

Congress of the United States

Washington, DC 20515

October 25, 2023

Curtis Campbell
President
TaxAct
3200 Olympus Boulevard, Suite 100
Dallas, TX 75019

Dear Mr. Campbell:

We write regarding the Federal Trade Commission’s (FTC) recent warning to TaxAct about the civil penalties your company could face if TaxAct misuses confidential taxpayer data.¹ The FTC’s warning followed the release of our months-long investigation revealing that major tax preparation companies sent tens of millions of Americans’ sensitive personal data to Meta without providing appropriate disclosures or obtaining taxpayer consent—in apparent violation of taxpayer privacy laws.² Accordingly, we write to confirm that, in accordance with the FTC’s notice of penalty offenses, your company is not engaged and will not be engaged in any further abuses of taxpayer privacy.³

In November 2022, the *Markup* published a disturbing report identifying major tax filing services that were “quietly transmitting sensitive financial information to Facebook when Americans file[d] their taxes online.”⁴ The tax preparation companies—including TaxAct, H&R Block, TaxSlayer, and Ramsey Solutions—used a piece of code called the Meta Pixel to collect and send private information such as the taxpayer’s name, email, dependents’ names, income, filing status, and refund amounts.⁵ But none of the companies disclosed to taxpayers that they would be sharing this specific information with Meta, which ultimately used this data to feed Facebook’s predictive advertising algorithms and the tax preparation companies’ advertising campaigns.⁶

¹ Federal Trade Commission, “FTC Warns Tax Preparation Companies About Misuse of Consumer Data,” press release, September 18, 2023, <https://www.ftc.gov/news-events/news/press-releases/2023/09/ftc-warns-tax-preparation-companies-about-misuse-consumer-data>.

² Office of Senator Elizabeth Warren, “Attacks on Tax Privacy: How the Tax Prep Industry Enabled Meta to Harvest Millions of Taxpayers’ Sensitive Data,” July 2023, https://www.warren.senate.gov/imo/media/doc/Attacks%20on%20Tax%20Privacy%20Report_7.12.2023.pdf.

³ Federal Trade Commission, “Notice of Penalty Offenses Concerning Misuse of Information Collected in Confidential Contexts,” https://www.ftc.gov/system/files/ftc_gov/pdf/NPO-Misuse-Information-Collected-Confidential-Contexts.pdf.

⁴ The Markup, “Tax Filing Websites Have Been Sending Users’ Financial Information to Facebook,” Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022, <https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>.

⁵ *Id.*

⁶ *Id.*

We opened an investigation into these shocking allegations immediately and released a report on this matter in July 2023.⁷ In addition to confirming the *Markup*'s reporting, our investigation revealed that the tax preparation companies were even more reckless than initially reported in their handling of confidential taxpayer information. For instance, some companies, such as TaxAct, collected and shared even more taxpayer information with Meta than previously known, including zip codes, dates of birth, and titles of webpages visited by taxpayers.⁸ Other companies, such as TaxSlayer, claimed that they used the Pixel in ignorance of how much confidential taxpayer data their own websites were sharing with Meta.⁹ Our report concluded that the tax preparation companies' actions potentially violated federal law, and we asked the Department of Justice, Internal Revenue Service (IRS), Treasury Inspector General for Tax Administration, and FTC to investigate the matter further.¹⁰

Last month, the FTC took action.¹¹ The Commission issued a notice of penalty offenses to five tax preparation companies—including TaxAct—explaining that it is a violation of Section 5 of the Federal Trade Commission Act to (1) use confidential information for purposes not explicitly requested by an individual absent the individual's affirmative express consent and (2) to make false, misleading, or deceptive representations or omissions about the use or confidentiality of information collected in a confidential context.¹² In particular, the Commission highlighted the role of tracking pixels in these unfair or deceptive practices, clarifying that misrepresenting the functionality of pixels to taxpayers and using pixels to improperly transmit confidential taxpayer data constitute violations of federal law.¹³ The Commission reiterated that, under the FTC Act, the standard for a consumer's affirmative express consent is high: the consent must be a "freely given, specific, informed, and unambiguous indication of an individual's wishes via a separate agreement," and at a minimum, must be accompanied by a "clear and conspicuous disclosure" of how the individual's confidential data will be used that is not "buried in privacy policies and terms of service."¹⁴ And importantly, the Commission stated that TaxAct could face civil penalties of up to \$50,120 per violation as a result of the FTC's notice.¹⁵

