

United States Senate

WASHINGTON, DC 20510-0609

July 14, 2020

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, D.C. 20224

Dear Commissioner Rettig:

Thank you for your recent testimony before the Senate Finance Committee. We appreciate the hard work you and your team are putting in to help the American people through this difficult time.

I write to follow up on a few questions that I asked during the hearing. Most importantly, I am in search of further clarity on the non-filer portal and how it is affecting those who would normally claim the Child Tax Credit (CTC) and Earned Income Tax Credit (EITC).

In the hearing, I asked about the IRS's non-filer portal, which certain non-tax-filing individuals use to register for their economic impact payment (EIP). The portal seems to have filed a narrow tax return as a formality for its users. As a result, when these taxpayers later attempted to file a full 2019 return to claim their CTC/EITC, they were prevented from doing so. Although these taxpayers are still able to file a paper return, the IRS has limited capacity to process paper and until late June was not processing paper returns at all. I suspect many have become discouraged when unable to file online. As a result, at least six million households do not have a clear way to file taxes and no way to claim the EITC and CTC.

You responded that the IRS is "about to issue guidance to these individuals" who have become a part of the filing trap created by the non-filer portal, but in the hearing you did not commit to a more efficient online system to correct for these errors. I remain concerned that the over 6 million users of the non-filer tool have not received sufficient guidance regarding how to file taxes, if they choose to or are required to do so. This would mean millions of households will not be able to access the EITC for Tax Year 2019. I appreciate your testimony about the alternate process the IRS has designed using paper forms, but I am concerned about how this will work in practice for families in-need. I am following up to request an answer in writing to these questions:

- What concrete steps will the IRS take to ensure that portal users are aware of the processes they must follow to file taxes, in order to obtain additional tax benefits like the CTC and EITC?

- Will the IRS waive late fees for portal users who are blocked from filing taxes and cannot learn of alternate processes in time?
- Will the IRS commit to processing electronic Forms 1040-X from portal users on a priority basis?
- You committed to prioritize the paper returns coming in from portal users who cannot e-file. Can you report to us regularly regarding how many of these forms have been received, and any backlog that builds up in these forms?

Even if the filing process is made much easier for households, I am concerned this will not be enough. The IRS must proactively reach out to the households who have already been blocked from claiming the EITC.

- Would the IRS be willing to automate EITC payments consistent with the levels for workers without dependent children for portal users? What authority, if any, would the IRS need from Congress to fully automate these payments?
- Does the IRS plan to send Forms CP-27 and/or CP-09 to all portal users to make these taxpayers aware of their eligibility for the EITC? What further resources would the IRS need from Congress in order to do so?

Additionally, I asked if there was any other way the IRS could expedite the process of issuing EITC payments for taxpayers who do file their tax returns and still have yet to receive their payments. You responded that about 98% of refunds are processed and paid accordingly within 21 days, but the remaining 2% get held up for a number of reasons.

- I would like to know more about why the 2% are delayed and why the IRS is unable to use data already on file (W-2 or other) to automatically issue these EITC payments.

Finally, less than two weeks ago, the Taxpayer Advocate reported that about 3.7 million¹ people had used the non-filer portal, but during the hearing, you stated that “6.1 million people have successfully used the non-filer portal.” I assume these reflect total users as of different dates, but could you please address the following to clarify the reasons for the discrepancy:

- Please clarify the number of people who have successfully used the portal to date, as well as how many of those successful users might have been eligible for CTC or EITC.
- Will the IRS publicly provide this statistic on an ongoing basis, so as to help us keep track of the number of unreached households?

Once again, thank you to all the hard-working, dedicated staff at IRS for your work delivering financial assistance to American families who so desperately need it during this uncertain time. I look forward to hearing from you regarding these urgent questions. Please feel free to reach out to my office should you have any questions.

¹ https://taxpayeradvocate.irs.gov/Media/Default/Documents/2021-JRC/JRC21_SAO_03.pdf (51)

Sincerely,

A handwritten signature in blue ink that reads "Michael F. Bennet". The signature is written in a cursive, flowing style.

Michael F. Bennet
United States Senator