AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

S. HRG. 114–488

PRESIDENT'S FISCAL YEAR 2017 BUDGET

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

FEBRUARY 10, 2016



Printed for the use of the Committee on Finance

U.S. GOVERNMENT PUBLISHING OFFICE

22–978—PDF WASHINGTON : 2016

For sale by the Superintendent of Documents, U.S. Government Publishing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON FINANCE

ORRIN G. HATCH, Utah, *Chairman*

CHUCK GRASSLEY, Iowa
MIKE CRAPO, Idaho
PAT ROBERTS, Kansas
MICHAEL B. ENZI, Wyoming
JOHN CORNYN, Texas
JOHN THUNE, South Dakota
RICHARD BURR, North Carolina
JOHNNY ISAKSON, Georgia
ROB PORTMAN, Ohio
PATRICK J. TOOMEY, Pennsylvania
DANIEL COATS, Indiana
DEAN HELLER, Nevada
TIM SCOTT, South Carolina

RON WYDEN, Oregon
CHARLES E. SCHUMER, New York
DEBBIE STABENOW, Michigan
MARIA CANTWELL, Washington
BILL NELSON, Florida
ROBERT MENENDEZ, New Jersey
THOMAS R. CARPER, Delaware
BENJAMIN L. CARDIN, Maryland
SHERROD BROWN, Ohio
MICHAEL F. BENNET, Colorado
ROBERT P. CASEY, Jr., Pennsylvania
MARK R. WARNER, Virginia

CHRIS CAMPBELL, *Staff Director*
JOSHUA SHEINKMAN, *Democratic Staff Director*

CONTENTS

OPENING STATEMENTS

	Page
Hatch, Hon. Orrin G., a U.S. Senator from Utah, chairman, Committee on Finance	1
Wyden, Hon. Ron, a U.S. Senator from Oregon	3

ADMINISTRATION WITNESS

Koskinen, Hon. John A., Commissioner, Internal Revenue Service, Washington, DC	5

ALPHABETICAL LISTING AND APPENDIX MATERIAL

Hatch, Hon. Orrin G.:	
Opening statement	1
Prepared statement	31
Koskinen, Hon. John A.:	
Testimony	5
Prepared statement	32
Responses to questions from committee members	39
Wyden, Hon. Ron:	
Opening statement	3
Prepared statement	53

COMMUNICATIONS

Federation of Genealogical Societies	55
National Treasury Employees Union (NTEU)	61

PRESIDENT'S FISCAL YEAR 2017 BUDGET

WEDNESDAY, FEBRUARY 10, 2016

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 2:05 p.m., in room SD–215, Dirksen Senate Office Building, Hon. Orrin G. Hatch (chairman of the committee) presiding.

Present: Senators Grassley, Crapo, Roberts, Thune, Burr, Isakson, Portman, Heller, Wyden, Cantwell, Nelson, Menendez, Carper, Cardin, Brown, Bennet, and Casey.

Also present: Republican Staff: Chris Armstrong, Deputy Chief Oversight Counsel; Kimberly Brandt, Chief Oversight Counsel; Eric Oman, Senior Policy Advisor for Tax and Accounting; and Justin Coon, Detailee. Democratic Staff: Joshua Sheinkman, Staff Director; Adam Carasso, Senior Tax and Economic Advisor; and Tiffany Smith, Senior Tax Counsel.

OPENING STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR FROM UTAH, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. The committee will come to order.

Today, the committee welcomes the Commissioner of the Internal Revenue Service, John Koskinen. Commissioner Koskinen comes before us this afternoon to discuss his agency's operations and President Obama's budget proposal for fiscal year 2017.

Commissioner Koskinen, today's hearing is the fourth time you have appeared before this committee during my chairmanship. Over the past year, we have seen both progress and setbacks at the IRS. As you well know—and as I think everyone here knows—I tend to be first in line to challenge and critique your agency when I believe it is wrong. But, for today, I would like to change things a little bit. Let me be the first to offer praise for the IRS where it is due.

Here are some successes I would like to acknowledge.

Last spring, the committee launched an investigation of the online tax return software industry. We were looking specifically at how the industry deals with stolen identity refund fraud and to what level the industry cooperates with the IRS to combat that fraud. In the wake of our investigation, the IRS and industry leaders launched a Security Summit and agreed to new initiatives to prevent and counter fraud. So I want to applaud these efforts, and I do look forward to continuing the committee's oversight of its implementation and results.

Let me mention one more. Last year, this committee issued a report following a 2-year bipartisan investigation of the IRS's treatment of organizations applying for tax-exempt status. Our report included a number of recommendations for changes at the IRS, and, as of right now, all signs indicate that the agency is taking appropriate steps toward implementing those recommendations. So I appreciate your ongoing work there as well and am grateful for your responsiveness.

There is, of course, more to be done, and I look forward to working with you to ensure that taxpayers are never again targeted because of their political beliefs.

While these are all signs of progress, a number of great challenges still lie ahead. The most obvious challenge facing the IRS is the need for modernization. On the one hand, the agency must be brought into the digital age in a way that provides the greatest convenience and efficiency for taxpayers. But on the other hand, the agency must also better protect against data thieves that thrive in the digital age.

We were reminded of these risks last year when data thieves breached the IRS's own website through the Get Transcript portal and successfully stole the tax records of 330,000 taxpayers. Now, that is 330,000 taxpayers who now have their most sensitive tax information sitting out there in the hands of criminals waiting to use that information to do further damage this tax year, or the next, or even 10 years from now. We were reminded of this threat yet again just yesterday, when news broke of another large-scale attack against the IRS, but thankfully it appears that that attack was unsuccessful. The Get Transcript breach is going to haunt us for years to come, and, unfortunately, it is only one of many.

On the customer service front, we look forward to hearing more about the IRS's comprehensive "Future State" plan to modernize how taxpayers interact with the agency. I applaud this initiative, but I will be watching very closely to see how it is carried out and how it does impact taxpayers. Once again, modernization is probably the central challenge facing the IRS, and it requires a careful balance of sometimes competing priorities. Much hangs in the balance of how these efforts are carried out.

Another issue I look forward to hearing about today is a provision of the recently enacted FAST Act—specifically, the provision dealing with the inactive tax debt collection program. As noted in the conference report to the bill and as we will hear today from Senator Grassley and perhaps others, Congress's intent was that Treasury and the IRS would expeditiously implement the provision by utilizing private collection contractors and debt collection centers that are approved by the Bureau of the Fiscal Service at the Department of Treasury. Further, the statute requires that contracts be entered into and signed within 3 months after enactment of the FAST Act. That deadline of March 4th is fast approaching. So I look forward to hearing an update today on your efforts to get those contracts signed and cases released and to ensure that the taxpayers are made aware of the program and how it will be implemented.

With that, I will now turn to Senator Wyden for any remarks that he cares to make.

[The prepared statement of Chairman Hatch appears in the appendix.]

OPENING STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM OREGON

Senator WYDEN. Thank you very much, Mr. Chairman, and thank you for holding this hearing. And as I noted this morning, I think it is very good that we are having multiple hearings this week, because I think that is a big part of launching the year, to really start the debate with these hearings. With tax season underway and the President's final budget at hand, there are obviously important issues to discuss with the IRS, and we want to thank the Commissioner for joining us today.

The first is the big, ongoing challenge for the IRS, and that is, providing the best possible service to taxpayers, even though this is a tough budget environment. The good news is, the Congress recently made a badly needed investment in ID protection, telephone service, and cybersecurity for 2016. I think—and the Commissioner would probably be the first to say this—no one should think that the fraudsters and organized criminals who have made headlines preying on taxpayers have somehow vanished and moved on. It is my view that we are going to have an ongoing challenge as the criminals continue to get more sophisticated and inventive, which is something that the Commissioner has emphasized.

And my view is that budget cuts that hobble our ability to fight back against these tax ripoffs are tantamount to kickbacks to the criminals. So the down payment that the Congress made is going to help protect taxpayers and improve services.

I also want to note at the outset, there is a lot more that needs to be done, particularly with respect to upgrading our information technology. The Commissioner has been quite forthright in saying that this is a very large challenge for the Internal Revenue Service. First of all, processing the universe of taxpayer data is a year-round job. There is no opportune time for the IRS to say, well, let us just go dark and now we can have a big chunk of time, months and months, to put in a new batch of servers and software. And this is a particular challenge given the fact that some of the systems in use date back to the Kennedy era. Decades of modified technology and programming code have built up like layers in an onion. When Congress updates a complicated policy like the alternative minimum tax, the IRS has to figure out a way to dig through all those layers to adjust the system and then correct everybody's tax bill.

For these reasons and more, upgrading information technology at the Internal Revenue Service is going to be demanding and time-consuming. And you cannot get all this done when you have a tight budget, which in effect means that when you are going up against the fraudsters, you have one hand tied behind your back.

Now, there is one issue—and we started talking about it this morning with Secretary Lew, and I have discussed it with the Commissioner—that I think very much deserves bipartisan attention here in the Finance Committee, and that is, what is going to be done to tackle this issue of corporate taxes going unpaid? Now, the latest estimate with respect to the tax gap comes in at $385 billion

per year. And my sense is, when it comes to individuals skipping out on their taxes, the IRS is moving to make real progress in terms of sharing information that the Congress can use to crack down on these shady avoidance strategies and cheaters on the individual side. When it comes to the corporate tax gap, however—and that adds up to two-thirds of a trillion dollars over a decade—it is my view that the Internal Revenue Service has some heavy lifting to do.

I sent a letter last week to the Commissioner asking how the IRS studies the corporate tax gap, what it knows and what it is going to do about it. We got a limited response to that question yesterday, and today I hope we will hear more details about how we can have an aggressive action plan to root out a significant portion of this corporate tax gap and particularly the most serious areas of growth in this gap.

We have 5 million Americans today living in deep poverty. Assistance for the hungry has been cut. We have veterans across the country on wait lists for health care. Wildfire prevention in my part of the world is neglected while the fires get bigger and hotter. And again and again, you have painful cuts being proposed for services that are essential to older people and families of limited means.

So, if you can come up with an effective, targeted, all-hands-on-deck approach to reducing this corporate tax gap, you are not going to meet all the revenue needs certainly in this country, but you could make a real difference in terms of getting our priorities straight. And my sense is, this is going to require much bolder action and more information than the IRS currently provides about how companies dodge their responsibilities.

I have talked to the Commissioner about this, and my hope is, this afternoon we will hear how the agency and the Commissioner can, in concert with us, on a bipartisan basis, put in place a strategy that ups the ante in terms of dealing with the most serious aspects of corporation tax avoidance.

Mr. Chairman, thank you for scheduling this hearing. Commissioner, we thank you for coming.

The CHAIRMAN. Well, thank you, Senator Wyden.

[The prepared statement of Senator Wyden appears in the appendix.]

The CHAIRMAN. Our witness today is Internal Revenue Service Commissioner John Koskinen. Commissioner Koskinen has been serving as the head of the Internal Revenue Service since December 2013. Mr. Koskinen has broad public-sector experience, including having served as Chairman of the Board of Freddie Mac, City Administrator for the District of Columbia, and Deputy Director for Management at the Office of Management and Budget. Mr. Koskinen also has extensive private-sector experience, including working as the president of the United States Soccer Foundation and as the president and CEO of Palmieri Company. Mr. Koskinen graduated with a J.D. from Yale University School of Law and a B.A. in physics from Duke University.

I want to thank you, Mr. Commissioner, for being here today, and please go ahead with your statement.

STATEMENT OF HON. JOHN A. KOSKINEN, COMMISSIONER, INTERNAL REVENUE SERVICE, WASHINGTON, DC

Commissioner KOSKINEN. Thank you, Mr. Chairman, Ranking Member Wyden, and members of the committee. I appreciate the opportunity to join you today to discuss the IRS's budget and current operations, and I particularly appreciate the chairman's recognition of the progress we are making in several areas.

But I want to begin by thanking the Congress generally, including the members of this committee, for approving the $290 million in additional funding we received for fiscal year 2016. These funds were specifically designated, as Senator Wyden noted, for improving taxpayer service, strengthening cybersecurity, and expanding our efforts against identity theft. This is the first time in 6 years that the IRS has received significant additional funding. It is a major step in the right direction, and I can assure the Congress that we will use these resources wisely and efficiently.

But the IRS is still under significant financial constraints. Even with the additional $290 million, our budget for this year is still about $900 million below where it was 6 years ago in 2010. Our budget as a whole is actually down for this year when you consider that the Service must absorb about $300 million in mandated cost increases and inflation.

As a result, we have no choice but to continue the exception-only hiring policy that began in fiscal year 2011. That leaves us unable to replace most employees we lose this year through attrition. In fact, we expect the IRS workforce to continue to shrink by another 2,000 to 3,000 full-time employees this year, for a total loss of over 17,000 employees since 2010.

We recognize the importance of spending taxpayer dollars wisely and will continue working to find efficiencies in our operations. But a fact that often gets overlooked is that the U.S. is much more efficient in its tax collection than virtually all other countries. The average OECD member country spends $8.87 to collect $1,000 of revenue while the U.S. spends only $4.70—about half of what the average is. So I believe it is important to understand that we already are one of the most efficient tax administrations in the world.

The IRS is also continuing to strengthen our operations as we move forward. In that regard, as the chairman noted, we have addressed a number of management problems that have developed in the past, especially in the tax-exempt area. For example, we welcomed this committee's bipartisan report issued in August and accepted and are implementing all of its recommendations that are under our control. The last report I have is that we have implemented 82 percent of the recommendations of this committee.

In developing our funding request for fiscal year 2017, we felt it was important to be as specific as possible in describing our priorities and the cost of each one. So, while the President's 2017 budget for the IRS requests a total increase of about $1 billion, we have broken that down into 15 separate initiatives. We believe this will give Congress a good sense of how we intend to spend any increase in funding we might receive, and we are prepared to be held accountable for achieving the goals related to each initiative. Let me briefly highlight some of the major areas covered by these initiatives.

First, of concern to everyone is taxpayer service. The additional funding in the new budget will help us improve service delivered through traditional channels and allow us to continue modernizing the services we offer to help transform the taxpayer experience.

Second, stolen identity refund fraud. The additional funding in the fiscal year 2017 request will allow us to keep investing in resources and tools to stay ahead of criminals who continue to become more sophisticated in stealing identities and filing false returns.

Third, our core enforcement programs. With this additional funding, we would, for example, be able to increase audits and collections. This is critical, because the ongoing decline in enforcement activities we have seen in the last several years has translated into billions of dollars of lost revenue for the government.

Fourth, the Affordable Care Act. We must continue to invest in the IT infrastructure to support implementation of the ACA's major tax-related provisions. I would point out that for the past 4 years, the IRS has received almost no funding for implementation, and we have had to use over $1 billion of resources needed for other critical IT functions in order to meet our statutory obligations.

And fifth, electronic records management. Although we have been making progress in preserving and protecting e-mails and other electronic records, we need to continue making improvements so we can respond faster to legal and congressional inquiries as well as FOIA requests.

While providing adequate funding to these and other areas is critical, Congress can also help us by passing legislation to improve tax administration. We appreciate the efforts of this committee last year to secure passage of a number of important measures. The President's 2017 budget request contains additional legislative proposals that would further improve tax administration. They include: renewing streamlined critical pay authority, which is critical for us; allowing us to extend the matching program for Taxpayer Identification Numbers; granting us authority to require minimum qualifications for paid tax preparers; and expanding electronic filing requirements for businesses.

That concludes my statement, Mr. Chairman, and I would be happy to answer your questions.

[The prepared statement of Commissioner Koskinen appears in the appendix.]

The CHAIRMAN. Well, thank you, Mr. Koskinen. As I said in my opening statement, this is the fourth time you have appeared before the committee during my time as chairman, and each time we have discussed the issue of cybersecurity and the threat from data thieves who steal and abuse taxpayer information.

In the past year alone, cyber-criminals have conducted a number of breaches that are aimed at stealing personal information, including 1.1 million identities of CareFirst Blue Cross Blue Shield customers, 80 million Anthem customers, 330,000 taxpayer records through the IRS's own Get Transcript portal, and thousands of records from the online tax preparation site, TaxSlayer. Just yesterday, we learned of another large-scale attack against the IRS, though thankfully this one appears to have been unsuccessful, and that is the botnet cyber-attack last month.

Commissioner KOSKINEN. Right.

The CHAIRMAN. Commissioner Koskinen, these attacks are not going away. What can you tell us about this latest attack? And how can the IRS be sure that it has fully identified and contained this attack and other attacks that may come? Attacks of this nature can often result in malware or a virus being embedded in a compromised system even after the event is known. And my second question would be, can you assure this committee that the IRS is doing everything it can to ensure the security of taxpayer information following this attack?

Commissioner KOSKINEN. It is a serious question, as we have discussed before. As you note, the caliber of the enemy we are facing is increasingly more sophisticated and more global. We are dealing with organized crime syndicates all around the world. We are attacked or pinged over a million times every day, which means that people continue to probe and push and try to figure out how to get into our database.

I would note that both the Get Transcript difficulty and the more recent attack in the last couple weeks were sophisticated forms of identity theft. The criminals already had all of the personal information of the taxpayer that they needed. None of those attacks breached our system itself. They were not cyber-breaches in the sense that our database was accessed. The more recent one was simply an attempt by criminals to get a filing PIN to allow them to, in fact, use information that they have stolen to try to file for a false refund. And as you note, fortunately, with our improved systems, we were able to catch it quickly, and we think we will be able to shut it down equally as quickly.

But it is axiomatic that we and every financial institution in the world are under attack, and that is because criminals already have a vast amount of personal information, and they are trying to figure out how to monetize that information. I think it is safe to say, as you say, that we cannot solve it by ourselves, which is why we did create this partnership with the private sector and the States to try to jointly this year and going forward permanently share information and develop standards and protections. Already we see, as the filing season begins, the advantage of the information we are sharing on a regular basis, particularly with the private sector, as we go.

Ultimately, I think we have to recognize this is going to be an ongoing problem. We have been attempting to move from being solely reactive to pulling together the resources we need and the partnerships we need to try to get ahead of the game, get ahead of where the criminals are going.

It is clear that as we close off one avenue of attack, the criminals simply move to another. We could see that in this particular attack as they moved from country to country, as they were shut down, you could actually see the attacks then moving around the world.

The CHAIRMAN. Well, let me just ask you another question. In your written statement, you note that the IRS had to defer hundreds of millions of dollars from critical information technology projects because of Obamacare. The agency's budget justification shows that over $400 million and nearly 2,000 IRS employees are dedicated to Obamacare implementation, a sizable amount in this

time of budget constraints. But even with all this spending, we still have serious problems regarding the integrity of Obamacare tax credits.

So I have two questions about how we might better protect taxpayer dollars from Obamacare problems. Yesterday, Senator Grassley and I sent a letter to the Centers for Medicare and Medicaid Services about the agency's failure to provide the IRS with advanced premium tax credit payment data which would help improve the integrity of these credits. What additional information does the Service need to make sure that these credits only go to those who qualify for them?

And then the second question is, you wrote to Congress that, of the 4.6 million people who received subsidies and are required to reconcile their advance premium tax credit, roughly 1 million either have not filed a tax return or have not reconciled those payments. Now, this represents billions of dollars. What is the IRS doing to ensure these payments went only to people who qualified for the credit?

Commissioner KOSKINEN. The determination of who qualifies for premium tax credits is made by HHS and CMS. What we do is, we provide them income information so that they can then validate the projections to see if people are eligible on their income basis, and then we get data from the marketplaces each year. And this year we are getting the data in real time, so we will actually be able to have the data that shows what were the premium tax advance payments made to individuals and compare them against the reconciliations that are made. Last year, we got the so-called VP data on a rolling basis through the filing season.

So, once CMS decides they are qualified and the applicant makes an estimate of what their earnings are going to be and, therefore, what their advance payment will be, all that information is recorded, and for the first time really in a major program, we get that information before we get the tax returns. Last year, what happened was a number of taxpayers did not realize, because they had low incomes, that they actually had to file a return because they had not filed in the past. We have written to all of those people. We actually have decreased the number of people who did not file by over 50 percent in response to our letters—one of our better compliance activities.

This year, going forward, we will not process, we will actually be able to pull out of the processing queue, anyone who has not reconciled the information we have about the advance premiums they have gotten with the payments they got. In addition, last year we actually had a very successful compliance activity of those who did reconcile, where we actually were able to figure out who had overpaid and who had underpaid. Those who owed us funding, we have collected about 98 percent of the additional money owed.

The CHAIRMAN. Great. Well, my time is up. Let us all try to stay within the 5 minutes. I am sorry I did not. We will turn to you, Senator Wyden.

Senator WYDEN. Thank you very much.

Commissioner, let us go to the tax gap question that we have talked about, two-thirds of a trillion dollars over a decade. It is obviously lots of money. That is what we are losing. According to the

most recent numbers, it is probably higher in terms of the corporate tax gap. We have been talking to the IRS office, and I was particularly struck by the agency indicating that it has no mechanism to track the specific sources of the corporate tax gap. So I have written you on it, and I just want to highlight a couple of the areas and see if we can, particularly with Democrats and Republicans having an interest in this, find some ways to get started.

Because you have told me that you agree this is a serious problem, what would you do to get started? What are the areas, coming out of the box in an effort to turn this around, where you would start?

Commissioner KOSKINEN. Well, we actually have already agreed with you and are moving forward. Our large business and high-net-worth-individual division—we have four operating divisions pertaining to taxpayers' incomes—has spent the last 2 years really looking at an aspect of this. The number of people available and enforcement agents there are down about 20 percent, and so they have looked at how we can become more efficient and effective at dealing with corporations, collecting those taxes. They have had a very visible restructuring that is really just now being completed in which, instead of just auditing companies one at a time or looking at specific issues on a one-off basis, they have decided the more efficient and effective way to do it is to look at just the point you are raising. Where are the areas where we are seeing either noncompliance or basic issues that are being raised? And so they are actually designing our exam program so we will look at the tax gap in what they call campaigns. That is, if there is a problem in transfer pricing, we look at transfer pricing internationally. But one of the areas that we do track directly nationally is, many corporations have divisions, separate corporations, that are owned, and they engage in transactions back and forth. They buy and sell services, buy and sell products. Oftentimes you can skew the tax results according to what the charges are, which may or may not be at the market rate. There are other ways that people have of increasing compensation as opposed to dividends if it is a closely held corporation. So the compensation is a deduction; the dividends are not a deduction.

