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# NOMINATION OF JOHN ANDREW KOSKINEN

## HEARING

BEFORE THE

## COMMITTEE ON FINANCE
## UNITED STATES SENATE

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

ON THE

NOMINATION OF

JOHN ANDREW KOSKINEN, TO BE COMMISSIONER,
INTERNAL REVENUE SERVICE

DECEMBER 10 AND 11, 2013

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# NOMINATION OF JOHN ANDREW KOSKINEN, TO BE COMMISSIONER, INTERNAL REVENUE SERVICE

**TUESDAY, DECEMBER 10, 2013 AND WEDNESDAY, DECEMBER 11, 2013**

U.S. SENATE,
COMMITTEE ON FINANCE,
*Washington, DC.*

The hearing was convened, pursuant to notice, at 10:04 a.m., in room SD–215, Dirksen Senate Office Building, Hon. Max Baucus (chairman of the committee) presiding.

Present: Senators Wyden, Menendez, Carper, Cardin, Bennet, Casey, Hatch, Grassley, Crapo, Roberts, Enzi, Thune, and Portman.

Also present: Democratic Staff: Amber Cottle, Staff Director; Mac Campbell, General Counsel; Rory Murphy, International Trade Analyst; Tiffany Smith, Tax Counsel; and Lily Batchelder, Chief Tax Counsel. Republican Staff: Chris Campbell, Staff Director; Mark Prater, Deputy Chief of Staff and Chief Tax Counsel; and Nicholas Wyatt, Tax and Nominations Professional Staff Member.

## OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM MONTANA, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. The hearing will come to order.

The famed journalist, Grantland Rice, once wrote, and I quote him, "You can develop good judgment as you do the muscles of your body—by judicious daily exercise."

That is a valuable lesson for anyone, especially one who serves in government. And, in the wake of the charges of political targeting that erupted last spring, it is vital for those who serve at the IRS.

With us today is John Koskinen, the President's nominee to be the Commissioner of Internal Revenue. If confirmed, Mr. Koskinen will face many challenges. The IRS plays an important role in tax reform. It is key to the Affordable Care Act's implementation, for example. And perhaps most importantly, it must win back the American people's trust. That means undoing the damage done by the Inspector General's report on the IRS's handling of 501(c)(4) applications.

The American people are willing to pay their taxes. They understand that it is their civic duty. But when there are charges of political bias at the IRS, it makes everyone feel like the deck is stacked.

This committee is in the midst of a bipartisan investigation of those charges. In the meantime, IRS needs to do its job in a fair and evenhanded manner. The acting Commissioner, Danny Werfel, deserves credit for his steady management since arriving at the IRS in May.

Last month, the administration proposed clear new standards for the treatment of tax-exempt social welfare organizations. That was a positive step, but there is more work to be done. We need to install new safeguards to ensure that the mistakes identified in the Inspector General's report do not happen again.

Winning back the public's trust will not happen overnight. It will take time and, in Grantland Rice's words, judicious daily exercise of good judgment. I believe Mr. Koskinen will exercise that judgment. He is the right person for the job. But the task will not be easy.

The IRS must be an active partner in tax reform. This committee is hard at work fixing the Nation's broken tax code, and, as we develop ideas, we need the IRS's input. No reform proposal is worth the paper it is printed on unless the IRS can implement and manage it as intended. And that is why productive communication between the IRS and this committee is so critical.

Last month, my office released three staff discussion drafts on tax reform proposals. The first focused on modernizing our international tax system; the second focused on improving tax administration, fighting fraud, and making filing safer, easier, and more simple; and the third focused on making the tax code more neutral for American businesses.

Now we are gathering feedback on those proposals from stakeholders, from the public, and from businesses, and the work will continue. More drafts are coming, and we will need the IRS's input on those as well.

The IRS must also continue to play its part in implementing the Affordable Care Act. Helping individuals, families, and businesses pay for health insurance is a cornerstone of the health reform law. According to the independent Kaiser Family Foundation, 17 million people will qualify for assistance. The IRS must be ready to handle that task, and, by all accounts, preparations are on track. It needs to keep up the good work.

Mr. Koskinen has a history of succeeding in demanding roles: at Freddie Mac, in the heat of the financial crisis; at the helm of the District of Columbia's financial turnaround in the early 2000s; as a turnaround artist in the private sector; and even as leader of the team that addressed Y2K concerns.

He is the right person to take on this challenge, and, with filing season approaching, the IRS needs a leader in place. The IRS has been without a confirmed Commissioner for more than a year. Before this year, the longest any nominee for IRS Commissioner had waited before confirmation was 100 days. Mr. Koskinen was nominated 132 days ago.

Mr. Koskinen, with your knowledge, experience, and expertise, I expect you would be highly sought after by many players in the private sector. Instead, you have chosen to continue your career in public service, and for that, we thank you.

Thank you for accepting the nomination to this position. The IRS Commissioner may not be the most glamorous job in the administration, but it is certainly one of great importance.

Again, the acting Commissioner, Danny Werfel, deserves credit for taking on a very tough job in the wake of the Inspector General's report, and I believe he has performed very well. But Mr. Werfel will be leaving the IRS at the end of this year.

So now is the time for us to act. The IRS needs its Commissioner. John Koskinen is the right man for the job. He has broad support from Democrats and Republicans, and I hope we can approve this nomination quickly and take it to the full Senate for a vote. It is time we get this done.

[The prepared statement of Chairman Baucus appears in the appendix.]

The CHAIRMAN. Senator Hatch?

**OPENING STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR FROM UTAH**

Senator HATCH. Thank you, Mr. Chairman. Today we are here to discuss the future of the Internal Revenue Service and hear testimony from President Obama's nominee to head the agency, John Koskinen.

Mr. Koskinen, I do not think that I have to tell that if you are confirmed, and I expect you to be, you will have a difficult job ahead of you. The IRS is one of the most powerful agencies in our government, and, consequently, it is both feared and loathed by millions of Americans.

That being the case, it is vital that the IRS maintain its credibility. The American people should be able to trust that the IRS will enforce our Nation's tax laws without bias or prejudice. Any hint of impropriety on the part of the IRS or its leadership damages its credibility and that of our entire government.

Unfortunately, over the last few years, the credibility of the IRS has been eroded through actions taken by the IRS itself, and the agency has, in large part, lost the trust of the American people. As proof, one needs to look no further than the IRS political targeting scandal currently under investigation by this committee.

When this scandal was revealed, President Obama said, "I have got no patience with it. I will not tolerate it, and we will make sure that we find out exactly what happened on this." Senate Majority Leader Harry Reid expressed similar views on the Senate floor, stating, "I have full confidence in the ability of Senator Baucus and the Finance Committee to get to the bottom of this matter and recommend appropriate action."

Now, I share both President Obama's desire to find out exactly what happened and Leader Reid's view of the Finance Committee's investigative abilities. Indeed, if there is one thing we should all be able to agree on, it is that the IRS should enforce the tax laws as they are written by Congress, without consideration of political views.

That being the case, I had hoped to hold off on proceeding with this nomination until the Finance Committee's bipartisan investigation had concluded. The confirmation of an IRS Commissioner should not and must not be a partisan issue. And, like I said, with

an agency this powerful, the leadership should have the confidence of members of both parties.

I had hoped that the next Commissioner would begin his time with the benefit of the findings of our investigation so that he would be in a better position to fix the problems we have uncovered and to move the agency forward with strong bipartisan support. Chairman Baucus has chosen to go a different direction, which is, of course, his right. My hope is that this will not impede our efforts.

Also, I would like to personally pay tribute to Danny Werfel as well. I think he took over a very tough situation, and he has handled himself with great skill and dignity and integrity, in my opinion, and he has worked pretty closely with us in trying to get to the bottom of some of these problems.

Mr. Koskinen, I hope that today you will commit to continuing the cooperation the committee has enjoyed thus far in its investigation and that you will encourage others to do the same at the agency. As far as I am concerned, the top priority for the next IRS Commissioner should be to restore the agency's damaged credibility with the American people and their trust that the actions taken by the IRS are fair and impartial.

Toward that end, it is essential that we continue to receive full and open cooperation in our investigation. There are many other issues the next leader of the IRS will have to address. For example, there is the IRS's significant role in the implementation of Obamacare. If what we have seen thus far is any indication, this is going to be a difficult proposition, both in terms of operation and enforcement.

Just last week, the Treasury Inspector General for Tax Administration issued a report that found that the IRS has an inadequate system in place for preventing fraudulent Affordable Care Act premium subsidy payments from occurring and that people's personal information would be at risk.

Insurers and others have raised questions about the income verification for the premium subsidies. I have also raised this concern on a number of occasions. Similar tax subsidy programs, including, for example, the earned income tax credit, have improper payment rates as high as 25 percent. Can we expect the same for the Obamacare premium subsidies?

These are just a few of the many potential issues IRS will be facing as implementation continues. On top of that, there are proposed regulations addressing the political activities of tax-exempt organizations. These proposals have been controversial for a number of reasons, not the least of which is the widespread doubt as to whether the IRS is able to perform its duties in an independent, nonpartisan fashion.

Now, Mr. Koskinen, I hope to get a sense of your views on these and other issues during the course of today's hearing. Like I said, the IRS is an agency rife with problems, most of which are, at least in my opinion—I think in the opinion of many people—self-inflicted.

If you are confirmed, I hope that you will begin working jointly with Congress—and with members of both parties—to fix these problems.

I want to personally pay tribute to you for being willing to take this very difficult job at this very difficult time and for the excellent work that you have done in the past in so many ways. I believe you will make a great IRS Commissioner, and I intend to support you.

Thank you, Mr. Chairman.

[The prepared statement of Senator Hatch appears in the appendix.]

The CHAIRMAN. Thank you, Senator. I also join in your complements of Danny Werfel. I am very impressed with how frequently he has called you, called me, giving us updates on what he is doing before items break in the press, and I think he has been a terrific Acting Commissioner. Thank you very much for praising Danny Werfel.

Joining us today is John Koskinen, nominated to be the Commissioner of the Internal Revenue Service. Thank you for coming, Mr. Koskinen. And I would ask you, at this time, to introduce your family.

Mr. KOSKINEN. Thank you, Mr. Chairman.

I am delighted that my wife Pat is here immediately behind me. My daughter Cheryl, who lives in Bethesda, was planning on coming before they closed school. And so she is at home with her two young children.

My son and his wife live in Los Angeles. His in-laws, who are now part of our extended family, are in Annapolis. And so they called this morning, again, and regretted that they could not join us, but their son, Scott Cantor, and his fiancée, Kathleen Scher, are with us, along with a long-time friend of mine, Roger Waldman, who started out—when I started my career in government service—working on the Kerner Commission staff a long time ago, joining us with his friend Barbara Coe.

So that is my support staff. I have told them they cannot use their noisemakers until later in the hearing.

The CHAIRMAN. Wonderful. Why don't you all stand so we can recognize you? All of you. Thank you very, very much for joining us. [Applause.]

Mr. Koskinen, go ahead. This is a time for you to tell us why you want this job.

## STATEMENT OF HON. JOHN ANDREW KOSKINEN, NOMINATED TO BE COMMISSIONER, INTERNAL REVENUE SERVICE, WASHINGTON, DC

Mr. KOSKINEN. Thank you. Chairman Baucus, Ranking Member Hatch, and members of the committee, I am honored to appear before you this morning as the nominee to be the next Commissioner of the Internal Revenue Service. With your permission, Mr. Chairman, I will summarize my prepared statement here this morning and submit the full statement for the record.

This past May, when I was asked whether I would be willing to serve as the next Commissioner, I agreed, because I believe that the successful operation of the Internal Revenue Service is vital for this country. The activities of the IRS touch virtually every American.

The agency collects over $2.5 trillion a year, over 90 percent of the revenues collected by the government. And this is a challenging time for the agency as it confronts new responsibilities, while dealing with a budget that has declined substantially since 2010. And, of course, as already mentioned, on top of that all are the management problems that have shaken public trust in the agency.

I have had a longstanding commitment to public service, and most of my career has been spent helping large organizations in both the public and private sectors respond to significant financial and management challenges. If confirmed, I look forward to leading the IRS as Commissioner and to working with this committee to deal with the range of challenges that it confronts.

In our meetings as part of this confirmation process, many of you have asked what my plans for the agency are, if I am confirmed as Commissioner. While I still have a lot to learn and thousands of employees yet to meet and listen to, it is clear that the responsibility of the Commissioner is to make sure that the agency fairly, efficiently, and effectively collects the taxes owed by every business and individual; that the agency provides taxpayer services in the form of easily understandable information and prompt answers to questions to make it as simple as possible for people and firms to pay their taxes; and that the agency creates a working environment that allows employees to reach their full potential and generates an enthusiastic, energetic, and high-performing workforce.

In every area of the IRS, taxpayers need to be confident that they will be treated fairly, no matter what their background or their affiliations. Public trust is the IRS's most important and valuable asset.

There are immediate challenges in each of these areas. To protect government revenues, the agency has to continue to increase its efforts to combat refund fraud. Taxpayer services need to be improved, particularly in the areas of tax-exempt organization filings and operations.

There are several investigations ongoing into the delays encountered by many of those seeking to establish themselves as 501(c)(4) social welfare organizations, and I look forward, if confirmed, to working with this committee as it concludes its investigation of that matter.

And Senator Hatch has asked, and I am actually more than delighted to commit that, if confirmed as Commissioner, I will continue the good work that acting Commissioner Danny Werfel has done in this area and cooperate fully with the committee and its members as it seeks to bring this investigation to a close, providing you all of the information that you need.

The IRS also needs to continue its successful implementation of the Affordable Care Act. Its responsibilities at the front end of the process have been effectively implemented, thanks to long planning and a smooth IT implementation.

The new Commissioner also needs to address employee morale. My experience is that the people in an organization who know most about what is going on are the front-line employees. The next Commissioner needs to listen to those employees and make sure they understand that they are seen as part of the solution, not part of the problem. The IRS is fortunate to have an experienced workforce

committed to the mission of the agency. We need to provide them with the leadership, systems, and training to support them in their work.

We have to listen not just to our employees but, also, others who are most likely to know about the challenges the agency faces. A government manager's best friends can be the Inspector General and the Government Accountability Office. They do not create the problems they highlight, they just help you know about them before they get bigger.

In addition, the IRS benefits from the information and perspective generated by the Office of the Taxpayer Advocate and the Whistleblower Office. And another important source of information is congressional inquiries. An individual complaint or question may be simply anecdotal. A series of them from various areas is a source of valuable information that needs to be pursued.

To make all of this happen and to protect the revenues coming into the government, we need to solve the funding problem facing the IRS. This is a view shared today by the IRS Oversight Board, the Taxpayer Advocate, and, most recently, the Treasury Inspector General for Tax Administration and the Internal Revenue Service's Advisory Council.

As the Inspector General report earlier this fall noted, the government has saved $1 billion in cuts to the IRS budget on an annual basis and lost $8 billion in compliance revenues.

Even with all the challenges the IRS faces or, in fact, because of them, I am excited about the opportunity, if confirmed, to work with the employees of the agency as the IRS moves forward into the future. The IRS has a long and honored tradition of service to this country, and it is filled with a great number of public servants who take pride in their work to help the IRS achieve its mission with integrity and fairness to all.

I appreciate the time each of you has spent with me individually, sharing your interests and concerns. If confirmed, I look forward to working with you and your staffs to help make the IRS the most effective, well-run, and admired agency in government.

Thank you.

[The prepared statement of Mr. Koskinen appears in the appendix.]

The CHAIRMAN. Thank you, Mr. Koskinen, very much.

I have four standard questions that are asked of all nominees.

Number one, is there anything that you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

Mr. KOSKINEN. There is not.

The CHAIRMAN. Do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Mr. KOSKINEN. No.

The CHAIRMAN. Do you agree, without reservation, to respond to any reasonable summons to appear and testify before any duly constituted committee of Congress, if you are confirmed?

Mr. KOSKINEN. I do.

The CHAIRMAN. Do you commit to provide a prompt response in writing to any questions addressed to you by any Senator of this committee?

Mr. KOSKINEN. Yes.

The CHAIRMAN. Thank you. That last one was added fairly recently, because we have had problems with other nominees. So thank you very much.

I want to start off by asking—I apologize. There is a vote going on now. We just have a few minutes left remaining on the vote. We will recess for—regrettably, we might have to recess for up to half an hour. There are two votes. So we will make those two votes and then come back as quickly as possible.

The committee will stand in recess for one-half hour.

[Whereupon, at 10:25 a.m., the committee was recessed, reconvening at 11:40 a.m.]

The CHAIRMAN. The hearing will come back to order.

I apologize to the witness and others for the delay. We had several votes which took our time here.

I am going to be very brief and then let Senator Hatch ask a couple of questions.

If you could, just very briefly, maybe in a couple, three words, Mr. Koskinen, tell me what you learned in your prior jobs, either crises jobs or near-crises jobs, whether it was Freddie Mac or DC or Y2K? What lessons did you learn there that you can bring to this job?

Mr. KOSKINEN. Well, I think, as I said in my opening comments, the first thing you need to do, especially if you are running a very large organization, is to create a system where information flows freely both from the front-line workers up to the people at the top of the organization but, again, across silos that inevitably get created in an organization, because you need to know as quickly as you can what is actually going on with the organization.

You also need to involve people within the organization, as well as externally, in discussions about what the problems are and what the solutions are. Because my experience has always been that a group of people addressing a problem will always come up with a better solution than any single member of that group, no matter how smart they think they are or how smart they might actually be, and that it is important to get as many different perspectives on a possible solution as you can. Also, the more people you involve in the decision-making process, the easier it is to execute that decision, because, to the extent they were involved in it, they then understand the reasoning behind it and they will go out and make it happen.

So, in an organization this large, you need to have consistent messaging, and you need to ensure that people are participating, and I have found that it energizes people. If you spend your life simply being told what to do and nobody ever asks you what your view is, you have one response to your job. If you are regularly asked not only what you think the problems are or potential solutions are, but people listen to those answers, you are much more enthusiastic about your participation in the day-to-day operations of that organization.

The CHAIRMAN. The Sunday *New York Times* business section—I think it is the business section—has a corner office page, which shares lessons that CEOs and other managers have learned while managing.

Have you, by chance, ever glanced at any of those?

Mr. KOSKINEN. I have not had the opportunity to.

The CHAIRMAN. Well, I urge you to: Sunday mornings, business section, it is page—I forgot what page it is, but they are very interesting.

Thank you very much for that answer.

Senator Hatch?

Senator HATCH. We have to get back over and vote, but let me ask you just one question, maybe two.

As you know, Mr. Koskinen, Chairman Baucus and I have been conducting a joint bipartisan investigation into the IRS targeting scandal. If you are confirmed, will you assure us that you will cooperate with our investigation by continuing to produce all documents we deem relevant and by making any IRS employees we want to interview available for interviews? You can answer that "yes" or "no."

Mr. KOSKINEN. Yes. Senator, as you and I have talked personally, I am delighted to be able to make that commitment to you.

Senator HATCH. That means a lot.

Mr. KOSKINEN. As both of you have said, I think Danny Werfel has done an excellent job, and I look forward to continuing his working relationship with this committee.

Senator HATCH. I do too. And let me just say, I would like to talk for a moment about the IRS scandal involving 501(c)(4) organizations. In my opinion, the greatest single challenge facing the IRS is its need to recover the trust of the American people.

It is not possible to overstate the amount of damage the IRS has done to its reputation by selectively targeting politically conservative tax-exempt social welfare groups for harassment during the last two elections. But rather than staying focused on cleaning up the mess caused by a scandal of its own making and waiting until this committee completes its bipartisan investigation, last month the IRS published a proposed regulation that once again targets social welfare groups only.

The political activity rules for tax-exempt 501(c)(4) organizations also apply to 501(c)(5) labor unions and 501(c)(6) trade associations. Now, as the Treasury Inspector General for Tax Administration, TIGTA, said in a report issued last May describing the IRS scandal, all three groups may engage in limited political campaign activities as long as that is not the primary activity of the organization.

I know that the IRS asked for comments from the public on whether to apply the new regulations to unions, but the regulation, as drafted, only applies to 501(c)(4)s. That is strong evidence that the IRS intends to hammer social welfare groups and, in the end, let the unions slide by.

Will you commit to this committee that, if confirmed, you will ensure that any political activity regulation the IRS finalizes will apply equally to 501(c)(4), 501(c)(5), and 501(c)(6) organizations?

Mr. KOSKINEN. Senator, it is an important question. The IRS and Treasury, as you know, have issued draft regulations for comment and suggestions. I think it is important for us to get active participation in that comment period, because there are, as you know, a wide range of organizations, and one of the specific questions the regulation asked for is for people to comment on just this issue: that is, what the definition of acceptable and unacceptable political activity ought to be and to which organizations it should apply. Should it apply to the other (c) organizations or not? It also asks for comments on the amount of activity that can be allowed before you run the risk of losing your exemption.

Overall, my sense is that what we need, and I hope will come out of that comment period in the final regulations, is clarity—for all organizations making applications—about what the permissible level of political activity is and what the definition of that political activity is. Because the clarity is important, not only for people when they make their applications, but greater clarity is needed by the IRS employees when they review those applications. And then people running the organizations in the future need to know what the rules are so they can be comfortable that they are operating within them and are not exceeding whatever the limitations are.

And part of the problem in the past has been that the definition of what is allowable political activity has not been clear, nor has it been clear what amount of that activity is acceptable before you run the risk of losing your exemption.

So I think the question you raise is an important one, and I will commit that I will actively participate in the review of the comments that come in and try to make sure, as we have said earlier, that people view the IRS and its regulations and their application as fair, that you are not discriminated against because of your background, your views, or your affiliations.

Senator HATCH. Well, thank you.

I think we are going to have to wrap it up for the day, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Koskinen. I regret that, because of the votes, we are unable to have a complete hearing at this point. And second, the other side of the aisle, the Republican party, has objected, as is their right under the Senate rules, for this committee to meet 2 hours after the Senate convened, and that 2 hours expires at noon today.

So we are unable to have a hearing after noon today, but we will reconvene at the earliest possible time, given the complexities and special rules of the Senate.

I, again, regret that we cannot continue the hearing now, but we will resume the hearing at an appropriate time. But I cannot resume the hearing after this next vote which is occurring right now because the Republican party has said—which is their right—that the Senate hearings cannot continue for 2 hours after the Senate comes into session.