Americans should be able to file their taxes without fear that their sensitive data will be shared with Big Tech companies. That is one of the many reasons why we support the IRS's work to build an electronic, easy-to-use tax filing service for any American who wishes to file

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⁸ *Id.* at 11.

⁹ *Id.* at 15.

¹⁰ *Id.* at 21-23, 39.

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¹³ Letter from Federal Trade Commission to Tax Preparation Companies, September 18, 2023, https://www.ftc.gov/system/files/ftc_gov/pdf/NPO-Misuse-Information-Collected-Confidential-Contexts-Cover-Letter_0.pdf.

¹⁴ *Id.*

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their taxes directly with the government for free.¹⁶ Nonetheless, especially while the IRS is in the midst of its efforts to stand up the Direct File program, taxpayers who choose to use your company's services must receive assurances that their confidential data—data about their finances, their children, their health, and more—are not being illegally monetized without their consent. To that end, we ask that you answer the following questions by November 8, 2023:

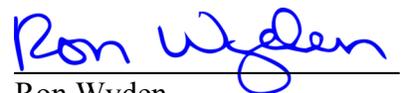
1. In your January 2023 response to our letter asking about allegations that TaxAct misused confidential taxpayer data, you stated that “TaxAct has taken the significant step to fully remove and cease use of the Meta Pixel until further guidance is received.”¹⁷
 - a. At any point since your response, has your company started using Meta Pixel again? If so, please describe how your company uses Meta Pixel and what categories of taxpayer data are being collected and sent to Meta.
 - b. Does your company currently use any other tracking pixels or code to collect and send taxpayer data to third party entities? If so, please describe what services your company uses to collect and send taxpayer data, which third party entities receive this information, and what specific categories of taxpayer data are being collected and sent to those third parties.
2. Has TaxAct ever engaged in any behavior that could constitute deceptive or unfair practices as outlined by the FTC's recent notice of penalty offenses?
3. At this time, is TaxAct fully compliant with the FTC's recent notice of penalty offenses?
4. Does TaxAct commit to remaining fully compliant at all times with the FTC's recent notice of penalty offenses?
5. What processes has TaxAct implemented to ensure that taxpayer data are never improperly used or disclosed by your company and that taxpayers are never misled regarding how their data are being used or disclosed by your company?

Thank you for your attention to this important matter.

Sincerely,



Elizabeth Warren
United States Senator



Ron Wyden
United States Senator

¹⁶ Letters from Senator Elizabeth Warren to Tax Preparation Companies, Meta, and Google, December 14, 2022, <https://www.warren.senate.gov/imo/media/doc/TaxPrepMetaLetters.pdf>.

¹⁷ Letter from TaxAct to Senator Elizabeth Warren, January 3, 2023, on file with Office of Senator Elizabeth Warren.



Richard Blumenthal
United States Senator



Tammy Duckworth
United States Senator



Bernard Sanders
United States Senator



Sheldon Whitehouse
United States Senator



Katie Porter
Member of Congress

Congress of the United States

Washington, DC 20515

October 25, 2023

Jeff Jones
President & Chief Executive Officer
H&R Block
One H&R Block Way
Kansas City, MO 64105

Dear Mr. Jones:

