

Congress of the United States
Washington, DC 20515

September 21, 2016

The Honorable John Koskinen
Commissioner
Internal Revenue Service
1111 Constitution Avenue NW
Washington, DC 20224

Dear Commissioner Koskinen:

We strongly object to any action by the Administration to improperly use sensitive taxpayer information to identify and harass individuals who have rejected the Patient Protection and Affordable Care Act (ACA) by choosing to pay a tax rather than be forced into a health care plan they don't need and don't want. One of the most important responsibilities of the Internal Revenue Service (IRS) is to protect sensitive taxpayer information. Recent reports have revealed that in order to prop up the failing health insurance exchanges created by the ACA, the Administration is planning to conduct outreach directly to taxpayers who paid a penalty under the law's individual mandate in previous years. In order to facilitate this reported outreach, access to confidential return information is needed, which raises legal and privacy concerns. It also demonstrates the extent to which the Administration is willing to use the power of the IRS to insert itself into the lives of individuals who have made a legal and personal choice not to purchase a health plan.

A recent Centers for Medicare and Medicaid Services (CMS) fact sheet, entitled "Strengthening the Marketplace by Covering Young Adults," discusses CMS's plans to reach out to individuals who previously sought exemptions from the law's individual mandate or paid a penalty. According to the fact sheet, "[f]or the first time this fall, we will conduct outreach to individuals and families who paid the fee for being uninsured, or claimed an exemption from that fee, for 2015."¹ While specific details on the Administration's outreach plans are still unclear, this description nevertheless raises significant concerns.

The ACA has caused great disruption in the individual health insurance market. We do not believe it to be an appropriate tax administration activity, nor a good use of scarce taxpayer resources, to use protected return data to direct taxpayers on their personal coverage decisions. Additionally, it is unclear what role, if any, CMS intends to play. As you are aware, the confidentiality of tax returns and return information is protected by law in 26 § U.S.C. 6103. It is implausible that information on whether an individual paid a penalty is relevant for determining ACA subsidy eligibility—the sole permitted use of this confidential data under current law.

The IRS has broken its faith with the American people. There have been years of scandals and abuse of trust by high-ranking officials. CMS botched the launch of the ACA exchanges and

¹ CMS Fact sheet

The Honorable John Koskinen

September 20, 2016

Page 2 of 2

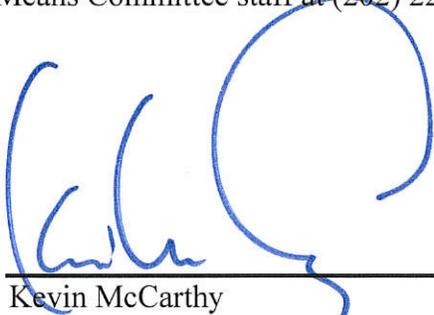
continues to administer a program that is not stable. And now we learn these two agencies are collaborating on a project to harass individuals who have in fact already complied with the individual mandate. The Administration should not be using taxpayer dollars, nor sharing or misusing confidential taxpayer information, especially in a transparent attempt to increase pressure on individuals to participate in what's left of a failing law. To better understand the IRS's use of protected taxpayer information, please provide the following information no later than October 4, 2016:

1. Does the IRS intend to reach out directly to individuals that paid a penalty?
 - a. How will such outreach take place?
 - b. How will individuals receiving notice be identified?
 - c. What is the specific tax administration activity this outreach seeks to accomplish?
 - d. Provide all copies, including drafts, of notices and other materials sent to taxpayers pursuant to this effort.

2. Has the IRS formally or informally engaged in any discussions with the Department of Health and Human Services, or any other entity, over reaching out to taxpayers to discuss their compliance with the individual mandate, or the use of taxpayer information regarding any penalties determined pursuant to the individual mandate?
 - a. If such discussions have occurred, what is the intended purpose of the outreach?
 - b. Provide, all agreements, memoranda of understanding, or other communications, including all drafts and versions of such records, between IRS, Treasury, HHS, CMS, States, and/or any other entity related to the sharing of protected taxpayer information.

Thank you for your attention. If you have any questions about this matter, please contact Ways and Means Committee staff at (202) 225-9263.

Sincerely,



Kevin McCarthy
Majority Leader, U.S. House of
Representatives



Steve Scalise
Majority Whip, U.S. House of
Representatives



Kevin Brady
Chairman, Committee on Ways and Means