Mr. KOSKINEN. Thank you, sir.

The CHAIRMAN. The committee stands in recess subject to the call of the chair.

[Whereupon, at 11:50 a.m., the hearing was recessed for the day, reconvening at 9:15 a.m. on Wednesday, December 11, 2013.]

The CHAIRMAN. The hearing will come to order.

Today we will pick up where we left off yesterday. Joining us again is John Koskinen, nominated to be the Commissioner of the IRS.

I believe it is very important—and I think most Americans believe it is very important—to have a very strong leader at the helm of the IRS, and I am hopeful that we can approve this nomination very quickly and take it to the full Senate for a vote this year.

As this is the continuation of yesterday's hearing, we will maintain the speaking order already established. That is, those Senators who arrived ahead of other Senators yesterday will speak ahead of those other Senators, at least have a chance to ask questions.

The order will be Senator Menendez, Senator Grassley, Senator Carper, Senator Crapo, Senator Cardin, Senator Roberts, Senator Thune, Senator Bennet, and Senator Casey.

Thank you very much again, Mr. Koskinen, for your willingness to serve. With the filing season upon us and this committee's ongoing investigation of the 501(c)(4) situation, it is critical to have a confirmed leader in place, especially when acting Commissioner Danny Werfel is anxious to leave. He has done such a super job and has stayed on longer than he anticipated, and we very much need a full-time Commissioner to replace Danny Werfel, who is doing a great job.

Mr. Koskinen, when you and I spoke earlier, you said something I thought was quite insightful. If I remember the conversation correctly, it was essentially that a lot of your colleagues that you have worked with, and you yourself, do not mind paying income taxes, because, after all, you are all red-blooded Americans, and it is important that we have the revenue to make our government function.

But you were saying, as I recall—I would like you to expand on this a little bit—you and a lot of your colleagues are a little frustrated with the current code, the complexity of the code, and all the high-priced accountants who have to be hired these days, high-priced tax attorneys who have to be hired these days, to figure out how to get to the bottom line, to the total taxes that are owed. It is a very confusing process—a lot of high-priced talent goes into compiling that number.

On the other hand, if the code were much more simple and you got that same number much more simply with much more transparency and much less wasted use of high-priced CPAs and high-priced tax attorneys, we would all be a little better off.

I think that is what you said. I use that conversation sometimes to explain why we need to simplify the code. There are a lot of reasons why we have to simplify it, but this is just one person's observation of and experience in dealing with the code.

If you could just expand on that a little bit, I would surely appreciate it.

Mr. KOSKINEN. Mr. Chairman, some years ago, when I began my career in the private sector, we were responsible for the bulk of the non-rail assets of the Penn Central while it was in bankruptcy. Penn Central operated out of Philadelphia, and I commuted back and forth from Washington and discovered early on that the rule in Philadelphia was, if you were in the city more than 50 hours a

year, you were supposed to file taxes, which, in the 1970s, most people were paying no attention to.

Well, my thought was, it was very important for us to follow all of the laws and particularly that law. So, at the end of the first year, I asked for the form for non-resident filing in Philadelphia, and I got a 1-page form that called on me to fill in the adjusted gross income on the first line, multiply by a small percentage, write the number down, and write a check. And at that time, the non-resident form for Pennsylvania was the same 1-page form—adjusted gross income, a slightly different percentage, and you wrote a check.

And, as I have told people ever since then, I became a fan of tax simplification because it was almost fun to pay your taxes, and it certainly was a lot simpler. There was great clarity about how much you owed, and you could do it in 5 minutes. And so, ever since then, I have always thought that if we could simplify the code as part of tax reform, I think people—most people want to pay their taxes, they want to pay the right amount, and we ought to try to make it as easy for them to determine what the correct amount of their taxes is.

The CHAIRMAN. I was quite struck by that, and I think you are right. As you know, one of the reasons for tax reform is just that—it is simplification. The code is immensely complex.

I was told that since 1986, the last time we significantly reformed our tax code, there have been 15,000 changes to the code. This Congress has enacted 15,000 changes to the code, and, obviously, some of those—most of them were well-intended, some of them are dated, but they certainly caused the code to become unnecessarily complex. But I appreciate that insight.

Senator Hatch?

Senator HATCH. Thank you, Mr. Chairman.

Mr. Koskinen, yesterday I asked you about the proposed regulations the IRS recently published that would define political activity for 501(c)(4) organizations, as currently drafted. But also, as currently drafted, the rules do not apply to 501(c)(5) labor unions and 501(c)(6) trade associations.

Now, I asked if you would make a commitment to this committee that, if confirmed, you will ensure that any political activity regulation the IRS finalizes will apply equally to 501(c)(4), 501(c)(5), and 501(c)(6) organizations.

You mentioned that the IRS asked for comments from the public on whether to apply the new regulations to unions and trade associations, and you said you would commit to the IRS being even-handed and nonpartisan under your watch. And I appreciate that, but I am still concerned about the possibility of a final regulation under which the IRS once again singles out 501(c)(4) groups for harsher treatment.

I will give you an example. Voter registration and "get out the vote" activities are currently treated as general advocacy, not political campaign activity on behalf of a particular candidate. The proposed regulation redefines voter registration and "get out the vote" activities as political activity, but only for 501(c)(4) groups and not for labor unions. It is crazy to have the same activity defined one

way for social welfare groups and a different way for unions. But that is the result under the proposed regulation in its current form.

I do not think the IRS can restore its reputation as a nonpartisan agency if it finalizes a regulation that favors one group over another like this. And the fact that the IRS is seeking comments on 501(c)(5) and 501(c)(6) organizations is not an adequate answer. The IRS should have asked for comments on all three groups before it published a proposed regulation or it should have proposed a regulation for all three groups at once and received comments on the regulation.

In tax administration, there is a big difference between an advanced notice of proposed rulemaking, where the IRS asks for public comment before publishing a proposed regulation, and the actual publication of a proposed regulation. The publication of a proposed regulation, which is what the IRS has done for 501(c)(4) groups, is a more significant step, in my view, down the regulatory road than a mere request for comments.

So, Mr. Koskinen, I would ask again if you would commit to this committee that you will ensure that any political activity regulation the IRS finalizes will apply equally to 501(c)(4), 501(c)(5), and 501(c)(6) organizations.

Mr. KOSKINEN. Senator, as you know, I was not involved in any of the discussion or the decisions——

Senator HATCH. I know that.

Mr. KOSKINEN [continuing]. About how that regulation was issued, and I do not know the details of the range of—there are thousands, hundreds of thousands of organizations under all of the 501(c) categories.

Senator HATCH. Right.

Mr. KOSKINEN. I will commit that I will pay close attention as I participate in the process, if I am confirmed as Commissioner, and I do think that the regulations need to be evenhanded and fair and that people need to have a view that the IRS is a nonpolitical, nonpartisan agency and that they will all be treated fairly no matter what their affiliation or political views.

Senator HATCH. Well, it is my contention that if the regulations do not apply to all three of those categories, it is not fair and could turn out to be very unfair.

Mr. KOSKINEN. Well, as I say, I look forward to receiving comments and participating in that decision, and I look forward to and will be pleased to work with you and the committee as we move toward finalization of those regulations.

Senator HATCH. Well, thank you.

The Obamacare premium subsidies, in my opinion, are a fraudster's dream come true. Last week, the Treasury Inspector General for Tax Administration, TIGTA, issued a report that found that the Internal Revenue Service has an inadequate system in place for preventing fraudulent Affordable Care Act premium subsidy payments from occurring.

Now, the TIGTA report makes clear that the very nature of these credits—pay first, verify a person's income later—will lead to potentially hundreds of billions of dollars of improper payments. Most troubling, over 3 years after the passage of Obamacare, the IRS has admitted to TIGTA that its system for preventing fraud in this

core tax subsidy program is still, quote, "under development"—that is bureaucrat-speak meaning "not ready"—and that is not very reassuring. And, while the IRS obviously needs to put safeguards in place, the fact is that the problems with these tax credits are deeply rooted in the law itself.

Now, I fear that the IRS will never be fully capable of ensuring that advanced refundable tax credits go only to those who are truly eligible. The IRS struggles with similar tax subsidy programs, including, for example, the earned income tax credit, where improper payment rates are as high as 25 percent.

Now, Mr. Koskinen, if confirmed, what steps will you take to protect taxpayers and ensure the new premium tax credits will not create a massive new opportunity for waste, fraud, and abuse?

Mr. KOSKINEN. I think it is critical for the IRS to pay close attention to the possibilities of fraud, as well as the existence of fraud, and I know that is the position of the agency.

In response to this Inspector General report, Danny Werfel, the acting Commissioner, responded that he remains confident that the work underway will appropriately protect the public and the government against refund fraud in this particular area.

Fortunately, the bulk of the payments under the Affordable Care Act do not go to individuals. They go to insurance companies on behalf of individuals buying those policies. So there is less incentive for fraud than there is in programs where the refunds go directly to the beneficiary.

But even having said that, I think it is an important matter. Thus far, as you know, the IRS participation in the rollout of Obamacare has been very successful, and I am confident that with Mr. Werfel's view, who has been working on this problem, that the IRS will meet its responsibilities in this area, that we will be able to do so, and it clearly will be a high priority for me, if confirmed, as Commissioner.

Senator HATCH. Thank you, Mr. Koskinen.

Mr. Chairman, could I just mention one thing? I just want to personally congratulate you. This is your birthday today, as I understand it.

The CHAIRMAN. You are congratulating me?

Senator HATCH. I am congratulating you for living this long and going through all this torment all these years on the Finance Committee, among others. We are proud of you.

The CHAIRMAN. Well, I went this long because of your support and your help.

Senator HATCH. Happy birthday.

Mr. KOSKINEN. Many of us are delighted to see younger people continue to move on and make progress this way.

The CHAIRMAN. You just won your confirmation. [Laughter.]

Thank you. Thank you, Senator.

Senator MENENDEZ. Well, Mr. Chairman, happy birthday as well.

The CHAIRMAN. Thank you.

Senator MENENDEZ. And if it was not that it was being televised, I would actually sing "Happy Birthday." [Laughter.]

Mr. Koskinen, your reputation as a strong manager precedes you, and I look forward to having you bring those skills to bear in an

agency that has some very significant challenges and significant tasks.

You write in your testimony, "I don't know any organization in my 20 years' of experience in the private sector that has said, 'I think I'll take my revenue operation and starve it for funds to see how it does.'" And you also referenced a recent Inspector General's report which found that $1 billion in budgetary savings from the IRS has actually cost the Treasury $8 billion in compliance revenues.

So my question is, would you say that you could increase revenues by having the budgetary appropriations that existed in years past and, thus, be able to actually either use those revenues for deficit reduction or critical programs that we are dealing with right now by ensuring the IRS has the funds available to accomplish its mission?

Mr. KOSKINEN. I think the historic record would demonstrate that, Senator. As a general matter, the IRS budget has been in the range of $12 billion. The compliance revenues alone, which are the revenues received as a result of IRS actions pursuing taxpayers, have generated between $50 billion and $60 billion a year.

So, historically, the ratio of expenditures for the entire budget of the IRS compared to the revenues generated by their activities has been 4:1 or 5:1. The IG report noted that the more recent impact has been an 8:1 ratio.

So I think, while the IRS does not need unlimited funds and does not need substantial funds compared to the entire budget—the President's budget for 2014 provided a budget of $12.8 billion for the IRS. It is presently operating on an assumption of $11.2 billion. That difference is a substantial and significant one. If the funds were made available to the IRS, I am confident that more than the additional revenues provided to the IRS would be returned to the government in additional tax collections and revenues.

Senator MENENDEZ. Well, whether your recognition is of the historical 4:1 or 5:1 ratio or the Inspector General's suggestion of 8:1, that is a ratio that people would be willing to invest in at any given time, it seems to me, and it seems to me one that we should certainly consider. It is a great way, as we are dealing with the challenges of both budgetary and deficit reduction, to try to achieve that.

Let me ask you a different question on a more specific issue. When the Finance Committee imposed a fee on branded prescription drugs during the creation of the Affordable Care Act, we made sure to exclude drugs used to specifically treat what we call orphan diseases. The intent was to protect the current incentives in law which encourage innovation and the development of treatments for rare diseases, a goal which I believe just about every colleague on this committee would share.

The ACA says, and I quote, "Branded prescription drugs shall not include sales of any drug or biological product with respect to which a credit was allowed for any taxable year under section 45(c)," which is the section of the tax code that defines what the orphan drug tax credit is. In its temporary rule, however, the IRS has interpreted this orphan drug exemption as only applying to

drugs that were allowed and granted the orphan drug credit rather than to all orphan drugs, as designated by the FDA.

Now I can tell you, as a member of the committee during the drafting of the law, we intended to exclude all drugs whose design served the critical purposes laid out in the eligibility for the orphan drug credit, not just for those drugs for which the paperwork was filled out to claim the credit.

There may be reasons why a company may or may not choose to claim the credit, but they, in fact, were allowed that credit. So, since not all makers of FDA-designated orphan drugs applied for and received the discretionary credit, the result is that now some orphan drugs are going to be subject to the fee, even though Congress clearly intended to exempt all orphan drugs.

So my question is, knowing that congressional intent was to exempt orphan drugs from the Affordable Care Act's branded drug fee in order to encourage manufacturers to develop treatments for rare diseases, do you believe that using a definition of the orphan drug exemption that would allow the full spectrum of FDA-designated orphan drugs to be eligible for the exemption would be more in line with the congressional intent than the current definition, which arbitrarily excludes those that are eligible and are allowable, but just did not claim it?

Mr. KOSKINEN. Senator, I was not aware, until you raised this issue, of that particular question under the Affordable Care Act.

Senator MENENDEZ. Well, this is commonly known.

Mr. KOSKINEN. But——

Senator MENENDEZ. I am kidding. I am just kidding. [Laughter.]

Mr. KOSKINEN. Certainly, if confirmed, if I am Commissioner, I would be delighted to work with you and get back to you and discuss what the possibilities are to make sure that the congressional intent is followed. As I say, I am not familiar with the details of the regulation and the thinking behind it, but I would be pleased to talk with you further about it.

Senator MENENDEZ. I appreciate that.

So let me close, Mr. Chairman. Clearly, our intent with those drugs, with the treatment we gave them under the code for avoiding the new fee under the Affordable Care Act, was to create the opportunity for those drugs to be available for rare diseases, where, in fact, the universe that will use them is not as great as other drugs that will maybe be used very commonly.

And, unless there is that incentive, then there will be no incentive to create the drugs, and people who have rare diseases and critically need them will not have access to them. And so I hope we can work on that together.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Roberts?

Senator ROBERTS. Thank you, Mr. Chairman.

Good morning, John.

Mr. KOSKINEN. Good morning, Senator.

Senator ROBERTS. Second time around. Thank you for paying me a courtesy call, where we had a very nice discussion.

When we met earlier, you acknowledged that the Internal Revenue Service is stretched very thin, that its role in implementing

the Affordable Care Act will necessarily result in the scaling down of some of the other IRS core functions.

The question is, in implementing this law, will you be able to do more with less or less with less? But this brings to mind a larger issue with the agency. Have we asked the Internal Revenue Service to do too much? Is the IRS too entrenched in everybody's life? Quite frankly, I have little confidence that the agency you are being asked to lead will be able to take on the Affordable Care Act in an efficient and effective way or in a way that does not increase the burdens all taxpayers face in dealing with the tax laws.

In fact, the Treasury Inspector General has already identified substantive weaknesses in the IRS work to prevent fraud and abuse in implementing the Affordable Care Act. This has been confirmed in hearings held recently by the Intelligence Committee Chairman, Mike Rogers, over in the House, where it has been determined that the Affordable Care Act is rife with all sorts of security problems.

The Affordable Care Act may be one step too far. One asks too much for the IRS to handle. But now we see the agency taking on a new role, rewriting the rules of political speech. Now, forgive me, but I thought we already had the Federal Election Commission working in this space.

How is the tax administrator, your new job—already stretched thin and taking on a massive role in our health care system—going to be able to handle free speech issues after being caught selectively and egregiously attacking the First Amendment right to free speech?

The IRS has not been able to conduct their current limited role in this area without engaging in blacklisting and attacking people's First Amendment rights. It is hard to see why the administration discounts these issues, in particular, when this committee continues its bipartisan investigation into the IRS actions, an investigation I hope that we will be able to conclude sooner rather than later.

On a deeper level, I find it hard to understand how the IRS will be able to conduct a much broader role in regulating political activity, right or left, Democratic or Republican, without damaging Americans' ability to engage in free political discourse.

Now, given all of the issues with the current tax code, with the IRS difficulty in implementing the current system, with fraud rife in a number of programs, with the huge workload hitting now with the health care law, and IRS's politically motivated targeting of nonprofit groups, is it time to fundamentally rethink the Federal tax system?

The first step is—and this is the question—we should heed the admonition detailed yesterday in the *Wall Street Journal* and get the Internal Revenue Service out of politics permanently. I do not see why we are promulgating new rules when we have not even finished the investigation of the attack on people's First Amendment rights at this particular time.

I would be interested in your comments.

Mr. KOSKINEN. Thank you, Senator. I enjoyed our earlier meeting and, if confirmed, would look forward to more discussions about the full range of issues confronting the IRS.

With regard to the draft regulations just put out, they are in response to a significant recommendation in the IG report that first raised the question of the handling of (c)(4) applications, in which the Inspector General suggested or requested that the IRS define with greater clarity what would be defined as acceptable and unacceptable political activity. Because part of the core problem in the implementation of that has been, I understand, that the lack of clarity as to what were permissible political activities caused the IRS and its employees, as they reviewed applications or audited organizations, to spend far more time trying to sort through the various activities and make those determinations.

So my understanding, although I did not participate in the drafting of the draft regulations, is that the goal is to respond to the Inspector General's request, and I think everybody's goal, which is to have clearer definitions so that those creating organizations and making applications will have a very clear——

Senator ROBERTS. If I might interrupt. It would be helpful if we would be able to conclude the investigation. I know we are working hard with Danny Werfel and others, and I hope we could conclude with that, and I hope we could get the IRS out of politics.

Why are we trying to regulate free speech or the First Amendment rights? The IRS has become a 4-letter word with too many people, and that is not right. That is a tremendous burden you will have to face.

Why do we not just disengage the tax system as much as possible for economic decision-making or political free speech? I think we need to start over. That is why I have supported a fundamental restructuring of the tax system, such as the proposed fair tax.

But I look forward to discussing this with you, what I think is a burden and a very unnecessary step, and I thank you so much for coming.

The CHAIRMAN. Thank you, Senator Roberts, very much.

Senator Crapo, would you like to—so you will pass.

Senator Wyden?

Senator WYDEN. Thank you, Mr. Chairman.

I want to pick up on Chairman Baucus's point with respect to tax simplification, because this is right at the heart of any successful reform effort. But it also goes to something that you talk about at length in your prepared statement, and that is the IRS budget situation.

I just would be interested in your thoughts about whether a simpler tax code might also have the added benefit of reducing the administrative and enforcement costs of the Internal Revenue Service, and would that, in effect, free the Service up to allocate resources more efficiently to areas of greater need.

What are your thoughts on that?

Mr. KOSKINEN. I think, Senator, it is clear that if the code were simpler and easier to understand for taxpayers, it would be much easier to administer and enforce from the standpoint of the IRS and that a significant part of IRS activity is spent working with taxpayers, particularly the corporations, but individuals as well, sorting through a set of nuances in what counts as revenues, what are appropriate deductions.

Senator WYDEN. And, on the bottom-line point, do you share my view that a simpler tax code could help you stretch your resources at the Service in order to focus on areas of greater need?

Mr. KOSKINEN. I think that would be one of the beneficial results of tax simplification.

Senator WYDEN. Very good. The second point deals with the IRS's technology deficit, which you have, to your credit and others, acknowledged. It is very clear that profound challenges remain with respect to the modernization of the Internal Revenue Service so that we have a 21st-century administrative system to go along with a 21st-century code.

In your view, what does the Service most need from a technology standpoint?

Mr. KOSKINEN. I think it is important, having watched the IRS over a long period of time, starting with my tour of duty as the Deputy Director for Management at OMB 20 years ago, to note that the IRS has made great strides in information technology, particularly in the last 5 to 7 years. So they are in a much stronger position than they were 20 years ago when they were struggling, sort of across the board.

I think the challenge for the IT at the IRS is a challenge similarly that has been faced over time by financial institutions in the private sector, and that is that it is dealing with significant legacy systems developed 30 and 40 years ago at a time when, obviously, technology was at a very different stage. And over time, those legacy systems have been built upon, so that the newest applications are very up-to-date, but the basic underlying systems still need significant work and improvement.

Senator WYDEN. One of the reasons I am attracted to your candidacy is because you do have experience in this area. But whether it is expanded electronic filing or fraud efforts, increased information reporting or pre-filing compliance, I think we ought to recognize we still have a long way to go.

So I hope that you will make that a priority early on.

The last point I want to make is to just get your take with respect to the relationship between the taxpayer and the Service. Anybody who reads a newspaper sees that there is a real challenge with respect to making sure that the country clearly sees the Internal Revenue Service as an impartial collector of revenue.

What do you think you can do to send that message?

Mr. KOSKINEN. Well, I think it starts at the top. I think it is important for all of us to make clear that that is an important goal—in fact, the primary goal—that the operation of the IRS is to be seen as impartial so that people are comfortable they are being treated fairly no matter what their organizational affiliations, their political views, or otherwise.

But I think the proof will be in the pudding. What we have to be able to do, besides having that as a goal, is to demonstrate day-in and day-out that that is the way the IRS operates. And I think taxpayers—inevitably, some will be audited, some will receive notices, and they have to be comfortable that they are receiving those notices, they are receiving those inquiries, because of something in their tax return, not because of who they are.

And I think over time, that is a goal that I am confident the employees, the existing employees, at the IRS share, and my hope would be, as I have said earlier, that at the end of my tenure, people would look at the IRS and be comfortable that it meets that standard.

Senator WYDEN. My time is up. I just hope you will send the strongest possible message with your actions and your words early on that you want people in this country to understand that impartiality is going to be the coin of the realm. That is really what is going to be your priority, because I think we have some heavy lifting to do in terms of getting that message out.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Enzi, you are next.