We write regarding the Federal Trade Commission's (FTC) recent warning to H&R Block about the civil penalties your company could face if H&R Block misuses confidential taxpayer data.¹ The FTC's warning followed the release of our months-long investigation revealing that major tax preparation companies sent tens of millions of Americans' sensitive personal data to Meta without providing appropriate disclosures or obtaining taxpayer consent—in apparent violation of taxpayer privacy laws.² Accordingly, we write to confirm that, in accordance with the FTC's notice of penalty offenses, your company is not engaged and will not be engaged in any further abuses of taxpayer privacy.³

In November 2022, the *Markup* published a disturbing report identifying major tax filing services that were “quietly transmitting sensitive financial information to Facebook when Americans file[d] their taxes online.”⁴ The tax preparation companies—including H&R Block, TaxAct, TaxSlayer, and Ramsey Solutions—used a piece of code called the Meta Pixel to collect and send private information such as the taxpayer's name, email, dependents' names, income, filing status, and refund amounts.⁵ But none of the companies disclosed to taxpayers that they would be sharing this specific information with Meta, which ultimately used this data to feed Facebook's predictive advertising algorithms and the tax preparation companies' advertising campaigns.⁶

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We opened an investigation into these shocking allegations immediately and released a report on this matter in July 2023.⁷ In addition to confirming the *Markup*'s reporting, our investigation revealed that the tax preparation companies were even more reckless than initially reported in their handling of confidential taxpayer information. For instance, some companies, such as TaxAct, collected and shared even more taxpayer information with Meta than previously known, including zip codes, dates of birth, and titles of webpages visited by taxpayers.⁸ Other companies, such as TaxSlayer, claimed that they used the Pixel in ignorance of how much confidential taxpayer data their own websites were sharing with Meta.⁹ Our report concluded that the tax preparation companies' actions potentially violated federal law, and we asked the Department of Justice, Internal Revenue Service (IRS), Treasury Inspector General for Tax Administration, and FTC to investigate the matter further.¹⁰

Last month, the FTC took action.¹¹ The Commission issued a notice of penalty offenses to five tax preparation companies—including H&R Block—explaining that it is a violation of Section 5 of the Federal Trade Commission Act to (1) use confidential information for purposes not explicitly requested by an individual absent the individual's affirmative express consent and (2) to make false, misleading, or deceptive representations or omissions about the use or confidentiality of information collected in a confidential context.¹² In particular, the Commission highlighted the role of tracking pixels in these unfair or deceptive practices, clarifying that misrepresenting the functionality of pixels to taxpayers and using pixels to improperly transmit confidential taxpayer data constitute violations of federal law.¹³ The Commission reiterated that, under the FTC Act, the standard for a consumer's affirmative express consent is high: the consent must be a "freely given, specific, informed, and unambiguous indication of an individual's wishes via a separate agreement," and at a minimum, must be accompanied by a "clear and conspicuous disclosure" of how the individual's confidential data will be used that is not "buried in privacy policies and terms of service."¹⁴ And importantly, the Commission stated that H&R Block could face civil penalties of up to \$50,120 per violation as a result of the FTC's notice.¹⁵

Americans should be able to file their taxes without fear that their sensitive data will be shared with Big Tech companies. That is one of the many reasons why we support the IRS's work to build an electronic, easy-to-use tax filing service for any American who wishes to file

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their taxes directly with the government for free.¹⁶ Nonetheless, especially while the IRS is in the midst of its efforts to stand up the Direct File program, taxpayers who choose to use your company's services must receive assurances that their confidential data—data about their finances, their children, their health, and more—are not being illegally monetized without their consent. To that end, we ask that you answer the following questions by November 8, 2023:

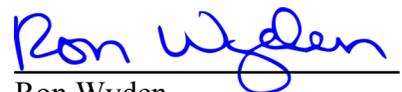
1. In your January 2023 response to our letter asking about allegations that H&R Block misused confidential taxpayer data, you stated that “[a]fter *The Markup*'s initial outreach, H&R Block took immediate steps to prevent the collection of customer information via the Meta pixel.”¹⁷
 - a. Has your company entirely ceased its use of Meta Pixel? If not, please describe how your company uses Meta Pixel and what categories of taxpayer data are being collected and sent to Meta.
 - b. Does your company currently use any other tracking pixels or code to collect and send taxpayer data to third party entities? If so, please describe what services your company uses to collect and send taxpayer data, which third party entities receive this information, and what specific categories of taxpayer data are being collected and sent to those third parties.
2. Has H&R Block ever engaged in any behavior that could constitute deceptive or unfair practices as outlined by the FTC's recent notice of penalty offenses?
3. At this time, is H&R Block fully compliant with the FTC's recent notice of penalty offenses?
4. Does H&R Block commit to remaining fully compliant at all times with the FTC's recent notice of penalty offenses?
5. What processes has H&R Block implemented to ensure that taxpayer data are never improperly used or disclosed by your company and that taxpayers are never misled regarding how their data are being used or disclosed by your company?

Thank you for your attention to this important matter.

Sincerely,



Elizabeth Warren
United States Senator



Ron Wyden
United States Senator

¹⁶ Letters from Senator Elizabeth Warren to Tax Preparation Companies, Meta, and Google, December 14, 2022, <https://www.warren.senate.gov/imo/media/doc/TaxPrepMetaLetters.pdf>.

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Richard Blumenthal
United States Senator



Tammy Duckworth
United States Senator



Bernard Sanders
United States Senator



Sheldon Whitehouse
United States Senator



Katie Porter
Member of Congress

Congress of the United States

Washington, DC 20515

October 25, 2023

Sasan Goodarzi
Chief Executive Officer
Intuit
2700 Coast Avenue
Mountain View, CA 94043

Dear Mr. Goodarzi:

We write regarding the Federal Trade Commission’s (FTC) recent warning to Intuit about the civil penalties your company could face if Intuit misuses confidential taxpayer data.¹ The FTC’s warning followed the release of our months-long investigation revealing that major tax preparation companies sent tens of millions of Americans’ sensitive personal data to Meta without providing appropriate disclosures or obtaining taxpayer consent—in apparent violation of taxpayer privacy laws.² Accordingly, although our report did not conclude that Intuit sent any financial information to Meta, we write to confirm that, in accordance with the FTC’s notice of penalty offenses, your company is not engaged and will not be engaged in any abuses of taxpayer privacy.³

In November 2022, the *Markup* published a disturbing report identifying major tax filing services that were “quietly transmitting sensitive financial information to Facebook when Americans file[d] their taxes online.”⁴ The tax preparation companies—including H&R Block, TaxAct, TaxSlayer, and Ramsey Solutions—used a piece of code called the Meta Pixel to collect and send private information such as the taxpayer’s name, email, dependents’ names, income, filing status, and refund amounts.⁵ But none of the companies disclosed to taxpayers that they would be sharing this specific information with Meta, which ultimately used this data to feed Facebook’s predictive advertising algorithms and the tax preparation companies’ advertising campaigns.⁶

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We opened an investigation into these shocking allegations immediately and released a report on this matter in July 2023.⁷ In addition to confirming the *Markup*'s reporting, our investigation revealed that the tax preparation companies were even more reckless than initially reported in their handling of confidential taxpayer information. For instance, some companies, such as TaxAct, collected and shared even more taxpayer information with Meta than previously known, including zip codes, dates of birth, and titles of webpages visited by taxpayers.⁸ Other companies, such as TaxSlayer, claimed that they used the Pixel in ignorance of how much confidential taxpayer data their own websites were sharing with Meta.⁹ Notably, our report did not find that Intuit sent financial information to Meta.¹⁰ But our report did conclude that the other named tax preparation companies' actions potentially violated federal law, and we asked the Department of Justice, Internal Revenue Service (IRS), Treasury Inspector General for Tax Administration, and FTC to investigate the matter further.¹¹

