

Congress of the United States

Washington, DC 20515

May 21, 2024

The Honorable Daniel Werfel
Commissioner
Internal Revenue Service
1111 Constitution Avenue N.W.
Washington, D.C. 20224

Heather M. Hill
Acting Treasury Inspector General for Tax Administration
U.S. Department of the Treasury
1500 Pennsylvania Avenue N.W.
Washington, D.C. 20220

The Honorable Lina Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue N.W.
Washington, D.C. 20580

The Honorable Merrick Garland
Attorney General
United States Department of Justice
950 Pennsylvania Avenue N.W.
Washington, D.C. 20530

Dear Commissioner Werfel, Acting Inspector General Hill, Chair Khan, and Attorney General Garland:

With this year's tax filing season closed, and preparation already beginning for next year, we write to urge you to investigate use and disclosures of legally protected and sensitive taxpayer information by major tax preparation companies. You should identify and prosecute any company or individuals that have violated the law.

Last year, we wrote to inform you of the results of our investigation revealing an outrageous and potentially illegal sharing of taxpayers' sensitive personal and financial information with Meta by online tax preparation companies TaxSlayer, H&R Block, and TaxAct,¹ confirming and expanding upon revelations from November 2022 investigative reporting by *The Markup*.² Our investigation revealed a shocking breach of taxpayer privacy by tax prep companies and by Big Tech firms that appeared to violate taxpayers' rights and may have violated taxpayer privacy law, and we urged your offices to fully investigate this matter and prosecute any company or individuals who violated the law.³ We appreciate the Federal Trade Commission's (FTC) September 2023 warnings to the tax prep companies about the civil penalties they could face if they continued to misuse confidential taxpayer data.⁴

¹ Letter from Senators Elizabeth Warren, Ron Wyden, Richard Blumenthal, Tammy Duckworth, Bernard Sanders, and Sheldon Whitehouse, and Representative Katie Porter to IRS Commissioner Daniel Werfel, Treasury Inspector General for Tax Administration J. Russell George, Federal Trade Commission Chair Lina Khan, and Attorney General Merrick Garland, July 11, 2023, <https://www.warren.senate.gov/imo/media/doc/2023.07.11%20Letter%20to%20IRS,%20TIGTA,%20FTC,%20DOJ%20on%20tax%20prep%20pixel%20data%20sharing.pdf>.

² 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>.

³ 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.

⁴ Federal Trade Commission, "FTC Warns Tax Preparation Companies About Misuse of Consumer Data," press

Despite these warnings from the FTC, tax prep companies continued sharing sensitive data this year using different tactics. The *Washington Post* reported in March 2024 that TurboTax – tax prep software from Intuit – repeatedly asks taxpayers for permission to turn over their sensitive tax data⁵ – which the company then monetizes. For example, according to the *Post*, “your income and debts might be used to personalize email pitches for a high-interest savings account or credit monitoring help from Credit Karma,” which Intuit also owns.⁶ In turn, Credit Karma makes money through kickbacks that banks pay when Credit Karma successfully sells you a credit card or a loan.⁷

The *Post* found that the language used to seek approval was “confusing” and “vague ... about the terms of the deal,” forced taxpayers to go through multiple requests to deny use of their data, and buried key information that the taxpayers’ permission for the company to use their data was voluntary, and not required to complete their tax return.⁸ Such repeated requests appear to violate very specific rules that govern such requests.⁹

Our staff also investigated TurboTax’s monetization of taxpayers, revealing that “Intuit continues to try to trick and trap TurboTax users into paying junk fees to file even very simple tax returns”¹⁰, and found that the software asked to track and use taxpayer data a total of 10 times during filing (see attached Appendix). TurboTax’s aggressive and potentially misleading tactics to get taxpayers to sign away their privacy and force them to pay for unnecessary services should be scrutinized.