Senator ENZI. Thank you, Mr. Chairman.

And I thank you for being here to testify. I have been following what was asked yesterday, and I know you have had a lot of questions on dealing with the tax-exempt organizations. So I am not going to cover that.

Instead, I would like to know a little bit more about the current culture at the Internal Revenue Service that a lot of my constituents view as wasting taxpayers' money, as seen with the IRS internal conferences and the videos prepared for those conferences over the last several years.

Can you tell me any ideas you have on how you can change that culture at the IRS, how you would expect to win back the American public's trust in this agency?

Mr. KOSKINEN. Those examples were clearly unfortunate misjudgments, poor management.

The publication of those issues, I think, was important so people understand that the IRS is reviewing them. Those activities took place, most of them, 3 or 4 years ago. They no longer are possible, I hope. Danny Werfel, the acting Commissioner, has worked hard to change that culture.

I think, on the other hand, it is also important to recognize, though, that a lot of travel and training and conferences—both internally and externally, for the IRS, both with its own training facilities but also reaching out to practitioners and the public—are important functions.

So what you need to do is ensure that there are appropriate reviews, appropriate standards, so that people are confident that the money being spent is being spent well. I think it is important for everyone in the agency to recognize we are spending taxpayer dollars.

Senator ENZI. Yes.

Mr. KOSKINEN. These are not funds that we found someplace along the way. And we have an obligation to the public to spend those dollars wisely.

Senator ENZI. And, along that line, I have heard about some efforts by the IRS to create pre-populated individual tax forms, as well as an IRS online tax preparation system. During a time when Congress is looking for cost savings, estimates of what a Federal online system would cost the government are estimated to be tens

of millions to build, not counting upgrades each year, which could cost billions of dollars over a 10-year budget window.

These efforts could dismantle a currently successful and free private-public partnership. I have concerns about the IRS performing the simultaneous roles of tax preparer, tax collector, and tax auditor. Do you share these concerns? Do you believe it would be a mistake for the IRS to create the pre-populated tax forms?

Mr. KOSKINEN. I have not looked into those problems in great detail, but I do think that there are significant priorities in the technology area that are ahead of where you might conceivably go down the road in terms of providing that kind of taxpayer service.

I think the most important services we can provide to taxpayers at this point are clarity in their obligations to pay taxes, appropriate taxpayer response to inquiries they make, and answering their questions they have.

I think it will be a long time before we get to the stage where the code is simple enough that the IRS can actually pre-populate a form for you. At this point, everybody has a customized form. My understanding is the experience in States like California is that very few people are able to use anything that looks like a pre-populated form, because there are not very many people to whom it applies.

So I think, as I say, that is, in my understanding, not a high priority for the IRS at this time.

Senator ENZI. Well, my emphasis on that, of course, is on the private sector, which has some real incentive for getting things done. And, when we start having government infringe on what the private sector has the capability to do and has already shown the ability to do, I hate for the IRS to step in and muddle it up.

The IRS has a free file program. It is a public-private partnership between the electronic tax software companies and the IRS or the State departments of revenue that enables people who earn $57,000 or less a year, or 70 percent of all taxpayers, to choose between the best-known and most-trusted commercial tax preparation products to prepare for their Federal tax return for free.

Now, the IRS free file program is up for renewal in 2014. It has been renewed twice since 2003. However, it is my understanding that the renewal discussions with the Free File Alliance and the IRS have not yet occurred.

Will you commit to expediting discussions with the Free File Alliance upon your confirmation in order to renew the program for another 5 years?

Mr. KOSKINEN. Senator, I am happy to commit that those discussions will move forward appropriately and quickly.

Senator ENZI. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Grassley just walked in. Do you want to ask a question?

Senator GRASSLEY. Thank you. Congratulations on your nomination.

Every Commissioner has a different view on how private individuals and companies can help the IRS. In particular, your predecessor, Douglas Shulman, did not embrace whistleblowers, and one of his first actions was to terminate the private debt collection pro-

gram. Given our current fiscal challenges, I believe that the IRS should be working with as many partners as possible.

In your response to my letter on whistleblowers and private debt collections, you indicated that you could not fully respond because you were not yet Commissioner, and I understand that. And in regard to that letter, Mr. Chairman, I would like to have that letter put in the record.

The CHAIRMAN. Without objection.

[The letter appears in the appendix on p. 41.]

Senator GRASSLEY. So to you, as a nominee, I ask now if you could commit to responding to this letter fully within 60 days of your confirmation.

Right now, I would like to understand your views on working with third parties, like whistleblowers and private debt collection companies. So you can give me your Commissioner response in the letter, but give me your general view right now.

Mr. KOSKINEN. Thank you, Senator. I think my letter contains my views, but I am delighted to review them with you.

As I noted, I think the government has, in a range of agencies, experience with private debt collectors, including the IRS, and I am pleased to be able to commit that, if confirmed as Commissioner, I will review that information and get back to you with further discussions about what role, if any, private debt collection might play with the IRS.

As I noted, it has been effective in many areas. In particular, with regard to the IRS, one of the goals would be to make sure that we do not do anything that causes taxpayers who have questions with the IRS to be treated in an overly aggressive or an unfair way, but that is not necessarily an insuperable obstacle.

As you know from our conversations, I am a strong believer in the concept of the Whistleblower Office. As noted, I think particularly large corporations with complicated tax systems that decide that, for one reason or another, they are going to actually underpay their taxes knowingly, need to be a little uncertain about the fact that there are a number of people internally and externally in those corporations who are aware of that activity who would have an incentive to report it to the IRS.

So I am pleased to be able to commit to you that, if confirmed as Commissioner, I will do what I can to ensure that the whistleblower program becomes effective as quickly as possible.

Senator GRASSLEY. The 2006 updates to the IRS whistleblower program required an annual study and a report to Congress on the program. In several previous letters to the IRS and Treasury, and that is, obviously, before you were involved, I have indicated the importance of having this report issued on a timely basis. However, every year, the report is delayed a month or months on end. Fiscal year 2013 ended more than 60 days ago, yet no report has been issued.

I hope that you could commit to finalizing and issuing a whistleblower report prior to the end of January, assuming you are in the position by then.

Mr. KOSKINEN. I think all I can commit to is I will, if confirmed as Commissioner, as quickly as possible, get you that report.

I agree with you. If the IRS has an obligation to provide the public and the committee an annual report, we ought to do it as close to the end of the fiscal year as possible, and we will do that going forward, if I am confirmed as Commissioner.

Senator GRASSLEY. I have a question about the carrying out of the Affordable Care Act.

The Internal Revenue Service has been faced with many challenges these past years due to the current fiscal realities and its role in implementing and enforcing the Affordable Care Act. This Act will continue to consume large amounts of IRS time and resources in the coming years. Besides requesting more funds, what additional plans do you have to ensure IRS's core duties of tax collection are not undermined by its new role as chief Obamacare enforcer?

Mr. KOSKINEN. The new statutory responsibilities that include the Affordable Care Act—there are other statutory requirements, including the Foreign Account Tax Compliance Act—impose additional responsibilities on the IRS.

In the course of my general briefings and from people—executives—across the IRS, as well as in my discussions with acting Commissioner Werfel, they are confident and, therefore, I am confident that the IRS will be able to discharge its responsibility in those new areas at the same time it protects the filing season and the collection of revenues.

There obviously is a major set of resource decisions to be made in light of the constraints of the budget, but those resource decisions will not affect either the implementation of the statutory responsibilities or the basic filing season responsibilities of the IRS.

Senator GRASSLEY. Thank you, Mr. Chairman.

Thank you, sir.

The CHAIRMAN. Thank you, Senator.

Senator Cardin?

Senator CARDIN. Thank you, Mr. Chairman. I want to join in wishing you a very happy birthday.

The CHAIRMAN. Well, aren't you nice?

Senator CARDIN. Well, I hope it is a nice day.

The CHAIRMAN. It is even better now.

Senator CARDIN. Good.

The CHAIRMAN. Thank you.

Senator CARDIN. Again, I want to welcome our nominee and thank you for your willingness to step forward in public service.

I am going to ask a somewhat different type of a question in that this committee has responsibility over the IRS. That is, we are the so-called authorizing committee. And you will also be subjected to the appropriators and the budgets and the realities of the budget.

I want to make sure that we get information from you as to the resources you need in order to carry out your responsibility.

I am deeply concerned about the morale at the IRS today of the very dedicated professional people who are there, and I want to make sure that we have our very best. And I want to make sure that you make available to this committee what you need in order to succeed, and that is to enforce our laws fairly and to collect the revenues that are due to this country under the laws that have been passed by the Congress.

Several years ago, I joined with then-Congressman Portman in the House on the commission that was set up to review the operations of the IRS, and we enacted laws to try to help the IRS in modernizing to meet the current needs.

Today, it is our responsibility, this committee's responsibility to oversight, to make sure that you have the resources necessary for the most professional people to do their jobs, as well as to recognize that you are also in a retail consumer business and you have to be able to reach millions of Americans in a way so that they understand their responsibilities and can interact with you in a nonhostile way and comply with the laws of this country.

So I know the pressures that are on you, and I know that at times you always seem to be on the defense of the IRS. But can we rely upon you to keep this committee informed in a very frank and honest way about the resources that are necessary in order to carry out the responsibilities, including the personnel needs, of your agency?

Mr. KOSKINEN. I am happy to commit to that, Senator. As I said earlier, I think the IRS—and all government agencies, but certainly the IRS—has an obligation to the taxpayers to spend the funds provided to the IRS efficiently and effectively. And I know all organizations, when constrained, will become more efficient, and the IRS has taken steps to become more efficient in use of space, use of outside contractors, travel, and training.

But, as I noted in my testimony, there comes a point at which you cannot be asked to do more and more with less and less without jeopardizing the operation of the agency. So I am delighted to, having opened that dialogue, continue it with this committee and the Congress to make sure that you are aware of the implications of the funding that is available to the IRS and the limitations provided therein.

Senator CARDIN. There have been several studies done by congressional agencies that have shown that by making more resources available to the IRS, we actually bring in more revenue to this country. So it is not only denying you the resources you need to carry out your professional responsibilities when budgets are cut below the level that is necessary, but it is also counterproductive to the revenue collections of this country.

So we want the IRS not to be oppressive to the people, the taxpayers, of this country. We want them to be fair. We want them to be able to provide the services.

The tax code is complicated. That is not the fault of the IRS. That is the fault of the Congress. And I know our chairman and ranking member are trying to simplify the tax code and reform the tax code. But you need to have the tools in order to be able to deal with what we have done here, including some recent changes that added more responsibility to the IRS.

So I think your frank advice to this committee, recognizing that we are the committee that is responsible to make sure that you are organized in a way that you should be in order to carry out your responsibilities, is critically important to the responsibilities of this committee and to your agency.

Mr. KOSKINEN. Thank you, Senator. I appreciate your concern and the concern of several of the members I have met with about

the financing of the IRS, and I look forward to having further frank conversations with you about it.

Senator CARDIN. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Casey, you are next.

Senator CASEY. Mr. Chairman, thank you.

And we are grateful that you are here with us today, not just for your testimony and your willingness to serve, but also, in your case, I guess, a continuing commitment to public service over a long period of time. So we are especially grateful that you are putting yourself forward at a difficult time to serve, and it is critically important that we have people who do that. So we are happy about that and looking forward to your confirmation.

I have two questions that relate to the kind of definitional questions as relates to the Affordable Care Act. One of them—both represent significant issues in Pennsylvania, one in particular, the first one I will raise, with regard to volunteer firefighters.

I was the State's Auditor General for 2 terms. It was an elected position. And one of our fundamental responsibilities was, we had to audit every volunteer firefighter relief association. So there are hundreds and hundreds of them across the State.

And through that work, I became intimately aware of the impact of volunteer firefighters on a State like ours. I do not remember the exact percentage, but a very high percentage of our State is served by volunteers. A lot of the fire service is done by volunteers, probably on the order of more than three-quarters of the State, once you are outside of the bigger cities.

A question has arisen—and I know that the International Association of Fire Chiefs has sent the IRS a letter asking for clarification. The basic issue is this: whether it is volunteer firefighters or EMS personnel, under the IRS code, they are defined as employees. For purposes of the Affordable Care Act, the shared responsibility provision, the concern is that they would be counted for purposes of the Act as employees, and that, of course, would entail fees that really do not make sense in the context of the work that they do, even if they are defined as employees in other parts of the code.

So I am just asking you about that issue and, in particular, asking you to commit to seeing that the IRS resolves this problem for both volunteer firefighters and EMS personnel.

Mr. KOSKINEN. I am not aware of the details of that, but I certainly am willing to commit that, if confirmed, this would be one of the first issues I will address and get back to you about.

Senator CASEY. It is, obviously, a big population of people for our State, but I think you can go across the country and you will see a lot of States where most of the fire service—fire protection—is provided by volunteer firefighters. So I appreciate your attention to that.

Secondly, along the same lines to a certain extent, are institutions of higher education. We have, like a lot of States, a great network of community colleges. The concern there, as it relates to some of the definitional parts of the Affordable Care Act, would be community colleges determining how hours will be calculated for adjunct faculty members, and the same concern is raised there.

And I know that the American Association of Community Colleges sent to the IRS comments asking for an alternate method to be used for applying the employer responsibility requirements.

So, if you can take a look at that, as well, that would be very helpful.

Mr. KOSKINEN. I would be delighted to take a look at it. Obviously, when you pass new legislation that covers everyone, then you have to start to actually work your way through how different people fit within it and what the appropriate definitions are. And, if confirmed, I will be pleased to look at that—and I am sure other similar issues like that—to make sure that we make as appropriate a decision as we can.

Senator CASEY. I appreciate that. And finally, identity theft: I know this has been an issue that has arisen, not only in your confirmation, but more broadly.

Interestingly though, in Pennsylvania we are hearing more about it at the local level, local prosecutors coming to us seeking some kind of help or assistance. And I know that the Inspector General for Tax Administration at Treasury identified both fraudulent claims and improper payments as one of the 10 most important challenges the IRS will face for this coming fiscal year, fiscal year 2014, and I just want to get your comments on that.

Mr. KOSKINEN. It is an important problem and, unfortunately, a growing one that the IRS is devoting significant resources toward. It is reaching out—there have been pilot programs that have been very successful—to cooperate with State and local prosecutors within the context of protecting the privacy and security of taxpayer information.

But the programs have been working where the taxpayer whose identity has been stolen provides appropriate releases to allow the IRS and local law enforcement to work together.

As I say, it is a problem across the board that the IRS has been dealing with. It has grown significantly in the last 2 or 3 years, and the IRS, both technologically and legally, is working vigorously to ensure that we limit that risk to the receipts of the IRS as much as we can.

So, again, I am aware of the need for the continuing cooperation among State and local law enforcement with the IRS in this area.

Senator CASEY. Well, thanks very much. My time has expired. Thank you.

The CHAIRMAN. Thank you, Senator.

Senator Thune? If you want to, you can now ask questions, Senator Thune. You are next. Do you want to pass? You can pass.

Senator THUNE. I will pass.

The CHAIRMAN. Senator Portman?

Senator PORTMAN. Thank you, Mr. Chairman.

And to our nominee today, thank you for being willing to step up and take on what is considered by most to be a thankless task. I think it is a really important role, and, as you know, I was involved in the 1990s on the IRS Commission that Senator Bob Kerry and I co-chaired. I think Ben Cardin mentioned it earlier. Ben Cardin and I were the two House cosponsors of that legislation.

The idea was to reform and restructure the IRS so that it would be more responsive to taxpayers' needs, particularly folks in tax-

payer service, and to help regain trust in the IRS. At that time, the IRS was at the bottom of the heap in terms of Federal agencies' and departments' efficiency, trust, morale.

And there have been some good steps taken. Unfortunately, I think what happened recently with regard to the IRS targeting certain groups based on their political views reversed a lot of that progress. And I do not have to tell you that there is a real concern now about public trust in this institution again, and so you are going to have your work cut out for you to try to restore that sense of public trust.

I got involved in this a couple of years ago, when Ohio groups started to send me correspondence they got from the IRS and other information that led me to send a letter to the Deputy Commissioner back in March of 2012—never responded to initially—that was then finally responded to by saying, everything is fine.

Unfortunately, we learned that that was not true. So I feel like I was misled, in a way. And so I have been following this closely and continue to believe that there is a need for more transparency and more information as to how this happened, why it happened.

So I hope that, should you be confirmed, which I expect you will be, with my support, that you will be willing to really dig into this and get to the bottom of it and be able to provide this committee the answers that Chairman Baucus and Senator Hatch have asked for, but also that some of us have asked for individually, so that we can begin to repair this sense of trust that I think has been reversed and eroded through the process.

So I guess the question I would ask you is, are you prepared to undertake that task, and then, to the extent you find there was misconduct that has not already been dealt with or perhaps has not been dealt with appropriately, to take swift action to ensure that there are meaningful consequences for those who are responsible for the misconduct?

Mr. KOSKINEN. Yes, Senator. As I have already committed to with Senator Hatch generally, if confirmed, I look forward to working with this committee generally, but particularly to provide and make sure you have all the information you need to conclude the investigation and to respond appropriately to whatever the findings are.

I think also, within the IRS, we need to make sure that we provide employees with appropriate training and support and structure to ensure that they have the resources necessary to make appropriate decisions when they are confronted with challenging questions, and that we do not end up in these situations going forward.

But ultimately, going forward, I think it is important for us to be transparent. As I noted in my testimony, I think congressional inquiries, especially if there are numerous inquiries from a wide range of constituencies, are an important source of information that there is a problem worth pursuing. And, if confirmed as Commissioner, I am willing and pleased to commit that we will share all of that information with you.

If there are difficulties we are confronting, this committee will know about them promptly and know that, ultimately, whatever goes on at the agency is the responsibility of the Commissioner.

So I want employees to know, and I want the committee to be comfortable, that my position going forward is, if we have a problem, ultimately it is my problem, and the employees need to understand that we are all in it together.

If there is a problem, we are going to find it as quickly as we can, we are going to fix it, we are going to make sure it stays fixed, and we are going to be transparent about it. But, ultimately, we are all accountable for whatever goes on in that organization.

Senator PORTMAN. I guess this accountability you are talking about would require some sort of consequences if you do find that people have engaged in some of these improper activities. And are you prepared to do that as well?

Mr. KOSKINEN. Yes. I think that appropriate accountability is important. Acting Commissioner Werfel has set up an accountability review board to look into actions here, and also he has undertaken and completed an investigation to see if there are other similar problems across the agency, and, fortunately, he did not find any.

But I do think that employees have to be held accountable for actions that they take, but at the same time, I think we need to understand that there are oftentimes mistakes made that are simply mistakes, and we need to ensure that we understand why they were made and make sure they are not made again. But every mistake does not necessarily mean that somebody gets fired.

Senator PORTMAN. Mr. Chairman, I would like to ask another question, but, since my time is up, if we could have a quick second round, it is about tax-exempt organizations, and we could give Mr. Koskinen a chance to answer.

The CHAIRMAN. I think Mr. Thune is still getting ready, so why don't you go ahead and ask your question?

Senator PORTMAN. As you know, there are these new rules for tax-exempt social welfare organizations and their political activities. These were proposed just a week ago.

I understand that the proposed rules are meant to try to clarify some confusion that I acknowledge is out there and some ambiguity with regard to the distinction between campaign intervention and social welfare activity, as well as regarding the measure of an organization's social welfare activities relative to its total activities, which are all parts of the current regs that probably could use some additional clarification.

Have you had the opportunity to review these proposed rules, and, if so, do you have an opinion on them? Do you support them?

Mr. KOSKINEN. I have had an opportunity just to look at them in the public domain. Obviously, I did not participate in the development of them. They raise a set of very important questions and have sought, I think, active comment and participation from the public in responding to the two basic questions that are: what is the definition of political activity that will count against the social welfare activities of an organization, and what amount of otherwise not allowed political activity can you engage in as an organization before you run the risk of decertification?

I think an important question that Senator Hatch has raised, and others have raised, is, whatever the definition of political activity is, to which of the 501(c) organizations should it apply? And I think it is important, in whatever decision is finally made, for peo-

ple to see it as a decision made by a nonpartisan, independent organization that is trying to treat everyone fairly, so that those applying for any application feel that the response is going to be straightforward and evenhanded across the board.

Senator PORTMAN. In particular, there is a concern that some of us have that the IRS is not very good at getting into political activity, and that there could be some political speech that is affected by some of these new rules.

One thing that I looked at that concerned me was that (c)(4)s have to remove any records of officeholder votes or public statements from their websites 2 months before an election. There is another one that says (c)(4)s cannot publicly talk about a President's judicial nominee from February 2 to a national election, some 9 months later.

It seems sort of arbitrary, one; but, two, it seems like that is getting the IRS in the middle of political stuff. And I guess my question to you is, does this concern you that some of these proposed rules might further entangle the IRS in making political judgments and open the door to more potential mischief, as we have seen over the last couple of years?

Mr. KOSKINEN. I think it is all-important that it be reviewed. I think the goal of the regulations and, ultimately, the final regulation, will be to get the IRS out of politics as much as possible rather than into it. I think part of the difficulty with the previous regulations and their implementation was that the lack of clarity meant that the IRS had to make a whole series of political judgments on what counted and what did not count.

And the goal of the regulations, and I think, ultimately, my hope would be, that you end up with clarity so that it is relatively easy for applicants to decide, for the reviewers to decide, and for people running an organization to decide, which political activity counts in the bucket that you are not supposed to be doing and which does not, and that the lines are clear enough that the IRS itself is not making those distinctions, that they are made and they are clear in the regulations, and the organizations all understand that and can respond accordingly.

So I think the point is well-taken. I think everybody would like to make sure the IRS is involved in political decisions to the minimum amount necessary.

Senator PORTMAN. There was a recent statement that was made by the Taxpayer Advocate. This is Nina Olson in her June report to Congress. She said, "It may be advisable to separate political determinations from the function of revenue collection."

That seems to me to make sense, and I guess my thought is, are there steps that you believe you can and should take to further depoliticize the IRS and take away some of those responsibilities? And I guess what you are saying is that, by establishing some standards that are clear, that helps.

But the question is still, are these political judgments appropriate to be made, or is that something that should be done in a different way?

