

Congress of the United States

Washington, DC 20515

August 23, 2023

Tim Hugo
Executive Director
Free File Alliance
14098A Lee Highway
Centreville, VA 20120

Dear Mr. Hugo:

We are writing regarding your organization's ongoing lobbying campaign aimed at protecting your ability to gouge taxpayers and preventing the creation of a free and simple system for taxpayers to file their taxes. Private tax prep companies online filing options have been a resounding failure, resulting in Americans spending eight hours and \$140 on average to file their taxes while being victimized by having their personal and financial income turned over to Big Tech firms – an outrageous and potentially illegal violation of their privacy.¹

That is why we support the Biden Administration's plan to pilot a new free, direct filing tool next year,² which will give American taxpayers the option of filing directly with the Internal Revenue Service (IRS), without being forced to pay or share their data with tax prep companies. However, tax prep companies are spending record amounts to lobby against this popular, commonsense tool, including via the Free File Alliance (FFA) and American Coalition for Taxpayer Rights (ACTR).³ Given the benefits of direct filing, and the harm that tax prep companies have caused taxpayers over the past two decades, we seek to understand the efforts of your organization to undermine the IRS's work to provide taxpayers with a direct filing option.

Private Tax Prep Companies Have Failed Taxpayers

For over two decades, policymakers in Washington have tried to make tax filing free and easy for American taxpayers – but have been met by opposition and deliberate sabotage from tax prep companies. In 2003, the IRS stood up the Free File program – a partnership with FFA, a group of private tax preparation companies – which has utterly failed taxpayers. While the tax prep

¹ Internal Revenue Service, 1040 (and 1040-SR) Instructions, 2022, <https://www.irs.gov/pub/irs-pdf/i1040gi.pdf#page=107>; Offices of Senator Elizabeth Warren et al., "Attacks on Tax Privacy: How the Tax Prep Industry Enabled Meta to Harvest Millions of Taxpayers' Sensitive Data," July 12 2023, https://www.warren.senate.gov/oversight/reports/in-new-report-senators-warren-wyden-lawmakers-reveal-massive-likely-illegal-breach-of-taxpayer-privacy-by-tax-prep-companies-with-meta_call-for-agencies-to-investigate-prosecute.

² Reuters, "US IRS to launch free tax e-file pilot program in 2024," David Lawder, May 16, 2023, <https://www.reuters.com/world/us/irs-launch-free-us-direct-tax-filing-pilot-program-2024-2023-05-16/>.

³ Politico, "Tax prep coalitions lobby up as IRS readies pilot program," Caitlin Oprysko, June 1, 2023, <https://www.politico.com/newsletters/politico-influence/2023/06/01/tax-prep-coalitions-lobby-up-as-irs-readies-pilot-program-00099755>.

companies are supposed to serve 70 percent of taxpayers under Free File, the program reached only 2 percent of taxpayers in 2022,⁴ in large part because of deliberate sabotage by tax preparation companies intent on profiting off of taxpayers.

Free File's failure is not an accident. Tax prep companies have used deceptive practices and outright lies to push consumers from Free File into paid programs, including deliberately suppressing Free File websites from search results and channeling taxpayers into in-house "freemium" programs that charge for services that would be free under Free File.⁵ In March 2022, the FTC brought a complaint against Intuit for "deceiving consumers with bogus advertisements pitching 'free' tax filing that millions of consumers could not use."⁶ And in May 2023, as a result of a \$141 million settlement with all 50 state attorneys general, Intuit began sending checks to American taxpayers who the company steered into paying for tax preparation software they should have received for free.⁷

Earlier this year, our offices discovered that tax prep companies were providing sensitive personal and financial information to Big Tech companies Meta and Google, a potentially illegal practice that impacted tens of millions of taxpayers.⁸ These companies – H&R Block, TaxSlayer, and TaxAct, all of which are current or former members of your organization – installed lines of code called pixels that harvested an extensive trove of data, in some cases including taxpayers' filing status, approximate adjusted gross income, approximate refund amount, and names of dependents, and sent that information to Meta and Google, with Meta in particular using that data to fuel targeted advertising.⁹ TaxAct also revealed that it shared the information of taxpayers who used TaxAct's Free File service.¹⁰ This outrageous breach of customer trust may have broken federal and state law prohibiting tax preparers from disclosing or using taxpayers' tax return information for purposes other than preparing their return.¹¹ It revealed that tax prep companies simply cannot be trusted with taxpayers' sensitive personal and financial information.

Tax Prep Companies Lobbying Against Direct Filing

The Free File program has been a clear failure for years, but tax prep companies have engaged in a long and aggressive lobbying campaign to prevent the IRS from offering taxpayers a direct

⁴ National Taxpayer Advocate, "2022 Annual Report to Congress," January 11, 2023, p. 104,

https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_MSP_06_FilingDelays.pdf.

⁵ 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>; NPR, "Federal Trade Commission accuses Intuit of deceptively advertising TurboTax as free," Laurel Wamsley, March 29, 2022, <https://www.npr.org/2022/03/29/1089490958/free-turbotax-ftc-intuit>.

⁶ 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>.

⁷ CNN, "TurboTax is sending checks to 4.4 million customers as part of a \$141 million settlement," Jordan Valinsky, May 9, 2023, <https://www.cnn.com/2023/05/09/business/turbotax-settlement/index.html>.

