

**DATE:** Feb. 9, 2022

**TO:** Interested Parties

**FROM:** Brownstein Hyatt Farber Schreck

**RE:** House Ways and Means Subcommittee on Oversight: "Challenges Facing Taxpayers"

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On Tuesday, Feb. 8, the House Ways and Means Subcommittee on Oversight held a hearing on the challenges facing taxpayers, tax professionals and the Internal Revenue Service (IRS) during the current tax filing season. National Taxpayer Advocate Erin Collins testified to the challenges facing the IRS and the Taxpayer Advocate Service (TAS) due to a lack of resources, staffing shortage, and increased complications due to the ongoing pandemic.

Both Democratic and Republican members of the subcommittee expressed their interest in clearing the existing IRS mail backlog and improving the tax filing season for their constituents. Democratic members emphasized the need for multi-year funding to address the modernization of IRS processes and technology, while Republican members countered that funding was not the issue, with at least \$1.4 billion in unspent supplemental funding. Collectively, members expressed a willingness to work together to address the issues facing the IRS and taxpayers.

### **Present Members**

- Rep. Bill Pascrell (D-NJ), *Chair*
- Rep. Thomas Suozzi (D-NY)
- Rep. Judy Chu (D-CA)
- Rep. Bradley Schneider (D-IL)
- Rep. Stacey Plaskett (D-VI)
- Rep. Lloyd Doggett (D-TX)
- Rep. Dwight Evans (D-PA)
- Rep. Steven Horsford (D-NV)
- Rep. Jimmy Gomez (D-CA)
- Rep. Tom Rice (R-SC), *Ranking Member*
- Rep. Jackie Walorski (R-IN)
- Rep. Gregory Murphy (R-NC)
- Rep. Drew Ferguson (R-GA)
- Rep. Carol Miller (R-WV)
- Rep. Lloyd Smucker (R-PA)

### **Witness**

#### **[Erin M. Collins](#)**

National taxpayer advocate

Taxpayer Advocate Service

#### **Member Opening Statements**

**Chair Bill Pascrell (D-MA)** referred to a [TAS report on the 2022 filing season](#), highlighting challenges facing taxpayers, tax professionals and the IRS. Pascrell emphasized the importance of the TAS coordinating with the subcommittee to ensure taxpayers receive the resources required to simplify the tax filing process. He also highlighted the difficulties many taxpayers have experienced with the Child Tax Credit (CTC) payments through the portal and stimulus checks. Pascrell said he approved the IRS decision not to require facial recognition for taxpayers this filing season, and he emphasized the need for the IRS to balance security and privacy on behalf of taxpayers. The chair stated the importance of addressing the IRS mail backlog, which is currently causing numerous concerns both for the IRS and constituents.

**Ranking Member Tom Rice (R-SC)** began by recognizing the burden that the IRS has borne during the pandemic. The ranking member noted the IRS mail backlog, which he said amounts to an estimated 16 million unresolved 2021 tax returns, according to the Treasury Inspector General for Tax Administration. Due to the backlog, he said many taxpayers are awaiting their previous year's refund. Rice referenced the \$1 billion in unobligated funds the IRS received under the American Rescue Plan Act to suggest that a lack of funding is not the source of IRS problems. Rice referenced a [letter](#) he and three other members sent to the IRS asking why the agency has not spent these funds. He noted that even after sending a follow-up letter, they have not received a response. Ranking Member Rice emphasized the need to take "drastic action" to address the backlog. He also referenced an [opinion article](#) written by former National Taxpayer Advocate Nina Olsen wherein she suggested several actions be taken to address the backlog. Rice listed those he believed would be useful: (1) pausing audits for a period of four months and repurposing audit employees to address backlog issues; (2) classifying IRS employees as essential workers to ensure they are allowed to work in person; (3) deploying available enforcement agents to address the backlog; and (4) bringing back retired employees for this year's filing season to provide support.