Last month, the FTC took action.¹² The Commission issued a notice of penalty offenses to five tax preparation companies—including Intuit—explaining that it is a violation of Section 5 of the Federal Trade Commission Act to (1) use confidential information for purposes not explicitly requested by an individual absent the individual's affirmative express consent and (2) to make false, misleading, or deceptive representations or omissions about the use or confidentiality of information collected in a confidential context.¹³ In particular, the Commission highlighted the role of tracking pixels in these unfair or deceptive practices, clarifying that misrepresenting the functionality of pixels to taxpayers and using pixels to improperly transmit confidential taxpayer data constitute violations of federal law.¹⁴ The Commission reiterated that, under the FTC Act, the standard for a consumer's affirmative express consent is high: the consent must be a "freely given, specific, informed, and unambiguous indication of an individual's wishes via a separate agreement," and at a minimum, must be accompanied by a "clear and conspicuous disclosure" of how the individual's confidential data will be used that is not "buried in privacy policies and terms of service."¹⁵ And importantly, the Commission stated that Intuit could face civil penalties of up to \$50,120 per violation as a result of the FTC's notice.¹⁶

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⁸ *Id.* at 11.

⁹ *Id.* at 15.

¹⁰ *Id.* at 13.

¹¹ *Id.* at 21-23, 39.

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Americans should be able to file their taxes without fear that their sensitive data will be shared with Big Tech companies. That is one of the many reasons why we support the IRS's work to build an electronic, easy-to-use tax filing service for any American who wishes to file their taxes directly with the government for free.¹⁷ Nonetheless, especially while the IRS is in the midst of its efforts to stand up the Direct File program, taxpayers who choose to use your company's services must receive assurances that their confidential data—data about their finances, their children, their health, and more—are not being illegally monetized without their consent. To that end, we ask that you answer the following questions by November 8, 2023:

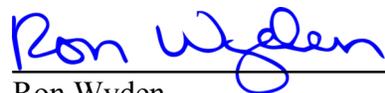
1. In your December 2022 response to our letter asking about Intuit's use of Meta Pixel, you stated that "Intuit does not share tax return information with social media platforms, including Meta Platforms" and that your company had "modified the implementation of Meta Pixel to ensure that a consumer's Intuit.com username is not transmitted."¹⁸
 - a. At any point since your response, has your company started using Meta Pixel to share taxpayer data? If so, please describe how your company uses Meta Pixel and what categories of taxpayer data are being collected and sent to Meta.
 - b. Does your company currently use any other tracking pixels or code to collect and send taxpayer data to third party entities? If so, please describe what services your company uses to collect and send taxpayer data, which third party entities receive this information, and what specific categories of taxpayer data are being collected and sent to those third parties.
2. Has Intuit ever engaged in any behavior that could constitute deceptive or unfair practices as outlined by the FTC's recent notice of penalty offenses?
3. At this time, is Intuit fully compliant with the FTC's recent notice of penalty offenses?
4. Does Intuit commit to remaining fully compliant at all times with the FTC's recent notice of penalty offenses?
5. What processes has Intuit implemented to ensure that taxpayer data are never improperly used or disclosed by your company and that taxpayers are never misled regarding how their data are being used or disclosed by your company?

Thank you for your attention to this important matter.

Sincerely,



Elizabeth Warren
United States Senator



Ron Wyden
United States Senator

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United States Senator



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United States Senator



Bernard Sanders
United States Senator



Sheldon Whitehouse
United States Senator



Katie Porter
Member of Congress

Congress of the United States

Washington, DC 20515

October 25, 2023

Dave Ramsey
Chief Executive Officer
Ramsey Solutions
1011 Reams Fleming Boulevard
Franklin, TN 37064

Dear Mr. Ramsey:

We write regarding the Federal Trade Commission’s (FTC) recent warning to Ramsey Solutions about the civil penalties your company could face if Ramsey Solutions misuses confidential taxpayer data.¹ The FTC’s warning followed the release of our months-long investigation revealing that major tax preparation companies sent tens of millions of Americans’ sensitive personal data to Meta without providing appropriate disclosures or obtaining taxpayer consent—in apparent violation of taxpayer privacy laws.² Accordingly, we write to confirm that, in accordance with the FTC’s notice of penalty offenses, your company is not engaged and will not be engaged in any further abuses of taxpayer privacy.³

