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DEMOCRATIC STEERING AND POLICY COMMITTEE

## Congress of the United States House of Representatives

July 8, 2022

President Joseph R. Biden  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, D.C. 20500

Dear President Biden,

Public confidence in the Internal Revenue Service (IRS) is vital to our nation. The American people must have faith our tax system is administered lawfully, competently, and fairly. It is now quite clear that IRS Commissioner Charles Rettig has failed at this most basic duty. Consequently, I urge you to fire Mr. Rettig so we can begin the crucial work of fixing the IRS.

On July 6, 2022, the New York Times reported that the federal income tax returns for James B. Comey in 2017 and Andrew G. McCabe in 2019 were selected for review by the IRS National Research Program (NRP).<sup>1</sup> Given the comprehensive, cumbersome, and costly nature of NRP audits, only a small number of taxpayers are selected for review each year to assist the IRS in compiling representative data about voluntary compliance.

The NRP selected roughly 5,000 returns out of 153 million filed in 2017 and roughly 8,000 returns out of 154 million filed in 2019, making the odds of these two particular tax returns both being selected for review nearly one-in-600 million.<sup>2</sup> By way of comparison, the odds of winning the Powerball lottery are 1 in 292,201,338. As leaders of the Federal Bureau of Investigation, Mr. Comey and Mr. McCabe were frequent targets of politically motivated vitriol by your predecessor Donald Trump, and were falsely accused by Trump of treason, perjury, and fraud. The astronomically unlikely audits of both men by the IRS under Mr. Rettig, an appointee of Donald Trump, presents an undeniable appearance of rampant corruption and impropriety.

This is only the latest scandal to embroil the IRS throughout Mr. Rettig's troubled tenure. On May 13, 2022, I called on you to fire the IRS Commissioner<sup>3</sup> after an audit by the Treasury Inspector General for Tax Administration (TIGTA) found that the IRS had destroyed over 30 million taxpayer documents in March 2021 amid a persistent backlog of tax returns.<sup>4</sup> Rather than work to upgrade antiquated technology slowing the processing of paper returns, the IRS simply deleted the tax information of millions of Americans. The IRS then failed to disclose this destruction to impacted taxpayers, further delaying owed refunds for several months.

<sup>1</sup> The New York Times, Comey and McCabe, Who Infuriated Trump, Both Faced Intensive I.R.S. Audits (July 6, 2022), <https://www.nytimes.com/2022/07/06/us/politics/comey-mccabe-irs-audits>

<sup>2</sup> *Id.*

<sup>3</sup> Congressman Bill Pascrell, Jr., Pascrell Calls for New IRS Chief (May 13, 2022), <https://pascrell.house.gov/news/documentsingle.aspx?DocumentID=5104>

<sup>4</sup> Treasury Inspector General for Tax Administration, A Service-Wide Strategy Is Needed to Address Challenges Limiting Growth in Business Tax Return Electronic Filing (May 4, 2022), <https://www.treasury.gov/tigta/auditreports/2022reports/202240036fr.pdf>

Taxpayers continue to suffer from an unprecedented backlog of paper tax returns and correspondence at the IRS. At the end of last month, over 16 million paper returns had yet to be processed. According to a recent report by the National Taxpayer Advocate, taxpayers who file paper returns are waiting upwards of six to ten months to receive their refunds, as compared to four to six weeks prior to the pandemic.<sup>5</sup> The IRS has further failed to provide adequate taxpayer services. It is now taking the IRS an average of 251 days to process taxpayer correspondence, more than triple the processing time of 74 days prior to the pandemic.

We have also seen the inequities of our nation's unfair two-tier tax system grow starker under Mr. Rettig. Between Fiscal Year (FY) 2012 and FY 2016, the IRS audited an average of 36,551 taxpayers with income in excess of \$1 million each year. That rate has plummeted under Mr. Rettig, with the IRS auditing an average of just 13,008 taxpayers with \$1 million or more in income between FY 2019 and FY 2021.<sup>6</sup>

As millionaire audits have dropped drastically, the IRS continues to audit low-income Americans who receive the Earned Income Tax Credit (EITC) at a rate five times greater than the general public. In FY 2021, out of 160 million tax returns filed, the IRS audited 659,003 individual income tax returns. EITC recipients, who comprised just 23,620,209 of the returns filed last year, were subjected to 306,944 of the audits conducted by IRS – a rate of nearly half.<sup>7</sup>

Mr. Rettig's tenure at the IRS has been marked by deteriorating taxpayer services, careless document destruction, and near-nonexistent scrutiny of wealthy tax scofflaws. The revelation that the IRS under Mr. Rettig's leadership may have been used as a political weapon by Donald Trump must be the final straw. Enough is enough. The American people deserve a revitalized IRS with a leader they can depend upon and trust.

Charles Rettig should never have been appointed. Congress laid out in statute just one basic qualification every Commissioner of the IRS must satisfy: "a demonstrated ability in management."<sup>8</sup> Mr. Rettig lacked an established record of managerial prowess prior to his appointment by Donald Trump and now has a record of repeated and often catastrophic managerial failures.

The President possesses the ability to fire the IRS Commissioner at will.<sup>9</sup> While this right is unrestricted by statute, there is undoubtedly considerable cause for Mr. Rettig's immediate removal from office. Thank you for your attention to this urgent matter.

Sincerely,



Bill Pascrell, Jr.  
Member of Congress

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<sup>5</sup> National Taxpayer Advocate, Objectives Report to Congress for Fiscal Year 2023 (June 22, 2022), <https://www.taxpayeradvocate.irs.gov/reports/2023-objectives-report-to-congress/>

<sup>6</sup> Transactional Records Access Clearinghouse (TRAC) at Syracuse University, IRS Audits Poorest Families at Five Times the Rate for Everyone Else (March 8, 2022), <https://trac.syr.edu/tracirs/latest/679/>

<sup>7</sup> *Id.*

<sup>8</sup> 26 U.S. Code § 7803(a)(1)(A)

<sup>9</sup> 26 U.S. Code § 7803(a)(1)(D)