

**COMMITTEE ON WAYS AND MEANS  
U.S. HOUSE OF REPRESENTATIVES  
WASHINGTON, DC 20515**

March 9, 2023

The Honorable Daniel Werfel  
Commissioner  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, D.C. 20224

Dear Commissioner Werfel:

Congratulations on your recent confirmation as Commissioner of the Internal Revenue Service (IRS). With Democrats delivering fresh funding to revitalize the IRS, this is an important moment to restore trust and build public confidence in our tax system.

Americans must have faith that our tax system is administered lawfully, competently, and fairly. We applaud President Biden's first executive order, which directs agencies to examine whether and how their policies perpetuate barriers to equal opportunity. This is a critical step to advance racial equity and justice in our country, and we hope that you will implement this directive with urgency.

A Stanford University report published in January sheds light on deeply concerning racial disparities in tax audit rates.<sup>1</sup> The working paper found that Black taxpayers are audited by the IRS at 2.9 to 4.7 times the rate of non-Black taxpayers. This disparity is disgraceful and must be corrected without delay. According to the report, a faulty software algorithm used to select audits disproportionately targets low-income taxpayers who claim the Earned Income Tax Credit (EITC). The elevated audit rate among EITC recipients is a well-documented phenomenon, which only grew worse under your predecessor.<sup>2</sup> Most concerning, the report found Black taxpayers that claim the EITC are between 2.9 and 4.4 times as likely to be audited as non-Black EITC recipients.

Tragically, discrimination by race and income is deeply embedded into our tax code. As the Office of Tax Analysis (OTA) noted last month, racial inequities in our tax code go well beyond tax administration, with white taxpayers receiving a disproportionate share of the benefits of tax expenditures.<sup>3</sup> OTA's proposal to impute race and ethnicity in tax data to better analyze the

---

<sup>1</sup> Stanford University Institute for Economic Policy Research, Measuring and Mitigating Racial Disparities in Tax Audits (January 30, 2023), <https://siepr.stanford.edu/publications/measuring-and-mitigating-racial-disparities-tax-audits>

<sup>2</sup> ProPublica, It's Getting Worse: The IRS Now Audits Poor Americans at About the Same Rate as the Top 1% (May 30, 2019), <https://www.propublica.org/article/irs-now-audits-poor-americans-at-about-the-same-rate-as-the-top-1-percent>

<sup>3</sup> Office of Tax Analysis, Tax Expenditures by Race and Hispanic Ethnicity: An Application of the U.S. Treasury Department's Race and Hispanic Ethnicity Imputation (January 20, 2023), <https://home.treasury.gov/system/files/131/WP-122.pdf>

disparate impact of tax deductions and credits is promising.<sup>4</sup> We appreciate these steps and others that the IRS and Treasury Department have taken to advance equity in tax policy, including by establishing an Advisory Committee on Racial Equity. We must act on the data and lessons learned to reimagine how the IRS approaches tax administration.

Last Congress, the Ways and Means Subcommittee on Oversight made taxpayer fairness a central pillar of our agenda. On May 18, 2022, our Subcommittee convened a hearing<sup>5</sup> focusing on a Government Accountability Office (GAO) report<sup>6</sup> we requested. The report found plummeting audit rates over the last decade, disproportionately benefiting wealthy Americans. The largest audit rate reduction was among taxpayers with incomes of \$200,000 and above.

We saw the inequities of our nation's unfair two-tier tax system grow starker under your Trump-appointed predecessor. The IRS audited an average of just 14,260 taxpayers with \$1 million or more in income between Fiscal Year (FY) 2019 and FY 2022, down from an average of 36,551 of such taxpayers from FY 2012 through FY 2016.<sup>7</sup> Troublingly, a staggering 48% of millionaire tax returns audited last year were subject to automated correspondence audits with minimal oversight by a tax agent.<sup>8</sup> As millionaire audits have plummeted, the IRS continues to audit low-income Americans who receive the EITC at a rate five and a one-half times greater than the general public.<sup>9</sup>

We are concerned by the apparently deeply biased and broken methods and procedures the IRS uses to select returns for audit. Low-income families and Black Americans should not face the consequences of failing tax enforcement policies while the rich get off scot-free. To the extent there is reprehensible racial discrimination built into the IRS's audit selection algorithm, it must be eliminated – but your reforms cannot end there.

The IRS should overhaul its entire auditing regime to ensure wealthy tax scofflaws and big business tax cheats pay their fair share. After decades of deliberate IRS underfunding, wealthy taxpayers and businesses have grown accustomed to exploiting loopholes and dubious positions on their returns to shirk their responsibilities as American taxpayers.

