

Congress of the United States

Washington, DC 20515

October 18, 2024

The Honorable Lisa Monaco
Deputy Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Deputy Attorney General Monaco,

We write to urge you to investigate and prosecute the criminal behavior of major tax preparation companies identified in our investigation and confirmed by the Treasury Inspector General for Tax Administration (TIGTA) and the Internal Revenue Service (IRS).¹ Last month, TIGTA released an audit report confirming that four online tax preparation companies broke the law by sharing legally protected and sensitive taxpayer information with Big Tech firms without properly obtaining taxpayer consent.² The IRS agreed with TIGTA's assessment.³ Now that TIGTA and the IRS have confirmed that these disclosures violated taxpayer privacy law,⁴ we reiterate our calls⁵ for the Department of Justice (DOJ) to investigate those responsible for this shocking breach of taxpayer privacy and take appropriate action without further delay.

November 2022 reporting by *The Markup* and our own July 2023 Congressional investigative report revealed improper sharing of taxpayers' sensitive personal and financial information by TaxSlayer, H&R Block, TaxAct, and Ramsey Solutions with Meta and Google.⁶ Specifically,

¹ Offices of Senators Elizabeth Warren, Ron Wyden, Richard Blumenthal, Tammy Duckworth, Bernie Sanders, and Sheldon Whitehouse, and Representative Katie Porter, "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; Treasury Inspector General for Tax Administration, "The Information Collected by Online Providers and Shared With Third Parties Is Not Clearly Disclosed to Taxpayers and Is Unknown to the IRS," September 17, 2024, pp. 3-4, <https://www.tigta.gov/sites/default/files/reports/2024-09/2024400062fr.pdf>.

² Treasury Inspector General for Tax Administration, "The Information Collected by Online Providers and Shared With Third Parties Is Not Clearly Disclosed to Taxpayers and Is Unknown to the IRS," September 17, 2024, p. 3, <https://www.tigta.gov/sites/default/files/reports/2024-09/2024400062fr.pdf>.

³ *Id.*, pp. 3-4.

⁴ *Id.*, pp. 3-4.

⁵ Letter from Senators Elizabeth Warren, Ron Wyden, Richard Blumenthal, Tammy Duckworth, Bernie Sanders, and Sheldon Whitehouse, and Representative Katie Porter to the IRS, FTC, TIGTA, and DOJ, 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>.

⁶ 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>; Offices of Senators Elizabeth Warren, Ron Wyden, Richard Blumenthal, Tammy Duckworth, Bernie

these tax prep companies used “pixels” – computer code that tracks website visitor activity⁷ – which shared sensitive personal and financial information for millions of taxpayers with Meta, including approximate income and refund amounts and key information on filing status, exemptions, and deductions - which Meta then used for advertising and to train its AI algorithms.⁸

We warned that this data sharing was not only an egregious violation of taxpayer privacy, but appeared to be illegal, and we called upon TIGTA, DOJ, and other authorities to investigate.⁹ Criminal law governing sharing of tax data states that a tax return preparer may not disclose “any information furnished to him, or in connection with, the preparation of any such return” or use that information “for any purpose other than to prepare, or assist in preparing, any such return.”¹⁰ Although Treasury Regulation § 301.7216-3 specifies limited instances when a tax return preparer may disclose or use tax return information with a taxpayers consent, we found that the tax prep companies failed to meet the requirements for consent.¹¹

TIGTA’s September 17, 2024 audit report has now confirmed our findings of illegal behavior by tax prep companies.¹² TIGTA conducted a detailed review of four tax software companies, including their consent statements, privacy agreements, and user agreements available from September 2023 to April 2024.¹³ TIGTA found that the tax prep companies’ taxpayer consent statements “did not comply with the requirements of Treasury Regulation § 301.7216” because they “did not clearly identify the intended purpose of the disclosure or the specific recipient(s) of the tax return information.”¹⁴ TIGTA also noted that, “the IRS confirmed that these statements do not fully comply with the requirements of Treasury Regulation § 301.7216-3.”¹⁵

Sanders, and Sheldon Whitehouse, and Representative Katie Porter, “Attacks on Tax Privacy: How the Tax Prep Industry Enabled Meta to Harvest Millions of Taxpayers’ Sensitive Data,” July 2023, p. 2, https://www.warren.senate.gov/imo/media/doc/Attacks%20on%20Tax%20Privacy%20Report_7.12.2023.pdf.

⁷ 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>.

⁸ Offices of Senators Elizabeth Warren, Ron Wyden, Richard Blumenthal, Tammy Duckworth, Bernie Sanders, and Sheldon Whitehouse, and Representative Katie Porter, “Attacks on Tax Privacy: How the Tax Prep Industry Enabled Meta to Harvest Millions of Taxpayers’ Sensitive Data,” July 2023, p. 11, https://www.warren.senate.gov/imo/media/doc/Attacks%20on%20Tax%20Privacy%20Report_7.12.2023.pdf.

⁹ *Id.*, pg. 21.

¹⁰ 26 U.S.C. § 7216(a)(1).

¹¹ Offices of Senators Elizabeth Warren, Ron Wyden, Richard Blumenthal, Tammy Duckworth, Bernie Sanders, and Sheldon Whitehouse, and Representative Katie Porter, “Attacks on Tax Privacy: How the Tax Prep Industry Enabled Meta to Harvest Millions of Taxpayers’ Sensitive Data,” July 2023, p. 23, https://www.warren.senate.gov/imo/media/doc/Attacks%20on%20Tax%20Privacy%20Report_7.12.2023.pdf; Treasury Regulation § 301.7216-3.