Let me give you one suggestion, and that is that the IRS follow, for example, the determinations of the FEC, the bipartisan Federal

Election Commission, on questions about what a group's political status is.

What are your thoughts on that?

Mr. KOSKINEN. Well, I think we are going to get a lot of comments in response to the regulations, and I would hope that some would include this discussion as well.

I think when the dust settles, the goal really has to be, what can we do to ensure the public that, to the maximum extent possible, the IRS is in the business of tax administration, not in the business of making political decisions?

And as I say, my goal, if confirmed as Commissioner, in reviewing with the Treasury the final regulations, would be, to the extent possible, to make the rules clear enough so that the decisions are not being made by the IRS on a case-by-case basis. They are clear on the regulations and everyone running an organization, everyone trying to set up an organization, would understand very easily what they are allowed to do and what is not permissible if they want to be a 501(c) organization.

Senator PORTMAN. Thank you, Mr. Chairman, for your indulgence, and Senator Thune. And again, I appreciate your willingness to serve in this important capacity. I think it is a critical time to restore trust, and, given your experience and background, I think you will have an opportunity to do just that.

So thank you, Mr. Koskinen.

The CHAIRMAN. Senator Thune?

Senator THUNE. Thank you, Mr. Chairman.

I want to follow up on that a little bit, if I might.

The IRS, during the last year, as it has been under all this scrutiny, has been accused of incompetence, mismanagement, stonewalling—a whole range of things. But I think one of the things that gets at what Senator Portman was talking about in terms of restoring the trust—and, frankly, we congratulate you on your willingness to take this on, because there is a huge, huge need, I think, to try to get the American people to trust the revenue collector again in our country.

But I think the politicization of the IRS is a stigma that has attached to the agency, and that is something you do not want to have with the agency that has so much power over the American people when it comes to collecting revenue. And so the point that he is raising with regard to how the IRS is now sort of in this role of stepping on the scales to determine what is or is not political speech, to me, seems to be completely outside the realm of what the IRS ought to be about.

And so I would just ask you a question as a general matter. Do you believe our country is better off with more political speech or less political speech and, if confirmed, what principals will you follow in applying your views? And I think it bears on this particular issue and these regulations that have been proposed.

Mr. KOSKINEN. It is an important question. I think what the public needs to be confident about with any Commissioner, and certainly what I would try to do, if confirmed to be Commissioner, is that, whatever his political views are, he is not going to apply them to the IRS.

So my sense would be, having served both Republican and Democratic administrations, having spent most of my time in management, not politics, I would want the public to be confident that the decisions we are making are primarily focused on what is the best for tax administration. So, while I may have political views of one kind or another, I want people to be comfortable that those views are not going to influence my decisions in terms of what is best for the IRS, what is best for the country.

So I think, as a general matter, I think the country's political system works well. I think political speech is important. But I do not think it is my role to have a view as to what ought to happen in the political realm. I think my role is going to be, how do we most efficiently and effectively administer the tax code in a way that people have trust and have confidence that, whatever our views are politically, whatever organizations we happen to belong to, that they are not influencing the decisions we are making at the IRS?

Senator THUNE. And I would share the view that there should be a way to separate the tax administration role from these political determinations, because I just think that it completely undermines the confidence and the trust the American people have in an institution that is so important and so powerful in our country and in our culture.

I want to just ask another question, too, because this comes back to the whole seriousness, I guess, with which you take these issues that have occurred in the last year. Because the President earlier, if you go back to May of this year, called the targeting of conservative groups for extra scrutiny by the IRS, quote, "outrageous." And then a few months later, in July of this year, the President came out and referred to what he called, quote, "the phony scandals" in the context of discussing the IRS scandal.

I guess what I would ask, just in terms of that characterization, is where you fall. What is your view of what happened there and all that came out of that and all it did to erode the trust of the American people.

Mr. KOSKINEN. I think it is important for the investigations—of which there are numerous going on, but a significant one is the bipartisan investigation of this committee—to be concluded so that we can actually reach as much of a consensus as we can of what the facts are as to what actually happened. I think, as the President responded and everyone responded, to the extent that the facts show that conservative groups or liberal groups or any groups were targeted because of their political positions when they made applications, that really is intolerable.

I think people, when they apply for certifications, whether it is a 501(c)(3), (4), (5), or (6), should be comfortable that, no matter who they are, no matter what their political beliefs are, their religious beliefs or other beliefs are, they are going to be treated fairly and evenhandedly and they will get the same treatment everybody else gets, and I think that that is a message that needs to go forward.

I think, to the extent that that did not happen—and I hope that this investigation, when it is completed, will give us the facts and tell us what actually did happen—to the extent it did not happen,

as the President said, that is intolerable, and I think people deserve to know that we have looked into it, that the investigations have been public and have revealed whatever the facts are, and appropriate responses have been taken.

And as Commissioner, going forward, the best I can do at the start is to commit that we are not going to let that happen, that the culture will not be designed to further that; that we will be transparent about any problems we run into; and that the public and certainly this committee will know about those problems as soon as we do.

Senator THUNE. I guess what I hear you saying—at least I hope what I hear you saying—is, when you say "intolerable," the President described this in May as "outrageous" and then later, as I said, in the summer, described it as a phony scandal.

You do not view this to be a phony scandal?

Mr. KOSKINEN. No. On the basis of what has been determined thus far, I think it has been an important matter to run to ground. I think to the extent that, for whatever reason, whether inadvertently or simply in an attempt to respond to the overwhelming number of applications that get filed, to the extent that organizations felt that they were treated poorly and that they were, that is not fair, it is not acceptable, it is intolerable.

I think that is not the way the IRS operates generally. I think to the extent that the public can restore its confidence and be comfortable that this was, to the extent it happened, an unfortunate event that is not going to happen again, I think that is important, because, as I said yesterday, trust is the most important asset that the IRS has.

And I will do the best I can, as I am sure the employees are prepared to do, to restore the American public's confidence and trust in the agency.

Senator THUNE. One final question, Mr. Chairman. And this comes back to what your view is on whether or not IRS employees who are going to be responsible for enforcing Obamacare ought to also have to be subject to that law, because earlier this year we learned that the National Treasury Employees Union, which includes IRS employees, opposes the legislation that would require them to leave the FEHBP and enroll in the exchanges.

What is your view on whether or not the IRS, which is the enforcement agency, also ought to have to be participating in those?

Mr. KOSKINEN. I had not been aware that the union had taken that position. I think IRS employees, as Federal employees, ought to be treated as all Federal employees, and, if the Federal employees are going to be in the program, the IRS ought to be in the program. I do not think the IRS employees should have some special status in regard to that issue.

Senator THUNE. Mr. Chairman, thank you.

Mr. Koskinen, thank you.

The CHAIRMAN. Thank you, Senator.

Mr. Koskinen, I wish you very good luck. I was impressed with your statement yesterday that your goal is to make the IRS one of the most admired Federal agencies in government. I think that is a noble goal, and I commend you for it.

I also, just for whatever it is worth, think it is a good idea for you, as you said you would pursue, to go around the IRS, listen to employees, find out what they are thinking, what is going on, what do they think, what ideas do they have, what do they like, what do they not like, et cetera. Now, that is a huge job, because I think there are about 600 locations in this country, maybe other countries too, for all I know. But that is a lot of visits, and it is a lot of people to talk to.

But I urge you to talk to as many as you can and listen as much as you can and make some decisions. I think the best approach would be to be fair but firm. You listen, but if somebody is clearly not performing, then something has to be done about that. But what is to be done is, you have to try to get that person to perform, but if that person does not perform, you have to do something else about that.

But I also, for whatever it is worth, offer gratuitous advice, and that is: you put a public face on the IRS. You present yourself very well. You, in addition to managing, obviously, should lead in the IRS and be inspirational so the employees are all pumped up: "Hey, we like this new Commissioner we have here. He is a good man. We would like him to be our new Commissioner."

Then get around the country a little bit, putting a positive face on the IRS, and that will boost morale too. "Hey, our guy is out there, he is talking about us in an appropriate way. He is not overdoing it, he is not over the top, but he is very appropriate about it." And that is going to take time. It is going to take a lot of time.

You have, technically, a 5-year term, but actually it is more like 4 years. So you can keep moving, keep going, not only under President Obama, but the next President. So you have almost a mandate. You have an opportunity here.

So I urge you to get around, listen, make some decisions. You have a great track record, a great business track record. And then I also suggest you kind of get around the country a bit and talk to groups and be on television a little bit, explain what the IRS is doing and get that confidence back.

It is a real opportunity. Among all the Commissioners I have known, I think you have a better opportunity to do that than any of them, and I urge you to think about that.

Your response?

Mr. KOSKINEN. Thank you, Mr. Chairman. I did early on make the comment that I would go to all of the IRS offices, before I discovered how many there were. My present position is, I am going to go to some of the offices, as many as I can.

I actually, early on, want to go to Cincinnati to talk with the employees who were involved in the 501(c)(4) and (c)(3) issues. They have challenges. I want to review the work that acting Commissioner Werfel has already put in motion, to review the processing, to try to make sure that we solve whatever problems exist within the system, as opposed to employee actions.

But I think it is important for the employees to, as I said, understand that we are all in this together, that they are part of the solution, and that I need to understand what their views are, what

the obstacles are, and what we can do to make the agency more efficient. So I am going to do that.

I would invite Senator Portman, if he has the time, to join me if I am in Ohio, and I will let all of you know when I am in your State visiting your employees of the IRS, because I do think you are exactly right, Mr. Chairman: it is important for the employees to see the Commissioner, to know that the Commissioner is interested in what they have to say, and, in particular, is interested in doing whatever he can to make their jobs easier, to allow them to have the resources they need to appropriately serve the public.

My experience in these circumstances is that the employees who interface with the public, whether at the State and local level or at the Federal level, want to do a good job. They want to please the constituents. They want to make sure that customer service works.

In the IRS, customer service is trying to make it as easy as possible, though not necessarily always pleasant, to pay the taxes that are owed. And I think that that is an important mission and mandate for the agency, and I look forward to working with the agency and its employees, and I look forward to working with this committee to make sure that that happens and to improve and restore the public trust in the agency.

The CHAIRMAN. I appreciate that, and I am quite confident that you will. But in addition, it is helpful, in my judgment, to get around and talk not only to employees, but also to the public, because you will pick up stuff. They will tell you things that you might not otherwise pick up. And for you to do your job, you are going to have to know what that is and then be able to talk back to people in a positive way and say, "Yes, that is a good idea, but, you know, this is what we are trying to do, and we are doing that over there," so there is a dialogue between the people and the Commissioner.

I think you have a huge opportunity here. It is a wonderful opportunity, as you begin your roughly 5-year term, so that at the end of 5 years, we look at the little scorecard there and say, "Gee, my gosh, you would never believe it, but the IRS is one of the most admired agencies in the Federal Government."

We wish you well.

Mr. KOSKINEN. Thank you, Mr. Chairman. That is very good advice that I will take.

The CHAIRMAN. Thank you.

Senator Hatch?

Senator HATCH. I have a few more questions that I would like to ask that I think are important.

For years, I have been concerned that the personal financial records of millions of Americans are at serious risk due to Obamacare's new information-sharing requirements. Individuals signing up in the Obamacare exchanges are required to provide personal information such as Social Security numbers and household income information, which is entered into the Federal Data Services Hub. That is a new information-sharing network that allows the State and Federal agencies like the IRS to access this sensitive information.

But that is why I introduced the "Trust But Verify Act," which would stop the Obamacare exchanges from operating until the GAO and HHS Inspector General can certify that necessary privacy and data security parameters are in place. Unfortunately, my fears about privacy and security have been confirmed in recent months as the implementation of the Obamacare exchanges has led to countless problems.

The *Healthcare.gov* website, including the back-end data hub functions, were rushed to launch and were not adequately tested to ensure adequate security and privacy standards. It remains unclear as to whether the data hub has adequate security in place to prevent enrollees' information from falling into the hands of data thieves.

Just last week, the Treasury Inspector General for Tax Administration released a report that found the IRS needs to improve Obamacare systems to protect security. In that report, the Inspector General reported that IRS security controls do not meet standards set by the Institute of Standards and Technology and Internal Revenue Manual guidelines. The report recommended the IRS develop a corrective action plan for resolving security issues.

Now, Mr. Koskinen, do you support an independent review of data hub privacy and security protections, and, if confirmed, will you develop a corrective action plan at the IRS to ensure that this sensitive data is protected?

Mr. KOSKINEN. Yes, Senator. The data hub and the exchanges are not run by the IRS. The IRS data that is provided to them on background information, as we noted yesterday, has worked very well and is security-protected. What the IG is concerned about and what the IRS is focused on is, at the back end, when the IRS enters into its review of the filings for 2014 to make premium determinations, to make sure that all of that information is secure.

The IRS has actually a very strong record historically of protecting data, protecting taxpayer information, being very concerned about the loss of data and identity theft. So acting Commissioner Werfel has been confident, and the information technology people are confident, that the IRS security of data will meet the standards.

It is important for the Inspector General to continue to be involved. In fact, several of the reports on information technology recently by the Inspector General were requested by the IT department, which I think is a good sign that they are reaching out for independent verification as the systems are developed.

And, if confirmed as Commissioner, I would encourage that continued, in effect, independent review by the Inspector General, and ultimately by the General Accountability Office, of the systems, not only once they are established, but as they are being developed, because, if you get that information during the development period, obviously, you can continue to make midcourse corrections, and that is important.

Senator HATCH. The Affordable Care Act provides for refundable advanced premium tax credits and cost-sharing subsidies for taxpayers who, one, purchase a policy through an exchange and, two, have household income between 100 percent and 400 percent of the Federal poverty level.

The Obamacare website rollout has been—it has really been such a disaster that taxpayers are now being encouraged to purchase health insurance directly from insurance companies for 2014 rather than through the exchange. Now, there are reports that the administration intends to pay subsidies for policies purchased directly from insurance companies, even though the tax code requires that a taxpayer purchase a policy through an exchange in order to qualify for a subsidy.

Now, unlike income levels, which will have to be reconciled after 2014, when a tax return for 2014 is filed, the IRS will know from the outset whether a policy was or was not purchased through the exchange. So will you commit to this committee that, should you be confirmed, you would follow the tax code and ensure that premium subsidies are not paid on behalf of any taxpayer who purchases a policy directly from an insurance company?

Mr. KOSKINEN. I am not familiar with the details of that particular question, but I certainly am willing to agree that, if confirmed as Commissioner, I will ensure that we look into that problem, as well as others, and that we appropriately implement the law.

Senator HATCH. I think my time is up, Mr. Chairman.

The CHAIRMAN. Thank you, Senator. Do you have another question?

Senator HATCH. I have one more that, if I could ask it, I would surely like to ask. I do not mean to delay this.

I am also very favorably disposed toward your nomination and want to see you confirmed.

Mr. KOSKINEN. Thank you, Senator.

Senator HATCH. And I will do what I can to see that you are.

But in 2007, Congress enacted the new 20-percent penalty for credits or refunds erroneously claimed by individuals. It came to light that IRS was interpreting this new provision incorrectly and, thus, was not assessing the penalty in many situations where it should have. So the IRS revised its interpretation of the law concerning the erroneous refund penalty in May 2012.

However, the Treasury Inspector General for Tax Administration, or TIGTA, issued a report in November 2013 saying that, "Despite the new and more accurate interpretation of the law, the reality is that many IRS agents in the field still are not aware of the erroneous refund penalty and are often under-assessing the penalty." TIGTA has stated, "In view of the significant problem of erroneous claims for credits and refunds and the related costs to the government . . . the IRS should . . . put appropriate procedures and processes in place to comply with the erroneous refund penalty and to make sure it is assessed in those situations where a refund is erroneously claimed."

So, Mr. Koskinen, if you are confirmed as Commissioner, what will you do to assure that the TIGTA recommendation is followed and that the problem of erroneous credit claims is reduced?

Mr. KOSKINEN. As we discussed, Senator, one of my concerns about the funding constraints is that travel and training have been cut by 80 percent to respond to the budget and some concern about previous meetings that were held. And my concern about that is,

particularly on the training side, that we often think of training as training for new employees.

But a significant amount of training money is spent educating existing employees, both to improve their capacity and to allow them promotion opportunities, but particularly, in situations like this, to make sure that, when you have 95,000 employees and a lot of revenue agents, when there are changes in interpretation or mistakes are discovered, the training funds and the meetings and the exchange of information allow you to make sure that people are updated in terms of what the rules and regulations require, what the standards are, what they need to do to be effective in their work.

And so, if confirmed as Commissioner, this would be one example where we need to make sure that the information is pushed out to the front lines. And one way to do that is to, on a regular basis, have meetings and training sessions where people are updated about a range of issues that they may not have understood previously or where we have discovered misinformation or misunderstandings, because we need to have revenue agents and those on the front lines as up-to-date as possible as regularly as possible.

Senator HATCH. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Thank you, Mr. Koskinen, for your willingness to serve.

With the filing season upon us and this committee's ongoing investigation of 501(c)(4)s, et cetera, I believe it is critical to have a confirmed leader in place at the IRS as soon as possible, and even more critical when the acting Commissioner, Danny Werfel, has indicated that he is going to be leaving by the end of this year.

Therefore, I intend to hold a markup this Friday on your nomination, and this will allow the Senate enough time to consider your nomination by the end of the year, again, which I think is critically important.

And I am asking all Senators to submit their questions for the record by 5 p.m. tonight, and I urge you to answer thoroughly and fully those questions by tomorrow.

Mr. KOSKINEN. We are looking forward to a late-night session.

Senator HATCH. Mr. Chairman, I would have to object to Friday, because I cannot be here Friday, unless we are voting; then I might have to change my schedule.

But I do want to have you confirmed as quickly as we can, but I would prefer that we do it when I am here as well.

The CHAIRMAN. Well, let us see what we can do. The Senate is in session this week, and it is my understanding there will be votes on Friday, and I do think it is critical that this nominee be confirmed by the end of the year. We should take every advantage that we can.

Thank you very much. The hearing is adjourned.

[Whereupon, at 10:42 a.m., the hearing was concluded.]

# APPENDIX

## Additional Material Submitted for the Record

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**Hearing Statement of Senator Max Baucus (D-Mont.)**
**In Support of John Koskinen's Nomination for IRS Commissioner**
*As prepared for delivery*

The famed journalist Grantland Rice once wrote, "You can develop good judgment as you do the muscles of your body - by judicious, daily exercise."

That is a valuable lesson for anyone, especially one who serves in government, and in the wake of the charges of political targeting that erupted last spring, it is vital for those who serve at the IRS.

With us today is John Koskinen, the President's nominee to be the commissioner of internal revenue. If confirmed, Mr. Koskinen will face many challenges.

The IRS plays an important role in tax reform. It is key to the Affordable Care Act's implementation. And perhaps most importantly, it must win back the American people's trust. That means undoing the damage done by the inspector general's report on the IRS' handling of 501(c)(4) applications.

The American people are willing to pay their taxes. They understand that it's their civic duty. But when there are charges of political bias at the IRS, it makes everyone feel like the deck is stacked.

This committee is in the midst of a bipartisan investigation of those charges. In the meantime, the IRS needs to do its job in a fair and evenhanded manner. The acting commissioner, Danny Werfel, deserves credit for his steady management since arriving at the IRS in May.

And last month, the administration proposed clear, new standards for the treatment of tax-exempt social welfare organizations. That was a positive step, but there's more work to be done. We need to install new safeguards to ensure the mistakes identified in the inspector general's report don't happen again.

Winning back the public's trust will not happen overnight. It will take time, and in Grantland Rice's words, judicious, daily exercise of good judgment. I believe Mr. Koskinen will exercise that judgment and is the right person for the job. But that won't be his only task.

The IRS must be an active partner in tax reform. This committee is hard at work fixing the nation's broken tax code, and as we develop ideas, we need the IRS' input. No reform proposal is worth the paper it's printed on unless the IRS can implement and manage it as intended. That's why productive communication between the IRS and this committee is so critical.

Last month, my office released three staff discussion drafts of tax reform proposals. The first focused on modernizing our international tax system. The second focused on improving tax administration, fighting fraud and making filing safer, easier and simpler. And the third focused on making the tax code more neutral for American businesses.

Now we are gathering feedback on those proposals from stakeholders, the public and businesses, and the work will continue. More drafts are coming, and we will need the IRS' input on those as well.

The IRS must also continue to play its part implementing the Affordable Care Act. Helping individuals, families and businesses pay for health insurance is a cornerstone of the health reform law. According to the independent Kaiser Family Foundation, seventeen million people will qualify for assistance. The IRS must be ready to handle that task, and by all accounts, preparations are on track. It needs to keep up the good work.

Mr. Koskinen has a history of succeeding in demanding roles: At Freddie Mac in the heat of the financial crisis, at the helm of the District of Columbia's financial turnaround in the early 2000s, as a turnaround artist in the private sector, even as the leader of the team that addressed Y2k concerns.

He is the right person to take on this challenge, and with filing season approaching, the IRS needs its leader in place.

The IRS has been without a confirmed commissioner for more than a year. Before this year, the longest any nominee for IRS commissioner had waited before confirmation was 100 days. Mr. Koskinen was nominated 132 days ago.

Mr. Koskinen, with your knowledge, experience and expertise, I suspect you would be highly sought after by many employers in the private sector. Instead, you have chosen to continue your career in public service. Thank you. Thank you for accepting the nomination to this position. The IRS commissioner may not be the most glamorous job in an administration, but it certainly one of great importance.

Again, the current acting commissioner, Danny Werfel, deserves credit for taking on a tough job in the wake of the inspector general's report, and he has performed very well. But Mr. Werfel will be leaving the IRS at the end of this year.

So now is the time for us to act. The IRS needs its commissioner. John Koskinen is the right man for the job, and he deserves broad support from Democrats and Republicans.

I hope we can approve his nomination quickly and take it to the full Senate for a vote. It's time we get this done.

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SUBMITTED BY SENATOR GRASSLEY

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September 26, 2013

The Honorable John A. Koskinen
Nominee, Commissioner of Internal Revenue
Internal Revenue Service
111 Constitution Avenue NW, Room 1519
Washington, DC 20224

Dear Mr. Koskinen:

I congratulate you on your nomination as Commissioner of the Internal Revenue Service (IRS). I am writing to bring to your attention the need for greater focus by the IRS on legitimate enforcement and collection activities. There is much the IRS can do in this area by taking full advantage of two important initiatives that will help the IRS fulfill its mission – without the need for additional appropriations. These two initiatives are: the IRS' authority to use private debt collectors; and, the IRS whistleblower program – both programs that I have long championed.

