United States Senate
WASHINGTON, DC 20510

September 27, 2021

Senator Charles E. Schumer
Senate Majority Leader
United States Senate
Washington, D.C. 20510

Dear Leader Schumer:

Congress is currently considering a variety of proposals to address the tax gap and improve federal tax compliance. The tax gap – the difference between taxes owed and paid – has been a stubborn problem for decades. While we should pursue bipartisan measures to reduce the tax gap and better enforce our tax laws, we write to highlight our concern about the Biden administration's proposal to expand the reporting of private, confidential taxpayer information from financial institutions to the Internal Revenue Service (IRS).

Though the details of the legislation being negotiated by congressional Democrats remain unclear because Republicans continue to be boxed out of the process, one of the misguided proposals embedded within President Biden's American Families Plan would violate law-abiding taxpayers' privacy and place onerous new reporting requirements on financial institutions.[1] Specifically, this proposal would require banks, credit unions, and other financial institutions to report financial account information to the IRS for nearly all of their customers – including gross inflow and outflow information, and possibly transaction information.[2]

This troubling proposal would create serious privacy concerns for American taxpayers. In addition, it would be unreasonably burdensome for financial institutions across the nation, particularly those community financial institutions serving families and small businesses across America.

Contrary to claims that this proposal would only provide a "distinct benefit" to already compliant taxpayers, this proposal would compromise the privacy of an inordinate number of law-abiding Americans whose confidential financial information would be sent by their financial institution directly to the IRS.[3] As you know, the IRS faces approximately 1.4 billion attempted cyberattacks each year,[4] and just a few months ago the private returns of thousands of taxpayers were obtained and leaked to the public by ProPublica[5] – a serious information security lapse about which the agency has still not provided any useful information to Congress.

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1 https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/28/fact-sheet-the-american-families-plan/
2 https://home.treasury.gov/system/files/131/General-Explanations-FY2022.pdf; https://www.americanbanker.com/news/banks-escalate-fight-over-irs-reporting-in-biden-budget-plan
3 https://assets.bwbx.io/documents/users/iqjWHBFdfxIU/rbc5Ss6jmdM8/v0
4 https://www.irs.gov/pub/irs-pdf/p5336.pdf
5 https://www.propublica.org/article/the-secret-irs-files-trove-of-never-before-seen-records-reveal-how-the-wealthiest-avoid-income-tax

Given the IRS' troubling record of failing to protect certain confidential taxpayer information and abusing its authority, specifically the targeting of conservative political groups,[6] this proposal would undermine trust in the financial system and, in turn, reduce financial inclusion. The most recent FDIC survey shows that the second most common reason unbanked households lack a bank account is that they do not trust banks.[7] Approximately one quarter of all taxpayers do not trust the IRS to protect their tax account records or to fairly enforce the tax laws.[8] Giving the IRS access to additional confidential financial information would only compound existing mistrust and drive more people out of the financial system and away from access to regulated financial products.

This proposal also represents a radical departure from existing reporting requirements associated with national security and actual taxable events. Placing more requirements on financial institutions would not only adversely affect these institutions and their customers – who ultimately pay the price for compliance costs – but it would also inundate the IRS with layers of new paperwork and taxpayer data that is either redundant or irrelevant to improving federal tax compliance, as account inflows and outflows are not taxable events. Simply flooding the IRS with more data and burdening taxpayers, financial institutions, and already overwhelmed IRS service centers with more paperwork is of questionable value, especially when the IRS does not effectively use data already in its possession.

Furthermore, although the Biden administration has claimed the financial reporting proposal would not lead to increases in audit rates for those with income under $400,000,[9] it has not provided any plausible reason to believe that assertion. On the contrary, past experience indicates the brunt of costs imposed on compliant taxpayers would fall on low- and middle-income households and businesses with incomes well below $400,000, not on "billionaires" and "tax cheats," as the administration's political messaging suggests.

For these reasons, we reiterate our strong opposition to the inclusion of these new IRS reporting requirements on financial institutions. It is a misguided and privacy-invasive proposal, and its consideration is nothing more than an attempt to find a way to pay for a fraction of this irresponsible spending bill currently under consideration.

Sincerely,

John Thune
United States Senator

Mike Crapo
United States Senator

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[6] https://www.npr.org/2017/10/27/560308997/irs-apologizes-for-aggressive-scrutiny-of-conservative-groups;
https://www.govinfo.gov/content/pkg/CRPT-114srpt119/pdf/CRPT-114srpt119-pt1.pdf;
https://www.treasury.gov/tigta/auditreports/2013reports/201310053fr.pdf
https://www.treasury.gov/tigta/auditreports/2017reports/201710054fr.pdf
[7] https://www.fdic.gov/analysis/household-survey/2019execsum.pdf
[8] https://www.irs.gov/pub/irs-pdf/p5296.pdf
[9] https://home.treasury.gov/news/featured-stories/the-case-for-a-robust-attack-on-the-tax-gap

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