¹² Treasury Inspector General for Tax Administration, “The Information Collected by Online Providers and Shared With Third Parties Is Not Clearly Disclosed to Taxpayers and Is Unknown to the IRS,” September 17, 2024, p. 3, <https://www.tigta.gov/sites/default/files/reports/2024-09/2024400062fr.pdf>.

¹³ *Id.*, p. 3.

¹⁴ *Id.*, p. 3.

¹⁵ *Id.*, p. 4.

The penalties for knowingly or recklessly disclosing or using tax return information include up to 1 year in prison, and penalties of up to \$1000 per violation.¹⁶ DOJ has the sole authority¹⁷ to enforce the criminal statute on behalf of the millions of taxpayers harmed by this unauthorized disclosure of their sensitive personal and financial data.¹⁸ That is why, since July 2023, we have urged you to act.¹⁹ TIGTA itself notes that it “reports potential criminal violations directly to the Department of Justice when TIGTA deems that it is appropriate to do so,”²⁰ so it is quite possible that TIGTA has now referred its findings of criminal behavior in this matter to DOJ.

In line with your commitments to prioritize enforcement of white collar and corporate crime,²¹ you must act without delay. In March, you said before the American Bar Association’s 39th National Institute on White Collar Crime: “We identify the most serious wrongdoers — individual and corporate — and focus our full energy on holding them accountable. Those who break the law pay the price.”²²

Accountability for these tax preparation companies – who disclosed millions of taxpayers’ tax return data, meaning they could potentially face billions of dollars in criminal liability²³ – is essential for protecting the rule of law and the privacy of taxpayers. The IRS recently announced the expansion of its highly successful IRS Direct File program to 24 total states so over 30

¹⁶ 26 U.S.C. § 7216(a).

¹⁷ U.S. Department of Justice, Justice Manual, 6-4.000 - Criminal Tax Case Procedures, <https://www.justice.gov/jm/jm-6-4000-criminal-tax-case-procedures#6-4.110>.

¹⁸ Letter from Senators Elizabeth Warren, Ron Wyden, Richard Blumenthal, Tammy Duckworth, Bernie Sanders, and Sheldon Whitehouse, and Representative Katie Porter to the IRS, FTC, TIGTA, and DOJ, 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>; Letter from Senators Elizabeth Warren, Ron Wyden, Richard Blumenthal, Sheldon Whitehouse, and Representative Katie Porter to the IRS, FTC, TIGTA, and DOJ, May 21, 2024, <https://www.warren.senate.gov/imo/media/doc/2024.05.21%20Letter%20to%20IRS,%20TIGTA,%20DOJ,%20FTC%20on%20tax%20prep%20data%20sharing.pdf>; Offices of Senators Elizabeth Warren, Ron Wyden, Richard Blumenthal, Tammy Duckworth, Bernie Sanders, and Sheldon Whitehouse, and Representative Katie Porter, “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, pg. 38.

¹⁹ Letter from Senator Warren to the IRS, FTC, TIGTA, and DOJ, 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>.

²⁰ Treasury Inspector General for Tax Administration, “Semiannual Report to Congress,” October 1, 2022-March 31, 2023, p. 8, https://www.tigta.gov/sites/default/files/reports/2023-06/semiannual_mar2023.pdf.

²¹ Remarks by Deputy Attorney General Lisa Monaco at the NYU Program on Corporate Compliance and Enforcement, September 15, 2022, <https://www.justice.gov/opa/speech/deputy-attorney-general-lisa-o-monaco-delivers-remarks-corporate-criminal-enforcement>.

²² Keynote Remarks by Deputy Attorney General Lisa Monaco at the American Bar Association’s 39th National Institute on White Collar Crime, March 7, 2024, <https://www.justice.gov/opa/speech/deputy-attorney-general-lisa-monaco-delivers-keynote-remarks-american-bar-associations>.

²³ Office of Senator Elizabeth Warren, “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,” press release, 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.

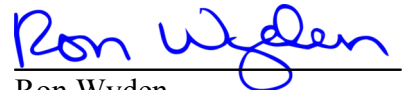
million taxpayers can file for free, securely, and directly with the IRS;²⁴ however, many American taxpayers still rely on private tax preparation companies.²⁵ These companies must be held accountable for illegally sharing sensitive taxpayer information. We urge you to follow the facts and the conclusions of TIGTA and the IRS and to take appropriate action against any companies or individuals that have violated the law.

Thank you for your attention to this important matter.

Sincerely,



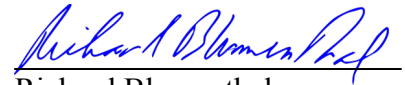
Elizabeth Warren
United States Senator



Ron Wyden
United States Senator



Katie Porter
Member of Congress



Richard Blumenthal
United States Senator

²⁴ Internal Revenue Service, “IRS Direct File set to expand availability in a dozen new states and cover wider range of tax situations for the 2025 tax filing season,” press release, October 3, 2024, <https://www.irs.gov/newsroom/irs-direct-file-set-to-expand-availability-in-a-dozen-new-states-and-cover-wider-range-of-tax-situations-for-the-2025-tax-filing-season>.

²⁵ Offices of Senators Elizabeth Warren, Ron Wyden, Richard Blumenthal, Tammy Duckworth, Bernie Sanders, and Sheldon Whitehouse, and Representative Katie Porter, “Attacks on Tax Privacy: How the Tax Prep Industry Enabled Meta to Harvest Millions of Taxpayers’ Sensitive Data,” July 2023, p. 4, https://www.warren.senate.gov/imo/media/doc/Attacks%20on%20Tax%20Privacy%20Report_7.12.2023.pdf.