On August 23, 2013, the Treasury Inspector General for Tax Administration (TIGTA) released a report that examined IRS' collection and enforcement activities. According to TIGTA, enforcement revenue has decreased for two straight years and is 13 percent less than the amount in Fiscal Year 2010.[1] There were mixed results in IRS Collection function, but Tax Delinquent Accounts continue to increase with the amount in the Queue growing by 46% over the past 5 years. Additionally, accounts receivable have increased by approximately $100 billion in last ten years.

As TIGTA notes, the IRS has been faced with many challenges these past years due to the fiscal realities we currently face, as well as its role in implementing and enforcing the Affordable Care Act. The primary role of the IRS is to collect the revenue necessary to fund the government. While the IRS' role has been expanded over the years, and vastly so with the implementation of the Affordable Care Act, it is important the chief mission of the IRS is not degraded.

As is evident from recent news reports, whether it's over indulgent spending on conferences or paying out unnecessary bonuses, there are opportunities for the IRS to better use its resources. In the grand scheme of things the additional dollars saved by curtailing these excesses may not be enough to cover all the challenges on the IRS' plate. Yet, given the current fiscal imbalance, the answer cannot solely be ever larger appropriations from Congress. It is incumbent on the IRS to work smarter and utilize *all* the resources currently at its disposal.

[1] TIGTA, *Trends in Compliance Activities Through Fiscal Year 2012*, Ref. Num.: 2012-30-078, August 23, 2013



Committee Assignments:

RANKING MEMBER, JUDICIARY

AGRICULTURE
BUDGET
FINANCE

CO-CHAIRMAN, INTERNATIONAL NARCOTICS CONTROL CAUCUS

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Over the past decade I have sought to provide the IRS with additional tools to track down tax cheats and collect funds through the enactment of the Private Debt Collection (PDC) program and the expansion of the IRS whistleblower program. Unfortunately, both programs have been fought every step of the way by some within Treasury and IRS who have an ideological disposition to oppose any program that seeks to utilize "private" or non-government resources to reduce the burden on the IRS.

As part of the 2004 American Jobs Creation Act, Congress added an arrow to IRS' quiver with the authorization of the PDC Program. This program authorized the IRS to contract with private agencies to collect owed taxes that the IRS wasn't collecting on its own. For two and a half years private agencies were contracted by the IRS to work cases the IRS wouldn't work because they were deemed low yield. In this short time, this fledgling program collected nearly $100 million in revenue that otherwise would have gone uncollected.[2] Additionally, IRS' own information showed the private employees' quality ratings were consistently higher than that of IRS employees. However, those with a vested interest in seeing the PDC program fail got their wish in March of 2009 when the IRS chose not to renew contracts with the private debt collecting agencies.

IRS' decision was based on a study it claimed showed IRS employees could collect the tax debts cheaper and better than private employees. However, it is evident from a 2010 Government Accountability Office (GAO) study that IRS cooked the books to get the result it wanted. GAO found the IRS study contained numerous flaws and "was not a soundly designed cost-effectiveness comparison for supporting IRS's decision."[3] GAO made several suggestions on how to fix the study and any future studies. Yet, the IRS doggedly refused to reevaluate the PDC program in light of GAO's findings.

The IRS decision was further undermined by a 2011 TIGTA report. TIGTA unequivocally found that it was "clear that the Federal Government benefited from PCAs working these…cases."[4] Despite IRS' assertion that its employees would work the cases and do so more effectively, TIGTA found that IRS worked only 47% of cases that were reassigned to the IRS in 2009 as a result of the cancellation of the PDC. TIGTA further estimated that as much as $516 million could have been collected over the next five years if similar cases would have been assigned to the PDC collection program. This is consistent with Treasury Department's own analysis from 2004 that estimated the program would collect approximately $1.4 billion over ten years.

The PDC Program remains authorized and is a proven tool currently at this Administration's disposal. The IRS has not shown that it has the resources or willingness to go after the "low priority" cases that are eligible to be assigned to PDCs. Thus, as TIGTA recommended in 2011,

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[2] TIGTA, *Collection Actions Were Not Always Pursued on Cases Returned From the Private Debt Collection Program*, Ref. Num.: 2011-30-114, September 27,2011

[3] GAO, *Tax Debt Collection: IRS Could Improve Future Studies By Establishing Appropriate Guidance*, GAO-10-963, September 2010. ("We continue to believe that the study was not a soundly designed cost-effectiveness comparison for supporting IRS's decision. Our report discusses our reasoning in detail, focusing on the study's methodological errors, narrow scope, and lack of adherence to guidance for doing such studies.")

[4] TIGTA 2011, *Supra*

"the IRS should consider reinstituting the PDC Program and funding all Program costs through Program collections."[5]

I encourage you to show the leadership necessary to set aside narrow-minded ideology that grips some at Treasury and the IRS and put good tax administration first – and reinstate the PDC Program immediately. I ask that you familiarize yourself with the program, provide me your detailed views prior to your confirmation and commit to a decision on this matter within your first 60 days as Commissioner.

The expanded IRS Whistleblower program I authored in 2006 is an additional tool I fear the IRS is not using to its full capability. This program has the potential to be an excellent enforcement tool for tracking down high dollar tax fraud and evasion. Its potential has already been shown by the billions of dollars that have been brought in from illegal offshore accounts. The key for these billions is the work of whistleblowers coming forward and opening the curtain to secret bank accounts.

Yet, despite this success, many at the IRS, and especially Treasury and Chief Counsel have undermined the program and have discouraged whistleblowers from coming forward. Payouts under the program are few and far between and IRS agents refuse to fully utilize the whistleblower's knowledge and expertise to identify and expose tax cheats. Moreover, whistleblowers who often are putting their whole career on the line frequently have to wait for years in the dark with no information as to whether or when the IRS will act on their claim. Finally, Treasury is proposing regulations that will further undercut the whistleblower program – with a shortsighted view that will save a penny today and lose the Treasury much more in the future due to discouraged whistleblowers' not coming forward.

The statute gives the IRS Whistleblower Office clear authority to not only award whistleblowers, but to also enter into contracts with whistleblowers and their attorneys to assist the IRS in its work (while at the same time protecting taxpayer confidentiality).[6] The Department of Justice has found success to the tune of billions of dollars recovered under the False Claims Act (FCA), working with whistleblowers and their representatives. The IRS would find similar success working with whistleblowers and their attorneys – if it would only get out of its own way. Unfortunately, the IRS has taken this opportunity to partner with whistleblowers and buried it. It is my understanding that the IRS has delegated the authority to request whistleblower assistance solely to IRS field offices. To my knowledge, such contracting with whistleblowers has never happened because of the reality that the field has no understanding, guidance or support for such an undertaking. This is inexcusable. Whistleblowers and their representatives stand at the ready to assist the IRS, cutting down enormously the time and effort needed by the IRS to conduct an examination – and instead the naysayers at the IRS find ways to gum up the works. I ask for your commitment to affirm the IRS Whistleblower Office's authority to contract with

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[5] *Id.* ("The Director, Collection, Small Business/Self-Employed Division, should ensure collection policy and procedures are reviewed for inventory assignment practices to determine if cases that otherwise would have been assigned to the PDC Program can be worked. *Alternatively, the IRS should consider reinstituting the PDC Program and funding all Program costs through Program collections.*" Emphasis added)

[6] Pub.L. 109-432, Div. A, Title IV, § 406(b)(1)(C), ("[The Whistleblower Office] in its sole discretion, may ask for additional assistance from such individual or any legal representative of such individual.")

whistleblowers and their representatives and to provide clear direction that contracting is encouraged and should be a priority.

For the whistleblower program to reach its full potential, the IRS must reassure whistleblowers that they are valued and will be treated fairly. In December of 2012 the IRS issued proposed whistleblower regulations that continue to await finalization. I, as well as many in the whistleblower community, have expressed deep concerns that the regulations as proposed will hamstring the program by limiting whistleblower awards and discouraging knowledgeable insiders from coming forward. Treasury and IRS should work expeditiously to finalize the regulations taking into account all the comments and concerns they have received. The final regulations must assure whistleblowers that it's worth risking their career to come forward to expose those who are skirting our tax laws.

These regulations require your approval before they are made final. I ask that you review closely these proposed regulations, as well as all my correspondence with the Treasury and IRS on this matter overall as well as the regulations, and also the comments on the regulations by the leading whistleblower representatives. Additionally, please provide me your thoughts on the whistleblower program overall, the steps you intend to take to ensure its success is realized – particularly those steps you can take under your own authority such as improved communication with whistleblowers during the process -- and your views on the proposed regulations – especially on the issues of "related action," "collected proceeds," and "planned and initiated."

The impact of the proposed regulations as they are written would be to greatly discourage whistleblowers and to give comfort to tax cheats. Time and time again the writers of the proposed regulation turn a blind eye to the plain meaning of the statute I wrote, the policy of the statute of rewarding whistleblowers, and the precedence of the False Claims Act.

Certain actions by the IRS have further fostered a level of distrust between whistleblowers and the IRS. One glaring example is the case of *Anonymous 1 and Anonymous 2 v. Commissioner*, in which the IRS whistleblower office denied a whistleblower's claim, yet another branch of the IRS opened its own investigation into the same company identified by the whistleblower.[7] This case resulted in the Tax Court Judge admonishing the IRS for misleading the court to believe the new investigation was independent and did not rely on information provided by the whistleblower. While this case may be an isolated incident, it gives pause to any whistleblower who may be debating whether it's worth coming forward.

In this light, I ask for you to review the work and role of the IRS Whistleblower Office. The office has excellent staff. However, the Whistleblower Office is small and needs you to support it in the battles at the IRS and Treasury. I suggest this is especially the case where I am hearing more and more of first-rate cases being submitted by whistleblowers – from whistleblowers who are knowledgeable and well-placed and often involving tens of millions if not hundreds of

[7] *Anonymous 1 and Anonymous 2 v. Commissioner*, United States Tax Court, Docket No. 12471-11w ("Respondent's statement is misleading. The Court was aware that respondent opened a subsequent investigation, however, respondent assured the Court that the SB/SE investigation was independent and that the information petitioners provided in their original Forms 211 was not being used.")

millions of tax dollars -- who are being ignored by IRS field offices as well as Large Business and International Division senior managers.

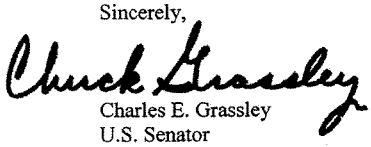
The IRS Whistleblower Office was given the statutory authority to investigate these good cases itself, or at a minimum to raise them to your attention and review. We cannot have good whistleblower cases go unworked because IRS field agents don't want to be bothered or because senior managers are resistant. And again, staffing is not an excuse when the IRS has the authority to work with the whistleblower and her representatives to assist. I ask for your commitment that you will put in place procedures that will allow the IRS whistleblower office to work cases itself and/or to have good cases that aren't being worked to be subject to review by the most senior management at the IRS. In addition, I ask for your commitment that the work of the IRS whistleblower office will be a priority in your time as Commissioner.

Lastly, let me note that there are a good number of IRS agents that do work well with whistleblowers – and the honest taxpayers have benefitted enormously from those efforts. I ask that the IRS look to recognize and reward those IRS agents and examiners who have had superior accomplishments thanks to working with whistleblowers. Changing the culture at the IRS as it relates to whistleblowers will do much to address the current problems I've cataloged.

The President has made it quite clear that he believes the federal government needs more revenue. But, before increasing taxes on the millions of law-abiding Americans who voluntarily comply with the tax law, Treasury and IRS should make every effort to collect the billions of dollars in taxes that currently go uncollected. The PDC program and the expanded whistleblower program are available tools that the IRS can better utilize to handle its enforcement and collection case load without requiring additional funding from Congress. If this Administration is serious about making individuals "pay their fair share," and closing the tax gap, it will heed my call to embrace both of these programs.

I look forward to your reply prior to your confirmation hearing.

Sincerely,



Charles E. Grassley
U.S. Senator

cc: The Honorable Jacob Lew, Secretary of the Treasury
cc: The Honorable Danny Werfel, Acting IRS Commissioner

**STATEMENT OF HON. ORRIN G. HATCH, RANKING MEMBER**
**U.S. SENATE COMMITTEE ON FINANCE HEARING OF DECEMBER 10 AND 11, 2013**
**NOMINATION OF JOHN ANDREW KOSKINEN TO BE IRS COMMISSIONER**

WASHINGTON – U.S. Senator Orrin Hatch (R-Utah), Ranking Member of the Senate Finance Committee, today delivered the following remarks during a Senate Finance Committee hearing considering the nomination of John Koskinen to serve as Commissioner of the Internal Revenue Service (IRS):

*Today we are here to discuss the future of the Internal Revenue Service and to hear testimony from President Obama's nominee to head that agency, John Koskinen.*

*Mr. Koskinen, I don't think that I have to tell you that, if you are confirmed, you will have a difficult job ahead of you.*

*The IRS is one of the most powerful agencies in our government. Consequently, it is both feared and loathed by millions of Americans.*

*That being the case, it is vital that the IRS maintain its credibility. The American people should be able to trust that the IRS will enforce our nation's tax laws without bias or prejudice. Any hint of impropriety on the part of the IRS or its leadership damages its credibility and that of our entire government.*

*Unfortunately, over the last few years, the credibility of the IRS has been eroded through actions taken by the IRS itself and the agency has, in large part, lost the trust of the American people.*

*As proof, one needs to look no further than the IRS political targeting scandal currently under investigation by this committee.*

*When this scandal was revealed, President Obama said, "I have got no patience with it, I will not tolerate it, and we will make sure that we find out exactly what happened on this."*

*Senate Majority Leader Harry Reid expressed similar views on the Senate floor, stating: "I have full confidence in the ability of Senator Baucus and the Finance Committee to get to the bottom of this matter and recommend appropriate action."*

*I share both President Obama's desire to find out exactly what happened and Leader Reid's view of the Finance Committees investigative abilities. Indeed, if there is one thing we should all be able to agree on, it is that that IRS should enforce the tax laws as they are written by Congress without consideration of political views.*

*That being the case, I had hoped to hold off on proceeding with this nomination until the Finance Committee's bipartisan investigation had concluded.*

*The confirmation of an IRS Commissioner should not, and must not, be a partisan issue. Like I said, with an agency this powerful, the leadership should have the confidence of members*

*of both parties. I had hoped that the next commissioner would begin his time with the benefit of the findings of our investigation so that he would be in a better position to fix the problems we've uncovered and to move the agency forward with strong bipartisan support.*

*Chairman Baucus has chosen to go a different direction, which is, of course, his right.*

*My hope is that this will not impede our efforts.*

*Mr. Koskinen, I hope that today you will commit to continuing the cooperation the committee has enjoyed thus far in its investigation and that you'll encourage others to do the same.*

*As far as I'm concerned, the top priority for the next IRS Commissioner should be to restore the agency's damaged credibility with the American people and their trust that the actions taken by the IRS are fair and impartial. Toward that end, it is essential that we continue to receive full and open cooperation in our investigation.*

*There are many other issues the next leader of the IRS will have to address.*

*For example, there is the IRS's significant role in the implementation of Obamacare. If what we've seen thus far is any indication, this is going to be a difficult proposition, both in terms of operation and enforcement.*

*Just last week the Treasury Inspector General for Tax Administration issued a report that found that the IRS has an inadequate system in place for preventing fraudulent Affordable Care Act premium subsidy payments from occurring and that people's personal information would be at risk.*

*Insurers and others have raised questions about the income verification for the premium subsidies. I have also raised this concern on a number of occasions. Similar tax subsidy programs – including, for example, the Earned Income Tax Credit – have improper payment rates as high as 25 percent. Can we expect the same for the Obamacare premium subsidies?*

*These are just a few of the many potential issues IRS will be facing as implementation continues.*

*On top of that, there are the proposed regulations addressing the political activities of tax-exempt organizations. These proposals have been controversial for a number of reasons, not the least of which is the widespread doubt as to whether the IRS is able to perform its duties in an independent, non-partisan fashion.*

*Mr. Koskinen, I hope to get a sense of your views on these and other issues during the course of today's hearing.*

*Like I said, the IRS is an agency rife with problems, most of which are self-inflicted. If you are confirmed, I hope that you will work jointly with Congress – and with members of both parties – to fix these problems. Thank you, once again, Mr. Chairman.*

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# TESTIMONY OF
# JOHN A. KOSKINEN
# BEFORE THE SENATE FINANCE COMMITTEE
# ON DECEMBER 10, 2013

Chairman Baucus, Ranking Member Hatch and Members of the Committee,

I am honored to appear before you this morning as the nominee to be the next Commissioner of the Internal Revenue Service. This past May, when I was asked whether I would be willing to serve as the next Commissioner, I agreed because I believe that the successful operation of the Internal Revenue Service is vital for this country. The activities of the IRS touch virtually every American. The agency collects over $2.5 trillion a year, over 90 percent of the revenues collected by the government. And this is a challenging time for the agency as it confronts new responsibilities while dealing with a budget that has declined substantially since 2010. And, of course, on top of all of that are the management problems that have shaken public trust in the agency.

I signed on to this challenge because I have had a longstanding commitment to public service and most of my career has been spent helping large organizations respond to significant financial and management challenges.

It all began when I came to Washington as a young man to work on the National Advisory Commission on Civil Disorders, established by President Johnson in 1967 to determine why riots and destruction had occurred in cities across the country and to provide recommendations for the future. After that, I represented New York City and Mayor John Lindsay, who was also the Vice Chairman of the Commission, here in Washington. I then continued my government career as Administrative Assistant to Senator Abraham Ribicoff of Connecticut, with responsibility for running his offices here and in Connecticut.

I subsequently took a 21-year sabbatical from government service, working for the Palmieri Company, ultimately as President and CEO. I helped to turn around large, troubled private sector organizations, including: the Penn Central Railroad, then the largest bankruptcy in history; Levitt and Sons, once the world's largest homebuilder; the Teamster's Pension Fund as part of the first major enforcement effort under the Employee Retirement Income Security Act (ERISA); and the Mutual Benefit Life Insurance Company, at the time the largest failed life insurance company in history.

I returned to government service in 1994 when I was confirmed by the Senate as Deputy Director for Management at the Office of Management and Budget (OMB). After OMB, I was asked by President Clinton to take responsibility for the government and the country's transition to the year 2000, (the "Y2K" issue). Subsequently, I became Deputy Mayor and City Administrator for the District of Columbia.

In what I thought would be my last job, I became President of the U.S. Soccer Foundation in 2004. My "retirement" in 2008 had lasted for about six weeks when I was asked by the Bush Administration to become Chairman of the Board of Freddie Mac when the FHFA became conservator that September of Freddie Mac and Fannie Mae. I left Freddie Mac in the spring of 2012 after reaching its mandatory retirement age.

As part of this confirmation process, in our meetings, many of you have asked what my plans are for the agency if I am confirmed as Commissioner. While I still have a lot to learn and thousands of employees yet to meet and listen to, it is clear that the responsibility of the Commissioner is to make sure that the agency fairly, efficiently and effectively collects the taxes owed by every businesses and individual, that the agency provides taxpayer services, in the form of easily understandable information and prompt answers to questions, to make it as simple as possible for people and firms to pay their taxes; and that the agency creates a working environment that allows employees to reach their full potential and generates an enthusiastic, energetic and high-performing work force. In every area of the IRS, taxpayers need to be confident that they will be treated fairly, no matter what their background or their affiliations. Public trust is the IRS' most important and valuable asset.

There are immediate challenges in each of these areas. To protect government revenues, the agency has to continue to increase its efforts to combat refund fraud. Taxpayer services need to be improved, particularly in the areas of tax exempt organization filings and operations. There are several investigations ongoing into the delays encountered by many of those seeking to establish themselves as tax-exempt 501(c) (4) social welfare organizations. The IRS also needs to continue its successful implementation of the Affordable Care Act. Its responsibilities at the front end of the process have been effectively implemented, thanks to long planning and a smooth IT implementation. The excellent work that the agency has done in this regard should serve it well as it continues in its implementation efforts.

The new Commissioner also needs to address employee morale. My experience is that the people in an organization who know the most about what is going on are the front line employees. The next Commissioner needs to listen to those employees and make sure they understand that they are seen as part of the solution, not part of the problem. The IRS is fortunate to have an experienced workforce committed to the mission of the agency. We

need to provide them with the leadership, systems and training to support them in their work.

My commitment, if confirmed as Commissioner, is that we will work to have no mistakes. But, with 95,000 employees and the range of challenges the agency faces, mistakes will happen. So the realistic goal is to find problems quickly, fix them promptly, make sure they stay fixed, and be transparent about the entire process.

To do this, we have to listen to not just employees but also others who are most likely to know about the challenges the agency faces. A government manager's best friends can be the Inspector General and the Government Accountability Office. They don't create the problems they highlight; they just help you know about them before they get bigger. In addition, the IRS benefits from the information and perspective generated by the Office of the Taxpayer Advocate and the Whistleblower office. And, another important source of information is Congressional inquiries. An individual complaint or question may be simply anecdotal. A series of them from various areas is a source of valuable information.

To make all of this happen and to protect the revenues coming into the government, we need to solve the funding problem of the IRS. This is not just my opinion. I have met with every IRS Commissioner from the past 20 years and the consensus was that a major challenge and constraint was the funding limitations they faced. This is a view shared today by the IRS Oversight Board, the Taxpayer Advocate and, most recently, the Treasury Inspector General for Tax Administration (TIGTA) and the Internal Revenue Service Advisory Council. As a TIGTA report this fall noted, the government has saved $1 billion in cuts to the IRS budget and lost $8 billion in compliance revenues.

I don't know any organization in my 20 years of experience in the private sector that has said "I think I'll take my revenue operation and starve it for funds to see how it does." The IRS will have 11,000 fewer people working during this upcoming filing season while processing the largest number of returns in its history. I don't care how efficient you become, that is not a recipe for success or improved compliance and taxpayer service.