⁸ Offices of Senators Elizabeth Warren et al, "Attacks on Tax Privacy: How the Tax Prep Industry Enabled Meta to Harvest Millions of Taxpayers' Sensitive Data," July 12, 2023, p. 9, https://www.warren.senate.gov/imo/media/doc/Attacks%20on%20Tax%20Privacy%20Report_7.12.2023.pdf.

⁹ *Id.*

¹⁰ *Id.*, pg. 2.

¹¹ 26 C.F.R. 301.7216-3(a)(1); <https://ago.mo.gov/home/news/2023/07/13/attorney-general-bailey-files-suit-against-tax-preparation-companies-for-unlawfully-sharing-taxpayers-personal-information-with-big-tech>.

filing option. Members of both FFA and ACTR have spent more than \$39 million on lobbying since 2006.¹² Intuit alone, which has approximately 30 percent of the market share in consumer tax software,¹³ has spent more than \$44.8 million on federal lobbying since 1998, and spent more than \$3.5 million in 2022 alone.¹⁴ Meanwhile, H&R Block has spent \$9.6 million since 2006,¹⁵ including over \$2.6 million last year.¹⁶ Following the IRS's recent and long overdue announcement of its plan to pilot a direct filing tool in 2024, both FFA and ACTR are increasing their lobbying efforts related to the "continuance and strengthening of the Free File program."¹⁷

Alarming, tax prep companies are following a familiar playbook to undermine the IRS' program: using the corporate revolving door to sway policy against the public interest. ACTR and FFA hired lobbyists in 2023 that included a former House Ways and Means tax counsel, a former Treasury official, and a former aide to House Majority Leader emeritus Steny Hoyer.¹⁸ In 2022, we raised concerns about similar practices at Intuit, which hired hordes of former government officials, including the former IRS top negotiator on the creation of the Free File program, to directly lobby against regulatory scrutiny or relief for taxpayers.¹⁹

Conclusion and Questions

The IRS' creation of a free, government-run direct filing tool would benefit taxpayers and rein in the predatory and exploitative behavior of tax prep companies. 72 percent of taxpayers are interested in an IRS-run free, direct filing option, citing the cost and data security of private software options.²⁰ Recent revelations about tax prep companies' abusive tactics, including reckless data sharing and deceptive advertisements, illustrate why this tool is essential for taxpayers, and your organization and its members should not be allowed to undermine the IRS' efforts to better serve taxpayers.

¹² PBS News Hours, "IRS moves forward with a new free-file tax return system, supporters and critics mobilize," Fatima Hussein, July 20, 2023, <https://www.pbs.org/newshour/politics/irs-moves-forward-with-a-new-free-file-tax-return-system-that-has-both-supporters-and-critics-mobilizing>.

¹³ Accounting Today, "Tax reform had little impact on tax prep market share, says Moody's," Michael Cohn, April 29, 2019, <https://www.accountingtoday.com/news/tax-reform-had-little-impact-on-tax-prep-market-share-says-moodys>.

¹⁴ Open Secrets, "TurboTax parent company Intuit is pouring more money than ever into lobbying amid push for free government-run tax filing," Anna Massoglia, February 17, 2023, <https://www.opensecrets.org/news/2023/02/turbotax-parent-company-intuit-is-pouring-more-money-than-ever-into-lobbying-amid-push-for-free-government-run-tax-filing/>.

¹⁵ Associated Press, "Taxpayer advocates want the IRS to offer a free electronic tax-filing system. Intuit and H&R Block have spent millions lobbying against it," Fatima Hussein, April 17, 2023, <https://fortune.com/2023/04/17/taxpayer-advocates-irs-free-electronic-tax-filing-system-intuit-hr-block-spent-millions-lobbying-against/>.

¹⁶ Politico, "Tax prep coalitions lobby up as IRS readies pilot program," Caitlin Oprysko, June 1, 2023, <https://www.politico.com/newsletters/politico-influence/2023/06/01/tax-prep-coalitions-lobby-up-as-irs-readies-pilot-program-00099755>.

¹⁷ *Id.*

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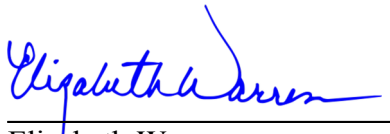
²⁰ Internal Revenue Service, "IRS Report to Congress: Inflation Reduction Act §10301(1)(B), IRS-run Direct e-File Tax Return System," May 16, 2023, p. 7-8, <https://www.irs.gov/pub/irs-pdf/p5788.pdf>.

