

Congress of the United States

Washington, DC 20515

September 27, 2023

Daniel Werfel
Commissioner
Internal Revenue Service
1111 Constitution Ave. NW
Washington, DC 20224

Dear Commissioner Werfel:

We write regarding a recently released report from the Treasury Inspector General for Tax Administration (TIGTA) regarding its investigation into conflict-of-interest issues at the Internal Revenue Service (IRS). We are appreciative of your agency's key role in implementing the Corporate Alternative Minimum Tax, its commendable work to establish a Direct File program, and its many other efforts to improve the fairness and efficiency of tax code enforcement. We believe that it is critical that these important new initiatives are successful and not marred by revolving-door influence peddling and ask that you take additional action to address our concerns.

In October 2021, we opened an investigation into an alleged corrupt revolving-door scheme involving the world's largest accounting firms and the Treasury Department.¹ According to the *New York Times*, large accounting firms perfected a system in which their tax lawyers took senior positions at the Treasury Department and IRS, wrote policies to favor their former corporate clients, and then returned to the accounting firms with loftier titles and bigger paychecks.² After we sought and obtained information from the accounting firms regarding this scheme, we asked the Inspectors General for the Treasury Department and the IRS to conduct their own investigations and to report back on their findings.³

Late last month, TIGTA—the Inspector General for the IRS—released the results of its investigation.⁴ The report found that, between 2017 and 2021, 496 IRS employees—or 15% of the agency's workforce—received income from a large accounting firm or large corporation

¹ Letter from Senator Elizabeth Warren and Representative Pramila Jayapal to Accounting Firms, October 5, 2021, <https://www.warren.senate.gov/imo/media/doc/2021.10.5%20Letters%20to%20Accounting%20Firms%20on%20Revolving%20Door.pdf>.

² *New York Times*, “How Accounting Giants Craft Favorable Tax Rules From Inside Government,” Jesse Drucker and Danny Hakim, September 19, 2021, <https://www.nytimes.com/2021/09/19/business/accounting-firms-tax-loopholes-government.html>.

³ Letter from Senator Elizabeth Warren and Representative Pramila Jayapal to Acting Inspector General of the Treasury Department and Treasury Inspector General for Tax Administration, February 18, 2022, <https://www.warren.senate.gov/imo/media/doc/2022.02.18%20Letter%20to%20Treasury%20IGs%20on%20Revolving%20Door.pdf>.

⁴ Treasury Inspector General for Tax Administration, “Processes Are in Place to Identify and Address Potential Conflicts of Interest in Large Corporate Tax Administration,” August 24, 2023, <https://www.tigta.gov/sites/default/files/reports/2023-08/202340047fr.pdf>.

either before joining the IRS, during their time at the IRS, or after leaving the IRS.⁵ Thirty-seven of those employees were IRS executives, senior officials responsible for key agency decision-making.⁶ In several cases, “employees ... charged time to a private letter ruling in which the taxpayer’s representative was the same large accounting firm that the employee recently worked for before joining the IRS or left the IRS to join” —“rais[ing] impartiality concerns.”⁷

Standing alone, the fact that some IRS employees chose to work in the private sector before or after their government service is not necessarily problematic.⁸ But as TIGTA’s report noted, “this practice increases the risk for conflicts of interest” and “the possibility of undue influence by former or prospective employers,” a concern that is amplified when 15% of our country’s tax-enforcement agency has worked for the world’s largest accounting firms and corporations.⁹

We are particularly troubled by three of TIGTA’s findings about conflicts of interest at the IRS.

First, an undisclosed number of IRS executives did not complete their required STOCK Act disclosure forms when seeking private-sector jobs as federal employees.¹⁰ Section 17 of the STOCK Act prohibits executives and senior-level federal employees from negotiating or agreeing to future employment, unless the employee files a statement with their agency’s ethics office within three days and recuses themselves from matters where a conflict or the appearance of a conflict results.¹¹ It is disconcerting to learn that several IRS executives arranged jobs for themselves at big accounting firms and corporations without complying with these basic ethics requirements prescribed by law.

Second, TIGTA was unable to determine whether the 232 IRS employees who worked for large accounting firms before or after their time at the agency had improper conflicts while serving in the federal government.¹² The IRS does not receive information about the clients of agency employees when they worked in the private sector, and the accounting firms refused to provide any client information in response to our requests.¹³ But as TIGTA’s report explained, “without this information, it is impossible to fully understand or address any potential conflicts of interest or ethics violations.”¹⁴ This information gap regarding the private-sector clients of IRS

⁵ *Id.* at 5.

⁶ *Id.*

⁷ *Id.* at ii.

⁸ *Id.* at 7.

⁹ *Id.*

¹⁰ The number of IRS executives who did not complete their STOCK Act forms was redacted in the report. *Id.* at 9.

¹¹ Stop Trading on Congressional Knowledge Act of 2012, Public Law 112-105.