So going forward—and we have been very visible about this. We are not trying to sneak up on anybody. And in fact, to the extent people know what we are looking at, we will get better compliance. We think if we look at issue-based auditing rather than simply individual organizational auditing, we will be able to begin to make a dent in that tax gap.

I would note, as we discussed, that overall in our enforcement and collection activity, we are down over 5,000 revenue agents, officers, and criminal investigators. So no matter how good we are at highlighting issues, we have to have the personnel to go and audit them. And thus far, our experience is that each revenue officer generates over $1.5 million a year just in collections of taxes that are owed to the government. So we need to actually be more efficient in highlighting areas we are pursuing, but ultimately we need more people.

Senator WYDEN. As you and I have talked about, I think we will be better positioned to get the resources when Democrats and Re-

publicans on this committee understand exactly what the action plan is to turn this around. And in the letter I wrote you yesterday that we will await an answer on, we said 60 days. Is that reasonable to get a sense of what the action plan is for turning around the corporate tax gap?

Commissioner KOSKINEN. We will get you—because, as I say, we are already moving, I think, in this direction. We would be delighted to get you a response and an explanation. That explanation will continue, though, to understand that no matter how creative we are with identifying where we are going, ultimately it all depends on audits, and audits depend on people, and we do not have enough people.

Senator WYDEN. Point appropriately taken.

One last question on something else that the committee has been interested in, and that is this question of the tax return preparers who prey on vulnerable taxpayers and pocket their money. And as you know, there have been some recent news reports on this. Why don't you give us the latest on what you see in terms of these fraudulent tax preparers and just kind of update us on the latest?

Commissioner KOSKINEN. I think it is important for everybody to understand, our view is that the vast majority of tax preparers are honest, informed, and try to do the best they can. There are a cadre of tax preparers who sort of set up shop in the spring who do not have much background. The tax code is very complicated, and so they are making a lot of mistakes that we find. And then there is a small percentage, very small, who are crooks who, in fact, file returns on behalf of taxpayers who do not know they are being filed, file for refunds that they take that the taxpayers do not get, hold out false expectations as to how much money they are going to get the taxpayer. And so our view is that we are not going to put the crooks out of business by actually requiring minimum standards, but taxpayers at least have to have a better indication for the 300,000 or 400,000 unregulated tax preparers what their minimum qualifications are.

So we think that it would be helpful—we are not requesting a big regulatory program. We just think that taxpayers ought to be comfortable that there is a minimum set of qualifications anyone preparing their return has to meet.

Senator WYDEN. My time has expired. In your seat or perhaps the one right next to you, we had a preparer from the State of Oregon talk about how Oregon has put in place in effect exactly what you have described, those minimum standards, and it has been well accepted by the vast majority of preparers who, as you appropriately note, are honest and scrupulous. So we will look forward to working with you on both counts.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Grassley?

Senator GRASSLEY. Welcome. The chairman brought up this issue in his opening comment, so you know that, if it is important to him, it is important to somebody besides Chuck Grassley. He brought up the necessity of Treasury and the IRS working expeditiously to get the IRS private debt collection program up and running. Provisions in the law require that the IRS partner with the

Bureau of Fiscal Services within Treasury and the private-sector companies that it employs to collect inactive tax receivables. The law requires further that you begin signing contracts and agreements with the Bureau of Fiscal Services collectors no later than March 1, 2016 and releasing cases soon thereafter.

Is the IRS on schedule to meet the March 4th deadline provided by Congress?

Commissioner KOSKINEN. As a normal matter, even off a schedule, getting a procurement done in 90 days, let alone setting up a whole program and getting procurement up, is really impossible. What we are committed to doing—and I personally am committed—is, we are going to do everything we can to make this program work, to get it up and running as quickly as we can. We are planning and are organizing and have gotten a positive response to have a bidders conference this month, and, within the 90 days, we are committed to providing this committee and the Congress a timeline as to when the program will actually be up and running and implemented. The bidding conference is to get us started with bidders to get their input back in terms of what they are looking for, how we can actually put this together to make it work.

Our goal, if we can pull it off, is to actually design this program, learn from the past and what were the mistakes, what were the problems and the challenges, so we give this program the best chance we can to succeed. And as it stands now, in the normal procurement process plus developing the program, we expect and hope to have contracts with those acceptable collectors before the end of the fiscal year.

But we will provide you with that update, and I can only stress to you that we are going to do everything we can to make it work. I cannot help but note that this is yet another unfunded mandate. Nobody has given us any of the funding we need to actually design the program or oversee it, but we are going to do it anyway, because we do statutory mandates.

Senator GRASSLEY. Did you just tell me that you are not intending to partner with your fellow agencies at the Department of Treasury to save time and money? It seems to me that you have people there you can contract with who are already in that business, and we did it for the sole purpose that the excuse you just gave us, that it gives us time to get it up and running, would not——

Commissioner KOSKINEN. You have to understand, Senator, there is no program yet. We have to design the IT to take the cases that the statute provides appropriately go. We have to be able to monitor those. Private debt collectors have to be able to collect money and actually provide back through that IT system where they go. We have to provide them training, we have to educate them——

Senator GRASSLEY. Okay. Let us stop there. I will go on to another question.

Commissioner KOSKINEN. Okay. Anyway, we are going to do our best. I have told our people I want no stone left unturned, and I want it to be done as quickly as we can. But it will not do us any good to put it together in a way that does not work and then have people say, well, we did that purposely. We are going to make the best effort we can to make sure that it works.

Senator GRASSLEY. Well, remember, in this case you might make the chairman unhappy if it does not work out.

Commissioner KOSKINEN. If it does not work out, it will not be our fault.

Senator GRASSLEY. You might not worry about me, but you had better worry about Chairman Hatch.

Commissioner KOSKINEN. Listen, I worry about every member of Congress.

The CHAIRMAN. And I am unhappy all the time. [Laughter.]

Senator GRASSLEY. Yes. In 2014, I was successful in getting the bipartisan Small Business Efficiency Act passed into law. The legislation establishes a voluntary certification program for professional employer organizations. These PEOs are certified, and it gives them the authority, rather than the small businesses that hire them, to take sole liability for the collection and remittance of Federal employment taxes for worksite employees. Last year, the IRS failed to meet the statutory July 1, 2015, deadline for establishing the certification program. The IRS announced at that time that it intended to begin accepting applications by July 1, 2016, a full year behind schedule. I am concerned that another failure to meet the new deadline will penalize small businesses that work with PEOs and could even result in double taxation.

So will the IRS stick to that new self-imposed deadline and begin accepting applications by July 1st this year? If not, when do you expect to have the program up and running?

Commissioner KOSKINEN. We expect to meet that deadline. We have been aiming for it since the program was established. Again, I would simply note in passing, this is a program we have to set up. People have to be able to register. We have to be able to get their bonds. We have to be able to certify them—all of this with no additional funding at all and a very tight time frame. But it is a statutory requirement, and I would stress, whether it is ACA or the ABLE Act or this act, we do statutory mandates, and we will get this up and running because it is, in fact, an important program for small businesses to be able to be comfortable that the people they are dealing with in certified professional employee organizations actually have the financial capacity to meet their needs. There have been unfortunate examples where small businesses, much like with tax preparers, have been taken advantage of or where people they have dealt with have gone out of business and left the small business responsible for all of those tax payments.

Senator GRASSLEY. Thank you, Mr. K.

The CHAIRMAN. Senator Menendez?

Senator MENENDEZ. Thank you, Mr. Chairman. And thank you, Commissioner, for your service.

I want to explore with you the question of unregulated paid preparers. As you know, in 2011 the IRS created a certification program that required paid preparers without specialized training or education to register with the agency, to pass a competency test, and to meet continuing education requirements. But even those most basic standards were struck down by a Federal appeals court in 2014, which ruled that the IRS did not have the statutory authority to regulate those paid preparers.

To fill this void, several of us have been working for several months to pass bipartisan legislation that would give the IRS the power to regulate paid tax preparers. The idea is simple: make sure that those who are handling sensitive financial information and filing returns on behalf of taxpayers have some training and actually know what they are doing. It is critically important, as unenrolled preparers have disproportionately high error rates as well as troubling levels of outright fraud, particularly when filing for the Earned Income Tax Credit. This problem is so pervasive, the IRS once again included it on its annual "Dirty Dozen" list of scams, and the National Taxpayer Advocate Nina Olson noted that unenrolled return preparers overclaimed the EITC on 49 percent of the returns they submitted. And when asked about combating EITC improper payments, she made very clear that regulating paid preparers is the best way to improve accuracy and reduce overpayments. So, quite simply, if you are serious about addressing improper payments, refund fraud, and taxpayer schemes, you have to be serious about regulating paid preparers.

Now, unfortunately, some of our friends are concerned that the IRS would somehow abuse its authority to impose minimal standards on paid preparers, this despite a poll conducted last month by the Consumer Federation of America that indicated 80 percent of Americans wanted paid tax preparers to pass a test administered by the government that would ensure that those preparers have the knowledge and training to complete taxpayer returns correctly.

So, Commissioner, is it necessary to regulate paid preparers in order to reduce improper payments, fraud, and identity theft?

Commissioner KOSKINEN. The short answer to that is "yes." I have tried to stress—in fact, in an answer in an earlier hearing before this committee—that we are not proposing a new regulatory scheme. We have actually set up—and people know what it would look like—a requirement of minimum capacity, minimum standards. And all we are talking about is requiring minimum standards of those who practice. We do not plan any audits or anything else. It is just a question of, can we ask them to demonstrate some minimum capacity to understand the code and perform appropriately? We have a voluntary program where we have about 60,000 people who went through the minimum requirements and met them and now get a certificate of completion, a record of completion. But clearly, unless there is a requirement that everyone pass an exam voluntarily, we are not going to be able to get through it. And we do need to have that minimum level of competency if we are going to deal with and make a dent in the improper payment rate, particularly in the EITC program.

Senator MENENDEZ. So there is no reason to have any concern about an abuse by the IRS of such minimum standards?

Commissioner KOSKINEN. No. As I have tried to make clear, everybody knows what the program would look like. We had it running for a year before the court said we did not have the statutory authority. And I do not think anyone participating in that program felt that there was anything untoward done by the IRS. We set up vendors who gave the exams. If you passed the exam without any other questions, you got the certificate.

Senator MENENDEZ. I hope we can do that, because I know many of my colleagues on this committee are worried about fraud across the board and certainly in the EITC program. Well, if preparers who are not ultimately meeting a minimum set of standards are 49 percent of the time more likely to be committing fraud, then it would seem to get to a significant heart of the problem.

The other thing I am concerned about is scams, and I have been concerned now that the IRS has been given the power to use independent collectors to go collect against taxpayers who are due and owing. And I am all for collecting, but we already had a big problem before this power was given to the IRS, with scammers calling individuals telling them that they owe the IRS money and threatening them with all types of actions. And of course, it is not you; it is not the IRS. But nonetheless, hundreds of thousands if not millions of dollars have been paid to individuals who are using this scam.

So my question is, now that you have been given the authority to go ahead and use outside collectors—and when I see the other scam that is being pursued where people who have no health insurance are getting scamed as well, which affects minority communities disproportionately—what is the IRS doing and what will it do to ensure that we maximize the protection against such scams?

Commissioner KOSKINEN. It is a new challenge. The last two times we have used private debt collectors, we did not have phone scams going on at the same time. Part of my response is, Senator, the reason it takes time to set this program up is, we think, at a minimum, we need to write a taxpayer when we are turning their account over to a collector to tell them their account is being turned over to a specific collection agency. Part of the training and the requirements in our contract will be that the debt collector will then have to write the taxpayer, will have an obligation to write the taxpayer, introduce themselves, and say, "We have been assigned your account, as you know, and we will be calling you," so that no calls should be made before the taxpayer gets two letters.

Now, crooks are pretty good about trying to figure out how to masquerade behind the letters and do their own false letters. But we do need to—and we are focusing on trying to do everything we can to give taxpayers as much information to protect them against the scams. At the same time, for the last 2 years we have been working with everyone to try to get the information out that, as I have said, if you are surprised to be hearing from us, the chances are pretty good you are not hearing from us. We never threaten people. We never say, make a payment of your taxes to a bank account or to a debit card. We never threaten you that you are going to lose your house or you are going to go to jail. That is just not the way we operate.

And so our concern is that people are still picking up those phones. It is a low cost-of-entry scam. You just have to start dialing robocalls. We work with the IG. We are tracking down, we are criminally prosecuting some people when we catch them. But it seems to be a persistent scam that we just simply cannot stamp out.

Senator MENENDEZ. Well, I appreciate your attention to it. We have a series of law enforcement entities in New Jersey that have

shared the experiences of individuals who have been scammed. And it is pervasive, and it is a challenge. And under the new authorities, I just hope we do not exacerbate the problem.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Cardin?

Senator CARDIN. Thank you, Mr. Chairman.

It is a pleasure to have you back before our committee. Thank you very much for your service, and I was pleased to see the President's budget did provide for a modest increase in your budget. It is clear that you need the resources to get the job done, and given the resources, you are not only going to do it more effectively for the taxpayers of this country as far as service is concerned, you also will be more efficient in the collection of the revenues.

I also understand that your budget is asking Congress to pass the authorization for your streamlined critical pay authority. You and I have talked about that, and I hope we can act on that to give you the ability to bring in the type of expertise that you need.

I want to go on to one area that was in the omnibus bill that was signed by the President 2 months ago that dealt with the Work Opportunity Tax Credit. The President's budget would make that program permanent. We extended it for 5 years, including that the long-term unemployed now qualify for the Work Opportunity Tax Credit. The challenge is, there are a lot of people who would like to be able to participate in it, but you have not issued the guidelines necessary to give clear direction as to how that will be implemented with the long-term unemployed.

Can you just give the committee some guidance as to when you believe that will be available to the taxpayers?

Commissioner KOSKINEN. We have been working on it. Again, the statute had a whole series of suggestions and requests and requirements. Our hope is before the month is out—certainly if not then, shortly thereafter—we will have that guidance out, because we do understand that it is critical to have the guidance out so people can respond accordingly. So we have a number of guidance projects, obviously, but it is at the top of our list, and with any luck at all we will get it out in the next 3 or 4 weeks.

Senator CARDIN. Thank you. I appreciate that. If it is the end of the month, you only have about 2 weeks or 2½ weeks. It is a short month.

Commissioner KOSKINEN. It is a short month, plus 1 extra day.

Senator CARDIN. One extra day this year.

We also have talked about this Taxpayer Rights Act where we have tried to deal with some of the significant issues affecting taxpayers. One is their retirement savings and the IRS policies of going after retirement savings on flagrant activities. There seems to be a lack of certainty in this area and maybe even a different view as to what is appropriate or not in regards to retirement security, a lien attachment by the IRS.

Can you just share with us how we could try to harmonize this? We have the Taxpayer Advocate who is working with us on a Taxpayer Bill of Rights. We have the IRS working on this. Are we going to be able to come together and try to have a meeting of the minds on this?

Commissioner KOSKINEN. I hope so and I think so. I know the Taxpayer Advocate's basic view would be that she would rather not have any liens on retirement accounts, and, you know, her role is to be the advocate. Our role under the statute is, we have to collect taxes. We do not reach retirement accounts until we have exhausted a lot of other remedies with taxpayers. And in particular, the situation of concern to us is where people are making additional contributions into their retirement account rather than using those funds to pay the taxes they owe right now. And that is one of the indicators where clearly that is of great concern to us, because everybody, small businesses and individuals, has an obligation to pay their current taxes. And if you are taking money that should be paying your taxes and putting it in your retirement account, that should not be shielded, because otherwise there are going to be a lot of contributions to your retirement account.

So we need to work out an appropriate protection to make sure that we are doing it in a way that protects taxpayers to the extent possible as we go. As I say, it is not the first place we go. We look at other sources of repayment. We have online installment agreements that people can make with us. We only end up with this situation where, in most cases, we have a very recalcitrant taxpayer.

Senator CARDIN. And I understand that is the policy. I just would urge you to be a little more transparent. Then we might be able to reach a common position on this if we understand how you are applying the flagrant conduct standard.

Commissioner KOSKINEN. I think we ought to be able to come to an agreement as to what the appropriate standard is.

Senator CARDIN. And I know Senator Portman is here, and he and I are working on retirement issues. One of the issues is, obviously, we are trying to strengthen retirement savings. Senator Portman and I joined forces on the Work Opportunity Tax Credit to extend it to the long-term unemployed. So there is bipartisan interest in all these issues.

Thank you.

The CHAIRMAN. Senator Burr?

Senator BURR. Thank you, Mr. Chairman.

Commissioner, welcome. I think we all share your understanding that you need to increase the number of individuals working at the IRS. I want to explore in my time whether those individuals have the qualities to work at the IRS. And this really goes back to the Inspector General's report that showed between 2010 and 2013 the IRS hired 7,000 former employees, of which 824, or 11 percent, had prior substantiated employment issues, meaning they had been let go by the IRS; and 141 had a prior tax issue, including 5 who were found to willfully have failed to file their tax returns, which requires automatic termination of employment under section 1203 of the 1998 IRS Restructuring and Reform Act.

The Inspector General then took a sample of 50 of those 824 and found this: other types of prior misconduct included unauthorized access of taxpayer accounts, 11 employees; fraud, 4 employees; falsification of documents, 17 employees; threats, sexual harassment, and criminal misconduct, 5 employees.

Now, that is a sample of 50 of the 824 and what they were let go by the IRS for, and these are all people who were then hired

back by the IRS. Let me just ask you something. What do I say to a North Carolinian who asks me, how can they have a practice like this when the private sector would never think of hiring somebody with a prior employment track record like that?

Commissioner KOSKINEN. You can tell your constituents that is not going to happen again. Basically, what we are talking about is, when we hire seasonal and temporary employees, we hire 8,000 to 10,000 a year to staff filing season, and historically that is a process that takes a lot of time. And once the IG released that report, we went back through and made sure that if there is a prior substantial performance issue, or if someone has not complied with their taxes, or certainly if anybody has actually had unauthorized access to returns, they are not eligible to be rehired.

Senator BURR. None of these people I have described, though their names are not here, currently works at the IRS? Is that what you are telling me?

Commissioner KOSKINEN. Most of those were temporary, and if they came back again the next year, they would not be working for the IRS. We do not hire people with prior issues—anymore. Most of that report was before I got here. We do not hire people with prior performance issues. We do not hire people who certainly, as I say, abused any taxpayer record.

Senator BURR. Well, let me go to a quote in the Inspector General's report where the IRS stated that, "During the process of evaluating qualifications of applicants, prior IRS conduct and performance issues do not play a significant role in deciding the candidates who are best qualified for hiring."

Then in answer to a question from Congressman Roskam, this was your response this month, with reference to the Inspector General's Recommendation 1. Congressman Roskam asked, "Does the IRS consider conduct and performance issues before an offer is made to a candidate, and if not, why?" Your response was: "Yes, we consider prior conduct and performance issues before making a final offer to a candidate."

Now, I interpret the response to the IG to mean that we do not take into account, when deciding who we are going to interview, their prior work experience with us. Your answer I take to mean that we go through a lengthy process, we narrow it down, but before we offer them a job, we will look at their prior conduct. Explain for me, if——

Commissioner KOSKINEN. We get applications in, and at that point, we do not know who they are, and they may or may not be there. Before we make an offer to anyone, our process now is——

Senator BURR. Before you make an offer. Do you interview before you look at their prior experience at the IRS?

Commissioner KOSKINEN. That I do not know for sure. All I can tell you is, they will not get a final offer——

Senator BURR. One of the individuals out of the 50 who were sampled, in their employment record at the IRS, it stated this: "Do not rehire."

Commissioner KOSKINEN. And they will not get rehired again.

Senator BURR. Well, they got rehired with that in their record.

Commissioner KOSKINEN. That was under the old process, and that will not happen again.

Senator BURR. So share with me what you have done to make sure that does not happen. And share with me and the committee, if you will, how have you changed the personnel who make up your hiring process? Who lost their job over this—anybody?

Commissioner KOSKINEN. People who actually, at that point in time, were following whatever the IRS rules at that time were, those people were operating under a different set of rules and regulations, which they understood. If people do not follow the rules, they are subject to personnel actions. I have no indication that anybody working for the IRS has not followed the updated procedures, and they understand that if they do not follow the procedures—we dismiss a reasonable number of people every year for not following our employment procedures or our operational procedures. I would be happy to share that data with you.

Senator BURR. I thank you for that answer, and I wish you would share the data, and I wish you would share the procedures that have changed.

Commissioner KOSKINEN. I would be delighted to do that.

Senator BURR. Thank you, Mr. Commissioner.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Carper?

Senator CARPER. Mr. Chairman, I would just like to get something off my chest while we are here today.

I think we are lucky that you are willing to take on this job. This may be among the most thankless jobs in the Federal Government, and we needed somebody who was smart and honest, hardworking, a great leader, and I think you are that person.

Commissioner KOSKINEN. Thank you.

Senator CARPER. Can I go on?

Commissioner KOSKINEN. Well, no, perhaps we should quit while we are ahead.

Senator CARPER. All right. [Laughter.]

The CHAIRMAN. If you keep that up——

Senator CARPER. If I keep that up, my time will have expired.

We spend time in this room, more than I would like to think about, trying to figure out how to pay for things. We want to extend tax breaks, tax credits, whatever. We are looking for pay-fors. We are looking at other programs that we want to pay for like transportation, and we end up doing crazy things to pay for roads, highways, and bridges that have nothing to do with roads, highways, and bridges. And yet we have all these pay-fors that you and your colleagues at the IRS sort of give us on a silver platter, and we ought to take fuller advantage of them.

You mentioned one of them. For every person we hire to do audits and that sort of thing, compliance, how much did you say that person is worth? How much money?

Commissioner KOSKINEN. Over a million and a half dollars a year.

Senator CARPER. A million and a half. So if we were to hire just 1,000 of them, that would be a billion and a half dollars a year.

Commissioner KOSKINEN. Right.

Senator CARPER. That would pay for a lot of stuff—and good stuff.

Commissioner KOSKINEN. And in the President's budget this year, it is called the "program integrity cap" for $500 million. Over a 10-year period, the hiring in the programs under that would generate a net after expenditure of $46 billion for the government.

Senator CARPER. Go back and talk to us about something that does not cost money, and that is, to try to better ensure that the folks who are actually doing tax preparation work for some Americans actually know what they are doing, they are capable, qualified, going to do good work, honest for the person whose taxes are being reported, but also fair to the Treasury. Just talk about what we can do to help there.