In light of the industry's aggressive lobbying and reports that your organization and its members are working to undermine the IRS' free direct filing tool, we ask that you provide answers to the following questions no later than September 6, 2023:

1. Since October 30, 2002, how much revenue have your members made off of taxpayers making less than \$73,000?
2. What do your members anticipate the impact of the IRS' pilot direct filing tool will be on their revenue for 2024?
3. How much money has FFA spent on lobbying so far in 2023?
 - a. How many lobbyists currently work for FFA?
 - b. How much money has FFA spent on campaign contributions so far in 2023? Please list the contribution dates and amount.
 - c. Which agencies have you lobbied so far in 2023?
 - i. Have FFA lobbyists had conversations with the IRS regarding the 2024 pilot direct filing tool? If so, how many, and with who at the agency? What was the nature of these conversations?
 - ii. Has FFA had conversations with the Treasury Department regarding the 2024 pilot direct filing tool? If so, how many, and with who at the agency? What was the nature of these conversations?
 - iii. Have FFA lobbyists had conversations with the White House regarding the 2024 pilot direct filing tool? If so, how many, and with who at the agency? What was the nature of these conversations?
4. Over the past three years, have FFA lobbyists been involved in the drafting of any legislation that would take money from the IRS or restrict the IRS from using funds to create a direct filing tool?
5. Since January 1, 2021, how many FFA employees or FFA member company employees have previously worked for the federal government in tax policy or other positions in the IRS, the Treasury Department, the Federal Trade Commission, or elsewhere in the executive branch? For each of these employees, please provide the following information:
 - a. What position(s) they served in in the federal government, the time period in which they served, and what their specific responsibilities were in those positions, including any regulatory or legislative matters they worked on that affected FFA member companies.
 - b. Any interactions they had with FFA or its member companies in their role as a government regulator, and whether future roles at the FFA or member companies were discussed.
 - c. What position(s) they served in at FFA or its member companies, or which cases they worked on as outside counsel, and the time periods in which they held these positions or worked on behalf of FFA or its member companies.
 - d. Their compensation at FFA or its member companies, and any bonuses or other compensation they received in relation to their government service.
6. Since January 1, 2021, how many former FFA employees or FFA member company employees have subsequently gone on to work for the federal government in the IRS, the Treasury Department, the Federal Trade Commission, or elsewhere in the executive branch? For each of these employees, please provide the following information:

- a. What position(s) they held in the federal government, the time period in which they served, and what their specific responsibilities were in those positions, including any regulatory or legislative matters they worked on that affected FFA member companies.
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Sincerely,



Elizabeth Warren
United States Senator



Katie Porter
Member of Congress

Congress of the United States

Washington, DC 20515

August 23, 2023

Sasan K. Goodarzi
Chief Executive Officer
Intuit
2700 Coast Ave
Mountain View, CA 94043

Dear Mr. Goodarzi:

We are writing regarding your company's ongoing lobbying campaign aimed at protecting your ability to gouge taxpayers and preventing the creation of a free and simple system for taxpayers to file their taxes. Private tax prep companies online filing options have been a resounding failure, resulting in Americans spending eight hours and \$140 on average to file their taxes while being victimized by having their personal and financial income turned over to Big Tech firms – an outrageous and potentially illegal violation of their privacy.¹

That is why we support the Biden Administration's plan to pilot a new free, direct filing tool next year,² which will give American taxpayers the option of filing directly with the Internal Revenue Service (IRS), without being forced to pay or share their data with tax prep companies. However, Intuit is spending record amounts to lobby against this popular, commonsense tool.³ Given the benefits of direct filing, and the harm that tax prep companies have caused taxpayers over the past two decades, we seek to understand the your company's efforts to undermine the IRS's work to provide taxpayers with a direct filing option.

Private Tax Prep Companies Have Failed Taxpayers

For over two decades, policymakers in Washington have tried to make tax filing free and easy for American taxpayers – but have been met by opposition and deliberate sabotage from tax prep companies. In 2003, the IRS stood up the Free File program – a partnership with the Free File Alliance, a group of private tax preparation companies including Intuit for many years – which has utterly failed taxpayers. While the tax prep companies are supposed to serve 70 percent of

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² Reuters, “US IRS to launch free tax e-file pilot program in 2024,” David Lawder, May 16, 2023, <https://www.reuters.com/world/us/irs-launch-free-us-direct-tax-filing-pilot-program-2024-2023-05-16/>.

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taxpayers under Free File, the program reached only 2 percent of taxpayers in 2022,⁴ in large part because of deliberate sabotage by tax preparation companies intent on profiting off of taxpayers.

Free File's failure is not an accident. Tax prep companies have used deceptive practices and outright lies to push consumers from Free File into paid programs, including deliberately suppressing Free File websites from search results and channeling taxpayers into in-house "freemium" programs that charge for services that would be free under Free File.⁵ In March 2022, the FTC brought a complaint against Intuit for "deceiving consumers with bogus advertisements pitching 'free' tax filing that millions of consumers could not use."⁶ And in May 2023, as a result of a \$141 million settlement with all 50 state attorneys general, Intuit began sending checks to American taxpayers who the company steered into paying for tax preparation software they should have received for free.⁷

Earlier this year, our offices discovered that tax prep companies were providing sensitive personal and financial information to Big Tech companies Meta and Google, a potentially illegal practice that impacted tens of millions of taxpayers.⁸ These companies – TaxSlayer, H&R Block, and TaxAct – installed lines of code called pixels that harvested an extensive trove of data, in some cases including taxpayers' filing status, approximate adjusted gross income, approximate refund amount, and names of dependents, and sent that information to Meta and Google, with Meta in particular using that data to fuel targeted advertising.⁹ TaxAct also revealed that it shared the information of taxpayers who used TaxAct's Free File service.¹⁰ This outrageous breach of customer trust may have broken federal and state law prohibiting tax preparers from disclosing or using taxpayers' tax return information for purposes other than preparing their return.¹¹ It revealed that tax prep companies simply cannot be trusted with taxpayers' sensitive personal and financial information.

