

United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

January 3, 2019

The Honorable Charles Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Commissioner Rettig:

With the 2019 tax filing season quickly approaching, I am writing to express my continuing concerns about the extent to which millions of taxpayers may have been under-withheld this past year, and the possible backlash to the IRS and the Administration. In a report requested by incoming Ways & Means Chairman Richard Neal and me, the Government Accountability Office (GAO) estimated in July that nearly 30 million taxpayers could be under-withheld in 2018, resulting in a nasty tax surprise this coming April.¹

As you know, the 2017 tax law upended middle class tax benefits even while promising households a massive tax refund. While the tax law expanded the child tax credit and standard deduction, it also repealed personal exemptions and many itemized deductions and capped the state and local income tax deduction at \$10,000. Republicans also rushed their tax bill's implementation, insisting on a start year of 2018 for a bill they had barely completed at the end of 2017. As a result, Treasury had to jury-rig the current withholding allowance instead of properly revising the W-4 so that employees could update the number of allowances they claim with their employers.

Instead, Treasury Secretary Mnuchin and your predecessor, Acting Commissioner Kautter, proposed that taxpayers use the new IRS tax calculator to determine whether they were being under-withheld by Trump's tax law. However, according to a recent IRS Information Reporting Advisory Committee (IRPAC) report, it does not sound like most taxpayers actually visited the IRS website and clicked through all the complicated steps.² The IRPAC report consequently warns that Treasury's makeshift W-4 combined with few successful taxpayer visits to the IRS calculator "may cause a significant number of taxpayers to be under-withheld when they file their 2018 personal income tax returns."³

¹ GAO, "Federal Tax Withholding: Treasury and IRS Should Document the Roles and Responsibilities of Updating Annual Withholding Tables," July 31, 2018. See Table 1, p. 13. <https://www.gao.gov/products/GAO-18-548>

² Public Report, IRS Information Reporting Advisory Committee, October 2018. <https://www.irs.gov/pub/irs-pdf/p5315.pdf>

³ Ibid., p. 25.

It seems unavoidable that millions of taxpayers who are expecting critical tax refunds will instead owe taxes when they start to fill out their returns in a few short weeks. Again, the Republican tax bill was rushed from start to finish, and passed over Democrats' objections, so all we can do in the short-term is turn to damage control. While the IRS cannot spare taxpayers who have been under-withheld from paying what is due, IRPAC recommends that IRS waive under-withholding penalties on taxpayers for this filing season so as not to add insult to injury. Such a one-time waiver would also spare both taxpayers and the dedicated staff of the IRS a modicum of grief this coming filing season and give Treasury a reprieve to get withholding and the W-4 form right for the 2020 filing season.

I would like to receive a written response from you at your earliest convenience on how IRS plans to respond to taxpayers who have been under-withheld this filing season. Do you agree that IRS should waive penalties for these taxpayers? Do you have further thoughts and recommendations on how to get withholding right for subsequent tax filing seasons?

For the longer haul, I am committed to working with Republicans and Democrats to legislate key changes to the tax law so that the middle class gets an actual tax cut instead of the windfall to the most fortunate that the 2017 law provided.

Sincerely,



Ron Wyden
Ranking Member
Committee on Finance, U.S. Senate