

COMMITTEES:

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HEALTH, EDUCATION, LABOR, AND PENSIONS

ENERGY AND NATURAL RESOURCES

SPECIAL COMMITTEE ON AGING

United States Senate

May 16, 2016

John Koskinen
Commissioner
Internal Revenue Service
1111 Constitution Ave NW
Washington, DC 20224

Michael Deneroff
National Public Liaison
Internal Revenue Service
1111 Constitution Ave NW
Washington, DC 20224

Dear Commissioner Koskinen and Mr. Deneroff,

I am writing today regarding the upcoming selection of new members of the Internal Revenue Service's (IRS) Electronic Tax Administration Advisory Committee (ETAAC). The IRS formed ETAAC in 1998 to "provide an organized public forum...in support of the overriding goal that paperless filing should be the preferred and most convenient method of filing tax and information returns."¹ The IRS is currently seeking eight to ten new members of ETAAC. Applications were due to the IRS' National Public Liaison on May 11, 2016.²

I am very concerned about the lack of public representation on a committee that serves as a "public forum" whose members "convey the public's perception" of electronic tax issues to the IRS.³ Instead of a committee that reflects the diversity of consumer interests, ETAAC membership has been heavily loaded with representatives of the paid tax preparation industry. Of the current nine members, only three are not directly associated with the tax preparation and software industries. The overwhelming representation of the tax preparation industry on the committee has rendered it more of an industry mouthpiece than a true public forum. I understand that the IRS—for the first time since the ETAAC was formed—explicitly targeted applicants with experience in "consumer advocacy" as part of its 2016 call for ETAAC nominations.⁴ As you prepare to select new ETAAC members, I urge you to follow through with your commitment to taxpayer representation on ETAAC and to select consumer advocates, as well as other members representing the needs of low-income, elderly, disabled, and non-English speaking taxpayers, to sit on the advisory committee.

¹ 63 FR 12581 (online at <https://www.gpo.gov/fdsys/pkg/FR-1998-03-13/pdf/98-6419.pdf>).

² Internal Revenue Service, "Apply for Membership on the Electronic Tax Administration Advisory Committee (ETAAC)" (April 13, 2016) (online at [https://www.irs.gov/Tax-Professionals/Apply-for-Membership-on-the-Electronic-Tax-Administration-Advisory-Committee-\(ETAAC\)](https://www.irs.gov/Tax-Professionals/Apply-for-Membership-on-the-Electronic-Tax-Administration-Advisory-Committee-(ETAAC))).

³ Internal Revenue Service, "Apply for Membership on the Electronic Tax Administration Advisory Committee (ETAAC)" (April 13, 2016) (online at [https://www.irs.gov/Tax-Professionals/Apply-for-Membership-on-the-Electronic-Tax-Administration-Advisory-Committee-\(ETAAC\)](https://www.irs.gov/Tax-Professionals/Apply-for-Membership-on-the-Electronic-Tax-Administration-Advisory-Committee-(ETAAC))).

⁴ 81 FR 21445 (online at <https://www.gpo.gov/fdsys/pkg/FR-2016-04-11/pdf/2016-08240.pdf>).

ETAAC Established to Facilitate Public Input on Electronic Tax Issues, Yet ETAAC Membership Has Been Drawn Heavily from Private Industry

Since ETAAC's inception, the IRS has nominally sought to obtain a "balanced membership" that could "[take] into account the needs of the diverse groups served by the [Treasury] Department." When the committee was formed, the IRS announced that "tax practitioners and preparers," "tax software developers," "small and large business owners," "academics," "state and local governments," and "individual taxpayers," among other groups, all deserved a seat at the table.⁵ The IRS expected to gather ETAAC nominations from government officials and "professional and public interest groups."⁶ Today, the IRS maintains that ETAAC members "convey the public's perceptions of IRS electronic tax administration activities," and that the committee should include "a diverse group of individuals."⁷

For many years, however, ETAAC's membership has substantially consisted of private sector actors—particularly those of the tax software and preparer industries, which directly profit from policies that send taxpayers their way – and has lacked the voices of consumer advocates.

