

United States Senate

WASHINGTON, DC 20510

March 22, 2018

David J. Kautter
Acting Commissioner
Internal Revenue Service
U.S. Department of the Treasury
1111 Constitution Avenue N.W.
Washington, D.C. 20224

Dear Acting Commissioner Kautter,

Federal law restricts the ability of private debt collectors that receive contracts from the Internal Revenue Service (IRS) to collect debts from taxpayers “affected by a federally declared disaster.”¹ Given the large number of taxpayers affected by federally declared disasters in 2017 – including Hurricanes Harvey and Irma, wildfires in California and other sites, and floods in New England, we are writing to request information to determine if the IRS’s private debt collection program may have unduly burdened taxpayers affected by natural disasters.

The Fixing America’s Surface Transportation (FAST) Act of 2015 directed the IRS to “enter into one or more qualified tax collection contracts for the collection of all outstanding inactive tax receivables.”² In April 2017, the IRS began collecting tax debts through four private debt collection companies: CBE Group, Conserve, Performant, and Pioneer.³ Though the program has been operational for less than one year, the National Taxpayer Advocate has already raised significant concerns about its effectiveness and implementation. The program, named one of the Taxpayer Advocate’s “most serious problems” facing taxpayers in 2017, reportedly generated just \$6.7 million in recovered tax debts in FY17, yet cost taxpayers over \$20 million. The Taxpayer Advocate also found that the program unduly “burden[ed] taxpayers who [were] likely experiencing economic hardship” and may have been implemented in a manner inconsistent with federal law.⁴

Given the Taxpayer Advocate’s concerns, and the high number of federally declared disasters that occurred in 2017, we seek information to determine whether the IRS and its

¹ 26 U.S.C. § 6306-Qualified Tax Collection Contracts (online at <https://www.law.cornell.edu/uscode/text/26/6306>).

² 26 U.S.C. § 6306-Qualified Tax Collection Contracts (online at <https://www.law.cornell.edu/uscode/text/26/6306>).

³ Internal Revenue Service, “Private Collection of Some Overdue Federal Taxes Starts in April; Those Affected Will Hear First From IRS; IRS Will Still Handle Most Tax Debts” (April 4, 2017) (online at <https://www.irs.gov/newsroom/private-collection-of-some-overdue-federal-taxes-starts-in-april-those-affected-will-hear-first-from-irs-irs-will-still-handle-most-tax-debts>).

⁴ National Taxpayer Advocate, “PRIVATE DEBT COLLECTION: The IRS’s Private Debt Collection Program Is Not Generating Net Revenues, Appears to Have Been Implemented Inconsistently with the Law, and Burdens Taxpayers Experiencing Economic Hardship,” *2017 Annual Report to Congress* (online at https://taxpayeradvocate.irs.gov/Media/Default/Documents/2017-ARC/ARC17_Volume1_MSP_01_PDC.pdf).

contractors have implemented the debt collection program in a manner consistent with the law for taxpayers impacted by federally declared disasters.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act) allows the President to issue “major disaster declarations” as a result of “any natural catastrophe (including any hurricane, tornado, [or] storm...)...in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant” federal assistance.⁵ Under Section 32102 of the FAST Act, “a taxpayer determined to be affected by a federally declared disaster” under the Stafford Act can request “relief from immediate collection measures by contractors” and “a return of [their debt] to the inventory of the Internal Revenue Service to be collected by an employee thereof.”⁶

Since private debt collectors began collections in April 2017, President Trump has issued 50 major disaster declarations in response to natural catastrophes.⁷ On August 25, 2017, for example, President Trump declared a major disaster in Texas as a result of Hurricane Harvey.⁸ Puerto Rico, the U.S. Virgin Islands, and Florida were declared disaster areas in September as a result of Hurricanes Irma and Maria, while Alabama and Mississippi received major disaster declarations as a result of Hurricane Nate in November.⁹ President Trump declared major disasters in California as a result of a spate of severe wildfires in the state, in New England as a result of floods, and throughout the Midwest and south due to tornadoes, flooding, and “straight-line winds.”¹⁰