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We opened an investigation into these shocking allegations immediately and released a report on this matter in July 2023.⁷ In addition to confirming the *Markup*'s reporting, our investigation revealed that the tax preparation companies were even more reckless than initially reported in their handling of confidential taxpayer information. For instance, some companies, such as TaxAct, collected and shared even more taxpayer information with Meta than previously known, including zip codes, dates of birth, and titles of webpages visited by taxpayers.⁸ Other companies, such as TaxSlayer (which your company relies upon to provide its tax services), claimed that they used the Pixel in ignorance of how much confidential taxpayer data their own websites were sharing with Meta.⁹ Our report concluded that the tax preparation companies' actions potentially violated federal law, and we asked the Department of Justice, Internal Revenue Service (IRS), Treasury Inspector General for Tax Administration, and FTC to investigate the matter further.¹⁰

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¹¹ Federal Trade Commission, "FTC Warns Tax Preparation Companies About Misuse of Consumer Data," press release, September 18, 2023, <https://www.ftc.gov/news-events/news/press-releases/2023/09/ftc-warns-tax-preparation-companies-about-misuse-consumer-data>.

¹² Federal Trade Commission, "Notice of Penalty Offenses Concerning Misuse of Information Collected in Confidential Contexts," https://www.ftc.gov/system/files/ftc_gov/pdf/NPO-Misuse-Information-Collected-Confidential-Contexts.pdf.

¹³ Letter from Federal Trade Commission to Tax Preparation Companies, September 18, 2023, https://www.ftc.gov/system/files/ftc_gov/pdf/NPO-Misuse-Information-Collected-Confidential-Contexts-Cover-Letter_0.pdf.

¹⁴ *Id.*

¹⁵ *Id.*

work to build an electronic, easy-to-use tax filing service for any American who wishes to file their taxes directly with the government for free.¹⁶ Nonetheless, especially while the IRS is in the midst of its efforts to stand up the Direct File program, taxpayers who choose to use your company's services must receive assurances that their confidential data—data about their finances, their children, their health, and more—are not being illegally monetized without their consent. To that end, we ask that you answer the following questions by November 8, 2023:

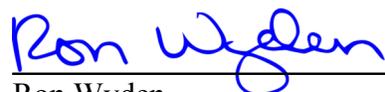
1. In response to the *Markup*'s reporting that Ramsey Solutions misused confidential taxpayer data, you stated that you "immediately informed TaxSlayer to deactivate the Pixel from Ramsey SmartTax."¹⁷
 - a. At any point since your statement, has your company started using Meta Pixel again? If so, please describe how your company uses Meta Pixel and what categories of taxpayer data are being collected and sent to Meta.
 - b. Does your company currently use any other tracking pixels or code to collect and send taxpayer data to third party entities? If so, please describe what services your company uses to collect and send taxpayer data, which third party entities receive this information, and what specific categories of taxpayer data are being collected and sent to those third parties.
2. Has Ramsey Solutions ever engaged in any behavior that could constitute deceptive or unfair practices as outlined by the FTC's recent notice of penalty offenses?
3. At this time, is Ramsey Solutions fully compliant with the FTC's recent notice of penalty offenses?
4. Does Ramsey Solutions commit to remaining fully compliant at all times with the FTC's recent notice of penalty offenses?
5. What processes has Ramsey Solutions implemented to ensure that taxpayer data are never improperly used or disclosed by your company and that taxpayers are never misled regarding how their data are being used or disclosed by your company?

Thank you for your attention to this important matter.

Sincerely,



Elizabeth Warren
United States Senator



Ron Wyden
United States Senator

¹⁶ Letters from Senator Elizabeth Warren to Tax Preparation Companies, Meta, and Google, December 14, 2022, <https://www.warren.senate.gov/imo/media/doc/TaxPrepMetaLetters.pdf>.