Tax Prep Companies Lobbying Against Direct Filing

The Free File program has been a clear failure for years, but tax prep companies have engaged in a long and aggressive lobbying campaign to prevent the IRS from offering taxpayers a direct filing option. Members of both the Free File Alliance (which included Intuit until 2021) and the

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American Coalition for Taxpayer Rights (which still includes Intuit) have spent more than \$39 million on lobbying since 2006.¹² Intuit alone, which has approximately 30 percent of the market share in consumer tax software,¹³ has spent more than \$44.8 million on federal lobbying since 1998, and spent more than \$3.5 million in 2022 alone.¹⁴ Meanwhile, H&R Block has spent \$9.6 million since 2006,¹⁵ including over \$2.6 million last year.¹⁶ Following the IRS's recent and long overdue announcement of its plan to pilot a direct filing tool in 2024, both the Free File Alliance and the American Coalition for Taxpayer Rights are increasing their lobbying efforts related to the "continuance and strengthening of the Free File program."¹⁷

Alarming, tax prep companies are following a familiar playbook to undermine the IRS' program: using the corporate revolving door to sway policy against the public interest. The American Coalition for Taxpayer Rights and Free File Alliance hired lobbyists in 2023 that included a former House Ways and Means tax counsel, a former Treasury official, and a former aide to House Majority Leader emeritus Steny Hoyer.¹⁸ In 2022, we raised concerns about similar practices at Intuit, which hired hordes of former government officials, including the former IRS top negotiator on the creation of the Free File program, to directly lobby against regulatory scrutiny or relief for taxpayers.¹⁹

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The IRS' creation of a free, government-run direct filing tool would benefit taxpayers and rein in the predatory and exploitative behavior of tax prep companies. 72 percent of taxpayers are interested in an IRS-run free, direct filing option, citing the cost and data security of private software options.²⁰ Recent revelations about tax prep companies' abusive tactics, including

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Sincerely,



Elizabeth Warren
United States Senator



Katie Porter
Member of Congress

Congress of the United States

Washington, DC 20515

August 23, 2023

Jeff Jones
President and Chief Executive Officer
H&R Block
1301 Main Street
Kansas City, MO 6410

Dear Mr. Jones:

We are writing regarding your company's ongoing lobbying campaign aimed at protecting your ability to gouge taxpayers and preventing the creation of a free and simple system for taxpayers to file their taxes. Private tax prep companies online filing options have been a resounding failure, resulting in Americans spending eight hours and \$140 on average to file their taxes while being victimized by having their personal and financial income turned over to Big Tech firms – an outrageous and potentially illegal violation of their privacy.¹

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For over two decades, policymakers in Washington have tried to make tax filing free and easy for American taxpayers – but have been met by opposition and deliberate sabotage from tax prep companies. In 2003, the IRS stood up the Free File program – a partnership with the Free File Alliance, a group of private tax preparation companies including H&R Block for many years – which has utterly failed taxpayers. While the tax prep companies are supposed to serve 70

¹ Internal Revenue Service, 1040 (and 1040-SR) Instructions, 2022, <https://www.irs.gov/pub/irs-pdf/i1040gi.pdf#page=107>; Offices of Senator Elizabeth Warren et al., “Attacks on Tax Privacy: How the Tax Prep Industry Enabled Meta to Harvest Millions of Taxpayers’ Sensitive Data,” July 12 2023, https://www.warren.senate.gov/oversight/reports/in-new-report-senators-warren-wyden-lawmakers-reveal-massive-likely-illegal-breach-of-taxpayer-privacy-by-tax-prep-companies-with-meta_call-for-agencies-to-investigate-prosecute.

² Reuters, “US IRS to launch free tax e-file pilot program in 2024,” David Lawder, May 16, 2023, <https://www.reuters.com/world/us/irs-launch-free-us-direct-tax-filing-pilot-program-2024-2023-05-16/>.

³ Politico, “Tax prep coalitions lobby up as IRS readies pilot program,” Caitlin Oprysko, June 1, 2023, <https://www.politico.com/newsletters/politico-influence/2023/06/01/tax-prep-coalitions-lobby-up-as-irs-readies-pilot-program-00099755>.

percent of taxpayers under Free File, the program reached only 2 percent of taxpayers in 2022,⁴ in large part because of deliberate sabotage by tax preparation companies intent on profiting off of taxpayers.

Free File's failure is not an accident. Tax prep companies have used deceptive practices and outright lies to push consumers from Free File into paid programs, including deliberately suppressing Free File websites from search results and channeling taxpayers into in-house "freemium" programs that charge for services that would be free under Free File.⁵ In March 2022, the FTC brought a complaint against Intuit for "deceiving consumers with bogus advertisements pitching 'free' tax filing that millions of consumers could not use."⁶ And in May 2023, as a result of a \$141 million settlement with all 50 state attorneys general, Intuit began sending checks to American taxpayers who the company steered into paying for tax preparation software they should have received for free.⁷

Earlier this year, our offices discovered that tax prep companies were providing sensitive personal and financial information to Big Tech companies Meta and Google, a potentially illegal practice that impacted tens of millions of taxpayers.⁸ These companies – H&R Block, TaxSlayer, and TaxAct – installed lines of code called pixels that harvested an extensive trove of data, in some cases including taxpayers' filing status, approximate adjusted gross income, approximate refund amount, and names of dependents, and sent that information to Meta and Google, with Meta in particular using that data to fuel targeted advertising.⁹ TaxAct also revealed that it shared the information of taxpayers who used TaxAct's Free File service.¹⁰ This outrageous breach of customer trust may have broken federal and state law prohibiting tax preparers from disclosing or using taxpayers' tax return information for purposes other than preparing their return.¹¹ It revealed that tax prep companies simply cannot be trusted with taxpayers' sensitive personal and financial information.