Commissioner KOSKINEN. Again, as we have been discussing, our proposal is not to have a regulatory program. Our proposal is to reinstitute the program we had before which simply requires minimum qualifications, the demonstration of minimum qualifications, and continuing education, a modest number of hours——

Senator CARPER. Can you give us some idea of what that might include, minimum qualifications?

Commissioner KOSKINEN. Minimum qualifications would be, you would take a test to show an understanding of the tax code, and you would take 18 hours a year of continuing education on tax developments, much like the continuing education requirements for lawyers and accountants and others.

Senator CARPER. Okay. All of us have constituent services operations in our offices back home in our respective States, and every Friday at the end of the work week, I get a report from my constituent services team. Every month we send out a questionnaire to a representative sample of the people we have served in Delaware just to say, "How was the service that we provided for you? Was it excellent? Was it good? Was it fair? Was it poor?" And one of the issues that we get graded on is the IRS. And it is uneven. Sometimes it is pretty good. Sometimes people are pretty disappointed.

We like to think that in our own office we provide excellent service. I am sure we can always do better. But for the last 15 years, we are running 98 percent excellent and good, 1.5 percent fair, a half percent poor. But we know we can do better. And in terms of how we could help you do better—you have already answered this question, but I just want you to continue to repeat it. What can we do to help provide better service?

I spend a lot of time focusing on the Postal Service, and one of our goals in Postal Service reform is to put the "service" back in Postal Service. And one of the things that we need to do—and I know you are trying to do, and others—is put the "service" back in the Internal Revenue Service.

Commissioner KOSKINEN. The whole goal of what we call our Future State is not to look at what the IRS ought to look like 3 to 5 years down the road. It is, what should the taxpayer experience be 3 to 5 years down the road? How can we expand and improve on taxpayer service for all taxpayers? That ought to be our primary measure of where we are going. And I think we are moving in that direction. The support we need is obviously the resources, it is a lot of technology to make life easier and simpler for most taxpayers.

Senator CARPER. All right. If you could just ask one thing, if you had a magic wand and you could wave a magic wand and get one thing out of the Congress this year—one thing out of the Congress this year that would help you and your folks, the members of your team, do a better job for the American people, what would it be?

Commissioner KOSKINEN. It would be the same thing I told you at my confirmation hearing almost 2½ years ago, and that is, if we could simply put the budget of this agency on a stable, sustainable basis, it would make a huge change and improvement in taxpayer service and enforcement. And that is really my goal. I got asked by an employee—I do employee town halls. I have talked with over 20,000 IRS employees personally since I started. One of them asked me recently, "What is your goal? How are you going to measure your time?" And I said, "If we could just have stable, sustainable funding for this agency before I leave, I would feel that I had accomplished a major goal."

Senator CARPER. Okay. Well, hopefully you will do a lot better than that. Thank you for your leadership and for being with us today.

Commissioner KOSKINEN. Thank you.

The CHAIRMAN. Senator Roberts?

Senator ROBERTS. Well, thank you, Commissioner. I want to thank Senator Carper for his comments with regards to the task that you have before you, a lot of brickbats but not many "attaboys."

I think one thing I can do for you is, I will sit down with Senator Grassley and see if he cannot pronounce your name. [Laughter.] This should not take too long.

Commissioner KOSKINEN. I always say it took me 4 years to learn.

Senator ROBERTS. "Koskinen," that is not that hard, really. Maybe if you changed your middle name to "ethanol" it might help. I am not quite sure. [Laughter.] That is easy to say. And Senator Hatch does not get mad. He just maybe sometimes is pleasantly irascible. So do not worry about that either.

I want to bring up something from the not-so-thrilling days of yesteryear. You are familiar with the topic. I know we thought it was behind us. But I have pledged not to rest until we fully understand the actions concerning our conservative social welfare organizations, the 501(c)(4) business. This to me has always been about the First Amendment and protecting those rights and preventing the government from restricting them. And the exercise of those rights does not threaten our democracy, nor does it threaten the tax system or the tax base. It is the attempt to restrict these rights that I think we must fear.

I still remain deeply disturbed over how the IRS responded to this committee's investigation. I still remain concerned that the issues we explored in the Finance Committee's report that was just issued last summer still remain unresolved. As recently as last month, the IRS was still processing exemption applications that had been held up while we investigated the (c)(4) issue.

So, basically, what I would like to do—I know we have stopped the agency from moving forward with new rules that would have revised how social welfare groups are able to participate in political

discourse, and I think you would agree the agency should be directed back to its core mission, which is tax enforcement and taxpayer services.

Do you have any comment with regards to where we are or where you think the IRS is in regards to this whole situation?

Commissioner KOSKINEN. I certainly do. As I said when I started, the delays the organizations faced should never have happened. I was not here, but I apologize for that. I think taxpayers deserve prompt and fair answers and consideration. The management structure that caused that problem to exist for as long as it did without it being seen needed to be changed, and we have done that. As I said, we have taken every recommendation of the IG except for updating the (c)(4) regulations, which were not under the congressional constraint.

As I said, we did not do it willy-nilly. We went through and decided we would take and implement every recommendation this committee made in that report and every recommendation in the majority report and every recommendation in the minority report as well, because I do think they were thoughtful and they will be helpful, and we have implemented all but a couple of them. We have 82 percent of them up and running and implemented. But I think it is important, because we need to make sure that situation does not happen again of the lengthy delays which then lead people to wonder why are they being selected for that delay.

But beyond that, people need to be comfortable that the organization, the IRS, is going to treat every taxpayer fairly and the same. And as I said, we do not care who you voted for, what party you belong to. If you hear from us, it is because of an issue in your tax return, and subject to resource constraints, if somebody else had that issue on their return, they would hear from us as well. And it is critical for compliance processes in the United States to work for people to feel and understand and be comfortable that the IRS is not targeting them, is not selecting them for any reason other than something to do with their tax return.

Our goal in the (c)(4) regulation since I have been here, if we are going to do it, as I said, was not to change the rules. It was to try to provide greater clarity to the organizations and the IRS. The "facts and circumstances" test that we now still have is confusing. It is not only at the front end. It means every year you have to wonder, is somebody else going to look at the facts and circumstances differently? What we wanted to do was provide a clearer line of sight, not change the rule, just make it easier for everybody to comply, because I agree with you. We ought to be in the tax compliance and tax enforcement area. We certainly do not want to be any closer to political issues than we have to be under the tax code, and people should be comfortable with that.

Senator ROBERTS. Well, I thank you for that answer, and it is a very complete answer, and I hope we can see some progress in that whole situation or simply put it behind us.

My time has expired, but I did want to point out that I do agree with Senator Menendez. I do not want bad incentives to result in aggressive behavior on your minimum standards on tax preparers. And I am just thinking, while you were talking about small-town and rural America, a person who has been preparing taxes for a

long time probably, you know, would like to get out of this business, but at any rate, be a little careful there. You know, taking a test and 12 hours of education for some secretary who got into this and then got into tax preparation and probably operates out of her home, we do not want to deny that. And contracting out, I am concerned about that as well.

I am way over my time. Thank you, Mr. Chairman.

Commissioner KOSKINEN. Well, let me—if I could respond, Mr. Chairman——

The CHAIRMAN. Sure.

Commissioner KOSKINEN [continuing]. Because I think that is an appropriate concern. We have over 12,000 VITA sites, Volunteer Income Tax Assistance sites. We train 90,000 people a year to work in those sites. A lot of them are part-time people. Some are, fortunately, IRS former executives or existing executives. But the training program is straightforward. You do not have to be a rocket scientist to be able to understand it, and those people provide great service. They prepared 3.5 million returns last year for free for taxpayers who came in. And the experience on the exam—when we were running the program before it was shut down—was nobody complained the exam was too difficult or it was hard to deal with. Because I agree with you: our goal here is not to put people out of business, except the crooks. Our goal really is to provide people an opportunity across the board, standardized, to keep up with the tax code, to be able to provide appropriate advice to people where they are actually completing their returns.

One of the reasons we have an advantage, I think, in considering this is, we have seen what the program looked like. So I want people to know that is what it is going to look like. We do not have some new idea for more regulations or audits or anything else. It is just a simple question of, can people demonstrate a minimum ability to provide assistance to the people whom they are getting paid to prepare the return for?

The CHAIRMAN. Senator Thune?

Senator THUNE. Thank you, Mr. Chairman.

Commissioner, I understand one of the biggest issues facing South Dakotans when it comes to their Federal taxes—at least this is what we hear in many of our offices across the State—is the problem of tax-related identity theft. I know you have talked a little bit about this already and probably responded to some questions about it, but it not only impacts those who have their identities stolen, but also those who find their refund delayed while the IRS verifies their identity.

So I am wondering if maybe you could talk about the steps the IRS is taking to fight ID theft, and can we expect that the IRS will improve its capabilities to fight fraud so that the process will be quicker and, over time, fewer refunds will be delayed?

Commissioner KOSKINEN. That is one of the major challenges we have had for some time. As I noted earlier, we have created a partnership with the private sector, tax software developers, tax preparers, payroll providers, 40 State tax commissioners, because, as I told them when we got together, the goal was not for me to tell them what to do. The goal was, we cannot solve this problem without everybody working together. And we have made significant

steps forward. The private sector and the States and we have all agreed on minimum standards for authentication for taxpayers. Most taxpayers will not notice. It is a few more questions. It is a way of making sure we know who they are. We are sharing data in a way that has never been done before. But suspicious patterns of activity—we had, as you know, a recent activity where we had organized criminals trying to figure out just how to get a filing PIN. All of that data and all of those Social Security numbers that we know people have, have been shared with States and preparers so they all can, in fact, advise their clients to take appropriate actions.

I appreciate the Congress requiring us to get W–2s next year in January. Because of this partnership we have, we have had volunteers in the private sector already providing us this month 20 million W–2s. When we have a W–2 that is verified, it means when we have a suspicious return, if we can verify it with a W–2, we can release that return for a refund. Over 80 percent of people who file with us electronically get a refund. So it is important for them to get them as quickly as they can.

Last year, we stopped over 3.5 million suspicious returns. Now, some of those were false positives. They were legitimate taxpayers. To the extent we can process through those suspicious applications faster and get the legitimate taxpayers out of them, they will get their refunds faster, and we will be able to apply our resources to the truly suspicious returns. Of the funding we got under the $290 million, a significant amount, $60 million, will go toward improving cybersecurity, $16 million of it will go to identity theft, and $10 million of that will go to implementing a lot of the recommendations from this private-sector partnership we have. So our goal is to do the best we can.

We also have a challenge, if your identity is stolen, you then have to go through a lot of steps for us to ascertain you are really the taxpayer. Taxpayers have trouble understanding that, but we have criminals who file secondly and then are trying to figure out why they cannot get their refund. I mean, talk about chutzpah.

So we recognize that there is nothing more aggravating or angst-producing than having your identity stolen and your refund held up. And so, we are trying to prevent that, to the extent we can, at the front end by stopping suspicious returns with better filters and trying to improve and speed up at the back end. If your refund is held up because somebody has filed before you, we want to be able to process that. Our goal is 120 days or less. Even that is a delay for people, but we are doing our best to try to get that faster.

Senator THUNE. As a follow-up, you may know the National Taxpayer Advocate has recommended the IRS provide a single point of contact for someone who has their identity stolen, and I have heard the frustration of taxpayers in my State who have had to deal with various IRS employees on multiple occasions in trying to fix a single ID theft problem. Is the IRS moving toward giving each taxpayer a single point of contact when it comes to tax-related identity theft? And is this a recommendation that the IRS plans to implement?

Commissioner KOSKINEN. We do conceptually, but not in the way the Taxpayer Advocate has suggested. We have consolidated, since

she started making this recommendation, all the ID theft and all the contact points for taxpayers into a single office. Anybody you deal with in the private sector when you call and get service, you do not get a number to call back, because what happens, if you have Sam Jones and Sam is on vacation, he is out, he is on the other phone, then you are held up. And our goal is to be able to make it so you do not have to explain the situation twice. There ought to be a single office and a coordinated office where you call, and when you call the next time, they know what your situation is and you can pick it up, and you can get somebody immediately rather than depending on vacation schedules, who is at lunch, where they are.

So I think having an individual—in the old days, when we were all over the place and we were pulling this together in five different places, then I think it was difficult for taxpayers. But as it is now, as we have consolidated, we think we actually have a single organizational response to taxpayers.

Our goal in the longer run is to, as I say, move that as quickly as we can so that the taxpayers actually get the service they deserve.

Senator NELSON. Would the Senator yield for an observation on that issue?

Senator THUNE. Yes, sir.

Senator NELSON. There is legislation a number of us have filed that the chairman's staff is working on very hard right now that would address a number of the issues that you just raised.

Senator THUNE. Good. We will look forward to——

Commissioner KOSKINEN. Just again, as I say, requiring a single individual to track each taxpayer is probably, I think, in the long run not going to be good for the taxpayer. They are going to take more time to find out where Sam Jones is today as opposed to if we can just be more efficient when they call—some of it is IT—that your record is there and anybody can look at it who needs to talk with you.

Senator THUNE. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Isakson?

Senator ISAKSON. Thank you, Mr. Chairman.

Thank you, Mr. Commissioner, for your service to the country. We appreciate it. And I also appreciate your printed testimony and your acknowledging of the $290 million that we appropriated to enhance cybersecurity and the identity theft effort. I hope that is paying off for you. I appreciate your acknowledging that.

I want to ask you a question about that. On Monday, February 8th, the *Columbus Ledger-Enquirer,* which is the local newspaper in Columbus, GA, reported on the sentencing trial of one Sawan Shah, who pled guilty to one count of operating an illegal monetary transmitting system where he admitted to cashing 567 fraudulent tax refund checks from the IRS worth more than $1.3 million, and he was part of a ring that cashed more than 4,000 checks for a total of more than $24 million.

In the sentencing hearing, Judge Land, who is the Federal judge who did the sentencing, made the comment that this was one of

very few tax cases he had even seen, and he had learned Columbus, GA, was number 2 in the United States in terms of tax fraud in the country.

My question to you would be, if in fact that is true, that they are number 2—and I have the statistics that show that—and if, in fact, the Federal judge who did the sentencing in the Federal case had seen very few cases, are we making enough cases based on tax fraud and the theft of these returns?

Commissioner KOSKINEN. I am not sure we ever make enough cases. We have thrown 2,000 people in jail for identity theft. We have several hundred cases pending right now. We work collaboratively with U.S. Attorneys across the country in those prosecutions. I think it is important for us, wherever we can, to engage in those prosecutions.

I am a little surprised that the judge in that part of Georgia was surprised that he had not seen relatively the number of prosecutions that he should, because we have a significant number in Florida, obviously, which has been the epicenter of this. But in Georgia, we have had a number of prosecutions. I get a list every day of the prosecutions that are public of people who are being prosecuted for identity theft and refund fraud.

Senator ISAKSON. I would love to see that. If you could send me that information, I would love to see that information, because I am asked about this subject all the time.

Commissioner KOSKINEN. I would be delighted. As I say, it is over 2,000. I would be happy to get you, to the extent I can——

Senator ISAKSON. I understand—privacy respected; I know that.

Commissioner KOSKINEN [continuing]. A breakdown as to where those people live.

Senator ISAKSON. Now, Florida is first, Miami-Dade County, Fort Lauderdale area. Columbus, GA is second, and the District of Columbia is third in terms of tax fraud. You all created the IP PIN system a couple years ago to issue IP PIN numbers to try to stop the amount of theft. Is that program working?

Commissioner KOSKINEN. The IP PIN works very successfully. We have about 2.7 million people who over time have either had identity theft or suspicious activity on their account, about half of each. We have offered a pilot program to see what it would be like and what the burden on taxpayers would be, because, once you have an IP PIN, you have to use it. And so, if you forget it, you have to get us to mail you a new one.

We are in the third year of that pilot. Actually, I have an IP PIN, because I thought, well, I am the Commissioner, I live in the District, I should actually see how it works. It turns out I am one of the few people in the District with an IP PIN. There has been a relatively small take-up, even though we publicized it and we have had a lot of people interested in it. If you have an IP PIN, you have much more security because that is not a number that is available anywhere else. Millions, literally millions, hundreds of millions of Americans who have their data stuck in the Dark Net with criminals, do not have IP PINs in that area.

One of the things when I first started, I thought, well, why don't we just give the Social Security numbers and have a new identifier? It turns out that is easier said than done.

So we have been a little surprised that the take-up has been so small in Florida, Georgia, and the District. But whenever there is a suspicious occurrence, in the case of three-quarters of the attempts in the last couple weeks to get a filing PIN—you know, there were 460,000 Social Security numbers they had in their possession—three-quarters of them did not do them any good. All of those people are going to get letters from us saying your Social Security number is out there, and for anyone who has been at risk, we offer them an IP PIN.

In the long run, we are working on authentication programs as a result of our Get Transcript issue that we think are probably going to be the more efficient, effective way to protect taxpayers, and that is to, in fact, do what people call "multifactor authentication," so that anytime you interact with us, we will double-check who you are.

Senator ISAKSON. We talked to your office regarding how IRS is promoting the IP PIN number, and I think there is probably some additional work you all could do to expose that benefit to the public, either through notifications that you send out normally that have that attached to it or something, because I think it is out of sight, out of mind. I think some more promotion of it would get you a lot more users.

Commissioner KOSKINEN. That is a good point. We should look into that, because, as I say, we are hoping to learn from the pilot, and one of the things we have learned is nobody seems very interested. So we need to do more outreach.

Senator ISAKSON. Thank you for your service.

The CHAIRMAN. Thank you, Senator.

Senator Casey?

Senator CASEY. Thank you, Mr. Chairman. Commissioner, thank you for your service, and thanks for being here with us today.

I want to reiterate two of the numbers that your testimony pointed to in terms of your budget and your workforce. By the end of this fiscal year, am I correct in saying that you are going to be down 17,000 employees and $911 million? Is that right?

Commissioner KOSKINEN. Yes. Since 2010.

Senator CASEY. Since 2010, right. They are big numbers, and that is a substantial hit. So those of us who call on you to do more have to be mindful of those numbers.

I just really have one question. I want to get into tax scams, because I am on the Aging Committee, and we are dealing with that issue of scams there, so I am trying to be in both places at one time. But I did want to ask you a question about taxpayer services, the so-called Tax Forms Outlet Program. Everything has an acronym—T-F-O-P. Just as society is trying to get away from too much paper, whether it is tax forms or instruction books, we do know that as many as 20 million returns, about 14 percent of the total, were filed on paper. So there is still a need and a demand for some of these paper instructions or forms. And I know that you have a toll-free number to deal with this issue.

I just want to ask you, in terms of the toll-free number—that is where we get a lot of complaints about long wait times. I just want to ask you, with regard to the new funding that you got at the end of the year from the so-called omnibus, if you can tell us how spe-

cifically that additional funding is being used to improve taxpayer services, at least on this particular issue.

Commissioner KOSKINEN. Of the $290 million, about $178 million will be devoted to taxpayer service. We are in the process of hiring up to 1,000 more people who will be able to provide service for us on the phone and in correspondence. In particular, with the number for ordering forms, we want to make sure people get to it quickly and get those forms. They are free, so you can get forms either by downloading them online, or you can get them from libraries. But we want that phone line to work better. Already we have gotten indications that thus far in the filing season, our level of service is up as high as in the low 70s. So that means that people are getting through much faster and better than they were last year.

Senator CASEY. When you say "low 70s," you mean——

Commissioner KOSKINEN. Low 70 percent. That means that when you call, 70 percent of people are getting right through. And so it is going to make a big difference. My hope is, we will be able to establish that, (a) we can spend the money wisely and carefully, and (b) if you give us money, you get a result. If you gave us more money for taxpayer service, you would get an even better result, because we will not solve the taxpayer service problem at the level we think taxpayers deserve with the additional funding, but the funding is a great help.

Senator CASEY. How do you measure, just on the question of a good level of improvement in service, how do you measure that over the next year or two?

Commissioner KOSKINEN. We measure the number of people who get through without difficulty, and we measure how long they have to wait. Our ultimate goal in the old days, in the mid-2000s, was an 80-percent level, which meant 80 percent of the people got through and they waited less than 5 minutes, sometimes on average 2 minutes. So last year's average wait time at 25 to 30 minutes really was unconscionable for taxpayers.

Our focus is, taxpayers ought to get the best service they can. As I said, the money we are going to put into it will make a big difference this year, but it will not get us to the level we want. It is not the amount—we requested an additional $700 million for the three areas and got $290 million. The $290 million is a great help, but that means there is still another $410 million that we could have spent to apply to those three areas.

Senator CASEY. Great. Thank you very much.

The CHAIRMAN. Senator Nelson?

Senator NELSON. Mr. Chairman, I want to go back to the issue that Senator Roberts raised, which was the 501(c)(4)s. He was asking about the big brouhaha that occurred a couple of years ago, but there is another side to the brouhaha, and that is, the statute says that these 501(c)(4)s are "exclusively for the promotion of social welfare." And in a Treasury Department reg, "exclusively" was changed to "primarily"—"primarily for the promotion of social welfare." Now, that seems to me to be changing, on its face, the intent of the statute, but it is what it is. So there is a reg there.

Well, there is one of these groups that has the tax-exempt status, 501(c)(4), and they list in their promotional materials to donors that for political campaigns they need $3 million for research, $2

million for polling research, $18 million for issue advocacy, $5 million for acquisition of campaign lists, and $15 million for targeted grass-roots activity in political campaigns.

Now, it seems like it defies common sense that under the Treasury reg, and certainly the statute, whether you use the word "exclusively" or "primarily" for the promotion of social welfare, do you have any idea how you would classify one of those activities as "social welfare"?

Commissioner KOSKINEN. Well, part of the reason I was hoping we would be able to clarify the regulations would be to make the answer to that question much simpler for the organizations as well as the IRS. We ought to get out of the discussion, as much as we can, about determining what is political and what is not political. If we had a clear set of guidelines, the organizations would benefit, and we would benefit.

Right now, we have pages of examples of what the facts and circumstances mean, so you cannot take any particular category and say by definition it is either social welfare or it is not. Clearly, a lot of issue advocacy is social welfare, and people take positions on both sides of issues, and that has been viewed over time as appropriate social welfare activity. The question is, when does the issue advocacy fold over into political activity? And then you have to say, what are the facts and circumstances, and then you get into a very muddy area.

