

Congress of the United States
Washington, D.C. 20515

April 12, 2022

The Honorable Janet Yellen
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

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

Dear Secretary Yellen and Commissioner Rettig:

We are writing regarding our concerns about high Internal Revenue Service (IRS) tax audit rates for low-income wage earners and a lack of transparency regarding audit data. In recent years, the IRS has audited low-income Americans at roughly the same rate as the top one percent (1%).¹ And new data released earlier this month appears to indicate that these problems with IRS enforcement are getting worse. We know the IRS suffers from underfunding, and we are working to secure substantial, permanent funding so the IRS can take on the tax cheating of giant corporations and the ultra-wealthy. But, we also urge you to move swiftly to end the targeting of low-income Americans, in line with the Administration's commitment not to increase audits of taxpayers making under \$400,000.²

The IRS audits the poorest Americans at a disproportionately high and rising rate. A recent analysis of FY2021 tax data by the Transactional Records Access Clearinghouse (TRAC) at Syracuse University found that the IRS audits low-income families with less than \$25,000 in gross receipts at five times the rate of everyone else.³ This TRAC analysis of IRS data shows that 0.79% of low-income wage earners (188,431) were audited in Fiscal Year (FY) 2020, and that percentage nearly doubled to 1.3% (306,944 earners) in FY2021.⁴

TRAC found that this jump was caused, in part, by a large increase in correspondence audits, in which taxpayers are sent a letter through the mail asking for further documentation about a return.⁵ The 2021 National Taxpayer Advocate Annual Report to Congress notes that "[t]he IRS correspondence audit process is structured to expend the least amount of resources to conduct the largest number of examinations – resulting in the lowest level of customer service to

¹ ProPublica, "IRS: Sorry, but It's Just Easier and Cheaper to Audit the Poor," Paul Kiel, October 2, 2019, <https://www.propublica.org/article/irs-sorry-but-its-just-easier-and-cheaper-to-audit-the-poor>;

ProPublica "Lawmakers Just Confronted the IRS Over Tax Audits That Target the Poor," Paul Kiel, April 10, 2019, <https://www.propublica.org/article/lawmakers-to-irs-commissioner-charles-rettig-system-stacked-for-the-rich>.

² U.S. Department of Treasury, "The American Families Plan Tax Compliance Agenda," May 2021, <https://home.treasury.gov/system/files/136/The-American-Families-Plan-Tax-Compliance-Agenda.pdf>.

³ Transactional Records Access Clearinghouse, "IRS Audits Poorest Families at Five Times the Rate for Everyone Else," March 2022, <https://trac.syr.edu/tracirs/latest/679/>.

⁴ Data provided to the Office of Sen. Elizabeth Warren by TRAC, March 23, 2022.

⁵ *Id.*

taxpayers having the greatest need for assistance.”⁶ The most vulnerable taxpayers should not shoulder the burden of insufficient IRS enforcement funding simply because they require fewer resources to audit.

When Rep. Chu asked Commissioner Rettig about these concerning audit numbers at a March 17 House Ways and Means Subcommittee on Oversight hearing, he called the findings “absolutely 100% false,” and stated that he was “tired of having to deal with this issue.”⁷ But the sources that he referred to in his assertions are not FY2021, but IRS information in the 2020 IRS Data Book, and do not support his claim. Specifically, Commissioner Rettig referenced Table 17, which only contains data on audits conducted through 2020 of Tax Years 2010 through 2018. In contrast, the TRAC findings were based on more recent IRS data on audits conducted in FY2021. And the IRS data referenced by Commissioner Rettig show that in Tax Year 2018, taxpayers with incomes below \$25,000 were nearly 2.5 times more likely to be audited compared to all other taxpayers.⁸

Finally, the most recent TRAC analysis, released on March 29, 2022, found that the targeting of low-income taxpayers by the IRS appears on track to be even higher in FY2022 than in FY2021.⁹

We recognize the Biden administration’s commitment to equity when it comes to tax enforcement. In May 2021, the Department of the Treasury (Treasury) released President Biden’s American Families Plan Tax Compliance Agenda, which described that “additional resources will go toward enforcement against those with the highest incomes, and audit rates will not rise relative to recent years for those earning less than \$400,000 in actual income.”¹⁰ This was an important commitment, and implementation is critical, especially in light of IRS audit rates to date. And yet, other than the TRAC analysis – which reveals that the IRS is not meeting its goals – there is no consistent and up-to-date release of audit data, or public plan to release this data, by Treasury or the IRS to verify this commitment now or going forward.