Tax Prep Companies Lobbying Against Direct Filing

The Free File program has been a clear failure for years, but tax prep companies have engaged in a long and aggressive lobbying campaign to prevent the IRS from offering taxpayers a direct

⁴ National Taxpayer Advocate, "2022 Annual Report to Congress," January 11, 2023, p. 104,

https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_MSP_06_FilingDelays.pdf.

⁵ 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>; NPR, "Federal Trade Commission accuses Intuit of deceptively advertising TurboTax as free," Laurel Wamsley, March 29, 2022, <https://www.npr.org/2022/03/29/1089490958/free-turbotax-ftc-intuit>.

⁶ 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>.

⁷ CNN, "TurboTax is sending checks to 4.4 million customers as part of a \$141 million settlement," Jordan Valinsky, May 9, 2023, <https://www.cnn.com/2023/05/09/business/turbotax-settlement/index.html>.

⁸ Offices of Senators Elizabeth Warren et al, "Attacks on Tax Privacy: How the Tax Prep Industry Enabled Meta to Harvest Millions of Taxpayers' Sensitive Data," July 12, 2023, p. 9, https://www.warren.senate.gov/imo/media/doc/Attacks%20on%20Tax%20Privacy%20Report__7.12.2023.pdf.

⁹ *Id.*

¹⁰ *Id.*, pg. 2.

¹¹ 26 C.F.R. 301.7216-3(a)(1); <https://ago.mo.gov/home/news/2023/07/13/attorney-general-bailey-files-suit-against-tax-preparation-companies-for-unlawfully-sharing-taxpayers-personal-information-with-big-tech>.

filing option. Members of both the Free File Alliance (which included H&R Block until 2020) and the American Coalition for Taxpayer Rights (which still includes H&R Block) have spent more than \$39 million on lobbying since 2006.¹² Intuit alone, which has approximately 30 percent of the market share in consumer tax software,¹³ has spent more than \$44.8 million on federal lobbying since 1998, and spent more than \$3.5 million in 2022 alone.¹⁴ Meanwhile, H&R Block has spent \$9.6 million since 2006,¹⁵ including over \$2.6 million last year.¹⁶ Following the IRS's recent and long overdue announcement of its plan to pilot a direct filing tool in 2024, both the Free File Alliance and the American Coalition for Taxpayer Rights are increasing their lobbying efforts related to the "continuance and strengthening of the Free File program."¹⁷

Alarming, tax prep companies are following a familiar playbook to undermine the IRS' program: using the corporate revolving door to sway policy against the public interest. The American Coalition for Taxpayer Rights and Free File Alliance hired lobbyists in 2023 that included a former House Ways and Means tax counsel, a former Treasury official, and a former aide to House Majority Leader emeritus Steny Hoyer.¹⁸ In 2022, we raised concerns about similar practices at Intuit, which hired hordes of former government officials, including the former IRS top negotiator on the creation of the Free File program, to directly lobby against regulatory scrutiny or relief for taxpayers.¹⁹

Conclusion and Questions

The IRS' creation of a free, government-run direct filing tool would benefit taxpayers and rein in the predatory and exploitative behavior of tax prep companies. 72 percent of taxpayers are interested in an IRS-run free, direct filing option, citing the cost and data security of private software options.²⁰ Recent revelations about tax prep companies' abusive tactics, including reckless data sharing and deceptive advertisements, illustrate why this tool is essential for

¹² PBS News Hours, "IRS moves forward with a new free-file tax return system, supporters and critics mobilize," Fatima Hussein, July 20, 2023, <https://www.pbs.org/newshour/politics/irs-moves-forward-with-a-new-free-file-tax-return-system-that-has-both-supporters-and-critics-mobilizing>.

¹³ Accounting Today, "Tax reform had little impact on tax prep market share, says Moody's," Michael Cohn, April 29, 2019, <https://www.accountingtoday.com/news/tax-reform-had-little-impact-on-tax-prep-market-share-says-moodys>.

¹⁴ Open Secrets, "TurboTax parent company Intuit is pouring more money than ever into lobbying amid push for free government-run tax filing," Anna Massoglia, February 17, 2023, <https://www.opensecrets.org/news/2023/02/turbotax-parent-company-intuit-is-pouring-more-money-than-ever-into-lobbying-amid-push-for-free-government-run-tax-filing/>.

¹⁵ Associated Press, "Taxpayer advocates want the IRS to offer a free electronic tax-filing system. Intuit and H&R Block have spent millions lobbying against it," Fatima Hussein, April 17, 2023, <https://fortune.com/2023/04/17/taxpayer-advocates-irs-free-electronic-tax-filing-system-intuit-hr-block-spent-millions-lobbying-against/>.