¹⁷ The Markup, "Tax Filing Websites Have Been Sending Users' Financial Information to Facebook," Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022, <https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>.



Richard Blumenthal
United States Senator



Tammy Duckworth
United States Senator



Bernard Sanders
United States Senator



Sheldon Whitehouse
United States Senator



Katie Porter
Member of Congress

Congress of the United States

Washington, DC 20515

October 25, 2023

Jamie Saxe
Chief Executive Officer
TaxSlayer
945 Broad Street
Augusta, GA 30901

Dear Ms. Saxe:

We write regarding the Federal Trade Commission's (FTC) recent warning to TaxSlayer about the civil penalties your company could face if TaxSlayer misuses confidential taxpayer data.¹ The FTC's warning followed the release of our months-long investigation revealing that major tax preparation companies sent tens of millions of Americans' sensitive personal data to Meta without providing appropriate disclosures or obtaining taxpayer consent—in apparent violation of taxpayer privacy laws.² Accordingly, we write to confirm that, in accordance with the FTC's notice of penalty offenses, your company is not engaged and will not be engaged in any further abuses of taxpayer privacy.³

In November 2022, the *Markup* published a disturbing report identifying major tax filing services that were “quietly transmitting sensitive financial information to Facebook when Americans file[d] their taxes online.”⁴ The tax preparation companies—including TaxSlayer, H&R Block, TaxAct, and Ramsey Solutions—used a piece of code called the Meta Pixel to collect and send private information such as the taxpayer's name, email, dependents' names, income, filing status, and refund amounts.⁵ But none of the companies disclosed to taxpayers that they would be sharing this specific information with Meta, which ultimately used this data to feed Facebook's predictive advertising algorithms and the tax preparation companies' advertising campaigns.⁶

¹ Federal Trade Commission, “FTC Warns Tax Preparation Companies About Misuse of Consumer Data,” press release, September 18, 2023, <https://www.ftc.gov/news-events/news/press-releases/2023/09/ftc-warns-tax-preparation-companies-about-misuse-consumer-data>.

² Office of Senator Elizabeth Warren, “Attacks on Tax Privacy: How the Tax Prep Industry Enabled Meta to Harvest Millions of Taxpayers' Sensitive Data,” July 2023, https://www.warren.senate.gov/imo/media/doc/Attacks%20on%20Tax%20Privacy%20Report_7.12.2023.pdf.

³ Federal Trade Commission, “Notice of Penalty Offenses Concerning Misuse of Information Collected in Confidential Contexts,” https://www.ftc.gov/system/files/ftc_gov/pdf/NPO-Misuse-Information-Collected-Confidential-Contexts.pdf.

⁴ The Markup, “Tax Filing Websites Have Been Sending Users' Financial Information to Facebook,” Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022, <https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>.

⁵ *Id.*

⁶ *Id.*

We opened an investigation into these shocking allegations immediately and released a report on this matter in July 2023.⁷ In addition to confirming the *Markup*'s reporting, our investigation revealed that the tax preparation companies were even more reckless than initially reported in their handling of confidential taxpayer information. For instance, some companies, such as TaxAct, collected and shared even more taxpayer information with Meta than previously known, including zip codes, dates of birth, and titles of webpages visited by taxpayers.⁸ Other companies, such as TaxSlayer, claimed that they used the Pixel in ignorance of how much confidential taxpayer data their own websites were sharing with Meta.⁹ Our report concluded that the tax preparation companies' actions potentially violated federal law, and we asked the Department of Justice, Internal Revenue Service (IRS), Treasury Inspector General for Tax Administration, and FTC to investigate the matter further.¹⁰