¹² Treasury Inspector General for Tax Administration, “Processes Are in Place to Identify and Address Potential Conflicts of Interest in Large Corporate Tax Administration,” August 24, 2023, p. 10, <https://www.tigta.gov/sites/default/files/reports/2023-08/202340047fr.pdf>.

¹³ *Id.* at 10; Letter from Senator Elizabeth Warren and Representative Pramila Jayapal to Acting Inspector General of the Treasury Department and Treasury Inspector General for Tax Administration, February 18, 2022, <https://www.warren.senate.gov/imo/media/doc/2022.02.18%20Letter%20to%20Treasury%20IGs%20on%20Revolving%20Door.pdf>.

¹⁴ Treasury Inspector General for Tax Administration, “Processes Are in Place to Identify and Address Potential Conflicts of Interest in Large Corporate Tax Administration,” August 24, 2023, p. 10, <https://www.tigta.gov/sites/default/files/reports/2023-08/202340047fr.pdf>.

employees suggests the need for structural reform to address the risks created by the revolving door.

Third, at least eighteen IRS employees worked on private letter rulings in which the accounting firm they worked for, either immediately before or after their time at the IRS, was the taxpayer's representative.¹⁵ According to TIGTA, fourteen of the eighteen employees either recused themselves from the assignment, worked on the ruling more than a year after joining the IRS, did not represent that particular client while in the private sector, or were not actively assigned to that case.¹⁶ But these explanations are not especially reassuring. We do not know how many employees actually recused themselves from the rulings; we do not believe that IRS employees should be working on matters that might financially benefit their immediately prior employer simply because they have spent one year in the government; and TIGTA did not explain why an employee not being "actively assigned" to a case affected their need to recuse (and again, we do not know how many employees fell into this category). Importantly, even setting aside the fourteen employees discussed by TIGTA, four of the eighteen IRS employees worked on a matter in which they had a "covered relationship" with the taxpayer in apparent violation of the agency's ethics rules.¹⁷ Their work calls into the question the impartiality of the affected rulings and raises broader concerns about other areas where inappropriate conflicts may have affected the agency's work.

We are pleased that the IRS agreed with and moved to implement the two recommendations from TIGTA's review. However, we believe additional action is necessary and have introduced legislation to stop big corporations from manipulating the government and the American tax system with revolving-door schemes. Under the *Anti-Corruption and Public Integrity Act* (S. 5315)¹⁸:

- Executive branch employees would be required to recuse themselves from matters that might financially benefit their employers or clients from the preceding four years;
- Private-sector companies would be restricted from immediately hiring or paying any senior government official that was lobbied by the company in the preceding two years;
- The world's largest corporations would be restricted from hiring or paying any senior government official in the four years after they leave government service;
- Private-sector companies would be banned from providing "golden parachutes" to compensate employees for future service in the federal government;
- Lobbyists would be required to disclose any specific government actions that they attempted to influence, any meetings that they conducted with public officials, and any documents that they provided to those government officials; and
- A new U.S. Office of Public Integrity would be created to enforce federal ethics and anti-corruption laws.

Even without new legislation, however, the IRS has the power to address conflict-of-interest issues at the agency. The IRS has already adopted TIGTA's recommendations to (1) bolster its employee trainings on ethics and impartiality rules and (2) develop better systems to

¹⁵ *Id.* at 10-11.

¹⁶ *Id.* at 11.

¹⁷ *Id.* at 10.

¹⁸ Anti-Corruption and Public Integrity Act, S. 5315, <https://www.congress.gov/bill/117th-congress/senate-bill/5315>.

track and aggregate data regarding conflicts of interest.¹⁹ But the agency can do more to safeguard the integrity of its decisions. To that end, we ask that you answer the follow questions by October 11, 2023:

1. What are the IRS’s policies for addressing conflicts of interest for employees who have worked or will work at the country’s largest corporations and accounting firms?
2. Are IRS employees who receive income from outside sources during their government service subject to more stringent conflict-of-interest standards than employees who receive income from outside sources before or after their government service?
3. Will the IRS commit to investigating and, if necessary, redoing any private letter rulings in which the taxpayer’s representative was an employer of at least one of the IRS employees who worked on the ruling? If so, when will the IRS complete its investigation and new rulings? If not, why not?
4. In light of the findings from TIGTA’s report, does the IRS plan on improving its systems for addressing conflicts of interest in any way beyond TIGTA’s recommendations? If so, how? If not, why not?
5. Please provide an update on the IRS’s progress in implementing TIGTA’s recommendations as detailed in its report.

Thank you for your attention to this important matter.

Sincerely,



Elizabeth Warren
United States Senator



Pramila Jayapal
Member of Congress

¹⁹ Treasury Inspector General for Tax Administration, “Processes Are in Place to Identify and Address Potential Conflicts of Interest in Large Corporate Tax Administration,” August 24, 2023, pp. 11, 14, <https://www.tigta.gov/sites/default/files/reports/2023-08/202340047fr.pdf>.