¹⁶ Politico, "Tax prep coalitions lobby up as IRS readies pilot program," Caitlin Oprysko, June 1, 2023, <https://www.politico.com/newsletters/politico-influence/2023/06/01/tax-prep-coalitions-lobby-up-as-irs-readies-pilot-program-00099755>.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ 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>.

²⁰ Internal Revenue Service, "IRS Report to Congress: Inflation Reduction Act §10301(1)(B), IRS-run Direct e-File Tax Return System," May 16, 2023, p. 7-8, <https://www.irs.gov/pub/irs-pdf/p5788.pdf>.

taxpayers, and your company should not be allowed to undermine the IRS' efforts to better serve taxpayers.

In light of the industry's aggressive lobbying and reports that the industry lobbying groups your company belongs to are working to undermine the IRS' free direct filing tool, we ask that you provide answers to the following questions no later than September 6, 2023:

1. Since October 30, 2002, how much revenue have you made off of taxpayers making less than \$73,000?
2. What do you anticipate the impact of the IRS' pilot direct filing tool will be on your revenue for 2024?
3. How much money has H&R Block spent on lobbying so far in 2023?
 - a. How many lobbyists currently work for H&R Block?
 - b. How much money has H&R Block spent on campaign contributions so far in 2023? Please list the contribution dates and amount.
 - c. Which agencies have you lobbied so far in 2023?
 - i. Have H&R Block lobbyists had conversations with the IRS regarding the 2024 pilot direct filing tool? If so, how many, and with who at the agency? What was the nature of these conversations?
 - ii. Have H&R Block lobbyists had conversations with the Treasury Department regarding the 2024 pilot direct filing tool? If so, how many, and with who at the agency? What was the nature of these conversations?
 - iii. Have H&R Block lobbyists had conversations with the White House regarding the 2024 pilot direct filing tool? If so, how many, and with who at the agency? What was the nature of these conversations?
4. Over the past three years, have H&R Block lobbyists been involved in the drafting of any legislation that would take money from the IRS or restrict the IRS from using funds to create a direct filing tool?
5. Since January 1, 2021, how many H&R Block employees or external partners have previously worked for the federal government in tax policy or other positions in the IRS, the Treasury Department, the Federal Trade Commission, or elsewhere in the executive branch? For each of these employees, please provide the following information:
 - a. What position(s) they served in in the federal government, the time period in which they served, and what their specific responsibilities were in those positions, including any regulatory or legislative matters they worked on that affected H&R Block.
 - b. Any interactions they had with H&R Block or organizations representing H&R Block in their role as a government regulator, and whether future roles at the company were discussed.
 - c. What position(s) they served in at H&R Block, or which cases they worked on as outside counsel, and the time periods in which they held these positions or worked on behalf of H&R Block.
 - d. Their compensation at H&R Block, and any bonuses or other compensation they received in relation to their government service.
6. Since January 1, 2021, how many former H&R Block employees or external partners have subsequently gone on to work for the federal government in the IRS, the Treasury

Department, the Federal Trade Commission, or elsewhere in the executive branch? For each of these employees, please provide the following information:

- a. What position(s) they held in the federal government, the time period in which they served, and what their specific responsibilities were in those positions, including any regulatory or legislative matters they worked on that affected H&R Block.
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- d. Their compensation at H&R Block, and any bonuses or other compensation they received in relation to their government service.

Sincerely,



Elizabeth Warren
United States Senator



Katie Porter
Member of Congress

Congress of the United States

Washington, DC 20515

August 23, 2023

Calvin Whitehead
Chair
American Coalition for Taxpayer Rights
1155 F Street NW Suite 1200
Washington, DC20004

Dear Mr. Whitehead:

We are writing regarding your organization's ongoing lobbying campaign aimed at protecting your ability to gouge taxpayers and preventing the creation of a free and simple system for taxpayers to file their taxes. Private tax prep companies online filing options have been a resounding failure, resulting in Americans spending eight hours and \$140 on average to file their taxes while being victimized by having their personal and financial income turned over to Big Tech firms – an outrageous and potentially illegal violation of their privacy.¹

That is why we support the Biden Administration's plan to pilot a new free, direct filing tool next year,² which will give American taxpayers the option of filing directly with the Internal Revenue Service (IRS), without being forced to pay or share their data with tax prep companies. However, tax prep companies are spending record amounts to lobby against this popular, commonsense tool, including via the Free File Alliance (FFA) and American Coalition for Taxpayer Rights (ACTR).³ Given the benefits of direct filing, and the harm that tax prep companies have caused taxpayers over the past two decades, we seek to understand the efforts of your organization to undermine the IRS's work to provide taxpayers with a direct filing option.

Private Tax Prep Companies Have Failed Taxpayers

For over two decades, policymakers in Washington have tried to make tax filing free and easy for American taxpayers – but have been met by opposition and deliberate sabotage from tax prep companies. In 2003, the IRS stood up the Free File program – a partnership with FFA, a group of private tax preparation companies – which has utterly failed taxpayers. While the tax prep companies are supposed to serve 70 percent of taxpayers under Free File, the program reached

¹ Internal Revenue Service, 1040 (and 1040-SR) Instructions, 2022, <https://www.irs.gov/pub/irs-pdf/i1040gi.pdf#page=107>; Offices of Senator Elizabeth Warren et al., “Attacks on Tax Privacy: How the Tax Prep Industry Enabled Meta to Harvest Millions of Taxpayers’ Sensitive Data,” July 12 2023, https://www.warren.senate.gov/oversight/reports/in-new-report-senators-warren-wyden-lawmakers-reveal-massive-likely-illegal-breach-of-taxpayer-privacy-by-tax-prep-companies-with-meta_call-for-agencies-to-investigate-prosecute.