The inaugural 1998-1999 ETAAC was selected by the IRS' Assistant Commissioner for Electronic Tax Administration—himself a former Vice President at tax software company Intuit, Inc.⁸ Just five of seventeen members were drawn from public sector—including one academic who owned a tax preparation business.⁹ The remaining members hailed from the private sector, many representing large tax preparation and software companies such as Intuit, H&R Block, and Jackson Hewitt Tax Services, as well as smaller firms like Grimes Income Tax, Tax Back, Inc., and Ceridian Tax Service.¹⁰

Today's ETAAC has a similar lack of public representation: only one of its nine members, an employee at the Illinois Department of Revenue, works in the public sector, while six members represent the tax industry. The 2014-2015 Chairman directs tax practice, procedure services, and software at H&R Block.¹¹

⁵ 63 FR 12581 (online at <https://www.gpo.gov/fdsys/pkg/FR-1998-03-13/pdf/98-6419.pdf>).

⁶ 63 FR 12581 (online at <https://www.gpo.gov/fdsys/pkg/FR-1998-03-13/pdf/98-6419.pdf>).

⁷ 81 FR 21445 (online at <https://www.gpo.gov/fdsys/pkg/FR-2016-04-11/pdf/2016-08240.pdf>).

⁸ 63 FR 12581 (online at <https://www.gpo.gov/fdsys/pkg/FR-1998-03-13/pdf/98-6419.pdf>); "INTERVIEW: Robert E. Barr, tax man turned tech exec," *Government Computer News* (April 14, 2001) (online at <https://gcn.com/articles/2001/04/14/interview-robert-e-barr-tax-man-turned-tech-exec.aspx>).

⁹ Electronic Tax Advisory Committee, *Annual Report to Congress (Appendix C)* (June 30, 1999) (online at <http://unclefed.com/ForTaxProfs/irs-drop/1999/etaac.pdf>). Public members include: (1) A Professor of Accounting & Taxation at Grand Valley State University; (2) the Chair of the AARP's National Technology Committee; (3) the Director of Processing Services at the California Franchise Tax Board; (4) a Professor of Accounting and Information Services at Johnson State College; and (5) an Administrator at the South Carolina Department of Revenue. See the entry on Keith Dusenbery in "IRS Advisory Group to Meet" (April 17, 1995) (online at <http://unclefed.com/Tax-News/1995/Nr95-35.html>), a tax professor at Johnson State with his own tax preparation service.

¹⁰ Electronic Tax Advisory Committee, *Annual Report to Congress (Appendix C)* (June 30, 1999) (online at <http://unclefed.com/ForTaxProfs/irs-drop/1999/etaac.pdf>).

¹¹ See IRS, "Biographies of the Electronic Tax Administration Advisory Committee (ETAAC) Members" (June 4, 2015) (online at <https://www.irs.gov/uac/Biographies-of-the-Electronic-Tax-Administration-Advisory-Committee-ETAAC-Members>). The two remaining members work at consulting firms. One has extensive experience working with government clients to improve operations through technology; the second has worked to improve access to free income tax preparation services, including VITA sites and MyFreeTaxes.com.

While every ETAAC with the exception of the 2001-2002 group has included a representative from one of the major tax preparation companies – Intuit, H&R Block, or Jackson Hewitt – only three members over the committee’s seventeen-year history appear to have represented groups advocating on behalf of individual taxpayers. All three of these members were associated with the American Association of Retired Persons (AARP) — and two out of the three also had ties to the tax software industry.¹²

Consumer Advocate Input Essential to Safeguarding Taxpayer Interests

In its April 11, 2016, call for applications, the agency encouraged individuals with experience in “consumer advocacy” to apply. This marks the first time in ETAAC’s history that the IRS has explicitly solicited applications from consumer advocates—sending a strong and positive signal that ETAAC should represent the interests of average taxpayers and consumers.¹³

In prior years, when the IRS has sought input from a committee stacked with private sector interests at the expense of other public representation, the result has been policies that fail to meet the needs of American taxpayers. Taxpayers spend, on average, \$200 a year for tax preparation services—a financial burden that is essential to the business model of the tax preparation and tax software industries.¹⁴ And ETAAC’s annual reports to Congress reflect the tax industry’s bias towards keeping electronic filing services in private hands. ETAAC has consistently called for the IRS to “increase...its collaboration with electronic tax administration stakeholders” while opposing IRS initiatives “to build systems or services that compete with the private sector.”¹⁵ Consumer advocates, as representatives of typical taxpayers, will play a critical role in pushing back against the private-sector interests that have dominated the ETAAC.