To improve our understanding of IRS and IRS contractors’ implementation of the private debt collection program for taxpayers impacted by federally declared disasters, we request the following information no later than April 5, 2018:

1. The FAST Act of 2015 gives the Department of the Treasury the authority to “prescribe procedures under which a taxpayer determined to be affected by a federally declared disaster” can request relief from the private debt collection program.¹¹ Please provide a copy of any procedures that the Department of Treasury or the IRS developed to implement this section of the FAST Act.
2. How does the IRS alert taxpayers living in federally declared disaster areas that they have the right to request relief from private debt collectors? Please provide copies of any electronic, paper, or other communications that the IRS has issued to provide this information since April 2017.

⁵ 42 U.S.C. 5121 et seq., and Related Authorities (online at <https://www.fema.gov/media-library-data/1519395888776-af5f95a1a9237302af7e3fd5b0d07d71/StaffordAct.pdf>).

⁶ 26 U.S.C. § 6306-Qualified Tax Collection Contracts (online at <https://www.law.cornell.edu/uscode/text/26/6306>).

⁷ See U.S. Federal Emergency Management Agency, “Disasters” (online at <https://www.fema.gov/archive/disasters>).

⁸ U.S. Federal Emergency Management Agency, “Texas Hurricane Harvey (DR-4332)” (online at <https://www.fema.gov/disaster/4332>).

⁹ See U.S. Federal Emergency Management Agency, “Disasters” (online at <https://www.fema.gov/archive/disasters>).

¹⁰ U.S. Federal Emergency Management Agency, “California Wildfires (DR-4344)” (online at <https://www.fema.gov/disaster/4344>).

¹¹ 26 U.S.C. § 6306-Qualified Tax Collection Contracts (online at <https://www.law.cornell.edu/uscode/text/26/6306>).

3. Please provide a list of all disaster declarations, issued since the private debt collection program became operational in April 2017, under which the IRS believes affected taxpayers should have been able to request relief from the private debt collection program.
4. For each disaster declaration identified in response to Question 3, please provide:
 - a. The geographic region affected;
 - b. The total number of taxpayers affected;
 - c. The number of taxpayers with unpaid tax debts affected;
 - d. The number of taxpayers with unpaid tax debts whose debts had been assigned to CBE Group, Conserve, Performant, or Pioneer, respectively, for collection prior to the occurrence of the federally-declared disaster, and the number of taxpayers with unpaid tax debts whose debts were assigned to CBE Group, Conserve, Performant, or Pioneer, respectively, during the federally-declared disaster;
 - e. The dates during which affected taxpayers described in (d) were permitted to request relief from the private debt collection program as a result of the disaster;
 - f. The number of taxpayers who requested relief from debt collection from the IRS, CBE Group, Conserve, Performant, and Pioneer, respectively, during the time period outlined in (e);
 - g. The number of taxpayer accounts that the IRS refrained from assigning to private collection agencies as a result of the contacts listed in (f);
 - h. The number of taxpayer accounts that CBE Group, Conserve, Performant, and Pioneer, respectively, returned to the IRS for collection as a result of the contacts listed in (f); and
 - i. The number of affected taxpayers described in (d) that repaid tax debts to CBE Group, Conserve, Performant, and Pioneer, respectively, as a result of contacts that occurred during the time period outlined in (e).
5. How does the IRS communicate to CBE Group, Conserve, Performant, and Pioneer that certain taxpayers have a right to request relief from collection as a result of federally declared disasters?
 - a. Does IRS require that these contractors inform taxpayers of this right to relief when they contract taxpayers in areas affected by federally declared disasters?

- b. Does the IRS monitor or audit contractor compliance with taxpayers requests that they be afforded relief? If so, please provide copies of these audits or other monitoring results.

Please do not hesitate to contact Susannah Savage of Senator Warren's staff at 202-224-4543, Zachary Radford with Senator Blumenthal's staff at 202-224-2823, or Katie Thomas of Senator Sander's staff at 202-224-5141 with any questions or concerns.

Sincerely,



Elizabeth Warren
United States Senator



Richard Blumenthal
United States Senator



Bernard Sanders
United States Senator



Bill Nelson
United States Senator