Last month, the FTC took action.¹¹ The Commission issued a notice of penalty offenses to five tax preparation companies—including TaxSlayer—explaining that it is a violation of Section 5 of the Federal Trade Commission Act to (1) use confidential information for purposes not explicitly requested by an individual absent the individual's affirmative express consent and (2) to make false, misleading, or deceptive representations or omissions about the use or confidentiality of information collected in a confidential context.¹² In particular, the Commission highlighted the role of tracking pixels in these unfair or deceptive practices, clarifying that misrepresenting the functionality of pixels to taxpayers and using pixels to improperly transmit confidential taxpayer data constitute violations of federal law.¹³ The Commission reiterated that, under the FTC Act, the standard for a consumer's affirmative express consent is high: the consent must be a "freely given, specific, informed, and unambiguous indication of an individual's wishes via a separate agreement," and at a minimum, must be accompanied by a "clear and conspicuous disclosure" of how the individual's confidential data will be used that is not "buried in privacy policies and terms of service."¹⁴ And importantly, the Commission stated that TaxSlayer could face civil penalties of up to \$50,120 per violation as a result of the FTC's notice.¹⁵

Americans should be able to file their taxes without fear that their sensitive data will be shared with Big Tech companies. That is one of the many reasons why we support the IRS's work to build an electronic, easy-to-use tax filing service for any American who wishes to file

⁷ Office of Senator Elizabeth Warren, "Attacks on Tax Privacy: How the Tax Prep Industry Enabled Meta to Harvest Millions of Taxpayers' Sensitive Data," July 2023, p. 1, https://www.warren.senate.gov/imo/media/doc/Attacks%20on%20Tax%20Privacy%20Report_7.12.2023.pdf.

⁸ *Id.* at 11.

⁹ *Id.* at 15.

¹⁰ *Id.* at 21-23, 39.

¹¹ Federal Trade Commission, "FTC Warns Tax Preparation Companies About Misuse of Consumer Data," press release, September 18, 2023, <https://www.ftc.gov/news-events/news/press-releases/2023/09/ftc-warns-tax-preparation-companies-about-misuse-consumer-data>.

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¹⁴ *Id.*

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their taxes directly with the government for free.¹⁶ Nonetheless, especially while the IRS is in the midst of its efforts to stand up the Direct File program, taxpayers who choose to use your company’s services must receive assurances that their confidential data—data about their finances, their children, their health, and more—are not being illegally monetized without their consent. To that end, we ask that you answer the following questions by November 8, 2023:

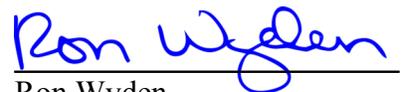
1. In your January 2023 response to our letter asking about allegations that TaxSlayer misused confidential taxpayer data, you stated that “[t]he company has turned off all marketing activities on Meta while it continues to evaluate this matter.”¹⁷
 - a. At any point since your response, has your company started using Meta Pixel again? If so, please describe how your company uses Meta Pixel and what categories of taxpayer data are being collected and sent to Meta.
 - b. Does your company currently use any other tracking pixels or code to collect and send taxpayer data to third party entities? If so, please describe what services your company uses to collect and send taxpayer data, which third party entities receive this information, and what specific categories of taxpayer data are being collected and sent to those third parties.
2. Has TaxSlayer ever engaged in any behavior that could constitute deceptive or unfair practices as outlined by the FTC’s recent notice of penalty offenses?
3. At this time, is TaxSlayer fully compliant with the FTC’s recent notice of penalty offenses?
4. Does TaxSlayer commit to remaining fully compliant at all times with the FTC’s recent notice of penalty offenses?
5. What processes has TaxSlayer implemented to ensure that taxpayer data are never improperly used or disclosed by your company and that taxpayers are never misled regarding how their data are being used or disclosed by your company?

Thank you for your attention to this important matter.

Sincerely,



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¹⁶ Letters from Senator Elizabeth Warren to Tax Preparation Companies, Meta, and Google, December 14, 2022, <https://www.warren.senate.gov/imo/media/doc/TaxPrepMetaLetters.pdf>.

¹⁷ Letter from TaxSlayer to Senator Elizabeth Warren, January 17, 2023, on file with Office of Senator Elizabeth Warren.



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