

United States Senate

WASHINGTON, DC 20510-3203

October 8, 2020

The Honorable J. Russell George
Inspector General
Treasury Inspector General for Tax Administration
U.S. Department of the Treasury
1401 H Street, NW, Suite 469
Washington, DC 20005

Mr. Richard K. Delmar
Acting Inspector General
U.S. Department of the Treasury
1500 Pennsylvania Ave., NW
Room 4436
Washington, DC 20220

Dear Inspector General George and Acting Inspector General Delmar:

We write asking you to conduct a thorough investigation into whether there is evidence of any undue influence on Internal Revenue Service (IRS) audits relating to President Donald J. Trump. Due to significant concerns of potential efforts to undermine the integrity of the mandatory audit process and other audits within the IRS, it is essential that the Office of the Treasury Inspector General for Tax Administration (TIGTA) and Office of the Inspector General (OIG) ensure the appropriate safeguards remain in place to prevent such interference at the agency.

As you well know, it is longstanding IRS policy to subject individual income tax returns for both the President and Vice President to annual “mandatory examinations” while they are in office.¹ This policy was adopted in 1977 following a Joint Committee on Internal Revenue Taxation investigation, which found that President Nixon had filed erroneous tax returns during his presidency. At that time, the IRS concluded that transitioning to an automatic audit process for the President’s returns would “remove from any particular employee of the IRS the necessity of having to make a decision as to whether to audit the particular returns involved.”² While this policy is not codified into law, the annual audit of Presidential returns has been a recurring agency practice for over forty years, and the process is governed by guidance set forth in the IRS Internal Revenue Manual.

It is also IRS policy, pursuant to the IRS Restructuring and Reform Act of 1998, that it is unlawful for any ‘applicable person’ – which includes the President, Vice President, any employee of the White House, and most Cabinet-level officials – to request, either directly or indirectly, any officer or employee of the IRS to “conduct or terminate an audit or other investigation of any particular taxpayer with respect to the tax liability of such taxpayer.”³ This 1998 law also requires any IRS officer or employee to report political interference to TIGTA for

¹ “Processing Returns and Accounts of the President and Vice President.” Internal Revenue Manual. 4.2.1.15. (Apr. 23, 2014)

² “Background Regarding the Confidentiality and Disclosure of Federal Tax Returns.” Joint Committee on Taxation Report. JCX-3-19 (quoting IRS spokesperson Leon Levine)

³ Title 26 U.S. Code § 7217(a) and 7217(e)

investigation.⁴ Further, under this law, interference by the White House, or failure to report such interference, in the IRS audit process is punishable by up to five years in prison.⁵

Not only has Mr. Trump broken decades of precedent by rejecting transparency for the American people and refusing to publicly release his federal income tax returns, but he has also made numerous public statements against IRS audits, both as a presidential candidate and after he was elected. Prior to taking office, then-candidate Trump claimed that he “unfairly get[s] audited,”⁶ is “audited when I shouldn’t be audited,” and “why is it that every single year, I’m audited, whereas other people that are very rich, people are never audited.”⁷ Nearly two years into Mr. Trump’s presidency, in October 2018, former White House Press Secretary Sarah Huckabee Sanders stated that “the President and First Lady filed their taxes on time and as always, they are automatically under audit, which the President thinks is extremely unfair.”⁸

Notably, in addition to the IRS’s annually-required review of Presidential tax returns, the agency is also reportedly conducting a separate audit of Mr. Trump’s 2010 federal income tax returns, on which he claimed and received an income tax refund totaling \$72.9 million. It has been reported that, when applying for this refund, Mr. Trump cited significant business losses – a total of \$1.4 billion – for 2008 and 2009. It is our understanding that this audit to determine the legitimacy of that refund is still ongoing and similarly deserves full protection from undue influence.

Given the recent revelations about Mr. Trump’s decades-long tax avoidance tactics and dubious business practices, as well as concerns about political interference in the IRS’s mandated audit process of Presidential returns, it is imperative that TIGTA and OIG:

1. Immediately conduct an investigation into any undue influence on Mr. Trump’s IRS audits, either as part of the mandatory audit program or otherwise, including whether any executive branch employee outside of IRS has contacted any IRS employee regarding the audit of the President’s tax returns; and
2. Provide reassurance to Congressional leadership and the House of Representatives and Senate Committees of jurisdiction in closed executive session that no such interference or influence has been found; or
3. If TIGTA and OIG find there is evidence of undue influence on IRS audits, including contact described in (1) above, brief Congressional leadership and Committees of jurisdiction in closed executive session on and take expeditious enforcement action against such influence.

⁴ Ibid, § 7217(b)

⁵ Ibid, § 7217(d)

⁶ Donald Trump (@realDonaldTrump), Twitter (Feb. 27, 2016, 7:12 AM)

⁷ Jenna Johnson, “Donald Trump Says IRS Audits Could Be Tied to Being a ‘Strong Christian,’” *The Washington Post* (Feb. 26, 2016)

⁸ Arden Farhi, “Trump Files 2017 Taxes Following 6-month Extension,” *CBS News* (Oct. 17, 2018)

Thank you for your attention to and continued oversight of this critical matter, and we look forward to your prompt response.

Sincerely,



Charles E. Schumer
United States Senator



Ron Wyden
United States Senator