And the shocking revelations about other tax prep companies’ data practices that our report uncovered last year must be thoroughly investigated and, if merited, prosecuted. Specifically, our investigation found that:¹¹

- TaxAct, TaxSlayer, and H&R Block shared millions of taxpayers’ data with Meta, Google, and other Big Tech firms.

release, September 18, 2023, <https://www.ftc.gov/news-events/news/press-releases/2023/09/ftc-warns-tax-preparation-companies-about-misuse-consumer-data>.

⁵ The Washington Post, “Your tax return is secret by law. TurboTax wants you to give up your privacy,” Shira Ovide, March 1, 2024, <https://www.washingtonpost.com/technology/2024/03/01/turbotax-privacy-tax-return-2024/>.

⁶ *Id.*

⁷ Credit Karma, “How does Credit Karma make money?” last updated November 13, 2023, <https://support.creditkarma.com/s/article/How-does-Credit-Karma-make-money-US>.

⁸ The Washington Post, “Your tax return is secret by law. TurboTax wants you to give up your privacy,” Shira Ovide, March 1, 2024, <https://www.washingtonpost.com/technology/2024/03/01/turbotax-privacy-tax-return-2024/>.

⁹ Treas. Reg. § 301.7216-3(b)(3) (“...if a taxpayer declines a request for consent to the disclosure or use of tax return information for purposes of solicitation of business unrelated to tax return preparation, the tax return preparer may not solicit from the taxpayer another consent for a purpose substantially similar to that of the rejected request.”). Requests for consent must also include specific language and be presented in a specific way using a specific font size. Rev. Proc. 2013-14, <https://www.irs.gov/pub/irs-drop/rp-13-14.pdf>.

¹⁰ Letter from Senator Elizabeth Warren to The Honorable Lina Kahn, April 15, 2024, https://www.warren.senate.gov/imo/media/doc/letter_to_ftc_returbotax.pdf.

¹¹ 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.

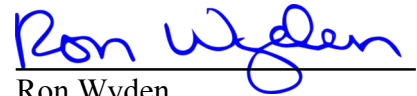
- TaxAct, TaxSlayer, and H&R Block shared extraordinarily sensitive personal and financial information – including approximate AGI and refund amounts and key information on filing status and exemptions and deductions with Meta, which used the data for advertising and to train its AI algorithms.
- Tax prep companies and Big Tech firms were reckless about their data sharing practices and their treatment of sensitive taxpayer data, installing the Meta and Google tools on their websites without fully understanding the extent to which they would send taxpayer data to these tech firms, without consulting with independent compliance or privacy experts, and without full knowledge of Meta’s use of and disposition of the data.
- TaxAct, TaxSlayer, and H&R Block may have violated taxpayer privacy laws by sharing taxpayer data with Big Tech firms, failing to obtain taxpayer consent and turning over data to the Big Tech firms in ways that were not “connect[ed] with the preparation of a tax return.”

These predatory practices and shocking breaches of taxpayer trust only make the recent success of the IRS Direct File pilot – the first free, public, electronic federal tax filing tool in U.S. history – even more notable.¹² As the IRS begins to prepare for the tax filing season in 2025, we urge you to investigate usage and disclosures by major tax preparation companies of legally protected and sensitive taxpayer information, and to prosecute any company or individuals who have violated the law. We also look forward to working with the IRS to expand and improve upon Direct File, so taxpayers across the country will have the option to file their taxes without sharing their data with unscrupulous, untrustworthy, and incompetent tax preparation firms.

Sincerely,

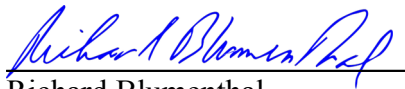


Elizabeth Warren
United States Senator



Ron Wyden
United States Senator

¹² Internal Revenue Service, “Direct File pilot officially closes after more than 140,000 taxpayers successfully use direct e-filing system in 12 states, including integration with 4 state tax systems,” April 26, 2024, <https://www.irs.gov/newsroom/direct-file-pilot-officially-closes-after-more-than-140000-taxpayers-successfully-use-direct-e-filing-system-in-12-states-including-integration-with-4-state-tax-systems>.



