulent tax returns. Like other efforts to create, modernize, or replace outdated federal agency information technology systems, the first attempt to replace the EFDS was unsuccessful. As a result, [according](#) to the IRS Taxpayer Advocate, "... the IRS completed the 2006 filing season with no upfront fraud detection system in place. In 2009, the IRS began developing the Return Review Program (RRP) to replace EFDS. In 2010, the IRS [declared](#) EFDS "too risky to maintain, upgrade, or operate beyond 2015."

Despite the recognized need to get the RRP in place in a timely manner, the program is still in development, and is now estimated to be completed in 2022. The program is also ineffective. According to a December 11, 2015 Treasury Inspector General for Tax Administration (TIGTA) [report](#), during a two-year pilot program, the RRP missed 54,175 fraudulent returns totaling \$313 million.

Anyone familiar with the long history of failed federal IT investments will not be surprised to learn that the program has also encountered substantial cost overruns. In February 2015, the Government Accountability Office (GAO) [reported](#) that the RRP had exceeded its initial budget by \$86.5 million. The quality of information on the RRP released by the IRS for review by the public has also been substandard. A June 2016 GAO [report](#) noted the lack of

transparency in the RRP's data, stating that the "IRS used a method inconsistent with best practices for determining the amount of work completed by its own staff."

On far too many occasions, the federal government tries to build IT systems, particularly software, that is available in the private sector at a lower cost. In fact, Federal Acquisition Regulation 12.101 [requires](#) agencies to "conduct market research to determine whether commercial items or nondevelopmental items are available that could meet the agency's requirements," and to select them if available. In other words, if it is available in the private sector, also known as "commercial off-the-shelf," or COTS, it should be used. In the case of the RRP, a July 26, 2013 TIGTA [report](#) found that, "...alternative commercial software products were not fully considered prior to selecting technology solutions for the RRP system."

A March 7, 2017 [letter](#) by Senate Finance Committee Chairman Orrin Hatch (R-Utah) to IRS Commissioner John Koskinen asked why the IRS failed in this regard, and questioned the efficacy of the RRP system. Indeed, while the IRS civil division continues to invest in the underperforming RRP, the IRS criminal division is already utilizing a private sector platform for its anti-fraud efforts.

A September 29, 2015 TIGTA [report](#) noted that, "... the IRS has not set a termination date nor established a retirement plan for the EFDS. If the IRS does not efficiently transition to the Return Review Program so that it can retire the Electronic Fraud Detection System, the estimated additional operation and maintenance costs of running the system could cost taxpayers approximately \$18.2 million per year."

The criminal division is not the only part of the IRS that has determined the answer to government's IT problems lies with the private sector. The Free File program provides

taxpayers that make under \$64,000 annually with an option of 12 tax preparation companies to file their taxes at no cost. The system was created in 2002 to take effect for the 2003 tax season after the IRS tried and failed to [create](#) its own tax preparation program called Cyberfile at a cost of \$17 million, in response to a 2001 Bush administration initiative to improve electronic communications from government to government, government to business, and government to citizen. The Free File Alliance was established by a Memorandum of Understanding between the IRS and private sector tax preparation companies, which was renewed for another five years, and is set to expire on October 31, 2020. There is a stringent [application](#) process for companies that wish to participate in the Free File program, and those that have been approved are [listed](#) on the IRS website.

A 2009 survey of Free File users [found](#) that 96 percent of filers would recommend the program to others. Free File is now [available](#) to be used by more than 70 percent of taxpayers, or approximately 100 million individuals. Recent improvements to the program include the ability to import prior year information, additional options for free state tax returns, more transparency for any state tax preparation charges, and a new IRS2Go app that can be used on smart phones and tablets. The IRS [reported](#) on March 17, 2017, that more than 50 million people have used the Free File system to date and saved approximately \$1.5 billion. In a January 15, 2016 press release, IRS Commissioner John Koskinen [said](#), “Free File software can walk you through the steps and help you get it right,” and “[t]he real winner in this partnership has been the nation’s taxpayers.”

On March 20, 2017, an [article](#) in *Consumerist* alleged that the Free File system is not easy enough to use, and called on the IRS to write its own software that would automatically fill in the taxpayer’s information, including income based on copies of W-2s and 1099s that are

submitted by employers and others to the agency. The software would then determine the tax liability of the users, and request that they issue the IRS a check. This is similar to legislation [introduced](#) in the 114th Congress by Sen. Elizabeth Warren (D-Mass.), which would make agreements like the Free File Alliance between the IRS and the private sector illegal.

Both Sen. Warren and *Consumerist* are ignoring the past failure of the IRS to create its own file preparation software, as well as the fact that the agency itself is not expressing any desire to repeat that mistake. On the IRS website, the [answer](#) to the question about why the IRS is not providing its own software and choosing instead to partner with private companies is as follows: “Private industry, with established expertise and experience in electronic tax preparation, has a proven track record in providing the best technology and services available.” This is quite the opposite of the federal government’s information technology experience, which has been littered with dozens of expensive procurement failures and massive cybersecurity breaches.

As the IRS continues to process tax returns, it should provide a better return on its efforts to prevent the filing of fraudulent returns. The best way to accomplish that goal would be to immediately seek out and utilize existing, successful platforms in the private sector. In addition, any efforts to pull back or rescind the IRS’ successful Free File program should be rejected.

Thank you for the opportunity to provide this testimony.

Thomas A. Schatz

Thomas A. Schatz is president of Citizens Against Government Waste (CAGW).

CAGW was founded by the late businessman J. Peter Grace and late Pulitzer Prize-winning columnist Jack Anderson in 1984 following the completion of President Ronald Reagan's Private Sector Survey on Cost Control (the Grace Commission). A 501(c)(3) nonprofit, nonpartisan educational organization, CAGW works to eliminate waste, fraud, abuse, and mismanagement in government and has more than one million members and supporters nationwide. According to official Office of Management and Budget and CAGW estimates, implementation of Grace Commission and other CAGW waste-cutting recommendations has helped save taxpayers \$1.08 trillion.

Mr. Schatz is a nationally-recognized spokesperson on government waste and has been interviewed on hundreds of radio talk shows from coast to coast. He is a regularly featured guest on national television news programs and local news broadcasts. His appearances include ABC's "Good Morning America," CBS's "60 Minutes," FOX News Channel's "The O'Reilly Factor," NBC's "Nightly News," and PBS's "The News Hour." He was a regularly featured guest on the "Pork Watch" segment of CNBC's "Squawk Box." His editorials on fiscal policy have appeared in publications nationwide, including *The New York Times* and *The Wall Street Journal*.

Mr. Schatz has testified numerous times on government waste issues before committees of the United States Senate and House of Representatives, as well as before state and local legislative and regulatory bodies.

During his 31 years with CAGW, Mr. Schatz has helped make CAGW a "leading government watchdog on fiscally conservative issues, like taxes and earmarks," according to *National Journal*.

Prior to joining CAGW in 1986, Mr. Schatz spent six years as legislative director for Congressman Hamilton Fish Jr. and two years practicing law and lobbying.

Mr. Schatz holds a law degree from George Washington University and graduated With Honors from the State University of New York at Binghamton with a bachelor's degree in political science. He is married to Leslee Behar and has two daughters, Samantha and Alexandra.