Senator NELSON. Right. But you are surely aware that 501(c)(4)s are primarily engaged in political activity instead of social welfare.

Commissioner KOSKINEN. There has been some misunderstanding that perhaps, while the regs were pending, we were not actually in business. We actually have a statutory responsibility to review and enforce the code, and our Exempt Organization division continues to review activities of all tax-exempt organizations, not just (c)(4)s. We have (c)(3)s, (5)s, and (6)s.

Senator NELSON. I understand that. You look at everything.

Commissioner KOSKINEN. And we look at everything.

Senator NELSON. Are you aware in general by reading the newspaper or watching TV that some of these 501(c)(4)s are being used primarily for political activity?

Commissioner KOSKINEN. I cannot tell that by the publicity. I am aware that there are some 501(c)(4)s that are very active politically, but what I do not know by the reading of that is what else they are doing. Are they actually involved in other activities that are social welfare? That is the requirement. The requirement, as you note, is that 51 percent of your activity or the majority, "primarily," has to be social welfare.

Senator NELSON. And you cannot examine them as the IRS Commissioner to determine that?

Commissioner KOSKINEN. The IRS Commissioner does not get involved in the selection of any examination for any reason. So whether it is——

Senator NELSON. Well, how are you going to make sure that the laws are being faithfully executed then if you, as the administrative agency, are not going to look at it?

Commissioner KOSKINEN. No, no. You talked about the Commissioner. The Commissioner personally does not get involved in selecting anybody for an audit or review.

Senator NELSON. Doesn't your agency?

Commissioner KOSKINEN. The agency has a responsibility to review and audit across the board everyone who is required either to pay taxes or has tax exemption. And one of the issues we have with our resources is trying to make sure we marshal those appropriately. In the 1023, the tax-exempt area, we now have a streamlined program for small organizations that allows them to get through without filling out a 27-page application——

Senator NELSON. You know, Commissioner——

Commissioner KOSKINEN [continuing]. Which allows us to have more people who can actually be involved in reviewing what people are actually doing out there. And so we do that. We review people. We have a selection process. One of the recommendations from the IG and from this bipartisan report was to make sure that those reviews were appropriate, that people were appropriately trained, that when we select someone for a review, there is a review of that decision—because they are all active in one way or another—to make sure when somebody hears from us, it is a fair process and they have not been selected by one category or another, whatever they were involved in. It is, are you spending all of your resources primarily on social welfare activities, and we do review them.

Senator NELSON. Now, if you have concluded with your answer, I just want to respectfully suggest to you that that is a non-answer. You are the head of an agency. If there are abuses, just like Senator Thune was talking about with regard to ID theft, you have a responsibility as a leader to see that the laws are faithfully executed and followed.

Commissioner KOSKINEN. Exactly, and I take that responsibility seriously and willfully and fully.

Senator NELSON. Well, I have been asking the IRS on this committee for the last 4 years about following this statute, even as it is interpreted by the Treasury Department, "primarily for the promotion of social welfare," in order to be tax-exempt as a 501(c)(4), and I have yet to get an answer.

Commissioner KOSKINEN. Well, if you will take whatever that last letter was, I have given an answer, as the chairman knows. My view is, I read every letter, and you get an answer within 30 days. So, if you would like to send me that letter, I will be happy to respond to you. But I would just emphasize, my responsibility is to make sure the processes are effective——

Senator NELSON. Right.

Commissioner KOSKINEN [continuing]. The processes are fair, and that we follow them. And I am doing that and taking it seriously. But with regard to any particular case, no one at the IRS——

Senator NELSON. Would you stop just a minute?

Commissioner KOSKINEN. Yes.

Senator NELSON. We are way over my time.

Commissioner KOSKINEN. Okay. Sorry.

Senator NELSON. I will write you a letter.

Commissioner KOSKINEN. Good.

Senator NELSON. But you are in front of the committee that has the jurisdiction for overseeing the execution of the laws, and we are—we, this Senator, is asking you a simple question. So, if you say that I cannot get you to respond in front of the Senate Finance Committee, I will write you another letter.

Commissioner KOSKINEN. Right. What I cannot respond to, even if you write me a letter, is a question about any specific taxpayer.

Senator NELSON. I am not asking you—I am asking you in general.

Commissioner KOSKINEN. In general, and I will tell you—and you can send me that letter. As I told you, the problem with facts and circumstances is when you say "issue advocacy," as a general matter, issue advocacy is social welfare. It can in some facts and circumstances be issue advocacy that is directly involved in a political campaign and which is political activity. And that is what the IG said: we ought to clear all that up and try to give clear guidelines. So I can tell you that, in fact, we have, as I say, pages of regulation trying to give people guidance about what counts, what does not, what is on which side of the line and on the other.

So I am happy to give you as much information as I can in a context where I would remind people we are still in business, our process is upgraded in response to all the recommendations to make sure it is fair and aboveboard. But it does not mean that people do not get reviewed.

The CHAIRMAN. Senator, I have to bring this to a close. Thank you.

Senator NELSON. Oh, I understand, Senator, and I apologize.

The CHAIRMAN. You do not have to apologize.

Senator NELSON. I apologize for going over time. But I am just trying to get a direct answer.

The CHAIRMAN. I understand. Well, I thought he gave you a direct answer. But maybe your letter will——

Senator NELSON. I doubt it.

Commissioner KOSKINEN. No, I would like a little more confidence that our goal is to try to respond as effectively and quickly as we can to any inquiry.

The CHAIRMAN. Well, let me say, I want to thank Commissioner Koskinen for appearing here today as well as all of our colleagues who have participated in this hearing. It is my hope that the issues we discussed today can be addressed as we work to improve the Nation's tax code and ensure that the IRS has sufficient resources to do their job properly. Now, this is something we owe to the dedicated taxpayers and citizens of this great country.

I would ask that any written questions for the record be submitted by Wednesday, February 24, 2016.

With that, we thank you, Mr. Commissioner, and the hearing is adjourned.

[Whereupon, at 3:35 p.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR FROM UTAH

WASHINGTON—Senate Finance Committee Chairman Orrin Hatch (R–Utah) today delivered the following opening statement at a hearing examining the Obama Administration's Fiscal Year (FY) 2017 budget request for the Internal Revenue Service (IRS):

Today, the committee welcomes the Commissioner of the Internal Revenue Service, John Koskinen. Commissioner Koskinen comes before us this afternoon to discuss his agency's operations and President Obama's budget proposal for Fiscal Year 2017.

Commissioner Koskinen, today's hearing is the fourth time you've appeared before this committee during my chairmanship. Over the past year, we've seen both progress and setbacks at the IRS.

As you well know—and as I think everyone here knows—I tend to be first in line to challenge and critique your agency when I believe it is in the wrong. But, for today, I'd like to change things up. Let me be the first to offer praise for the IRS where it is due.

Here are some successes I'd like to acknowledge:

Last Spring, this committee launched an investigation of the online tax return software industry. We were looking specifically at how the industry deals with stolen identity refund fraud and to what level the industry cooperates with the IRS to combat that fraud. In the wake of our investigation, the IRS and industry leaders launched a Security Summit and agreed to new initiatives to prevent and counter fraud. I want to applaud these efforts and I look forward to continuing the committee's oversight of its implementation and results.

Let me mention one more.

Last year, this committee issued a report following a 2-year bipartisan investigation of the IRS's treatment of organizations applying for tax-exempt status. Our report included a number of recommendations for changes at the IRS, and, as of right now, all signs indicate that the agency is taking appropriate steps toward implementing those recommendations. I appreciate your ongoing work there as well and am grateful for your responsiveness.

There is, of course, more to be done, and I look forward to working with you to ensure that taxpayers are never again targeted because of their political beliefs.

While these are all signs of progress, a number of great challenges still lie ahead. The most obvious challenge facing the IRS is the need for modernization.

On the one hand, the agency must be brought into the digital age in a way that provides the greatest convenience and efficiency for taxpayers. But on the other hand, the agency must also better protect against data thieves that thrive in the digital age.

We were reminded of these risks last year when data thieves breached the IRS's own website through the Get Transcript portal and successfully stole the tax records of 330,000 taxpayers. That is 330,000 taxpayers who now have their most sensitive tax information sitting out there in the hands of criminals waiting to use that information to do further damage this tax year, or the next, or even 10 years from now.

We were reminded of this threat yet again just yesterday, when news broke of another large-scale attack against the IRS, but thankfully it appears that the attack was unsuccessful. The Get Transcript breach is going to haunt us for years to come, and, unfortunately, it's only one of many.

On the customer service front, we look forward to hearing more about the IRS's comprehensive "Future State" plan to modernize how taxpayers interact with the agency. I applaud this initiative, but I will be watching very closely to see how it is carried out and how it impacts taxpayers.

Once again, modernization is probably *the* central challenge facing the IRS and it requires a careful balance of sometimes competing priorities. Much hangs in the balance of how these efforts are carried out. Another issue I look forward to hearing about today is a provision of the recently enacted FAST Act—specifically, the provision dealing with the inactive tax debt collection program.

As noted in the conference report to the bill and as we'll hear today from Senator Grassley and perhaps others, Congress's intent was that Treasury and the IRS would expeditiously implement the provision by utilizing private collection contractors and debt collection centers that are approved by the Bureau of the Fiscal Service at the Department of Treasury.

Further, the statute requires that contracts be entered into and signed within three months after enactment of the FAST Act. That deadline of March 4th is fast approaching. So, I look forward to hearing an update today on your efforts to get those contracts signed and cases released and to ensure that taxpayers are made aware of the program and how it will be implemented.

PREPARED STATEMENT OF HON. JOHN A. KOSKINEN, COMMISSIONER, INTERNAL REVENUE SERVICE

INTRODUCTION

Chairman Hatch, Ranking Member Wyden, and members of the committee, thank you for the opportunity to discuss the IRS's budget and current operations.

Let me begin by expressing my appreciation to Congress, including the members of this committee, for approving $290 million in additional funding for the IRS for Fiscal Year (FY) 2016, to improve service to taxpayers, strengthen cybersecurity and expand our ability to address identity theft. This brings the total IRS budget for FY 2016 to $11.2 billion. It is an important development for the IRS and for taxpayers, and is the first time in 6 years that the agency has received significant additional funding. It is a major step in the right direction, and I can assure the Congress that we will use these resources wisely and efficiently.

Even with this additional funding, however, the IRS is still under significant financial constraints. This is illustrated by the fact that the IRS appropriation remains $911 million below the FY 2010 enacted level and that the $290 million increase is less than half the amount that had been requested for FY 2016 in the three critical areas mentioned above. In addition, the IRS must absorb mandated cost increases and inflation during FY 2016 that are greater than the additional funding provided.

As a result, we will need to continue the exception-only hiring policy that began in FY 2011, leaving us unable to replace most employees we lose this year through attrition. In fact, we expect the IRS workforce to continue to shrink by another 2,000 to 3,000 full-time employees during FY 2016, equaling a loss of over 17,000 since FY 2010.

While this decline in our workforce has been occurring, the number of individual returns filed grew by more than 10 million (or nearly 7 percent), from 153 million in 2010 to 163 million in 2015. Further increasing our workload, the IRS during this period has had to implement a number of significant legislative mandates, nearly all of which came with no additional funding. These include: the Affordable Care Act (ACA); the Foreign Account Tax Compliance Act (FATCA); the Achieving a Better Life Experience (ABLE) Act, which includes a new certification requirement for professional employer organizations; and reauthorization of the Health Coverage Tax Credit (HCTC). In FY 2016, several additional legislative mandates were put in place that carried no implementation funding with which to execute them—for example, new passport restrictions, a private debt-collection program and a registration requirement for newly created 501(c)(4) organizations. We have had to defer

hundreds of millions of dollars worth of important information technology (IT) projects and improvements since FY 2014 in order to meet our statutory requirements to implement the ACA.

Against this backdrop, a fact that often gets overlooked is that the U.S. is much more efficient in its tax collection operations than most other countries. According to statistics compiled by the Organization for Economic Cooperation and Development (OECD), the average OECD member country spends $8.87 to collect $1,000 of revenue, while the U.S. spends only $4.70. The tax administrations of Germany, France, the United Kingdom, Canada and Australia each spend twice as much as the IRS to collect a dollar of revenue. So while the IRS will continue to look for efficiencies in our operations, it is important to understand that we are one of the most efficient tax administrators in the world.

We continue to recognize the importance of spending taxpayer dollars wisely and working to strengthen our operations as we move forward. In that regard, the IRS has addressed a number of management problems that had developed in the past. Actions taken to solve these problems have in some cases been in place for several years. For example, spending on conferences has been reduced by 80 percent since 2010. In order to achieve this, since 2012, any division planning to spend more than $20,000 on a conference is required to obtain prior approval from the IRS Commissioner. Any proposed conference expense over $50,000 must also be approved by the Secretary of the Treasury or his designee. With regard to videos, any IRS division seeking to make a video must receive prior approval from an executive review board the agency created in 2013 for this purpose. As for performance awards, the IRS no longer pays such awards to IRS employees who are disciplined for serious misconduct issues or who have willfully failed to pay their taxes. In addition, processes are in place to ensure the IRS does not rehire former employees who had significant conduct or performance problems during prior employment with the agency.

In the tax-exempt area, the IRS has acted on all of the recommendations made by the Treasury Inspector General for Tax Administration (TIGTA) in his May 2013 report describing the use of improper criteria in reviewing applications for tax-exempt status under section 501(c)(4). The changes we made in response to those recommendations include: eliminating the use of inappropriate criteria; implementing improved and expanded training for employees; expediting the processing of section 501(c)(4) applications; and establishing a new process for documenting the reasons why applications are chosen for further review, with appropriate oversight of the entire process.

In addition, the Department of the Treasury and the IRS followed TIGTA's remaining recommendation and began the process of drafting guidance on how to measure social welfare and non-social welfare activities of section 501(c)(4) organizations. In light of language in the appropriations legislation for FY 2016, the IRS halted work on those proposed regulations.

Along with responding to TIGTA's May 2013 report, the IRS also has been working to address the recommendations by this committee in its report issued last August. As we advised the committee in October, the IRS accepted all of the recommendations in the report that are within our control—those that did not involve tax policy matters or legislative action. They include 15 of the report's 18 bipartisan recommendations and also six of the recommendations in the separate sections prepared by the Majority and Minority. Moreover, I am pleased to report that the IRS has substantially completed action on all of these recommendations.

PLANNING FOR THE FUTURE OF THE TAXPAYER EXPERIENCE

Within our tight budget constraints, the IRS has also continued to analyze and develop plans for improving how the agency can fulfill its mission in the future, especially in delivering service to taxpayers and, along with that, maintaining a robust compliance program. Our goal is to improve and expand taxpayer services for all taxpayers, no matter what their circumstances.

In requesting adequate resources to allow the IRS to improve taxpayer service, it is important to point out that our goal is not to fund today's staff functions at historically high levels. We need to be, and are, looking forward to a new, improved way of doing business that involves a more robust online taxpayer experience. This is driven, in part, by business imperatives; when it costs between $40 and $60 to interact with a taxpayer in person, and less than $1 to interact online, we must reexamine how we provide the best possible taxpayer experience, in response to taxpayer expectations and demands.

The improvements we are planning are a natural outgrowth of modernizations made to our business systems over many years. These include the development and implementation of the Customer Account Data Engine 2 (CADE2), which allowed the IRS to migrate to daily processing and posting of individual taxpayer accounts, enabling faster refunds for more taxpayers, more timely account updates and faster issuance of taxpayer notices. Another advance put in place several years ago was Modernized e-File (MeF), which processes tax returns electronically in real time, rather than in several batches a day. MeF has reduced turnaround time, and allows acknowledgments to be sent much more quickly to those who transmitted the returns.

After years of study, and in response to taxpayer demand, the IRS has also worked to improve our website, *IRS.gov,* and to provide more web-based tools and services. These include the "Where's My Refund?" electronic tracking tool, which was used nearly 235 million times in FY 2015, and the IRS2Go smartphone application. In FY 2015, there were more than 2.3 million downloads of the application.

With regard to compliance programs, an excellent example of actions the IRS has taken to improve interactions with taxpayers involves our Large Business and International (LB&I) division. LB&I recently restructured its operations to center around issues, rather than organizations, which will focus resources to better meet taxpayers' evolving needs in a global environment.

An important change in the compliance area has been the development and phase-in of the Return Review Program (RRP), which delivers an integrated and unified system that enhances IRS capabilities to detect, resolve, and prevent criminal and civil tax non-compliance. Continued investment in the RRP will allow the IRS to retire the legacy Electronic Fraud Detection System (EFDS), and save between $10 million and $15 million a year.

Going forward, the IRS intends to further improve compliance programs through investment in an Enterprise Case Management (ECM) system, which will address the need to modernize, upgrade, and consolidate over 100 aging IRS case management systems. A unified case management environment will yield efficiencies by implementing standard case management functions, providing visibility across all types of tax transactions and improving data accessibility and usability.

Even with the improvements we have made and continue to make, we are at the point where we believe the taxpayer experience needs to be taken to a new level. Building on improvements made and new applications provided over the past 10 years, our goal is to increase the availability and quality of self-service interactions, which will give taxpayers the ability to take care of their tax obligations in a fast, secure, and convenient manner.

As I have discussed in numerous congressional appearances and speeches, the idea is that taxpayers would have an account with the IRS where they, or their preparers, could log in securely, get all the information about their account, and interact with the IRS as needed. Most things that taxpayers need to do to fulfill their obligations could be done virtually, and there would be much less need for in-person help, either by waiting in line at an IRS assistance center or calling the IRS.

As we improve the online experience, we understand the responsibility we have to serve the needs of all taxpayers, whatever their age, income, or station in life. We recognize there will always be taxpayers who do not have access to the digital economy, or who simply prefer not to conduct their transactions with the IRS online. The IRS remains committed to providing the services these taxpayers need. For example, while the IRS will continue to offer more web-based services, taxpayers will still be able to call our toll-free help lines or obtain in-person assistance if that is their preferred method of receiving service from the IRS.

A good example of our commitment to serving all taxpayers, whether or not they participate in the digital economy, involves the return filing process. While the number of taxpayers who e-filed their income tax returns exceeded 85 percent last year and is expected to do so again this year, millions of people still choose to file paper returns. The IRS will not leave any taxpayer behind as we move into the future and will continue to offer taxpayers who prefer filing on paper the option to do so.

In moving toward the future of taxpayer service, it is also important to note that actions the IRS takes to help taxpayers increasingly will have a positive impact in the enforcement area, and will in turn help improve voluntary compliance. An excellent example of such an action is the Early Interaction Initiative we launched last December to help employers.

Under this initiative, the IRS seeks to identify employers who appear to be falling behind on their interim employment tax payments before they file their annual employment tax returns. The IRS will offer helpful information and guidance through contacts such as letters and automated phone messages. In the past, the first attempt by the IRS to contact an employer having payment difficulties often did not occur until much later in the process, after unpaid tax obligations were already beginning to mount. This initiative is designed to help employers stay in compliance and avoid needless interest and penalty charges. You could call this initiative a form of improved taxpayer service, or a more efficient enforcement activity. We believe that it is both.

This initiative illustrates why I believe it is important to view taxpayer service and enforcement as two sides of the same coin. While the IRS collects $50 billion to $60 billion a year as a result of our enforcement operations, those numbers pale in comparison to the more than $3 trillion that is collected each year as a result of taxpayers voluntarily fulfilling their tax obligations. That is why we continue to be extremely concerned about the decline in both taxpayer service and enforcement as a result of the continued cuts in IRS funding. These declines threaten to undercut the basic voluntary compliance fabric of our tax system. If you consider that a 1-percent drop in the compliance rate translates into a revenue loss of approximately $30 billion a year, or $300 billion over the 10 year budget window often used, then declining voluntary tax compliance results in a cut to the funds the government needs to operate.

THE ADMINISTRATION'S FY 2017 BUDGET REQUEST

In preparing the FY 2017 budget request, the IRS's senior leadership recognized the need to prioritize funding of key activities that help support enhanced digital service delivery discussed earlier in this testimony, while preserving the agency's core mission functions. As a result, the IRS established a new investment process and created six key strategic themes that outline how the agency will execute tax administration to meet the needs of taxpayers in the future. IRS leadership set priorities for new investments based on how those investments align with these themes:

- Facilitating voluntary compliance by empowering taxpayers with secure innovative tools and support;
- Understanding non-compliant taxpayer behavior and developing approaches to deter and change it;
- Leveraging and collaborating with external stakeholders;
- Cultivating a well-equipped, diverse skilled workforce;
- Selecting highest-value work using data analytics and a robust feedback loop; and
- Driving more agility, efficiency and effectiveness in IRS operations.

Following from these themes, the administration's FY 2017 budget request includes a number of initiatives that provide the building blocks to move the IRS into the future. These initiatives represent a large portion of the increased funding requested in the IRS budget for FY 2017. They are as follows:

Additional funding to improve taxpayer service: $48 million. Under this initiative, the IRS will work both to improve taxpayer service delivered through traditional channels and continue modernizing the services we offer in order to help transform the taxpayer experience.

The additional staffing funded by these resources by itself will deliver phone level of service (LOS) for the full year on our toll-free helplines at 53 percent; if the President's Budget is enacted in full, the IRS will be able to combine this funding with additional resources through user fees to achieve a 70 percent LOS throughout the year. It is worth noting, however, that we expect to have the lowest user fee balance available for carryover into FY 2017 since FY 2008, meaning that we will not have that contingency available to boost service if other needs are not sufficiently funded.

In terms of modernizing the taxpayer experience, the additional funding will allow the IRS to continue moving toward the development of: secure online taxpayer accounts; secure online digital communications between the taxpayer and the IRS; and new web-based self-service products and more interactive capabilities to existing products, so that taxpayers would potentially be able to, for example, securely authenticate their identity, view and print tax records online, pay outstanding debts,

enter into installment agreements, establish powers of attorney, and get tax law information.

Taken together, these improvements will ultimately allow taxpayers to resolve more issues online, leaving our employees more time to support the transactions that are best completed by phone or in person.

Additional funding to continue implementing the Affordable Care Act: $153 million. The additional funding provided by this initiative, above current resources, will allow the IRS to develop advanced technology infrastructure and applications support and to modify existing IRS tax administration systems, so the agency can continue implementing the tax-related provisions of the ACA.