² Reuters, “US IRS to launch free tax e-file pilot program in 2024,” David Lawder, May 16, 2023, <https://www.reuters.com/world/us/irs-launch-free-us-direct-tax-filing-pilot-program-2024-2023-05-16/>.

³ Politico, “Tax prep coalitions lobby up as IRS readies pilot program,” Caitlin Oprysko, June 1, 2023, <https://www.politico.com/newsletters/politico-influence/2023/06/01/tax-prep-coalitions-lobby-up-as-irs-readies-pilot-program-00099755>.

only 2 percent of taxpayers in 2022,⁴ in large part because of deliberate sabotage by tax preparation companies intent on profiting off of taxpayers.

Free File’s failure is not an accident. Tax prep companies have used deceptive practices and outright lies to push consumers from Free File into paid programs, including deliberately suppressing Free File websites from search results and channeling taxpayers into in-house “freemium” programs that charge for services that would be free under Free File.⁵ In March 2022, the FTC brought a complaint against Intuit for “deceiving consumers with bogus advertisements pitching ‘free’ tax filing that millions of consumers could not use.”⁶ And in May 2023, as a result of a \$141 million settlement with all 50 state attorneys general, Intuit began sending checks to American taxpayers who the company steered into paying for tax preparation software they should have received for free.⁷

Earlier this year, our offices discovered that tax prep companies were providing sensitive personal and financial information to Big Tech companies Meta and Google, a potentially illegal practice that impacted tens of millions of taxpayers.⁸ These companies – H&R Block, TaxSlayer, and TaxAct, all of which are members of your organization – installed lines of code called pixels that harvested an extensive trove of data, in some cases including taxpayers’ filing status, approximate adjusted gross income, approximate refund amount, and names of dependents, and sent that information to Meta and Google, with Meta in particular using that data to fuel targeted advertising.⁹ TaxAct also revealed that it shared the information of taxpayers who used TaxAct’s Free File service.¹⁰ This outrageous breach of customer trust may have broken federal and state law prohibiting tax preparers from disclosing or using taxpayers’ tax return information for purposes other than preparing their return.¹¹ It revealed that tax prep companies simply cannot be trusted with taxpayers’ sensitive personal and financial information.

Tax Prep Companies Lobbying Against Direct Filing

The Free File program has been a clear failure for years, but tax prep companies have engaged in a long and aggressive lobbying campaign to prevent the IRS from offering taxpayers a direct filing option. Members of both FFA and ACTR have spent more than \$39 million on lobbying

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https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_MSP_06_FilingDelays.pdf.

⁵ 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>; NPR, “Federal Trade Commission accuses Intuit of deceptively advertising TurboTax as free,” Laurel Wamsley, March 29, 2022, <https://www.npr.org/2022/03/29/1089490958/free-turbotax-ftc-intuit>.

⁶ 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>.

⁷ CNN, “TurboTax is sending checks to 4.4 million customers as part of a \$141 million settlement,” Jordan Valinsky, May 9, 2023, <https://www.cnn.com/2023/05/09/business/turbotax-settlement/index.html>.

⁸ Offices of Senators Elizabeth Warren et al, “Attacks on Tax Privacy: How the Tax Prep Industry Enabled Meta to Harvest Millions of Taxpayers’ Sensitive Data,” July 12, 2023, p. 9, https://www.warren.senate.gov/imo/media/doc/Attacks%20on%20Tax%20Privacy%20Report_7.12.2023.pdf.

⁹ *Id.*

¹⁰ *Id.*, pg. 2.

¹¹ 26 C.F.R. 301.7216-3(a)(1); <https://ago.mo.gov/home/news/2023/07/13/attorney-general-bailey-files-suit-against-tax-preparation-companies-for-unlawfully-sharing-taxpayers-personal-information-with-big-tech>.

since 2006.¹² Intuit alone, which has approximately 30 percent of the market share in consumer tax software,¹³ has spent more than \$44.8 million on federal lobbying since 1998, and spent more than \$3.5 million in 2022 alone.¹⁴ Meanwhile, H&R Block has spent \$9.6 million since 2006,¹⁵ including over \$2.6 million last year.¹⁶ Following the IRS's recent and long overdue announcement of its plan to pilot a direct filing tool in 2024, both FFA and ACTR are increasing their lobbying efforts related to the "continuance and strengthening of the Free File program."¹⁷

Alarming, tax prep companies are following a familiar playbook to undermine the IRS' program: using the corporate revolving door to sway policy against the public interest. ACTR and FFA hired lobbyists in 2023 that included a former House Ways and Means tax counsel, a former Treasury official, and a former aide to House Majority Leader emeritus Steny Hoyer.¹⁸ In 2022, we raised concerns about similar practices at Intuit, which hired hordes of former government officials, including the former IRS top negotiator on the creation of the Free File program, to directly lobby against regulatory scrutiny or relief for taxpayers.¹⁹

Conclusion and Questions

The IRS' creation of a free, government-run direct filing tool would benefit taxpayers and rein in the predatory and exploitative behavior of tax prep companies. 72 percent of taxpayers are interested in an IRS-run free, direct filing option, citing the cost and data security of private software options.²⁰ Recent revelations about tax prep companies' abusive tactics, including reckless data sharing and deceptive advertisements, illustrate why this tool is essential for taxpayers, and your organization and its members should not be allowed to undermine the IRS' efforts to better serve taxpayers.

