

Congress of the United States

Washington, DC 20510

June 21, 2022

Richard K. Delmar
Deputy Inspector General
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Andrew Katsaros
Inspector General
Federal Trade Commission
600 Pennsylvania Avenue NW
Washington, DC 20580

J. Russell George
Treasury Inspector General for Tax Administration
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
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Dear Mr. Delmar, Mr. Katsaros, and Mr. George:

We write regarding troubling reports of Intuit’s abuse of the revolving door, and the company’s hiring of former federal regulators and influence-peddlers to defend its shady business practices that force vulnerable American taxpayers into paying for services that should be free. We ask that you open an inquiry into these practices.

For decades, Intuit lobbyists have defended a failed tax filing system that places corporate profits over taxpayer needs. In 2003, Intuit and other tax prep companies successfully lobbied the Internal Revenue Service (IRS) to create the Free File program, through which a consortium of private companies including Intuit would provide free tax preparation services, instead of providing those services directly to low- and middle-income taxpayers itself.¹ Since then, Free File has failed, with only 3 percent of taxpayers participating even though the program was supposed to cover 70 percent of Americans.² This is not an accident – Free File companies like Intuit have engaged in deceptive practices and outright sabotage, including deliberately suppressing Free File websites from search results and pushing taxpayers into in-house “freemium” programs that charge for services that would be free under Free File.³ In fact, in March 2022, the Federal Trade Commission (FTC) brought a long overdue complaint against Intuit for “deceiving consumers with bogus advertisements pitching ‘free’ tax filing that millions of consumers could not use.”⁴

¹ ProPublica, “Inside TurboTax’s 20-Year Fight to Stop Americans From Filing Their Taxes for Free,” Justin Elliott and Paul Kiel, October 17, 2019, <https://www.propublica.org/article/inside-turbotax-20-year-fight-to-stop-americans-from-filing-their-taxes-for-free>.

² The Hill, “Free File providers scam taxpayers; Congress shouldn’t be fooled,” Dennis J. Ventry Jr., July 6, 2018, <https://thehill.com/opinion/finance/395762-free-file-providers-scam-taxpayers-congress-cant-be-fooled/>.

³ ProPublica, “TurboTax Deliberately Hid Its Free File Page From Search Engines,” Justin Elliott, April 26, 2019, <https://www.propublica.org/article/turbotax-deliberately-hides-its-free-file-page-from-search-engines>.

⁴ Federal Trade Commission, “FTC Sues Intuit for Its Deceptive TurboTax ‘free’ Filing Campaign,” press release, March 29, 2022, <https://www.ftc.gov/news-events/news/press-releases/2022/03/ftc-sues-intuit-its-deceptive-turbotax-free-filing-campaign>.

Intuit and other tax prep companies have gotten away with these Free File scams by deploying hordes of lobbyists – including revolving door hires. Intuit has utilized its massive lobbying budget – which topped \$3.2 million in 2021⁵ – to defend its shameless profiteering, including by hiring a slew of former regulators, often deployed to lobby the very agencies where they had recently worked. A prime example is Dave Williams, who was the IRS’s top negotiator on the Free File program in the early 2000s. Williams “was very commercially sensitive” and “didn’t want to offend the industry,” according to an industry associate.⁶ Worse, Williams “was particularly open to having sidebar conversations with key people where he could imagine himself landing some day.”⁷ Indeed, Intuit hired Williams in 2013 to serve as Chief Tax Officer. During his tenure at the company,⁸ the Free File program was extended four times, despite its clear failures.⁹ Reporting indicates that Williams is only one of the several former officials that Intuit has recruited to power its multimillion dollar lobbying machine and protect its deceptive practices from sorely-needed regulatory scrutiny.¹⁰

Most recently, in March 2022, Intuit hired former FTC Chair Jon Leibowitz to defend itself from the recent FTC complaint.¹¹ This hire, undisclosed but for a court filing in the FTC-Intuit case, raises conflict of interest concerns and questions about why the agency failed for years to take action. And it once again underscores Intuit’s willingness to use influence-peddling schemes to protect its shady business practices.

In the wake of the March 2022 report about Intuit’s hiring of Mr. Leibowitz, we wrote to Intuit to investigate this matter, seeking information from the company about potential conflicts of interest in staffing, including former and current employees who had previously worked, or left Intuit to work, for the IRS, Treasury Department, or elsewhere in the executive branch.¹²

Intuit’s response, however, was wholly inadequate, failing to dispel any of the concerns about its unethical behavior.¹³ Intuit failed to provide information on any employee that had made a trip through the revolving door, despite the extensive reporting on specific egregious cases. In

⁵ Open Secrets, “Intuit spends millions lobbying amid accusations of deceptive TurboTax advertising,” Anna Massoglia, March 31, 2022, <https://www.opensecrets.org/news/2022/03/intuit-spends-millions-lobbying-amid-accusations-of-deceptive-turbotax-advertising/#:~:text=Intuit%20has%20spent%20more%20than,multiple%20former%20members%20of%20Congress>.