This is not a new message. It has been delivered before. We often think that a discussion about a problem means we have dealt with it. Let me just say that we have not dealt with the problem and it is not going away. I look forward to working with you to find a solution.

Even with all the challenges the IRS faces, or, in fact, because of them, I am excited about the opportunity, if confirmed, to work with the employees of the agency as the IRS moves forward into the future. The IRS has a long and honored tradition of service to this country and is filled with a great number of true public servants who take pride in their work to help the IRS achieve its mission with integrity and fairness for all.

I appreciate the time you have each spent with me individually sharing your interests and concerns. If confirmed, I look forward to working with you and your staffs to help make the IRS the most effective, well run and admired agency in government.

Thank you.

**SENATE FINANCE COMMITTEE**
**STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

## A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)

   John Andrew Koskinen

2. Position to which nominated:

   Commissioner, Internal Revenue Service

3. Date of nomination:

   August 1, 2013

4. Address: (List current residence, office, and mailing addresses.)

5. Date and place of birth:

   June 30, 1939 Cleveland, Ohio

6. Marital status: (Include maiden name of wife or husband's name.)

7. Names and ages of children:

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

| | | | | |
|---|---|---|---|---|
| Ashland Senior High School | Ashland, Kentucky | 1954-7 | Diploma | June 1957 |
| Duke University | Durham, North Carolina | 1957-61 | BA | June 1961 |
| Yale Law School | New Haven, Connecticut | 1961-4 | LLB | June 1964 |
| Cambridge University | Cambridge, England | 1964-5 | No degree | |

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

Ashland Oil Refinery
Control Room Technician
Cattletsburg, KY
Summer 1961

Prof. Leon Lipson
Research Assistant
New Haven, CT
Summer 1962

Gibson, Dunn and Crutcher
Summer Associate
Los Angeles, CA
Summer 1963

Gibson, Dunn and Crutcher
Summer Associate
Los Angeles, CA
Summer 1964

Prof. Abe Goldstein
Research Assistant
Cambridge, England
Oct. 1964 - May 1965

Chief Judge David L. Bazelon
Federal Court of Appeals Clerkship
Washington, DC
June 1965 - June 1966

Gibson, Dunn and Crutcher
Attorney
Los Angeles, CA
July 1966 - August 1967

National Advisory Commission on Civil Disorders (Kerner Commission)
Special Assistant to Deputy Executive Director
Washington, DC
August 1967 - April 1968

Mayor John Lindsey
Legislative Assistant
Washington, DC
April 1968 - May 1969

Senator Abraham Ribicoff
Administrative Assistant
Washington, DC
May 1969 - March 1973

The Palmieri Company
Vice President (April 1973 – August 1977)
President and Chief Operating Officer (August 1977 – February 1979)
President and CEO (February 1979 – July 1994)
Washington, DC
April 1973 – July 1994

Office of Management and Budget
Deputy Director for Management
Washington, DC
July 1994 - July 1997

President's Council on Year 2000 Conversion
Assistant to the President and Chair
Washington, DC
February 1998 - April 2000

District of Columbia Public Schools
Consultant
Washington, DC
May 2000 - July 2000

Government of the District of Columbia
Deputy Mayor and City Administrator
Washington, DC
September 2000 - September 2003

U. S. Soccer Foundation
President
Washington, DC
March 2004 - June 2008

AES Corporation
Board Member
Arlington, VA
April 2004 – present

American Capital, Ltd.
Board Member
Bethesda, MD
February 2007 - present

Freddie Mac
Non-Executive Chairman (September 2008 – March 2009)
Interim CEO (March 2009 – August 2009)
The Person Performing the Function of Chief Financial Officer (April 2009 – October 2009)
Non-Executive Chairman (August 2009 – February 2012)
McLean, VA

10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)

Member, President's Management Improvement Council (1979-80)
Member, Strategic Resolution Advisory Committee (FDIC) (2011 – present)

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

a. Member, Duke Univ. Alumni Assn. (1961- present; President 1980-81)
b. Limited Partner, EFC Investors, LLC (1976 - present)
c. Director, National Captioning Institute (1979-1991; Chairman 1986-1987)
d. Director, Cooperative Assistance Fund (1982-1993)
e. Trustee, Duke University (1985-1997; Chairman, 1994-97)
f. Chairman, Washington World Cup Bid Committee (1988-1994)
g. Chairman, Soccer 94 (1993 - present)
h. Director, U.S. Soccer Foundation (1993-1994; 2000-2008)
i. Duke Athletics Leadership Board (1998 - present; Chairman 1998-2003)
j. Director, DC Education Compact (2003 - 2009)

k. Member, Advisory Board for the Doing What Works, Center for American Progress (2009)

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

a. Sigma Chi Fraternity (1957 - 1961)
b. Member, State Bar of California (1965 - 1981, inactive member 1981-2006)
c. Duke Club of Washington (1969 - present)
d. Member, State Bar of Connecticut (1972 - 2002)
e. Rock Creek Pool (1973 - present)
f. Council for Excellence in Government (1982 - 1994)
g. National Academy of Public Administration (1997- present)
h. Rules Committee, U.S. Soccer Federation (2005 - 2013)

13. Political affiliations and activities:

a. List all public offices for which you have been a candidate.

None.

b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

None.

c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $50 or more for the past 10 years.

To the best of my recollection and records, my political contributions and those of my spouse during the past 10 years are as follows:

| | | |
|---|---|---|
| Mark Warner | $2500 | 2013 |
| Justin Fairfax for Virginia | $1000 | 2013 |
| Bill Halter for Ark. | $2000 | 2013 |
| Obama Victory Fund | $5000 | 2012 |
| Kaine for Virginia | $2000 | 2012 |
| Gansler for Maryland | $1000 | 2012 |
| Dem. Sen. Camp. Comm. | $1000 | 2012 |
| Dem. Cong. Camp. Comm. | $1000 | 2012 |
| David Price for Congress | $1000 | 2011 |
| Friends of Doug Gansler | $250 | 2011 |
| Friends of Doug Gansler | $250 | 2010 |

| | | |
|---|---|---|
| David Price for Congress | $1000 | 2010 |
| Michael Bennett | $1000 | 2010 |
| Kendrick Meek for Senate | $1000 | 2010 |
| William A Halter | $2000 | 2010 |
| Dan Blue Committee | $500 | 2010 |
| Dem Cong. Camp. Comm. | $1000 | 2010 |
| Friends of Doug Gansler | $250 | 2009 |
| Halter for Lt. Gov. | $4000 | 2009 |
| Presidential Inaugural | $1000 | 2009 |
| Obama Victory Fund | $2300 | 2008 |
| Barack Obama | $2300 | 2008 |
| Hillary Clinton | -$2000 | 2008 |
| Dem. Cong. Camp. Comm. | $1000 | 2008 |
| Dem. Natl. Comm. | $2000 | 2008 |
| David Price for Congress | $500 | 2008 |
| David Price for Congress | $500 | 2008 |
| Byrne for Congress | $500 | 2008 |
| Friends of Doug Gansler | $250 | 2008 |
| David Price for Congress | $500 | 2008 |
| Friends of Doug Gansler | $250 | 2007 |
| Hillary Clinton | $1300 | 2007 |
| Hillary Clinton | $2000 | 2007 |
| Hillary Clinton | $1000 | 2007 |
| Eleanor Holmes Norton | $1000 | 2007 |
| Bill Nelson for U.S. Sen. | $500 | 2006 |
| Friends of Joe Lieberman | $1000 | 2006 |
| The Deval Patrick Camp. | $500 | 2006 |
| Dem. Natl. Comm. | $500 | 2006 |
| Friends of Doug Gansler | $200 | 2006 |
| Friends of Hillary | $1000 | 2006 |
| David Price for Congress | $500 | 2006 |
| Dem. Sen. Camp. Comm. | $1000 | 2006 |
| Gov. Rendell Comm. | $1000 | 2006 |
| Halter for Arkansas | $1000 | 2006 |
| Harris N Miller | $1500 | 2006 |
| Friends of Hillary | $1000 | 2005 |
| Joe Lieberman | $1000 | 2005 |
| Bill Nelson | $500 | 2005 |
| Kerry Victory 2004 | $5000 | 2004 |
| New Leadership for America PAC (Tom Daschle) | $1000 | 2004 |
| David Price for Congress | $500 | 2004 |
| Dem. Natl. Comm. | $3000 | 2004 |
| Dem. Sen. Camp. Comm. | $1000 | 2004 |
| John Kerry for President | $1000 | 2004 |

| | | |
|---|---|---|
| John Kerry for President | $1000 | 2004 |
| Brown for Atty. Genl. | $500 | 2004 |
| Erskine Bowles For Sen. | $1000 | 2004 |
| Mark Thomas for Congress | $250 | 2004 |
| Friends of Doug Gansler | $100 | 2004 |
| Friends of Doug Gansler | $150 | 2003 |
| Erskine Bowles for Sen. | $1000 | 2003 |
| D.C. Dem. State Comm. | $300 | 2003 |
| Dem. National Comm. | $250 | 2003 |

Contributions by Patricia Koskinen (spouse):

| | | |
|---|---|---|
| Kaine for Virginia | $2000 | 2012 |
| Bill Halter for Senate | $1000 | 2010 |
| Obama Victory Fund | $5000 | 2008 |
| DNC | $2700 | 2008 |
| Barack Obama | $2300 | 2008 |
| Hillary Clinton | -$2300 | 2008 |
| Hillary Clinton | $4600 | 2007 |
| John Kerry | $1000 | 2004 |

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

a. Duke University National Scholarship (1957)
b. Elks Club National Scholarship (1957)
c. Armco Steel Community Scholarship (1957)
d. Elected to Phi Beta Kappa (1961)
e. Bachelor's Degree Magna Cum Laude (1961)
f. Yale Law School Scholarship (1961)
g. Selected to be Notes and Comments Editor, Yale Law Journal (1963)
h. Elected to Order of the Coif (1964)
i. Law Degree Cum Laude (1964)
j. Maryland State Youth Soccer Coach of the Year (1989)
k. Federal Computer Week Eagle Award (1996)
l. Elected to National Academy of Public Administration (1997)
m. Assoc. of Governing Boards Private College Trustee of the Year (1997)
n. Elmer B. Staats Award Natl. Cap. Region of the American Association for
o. Public Accounting (1997)
p. Significant Sig (Sigma Chi) Award (1997)
q. Duke Soccer/Lacrosse Stadium Dedicated as Koskinen Stadium (1999)
r. Selected for Government Computer News Hall of Fame (2000)

s. Awarded Duke University Distinguished Alumni Award (2001)
t. Inducted into District of Columbia Hall of Fame (2001)
u. Inducted into DC/Virginia Soccer Hall of Fame (2002)
v. Awarded Duke University Medal for Distinguished Meritorious Service (2007)

15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)

I have done my best to identify all books, articles, reports or other published materials, including a thorough review of personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials I have been unable to identify, find, or remember. I have located the following:

a. "Managing Portfolios of Troubled Real Estate," *Real Estate Review*, Summer 1976.
a. "Active Real Estate Management Projects," *Public Investor*, June 1982
b. "Real Estate Management and The Resolution Trust Corporation," *PREA Quarterly*, February 1990.

16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with **two** copies of each formal speech.)

None.

17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

I have been a Director of American Capital, Ltd. since 2007, and a Director of the AES Corporation since 2004. I was appointed during the George W. Bush Administration to serve as Non-Executive Chairman of Freddie Mac, a position I held from September 2008 to February 2012. I interrupted my service as Non-Executive Chairman from March 2009 until August 2009, during which period I served as Interim Chief Executive Officer of Freddie Mac. I also served as The Person Performing the Function of Chief Financial Officer of Freddie Mac from April 2009 until October 2009. From 2004 to 2008, I was President of the U.S. Soccer Foundation. From 2000 to 2003, I was Deputy Mayor and City Administrator of the District of Columbia. Prior to that, from 1998 to 2000, I served as Chair of the President's Council on Year 2000 Conversion. President Bill Clinton appointed and the U.S. Senate confirmed me as Deputy Director for Management of the U.S. Office of Management and Budget from 1994 to 1997. I served as President and Chief Executive Officer of the Palmieri Company, a turnaround management firm, from 1979 to 1994. I served as President and Chief Operating Officer of the Palmieri Company from 1977 to 1979, and as Vice President from 1973 to 1977.

Earlier in my career, I served as Administrative Assistant to Senator Abraham Ribicoff of Connecticut from 1969 to 1973; Legislative Assistant to Mayor John Lindsay of New York City from 1968 to 1969; and Special Assistant to the Deputy Executive Director of the National Advisory Commission on Civil Disorders from 1967 to 1968. I was an attorney at the law firm of Gibson, Dunn and Crutcher from 1966 to 1967, and a law clerk for Judge David Bazelon, Chief Judge of the U.S. Court of Appeals for the District of Columbia, from 1965 to 1966.

## B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

   Yes.

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

   No.

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

   No.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

   Yes.

## C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

   In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of the Treasury's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Treasury's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

   In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of the Treasury's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Treasury's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

   I have engaged in no such activity other than in the course of my official capacity as Deputy Mayor and City Administrator for the District of Columbia.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with **two** copies of any trust or other agreements.)

   In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of the Treasury's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Treasury's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

5. **Two** copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

   Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

## D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

   No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

   No.

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

   I am not aware of having ever been involved as a party in interest in any administrative agency proceeding or civil litigation unrelated to my roles as a corporate officer or director, or as a government official. Related to those roles, I am aware of the following:

   a. In 2011, I was named in my capacity as a director, along with other officers and directors, in a consolidated verified shareholder derivative lawsuit against American Capital in Maryland federal court. The case number is 8:11-cv-02424-PJM (D. Md.). The case was settled in August 2013.

   b. In 2011, I was named in my capacity as a director, along with other officers and directors, in a shareholder derivative lawsuit against American Capital in Maryland state court. The case number was 352690V. The case was dismissed in October 2012.

   c. In 2011, I was named in my capacity as non-Executive Chairman of Freddie Mac in a lawsuit against Freddie Mac, Freddie Mac's Board, and other entities and individuals. The case number was 4:11-cv-00470-DGK (W.D. Mo.). The case was dismissed in March 2012.

   d. In 2004, I was named in a civil suit in my capacity as City Administrator for the District of Columbia, as well as individually, along with numbers of other government officials. The case number was 1:04-cv-01158-RMU (D.D.C). I was dismissed from the case in August 2005.

It is possible that I have been named in other lawsuits in connection with my roles as a corporate officer or director, or as a government official, though I have not conducted a thorough search to identify such additional lawsuits.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None to my knowledge.

## E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes.

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes.

**UNITED STATES SENATE**
**COMMITTEE ON FINANCE**
**HEARING TO CONSIDER THE NOMINATION OF JOHN KOSKINEN**
**DECEMBER 11, 2013**
**QUESTIONS FOR JOHN KOSKINEN**

**Questions from Chairman Baucus**

**Baucus Question 1:**

**As you know I am committed to tax reform. I believe that reforming the administration of the tax laws is as important as developing a more competitive and fairer tax code. At a time of diminishing resources, we need to develop administrative efficiencies that allow the IRS to direct precious resources to where they are most needed. To this end, I released a discussion draft of proposals to reform and improve tax administration.**

- **Do you agree that reforming the administration of the tax laws is an important goal?**
- **Are you willing to work with me to find legislative changes that will help accomplish this goal?**
- **Do you have any thoughts on administrative changes that may be implemented to gain efficiencies and cost and resource savings?**
- **Would you be willing to commit to providing me with your thoughts within a month of taking office?**

**Answer:**

As discussed, I am a strong believer in tax reform, especially tax simplification. I think that taxpayer satisfaction and compliance would increase if it were easier for taxpayers to quickly determine the proper amount of tax they owe. While tax policy is the province of the Treasury Department, I look forward, if confirmed, to working with you and the Committee on legislative changes that would improve tax administration and save IRS resources.

**Baucus Question 2:**

**This year we learned about serious mismanagement at the IRS in its handling of tax exempt applications. While this Committee's bipartisan investigation on this issue is still in progress, it's clear that this unacceptable outcome was partly due to a combination of confusing laws governing the appropriate amount of political activity tax-exempt groups are allowed to undertake, and managers that were inefficient or incompetent.**

- **If confirmed, what actions will you undertake to ensure that the IRS is able to fairly and efficiently process tax-exempt applications while ensuring that only qualified organizations receive tax-exempt status?**

- **Will you commit to work closely with and be responsive to this Committee on its investigation?**

**Answer:**

I agree that it is important that the tax code be administered efficiently and fairly and that the standards for tax-exemption are clear and can be applied consistently. If confirmed, I am committed to continuing the important work begun by Acting Commissioner Werfel to address the issues raised by the Treasury Inspector General for Tax Administration's May 2013 report. If confirmed, I will work closely with and be responsive to this Committee. I am committed to transparency and to maintaining the good working relationship that Acting Commissioner Werfel has established with the Committee.

**Baucus Question 3:**

**IRS is in the midst of clarifying how Tribal governments can provide basic services to their members without causing their members to have to report income which they never received and be taxed on a basic service, such as assistance to attend school or for a family to bury a loved one. This issue, the application of the General Welfare Exclusion, to Tribal governments is critically important. Treasury and the IRS have acknowledged that there is a need for clarification by issuing a proposed revenue procedure to provide greater clarity and certainty for Tribes.**

**This proposal was a helpful first step. But it was issued more than a year ago and comments were due more than six months ago. However, there have been no additional steps taken by IRS to issue the actual revenue procedure.**

**Mr. Koskinen, can you commit to focusing attention on Tribal issues and on making sure that these important decisions are made and implemented in a timely manner, reflecting the views and inputs gathered through the government-to-government consultation process? Further, can you commit, to giving these issues your timely attention and ensuring that progress is made in a timely fashion?**

**Answer:**

I appreciate and respect the government-to-government relationship between Tribal governments and the federal government. My understanding is that the proposed general welfare guidance was made immediately effective, and that Treasury and the IRS are currently considering the comments received on the proposed general welfare guidance in preparing to issue final guidance. If confirmed, I will work so that this guidance is issued in a timely fashion, reflecting the views and comments gathered through the important government-to-government consultation process.

**Baucus Question 4:**

**The charitable deduction for donations of conservation easements is very important to me. I have concerns with reports that the IRS is excessively targeting easement donors for audit. I understand there are some, including within the IRS, who do not support the deduction for these types of donations.**

- **How often are conservation easements audited?**
- **How do these audits compare to audits of other charitable deductions?**
- **Will you commit to treat these donations as other charitable deductions are treated and to not target these donations more for audit than others?**

**Answer:**

While I am not familiar with this issue, if confirmed I will receive a briefing on the matter and work so that audits and reviews of these deductions are appropriate and consistent with the tax law.

**Questions from Senator Hatch**

**Hatch Question 1:**

**Mr. Koskinen: Last year, I wrote letters to the Commissioner, Doug Shulman, regarding the 501(c) (4) issue, only to receive a response from the Deputy Commissioner, Mr. Steve Miller. This type of communication worries me, as it shows that the problems being raised by me and my constituents aren't being seen, and therefore addressed at the top.**

**When I write you a letter, will you commit to responding directly to me, and not having one of your deputies' respond?**

**I want to make sure you're aware of the problems I'm drawing your attention to.**

**Answer:**

If confirmed, I look forward to working closely with you and the Committee so that you are aware in a timely manner of important issues with which we are dealing. I will answer any letter you send to me and hope that you will always feel free to call me about any matter that arises during my tenure.

**Hatch Question 2:**

**In your testimony, in speaking about the IRS you note, "I don't know any organization in my 20 years of experience in the private sector that has said "I think I'll take my revenue operation and starve it for funds to see how it does." I understand you are trying to make a point here about budget constraints, but I'm a little uneasy by the quick comparison of the IRS to a private sector entity. A private sector organization generates revenue by providing a good or service that people choose to buy or consume through voluntary exchange. Though our tax system is frequently characterized as voluntary, there are still serious civil and criminal penalties for people who do not "volunteer" the information they are supposed to. Moreover, the IRS is not a revenue generating operation for the United States. The IRS is a government agency charged with enforcing tax laws as written and enacted by Congress, and collects revenue that has been created by economic activity. The revenue generation occurs in our free market economy, and the IRS collects a portion of that revenue.**

**I just hope you understand the difference between the IRS, and the private sector organizations you have worked with, and that the IRS should collect the correct amount of tax, which isn't necessarily the most amount of tax. How will you hold to this distinction as Commissioner?**

**Answer:**

As you note, my reference to my experience in the private sector was simply to make the point that the budget constraints facing the IRS over the past two or three years have financial

consequences to the Federal government larger than the amounts saved, as was pointed out earlier this fall by the Treasury Inspector General for Tax Administration. I understand that the funds received by the IRS are determined by legislation passed by the Congress, and the responsibility of the IRS is to collect the correct amount owed. If confirmed, I look forward to working with you on the important issues related to the IRS budget.

**Hatch Question 3:**

**Political Activity Regulation Regarding Tax Exempt Organizations**

**Treasury recently published a Proposed Regulation to purportedly clarify what constitutes "political activity" for Code section 501(c) (4) organizations. However, the Proposed Regulation does not apply to section 501(c) (5) or 501(c) (6) organizations. Treasury merely asked for comments on whether such rules should apply to these groups.**

**In tax administration, there is a significant difference between the publication of an Advanced Notice of Proposed Rulemaking, where the IRS asks for public comment before publishing a Proposed Regulation, and the actual publication of a Proposed Regulation. The publication of a Proposed Regulation – which is what the IRS has done to 501(c)(4) groups but not to 501(c)(5) or 501(c)(6) groups - is a significant step farther down the regulatory road than a mere request for comments. Consequently, the IRS has dramatically increased the likelihood that whatever the final rules might be, they will be different for 501(c)(4) groups than for 501(c)(5) and 501(c)(6) groups because, at the end of the comment period, the IRS will be in a position to proceed to a Final Regulation for 501(c)(4) groups but not for 501(c)(5) and 501(c)(6) groups.**

**The IRS should have kept the three groups on the same track. At the hearing I said that the IRS should have asked for comments on all three groups before it published a Proposed Regulation, or it should have proposed a regulation for all three groups at once and received comments on the regulation. I then asked you to commit to the Committee that, if confirmed, you will ensure that any political activity regulation the IRS finalizes will apply equally to 501(c) (4), 501(c)(5) and 501(c)(6) organizations. You said that you weren't involved in the publication of the Proposed Regulation but that you will ensure that the IRS operates in a non-partisan manner.**

- **In order to ensure the fair, even-handed and non-partisan treatment of all tax exempt organizations, will you, if confirmed, withdraw the Proposed Regulation and publish an Advanced Notice of Proposed Rulemaking that requests comments regarding 501(c)(4), 501(c)(5) and 501(c)(6) organizations equally?**
- **If not, why not?**

**Answer:**

I agree with you that it is important that the IRS operate in a fair, even-handed, and non-partisan manner. The proposed guidance recently issued jointly by the IRS and Treasury requests

comments on the issue you raise, namely whether the definition of "political activity" proposed for 501(c)(4) organizations should be applied to other tax-exempt organizations. If confirmed, I am committed to working with Treasury and the IRS so that all of the comments received, including those that address this issue, are considered carefully and comprehensively. I think this is the appropriate way to proceed at this time.

