Overview of the Taxpayer Fairness Fund Act of 2020

This bill allows taxpayers to volunteer to provide funding, through a checkoff, to support IRS efforts to increase audits of high-income, high-wealth individuals and complex corporate and partnership returns. Our tax system should reflect our nation's values and provide Americans greater economic opportunity and financial security. An integral principle of this is that the Internal Revenue Service (IRS) execute its work fairly across all income levels. And all taxpayers should pay what they owe and be held to the same standard. While the IRS should make efforts to prioritize meeting this objective with the resources available, by contributing to this fund, donors would lend their voice to the call for fairness of tax administration, help address the tax gap, and work to restore trust in our Federal tax laws.

Background: The tax gap is the amount of tax liability owed by taxpayers that is not paid on time. The IRS recently estimated the net tax gap at $381 billion per year.[1] The National Taxpayer Advocate (NTA) translated the tax gap into a "surtax" paid by compliant taxpayers finding that with approximately 122 million U.S. households in 2013, each taxpayer was effectively paying a "surtax" of some $3,000 to subsidize noncompliance by others.[2]

According to the IRS, high-income non-filers contribute to most of the non-filer Tax Gap. A recent report from the Treasury Inspector General for Tax Administration (TIGTA) highlights the true extent of this problem.[3] The report identified nearly 880,000 high-income taxpayers who had not complied with their tax filing requirements, accounting for around 34% of all high-income taxpayers. TIGTA estimated that they failed to pay an estimated $45.7 billion over the three-year period between 2014 through 2016. Most of these high-income non-filers were never selected for examination or remain in the collection inventory unlikely to be pursued

Inadequate funding for the IRS is part of the problem. Over the last decade, while the number of returns has grown by about9%, the IRS budget has been reduced by 20%, after adjusting for inflation.[4] Over this period, the IRS has also experienced a 20% decline in its workforce.[5] Unquestionably, diminished resources (funding and personnel) have affected tax compliance and hindered the agency's audit coverage.

Meanwhile, because it's much easier to enforce the tax laws for low income earners, the IRS continues to audit taxpayers claiming the earned income tax credit (EITC) where the income was less than $25,000 more than of all individual income tax returns: 1.2 percent compared with 0.4 percent, in 2019.[6] Individuals who reported income between $200,000 and $1 million were audited at a rate of 0.6%.[7]

Budget constraints are an unacceptable excuse for disparities in the IRS audit coverage; the IRS needs to make efforts to effectively audit taxpayers to ensure compliance with our tax laws For example, TIGTA recently found

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[1] https://www.irs.gov/newsroom/the-tax-gap. (These estimates are for tax years 2011 – 2013. The average gross tax gap was estimated at $441 billion per year. After late payments and enforcement efforts were factored in, the net tax gap was estimated at $381 billion.)
[2] https://taxpayeradvocate.irs.gov/Media/Default/Documents/2019-ARC/ARC19_PurpleBook.pdf.
[3] https://www.treasury.gov/tigta/auditreports/2020reports/202030015fr.pdf.
[4] https://taxpayeradvocate.irs.gov/reports/2019-annual-report-to-congress/MSP-IF.
[5] https://taxpayeradvocate.irs.gov/Media/Default/Documents/2019-ARC/ARC19_Volume1_MSP_03_IRSFUNDING.pdf.
[6] https://www.irs.gov/pub/irs-pdf/p55b.pdf.
[7] https://www.irs.gov/pub/irs-pdf/p55b.pdf.

that the IRS closed 47.2 percent of audits on large companies from fiscal years 2016 through 2018 with no change, wasting potentially $22.7 million.[8] TIGTA and the U.S. Government Accountability Office have made countless recommendations to the IRS to improve audit effectiveness and resource investments.[9]

Nonetheless, we need to provide the IRS dedicated funding to undertake the difficult and costly examination of the complex returns of a high-income taxpayer. The Congressional Budget Office recently estimated that increasing IRS funding by $20 billion over the next 10 years would result in $61 billion more in collected taxes.[10] A $40 billion increase would lead to an additional $103 billion in revenue.[11] Investing in the I.R.S. pays off.

Legislation: The Taxpayer Fairness Fund Act establishes a self-funding "Taxpayer Fairness Fund", comprised of taxpayer donations at the taxpayer's election. Under this bill, taxpayers may choose to make an overpayment of tax, i.e., increase their tax liability or reduce their refund, to donate funds to the IRS for hiring, training, and employment of personnel for tax enforcement activities of the Internal Revenue Service to determine and collect owed taxes from (1) individuals with annual income of $500,000 or more, and (2) corporations with assets of $5 million or more. Persons who receive the Earned Income Tax Credit, Child Tax Credit, and/or American Opportunity Tax Credit would not be eligible to donate to this fund.

In general, donations are to be made based on taxpayer's indication on their tax return by checking a box. The donation amount, if elected, should be $5 per taxpayer. In case of a joint return, each spouse may designate that $5 shall be paid to the fund, which allows each to make a separate decision while allowing for a contribution of up to $10.

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8 https://www.treasury.gov/tigta/auditreports/2020reports/202030031fr.pdf.

9 See e.g., https://www.treasury.gov/tigta/auditreports/2019reports/201930016fr.pdf, https://www.gao.gov/assets/700/697245.pdf, https://www.gao.gov/new.items/d09238.pdf, and https://www.treasury.gov/tigta/auditreports/2020reports/202030015fr.pdf.

10 https://www.cbo.gov/publication/56422.

11 https://www.cbo.gov/publication/56422.