Richard Blumenthal
United States Senator



Sheldon Whitehouse
United States Senator



Katie Porter
Member of Congress

CC: The Honorable Daniel Werfel, Commissioner, Internal Revenue Service

Appendix

1. Right from the start, TurboTax asks taxpayers' permission to use "third-party tracking technologies" to share unspecified non-tax information with advertising partners:

Before continuing your tax experience...

To provide you a better online experience, TurboTax uses third-party tracking technologies which share limited, non-tax information with advertising partners. By clicking "Yes" you agree to the use of these advertising trackers.

No thanks

Yes

2. Soon after, TurboTax asks taxpayers to "Let us use your tax info to improve your experience" and "Share your data with Intuit."

The screenshot shows the TurboTax interface during a tax filing process. The main heading reads "We just need your OK on a couple of things". Below this, there are two sections: "Let us use your tax info to improve your experience" (Step 1 of 2) and "Share your data with Intuit" (Step 2 of 2). The first section lists benefits: "Get through filing faster", "See custom features based on your tax situation", and "Pre-fill applications for any offers you choose". A "Review and sign" button is present. The second section is partially visible. On the right, a detailed consent form is shown, titled "Step 1 of 2" and "Let us use your tax info to improve your experience". It includes a "Before you sign, here's what you need to know" section with a disclaimer: "This agreement is between you and TurboTax, your tax return preparer. Federal law requires this consent form be provided to you. Unless authorized by law, we cannot use your tax return information for purposes other than the preparation and filing of your tax return without your consent." Below this is a text input field for "Your full name" and two checkboxes: "I'm filing jointly with my spouse" and "Signed on 03/23/2024". At the bottom of the consent form are "Agree" and "No thanks" buttons.

Later, as a taxpayer tries to secure their refund, TurboTax tries five times to get the taxpayer to use Credit Karma, which in turn makes its money off tracking users and advertising to them.

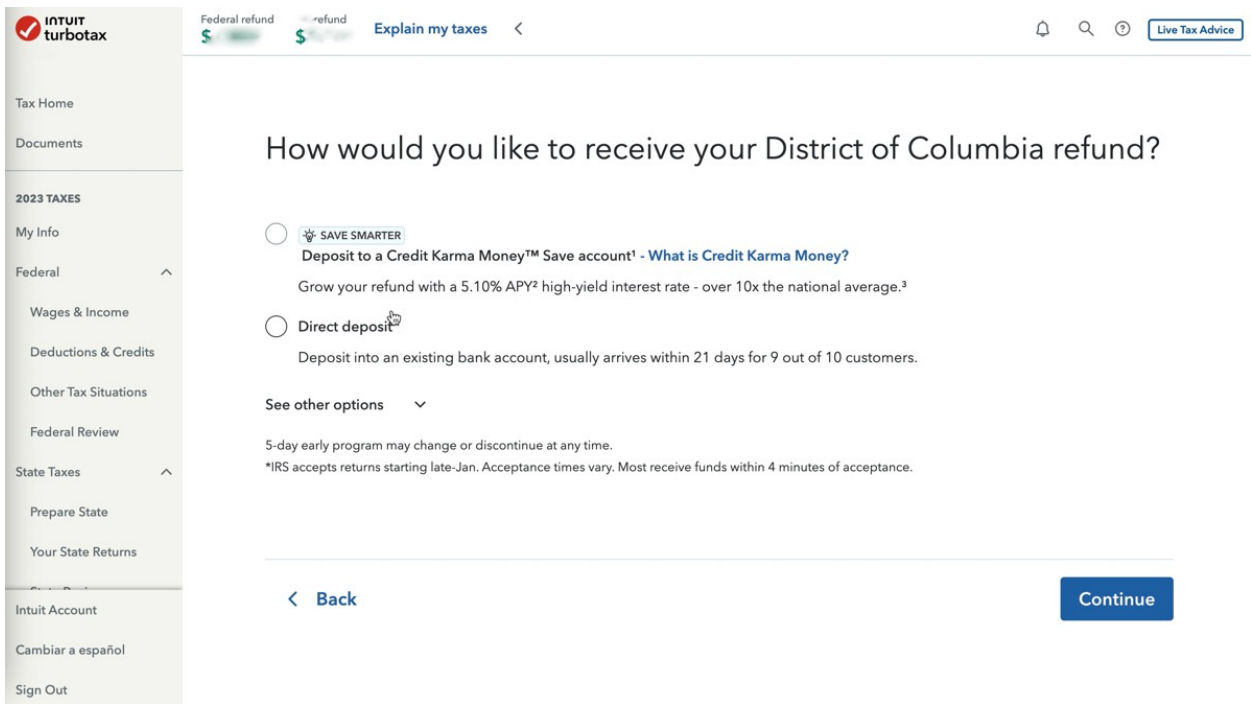
3. TurboTax presents Credit Karma as the default option to receive refunds.