¹² PBS News Hours, "IRS moves forward with a new free-file tax return system, supporters and critics mobilize," Fatima Hussein, July 20, 2023, <https://www.pbs.org/newshour/politics/irs-moves-forward-with-a-new-free-file-tax-return-system-that-has-both-supporters-and-critics-mobilizing>.

¹³ Accounting Today, "Tax reform had little impact on tax prep market share, says Moody's," Michael Cohn, April 29, 2019, <https://www.accountingtoday.com/news/tax-reform-had-little-impact-on-tax-prep-market-share-says-moodys>.

¹⁴ Open Secrets, "TurboTax parent company Intuit is pouring more money than ever into lobbying amid push for free government-run tax filing," Anna Massoglia, February 17, 2023, <https://www.opensecrets.org/news/2023/02/turbotax-parent-company-intuit-is-pouring-more-money-than-ever-into-lobbying-amid-push-for-free-government-run-tax-filing/>.

¹⁵ Associated Press, "Taxpayer advocates want the IRS to offer a free electronic tax-filing system. Intuit and H&R Block have spent millions lobbying against it," Fatima Hussein, April 17, 2023, <https://fortune.com/2023/04/17/taxpayer-advocates-irs-free-electronic-tax-filing-system-intuit-hr-block-spent-millions-lobbying-against/>.

¹⁶ Politico, "Tax prep coalitions lobby up as IRS readies pilot program," Caitlin Oprysko, June 1, 2023, <https://www.politico.com/newsletters/politico-influence/2023/06/01/tax-prep-coalitions-lobby-up-as-irs-readies-pilot-program-00099755>.

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²⁰ Internal Revenue Service, "IRS Report to Congress: Inflation Reduction Act §10301(1)(B), IRS-run Direct e-File Tax Return System," May 16, 2023, p. 7-8, <https://www.irs.gov/pub/irs-pdf/p5788.pdf>.

In light of the industry's aggressive lobbying and reports that your organization and its members are working to undermine the IRS' free direct filing tool, we ask that you provide answers to the following questions no later than September 6, 2023:

1. Since October 30, 2002, how much revenue have your members made off of taxpayers making less than \$73,000? Please include the revenue from tax preparation and filing, as well as related tax time products such as refund anticipation checks and loans.
2. What do your members anticipate the impact of the IRS' pilot direct filing tool will be on their revenue for 2024?
3. How much money has ACTR spent on lobbying so far in 2023?
 - a. How many lobbyists currently work for ACTR?
 - b. How much money has ACTR spent on campaign contributions so far in 2023? Please list the contribution dates and amount.
 - c. Which agencies have you lobbied so far in 2023?
 - i. Have ACTR lobbyists had conversations with the IRS regarding the 2024 pilot direct filing tool? If so, how many, and with who at the agency? What was the nature of these conversations?
 - ii. Have ACTR had conversations with the Treasury Department regarding the 2024 pilot direct filing tool? If so, how many, and with who at the agency? What was the nature of these conversations?
 - iii. Have ACTR lobbyists had conversations with the White House regarding the 2024 pilot direct filing tool? If so, how many, and with who at the agency? What was the nature of these conversations?
4. Over the past three years, have ACTR lobbyists been involved in the drafting of any legislation that would take money from the IRS or restrict the IRS from using funds to create a direct filing tool?
5. Since January 1, 2021, how many ACTR employees or ACTR member company employees have previously worked for the federal government in tax policy or other positions in the IRS, the Treasury Department, the Federal Trade Commission, or elsewhere in the executive branch? For each of these employees, please provide the following information:
 - a. What position(s) they served in in the federal government, the time period in which they served, and what their specific responsibilities were in those positions, including any regulatory or legislative matters they worked on that affected ACTR member companies.
 - b. Any interactions they had with ACTR or its member companies in their role as a government regulator, and whether future roles at ACTR or member companies were discussed.
 - c. What position(s) they served in at ACTR or its member companies, or which cases they worked on as outside counsel, and the time periods in which they held these positions or worked on behalf of ACTR or its member companies.
 - d. Their compensation at ACTR or its member companies, and any bonuses or other compensation they received in relation to their government service.
6. Since January 1, 2021, how many former ACTR employees or ACTR member company employees have subsequently gone on to work for the federal government in the IRS, the

Treasury Department, the Federal Trade Commission, or elsewhere in the executive branch? For each of these employees, please provide the following information:

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- c. What position(s) they served in at ACTR or its member companies, or which cases they worked on as outside counsel, and the time periods in which they held these positions or worked on behalf of ACTR or its member companies.
- d. Their compensation at ACTR or its member companies, and any bonuses or other compensation they received in relation to their government service.

Sincerely,



Elizabeth Warren
United States Senator



Katie Porter
Member of Congress