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United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

June 16, 2021

VIA ELECTRONIC TRANSMISSION

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice

The Honorable Christopher A. Wray
Director
Federal Bureau of Investigation

Dear Attorney General Garland and Director Wray:

On June 9, 2021, Attorney General Garland appeared before the Senate Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies and testified to the recent disclosure of confidential tax information in ProPublica's report titled, "The Secret IRS Files: Trove of Never-Before-Seen Records Reveal How the Wealthiest Avoid Income Tax."¹ The article states that "ProPublica has obtained a vast trove of Internal Revenue Service data on the tax returns of thousands of the nation's wealthiest people, covering more than 15 years." This strongly indicates that the foundation for the article is taxpayer information that originated from the Internal Revenue Service (IRS) and that this information is protected by law from unauthorized access or disclosure. Attorney General Garland stated, "This is an extremely serious matter. People are entitled, obviously, to great privacy with respect to their tax returns."²

Section 6103 of the Internal Revenue Code provides for the protection of taxpayer information and prevents information that taxpayers are required to share with the IRS from disclosure except for specific exceptions. The self-reporting nature of our system of taxation makes it vitally important that taxpayers have trust that their personal information will be treated respectfully and confidentially as they comply with our nation's tax laws. In return, the government must protect their records to maintain that trust. The Internal Revenue Code places such high importance on taxpayer privacy that criminal and civil penalties are specifically identified for the unauthorized access or disclosure of that information. Internal Revenue Code section 7213 specifies that willful unauthorized disclosure of returns or return information by an employee or former employee of the IRS is a felony. Code section 7431 allows a taxpayer to

¹ <https://www.propublica.org/article/the-secret-irs-files-trove-of-never-before-seen-records-reveal-how-the-wealthiest-avoid-income-tax>.

² <https://www.cnbc.com/2021/06/09/propublica-tax-leak-investigation-will-be-priority-attorney-general-garland-says.html>.

institute action in Federal district court for damages where there is unauthorized inspection or disclosure.

Responding to questions from Ranking Member Grassley regarding the apparent breach of taxpayer data, IRS Commissioner Rettig in an appearance before the Finance Committee on June 8, 2021, noted:

I share the concerns of every American for the sensitive and private nature, and confidential nature of the information the IRS receives. ... I think that trust and confidence in the Internal Revenue Service is sort of the bedrock of asking people and requiring people to provide financial information. And, we have, as I said, turned it over to the appropriate investigators, external and internal.³

The Federal Bureau of Investigation (FBI) is likely one of the external investigators referenced by Commissioner Rettig, and the Department of Justice would be involved in any prosecution resulting from any investigation into this apparent breach of taxpayer information. Accordingly, to better understand what the Department of Justice and FBI have done to investigate this matter, please provide answers to the following questions no later than June 23, 2021.

1. Has the FBI or the Department of Justice engaged in any formal investigation of or related to the possible disclosure of taxpayer data to ProPublica?
2. Has it been confirmed whether or not any information provided to ProPublica originated at the IRS?
3. What is the full scope of confidential taxpayer information that was provided to ProPublica or otherwise improperly accessed or disclosed?
4. If taxpayer information that originated at the IRS was provided to ProPublica, was that information deliberately leaked from within the IRS, or was it stolen as the result of a data breach?
5. If the information provided to ProPublica was the result of a breach or hack of the IRS, when did the hack or breach occur, how long has the IRS known about the hack, and what was the full scope of information compromised?
6. With what other Departments or agencies are the Department of Justice and FBI coordinating in their investigation?
7. What specific steps will you take to protect the investigation from improper political pressures?

³ U.S. Congress. U.S. Senate Committee on Finance. "Senate Finance Committee Holds Hearing on the Fiscal 2022 Budget Request for the Internal Revenue Service." (Date: 6/8/21). Text from: CQ Congressional Transcripts.

In addition, no later than June 23, please schedule a briefing with our staffs relating to this matter. Thank you for your prompt attention.

Sincerely,



Chuck Grassley
Ranking Member



John Cornyn
United States Senator



Michael S. Lee
United States Senator



Ted Cruz
United States Senator



Ben Sasse
United States Senator



Tom Cotton
United States Senator



Thom Tillis
United States Senator