### **Witness Opening Statement**

National Taxpayer Advocate **Erin M. Collins** stated that this past year has been the most challenging one yet for taxpayers and tax practitioners. Collins noted that the IRS toll-free telephone line was only able to address 11% of taxpayer calls received and said thousands of businesses are still waiting for their Employee Retention Tax Credit benefits, enabled by the Coronavirus Aid, Response and Economic Security (CARES) Act. Additionally, Collins pointed to the inadequacy of the "Where's my refund?" tool, which received 623 million "hits" but provided inadequate information to taxpayers. After outlining the various shortfalls of the IRS, Collins stated four main reasons for the inadequate services: (1) office closures due to the pandemic; (2) inadequate staffing; (3) outdated technology systems; and (4) three rounds of stimulus payments and new requirements for the CTC. Collins said the foundational issue, is the imbalance between workload and resources. Collins also discussed the importance of addressing the backlog, saying it is mostly comprised of tax returns filed by paper, explaining that paper filings are transcribed by the IRS through a tedious, manual process. She proposed two viable options to shorten the process: (1) leveraging existing employees and hiring individuals from third-party vendors; and (2) automating the processes of scanning paper returns to avoid the need for manual line-by-line transcription.

## Discussion

### *Addressing the Backlog*

**Chair Pascrell** asked Collins what notices the IRS can stop sending to help clear up the backlog. **Collins** said there is a statutorily required notice the IRS must send to taxpayers to inform them how much they owe. However, she noted the IRS system could be changed to discontinue notices that are being issued more than once.

**Rep. Jackie Walorski (R-IN)** asked Collins whether TAS is having conversations with the IRS about its processing speed. **Collins** said TAS is working with IRS service centers to address submission and processing times.

**Rep. Carol Miller (R-WV)** asked whether the reassignment of 1,200 employees to address the backlog is sufficient to resolve the backlog. **Collins** said the reassignment is a good first step but emphasized the need to utilize other resources, including third-party vendors.

**Rep. Gregory Murphy (R-NC)** asked Collins to expand upon what methods should be implemented to eliminate the backlog and prevent one from accruing in the future. **Collins** emphasized the need for increased automation and electronic filing.

**Rep. Lloyd Smucker (R-PA)** asked Collins to estimate how long it would take the IRS to be fully updated on processing. **Collins** said either May or June was feasible.

### *Modernization of the IRS Processes*

**Ranking Member Rice** said taxpayer service is broken and asked whether the technology systems utilized by the IRS are antiquated. **Collins** said yes, noting that the IRS should be a leader in technology. Rice said that modernization is a priority and added that modernization would help resolve the backlog.

**Ranking Member Rice** asked Ms. Collins about a long-term plan to ensure technological modernization. **Collins** emphasized the need for sustained, multi-year funding rather than repeated continuing resolutions.

### *IRS Staffing*

**Chair Pascrell** asked how feasible it would be to increase staffing given IRS budget concerns. **Collins** stated that it is a challenge to increase staffing, noting the IRS had only 200 individuals apply for 5,000 open positions. Collins said she does not think the IRS will have sufficient staff for this filing season but added it can outsource to third-party vendors to compensate.

**Ranking Member Rice** asked how many people the IRS has hired for this filing season. **Collins** said although the IRS intended to hire 5,000 employees, it only received 172 applications. Ranking Member Rice noted the need to bring employees back into the office.

**Rep. Lloyd Doggett (D-TX)** referenced the difficulty the agency has had in recruiting employees and asked what could be done to make the IRS a more desirable place. **Collins** reiterated comments from IRS Commissioner Chuck Rettig, who said the IRS needs to recruit recent college graduates, individuals in the middle of their careers and individuals nearing the end of their careers. She emphasized her belief that the IRS is a desirable place to work but lacks the messaging to recruit enough interested applicants.

**Rep. Stacey Plaskett (D-VI)** asked Collins how many employees are necessary to address the backlog and bring the IRS up to date. **Collins** said the IRS needs employees to assist in the submission processes and stated the IRS will need more than the available 1,200 employees. She emphasized the immediate need for outside vendors.