**Hatch Question 4:**

**Obamacare Premium Subsidy Overpayments**

**Obamacare provides for refundable Advance Premium Tax Credits and cost-sharing subsidies for taxpayers that (1) purchase a policy through an exchange, and (2) have household income under 400% of the federal poverty level. The premium subsidies may be paid in advance, directly to the insurance company. Taxpayers will be required to report the amount of the 2014 subsidy payments on their tax returns filed in 2015 so that the IRS can reconcile the amounts allowed versus the amounts paid and, if necessary, collect overpayments from the taxpayer.**

**The Obamacare website rollout has been such a disaster that taxpayers are now being encouraged to purchase health insurance directly from insurance companies for 2014 rather than enroll in the exchange. There are reports that the Administration intends to pay subsidies for policies purchased directly from insurance companies, even though the Tax Code requires that a taxpayer purchase the policy though an exchange in order to qualify for the premium tax subsidy.**

**Unlike income levels which will have to be reconciled after 2014 when a tax return for 2014 is filed, the IRS will know from the outset whether a policy was or was not purchased through the exchange. At the hearing I asked you to make a commitment to this Committee that you will follow the Internal Revenue Code and ensure that premium subsidies are not paid on behalf of any taxpayer that purchases a policy directly from an insurance company. You said that you weren't familiar with the requirement that a policy must be purchased on an exchange in order for a taxpayer to qualify for a subsidy, but that you would enforce the law appropriately.**

**The requirement that a policy must be purchased on an exchange in order for a taxpayer to qualify for a premium subsidy, a requirement independent of the income level requirement, is in section 36B(b)(2)((A) of the Internal Revenue Code.**

**Will you, if confirmed, make a commitment to this Committee to follow the Internal revenue Code, in particular section 36B(b)(2)((A), and ensure that premium subsidies are not paid in 2014 or in any subsequent year on behalf of any taxpayer that purchases a policy directly from an insurance company?**

**Answer:**

I have not studied this issue closely. I have been advised that the arrangement you describe would merely permit individuals enrolling through a Marketplace to start the application process on an issuer's website. I understand that individuals who choose this option would then be transferred to the appropriate Marketplace to complete the enrollment process, with information verified through the Data Services Hub. Since these individuals would enroll through a Marketplace, they would be eligible to receive a premium tax credit on the same terms as others.

**Hatch Question 5:**

**The President's health care law imposes a number of new taxes on American businesses and individuals. Among these taxes is an annual fee levied on health insurance providers, calculated through a statutory formula that is based upon the net premium amounts collected by each insurer for a calendar year. The law predetermines a fixed amount of revenue that must be collected by this tax each year, regardless of trends in premiums or insurer business. Based on the law, the health insurance tax will collect more than $101 billion by 2022—an amount that far exceeds the $100 million threshold outlined in Executive Order 12866**

**Further, in assessing the economic impact of this tax, the collection figure alone does not convey the whole story. As the Congressional Budget Office has pointed out, this tax "would be largely passed through to consumers in the form of higher premiums for private coverage." In addition, unlike most business expenses, this tax is non-deductible for insurers, which will further incentivize insurers to increase beneficiary premiums to offset the additional tax burden. This further increase in premiums will hit small businesses and individuals hardest. The National Federation of Independent Business estimates that at least 146,000 jobs will be lost and families will pay an additional $5,140 in premiums by 2022 as a result of this pass-through tax. Thanks to the way the premium tax is structured in the law, these premium increases will generate increased tax penalties, which will repeat the vicious cycle of tax increases and pass-through costs.**

**Finally, the health insurance tax will have a negative economic impact on states as well. Since Medicaid managed care plans are not exempt from this tax, plan sponsors will also likely pass along the increased costs imposed by this tax to the states, once again resulting in higher premiums for state Medicaid plans. As a result, the fiscal strain on many states will be further exacerbated by the downstream cost of this new tax. Other services will be sacrificed to account for these costs, which will create further economic uncertainty.**

**To better understand how the Administration determined that the proposed rule is not economically significant; please respond to the following questions:**

- **What methodology did the Administration employ in assessing the total cost of this tax?**

- **As part of its calculations, did the Administration account for the pass-through costs of the tax to families and small businesses in the form of higher insurance premiums and to states through higher Medicaid costs? If not, why not?**
- **Did the Administration calculate the economic impact of the pass-through costs imposed as a result of this tax, including lost wages, reduced health benefits, and employment opportunities? If not, why not?**
- **Did the Administration take into account the non-deductibility of the health insurance tax in estimating the economic impact of this proposed rule? If not, why not?**

**Answer:**

I understand the importance of faithfully implementing the laws passed by Congress. I was not involved in the development of the regulations on the health insurer fee, nor have I been briefed on these particular regulations. If confirmed, I look forward to learning more about this issue.

**Hatch Question 6:**

**The Washington Post recently reported that health insurance companies are asking to keep any overpayment of the premium tax credit[1], which includes the following: "Insurers are eager to take on a larger role. But they, like consumers, have been stymied by the online system's technical problems. During one step in enrolling customers — determining whether their income qualifies them for government help with paying for health plans — insurers must connect to part of the federal online system, and that part does not work. White House officials and insurance industry leaders have been talking about how to solve this problem, perhaps on a temporary basis, and insurers are insisting that they be allowed to keep any extra subsidy money they might accidentally be paid, said people familiar with these discussions who, like others interviewed, spoke on the condition of anonymity because of the topic's sensitive nature."**

- **What is the Administration's estimate of overpayments to insurers?**
- **What is the Administration's cost of collecting overpayments to insurers?**
- **What is the Administration's estimate of overpayments to individuals?**
- **What is the Administration's cost of collecting overpayments to individuals?**
- **Are overpayments of the premium tax credit treated as tax debt?**
- **Is the IRS responsible for collecting overpayments of premium tax credit from both insurers and individuals?**
- **Will IRS report back to HHS regarding to whom and how much was overpaid and how much has yet to collected for purposes of reviewing exchange applications the following year? Does delinquency on repaying an overpayment affect applicants?**
- **When is the first premium tax credits disbursed to insurers?**

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[1]. See: http://www.washingtonpost.com/politics/white-house-relying-more-on-insurance-carriers-to-help-fix-healthcaregov/2013/11/09/ecfcc294-489b-11e3-a196-3544a03c2351_story.html.

- **Is IRS or HHS responsible for determining the eligibility for the premium tax credits?**
- **Is IRS or HHS responsible for resolving disputes between individuals and insurers over the timely and accurate payment of premium tax credits?**

**Answer:**

I appreciate your longstanding concern about the problem of incorrect payments. If confirmed, I will make it a high priority at the IRS to reduce the risk of incorrect payments, and I look forward to learning more about this issue in the future. I am told that you separately wrote the Acting Commissioner about many of these same issues and I understand that a formal response will be forthcoming.

**Hatch Question 7:**

**Recently, the Treasury Inspector General for Tax Administration (TIGTA) reported that the Internal Revenue Service (IRS) has "made little improvement in reducing the improper payment rate for the Earned Income Tax Credit (EITC) since being required to report estimates of these payments to Congress."[2] In 2012, the IRS allowed about $13.6 billion in improper EITC payments to tax filers who were ineligible for the credit. Unfortunately, that means that *up to 25 percent of EITC last year payments were improper.***

**Similar to the EITC, the Affordable Care Act offers refundable tax credits for certain eligible individuals. However, a range of provisions in federal law, regulations, and administrative practices actually leave the health care overhaul even more seriously susceptible to fraud or abuse than the EITC program already is.**

**Finally, the concerns lie not just with the EITC, but with other tax requirements as well. A more recent TIGTA report found that even some of the standard income and withholding verification processes at the IRS may be failing to prevent fraudulent tax refunds.[3] As the IRS watchdog explained, "most current year third-party information is not available until well after the tax return filing season begins and tax returns are processed," and, as a result, a 2012 audit shows that nearly 1.5 million tax returns "were not detected by the IRS as potentially fraudulent despite having the same characteristics as IRS-confirmed identity theft fraudulent tax returns."**

**Overall, taken together, these realities paint a worrisome picture of the fraud that may be anticipated under the Affordable Care Act. The premium tax credits vulnerability to fraud and abuse is significant because the Congressional Budget Office estimates that the credits cost taxpayers $796 billion over the coming decade.[4] If these health coverage premium tax credits experience an improper payment rate similar to that of the EITC, about $200**

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[2] http://www.treasury.gov/tigta/auditreports/2013reports/201340084fr.pdf
[3] http://www.treasury.gov/tigta/auditreports/2013reports/201340083fr.html
[4] U.S. Congressional Budget Office, "CBO's May 2013 Estimate of the Effects of the Affordable Care Act on Health Insurance Coverage," May 2013, http://www.cbo.gov/sites/default/files/cbofiles/attachments/44190_EffectsAffordableCareActHealthInsuranceCoverage_2.pdf.

**billion taxpayer dollars could be wasted or lost to fraud. To help better understand how IRS will combat this challenge, please answer the following questions:**

- **What is IRS's plan to avoid improper payments made to applicants for premium tax credits, and how will IRS recover such improper payments?**
- **To what extent is IRS planning to identify or implement alternative compliance methods to avoid or recoup improper premium tax credits, similar to TIGTA's 2008 recommendation regarding EITC?**
- **Given the history of high improper payments for EITC, what assurances can you provide that premium tax credits will not result in the same rate of fraud and abuse?**
- **What lessons have you learned from addressing EITC improper payments that could be applied to implementing the ACA?**
- **What are IRS's 2014 targets for premium tax credit improper payments?**

**Answer:**

I appreciate your longstanding concern about the problem of incorrect payments. If confirmed, I will make it a high priority at the IRS to reduce the risk of incorrect payments. I am told that many of your premium tax credit questions have been sent to the IRS, and I understand that a formal response will be forthcoming. While I am not familiar with the specific details of the issues you raise, my general understanding is that any advance payments of the premium tax credits are paid directly to the insurance provider, and the individual must pay the balance of the premium each month. In addition, if the individual requests the credit only on the tax return at the end of the year it means the individual has first paid all the premiums out of pocket. I understand that at the time that each individual tax return is received by the IRS, and before any refund is paid, the IRS will check key eligibility requirements against Marketplace transaction data that has been pre-positioned prior to the tax filing season. If confirmed, I will work with IRS staff to evaluate the risk of overpayments and develop methods to reduce risk.

**Hatch Question 8:**

**The IRS estimates that, on average, "enforcement revenue collected divided by the IRS total annual appropriated budget," which it refers to as "the IRS returns on investment (ROI)," is roughly $4 or $5 to $1. Of course, ROI varies depending on the type of enforcement activity and a simple division of revenue by an annual appropriation total is not a marginal return, which would be the appropriate metric to use in making resource allocation decisions.**

**Nonetheless, some argue that what the IRS calls ROI indicates that ever-increasing amounts of funding for the IRS will help close the tax gap.**

**Do you agree that IRS ROI estimates, which measure total revenues relative to total spending, are an appropriate guide for making resource allocation decisions?**

**Do you agree that IRS enforcement ROI estimates, calculated from total enforcement revenues relative to total enforcement spending, conflate various factors which may have led to increased (decreased) revenues, such as improved (deteriorating) economic conditions, with returns attributable solely to enforcement dollars spent?**

**Answer:**

I think all of these measures, as you suggest, are only rough estimates of the positive impact of IRS activities on increasing tax revenues for the government. Consistent with my testimony, I do not think that the IRS needs unlimited funding or that all increases in funding would inevitably result in multiples of that funding as measured by increased tax revenues. However, I do think that it is clear that the recent cuts over the past three years have had an adverse effect on a range of IRS activities, including tax compliance. Improved taxpayer services will also improve compliance and increase revenues received by helping taxpayers determine the amount that they owe.

**Hatch Question 9:**

**The President's 2014 Budget (page 144 of http://www.whitehouse.gov/sites/default/files/omb/budget/fy2014/assets/treasury.pdf) identifies the following: "The Budget funds IRS at nearly $12.9 billion, roughly $1 billion above the 2012 enacted level. More than $400 million of this total is provided through a program integrity cap adjustment. This investment pays for itself several times over, with strong tax enforcement returning $4 or more in revenue for each additional IRS dollar spent."**

**My understanding of the IRS "return on investment" (ROI) figures is that they are calculated by dividing enforcement revenue by a total amount of funds, thereby giving a measure of total revenue relative to a total fund amount. The manner in which ROI figures are calculated do not measure an amount of revenue that should be expected per additional dollar spent. That is, the ROI figures are a division of totals and not a measure of the marginal return on an additional dollar spent. Indeed, given the existence of diminishing marginal returns, it is highly misleading to say that an IRS ROI value of $4 to $1 should be taken to mean that each additional dollar spent on enforcement would yield $4 of revenue.**

**Your testimony states that: "I don't know any organization in my 20 years of experience in the private sector that has said 'I think I'll take my revenue operation and starve it for funds to see how it does." Are you aware of any private sector organization that relies primarily on a measure calculated from dividing past revenue totals by past outlays, as opposed to expected marginal returns, to allocate resources at the margin? If so, please identify such an entity and identify whether you believe such a strategy is in accord with prudential resource management.**

**Answer:**

My reference to my experience in the private sector was simply to make the point that I do not know of an organization that subjects its revenue operation to cuts without understanding the adverse impact on revenues as a result. The determination of the appropriate resources to be devoted to such activities is generally measured by the increase in marginal returns over the marginal expenditures. When an organization is being asked to do more with fewer resources, some efficiencies will be generated, as has occurred with the IRS. However, as I noted in my testimony, at some point the effectiveness of the organization is threatened.

**Hatch Question 10:**

**Do you think the complexity of the tax code affects productivity and innovation of American businesses?**

**Answer:**

I am not an economist but I think that simplifying the tax code is an important goal, which I support.

**Hatch Question 11:**

**In your testimony, you express concern about "the funding problem of the IRS" and identify that the "problem" needs to be solved "to protect the revenues coming into the government." You identify a report indicating that "the government has saved $1 billion in cuts to the IRS budget and lost $8 billion in compliance revenues." You also identify, with respect to the "problem," that you look forward to working with the Congress to find a solution.**

- **Can you cite any study that establishes a causal relationship between inflation-adjusted IRS funding and inflation-adjusted government receipts? (By causal relationship, I mean in a statistical sense, such as Granger causality, and not in the sense of merely identifying a correlation).**
- **When you identify that a report says that the IRS budget fell by $1 billion over a time period that you do not specify and that compliance revenues of $8 billion were "lost," are you stating that the $1 billion budget reduction caused an $8 billion loss of compliance revenues? If so, have you controlled for forces that might impact compliance revenues over whatever is the relevant period aside from the change in the budget?**
- **If the problem that you wish to work with Congress on solving is funding of IRS, do you believe that the problem would be solved by making IRS funding mandatory, rather than decided upon through the annual appropriations process and, if so, why?**

- **If the problem that you wish to work with Congress on solving is revenue "lost" because of lack of compliance, do you think that tax simplification will help?**
- **If the problem that you wish to work with Congress on solving is revenue "lost" because of lack of compliance, do you think that changes in the manner in which refundable tax credits are paid to taxpayers—a payment process rife with errors and improper payments—will help?**
- **Are you prepared to discuss this data with the Congressional Budget Office ("CBO") in terms of how IRS appropriations are treated for budget purposes?**

**Answer:**

The report I referenced was a recent report by TIGTA, which expressed the concern that the total annual budget declines were threatening the ability of the IRS to discharge its responsibilities. If confirmed, I would be happy to work with the Committee on options that could bring greater budget stability to the IRS, which, I believe, would result in more certainty in planning for IRS' enforcement and customer service operations. In addition, simplifying the tax code is an important goal that I support.

**Hatch Question 12:**

**Your testimony cites a report by the Treasury Inspector General for Tax Administration that noted, as you write: "the government has saved $1 billion in cuts to the IRS budget and lost $8 billion in compliance revenues." What you wrote is suggestive of causality, which you may believe was the case. If so, note that there was a 17% decline in receipts between 2008 and 2009, when the IRS's budget was increased by 6%. Do you believe it was the case that the increased IRS budget led to the 17% decline in receipts?**

**Answer:**

The TIGTA report is consistent with the view, expressed by many of those working with the IRS, including the National Taxpayer Advocate, the IRS Oversight Board, and the IRS Advisory Committee, that the IRS budget is too low for the responsibilities it has. The President's Budget proposal for the IRS, developed with OMB in the midst of attempts to control expenses, requests $12.8 billion for 2014. Even with the efficiencies generated thus far by the IRS, a budget shortfall inevitably will have a negative effect on IRS activities.

**Hatch Question 13:**

**Are you in favor of removing the IRS from the appropriations process? Why or why not?**

**Answer:**

I haven't made a judgment on how best to address the IRS's funding issues discussed in my testimony. If confirmed, I would be happy to work with the Committee on options that could bring greater budget stability to the IRS.

**Hatch Question 14:**

**As a funding source, do you believe that annual discretionary appropriations are unreliable and unpredictable? Do you believe that mandatory funding is more reliable and predictable?**

**Answer:**

I haven't made a judgment on how best to address the IRS's funding issues discussed in my testimony. If confirmed, I would be happy to work with the Committee on options that could bring greater budget stability to the IRS.

**Hatch Question 15:**

**Would you be favor of using a percentage of enforcement collections as a source of mandatory funding for the IRS? Why or why not?**

**Answer:**

While I am concerned about the funding issues confronting the IRS, I think that tying the IRS budget to enforcement collections would be unwise. Taxpayers need to be confident that the IRS is pursuing revenues solely as part of an overall enforcement program tied to appropriate interpretations of the tax code and not for the benefit of the agency itself.

**Hatch Question 16:**

**Will you fully implement all nine of the Treasury Inspector General for Tax Administration's recommendations from the audit report 2013-10-053 (Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review)? If not, which would you not choose to fully implement and why?**

**Answer:**

If confirmed, I will continue the important work begun by Acting Commissioner Werfel in addressing the issues raised by the TIGTA's May 2013 report, including fully implementing TIGTA's recommendations.

**Hatch Question 17:**

**Clarifying the role of the IRS Oversight Board was an important part of the IRS Restructuring Act. Please explain to me your views of the board's role, its responsibilities, and its duties, and if you believe they should be modified.**

**Answer:**

I understand that Acting Commissioner Werfel has found the Board to be helpful in considering actions to be taken and problems being confronted. I also understand that the Board provides an independent review of the IRS budget and raises issues of concern on its own as a result of its quarterly meetings with IRS executives. If confirmed, I would be pleased to discuss this matter further with you and the Committee.

**Hatch Question 18:**

**I recognize that you are not a tax professional and that you are being considered for the position of commissioner based on your management experience. The fact that you do not have tax experience naturally suggests that the role of the chief counsel and the importance of the chief counsel will be significantly elevated. It is my view that this places upon you a heightened obligation to make certain that the chief counsel and the office of the chief counsel, in their actions and work, are conforming to the overall goals and policies of the IRS. Please provide me your views on this matter. How will you ensure that you are being provided accurate and reliable information from those with an expertise in tax policy?**

**Answer:**

The IRS is fortunate to have experienced counsel committed to the mission of the agency. If confirmed, I intend to work with those employees on advancing the goals and policies of the IRS. If confirmed, I also would benefit from the information and views provided by others with expertise in the issues facing the IRS, including Treasury's Office of Tax Policy, the Treasury Inspector General for Tax Administration, the Office of the Taxpayer Advocate Service, and this Committee.

**Hatch Question 19:**

**The Treasury Inspector General for Tax Administration released a report dated August 30, 2013, titled "Contractor Employees Have Millions of Dollars of Federal Tax Debts." The report found that "As of June 14, 2012, 691 (5 percent) of the 13,591 IRS contractor employees reviewed by TIGTA had $5.4 million in Federal tax debt." Please explain how the IRS came to employ several hundred contractors with tax debts. Additionally, please provide a status update as to the implementation of the reports recommendations. The report noted that "the IRS plans to further research and carefully evaluate the contractor employees identified in this report as potentially noncompliant and refer them for**

**additional action as appropriate." Without divulging confidential taxpayer information, please detail how this further research and evaluation is progressing, and how much of the $5.4 million in tax debt has been collected.**

**Answer:**

I am not familiar with the specific details of this report. If confirmed, I will look into the issue and determine the status of implementing the report's recommendations.

**Hatch Question 20:**

**In September of 2013, the Government Accountability Office released a report titled "Security Clearances: Additional Mechanisms May Aid Federal Tax-Debt Detection." The report found that "About 8,400 individuals adjudicated as eligible for a security clearance from April 2006 to December 2011 owed approximately $85 million in unpaid federal taxes, as of June 2012." Though this report did not make a recommendation to IRS, I believe that it is detrimental for government employees, especially those with access to important information, to be seen as living by a different set of rules. How do you think the IRS should respond to the information in this report, and how can you help the Office of the Director of National Intelligence and the larger intelligence community better evaluate applicants for security clearances?**

**Answer:**

I am not familiar with the details of this report, although I believe it is important for all taxpayers, including federal employees, to pay any taxes due in a timely fashion. However, it is my understanding that the IRS can only disclose the names of taxpayers who are delinquent in their taxes in limited situations.