We understand that chronic underfunding and burdens posed by the ongoing pandemic are primary reasons for the IRS’s challenges. That is why we recently sent a letter to Secretary Yellen emphasizing the need for additional IRS funding to pursue a better enforcement strategy, especially for wealthy taxpayers and large corporations, and transformative investments in

⁶ National Taxpayer Advocate, “Annual Report to Congress 2021,” January 2021, pp. 149, https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/01/ARC21_Full-Report.pdf.

⁷ House Ways and Means Committee, Subcommittee on Oversight, “Hearing with IRS Commissioner Rettig on the 2022 filing season,” March 17, 2022, <https://waysandmeans.house.gov/legislation/hearings/oversight-subcommittee-hearing-irs-commissioner-rettig-2022-filing-season>.

⁸ The IRS data show that the audit rate for all taxpayers with incomes below \$25,000 was 0.40%, and the audit rate for all other taxpayers was 0.17%. Internal Revenue Service, “2020 Internal Revenue Service Data Book,” October 1, 2019 – September 30, 2020, pp. 36 - 45, irs.gov/pub/irs-pdf/p55b.pdf.

⁹ TRAC IRS, “IRS Continues Targeting Poorest Families for More Tax Audits During FY 2022,” March 29, 2022, <https://trac.syr.edu/tracirs/latest/682/>.

¹⁰ U.S. Department of Treasury, “The American Families Plan Tax Compliance Agenda,” May 2021, <https://home.treasury.gov/system/files/136/The-American-Families-Plan-Tax-Compliance-Agenda.pdf>.

taxpayer services.¹¹ But this is also why we find reports of increased audit rates on low-income wage earners so concerning. While correspondence audits may seem like a low-cost option for the IRS, they actually “[lead] to use of downstream resources for resolution activities that include audit reconsideration, appeals, litigation, and involvement of other IRS functions such as TAS and Collection.”¹²

Furthermore, these correspondence audits of low-income individuals have discouraged taxpayers from filing taxes and from claiming the Earned Income Tax Credit (EITC), an important credit that reduces poverty and incentivizes people to join the labor force.¹³ This works against the IRS’s goal of increasing EITC awareness and the EITC participation rate.¹⁴

In order to ensure confidence and fairness in our tax system, we ask that you provide the following information and answers no later than April 25, 2022:

1. Please provide (i) the total number of tax returns filed, (ii) number of returns audited, (iii) audit rates, and (iv) correspondence audit rates for both Fiscal Years 2020 and 2021 for:
 - a. All taxpayers;
 - b. Wage-earning taxpayers that received the EITC;
 - c. Individuals with incomes of less than \$25,000;
 - d. Individuals with incomes of less than \$400,000; and
 - e. Individuals with incomes of more than \$1,000,000.
2. Does Treasury or the IRS have a plan to expediently and consistently release to the public all relevant audit data, including the information listed above, for the purposes of measuring the Administration’s adherence to the commitment not to raise audit rates on taxpayers earning less than \$400,000? If so, please provide details of this plan.
3. Given current budget constraints and the rise in correspondence audits, what steps are being taken to ensure that low-income taxpayers are not unfairly audited?

Thank you for your attention, and we look forward to working together to ensure fairness and public confidence in the IRS enforcement process.


¹¹ Letter from Senator Elizabeth Warren to Treasury Secretary Janet Yellen, January 26, 2022, <https://www.warren.senate.gov/imo/media/doc/2022.01.26%20Letter%20to%20Treasury%20on%202022%20tax%20season.pdf>.

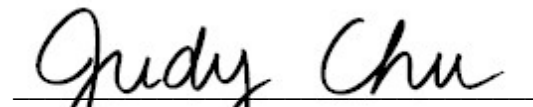
¹² National Taxpayer Advocate, “Annual Report to Congress 2021,” January 2021, pp. 149, https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/01/ARC21_Full-Report.pdf.

¹³ Internal Revenue Service, “The Effects of EITC Correspondence Audits on Low-Income Earners,” December 2019, <https://www.irs.gov/pub/irs-soi/19rpeitccorresponenceaudit.pdf>;
Center on Budget and Policy Priorities, “Policy Basics: The Earned Income Tax Credit,” December 10, 2019, <https://www.cbpp.org/research/federal-tax/the-earned-income-tax-credit>.

¹⁴ Internal Revenue Service, “Example Awareness Day News Release Promoting EITC,” January 12, 2022, <https://www.eitc.irs.gov/eitc-central/news-releases/eitc-awareness-day-news-release/example-awareness-day-news-release>.

Sincerely,


Elizabeth Warren
United States Senator


Judy Chu
Member of Congress