Efforts to modernize taxpayers’ electronic interactions with the agency make the IRS’ call for consumer advocates particularly timely. The IRS, working closely with the ETAAC, is developing its

¹² See Electronic Tax Administration Advisory Committee, *Annual Report to Congress (Appendix C)* (June 30, 1999) (online at <http://unclefed.com/ForTaxProfs/irs-drop/1999/etaac.pdf>); Electronic Tax Administration Advisory Committee, *Annual Report to Congress (Appendix)* (June 30, 2000); Electronic Tax Administration Advisory Committee, *Annual Report to Congress (Appendix 2)* (June 30, 2007) (online at <https://www.irs.gov/pub/irs-prior/p3415--2007.pdf>); Electronic Tax Administration Advisory Committee, *Annual Report to Congress* (June 30, 2008) (online at <https://www.irs.gov/pub/irs-prior/p3415--2008.pdf>); and Electronic Tax Administration Advisory Committee, *Annual Report to Congress* (June 30, 2009) (online at <https://www.irs.gov/pub/irs-prior/p3415--2009.pdf>).

Margaret Drescher, a member from 1998-2000, represented the AARP’s National Technology Committee on the ETAAC. Prior to working at the AARP, Drescher spent 15 years working at H&R Block. See Jim Davis, “On-line filing less taxing,” *Mail Tribune* (April 15, 1998) (online at <http://www.mailtribune.com/article/19980415/News/304159994>).

Joan Ruff, an attorney, served on the ETAAC from 2006-2009. From 2005-2007, Ruff served as H&R Block’s Assistant Vice President of Knowledge Development. In 2008, Ruff joined the AARP Foundation’s Board of Directors. See IRS, “IRS Selects New Members and a Chairman for ETAAC,” *IRS News Release* (November 6, 2006) (online at <https://www.irs.gov/pub/irs-news/ir-06-169.pdf>) and “Joan Ruff: Member of the Board at AARP,” *LinkedIn* (accessed May 5, 2016) (online at <https://www.linkedin.com/in/joan-ruff-a6373930>).

¹³ 81 FR 21445 (online at <https://www.gpo.gov/fdsys/pkg/FR-2016-04-11/pdf/2016-08240.pdf>).

¹⁴ Internal Revenue Service, “Estimates of Taxpayer Burden” (2015) (online at <https://www.irs.gov/instructions/i1040a/ar03.html>).

¹⁵ See, for example, the discussion of “Free File” in Electronic Tax Administration Advisory Committee, *Annual Report to Congress* (June 30, 2005) (online at http://www.unclefed.com/IRS-Forms/2005/p3415_05.pdf) and the discussion of the “Simple Return” in Electronic Tax Administration Advisory Committee, *Annual Report to Congress* (June 2011) (online at <https://www.irs.gov/pub/irs-prior/p3415--2011.pdf>).

“Future State Initiative”—a plan for the agency to adapt to “to an environment of limited resources and rapid changes in technology” by creating “a more robust online taxpayer experience.”¹⁶ Online taxpayer accounts are a key component of the IRS’ “Future State”: taxpayers could use their IRS accounts to “virtually” interact with the IRS, greatly minimizing the need for in-person assistance and significantly reducing IRS costs.¹⁷

Yet ETAAC members should also be attentive to the millions of taxpayers who do not have access to the Internet, are not comfortable using it for financial transactions, or have complicated tax questions for whom online assistance is “impractical” or “undesirable.”¹⁸ To address the needs of taxpayers unable to use their online accounts, the IRS plans to expand the role of tax practitioners and tax software companies “so they can assist taxpayers without the need for direct IRS involvement”—a strategy that would “substantially increase compliance costs” for many taxpayers. Low-income taxpayers, taxpayers not proficient in English, the disabled, and the elderly could be particularly vulnerable under the IRS’ “Future State.”¹⁹ Many of these groups have had little, if any, representation on past ETAACs. Consumer advocates can fill this need.

The need for consumer advocate voices on ETAAC is heightened by the fact that the IRS, “under the auspices of the ETAAC,” has created a subgroup—the IRS Security Summit—that increases the influence of industry on the advisory committee.²⁰ Established in 2015, the Security Summit brings together IRS officials, state tax administrators, and members of the tax industry to combat electronic tax fraud. To organize the Security Summit, ETAAC worked with the Federation of Tax Administrators, the Council for Electronic Revenue Communication Advancement (CERCA), and the American Coalition for Taxpayer Rights (ACTR). CERCA, a “liaison” between the IRS and industry, counts Intuit, H&R Block, Jackson Hewitt, Liberty Tax Service, TaxSlayer, and FileYourTaxes.com—among other tax software and payroll companies—as its members.²¹ ACTR represents ten of “the nation’s largest retail tax preparation and tax software companies and financial institutions,” including H&R Block, Intuit, Jackson Hewitt, Liberty Tax Service, TaxSlayer, and TaxAct.²²

¹⁶ Internal Revenue Service, “IRS Future State” (March 4, 2016) (online at <https://www.irs.gov/uac/Newsroom/IRS-Future-State>); “Internal Revenue Service, “Future State Initiative” (February 22, 2016) (online at <https://www.irs.gov/uac/Newsroom/Future-State-Initiative>); and John Koskinen, IRS Commissioner, “Planning for the Future of the Taxpayer Experience,” testimony in front of the Senate Finance Committee (February 10, 2016) (online at <https://www.irs.gov/PUP/newsroom/FSTaxpayerInteraction.pdf>).