For example, the funds will improve the IRS's ability to: validate taxpayer claims for the premium tax credit; collect penalties, taxes and fees related to the ACA provisions that the IRS administers; and administer the individual shared responsibility provision. The additional funding also supports administration of the new reporting requirement for health coverage providers, as well as the employer shared responsibility provision, both of which took effect in 2015.

To further illustrate the importance of funding this initiative, I would note that over the last several years the IRS has had to divert resources from other critical functions, including taxpayer services and IT, and expend user fees to fund ACA implementation. In particular, these diversions have depleted user fees and made it difficult to use those fees to help fund core mission activities and other unfunded legislative mandates.

Additional funding to leverage new technologies to advance the IRS mission: $53 million. Under this initiative, the IRS will continue using new technologies to develop critical IT systems needed to support the IRS's taxpayer service and enforcement programs. This includes making improvements to such systems as CADE2 and MeF. The IRS will also be able to provide the necessary IT infrastructure to support efforts to improve the online taxpayer experience, including the infrastructure portions of secure digital communications and more interactive capabilities to existing web-based self-service products.

Another major component of this initiative is the implementation of the Event Driven Architecture (EDA) framework, which is designed to improve return processing by allowing the IRS to process and share data internally from returns more easily. Through the use of EDA, for example, returns with minor errors can be addressed at the time of filing. Implementation of EDA is a prerequisite for a number of planned improvements to the online taxpayer experience, including immediately notifying taxpayers of errors on a return as soon as it is filed, and allowing taxpayers to self-correct return errors through an online tool.

Additional funding to help prevent stolen identity refund fraud and reduce improper payments: $90 million. The IRS has made significant progress in combating stolen identity refund fraud over the last several years, though it has been a challenge to find the resources for investments in this area because of the ongoing cuts to our budget. We therefore appreciate the additional funding Congress approved for FY 2016 for cybersecurity and identity theft.

Nonetheless, the IRS needs to continue investing in resources and tools to stay ahead of criminals. The additional funding requested under this initiative will allow the IRS to invest in the additional staffing and technology to continue improving our efforts to: detect and prevent refund fraud related to identity theft; assist identity theft victims; and apprehend the criminals who perpetrate these crimes.

With this additional staffing, the IRS will be able to, for example: resolve taxpayer cases of tax-related identity theft more quickly, and expand the capacity of the IRS's Identity Protection Specialized Unit (IPSU) to handle additional cases; expand the IRS External Leads program, through which the IRS works in cooperation with financial institutions, state agencies and other external sources to recover fraudulent refunds; and do a better job of detecting prisoner refund fraud through the use of Prisoner Update Processing System (PUPS) data.

Technology investments under this initiative will allow the IRS to make a number of other improvements, including: reducing the use of Social Security Numbers (SSN) on IRS mailings to taxpayers; establishing a centralized fraud repository within the IRS to expand the agency's ability to identify significant tax cases and streamline and standardize the fraud referral process; and accelerating IRS access to employment tax data from the Social Security Administration (SSA).

Additional funding to improve electronic enterprise records management: $19 million. The additional funding provided under this initiative will allow the IRS to continue its efforts to manage official records more effectively through the implementation of new systems to maintain unified records of IRS policy, program and project development, and to create a unified searchable archive of IRS e-mails to avoid redundant archiving. By making these improvements, the IRS will be able to respond in a timelier manner to legal and congressional inquiries and requests under the Freedom of Information Act (FOIA). These improvements, which will be phased in over several years, will allow the IRS to more easily comply with various recordkeeping requirements under the Federal Records Act.

The investment-related increases I have just described must be viewed in the context of the overall budget request for the agency. The President's FY 2017 Budget provides $12.3 billion for the IRS, an increase of $878.5 million in investments and an additional $167 million in funding for inflation for a total of $1.045 billion over the FY 2016 level. This amount includes $11.8 billion in base discretionary resources and an additional proposed $514.7 million program integrity cap adjustment to support program integrity efforts aimed at restoring enforcement of current tax laws to acceptable levels and to help reduce the tax gap, which is the difference between taxes owed and taxes paid on a timely basis. This multi-year effort is expected to generate $64 billion in additional revenue over the next ten years at a cost of $18 billion over that 10-year period, thereby reducing the deficit by $46 billion.

Enactment of the program integrity cap adjustment proposal would facilitate funding for several initiatives, including the following:

Additional funding to strengthen enforcement programs: $399 million. This set of initiatives allows for investment to strengthen core enforcement programs to help the IRS improve the resolution of non-compliance with fairness and integrity. Budget cuts over the last several years have led to rising case inventories and call volumes, preventing the IRS from bringing into compliance taxpayers who fail to pay their tax debt, and reducing individual audit coverage to levels below 0.8 percent.

With this additional funding, the IRS will be able to: increase collection and audit coverage; conduct compliance activities related to FATCA; pursue employment tax noncompliance and abusive tax schemes; increase investigations of transnational organized crime; and develop a digital version of the Form 990, Return of Organization Exempt from Income Tax.

The investments made through this initiative will, for example allow us to: handle more than 30,000 additional collection cases; close more than 32,000 additional individual audits; expand the Automated Underreporter (AUR) program to process more than 400,000 additional cases; and implement a quality review program for penalty and interest.

Additional funding to maintain the integrity of revenue financial systems: $10 million. The current revenue financial systems do not use commercial software, so the IRS is reliant on internal resources to maintain them. This investment will merge multiple financial systems into one repository to ensure the integrity of the IRS's financial data and make necessary changes to ensure that systems comply with accounting standards and requirements. This will automate reconciliations of the IRS ledger systems and assist in the gathering of data to respond to audits by TIGTA and the Government Accountability Office (GAO). Savings and efficiencies will be achieved in future years through the reduction or elimination of the resources required to maintain the multiple systems supporting operational decision making and the financial audit. This will close a material weakness.

Additional funding for operations and maintenance of deployed Business Systems Modernization (BSM) projects: $92 million. The IRS receivesfunding for major IT modernization projects through the BSM appropriation, but BSM funds can only be used for developing new systems. Once development is completed, regular operations and maintenance begins, and the IRS is required to pay for this maintenance through its Operations Support appropriation. Since 2013, the IRS has incurred more than $95.5 million in unfunded increased annual requirements to its Operations Support appropriation as a result of BSM systems deployments. The additional funding requested partially restores the Operations Support base so that the funding will not have to be redirected from other areas to pay for the operation of deployed BSM projects. Resources will fund additional staff, hardware and software, and contractual services for these deployed systems.

LEGISLATIVE PROPOSALS TO IMPROVE TAX ADMINISTRATION

The IRS appreciates the actions taken by Congress last year to approve legislation designed to improve tax administration. These measures include: accelerated filing dates for information returns; allowing SSNs to be masked on W–2 forms and other information returns; creating a safe harbor for minor errors on information returns; and expanding the due diligence requirements for paid tax return preparers.

The President's FY 2017 Budget contains several additional legislative proposals that would further improve tax administration and enhance IRS operations. They include:

Streamlined critical pay authority. The IRS Restructuring and Reform Act of 1998 increased the IRS's ability to recruit and retain a small number of key executive-level staff by providing the agency with streamlined critical pay authority. This allowed the IRS, with approval from Treasury, to hire well-qualified individuals to fill positions deemed critical to the agency's success in areas such as international tax, IT, cybersecurity, online services and analytics support. This authority, which ran effectively for 14 years, expired at the end of FY 2013. The loss of streamlined critical pay authority has created major challenges to our ability to retain employees with the necessary high-caliber expertise in the areas mentioned above. In fact, there are only 10 IT senior executives and leaders hired under this authority remaining at the IRS and we anticipate there will be no staff left under critical pay authority by next year. The President's FY 2017 Budget proposes reinstating this authority.

Authority to expand the Taxpayer Identification Number (TIN) matching program. The IRS operates a voluntary program under which entities that issue payments subject to backup withholding can confirm with the IRS that the name and TIN of the person receiving the payment match the name and TIN on file with the IRS. Although IRS code section 6103 generally prohibits the IRS from disclosing taxpayer data, the agency is permitted to disclose this information to payers under authority of section 3406. But this authority only covers instances where payments are subject to backup withholding. The proposal would broaden the agency's authority to cover any situation where a person is required to provide the TIN of another person to the IRS.

Correction procedures for specific errors. The IRS has authority in limited circumstances to identify certain computation mistakes or other irregularities on returns and automatically adjust the return for a taxpayer. At various times, Congress has expanded this limited authority on a case-by-case basis to cover specific, newly enacted tax code amendments. The IRS would be able to significantly improve tax administration—including reducing improper payments and cutting down on the need for costly audits—if Congress were to enact the proposal in the President's Budget that replaces the existing authorities that specify specific tax code amendments with authority to correct specific errors instead. This would allow the IRS to fix errors where the IRS has reliable information that a taxpayer has an error on his/her return. Thus, for example, the IRS could use data from completed state tax return audits to adjust information on the federal return.

Authority to require minimum qualifications for return preparers. The proposal would provide the agency with explicit authority to require all paid preparers to have a minimum knowledge of the tax code. Requiring all paid preparers to keep up with changes in the Code would help promote high quality services from tax return preparers, improve voluntary compliance, and foster taxpayer confidence in the fairness of the tax system. It would thereby help the IRS to focus resources on the truly fraudulent returns.

Expanded electronic filing requirements for businesses. The proposal would require all corporations and partnerships with $10 million or more in assets to file their tax returns electronically. In addition, regardless of asset size, corporations with more than 10 shareholders and partnerships with more than 10 partners would be required to file electronically. Paid tax return preparers who expect to prepare more than 10 corporate income tax returns or partnership returns annually would be required to file these returns electronically. Additionally, all tax-exempt organizations required to file Form 990 series returns would be required to file electronically.

Chairman Hatch, Ranking Member Wyden, and members of the committee, this concludes my statement. I would be happy to take your questions.

QUESTIONS SUBMITTED FOR THE RECORD TO HON. JOHN A. KOSKINEN

QUESTIONS SUBMITTED BY HON. ORRIN G. HATCH

Question. Commissioner Koskinen, TIGTA recently made seven separate recommendations to the IRS, in a report dated December 22, 2015, regarding reliability of Federal Unemployment Tax Certification Files and Work Multi-State Cases. TIGTA indicated that a review of the data submitted by State Agencies identified that 49 of the 50 States, District of Columbia, and the U.S. Virgin Islands submitted data that contained formatting errors in one or more of the key data fields used in the IRS's automated comparison process. In fact, the report indicated that the IRS does not have a process to ensure that State certification data are even complete.

Additionally, the TIGTA report identified potential discrepancies for 3,729 multi-State employers totaling more than $200 million. What is more, the TIGTA review of FUTA discrepancy cases involving TY 2011 Forms 940 identified that the IRS incorrectly assessed 12,171 employers more FUTA tax than what the employer owed. The total amount of excess assessments exceeded $3.2 million. And these, Commissioner, are just a few highlights in a report totaling more than 30 pages.

Commissioner, while there were corrective action monitoring plan responses submitted by the IRS to this TIGTA report, I am curious why the IRS is apparently resisting some of these important changes and updates. For example under Recommendation #1, the IRS claims that lack of funds prohibit developing a process to identify errors in key data fields that have already been identified in this report. Has the IRS done a cost estimate of what it would cost to implement this recommendation? If so, what is the estimated cost of enacting this recommendation? Is there not some way to utilize the work already done by TIGTA to identify at least some of the errors materially affecting the calculation of allowed FUTA tax credit? And if the IRS has discovered a means of responding to the issue without increasing costs to taxpayers, would you please include that in your response? If not, when does the IRS anticipate having the funding available to address this recommendation?

Has the IRS done a cost estimate of what it would cost to implement this recommendation? If so, what is the estimated cost of enacting this recommendation?

Answer. The IRS has identified the information technology requirements to implement this recommendation and is in the process of completing a cost estimate. Funding was not available for additional programming due to budgetary constraints when this recommendation was made so the IRS did not commit to implementation. When the cost estimate is complete, we will determine the feasibility of implementing the recommendation. The 2017 President's Budget provides for modernizing many IRS systems, which would make it easier for IRS to address these types of data quality issues.

Question. Is there not some way to utilize the work already done by TIGTA to identify at least some of the errors materially affecting the calculation of allowed FUTA tax credit?

Answer. The IRS is using the information provided by TIGTA regarding the incorrect FUTA tax assessments that resulted from programming errors: (1) Actions are currently being taken to correct these accounts and notify taxpayers of the corrective action; (2) Additionally, changes to existing programming have been identified and corrections were submitted to Information Technology in a Unified Work Request.

Question. And if the IRS has discovered a means of responding to the issue without increasing costs to taxpayers, would you please include that in your response? If not, when does the IRS anticipate having the funding available to address this recommendation?

Answer. The IRS Information Technology organization is developing the requirements that will determine the cost of the changes necessary to improve the up-front validation process of State certification data files. We will pursue cost effective programming changes to the extent we are able, but continued funding constraints mean that we cannot provide an implementation date.

QUESTION SUBMITTED BY HON. ORRIN G. HATCH AND HON. RON WYDEN

Question. In Western States, appropriative water rights derive from beneficial use and are fundamentally state-defined real property rights, and they are independent and separate from the land. Entities or persons possessing these rights are able to purchase, lease, or donate them in the stream of commerce. Management and transferability of western water rights are important to economic vitality in the West, where growing municipalities, new businesses, and regional quality of life depend on viable water supply.

The lack of published guidance over the tax deductibility of donations or bargain-sold water rights has created ambiguity and uncertainty, diminishing potential donations of water rights and stymying the many benefits of those transactions. Clarification on this issue by the Internal Revenue Service (IRS) will enhance the critical role of private conservation stewardship, which aids the efforts of charitable organizations working for sustainable water supplies.

In light of the need for clarity regarding the federal tax deductibility of a contribution of an appropriative water right to a charitable organization, will you commit to directing the IRS and other appropriate officials within the Treasury Department to publish guidance on the deductibility of a contribution of both: (1) an entire interest of an appropriative water right, and (2) an "an undivided portion of the taxpayer's entire interest" in an appropriative water right under the Internal Revenue Code Section 170(f)(3)(B)(ii)?

Answer. Generally, a donor can claim a section 170 deduction for a contribution of real property to a charitable organization if the donor contributes its entire interest in the property, or an undivided portion of the donor's entire interest in the property, and it satisfies other requirements in section 170. In many Western States, state law treats water rights as separate interests in real property. Whether a taxpayer may claim a section 170 deduction for a charitable contribution of an appropriative water right depends on applicable state water rights law and various facts and circumstances.

We understand that guidance in this area is important to taxpayers in Western States. We have participated in numerous meetings with outside stakeholders and personnel from the Treasury Department, the Department of the Interior, and the Council on Environmental Quality to better understand the issue. States have created and implemented a considerable body of law relating to the transfer, permitting, and use of appropriative water rights that is unique to each state. The lack of uniformity in the state laws regarding water rights raises challenges in the development of general guidance that will be useful and equitable for the array of taxpayers across the Western States.

Given the importance of this issue to taxpayers in Western States, we will continue working with our colleagues in the Treasury Department to develop meaningful guidance in this area and will recommend including this guidance project on the Treasury Department's Priority Guidance List for the 2016–2017 fiscal year.

QUESTIONS SUBMITTED BY HON. RON WYDEN

Question. Nina Olson, the National Taxpayer Advocate, has raised concerns about the IRS moving to provide more online services. One of her main concerns is by doing so, the IRS will decrease telephone and in-person services. There is also concern about identity theft and the security of the system.

Please tell us your plans for the future state of the IRS.

Answer. Taxpayers expect to be able to interact with the IRS the same way that they interact with their banks and financial institutions. The IRS future state will meet this expectation by making services quickly, consistently, and securely available online. The IRS will continue to offer individuals the option of interacting with us over the phone, in person, or by mail. Better and more widely available self-service options will free up in-person resources and enable shorter wait times, greater availability, and improved quality for those taxpayers who choose conventional service options.

The IRS remains committed to servicing the needs of all taxpayers.

A cornerstone of the future state is for taxpayers to have an account at the IRS where they, or their authorized representatives, can log in securely, get information about their account, and interact with the IRS as needed. Under the future state,

most things that taxpayers need to do to fulfill their federal tax obligations could be done virtually, and there would be much less need for in-person help, either by waiting in line at an IRS assistance center or calling the IRS.

The future state also includes efforts to make IRS interactions with taxpayers about anomalies or potential noncompliance more timely, which means identifying issues earlier, contacting taxpayers sooner, and resolving issues faster. This would be accomplished in part through a more robust anomaly detection capability that leverages available information, historical patterns, service and enforcement results, and established precedents. Once it is determined that taxpayer contact is warranted, taxpayers could be informed, either through their account or other communications and outreach channels, and would be afforded the opportunity to self-correct errors, provide additional information, or explain the anomaly. Self-correction and early opportunities to provide additional information and explain anomalies could help reduce contentious compliance issues in later years.

Question. What's your time frame for implementation and changes?

Answer. It's important to note that our future state development is an evolutionary process that began over 10 years ago. We have already taken steps toward implementation of the future state, including expansion of our website, *IRS.gov,* which receives nearly 400 million hits a year, development of self-service online applications such as "Where's My Refund?", which received about 280 million hits this filing season, and providing access to other services online, such as installment agreements, offers in compromise, and direct payment of tax obligations. To move this process forward, we recently formed seven initiative groups made up of individuals from various offices within the IRS to develop plans to deliver the capabilities and functionalities necessary to get us to the envisioned future state. These planning efforts, which are expected to take several months, will help identify the prioritization, sequencing, dependencies, and other needs to get from our current state to the envisioned future state. We are also consulting with our stakeholders to ensure that the Future State addresses taxpayer needs and concerns. The next update to the IRS Strategic Plan, covering FY 2017 through FY 2021, will include information developed by these groups. How far and how fast we can go toward the envisioned future state will be, in part, dependent on our ability to make the investments in people, process and technology needed for implementation.

Question. What type of resources are needed for these plans?

Answer. For this future state to become a reality, we must have sufficient budgetary resources to invest in the right information technology building blocks along with the right skills and alignment for our workforce to effectively apply the technology. Adequate funding for these building blocks is necessary to provide a vastly improved experience for taxpayers and increase the efficiency and effectiveness of IRS services and enforcement actions. The 2017 Budget includes funding for online accounts to modernize and improve self-service options for individual taxpayers, and ultimately business and international taxpayers, by creating an integrated and easy-to-use source for timely, accurate, and consolidated tax filing and tax account information as well as up-front error resolution. Here are some of the key building blocks of the improved taxpayer experience we envision that the future state will allow the IRS to deliver.

THE BUILDING BLOCKS TO ACHIEVE THE FUTURE STATE

Virtual Taxpayer Assistance Center

One of the central components of the future state vision is a taxpayer account. In the virtual taxpayer assistance center, taxpayers would be able to access and control their account information. They would be alerted to updates via their preferred communication channel. Taxpayers and, if permitted by the taxpayer, their representatives could be able to see in their account history, return and refund status, amounts due, payment confirmations, letters mailed, and completed actions on a taxpayer's account. We plan for the virtual taxpayer assistance center to include easy-to-use self-service tools for taxpayers and their representatives, with clear instructions on how to resolve most errors and issues, resolve issues with refunds, view amounts due, and make payments if needed. Taxpayers under an examination would be able to upload information directly to the virtual taxpayer assistance center to more efficiently communicate with agents. As a result of these self-service options made possible by the virtual taxpayer assistance center, phone calls or correspondence would not be needed as often to handle these account issues for taxpayers who are comfortable interacting with the IRS online. The IRS will continue to fully support traditional communications channels, including phone support, mail

correspondence, and walk-in assistance, but demand is expected to decrease as more taxpayers interact with the IRS online.

Identity Authentication

While we have made significant strides in protecting taxpayers' information, we continue to look for ways to expand our capabilities to authenticate taxpayer identities and secure their data to ensure a secure environment to interact with taxpayers online and on mobile devices. Taxpayers deserve to have confidence in the security of their information, and adoption of technology to ensure identity authentication being implemented today and in the future will help the IRS deliver secure access whenever and wherever taxpayers need it, including access to the virtual taxpayer assistance center. IRS recently made available a new capability, secure access, which allows taxpayers to securely authenticate and conduct business with the IRS online. The Get Transcript application, which allows taxpayers to access their tax return information online, is once again available for use by taxpayers who establish accounts using secure access. This application is the first of many IRS hopes to make available to taxpayers so they can securely interact with IRS online and feel confident in their transactions.

Up-Front Issue Identification

Establishing ways for IRS to find errors and issues during filing and provide a means to resolve them soon after they are discovered would be central to the power of the virtual taxpayer assistance center. This is in contrast to today, where it takes a significant amount of time for the IRS to identify issues and contact the taxpayer, meaning that resolution is also delayed. Up-front issue identification would allow the IRS to sift through huge amounts of return information and identify errors and anomalies on tax returns at the time or soon after taxpayers file their returns. Early identification of errors and anomalies would not only accelerate resolution of issues with legitimate taxpayers, it would also help the IRS take immediate actions that are beneficial to taxpayers, such as keeping a false refund out of the hands of an identity thief or finding an unclaimed tax credit on the taxpayer's return. With this up-front issue identification capability, the IRS would be able to assure more taxpayers that they will not have future contact from the IRS regarding issues on that return.

Newly enacted legislation and better access to data sources will help us detect issues earlier in the filing season, such as recently enacted acceleration of the due date for filing Form W-2 information with the IRS, which assists in validation of income reporting. Other statutory changes and access to other data sources would also be helpful to authenticate taxpayer submissions and protect against identity theft and refund fraud, such as easier access to the National Directory of New Hires and enhanced math error authority to correct specific errors using reliable government data.

End-to-End Taxpayer Experience

Under the future state, we would be building integrated case management capabilities to ensure that taxpayers experience seamless interactions with us, no matter which of our employees or teams is working on their issue. An integrated case management capability would allow us to move information to and among the right workgroups. It would also allow us to have multiple expert employees work on complex audits.

Expanded Data Analytics Capabilities

With the expanded use of data analytics envisioned under the future state plan, the IRS could continuously improve the taxpayer experience, enhance our compliance efforts, and learn as much as we can from tests and data. Data analytics enables the IRS to improve the efficiency and effectiveness of our interactions. Through expanded use of data analytics, we would get early warning of new tax compliance issues and could help taxpayers avoid issues, confusion, or misunderstanding of the tax laws before errors are made. Expanded use of these data analytics capabilities will also allow us to work with tax software providers and return preparers to identify and implement technology solutions to reduce taxpayers' mistakes. During an audit, expanded use of data and data analytics would help us better identify issues to avoid wasting the taxpayer's and IRS's time working on the wrong issues. The future state itself would not be possible without these expanded data analytics capabilities.