The screenshot shows the TurboTax interface with a sidebar on the left containing navigation options like 'Tax Home', 'Documents', '2023 TAXES', 'My Info', 'Federal', 'Wages & Income', 'Deductions & Credits', 'Other Tax Situations', 'Federal Review', 'State Taxes', 'Prepare State', 'Your State Returns', 'Intuit Account', 'Cambiar a español', and 'Sign Out'. The main content area features a banner titled 'EARN A HIGH-YIELD APY' with the text 'Send your refund soaring with over 10x interest¹'. Below this, it says 'Earn a 5.10% Annual Percentage Yield² today with a Credit Karma Money™ Save account³' and includes a link 'How does this work?'. An illustration shows a person sitting on a green bar labeled '5.10% APY Credit Karma Money™' with a '0.47% national average' tag. Below the banner, a section titled 'A smarter way to save' lists three benefits: 'No fees or minimum balance to open', 'FDIC insured up to \$5M⁴', and 'You could get your refund up to 5 days early⁵'. At the bottom, there are buttons for 'Back', 'Other refund options', and 'Start earning'.

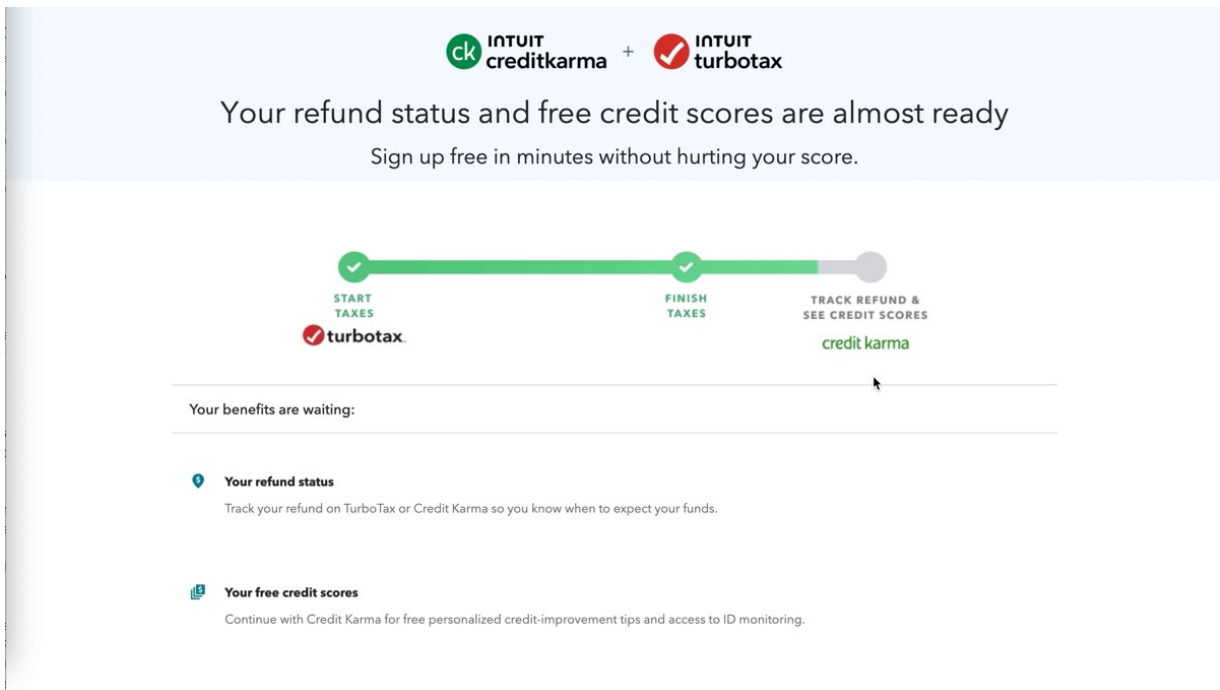
4. Even after a taxpayer asks to see “Other refund options” than Credit Karma, TurboTax presents Credit Karma as the top option to receive a federal refund.