#### *Addressing Difficulties Imposed on Taxpayers*

**Chair Pascrell** said the millions of stimulus payments and Advanced CTC requirements have complicated tax return preparation for many taxpayers. He asked Collins how taxpayers can ensure their returns are accurate, considering these added complications. **Collins** said the IRS is sending taxpayers information to notify them of what is reflected in IRS records to help avoid inconsistencies in tax filings.

**Rep. Judy Chu (D-CA)** emphasized the need for a reduction in taxpayer penalties and referenced the Taxpayer Penalty Protection Act of 2021 (H.R. 5155), which Chu introduced to reduce the penalties incurred by taxpayers given the difficulties posed by the pandemic. Chu asked Collins whether the IRS will be providing penalty relief for taxpayers for 2021. **Collins** said there is not enough information as to whether penalty relief will be needed given that taxpayers are able to request a filing extension up to Oct. 15.

**Rep. Chu** asked what taxpayers should do if the IRS sends them a notice, but they do not have a return to refer to for their response. **Collins** said the IRS should not be assessing failure-to-file penalties when the returns are not available to the taxpayer due to the IRS backlog.

**Rep. Walorski** asked Collins to outline how TAS is prioritizing taxpayer cases. **Collins** said the TAS caseload has increased, noting that congressional referrals to cases have increased six-fold this tax filing season. She said TAS is doing its best to prioritize taxpayers who are experiencing hardships and said her office contacts congressional offices at least once a month to provide updates on cases.

**Rep. Bradley Schneider (D-IL)** asked what advice Collins would provide to taxpayers to address the challenges posed by the tax filing season. **Collins** said she would encourage taxpayers to file electronically if possible, request direct deposit and triple check for any errors before filing.

**Rep. Miller** asked for clarification as to what taxpayers should do if their 2020 returns are still being processed. Collins said that the IRS is telling people whose tax returns from 2020 have not yet been processed to file their 2021 tax returns. For anyone in this group filing electronically, taxpayers need their Adjusted Gross Income (AGI) from their most recent tax return when they file electronically. For those waiting for their 2020 return to be processed, they should enter \$0 (zero dollars) for last year's AGI on the 2021 tax return.

**Rep. Plaskett** noted the difficulty her constituents have experienced accessing public assistance in filing their tax returns. **Ms. Collins** said TAS is in the process of opening a low-income tax assistance office in the Virgin Islands.

**Rep. Smucker** said his office receives many questions from constituents regarding the processing of their returns and asked what Collins was doing to address frustration with the national tax service. **Collins** reiterated that congressional referrals to taxpayer cases are up six-fold. She said TAS and the IRS are focused on increasing customer interaction and improving customer service.

**Rep. Jimmy Gomez (D-CA)** noted that the Advanced CTC and the Earned Income Tax Credit have not been claimed by half of eligible taxpayers. **Collins** emphasized the need for education to ensure individuals are aware of the benefits Congress has provided and to ensure those individuals understand the need to file their tax returns to realize the full benefits available to them.

#### *IRS Funding*

**Rep. Chu** asked how multiyear funding for the IRS would improve the IRS and TAS. **Collins** said adequate funding would improve taxpayer customer services and ensure improved responsiveness to taxpayers. She also noted the need for improved multiyear funding to address concerns of the enforcement and IT concerns pertaining to the IRS.

**Rep. Schneider** noted that IRS workload has increased 20% since 2010 while funding has decreased by 20% over the same period, creating a shortfall of about 50%. He asked how the \$250 million in funding for system development is being spent. **Collins** said a large portion of the IRS IT department's budget is spent ensuring existing systems continue to function.

**Rep. Gomez** asked how cuts to IRS funding has impacted low-income taxpayers. **Collins** said customer service is essential to low-income individuals because they generally do not have access to tax preparers due to financial constraints. She also said those individuals tend to rely more heavily on IRS customer service.

#### *Miscellaneous*

**Rep. Plaskett** asked Collins to explain the implementation process of the TAS report submitted to Congress. **Collins** stated that her office worked with the IRS during the year on the actions and issues noted in the report and said the IRS has 90 days to respond to the report and TAS will be posting the report online.