QUESTIONS SUBMITTED BY HON. ROB PORTMAN

ACA REPORTING REQUIREMENTS FOR BUSINESSES; REPORTING HEALTH COVERAGE INFORMATION ON IRS FORMS 1094–B/1095–B AND 1094–C/1095–C

Question. Senator Warner and I have been working with your office to ensure the employer reporting requirements, as mandated by the Affordable Care Act, are not overly burdensome—and that your agency will collect useful information rather than rushed information that would possibly need to be re-submitted. Our constituents appreciate the extra time provided by the automatic extension, but we think more should be done to simplify the reporting process.

Can you provide further detail on the reason(s) why these deadlines were extended? Was the extension motivated by concerns that the IRS will be unable to process the Forms the agency will receive electronically or on paper? Under what circumstances will the IRS further extend these deadlines, if at all?

Will you personally commit to working with me on my bill to achieve a streamlined and simplified reporting approach that also ensures your agency gets the information needed?

Answer. Notice 2016–4 extended the deadlines for furnishing the statements and filing the returns required by sections 6055 and 6056 of the Internal Revenue Code. As noted in the Notice, the Service has been prepared to accept returns for filing since January 2016, and in fact has been processing returns since that time. Following consultation with stakeholders, however, Treasury and IRS determined that some employers, insurers, and other providers of minimum essential coverage needed additional time to adapt and implement systems and procedures to gather, analyze, and report this information to the Service, and to furnish the required information to employees and covered individuals. In addition to consultation with stakeholders, the Service received hundreds of written requests to extend the furnishing and filing deadlines. Notwithstanding the extensions provided in the notice, employers and other coverage providers were encouraged to furnish statements and file the information returns as soon as they were ready, and coverage providers have been doing so since mid-January.

I am committed to working with you to explore simplified reporting methods that ensure the Service gets necessary information to enforce the applicable provisions of the Code. The IRS supports simplification efforts that reduce taxpayer burden, and we would be happy to work with you or your staff in determining the implications of simplification to IRS operations. As always, changes to existing IT systems would require adequate resources to implement those changes within a reasonable period of time.

EMPLOYER REPORTING REQUIREMENTS

Question. The ACA reporting requirements compel employers to report significant amounts of data detailing information about employees, their health plans and who had access to employer sponsored insurance to the IRS after the end of each year. This information will be used to levy the individual mandate penalties. It will also be used to levy penalties on low-income workers who were erroneously granted an advanced premium tax credit by the Exchanges when the employee had an existing offer of employer-sponsored insurance.

Unfortunately, because employers are reporting information on the availability of employer-sponsored insurance up to 17 months after the exchange granted the erroneous advanced premium tax credit—these lower-income employees could be left with a shocking tax bill over a year and a half later.

When will the IRS notify individuals of their potential tax liability?

Answer. As you know, applicable large employers (ALEs) must report to the IRS information about the health care coverage, if any, they offered to full-time employees. ALEs are also required to furnish a statement to each full-time employee that includes the same information provided to the IRS. The IRS will use this information to administer compliance with the employer shared responsibility provisions and the premium tax credit provisions. Individuals who purchased health insurance coverage through the Marketplace may use this information to verify their eligibility for employer-sponsored coverage. Like other information reporting, this information is provided after the conclusion of the year, reflecting that coverage may change over the course of the year.

Tools are used to help employers determine whether an individual enrolling in Marketplace coverage is eligible for employer-sponsored coverage.

For example, starting in 2016, the Federally-facilitated Marketplace (FFM) will notify certain employers whose employees enrolled in Marketplace coverage with advance payments of the premium tax credit (APTC) because the employee attested that he or she was neither enrolled in employer sponsored coverage nor eligible for employer coverage that is affordable and meets the minimum value standard. The FFM will send notices to employers if the employee received APTC for at least one month in 2016 and if the FFM has a complete address for the employer. Employers receiving this notice may appeal the Marketplace's eligibility determination.

APTC eligibility is based on the Marketplace's estimate of the premium tax credit the individual will be able to take on his or her tax return. If APTC is paid for an individual or a member of his or her family, the individual must reconcile (or compare) the APTC paid during the year with the actual premium tax credit for which the individual qualifies at the time the individual files his or her tax return. If the APTC is more than the premium tax credit, the individual must repay the excess APTC, which occurs as part of the individual's tax filing process. However, the amount that an individual is required to repay may be limited based on the individual's household income and filing status. Individuals calculate the amounts they are owed or owe a result of reconciliation on their tax returns. The IRS compares the information on the tax returns with information reported by the Marketplaces to verify the taxpayers' calculations and eligibility for the premium tax credit.

Question. Wouldn't it help low-income individuals and improve tax administration if the Administration used up-to-date information about the availability of employer-sponsored insurance at the time individuals were applying for tax credits rather than 17 months later?

Answer. The question of whether this data would be useful in determining eligibility for the advance premium tax credit (APTC) at the time an individual enrolls in Marketplace coverage is a question best addressed to CMS. As to whether this data would be useful in determining eligibility for the premium tax credit at the time the taxpayer files his or her income tax return, it generally would not. Knowing whether an individual had access to employer-sponsored coverage at the time a tax return is filed is not sufficient information to help either taxpayers or the Service determine eligibility for the premium tax credit (PTC) as it would not include information about affordability and minimum value. The general rule is that individuals are not eligible for the premium tax credit if they are eligible for employer-sponsored coverage that provides minimum value and is affordable. Whether available employer-sponsored coverage is affordable or provides minimum value is determined at the time of enrollment in Marketplace coverage, and the Service's rules and instruction provide a safe harbor for taxpayers who provide accurate current information on their Marketplace application. The instructions for Form 8962 and Publication 974 explain this process. The instructions tell taxpayers, "Employer-sponsored coverage is not considered affordable if, when you or a family member enrolled in a qualified health plan, you gave accurate information about the availability of employer coverage to the Marketplace, and the Marketplace determined that you were eligible for APTC for the individual's coverage in the qualified health plan." Pub. 974 expands on that statement and provides six examples to help taxpayers determine whether available employer-sponsored coverage was affordable at the time of enrollment.

ACA TAX CREDIT NOTICES

Question. Obamacare requires HHS to send a notice to an employer when an employee is deemed eligible for an advanced premium tax credit. These notices are important because they allow employers to warn employees that they may be subject to a surprising tax bill when the employer has already offered the employee health coverage.

Would a more up-to-date and substantiated data base help decrease the number of erroneous advanced premium tax credit determinations?

Employers expected to receive notices beginning in 2015. What date will you begin sending employers notices so they can help their low income workers avoid unexpected tax penalties?

Answer. HHS is best able to answer these questions. The 2016 Employer Notice Program is described here: *https://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/Employer-Notice-FAQ-9-18-15.pdf.*

ENROLLED AGENT FEE INCREASE

Question. The Service is proposing to increase its user fee for the enrolled agent Special Enrollment Exam from $33 to $297, bringing the total cost of taking the exam cost close to $600. Isn't such a large increase unprecedented, and won't it act as a deterrent to increasing the number of enrolled agents?

The proposed regulations are rather opaque on why the sudden increase. Could you provide me with details on how the IRS arrived at this figure?

IRS suggests in the proposed regulations that part of the reason for the increase is that the number of tests administered annually is much lower than originally forecast—the difference is 34,000 v. approximately 20,000. What has IRS done to encourage unenrolled preparers to take the enrolled agent exam?

In the wake of the *Loving* decision, why did the agency choose to create the Annual Filing Season Program Record of Completion, which is not a credential at all, rather than promote its own existing enrolled agent credential? Encouraging more preparers to take the comprehensive enrolled agent exam just seems like a better investment for taxpayers.

Answer. Per OMB Circular A–25, the IRS is required to recover the full cost for user fee programs, unless there is a waiver granted by OMB to charge less than full cost, which in some cases is a waiver of the fee entirely. As required by OMB Circular A–25, the IRS reviews biennially its user fee programs and recalculates the full cost to the agency of providing the services subject to those fees. Through the IRS's 2015 review of the Enrolled Agent (EA) program, the IRS determined that the current testing fee of $11.00 per part does not reflect the costs to the agency of providing, maintaining and monitoring this testing program. In order to comply with Circular A–25, which requires the IRS to charge a user fee that reimburses the full cost of the service, the IRS proposed increasing the testing user fee.

The EA is a nationally recognized credential for tax professionals. The proposed increase to the testing user fee is not inconsistent with the testing costs for securing other professional credentials. Based on our research, the average cost for state bar exams and certified professional accountant exams are consistent with the proposed EA testing fee, but with the EA testing fee at the lower end of this spectrum. For example, in Ohio it costs $743 to take all four parts of the Uniform CPA exam, plus a $140 application fee. The costs for the state bar exam totals $737.

Any fee increase to any program may, of course, deter some from participating in the program. The user fee for Special Enrollment Exam for EAs, however, has remained consistent for 10 years at a level below the full cost to the IRS. The low agency testing fee alone has not caused large numbers of individuals to sit for the test. The number of parts of the EA test taken each year has also been very consistent, which reflects the fact that the EA designation is respected as a credential that may only be obtained by those who are highly qualified and who pass the examinations. The fact that applicants must engage in significant preparation for and pass a rigorous examination likely limits the number of EA test takers, regardless of the fee. In calendar year 2013, there was an increase in the number of EA test applicants following the announcement of the mandatory Registered Tax Return Preparer test. The increase in those numbers immediately declined in 2014 following the appellate decision in *Loving v. IRS.* The rollout of the Annual Filing Season Program and the promotion of both the Annual Filing Season Program and the EA program by the IRS (see below) again resulted in a spike in interest in the EA exam in 2015.

Question. The proposed regulations are rather opaque on why the sudden increase. Could you provide me with details on how the IRS arrived at this figure?

Answer. The current user fee proposal is consistent with OMB Circular A–25, which requires calculating both direct and indirect costs associated with the testing program. The proposed user fee reflects the estimated salary and benefits of 6.4 full time equivalent positions used to carry out the various activities or benefits necessary to deliver the testing program. It also reflects the indirect costs that are applied to labor and benefits costs as a corporate overhead factor. The overhead factor is used to allocate to the testing program a share of the organizational expenses that are commonly consumed by multiple business unit activities, but that are not

specifically identifiable to any one activity or program. The overhead factor includes costs for services such as:

- General management and administration services
- Facilities management and ground maintenance services (rent, utilities, security and building maintenance)
- Procurement and contracting services
- Financial management and accounting services
- Information technology services
- Research, analytical and statistical services
- Human resources and personnel services, etc.

As background checks for the employees of the vendor providing the testing are required, these costs are also amortized into the proposed user fee.

The projected total cost of the program for a 3 year period, which includes all the elements above, is then divided by the number of tests estimated to be delivered over that same period to determine the proposed user fee.

Question. IRS suggests in the proposed regulations that part of the reason for the increase is that the number of tests administered annually is much lower than originally forecast—the difference is 34,000 v. approximately 20,000. What has IRS done to encourage unenrolled preparers to take the enrolled agent exam?

Answer. The IRS is fully committed to the EA program, and we have and will continue our efforts to encourage participation.

In the last year alone, the IRS Return Preparer Office made 19 presentations to preparer groups, all of which started with a description of the EA program as an elite professional status with unlimited representation rights, included a discussion of the benefits of the EA program, explained the requirements for becoming an EA and concluded with an endorsement of the program for all non-credentialed preparers holding themselves out as tax professionals. We distributed approximately 20,000 EA brochures at the IRS Nationwide Tax Forums and other events in the past year, provided staff for a minimum of 2 of the 3 days at each Forum to address any questions that preparers may have about the EA program, and encouraged non-credentialed preparers to consider the benefits of the EA credential in the 10 Forum cities in the last 2 years. In our promotional e-mail communications to non-credentialed preparers, 390,000 tax return preparers received information about the EA program and its benefits.

We also established a toll free telephone line for EAs and applicants of the program. We have ensured that EAs receive printed certificates and enrollment cards reflecting the elite status of their credential so that taxpayers and other tax professionals can readily identify an EA and possibly aspire to that same status. We also deployed new Preparer Tax Identification Number (PTIN) identity monitoring functionality and made it available only to the EA community during the last two filing seasons. As part of a pilot program, EAs preparing 50 or more 1040 returns were provided access to information on the number of tax returns processed by the IRS with their PTIN. This allowed EAs to determine and report possible misuse of their PTINs. We welcome ideas about other ways we could promote this program.

Question. In the wake of the *Loving* decision, why did the agency choose to create the Annual Filing Season Program Record of Completion, which is not a credential at all, rather than promote its own existing enrolled agent credential? Encouraging more preparers to take the comprehensive enrolled agent exam just seems like a better investment for taxpayers.

Answer. As indicated above, the IRS has taken steps to promote the Enrolled Agent credential and encourage unenrolled preparers to apply for the EA credential. Enrolled Agents make up about 7% of all active return preparers (50,000) and they prepare about 12% of all tax returns prepared for a fee. The EA program has been in existence since 1959 and the number of active enrolled agents has consistently been at or around 50,000 for a number of years. Last year more than 150 million individual tax returns were filed and over half that number were prepared with the help of a paid tax return preparer. Of the over 700,000 individuals with a PTIN, 60% are non-credentialed preparers. The fact that EA enrollment has remained constant, attracting and maintaining on average 50,000 practitioners each year, demonstrates that it is unlikely that this program is going to attract substantially larger numbers of participants in the near term. In addition, we believe that the existence of the Annual Filing Season Program has resulted in increased interest in the EA program, which has resulted in applicants taking an additional 2,000 parts of the

EA test in 2015. The increased numbers for EA testing were about the same during 2013 when the mandatory competency testing program was in existence.

There may come a time when all tax return preparers aspire to be elite tax professionals like Enrolled Agents and when the market will demand such credentials, but that is not the situation today. While we continue to advocate for authority to require that all tax return preparers meet minimum standards of competency, we have a responsibility to taxpayers and our tax system to keep moving forward under existing authority with efforts to improve the quality of tax return preparation. The Annual Filing Season Program is an interim step in that forward path. While the Annual Filing Season Program does not provide participants with an elite professional credential, it is an incentive program to encourage non-credentialed tax return preparers to improve their knowledge of federal tax law and filing season requirements through continuing education, enabling them to better serve taxpayers.

BUSINESS EXAMINATIONS

Question. The IRS recently announced a sweeping reorganization of its Large Business and International Division including significant examination process reforms. We've heard from many taxpayers that this reorganization will make it difficult to complete an examination, and that exams could drag on for years. Officials with the IRS have publicly stated that timely closure of audits is a lower priority under the reorganization. Are you open to discussing these examination process reforms with the taxpayer community before you complete this sweeping reorganization?

Answer. The Large Business and International Division of the IRS (LB&I) is making significant changes to streamline post-filing examinations to focus resources strategically on the complex issues we encounter with our taxpayer base. LB&I recently initiated a new examination process to replace the former Quality Exam Process for cases starting as of May 1. For cases already in progress as of May 1, LB&I will adopt the changes to the execution and resolution phases of the exam process.

The LB&I Exam Process (LEP) was jointly developed with external stakeholders such as the American Institute of Certified Public Accountants and the Tax Executives Institute and includes significant input from the LB&I workforce. It is based on best practices of examination teams observed during peer reviews. LEP establishes roles and responsibilities for both LB&I examiners and taxpayers and sets specific expectations with respect to claims for refund. Under the new process, once LB&I determines the issues to be examined, it will work together with the taxpayer to establish effective steps to complete the examination in a timely manner. Case timelines will be determined by the most complex issues. The new issue development process relies on active dialogue and fact sharing between the taxpayer and LB&I. Both LB&I and the taxpayer are expected to make a clear commitment of resources to be provided to achieve the established case and issue timelines. One of the goals of the LEP is for both the taxpayer and LB&I to achieve tax certainty at the earliest appropriate point by reaching agreement on the tax treatment of each issue examined and resolving tax controversies. These changes to the examination process are incorporated in the recently released Publication 5125 and IRM section 4.46. As reflected in the changes to LEP discussed above and the process by which they were developed, LB&I will continue to maintain an open, transparent relationship with stakeholders and will endeavor to do so into the future.

Question. Since 1996 (§ 1003 of TBOR2, Pub. L. No. 104–168), the IRS has been required to submit a report each year to both the Senate Finance Committee and the House Ways and Means Committee on the number of designated summonses issued under section 6503(j) of the Internal Revenue Code. We have been unable to locate any such report. Have any such reports been issued, and if not, would you please provide this information to the committee for each year since and including 1996?

Answer. During the period 1995 through 2015, only three designated summonses were issued and they were issued in 1996, 2013, and 2014. The first annual report was issued on February 8, 2016. We are not aware of any prior annual reports.

Question. There are press reports that the IRS has hired an outside law firm by the name of Quinn Emmanuel to assist the IRS in auditing U.S. taxpayers. I don't recall that the IRS has ever outsourced the audit of an American taxpayer to a private law firm. Could you tell me if an outside law firm has ever before been hired to audit a private taxpayer? Have you hired Quinn Emmanuel or any other law firm to participate in the audit of any other taxpayers? Could you tell us how much you

have paid the law firm of Quinn Emmanuel to assist you with IRS audits to date and how much you may pay them if that audit actually goes to trial? Could you tell this committee the hourly billing rates that are charged by Quinn Emmanuel to the American taxpayers? Do you intend to renew this contract?

Answer. The IRS typically hires expert contractors such as economists and industry experts and, on occasion, it has also hired attorneys where there is an issue of foreign law, state law, or non-tax subject matter law (*e.g.,* intellectual property or food and drug law) that requires specialized expertise that either is not found within the IRS or is limited and must be supplemented to effectively scrutinize an issue. It is important to emphasize that the IRS is not outsourcing the audit of taxpayers when it hires experts to assist it in an audit; those contractors hired do not conduct the audit of the taxpayer but simply provide support to the IRS employees managing the audit. We are unable to respond to questions concerning the examination of any particular taxpayer because of the restrictions in I.R.C. § 6103.

Question. Businesses tell us that the IRS has been using tactics, such as designating cases for litigation and issuing immediate statutory notices of deficiency, to prevent taxpayers from going to the IRS Appeals Office. These tactics also impede taxpayer rights under our international treaties to engage the "competent authority" process which is designed to avoid double taxation of income by the U.S. and another country. When the IRS choses to go straight to litigation rather than allow the IRS Appeals Office to review a case before going to litigation or to block a taxpayer from the competent authority process, please provide to me the estimated additional cost to the IRS of resolving a case in litigation versus the cost of using the IRS Appeals Office or competent authority to resolve a disagreement.

Answer. The procedures for designating an issue for litigation are set forth in the IRS Chief Counsel Directives Manual (CCDM) 33.3.6. These procedures have been in the CCDM since at least 1993. See 35.3.14.2 (2000) (amending CCDM provisions from 12–08–1993). The procedures are used when there is a critical need for enforcement activity with respect to such issues. Cases are designated for litigation in the interest of sound tax administration to establish judicial precedent, conserve resources, or reduce future litigation costs for the Service and taxpayers. We do not perform a comparative analysis of how much it costs to litigate a case versus to settle a case at Appeals. This analysis should not be done on a case-by-case basis because designation is meant to develop precedent that can be used to resolve other cases. When viewed from that perspective, the designation process was designed as a resource and cost saving measure. Moreover, even if a case proceeds to litigation, a taxpayer still has the ability to use the competent authority process to relieve double taxation after the Court has rendered a decision.

Question. Staying on the concept of cases being "designated for litigation," as I understand the concept, it means that there is precedential value for both the IRS and a class of taxpayers if the case is resolved through a court ruling, rather than through the IRS Appeals Office. Can you explain to me how large a class of taxpayers you think would generally warrant designating a dispute for litigation? When are taxpayer informed that an issue is being designated for litigation by the IRS?

Answer. Certain cases present recurring, significant legal issues affecting large numbers of taxpayers. In addition, cases are designated for litigation in the interest of sound tax administration to establish judicial precedent, conserve resources, or reduce litigation costs for the Service and the taxpayers. In considering whether a case should be designated under this framework, a variety of factors are considered, including but not limited to: the absolute number of cases that the IRS is aware of involving the issue, the potential number of taxpayers that could be affected by the issue in the future, the significance of the issue for overall tax enforcement, the size of the particular adjustments in those cases and the litigation costs associated with such cases, and the overall impact to the government's budget. As to the timing of designating a case for litigation, IRS Counsel can designate a case for litigation while the case is in examination, appeals or even after the case has been docketed. The time of notice to the taxpayer regarding designation depends upon whether the case is in examination, appeals or docketed for litigation. In accordance with the CCDM, the taxpayer is notified by IRS personnel of the proposal to designate the case for litigation and the reasons for the proposed designation. The taxpayer is also notified that its views on the proposed designation may be presented, in a meeting, to IRS personnel and Counsel.

QUESTIONS SUBMITTED BY HON. DEAN HELLER

Question. Public trust is crucial to the IRS's success. Would you agree? At the Finance hearing with Treasury Secretary Lew, I asked him about the IRS's abysmal service record answering taxpayer's phone calls. As many of my fellow colleagues have said, this past tax season, the IRS provided "the lowest level of telephone service during fiscal year 2015," with only 38 percent of callers able to reach an IRS representative. Additionally, the IRS has not developed any plans, which we as lawmakers are aware, for a comprehensive customer service strategy to address these problems.

Answer. I agree that public trust is critical to the IRS's success. Additionally, I share your dissatisfaction with the level of service provided to taxpayers during 2015. As you know, our appropriation for fiscal year 2015 was $346 million less than the previous year's appropriation. Additionally, we absorbed approximately $250 million in unfunded inflationary costs because of mandatory pay raises, benefits, and non-labor cost increases. Combined, this deficit of nearly $600 million required us to scale back activities across the agency. Telephone level of service has improved substantially in 2016 as a result of increased funding provided for that purpose, but is still unacceptably low. The IRS achieved a telephone level of service of more than 70 percent during filing season but expects the level of service to dip to 47 percent for the full year.

The IRS's customer service strategy is embedded in the IRS future state plans. Taxpayers expect to be able to interact with the IRS the same way that they interact with their banks and financial institutions. The IRS future state will meet this expectation by making services quickly, consistently, and securely available online. The IRS will continue to offer individuals the option of interacting with us over the phone, in person, or by mail. Better and more widely available online self-service options will free up in-person resources and enable shorter wait times and greater availability when taxpayers choose conventional service options. The IRS remains committed to servicing the needs of all taxpayers.