The Inflation Reduction Act (IRA) included \$45 billion over ten years to rebuild our tax enforcement system from the ground up. Secretary Yellen has made clear this funding must not go toward increasing audit rates relative to recent years on Americans making under \$400,000

---

<sup>4</sup> Office of Tax Analysis, Estimation of Race and Ethnicity by Re-Weighting Tax Data (January 20, 2023), <https://home.treasury.gov/system/files/131/TP-11.pdf>

<sup>5</sup> Committee on Ways and Means, Pascrell Convenes Hearing on Tax Fairness and the IRS (May 28, 2022), <https://democrats-waysandmeans.house.gov/media-center/press-releases/pascrell-opening-statement-oversight-subcommittee-hearing-taxpayer-0>

<sup>6</sup> Government Accountability Office, Tax Compliance: Trends of IRS Audit Rates and Results for Individual Taxpayers by Income (May 17, 2022), <https://www.gao.gov/products/gao-22-104960>

<sup>7</sup> Transactional Records Access Clearinghouse (TRAC) at Syracuse University, IRS Audits Few Millionaires But Targeted Many Low-Income Families in FY 2022 (January 4, 2023), <https://trac.syr.edu/reports/706/>

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

annually.<sup>10</sup> It is imperative these funds are directed toward closing our tax gap, ending decades of shameful discrimination, and bringing fairness to our tax system.

On August 16, 2022, Chairman Pascrell sent a letter to Commissioner Charles Rettig requesting that the IRS provide a breakdown of its plan to use its additional funding under the IRA to restore fairness and taxpayer services.<sup>11</sup> There was no substantive response. The IRS must prioritize transparency as you begin the crucial work of revitalizing our tax system.

Accordingly, please respond to this letter by March 31, 2023, providing a detailed plan and timeline for implementing corrective action to address racial disparities in audit selection and outlining how the IRS plans to direct tax enforcement funds provided under the IRA to crack down on wealthy tax evaders. Please specify what alterations the IRS intends to make to its faulty audit selection algorithm to ensure Black Americans and EITC recipients are not disproportionately targeted.

Additionally, we request you provide answers to the following questions:

1. How many audits did the IRS conduct in each of FY 2019 through FY 2022, and what was the breakdown by income level, filing status, EITC status, and type of error detected?
2. Given the IRS has been releasing significantly limited audit statistics in its Data Book since FY 2019, will the IRS commit to consistently publishing comprehensive and up-to-date audit statistics to ensure the Inflation Reduction Act is implemented with transparency?
3. How does the IRS audit selection algorithm specifically work, and what are the data sources and criteria that it uses to select returns for audit?
4. Why does the IRS audit selection algorithm disproportionately target Black Americans and EITC recipients?
5. What steps has the IRS already taken to ensure that its audit selection does not discriminate against taxpayers based on race, and what are the mechanisms and safeguards in place to prevent and correct any potential bias or error?
6. How does the IRS evaluate the effectiveness and efficiency of its audit policies and practices in collecting owed taxes and closing the tax gap?

We appreciate your attention to this urgent matter. We're hopeful that with your new leadership and our infusion of funding, we can build an IRS that works for all Americans. We look forward to working with you on our shared priorities of modernizing the IRS, improving customer service, and closing the growing tax gap. Thank you for your timely response.

---

<sup>10</sup> Department of the Treasury, Secretary of the Treasury Janet L. Yellen Sends Letter to IRS Commissioner in Support of Funding for IRS to Improve Taxpayer Service & Combat Evasion By High Income Earners and Corporations (August 10, 2022), <https://home.treasury.gov/news/press-releases/iv0918>

<sup>11</sup> Committee on Ways and Means, Pascrell Seeks Plan for IRA Funds to Pursue Wealthy Tax Cheats and Improve Taxpayer Services (August 18, 2022), [https://pascrell.house.gov/uploadedfiles/2022.08.16\\_bp\\_to\\_irs\\_re\\_ira\\_.pdf](https://pascrell.house.gov/uploadedfiles/2022.08.16_bp_to_irs_re_ira_.pdf)

Commissioner Werfel

March 9, 2023

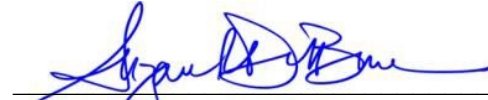
Page 4

Sincerely,



---

Bill Pascrell, Jr., *Ranking Member*  
Subcommittee on Oversight



---

The Honorable Suzan K. DelBene



---

The Honorable Judy Chu



---

The Honorable Gwen S. Moore



---

The Honorable Brad S. Schneider