The screenshot shows the TurboTax interface with a sidebar on the left. The main content area displays a survey question: 'How would you like to receive your federal refund?'. There are three radio button options: 'SAVE SMARTER Deposit to a Credit Karma Money™ Save account¹ - What is Credit Karma Money?' (selected), 'Direct deposit', and 'See other options'. The 'SAVE SMARTER' option includes the text 'Grow your refund with a 5.10% APY² high-yield interest rate - over 10x the national average.³'. The 'Direct deposit' option includes 'Deposit into an existing bank account, usually arrives within 21 days for 9 out of 10 customers.' The 'See other options' option includes '5-day early program may change or discontinue at any time.' and '*IRS accepts returns starting late-Jan. Acceptance times vary. Most receive funds within 4 minutes of acceptance.' On the right side, there is a search bar and a text box containing information about Credit Karma and TurboTax, including 'Credit Karma and TurboTax are both part of the Intuit family and are bringing you new ways to manage your money with Credit Karma Money™.', 'Deposit your refund to a Credit Karma Money Save account¹ and you can earn 4.10% APY² on your balance—a rate more than 8x the national average.³', 'Get your refund up to 5 days earlier⁴', 'Deposit your refund into a savings account with Credit Karma Money and you could get access to it up to 5 days early.', '5-Day early program may change or discontinue at any time.', 'Grow your savings at a rate more than 8x the national average³', and 'Score a high-yield 4.10% APY⁴ to watch your savings grow.' Below the text box are buttons for 'Was this helpful?' (Yes/No) and 'Contact Us'. At the bottom of the main content area, there are buttons for 'Back' and 'Continue'.

5. Again, TurboTax presents Credit Karma as the top way to receive a state refund, even for filers who have already said they want to receive their federal refund as a direct deposit.



6. After filing, Intuit tries again to sell filers on Credit Karma, making it appear as if that is the only way to track their refund.



7. Even when a taxpayer declines Credit Karma, Intuit tries one more time, asking if “you really want to give up your free benefits?”

The screenshot shows a light blue header with the Intuit logo and the text "turbotax + credit karma". Below the logo is a warning icon (a triangle with an exclamation mark). The main heading asks, "Do you really want to give up your free benefits?". A sub-heading states, "Credit Karma is **totally free**. We'll never upsell you or ask for any payment info." Below this is a section titled "Don't miss out on what you almost have:" followed by four bullet points: "Free credit scores, reports, and monitoring", "Personalized recommendations", "Tools and education for financial progress", and "100% free—seriously!". At the bottom left is a link "Take me to Tax Home on TurboTax" and at the bottom right is a blue button labeled "Sign Me Up".

intuit

turbotax + credit karma

Do you really want to give up your free benefits?

Credit Karma is **totally free**. We'll never upsell you or ask for any payment info.

Don't miss out on what you almost have:

- ✓ Free credit scores, reports, and monitoring
- ✓ Personalized recommendations
- ✓ Tools and education for financial progress
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[Take me to Tax Home on TurboTax](#)

[Sign Me Up](#)