A cornerstone of the future state is for taxpayers to have an account at the IRS where they, or their authorized representatives, can log in securely, get information about their account, and interact with the IRS as needed. Under the future state, most things that taxpayers need to do to fulfill their federal tax obligations could be done virtually, and there would be much less need for in-person help, either by waiting in line at an IRS assistance center or calling the IRS.

As we are moving toward this future state, we continue to adjust and innovate in response to customer behavior and available technological advances to improve the taxpayer experience and increase security. We will continue working on improving the taxpayers' experience by providing greater access through use of web applications. We recently began offering scheduled appointments at our Taxpayer Assistance Centers (TAC) to decrease wait times. Our experience with the TAC appointment test indicates that up to 60% of customers calling for an appointment determined that it was not necessary once we explained how easily help was available on *IRS.gov* or the customer service representative resolved their issue over the phone. For most taxpayers, immediate answers and resources are available on *IRS.gov* and the IRS2Go mobile application.

Question. I asked Secretary Lew what his expectation of IRS telephone service level should be. I want to ask you as well. What is the threshold you want to meet this tax filing season?

Answer. This filing season taxpayers were able reach us more quickly, and with significantly fewer disconnects due to system overloads. In particular, we expect to achieve a level of service of 47 percent for the FY 2016 full year, but this level is still unacceptably low. We achieved a telephone level of service greater than 70 percent during this filing season, which is a significant improvement over the 37 percent level during the last filing season. This improvement was made using the additional $290 million that Congress provided for improvements in taxpayer service, cybersecurity, and identity theft and refund fraud prevention. We are using $178.4 million of this additional funding to improve our service to taxpayers, including hiring approximately 1,000 additional employees who have allowed us to increase the telephone level of service during this filing season.

Question. Do you agree with the 70% threshold that Secretary Lew suggested at the hearing earlier in the day?

Answer. Yes, I agree with the 70% threshold, and with the appropriate additional funding for 2017, we could provide taxpayers with phone service at this level for the entire year, rather than just through the filing season.

Question. Are you personally invested in fixing this?

Answer. Yes, I am personally invested in fixing this and all facets of the IRS's performance, but will need your help to secure proper funding to achieve this level of service. We will continue to work diligently to improve web-based services to give taxpayers more electronic options to resolve their issues and we are constantly looking at ways to improve existing services to enhance the customer experience.

Question. As the overseer of this agency, how do you rate yourself this year?

Answer. Thanks to the good work of an outstanding workforce, I think we are making significant progress dealing with the challenges the IRS faces, and I am pleased with all that we have been able to accomplish, even with constrained resources. The IRS provides year-round assistance to millions of taxpayers through many sources, including outreach and education programs, issuance of tax forms and publications, rulings and regulations, toll-free call centers, *IRS.gov,* Taxpayer Assistance Centers (TACs), VITA sites, and Tax Counseling for the Elderly (TCE) sites.

The IRS provided valuable services to millions of taxpayers while making it easier for them to participate in the tax system. The IRS:

- Partnered with 12,057 VITA/TCE sites that prepared more than 3.75 million tax returns in fiscal year 2015.
- Launched the Free File campaign at the beginning of the 2015 filing season and received more than 650,000 visits in the first week.
- Produced 117 Tax Tips (110 with Spanish translations) reaching more than 632,000 e-mail subscribers in fiscal year 2015.
- Issued 102.6 million refunds to individuals totaling $276.9 billion. Already this year through June 3 we have processed over 104 million refunds with more returns to be filed by those requesting an extension.
- Received more than 285 million hits this filing season through June 4 on our "Where's My Refund?" application.
- Provided information to taxpayers on our website, *IRS.gov,* through almost 366 million hits this filing season through June 4.

We expect to achieve a level of service of 47 percent for the FY 2016 full year, a substantial improvement over FY 2015 full year telephone level of service of 38 percent, but this level is still unacceptably low. We achieved a telephone level of service greater than 70 percent this filing season, which is a significant improvement over the 37 percent level during the last filing season. This improvement was made using a portion the additional $290 million that Congress provided for improvements in taxpayer service, cybersecurity, and identity theft and refund fraud prevention.

The IRS is using $178.4 million of this additional funding, to improve our service to taxpayers, including hiring approximately 1,000 additional employees who have allowed us to increase the telephone level of service during this filing season. As of May 13, 2016, the IRS has answered more than 14.5 million calls from taxpayers this filing season, which is 5.5 million more than at this time last year. We also received and processed more than 140 million individual income tax returns this year. Even with our increased efforts to stop identity theft and refund fraud in the battle against criminals around the world, the IRS is still issuing 90 percent of all legitimate refunds within 21 days from the date the return is filed.

With regard to the management failures that left numerous organizations for social welfare status pending for 2 years or more, we have implemented all of the Inspector General's recommendations as well as those in this committee's bipartisan report, over which we have control, including the recommendations in the majority report and those in the minority report. We are committed to doing everything possible to insure that this situation never happens again.

Our partnership with the private-sector tax community and the states has been a success, increasing the amount of leads and information that can be used to stop tax refund fraud and identity theft being shared in real time. As a result of this partnership, the private sector has also agreed to operate with standard security protocols and this filing season has increased the authentication requirements for taxpayers using their services, thus increasing security of taxpayer information. As a result of these and other efforts, in calendar year 2015, the IRS rejected or sus-

pended the processing of 4.8 million suspicious returns. The IRS stopped 1.4 million confirmed identity theft returns, totaling $8.7 billion. Additionally, in calendar year 2015, the IRS stopped $3.1 billion worth of refunds in other types of fraud. That's a total of $11.8 billion in confirmed fraudulent refunds protected.

Question. Commissioner Koskinen, as you are aware, the National Taxpayer Advocate released its annual report earlier this year and discussed its strong concerns with the "Future State" of the IRS. Many lawmakers, including myself, feel like we are in the dark on what this "Future State" is. Can you walk us through what is your 5 year plan?

It is my understanding that this long-term plan would have the IRS getting out of the process of directly interacting with taxpayers, that what the IRS wants to move to is taxpayers looking online or using their phones to address concerns with their tax returns. I understand your need to be efficient and save costs, but given a large population of our state contains rural taxpayers, this would be catastrophic to our state and I presume to many Finance members in rural states. Some Nevadans may not have access to a computer or the Internet. Some do not trust Federal agencies, including the IRS. How do you expect to address these taxpayers in this new "Future State"?

Answer. Our envisioned future state would provide better service to taxpayers, not fewer services. This would be accomplished, in part, by serving those taxpayers who are able and interested in interacting with us through their secure online account, thereby easing the demand on telephone and in-person service channels. This would enable us to better serve taxpayers who are unable to interact with us electronically or otherwise prefer telephone or other service channels to online channels.

We recognize and are committed to meeting our responsibility to serve all taxpayer through whatever means of communication they choose. We have no plans to eliminate or decrease service through traditional communications channels (telephone, written correspondence, and in-person). Both taxpayers and the IRS benefit when we interact through the channel most efficient for addressing the taxpayer's issue, which in some cases means a telephone or in-person interaction. Currently, rural taxpayers are typically served through telephone interactions as Internet access is not always easily accessible or reliable. Those who prefer in-person interactions may visit a Taxpayer Assistance Center (TAC), but we understand that in rural areas our TACs may not always be geographically convenient. We are testing ways to extend our in-person services to those who live in rural areas. First, we now offer taxpayers appointments, rather than requiring taxpayers to go to a TAC and wait for an assister to be available. We are also exploring a virtual TAC to allow assisters in one location to interact with taxpayers in another location through a video connection. As more taxpayers interact with us online, including through mobile devices, contacts through traditional in-person or phone channels should decline and allow us to focus on those who have to or prefer to interact with us in traditional ways. Therefore, rural taxpayers, as well as others who are more comfortable interacting with us by phone or in-person, should be able to reach us and receive service more quickly than today.

Question. Following up on the "Future State," I am disturbed to hear that our IRS Vegas Walk-In Center will only accept appointments later this summer.

Answer. The IRS is committed to providing the best customer service for all taxpayers. In 2015, we tested in-person service by appointment at 44 Taxpayer Assistance Centers (TACs). Test results show the appointment approach not only eliminates long lines, but also helps us serve even more taxpayers that need assistance as many callers receive help before they arrive in the TAC. The appointment-based service assures taxpayers they will be assisted, saves them from waiting in line, and reduces the need for them to make multiple trips to the TAC.

The Las Vegas walk-in office was converted to appointment service May 23, 2016. When we implement the appointment process in a TAC, we notify taxpayers through media releases, *IRS.gov,* and by posted signs. We also update the TAC's local telephone information message. *IRS.gov* (under Contact Your Local Office) provides more information on the appointment service process.

Question. How do you address vulnerable taxpayers who do not have the Internet to make an appointment much less those that have the funds for transportation to visit the walk-in center only to make an appointment?

Answer. All taxpayers can schedule appointments at our appointment-based service locations whether they have Internet access or not. To make an appointment at

these locations, taxpayers can call the dedicated TAC Appointment toll free line at 1–844–545–5640. Taxpayers do not have to drive to the TAC to make an appointment. However, if a taxpayer arrives at an appointment-service location without an appointment, we will try to accommodate them with a same-day appointment if our schedules permit.

During the testing of the appointment-service location concept, when taxpayers called to make an appointment, the assistor answering the call was able to resolve the issue on the phone more than half the time, or offer a convenient automated self-service option to allow the taxpayer to get refund information, make a payment, or order a transcript through *IRS.gov* or the IRS2Go mobile app. As a result, many taxpayers who thought they would need to visit a TAC saved themselves a trip by accessing the service they needed using a self-service option.

Taxpayers will find the vast majority of services offered at a TAC are conveniently available online or by calling our toll free telephone line (1–800–829–1040).

Question. What do you believe is the role of the IRS at this point, if not to help those taxpayers who are the most in need of guidance?

Answer. Serving all taxpayers is a priority for the IRS and, recognizing that some taxpayers lack Internet access or prefer not to use the Internet, we offer a variety of ways to access the products and services taxpayers need to meet their tax obligations. This year, more than 25.5 million callers accessed our automated phone assistance during filing season. The recorded messages accessed through the automated phone assistance system answer many common questions and were used by taxpayers nearly twice as often as live customer service representatives. While the IRS will continue to offer more web-based services, taxpayers will still be able to call our toll-free help lines, obtain in-person assistance, or correspond with us via mail if that is their preferred or only available method of receiving service from the IRS.

The IRS also partners with local volunteers to provide filing assistance for eligible taxpayers. Seniors and low to moderate-income taxpayers can get free help with return preparation at one of thousands of IRS Volunteer Income Tax Assistance (VITA) operated by community-based organizations and Tax Counseling for the Elderly (TCE) sites operated by AARP Tax-Aide. The IRS is currently exploring options for assisting eligible taxpayers in areas that do not have VITA or TCE sites.

Question. Commissioner Koskinen, as part of the December deal, you are aware that the IRS received additional funding, approximately $290M this tax year. Can you walk me through how you are using this additional funding? What measurements are you taking to make sure your use of the funds are the most effective?

Answer. The IRS is using the funds allocated under section 113 to invest in high priority programs: Level of Service (LOS), Cyber Security, and Identity Theft programs, as directed in the law. A spending plan providing details of how the funds are being used was forwarded to the Committees on Appropriations on January 27, 2016 (as well as a small revision to the plan in May 2016).

The IRS established a mechanism to track the use of these funds in our financial systems. This will enable IRS to ensure that funds are used in accordance with the spending plan submitted to Congress and will allow IRS to measure the improvement in performance achieved from the availability of these additional funds.

Pursuant to the spending plan submitted to Congress, IRS is investing the additional $290 million as follows:

- **Increase Telephone Level of Service (LOS) ($178.4 million**)
  - Achieve over 70 percent LOS during the filing season (January 1–April 23; up from 37 percent last filing season).
  - Achieve 47 percent LOS for full fiscal year 2016 (up from 38 percent in FY 2015).
  - Improved LOS will result in more calls answered and reduced wait times for callers.
  - Improved performance on the Taxpayer Protection Program Line (also known as the Identity Theft Toll Free Line).
- **Enhance Cybersecurity ($95.4 million).** Enhancements to cybersecurity also support identity theft prevention by improving protections for taxpayer data. Planned investments include:

- Network security improvements including new network segmentation work, more effective monitoring of data traffic, and replacement of outdated equipment.
- Protection of taxpayer data from unauthorized access by identity thieves through specific investments in network segmentation and monitoring.
- Insider threat detection by implementing a system to help analyze IT system logs.

- **Prevent Stolen Identity Refund Fraud ($16.1 million)**
  - Implement refund fraud mitigation actions established by the Security Summit, including start-up costs for an Information Sharing and Analysis Center (ISAC).
  - Implement Secure Access initiative to enable re-launch of Get Transcript Online. (In addition, IRS will apply $30 million in additional base resources for staffing to improve its ability to combat identity theft and assist victims through the Taxpayer Protection Program and the leads reporting process.)

Question. Commissioner Koskinen, first, I would like to take this opportunity to address a key priority of mine and my home state. I've heard from many of my constituents their strong concerns over the proposed IRS changes to the filing of information returns to report winnings from bingo, keno, and slot machine play (IRS REG–132253–11). Due to the administrative burden imposed, thousands of customers have signed a petition so that the reporting threshold for bingo, keno and slot machine play would not be reduced. I, too, share their concerns about these proposed rules. Phil from Vegas recently told me this proposed rule would put an undue hardship on casinos and winning patrons. Across the U.S., the gaming industry supports 1.7 million jobs and $240 billion in activity. My staff has had multiple conversations with your office and I've sent several letters including formal comments in regards to these proposed rules. I was pleased that we could discuss some of my concerns with you over the past year. I no longer want myself or Nevadans to be kept in the dark in regards to receiving responses from the IRS to better address these proposed rules. When do you believe these proposed rules will be finalized?

Answer. The regulations for reporting winnings from bingo, keno, and slots are on the 2015–2016 Priority Guidance Plan. These regulations are something we are actively working this year. Let me assure you that we have heard the concerns expressed by your constituents and others in the over 14,000 comments received in response to the proposed regulation, and, as with all regulations we will take these comments into account as we work towards final regulations.

Question. Can I get confirmation that you will inform our office when these rules will be finalized, because I want to make sure I can let Nevadans and the gaming industry know as soon as possible?

Answer. We will inform your office when these rules are finalized.

PREPARED STATEMENT OF HON. RON WYDEN,
A U.S. SENATOR FROM OREGON

Thank you, Chairman Hatch, for scheduling this hearing. And thank you, Commissioner Koskinen, for joining the Finance Committee this afternoon during a very busy time of year for the IRS.

With tax season underway and President Obama's final budget proposal at hand, there are a few specific issues relating to the IRS that I'd like to focus on today.

First is the biggest ongoing challenge for the IRS: providing the best possible service to taxpayers, even though the IRS has limited resources. The good news is, the Congress recently made a badly needed investment in I.D. protection, telephone service, and cybersecurity for 2016. But you can bet that the fraudsters and organized criminals who made headlines preying on taxpayers last year are still at it.

In my view, budget cuts that hobble our ability to fight back against these schemes are tantamount to kickbacks to the criminals. So the down payment from Congress will help protect taxpayers and improve services. But there's a lot more to be done—particularly with respect to upgrading IT.

It's important to understand how enormous a challenge IT is for the IRS. First of all, processing the universe of taxpayer data that comes in is a year-round job. There's no opportune time for the IRS to go dark and install a new batch of servers

and software. And second, some of the systems in use date back to the Kennedy era. Decades of modified technology and programming code have built up like layers in an onion. When Congress updates a complicated policy like the Alternative Minimum tax, the IRS has to dig through all those layers to adjust the system and correct everybody's tax bill.

For these reasons and more, upgrading IT at the IRS is extraordinarily demanding and time-consuming. It can't be done when a tight budget means you have one hand tied behind your back.

The next issue I want to discuss today, Mr. Koskinen, has to do with corporate taxes going unpaid. The most recent estimates put the overall tax gap at $385 billion per year. When it comes to individuals skipping out on their taxes, the IRS has done a good job of sharing information Congress can use to crack down on shady avoidance strategies and cheaters. But when it comes to the corporate tax gap—which adds up to $67 billion per year—it's my view that the IRS has dropped the ball.

I sent a letter last week asking how the IRS studies the corporate tax gap and what it knows. My staff and I got a limited response yesterday that I see as an initial step, and I expect a lot more.

This is a matter of more than two-thirds of a trillion dollars in taxes going unpaid over the course of a decade. In my view, that's a figure you have to weigh against the big economic challenges this country faces and the rounds of belt-tightening Federal budgets have recently gone through.

More than 5 million Americans today live in deep poverty. Assistance for the hungry has been cut. Far too many veterans are on wait lists for health care. Wildfire prevention is neglected while fires in Oregon and across the West get bigger and hotter. Again and again, lawmakers propose painful cuts to health care programs that are vital to seniors and families of limited means.

The bottom line is that it's long past time for Congress to attack the corporate tax gap. And that will require a lot more information than the IRS is currently providing about how companies are dodging their responsibilities.

I hope to get your commitment today, Commissioner Koskinen, to work with us in the days and months ahead on this important issue.

COMMUNICATIONS

FEDERATION OF GENEALOGICAL SOCIETIES
P.O. Box 200940
Austin, TX 78720–0940
Linking the Genealogical Community

Statement for the Record

by

Frederick E. Moss, JD, LL.M.

Executive Summary

We add our commendations to those offered in the opening statement by Chairman Hatch by noting that the IRS has dramatically improved its ability to intercept tax fraud by identity theft (especially those using the SSNs of deceased individuals.) We ask Senators to revisit the wisdom of limiting access to and the content of the Social Security Administration's Death Master File. While commending the work of the Department of Commerce in crafting regulations implementing Section 203 of the Bipartisan Budget Act of 2013, as written, we suggest areas where changes in legislative language might enhance the ability to (1) achieve the stated goal of reducing the opportunities for identity theft, and (2) minimize the unintended adverse consequences of limiting access and content available to legitimate users. Further question whether these provisions belong in permanent legislation and suggest ways of assessing their effectiveness and the impact of more targeted measures. Preliminary results of an ongoing case study are presented.

This statement for the record is filed on behalf of the Federation of Genealogical Societies (FGS) in response to the invitation that accompanies the Full Committee Hearing at: *http://www.finance.senate.gov/hearings/the-presidents-fiscal-year-2017-budget.* We greatly appreciate the opportunity to do so and to seize an opportunity to commend the Internal Revenue Service (IRS) for noteworthy progress in their effort to address tax fraud by identity theft.

I serve as the legal advisor to the Federation of Genealogical Societies and as a member of the Records Preservation and Access Committee (RPAC), a joint committee of FGS, the National Genealogical Society (NGS), and the International Association of Jewish Genealogical Societies (IAJGS). This statement has been reviewed and endorsed by the President of the Federation of Genealogical Societies.

Genealogists Share Privacy Concerns

Family Historians and their families are as vulnerable to the predations of identity thieves as any other citizen. Our names appear on the lists of those compromised by reported major data breaches at Target, Home Depot, and Anthem among others. Some of our colleagues have been issued PINS by the IRS to be used in filing their 2015 returns because fraudulent tax returns using their information have been filed by identity thieves in the past. Those who believe that genealogists are reckless with Personally Identifiable Information might be pleasantly surprised at some of the measures taken by websites and individual researchers.

Be assured that the genealogical community is prepared to be supportive of measures which actually protect us from identity theft. We fervently wish that we could believe that the measures mandated by Section 203 of the Bipartisan Budget Act of 2013 limiting access to and the content of the Social Security Administration's Death Master File would have that effect. Our analysis has suggested otherwise.

The circumstances leading up to this legislation do, however, provide an unique opportunity to gather the data needed to evaluate and develop responses with the actual potential to effectively combat the scourge of tax fraud by identity theft.

Initiatives to Restrict Access to Records—Targeting the Data

In recent years, we have seen more than a thousand legislative initiatives impacting access to records at the Federal, state and local levels, the vast majority of which would have had the effect of limiting that access for genealogical and other purposes. The rationale used to justify these measures suggests an almost reflexive belief that the best or only way to prevent the fraudulent use of such data by identity thieves is to close the records. This logic carries with it the unstated assumption that no harm or loss accompanies such closures [about which we will have much more to say.]

Section 203 of the Bipartisan Budget Act of 2013 represents the most dramatic modern example of this approach at the federal level. Although it presented as an *access* issue, the provisions that reduce the display of historically available data elements and diminishing the content of the Death Master File trigger equally significant *preservation* concerns.

Since 2011, representatives of the genealogical community have monitored approximately a dozen Congressional hearings in which the scourge of tax fraud by identity theft has been raised. In most of those hearings, although not asked to actually testify, we have provided Statements for the Record suggesting that better alternatives might be available *http://www.fgs.org/rpac/*. In these hearings, we were frequently informed of the acknowledged harm resulting from the theft in the context of explaining why consideration was being given to dismantling, closing, or otherwise limiting access to the Death Master File. Rarely, if ever, during a hearing was concern expressed (or even awareness of the possibility) that costs might be paid or harm might be done by closing the record.

In the process of fulfilling their mandate to develop the Certification program required by this statute, the Department of Commerce National Technical Information Service (NTIS) has provided a forum for those adversely impacted by the limitations of access to the DMF to begin to document the fact that records closures come at a price.