⁶ ProPublica, “Inside TurboTax’s 20-Year Fight to Stop Americans From Filing Their Taxes for Free,” Justin Elliott and Paul Kiel, October 17, 2019, <https://www.propublica.org/article/inside-turbotax-20-year-fight-to-stop-americans-from-filing-their-taxes-for-free>.

⁷ *Id.*

⁸ LinkedIn, “Dave Williams,” <https://www.linkedin.com/in/dave-williams-4795b19/>.

⁹ Internal Revenue Service, “Eighth Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File, Incorporated,” <https://www.irs.gov/pub/irs-utl/Eight%20Free%20File%20MOU.pdf>.

¹⁰ *Id.*

¹¹ Federal Trade Commission v. Intuit Inc., “Case 3:22-cv-01973-CRB Document 13,” on file with the Office of Senator Elizabeth Warren.

¹² Letter from Senator Elizabeth Warren to Intuit, April 18, 2022, <https://www.warren.senate.gov/imo/media/doc/2022.04.18%20Warren%20Intuit%20Letter.pdf>.

¹³ Letter from Intuit to Senator Elizabeth Warren, May 2, 2022, https://www.warren.senate.gov/download/confidential_-intuit-response_-52202233-2.

response to our request, Intuit cites its internal code of conduct and ethics, which appears to allow employees to represent the company in front of agencies they previously worked for, and does nothing to prevent the revolving door influence-peddling that is our chief concern.¹⁴

Given Intuit's failure to provide answers about its track record with the revolving door, and the ongoing harm to American taxpayers from this behavior, we write to urge you to open an investigation into this revolving-door scheme. Senator Warren has introduced the *Anti-Corruption and Public Integrity Act*,¹⁵ which would outlaw such schemes and ensure that government officials work for the people and not the wealthiest corporations and their clients; and our *Tax Filing Simplification Act*¹⁶ would prevent the IRS from entering into an agreement that restricts its ability to provide free e-filing services and indeed would require the IRS to develop truly free and easy simplified filing tools. However, as Acting Treasury Inspector General, Treasury Inspector General for Tax Administration, and FTC Inspector General, you each already have the statutory power and responsibility to investigate allegations of misconduct with respect to the administration of programs at the Treasury Department, IRS, and FTC, including through access to any relevant records and subpoena power.¹⁷ The questions raised by Intuit's use of the revolving door falls squarely within your missions to "promote economy, efficiency and effectiveness"¹⁸ and "prevent and detect fraud, waste, abuse, misconduct, and mismanagement"¹⁹ in the programs and operations of the Treasury Department, IRS, and FTC.

For these reasons, we request that you use your authorities to open an inquiry into the revolving door between Intuit – and other current and former Free File member companies – and the Treasury Department, the IRS and the FTC, and to inform Congress and the public about your findings without delay. In particular, we ask that you investigate the following topics in your review:

1. The extent to which Intuit and other Free File Alliance members are taking advantage of the revolving door between the companies and government service at the Treasury Department, IRS, and FTC.
2. The role these officials play when they enter government service and when they work for these tax prep companies before or after that government service.

¹⁴ Letter from Senator Elizabeth Warren to Intuit, April 18, 2022, <https://www.warren.senate.gov/imo/media/doc/2022.04.18%20Warren%20Intuit%20Letter.pdf>; Intuit, "Integrity Without Compromise: Intuit's Code of Conduct & Ethics," https://www.intuit.com/oidam/intuit/ic/en_us/content/intuit-code-of-conduct-ethics-icom-en.pdf.

¹⁵ Office of Senator Elizabeth Warren, "Anti-Corruption and Public Integrity Act," <https://www.warren.senate.gov/imo/media/doc/Master%20Summary%20of%20Anti%20Corruption%20Act%20-%20FINAL.pdf>.

¹⁶ Office of Senator Elizabeth Warren, "ICYMI: Warren Makes the Case for Increased Funding for the IRS and Calls on the Administration to Commit to Creating Simplified Filing Tools," press release, February 18, 2022, <https://www.warren.senate.gov/newsroom/press-releases/icymi-warren-makes-the-case-for-increased-funding-for-the-irs-and-calls-on-the-administration-to-commit-to-creating-simplified-filing-tools>.

¹⁷ 5 U.S.C. App. § 6(a) & (c).

¹⁸ U.S. Department of the Treasury, "Inspectors General," <https://home.treasury.gov/services/report-fraud-waste-and-abuse/inspectors-general>.

¹⁹ Federal Trade Commission, Office of the Inspector General, "What you need to know about the Office of Inspector General," <https://www.ftc.gov/office-inspector-general/what-you-need-know-about-office-inspector-general>.

3. The extent to which Intuit, and other Free File Alliance members may have exerted untoward influence on department and agency policies, particularly the Free File program, via employees placed in the executive branch and vice versa.
4. The policies in place at the Treasury Department, IRS, and FTC to protect department and agency policies from being unduly influenced by these employees' potential conflicts of interest.
5. Whether the codes of conduct and ethics policies of Intuit and other Free File Alliance members are effective at preventing the abuse of the revolving door and preventing and addressing conflicts of interest.

Thank you for your attention to this important matter.

Sincerely,


Elizabeth Warren
United States Senator


Katie Porter
Member of Congress


Brad Sherman
Member of Congress