¹⁷ John Koskinen, IRS Commissioner, “Planning for the Future of the Taxpayer Experience,” testimony in front of the Senate Finance Committee (February 10, 2016) (online at <https://www.irs.gov/PUP/newsroom/FSTaxpayerInteraction.pdf>).

¹⁸ National Taxpayer Advocate, “MSP #1: Taxpayer Service: The IRS Has Developed a Comprehensive ‘Future State’ Plan the Aims to Transform the Way It Interacts With Taxpayers, But Its Plan May Leave Critical Taxpayer Needs and Preferences Unmet” (January 6, 2016) (online at http://taxpayeradvocate.irs.gov/Media/Default/Documents/2015ARC/ARC15_Volume1_MSP_01_Taxpayer-Service.pdf).

¹⁹ National Taxpayer Advocate, “MSP #1: Taxpayer Service: The IRS Has Developed a Comprehensive ‘Future State’ Plan the Aims to Transform the Way It Interacts With Taxpayers, But Its Plan May Leave Critical Taxpayer Needs and Preferences Unmet” (January 6, 2016) (online at http://taxpayeradvocate.irs.gov/Media/Default/Documents/2015ARC/ARC15_Volume1_MSP_01_Taxpayer-Service.pdf).

²⁰ Internal Revenue Service, “Electronic Tax Administration Advisory Committee (ETAAC)” (April 26, 2016) (online at <https://www.irs.gov/uac/Electronic-Tax-Administration-Advisory-Committee-ETAAC>).

²¹ IRS Security Summit, *2015 Security Summit: Protecting Taxpayers from Identity Theft Tax Refund Fraud* (2015) (online at <https://www.irs.gov/PUP/newsroom/2015%20Security%20Summit%20Report.pdf>).

²² See IRS Security Summit, *2015 Security Summit: Protecting Taxpayers from Identity Theft Tax Refund Fraud* (2015) (online at <https://www.irs.gov/PUP/newsroom/2015%20Security%20Summit%20Report.pdf>) and American Coalition for Taxpayer Rights, “About” (2015) (online at <http://www.americancoalitionfortaxpayerrights.org/index.php/about/>). Notably, ACTR is


Conclusion

Insight from private industry—including tax software providers and tax preparers—is valuable to the IRS as it plans its electronic tax initiatives. As the committee’s history clearly indicates, ETAAC has had access to—and will continue to have access to—the opinions and expertise of industry insiders. But this committee, which is responsible for advising the IRS on electronic tax filing, should not be dominated by private interests that profit from the tax filing system it seeks to shape and whose voices come at the expense of broad public perspectives.

I continue to be concerned that the IRS has been unable to ensure that the public, not simply the private sector, is represented on ETAAC. As you review applications for the new ETAAC, I urge you to follow through on your interest in ensuring that ETAAC appropriately represents American taxpayers and to name a substantial number of consumer and public advocates as new ETAAC members. Furthermore, I encourage the IRS to select ETAAC members that represent the public interest: they should not have direct and personal financial interests in making changes to electronic tax filing, and they should represent the needs of all individual taxpayers—particularly low-income, elderly, disabled, and non-English speaking communities.

Please feel free to contact Jeremy Bearer-Friend or Susannah Savage of my staff if you have any questions or concerns.

Sincerely,



Elizabeth Warren
United States Senator

devoted to preserving a “voluntary tax compliance system” and opposing “a presentment system, where taxpayers are presented with a bill by the taxing agency.” In other words, ACTR is vehemently opposed to a “return-free” filing system, in which the federal government prepares returns for individual taxpayers for free (thus cutting into the profits of tax preparation and software companies). For more information on how ACTR and its members have worked to keep individual tax filing complicated, expensive, and squarely within the private sector, see my recent staff report, *Tax Maze: How the Tax Prep Industry Blocks Government from Making Tax Day Easier* (April 2016) (online at http://www.warren.senate.gov/files/documents/Tax_Maze_Report.pdf).