Ninety contributors have offered their comments on a proposed final rule at *http://www.regulations.gov/#!docketBrowser;rpp=25;po=O;dct=PS;D=DOC-2014-0001.*

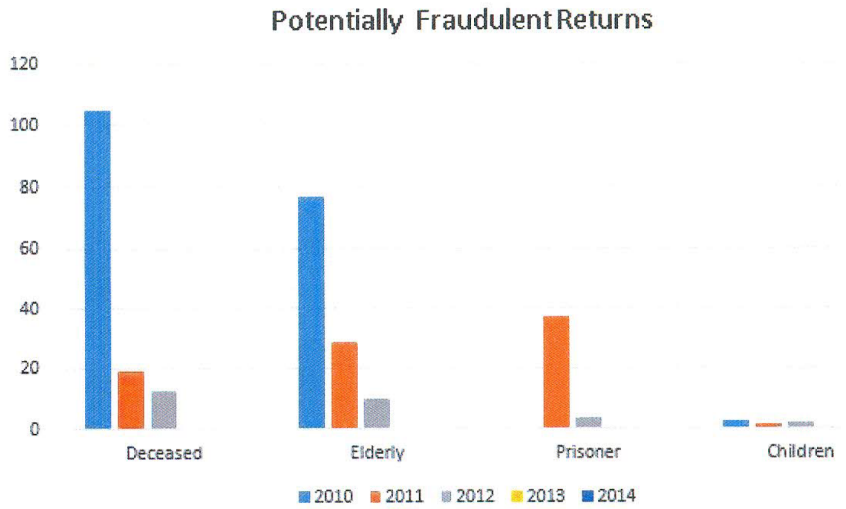
The most recent FGS contributions to this process are found at *http://www.regulations.gov/#!documentDetail;D=DOC-2014-0001-0093.*

The IRS Experience

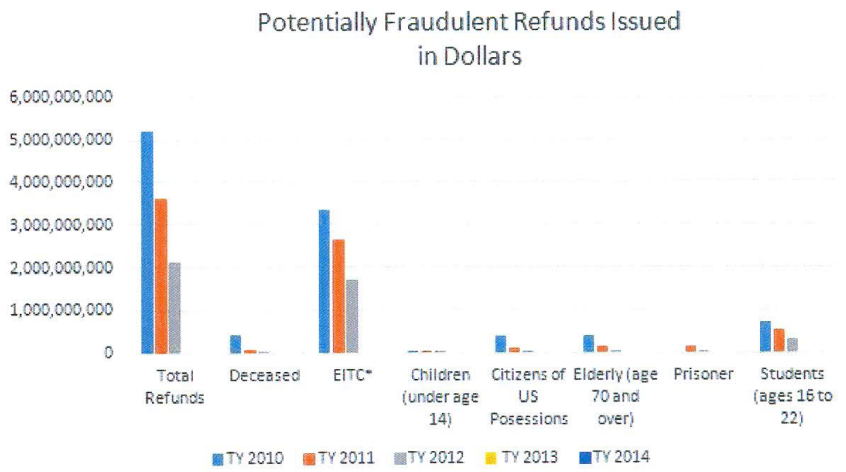
Although scattered incidents of fraudulent tax returns involving identity theft were reported over a decade ago, their frequency and magnitude prior to 2010 could be said to fall within the noise level on the IRS radar. The emphasis within the IRS and on Capitol Hill was to expedite refund payments to the point that checks were being issued within days of electronic filing early in the filing season and well before the IRS would have received information returns that would be used months later to verify the accuracy of the data on the return justifying a significant refund. Instead of taking steps designed to *prevent* improper payments, the IRS practice as 2011 began was to *pay* claimed refunds as quickly as possible and then *chase* the filer in a labor intensive effort to recover the fraudulent or otherwise improper payment; *http://www.gao.gov/products/GAO-15-482T.*

As stories began to make headlines during 2011 of thieves filing fraudulent tax refund claims abusing the SSNs of recently deceased children, the public was made to realize that the harm being perpetrated was no longer just a manageable drain on the Treasury. The disruption and pain inflicted upon the grieving parents (the legitimate taxpayers) for them felt like losing their child all over again. The IRS was prompted to revisit the wisdom of continuing the "pay and chase" approach to correcting improper payments to possible identity thieves. *Prevention* of fraudulent payments became a new focus of their enforcement efforts.

The comparison between the TY 2010 and TY 2011 experience as reflected in publically available data confirms the assertion that the IRS enforcement policies changed in December of 2011 to institute practices intended to prevent improper payments by diverting suspicious returns for further scrutiny *before* they were processed for payment. The first year impact of this change in policy was dramatic, especially where the SSN of a *deceased* individual had been abused.



The dollar impact of this effort is equally informative:



IRS testimony in the Senate Finance Committee hearing held April 16, 2013 announcing the development of filters designed to intercept potentially fraudulent refund returns prompted my previous supportive RPAC Statement for the Record found at page 138 of the hearing record.
http://www.finance.senate.gov/download/2013/04/16/tax-fraud-and-tax-id-theft-moving-forward-with-solutions.

Further, I was already on record more than a month in advance of the current hearing with a series of blog posts documenting the basis for the conclusion that the IRS filters were really working:

http://www.fgs.org/rpac/2015/12/22/irs-does-use-the-death-master-file-now-since-2012/
http://www.fgs.org/rpac/2016/0l/08/death-master-file-impact-of-irs-filters-ty2010-ty201l-ty2012/
http://www.fgs.org/rpac/2016/01/13/death-master-file-analysis-irs-filters-really-work/

The legislative implications of these findings will be addressed shortly.

The Department of Commerce Notice and Comment Process

NTIS has shown us what a robust notice and comment process really looks like. Prior to the RFI and hearing no one really knew how long-time legitimate users of the SSDI made use of the information therein or, for that matter, how thieves were filing fraudulent tax refund claims by identity theft. Providing insight into that initial issue may represent the most lasting contribution to our understanding, potentially informing future program decisions. Representatives of the genealogical community have actively participated with many others in (1) responding to the initial Request for Information, (2) a Public Hearing on 4 March 2014, (3) Response to an Interim Final Rule, and now (4) providing the Response to Proposed Final Rule.

Previous FGS Comments on Interim and Final Rule

Our previous Response to Interim Final Rule submitted April 25, 2014 (and incorporated herein by reference) documents several points we there emphasized:

1. In 2011 the DMF was widely available on the Internet. The IRS was employing very limited filters to intercept suspicious tax returns before checks were issued. As needed data has become available, it becomes clear that tax refund fraud by identity theft was much more a reflection of the incredible vulnerabilities of the IRS on-line filing system than an inevitable result of the "burned" social security numbers of recently deceased children being made publically available in the DMF.
2. In fact, if thieves had attempted to use numbers taken from the Death Master File in most commercial transactions, *they would have been rejected.* In their rush to expedite refund payments in 2011, the IRS was *not using* the DMF to flag suspicious cases or to help validate legitimate returns. When used, the DMF (listing what should be inactive SSNs) is an effective fraud prevention tool.
3. More targeted measures than simply closing the DMF were available.
4. In December 2011, all major genealogical sites making the DMF/SSDI available to the public began masking the SSNs of recently deceased persons for a minimum of three years. At about the same, the IRS began to strengthen the use of filters designed to flag potential fraudulent refund returns before payment was made.

What Have We Learned?

Timely information on death is of critical importance across a broad spectrum of endeavors that exceed those of genealogists, the financial interests represented at the 2014 public hearing, or even those of the 114 entities participating on-line.

When representatives from the financial sector voiced concerns about the 2011 removal of data provided by the States from the DMF, and feared a further degradation of that resource, they spoke for all traditional subscribers. Pension Benefits Information:
http://www.regulations.gov/#!documentDetail;D=DOC-2014-0001-0092. Members of the research community had previously voiced similar concerns:
http://www.nytimes.com/2012110/09/us/social-security-death-record-limits-hinder-researchers.html.

We were all particularly alarmed by the possibility that administration decision-makers believed that alternatives to the DMF were available and that historical users of the DMF could readily find what they needed from other sources. Those in attendance at the March 4, 2014 public hearing suggested otherwise, a posture also adopted by the Council of Professional Associations on Federal Statistics in

their comment at *http://www.regulations.gov/#!documentDetail;D=DOC-2014-0001-0061.*

For most financial purposes, verifying that an individual already known to them has died enables the enterprise to begin "closing the file" on the deceased individual. For researchers (especially for genealogical projects) finding an individual referenced in the DMF is more likely to be the *beginning* of the project with a need for them to continue the search for other relatives through the DMF. Locality information in the DMF suggests where one might look for additional documentation.

The challenges remaining between the already implemented Interim Final Rules and the pending final rule may best be found in the comments of the Consumer Data Industry Association at
http://www.regulations.gov/#!documentDetail;D=DOC-2014-0001-0088
and the Berwyn Group at
http://www.regulations.gov/#!documentDetail;D=DOC-2014-0001-0070.

What Have We Lost?

Limitations on access and the reduced utility of the Limited Use DMF have already impeded the work of those genealogists:

- Assisting the Department of Defense in locating heirs for the repatriation of remains from previous wars,
- Assisting county coroners in the identification of unclaimed persons,
- Working with attorneys in locating missing and unknown heirs involving estates, trusts, real estate quiet title actions, oil and gas and mineral rights, and other similar legal transactions,
- Tracing and tracking heritable medical conditions where finding distant cousins can facilitate early treatment and possibly prevent a premature death,
- Repatriating stolen art and artifacts, and
- Identifying American Indians, Native Alaskans, and Native Hawaiians to determine eligibility for tribal benefits and blood quantum when required.

The academic research community and those engaged in medical-related research can likely provide even more dramatic examples. American Economics Association: *http://www.regulations.gov/#!documentoetail;D=DOC-2014-0001-0078.*
Kaiser Permanente: *http://www.regulations.gov/#!documentoetail;D=DOC-2014-0001-0046.*
Anesthesia Quality Institute: *http://www.regulations.gov/#!documentoetail;D=DOC-2014-0001-0065.*

What Legislation Might Help?

Section 203 provides a very restrictive definition of those to be authorized access to the Limited Use DMF and other measures adversely impacting what most would consider legitimate users of the information. We are prepared to work with the Congress and all interested parties should changes in the statutory mandate be indicated. Possible areas for consideration might include:

1. Other legitimate researchers authorized for timely access, to include academics in recognized long term studies, federal program evaluations, genealogical studies for which a three year delay would be problematic.
2. Explore ways in which third-party providers might be able to share non-sensitive information and their state-of-the-art search engines by masking the information needed by thieves (perhaps only the SSN.)
3. Explore whether security measures used for active SSNs are the best way to protect from abuse those of the deceased.
4. Develop alternatives to this limitation on access and reduction of content of the DMF.
5. Should the Section 203 program be considered for sunset?

The Path Forward—A Rigorous Case Study Indicated

The way in which the challenge of tax fraud by identity theft has evolved in recent years presents a unique opportunity to evaluate the effectiveness of several approaches to combating it.

1. Initial baseline period—TY 2010 and before

During the period immediately preceding December 2011, the DMF was widely available on the Internet and the IRS was doing minimal filtering that might have flagged fraudulent refund claims. Apparently the IRS was not filtering against the SSA's Death Master File in 2010 before issuing potentially fraudulent refund checks. The data necessary to initially determine the nature and magnitude of tax fraud by identity theft cases first coming to public attention in 2011 would not become available until the fall of 2013 with the publication of the report of the Treasury Inspector General for Tax Administration drawn from the TY 2011 data, issued September 20, 2013 and found at:
http://www.treasury.gov/tigta/auditreports/2013reports/201340122fr.pdf.

2. Period 2—December 2011 to April 2014

In December 2011, genealogical web sites began masking the SSNs of recently deceased persons and the IRS reportedly significantly improved their software filters. The IRS effort has included continuing refinement of the filters to flag returns demonstrating characteristics of those found to have been fraudulent. Thieves change; we learn.

3. Period 3—April 2014 to present

In April of 2014, the limitations on access and content of the DMF mandated by the Bipartisan Budget Act of 2013 are implemented.

Having a comparable chart for TY 2012, TY 2013, TY 2014, (and possibly a look back to 2010) could give visibility over where our challenges still lie, what measures are working, and which measures may be of only marginal utility. I appreciate that it may take a year or more for a suspicious return to be fully resolved so we may be asking for TIGTA to undertake an ongoing project.

A rigorous analysis could confirm that the measures taken by the IRS, together with those measures taken by genealogical entities, have largely intercepted this particular form of identity theft in advance of this legislation. It might also suggest better approaches to intercepting the far more prevalent misuse of the SSNs of the living.

Conclusions

1. Closing death records comes at a cost.

The IRS track record demonstrates that using the DMF and other filters provides an effective counter to tax fraud by identity theft. Closing these records have the potential of doing more harm than good in the fight against identity theft.

2. NTIS has implemented the statutory mandate, *as written.*

Operating within the constraints of their current statutory mandate, there is little more that NTIS can do to create a more functional Certification program. We are prepared to work with appropriate Congressional committees to suggest more effective statutory changes.

But, many clearly legitimate historical users of the DMF are currently denied access.

Additionally, that content is no longer as comprehensive as it once was prior to the 2011 decision to withhold state-provided content. Financial services representatives voiced particular concern that the on-going withholding of state data will further degrade the value of the DMF resource and make their fraud prevention efforts less effective. Pension Benefits Information:
http://www.regulations.gov/#!documentDetail;D=DOC-2014-0001-0092.

We are, in effect, seeing the incremental dismantling of the historically valuable DMF. Most users would likely agree that the then publically available pre-2011 DMF (even with all its flaws) came the closest of any available death record to meeting the needs of the user community when measured against comprehensiveness, timeliness, and costs.

3. This statute may not be the final answer.

Limiting access to the DMF is not the "silver bullet" solution to the scourge of tax fraud by identity theft. It could do more harm than good.

Our strongest message is that steps already taken by the IRS and genealogical entities to protect SSNs listed in the DMF had largely intercepted this particular form of identity theft in advance of this legislation. Its primary impact may be to burden

legitimate users both operationally and financially. Our suggestion for a case study provides a way to assess the effectiveness of various measures taken.

4. The statutorily mandated Limited Use Death Master File is inadequate.

Those of our genealogical colleagues who have been certified and begun to work with the LUDMF resulting from this effort report that the search engine and the data elements displayed for this product no longer meet our needs. Genealogists were not the only DMF users concerned that the DMF is being incrementally degraded. The new limited access DMF needs a much improved search engine.

5. The path forward.

The genealogical community is anxious to work with all interested parties in an effort to develop a truly comprehensive nation-wide death index. The concerns of State Vital Records officials that led to the ongoing removal of state data from the DMF in 2011 must be addressed.

We recognize a need to work with the Congress and other interested parties to improve existing measures and suggest additional approaches to combat the scourge of identity theft.

The SSNs of living people will remain vulnerable as long as the IRS mandate is to rush payments of tax refunds before information returns can be compared with the submitted return to assure its validity.

NATIONAL TREASURY EMPLOYEES UNION (NTEU)
1750 H Street, N.W. • Washington, DC 20006 • (202) 572–5500

Anthony M. Reardon

National President

Statement for the Record

Chairman Hatch, Ranking Member Wyden, and distinguished members of the Committee on Finance, I would like to thank you for allowing me to provide comments on the IRS budget request for FY 2017. As President of the National Treasury Employees Union (NTEU), I have the honor of representing over 150,000 federal workers in 31 agencies, including the men and women at the IRS.

Mr. Chairman, NTEU strongly supports the Administration's FY 2017 budget request of $12.28 billion for the IRS, an increase of more than $1 billion above the current FY 2016 level. We are particularly pleased the Administration's request would provide the IRS with the additional resources necessary to restore customer service levels that have fallen in recent years due to funding cuts totaling $1.2 billion, and to begin rebuilding its depleted workforce which is down more than 18,000 since FY 2010. Without this additional funding, the IRS's ability to serve taxpayers and enforce our nation's tax laws will continue to erode.

Taxpayer Services

Providing quality customer service to the taxpayer is an important part of IRS efforts to help the taxpaying public understand their tax obligations while making it easier to comply. Unfortunately, the IRS's ability to provide excellent taxpayer service has been severely challenged due to reduced funding in recent years and the cuts mandated by sequestration. Without additional resources, further degradation in taxpayer services will occur, jeopardizing our voluntary compliance system.

Impact of Funding Reductions on IRS Taxpayer Services

Mr. Chairman, funding reductions in recent years have had a devastating impact on IRS's ability to provide taxpayers, including victims of identity theft, with the service they need in a timely manner. Since FY 2010, the IRS has absorbed $1.2 billion in cuts despite the fact that they are handling more than 10 million additional tax returns a year, and the number and complexity of tax refund fraud cases is on the rise. The funding cuts have resulted in a reduction of about 34 percent in the number of assistors answering telephone calls between fiscal years 2010 and

2015 and contributed to the lowest level of telephone service in fiscal year 2015 compared to recent years. In addition, reduced funding forced the IRS to implement a number of service initiatives during FY 2015 that included reducing or eliminating certain telephone and walk-in services, and redirecting taxpayers toward other service channels such as IRS's website.

In a recent letter to Congress, the IRS highlighted some of the adverse impacts these reductions had on the IRS's ability to deliver taxpayer services during the most recent filing season. These include:

- A reduction in the percentage of callers seeking live assistance who received it (telephone level of service) to 38 percent—down from 74 percent in FY 2010.
- Taxpayers waiting about 23 minutes on average for an IRS representative to get on the line, with more than 60 percent of calls going unanswered. This represents a sharp decline from 2010, when the IRS answered three-quarters of calls and had an average wait time of just under 11 minutes.
- The IRS was not able to answer any tax-law questions except "basic" ones during the last filing season, and now it will not answer any tax-law questions at all, leaving the roughly 15 million taxpayers who file later in the year unable to get answers to their questions by calling or visiting IRS offices.
- The IRS historically has prepared tax returns for taxpayers seeking its help, particularly for low income, elderly, and disabled taxpayers. Eleven years ago, it prepared some 476,000 returns. That number declined significantly over the past decade, and last year the IRS announced it will no longer prepare returns at all.

In addition, as a result of budget cuts, the IRS was forced to reduce staff devoted to face-to-face assistance at walk-in sites by about 4 percent in FY 2015 compared to the previous year, and directed customers to self-service options. However, the percentage of customers at walk-in sites waiting for longer than 30 minutes for service increased by 7 percentage points in fiscal year 2015 (from about 25 to 32 percent) during the same period.

The importance of providing taxpayers with timely assistance over the phone or in person is of particular importance for victims of identity theft and other types of tax refund fraud. These cases are extremely complex cases to resolve, frequently touching on multiple issues and multiple tax years and the process of resolving these cases can be very frustrating for victims.

While the IRS has made considerable progress in this area, additional work remains. Fighting identity theft is an ongoing battle as identity thieves continue to create new ways of stealing personal information and using it for their gain. Therefore, it is critical that the IRS has the resources and staffing necessary to prevent refund fraud from occurring in the first place, investigate identity theft-related crimes when they do occur and help taxpayers who have been victimized by identity thieves as quickly as possible.

That is why NTEU strongly supports the President's request of $2.4 billion in funding for taxpayer services in FY 2017. This funding will allow the IRS to increase the telephone level of service to 70 percent, provide assistance to victims of identity theft in a timely manner, and help taxpayers understand their obligations, correctly file their returns, and pay taxes due in a timely manner.

Mr. Chairman, it is evident that drastic funding reductions in recent years have seriously eroded the IRS's ability to provide taxpayers with the services they need. Without the additional funding proposed in the Administration's budget request, taxpayers will continue experiencing a degradation of services, including longer wait times to receive assistance over the telephone, increasing correspondence inventories, including letters from victims of identity theft and taxpayers seeking to resolve issues with taxes due or looking to set up payment plans.

Enforcement

Mr. Chairman, NTEU believes a strong enforcement program that respects taxpayer rights, and minimizes taxpayer burden, plays a critical role in IRS's efforts to enhance voluntary compliance, combat the rising incidence of identity theft and reduce the tax gap.

Impact on Efforts to Reduce the Federal Deficit

Unfortunately, funding reductions in recent years are undermining IRS's ability to maximize taxpayer compliance, prevent tax evasion and reduce the deficit. The adverse impact of insufficient funding on IRS's capacity to collect revenue critical to reducing the federal deficit is clear. In FY 2015, on a budget of $10.9 billion, the IRS collected $3.3 trillion, roughly 93 percent of federal government receipts. According to the IRS, every dollar invested in IRS enforcement programs generates roughly $6 in increased revenues, but reduced funding for enforcement programs in recent years has led to a steady decline in enforcement revenue since FY 2007. In FY 2015, IRS enforcement activities brought in $54.2 billion, down $5 billion from the $59.2 billion of FY 2007.

The reduction in revenue can be partly attributed to a reduction in the total number of IRS enforcement personnel, including revenue agents and employees in the correspondence audit program, which have limited the IRS's impact on voluntary compliance. The number of revenue agents fell seven percent from 11,422 to 10,657 in FY 2015, the lowest it has been since before 2005, when there were 20 million fewer taxpayers, while reduced staffing in the correspondence audit program resulted in the roughly 16,000 fewer case closures and potentially $75 million in lost revenue.

Without sufficient staffing to effectively enforce the law to ensure compliance with tax responsibilities and combat fraud, our voluntary tax compliance system is at risk. And as the IRS Commissioner has repeatedly noted, a simple one-percent decline in the compliance rate translates into $30 billion in lost revenue for the government.

Sufficient enforcement staffing is also critical if the IRS is to make further progress on closing the tax gap, which is the amount of tax owed by taxpayers that is not paid on time. According to the IRS, the amount of tax not timely paid is $450 billion, translating to a noncompliance rate of almost 17 percent.

While the tax gap can never be completely eliminated, even an incremental reduction in the amount of unpaid taxes would provide critical resources for the federal government. At a time when Congress is debating painful choices of program cuts and tax increases to address the federal budget deficit, NTEU believes it makes sense to invest in one of the most effective deficit reduction tools: collecting revenue that is owed, but hasn't yet been paid.

That is why NTEU was happy to see the Administration's budget request would provide a $587 million increase in funding for IRS tax enforcement above the current level. This increase includes a program integrity cap adjustment totaling $515 million which supports the enforcement ($231 million) and operations support accounts ($283 million). This additional funding is designed to restore enforcement of current tax laws to acceptable levels, investigate transnational organized crime, pursue abusive tax schemes and enforce the new Foreign Account Tax Compliance Act (FATCA). According to the Administration, the additional funding provided via the cap adjustment is expected to generate more than $2.6 billion in additional annual enforcement revenue, resulting in a return on investment (ROI) of more than 6 to 1, once new hires reach full potential in FY 2019. According to the Administration, the $515 million cap adjustment will help generate $46 billion in net savings over the next 10 years. This estimate does not account for the deterrent effect of IRS enforcement programs, estimated to be at least three times larger than the direct revenue impact.

CONCLUSION

Mr. Chairman, thank you for the opportunity to provide NTEU's views on the Administration's FY 2017 budget request for the IRS. NTEU believes that only by restoring critical funding for effective enforcement and taxpayer service programs can the IRS provide America's taxpayers with quality service while maximizing revenue collection that is critical to reducing the federal deficit.

○