**Hatch Question 21:**

**According to a recent report of the Federal Employee/Retiree Delinquency Initiative released earlier this year by the IRS, more than 311,000 Federal employees, as of fiscal year 2011, owed the Federal government more than $3.5 billion in unpaid taxes. How would you, as IRS Commissioner, utilize this information to ensure that there is not a perception that Federal employees live by a different set of laws than other taxpayers? What metrics will you establish to increase the level of tax compliance among the federal workforce? Please provide numbers of employees and amounts of tax owed year-by-year for the next four years that you believe will show progress on this issue.**

**Answer:**

I have not read the report you reference. However, I believe that all taxpayers, including federal employees, should pay any taxes due in a timely fashion.

**Hatch Question 22:**

**Last week, the Treasury Inspector General for Tax Administration released a report that found the IRS needs to improve Obamacare systems to protect security. In the report, the Inspector General mentioned *failed security tests* and stated that IRS security controls do not meet standards set by the National Institute of Standards and Technology and IRM guidelines. The report recommended the IRS develop a corrective action plan for resolving security issues. Remarkably, IRS management *disagreed with this recommendation.***

**Mr. Koskinen, if confirmed, will you develop a corrective action plan at the IRS to ensure sensitive data is protected?**

**Answer:**

If confirmed, the security of IT systems, and taxpayer data, will be a top priority for me. I understand that the IRS has a strong process in place for identifying, documenting, and mitigating system weaknesses, complete with plans of action and critical milestones for the information systems supporting the premium tax credit. I have been told that during this review, the TIGTA audit team observed the IRS while it conducted the Security Control Assessment. Consistent with current practices and procedures, I understand that the Cybersecurity organization has completed the Security Assessment Report and a risk mitigation plan that meets the National Institute of Standards and Technology guidelines. In addition, I believe it is important that the IRS continue to consider further improvements to IT systems and processes to ensure the long-term success of the premium tax credit with its critical role in helping individuals and families afford health insurance.

**Questions from Senator Wyden**

**Wyden Question 1:**

**Recent Proposed Rule to Regulate Political Activities of 501(c)(4) Organizations**

**It is my view that confining the proposed regulation to 501(c)(4) is just a start. Those who currently prefer the shadows of the uncertain 501(c)(4) regime could simply move to other tax-exempt categories, such as 501(c)(6) business associations where regulations remain subject to creative manipulation.**

**Why did the NPRM only address 501(c)(4)s and will the final rule include mechanisms to ensure this type of activity doesn't migrate into other categories?**

**In finalizing the rule, I would encourage the IRS to take steps to ensure the whole panoply of tax-exempt organizations is addressed.**

**Answer:**

The IRS and Treasury recently issued proposed guidance requesting comments on tax exemption requirements for social welfare organizations under section 501(c)(4) of the Internal Revenue Code, including whether the definition of "political activity" proposed for 501(c)(4) organizations should be applied to other organizations. If confirmed, I am committed to working with Treasury and the IRS so that all of the comments received are considered carefully and comprehensively. If confirmed, I am also committed to working with the Committee on these important issues.

**Wyden Question 2:**

**Interagency Regulation of Campaign Finance-related Activities**

**Because so much political activity is regulated by both the Federal Election Campaign Act and the Internal Revenue Code, I firmly believe that an adequate investigation and enforcement regime must include both the IRS and the FEC. This is particularly important when trying to identify the individual or party responsible for ultimately making the decision to engage in political activities.**

**Confining the new rule to tax penalties assessed solely against organizations rather than against individuals will do little to deter the most egregious abuses of the law. In its rulemaking, IRS should be working with FEC to ensure the parties responsible for making decisions are the ones held accountable for their actions.**

**What is the IRS doing to ensure that the individuals responsible for violating the law receive distinct penalties from those assessed on the organizations they oversee?**

**Answer:**

I have not been briefed on the specific details of this issue. If confirmed, I look forward to working with the Committee on issues such as this so that our nation's tax laws are administered fairly and effectively.

**Questions from Senator Menendez**

**Menendez Question 1:**

**IRS Exempt Organizations Controversy Issue:**

**The exempt group's controversy has been a self-inflicted wound for the IRS for two reasons. The first being the unacceptable management failures leading up to and surrounding the breaking of the story, but second is the more complex interpretation the IRS has taken of the underlying 501(c)(4) statute. The Los Angeles Times recently wrote: "Tax-exempt nonprofits created under Section 501(c)(4) of the tax code are supposed to be 'operated exclusively for the promotion of social welfare....' Unfortunately, the IRS has complicated matters by defining "exclusively" as "primarily," meaning that 501(c)(4)s may engage in some election-related activity, though exactly how much of their spending can be political is unclear."**

**The recent proposed regulations by the administration are an attempt to bring some sort of reform to this area of the tax code, but it seems to me that the IRS could continue to struggle to service this area effectively so long as they continue to provide rules that are difficult to define and even more difficult to enforce.**

- **Do you believe that requiring the IRS to measure every one of these groups time spent on political activity has the potential to place an undue burden on both the Service and the taxpayers?**
- **In your opinion, is it possible that rewriting the regulations to more closely follow the statute could bring significant clarity to the regulations 501(c)(4) groups have to follow?**

**Answer:**

I believe it is important that the tax code be administered efficiently and fairly and that the standards for tax-exemption are clear and can be applied consistently. If confirmed, I look forward to working with the Committee on these important issues.

**Menendez Question 2:**

**As you may know, I have been a strong supporter of the VITA program. VITA is well named, because it is a vitally important taxpayer service program, and it generates about 3 million tax returns annually for needy taxpayers, helping them claim refundable credits like EITC.**

**Another program that helps many taxpayers is the free online tax preparation service IRS makes available, the IRS Free File Program. It also generates about 3 million free returns a year for taxpayers who are eligible, but it is done at virtually no budget cost at all to IRS**

**as the result of the public-private-partnership agreement with the technology industry that was created by former Commissioner Charles Rossotti a dozen years ago.**

- **That Free File agreement is expiring in 2014, and I wanted to raise it to your attention and get your commitment that you will look at this program and give us your assurance that a strategy to ensure the long-term continuation of taxpayer service programs will be a priority of your leadership as IRS Commissioner?**

**Answer:**

I think the Free File program provides an important service to lower-and middle- income taxpayers. If confirmed, I will promptly review the status of the program.

**Questions from Senator Grassley**

**Grassley Question 1:**

**In your testimony you suggest IRS has so far done a good job implementing the Affordable Care Act stating that IRS' "responsibilities at the front end of the process have been effectively implemented." Yet, the IRS has delayed key provisions of the health care law. This includes the employer mandate as well as mandatory reporting requirements for insurers and employers concerning health insurance coverage. From my perspective this raises concerns about IRS implementation on both the front and back end of the implementation. On the front end, businesses remain uncertain about their responsibility under the law since final regulations have yet to be written. While on the back end the lack of reporting by employers makes it difficult for the IRS to determine if individuals are eligible for the premium tax credit.**

- **When do you expect final regulations pertaining to the employer mandate and the insurance reporting requirements to be completed?**
- **Given the lag time that will be necessary so software can be developed that will enable employers to meet these new requirements, is it possible that the current delay could be pushed past 2015?**
- **Given the delay of the employer reporting requirement, what procedures has the IRS put in place to ensure individuals offered minimum essential coverage through an employer are not incorrectly found eligible for the premium tax credit if the deny that cover and sign-up through an exchange?**

**Answer:**

I understand your concerns regarding these issues relating to the ACA. I have not yet had an opportunity to become fully versed in these complex matters. If confirmed, I will make it a high priority at the IRS to reduce the risk of incorrect payments.

**Grassley Question 2:**

**At your nomination hearing, Senator Hatch asked you about the availability of the premium tax credit to individuals signing up for health care directly through insurers rather than the exchange. In your response you indicated you were not yet prepared to address his question. As I read the law, it is clear individuals are only eligible for the new premium tax credit if they enroll in health coverage through an exchange. Please take time to familiarize yourself with IRC section 36B, which houses the premium tax credit, and any other appropriate sections of the ACA to address the following questions.**

- **Does the statutory text of the ACA require individuals to enroll in health coverage through an exchange in order to be eligible for the premium credit and the cost sharing subsidies? Please answer Yes or No.**

- **I asked Sarah Bloom Raskin, nominee to be Deputy Treasury Secretary, a similar question. Specifically, I asked her to inform me, what, if any authority exists for the Administration to extend eligibility for the premium tax credit to individuals that enroll directly through insurers. While she did not directly answer my question, she said that the "arrangement" that is being considered "would merely permit individuals enrolling through a Marketplace to start the application process on an issuer's website. Individuals who choose this option would then be transferred to the appropriate Marketplace to complete the enrollment process. Since these individuals would enroll through a Marketplace, they would be eligible to receive a premium tax credit on the same terms as others."**
    - **Under this "arrangement" if a taxpayer "would merely...start" the application process directly through the insurer, would the taxpayer when completing the enrollment process through the marketplace maintain the right to purchase a plan from a competing insurer?**
    - **If under the arrangement a taxpayer did not retain the ability to purchase a plan from a different insurer would this arrangement actually comply with the requirements of the premium tax credit? Secondly, would this arrangement be in keeping with the general goal of the marketplace to provide a one-stop shopping place where consumers can effectively compare cost and benefits of different plans?**

**Answer:**

I have not had the opportunity to become well acquainted with these issues, but I am told that the premium tax credit is available to individuals who enroll in coverage through a Marketplace. If confirmed, I look forward to learning more about the issues you raise.

**Grassley Question 3:**

**The plain text of the statue governing the premium tax credit actually requires enrollment "through an exchange established by the State." However, Treasury and the IRS used creative rulemaking to extend eligibility to individuals enrolling in federal exchanges. Presently several court cases are challenging IRS' authority under the ACA to extend premium tax credit eligibility to federal exchanges. What, if any, contingency plans has the IRS put in place should a court find IRS exceeded its authority in this area?**

**Answer:**

I am not familiar with the specifics of this issue, and I understand this issue is the subject of ongoing litigation.

**Grassley Question 4:**

**The current administration has taken a go it alone attitude with many aspects of implementing the Affordable Care Act. The administration has already put in place several so-called "fixes" that arguably exceed the authority delegated by Congress to the executive branch. Among these have been provisions directly within the purview of the IRS, such as the delay of the employer mandate and the above mentioned interpretation of the premium tax credit. Will you commit to recommending that the Administration come to Congress prior to enacting further "fixes" that arguably are beyond the authority granted Treasury and the IRS under the Affordable Care Act, including seeking to expand eligibility for the premium tax credit to those enrolling directly through insurers?**

**Answer:**

I take the Internal Revenue Service's responsibility to implement the tax laws passed by Congress very seriously. While I was not involved in the specific decisions you mention, if confirmed, I will learn more about these issues.

**Grassley Question 5:**

**While I am as concerned about the (c)(4) targeting scandal as my colleagues, I am equally concerned about the IRS exempt organization function lack of oversight in other areas. I have been conducting oversight of charities and nonprofits for more than 12 years now and continue to be concerned by the lack of progress in reducing abuse of nonprofit status. The Washington Post's recent series on charity officials who embezzle money is concerning as the series was based on old-fashioned shoe-leather investigative work. The reason this is troubling is that this is data the IRS should be looking at - especially since the IRS went through the trouble and cost to redesign the Form 990. Regarding significant diversion of assets, please provide the number of these organizations the IRS has audited as well as the number and amount of assessments made under section 4958 as a result. In addition, please provide a list of other enforcement initiatives that IRS has developed as a result of the redesigned Form 990.**

**Answer:**

I think that the IRS should take advantage of the many sources of information that come to its attention. Reports such as that in *The Washington Post* provide important insights into areas that may have gone unnoticed or have been overlooked. If confirmed, I will look into these issues.

**Grassley Question 6:**

**In your testimony and in response to several questions from members you claimed that each additional $1 of funding for the IRS leads to a substantial increase in the amount of enforcement revenue. In support of this proposition you cite a TIGTA report from this fall**

**that you say found that "government has saved $1 billion in cuts to the IRS budget and lost $8 billion in compliance revenues." It is true that an August 2013 TIGTA report found that between FY 2010 and FY 2013 IRS' budget decreased by about $930 million while enforcement revenue went down by about $7.7 billion. However, it can be a dangerous proposition to assume correlation equates to causation based on a single data point. Enforcement revenue is down in general since 2008 likely as a result in of the general decline in revenues due to the recession. A more meaningful measure reported by TIGTA is the dollar yield per hour for revenue agents and tax compliance officers. This indicator has also decreased over the past few years, suggesting there must be a reason besides just a decrease in funding at play in the decrease in enforcement revenue, such as the economy. I don't disagree that the IRS needs adequate funds to do its job. But the notion that just throwing money at the problem will lead to 5, 6, or 8 fold return on the dollar spent is fanciful. This is one reason I find it important for the IRS to embrace the whistleblower and private debt collection programs to get more bang for their buck. I appreciated what I felt was a sincere and open minded response to my question on these programs. However, could you provide me at least one change you would make as IRS commissioner to increase enforcement efficiency that would result in greater collections while not requiring additional funding?**

**Answer:**

I do not think that, as Commissioner, it is a useful management strategy for me to decide unilaterally that an action should be taken and simply issue a directive that it be done. If confirmed, I plan to meet with senior IRS staff to pursue, in particular, this question. I know that the IRS is working to combat identity theft and refund fraud, developing programs to more efficiently audit large corporations, and is exploring ways to use newly available data about foreign bank accounts held by American citizens. Each of these activities has the potential to increase compliance activities and deserve my early attention.

**Grassley Question 7:**

**I have long been concerned about IRS employees spending more time on union activities than employees in other government agencies. Commissioners Everson and Shulman agreed that this was a problem that needed to be addressed. Time spent on union activities takes away from education and enforcement activities so reducing the amount of time spent on union activities is even more important given the current fiscal crisis. Will you commit to me to look into this issue further and provide me with an update with your views on this matter?**

**Answer:**

If confirmed, I will look into this matter and provide you with an update.

**Grassley Question 8:**

**The IRS' mission statement says, "Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all."**

- **Describe how you will enable the IRS to more effectively fulfill its mission statement.**
- **Looking ahead to the end of your term, what do you want to be your legacy at the IRS?**

**Answer:**

As I stated in my hearing, public trust in the IRS is the agency's most important asset. The IRS employees I have met take great pride in their work, and I think they will respond enthusiastically to leadership from the Commissioner. If confirmed, I will work to provide employees with the resources, training, structure, and leadership to allow them to reach their full potential in order to work with taxpayers in an efficient, respectful, and even-handed way. My experience is that, if employees understand that their views are valued and that they have a critical role to play in the operation and success of the organization, they respond enthusiastically and energetically. This response will help the agency implement its mission statement.

At the end of my term, I hope my legacy is that the public has great confidence and trust in an IRS that is one of the most efficient and admired organizations in the government.

**Grassley Question 9:**

**Name your top five priorities for your first year in office. Explain why you selected these five priorities and describe the actions you intend to take to address them.**

**Answer:**

While I still have a lot to learn and thousands of employees yet to meet and listen to, if confirmed, my top priorities as Commissioner would include:

- making sure that the agency fairly, efficiently and effectively implements its statutory responsibilities and collects the taxes owed by every businesses and individual;
- making sure that the agency provides taxpayer services, in the form of easily understandable information and prompt answers to questions;
- making it as simple as possible for individuals and businesses to pay their taxes;
- fostering a working environment that allows employees to reach their full potential and generates an enthusiastic, energetic and high-performing work force; and
- maintaining for taxpayers, including tax exempt organizations, confidence that they will be treated fairly, no matter what their background or their affiliations. Public trust is the IRS' most important and valuable asset.

I selected these priorities – there are certainly many other issues that will demand and merit my time which is why I find this job so interesting and challenging – because I think they deal with

some of the most important and visible activities of the IRS. It is vital for the country, the government, and the agency that these activities are done well and, if we are successful, it will go a long way toward restoring public confidence in the IRS.

**Grassley Question 10:**

**Implementing fundamental tax reform could be one of the primary challenges you face as Commissioner. How would you address these challenges, for example:**

- **How would you train IRS staff on a timely basis so they can accurately apply changes to the law?**
- **How would you motivate IRS employees to embrace fundamental change?**
- **What measures would you take to minimize burden on taxpayers?**
- **How would you prioritize the needs for legal guidance so taxpayers can understand how the IRS is going to administer reforms?**

**Answer:**

The answer to these questions depends to some extent on the nature of any fundamental tax reform that is adopted. As noted in my testimony, I am a supporter of tax reform and, particularly, tax simplification. Training funds have recently been cut by 80%. I understand Acting Commissioner Werfel is beginning to address this problem. Additional resources provided to the IRS could be used to fill any gaps in this area. With good leadership and planning, as well as training and support, I think IRS employees will embrace the change necessary to implement tax reform and to minimize the burden on taxpayers by providing clear guidance and the simplest possible forms for dealing with changes adopted. If the reform does lead to significant tax simplification, almost by definition the burdens on taxpayers will be lessened, the IRS' efficiency will increase and the guidance is more likely to be straightforward and easily understood.

**Questions from Senators Grassley and Senator Roberts**

**Earned Income Tax Credit (EITC) Compliance:**

**The EITC is a refundable tax credit established by Congress in 1975. The EITC offsets much of the impact of Social Security taxes paid by low-income workers and is intended to encourage low-income persons to seek work rather than welfare. There are significant compliance problems associated with the EITC that have led to the Government Accountability Office listing the administration of the credit among the high risk areas for the federal government. In recent years, the improper payment rate for the program has ranged between 20 and 26 percent, which represents well over $15 billion annually in improper payments.**

**Congress and IRS have taken various steps to reduce EITC noncompliance. However, it is not clear to what extent these steps have reduced fraud and error rates in the EITC program. It also is not clear to what extent known errors with EITC returns are due to fraud or to mistakes based on the complexity of EITC filing.**

**Because of the size and importance of the EITC program, it is important that it should be implemented as efficiently and effectively as possible, and that every effort should be made to reduce erroneous EITC filings and eliminate fraudulent EITC returns.**

**Background – EITC fraud**

- **Recently prepared data indicate that EITC filers have been migrating from assisted tax preparation to self-preparation at a higher rate than non-EITC filers**
- **This trend becomes visible beginning in 2008 which is when the IRS implemented new regulations increasing the documentation requirements for paid preparers who prepare EITC returns**
    - **These regulations require paid preparers to ask intrusive, personal questions of clients that taxpayers who self-prepare their returns do not have to answer**
    - **For example, in order to meet the due diligence requirements, IRS requires paid preparers to ask individuals claiming the EITC about their non-taxable assistance or their sources of business income, if self-employed**
    - **While it is not clear that the increased documentation requirements are causing the migration, it is concerning that the migration trend for EITC returns begins when these requirements were implemented**
    - **The trend is counterintuitive because the reporting and compliance provisions make the EITC one of the most complex tax code provisions**

**Background – Partnering with the Tax Preparation Industry on Fraud & ID Theft**

- **Current data indicates that over 90% of individual tax returns are prepared using software with approximately 60% of filers seeking assistance from a preparer and 40% choosing to self-prepare**
- **Over 80% of returns are now e-filed**
- **The IRS and the tax prep industry work closely together to monitor tax returns and refunds as well as call volume peaks to ensure that IT systems are working effectively and efficiently**

**Grassley and Roberts Question 1:**

**As discussed during the hearing, there is a lot of concern that the Obamacare subsidy will have high levels of waste, fraud and abuse like the Earned Income Tax Credit (EITC). The data on the EITC improper payment rate appears to be incomplete. Can you provide a breakout of the sources of the improper payment between fraud and complexity as well as paid preparer versus self-prepared? If not, why not? This data is important to knowing how to fix the problem.**

**Answer:**

My briefings on this matter have not provided me with enough information to give you the details you are requesting. However, I understand that about 70% of EITC refund claims are prepared by tax preparers. I understand the IRS is undertaking a program to work with the tax preparers to explain the complexities of the statute and to remind them of their responsibility to engage in the necessary due diligence so that refund requests are appropriate.

**Grassley and Roberts Question 2:**

**IRS data indicates that, over the past five years, EITC filers are migrating from paid preparers to self-preparation at a higher rate than non-EITC filers. It seems that the additional questions that IRS requires paid preparers to ask EITC filers have worked to stop inadvertent and unintentional errors by taxpayers who wrongfully have claimed the EITC. But these questions could also be the reason why EITC filers are switching to self-preparation faster than non-EITC filers. If additional questions are helping to deter EITC waste, fraud and abuse, do you agree that all filers should answer the same questions regardless of how they file their taxes?**

**Answer:**

I am not familiar with this specific issue, but I believe that it is important all taxpayers—whether they prepare their own returns or are assisted by tax return preparers—consider the same questions in determining whether they are eligible for the EITC. If confirmed, I will look into this issue to see whether additional steps can be taken to improve EITC compliance.

**Grassley and Roberts Question 3:**

**With 90% of filed returns prepared using some type of software, it would seem that the IRS would be interested in partnering with the software companies to understand fraud trends and identify and implement mitigating strategies. What is your position on working with the software companies to combat fraud?**

**Answer:**

I understand that the IRS has strong working relationships with the tax software industry. I believe the IRS should be open to and aware of information available from any and all sources that will help identify problems and propose solutions.

**Grassley and Roberts Question 4:**

**TIGTA recommended that IRS limit the number of deposits to one account. This recommendation was made over a year ago but the IRS hasn't implemented this limit yet. This seems like a common sense anti-fraud measure. Will you commit to implementing this as soon as possible, preferably before the upcoming tax season begins?**

**Answer:**

Although I am not familiar with the details, it is my understanding that the IRS currently works with banks and other financial institutions to identify potentially fraudulent deposits. If confirmed, I will review existing practices to see whether they can be improved to reduce the risk of fraudulent payments.

**Questions from Senator Roberts**

**Roberts Question 1:**

**Charitable Organization Exemption Application Process**

**In recent months, a number of Kansas charitable organizations applying for tax-exemption under I.R.C section 501(c)(3) have contacted my office to find out information on the status of their exemption applications. While these organizations do not contemplate engaging in any level of political activity or discourse, the processing of their applications appears to be severely delayed due to the investigation into the IRS processing of exemption applications by various 501(c)(4) organizations. As a result, the organizations have not commenced their activities, because they are unable to raise operating funds without exempt status. My office has been unable to determine the status of these applications. Can you commit to working with my office to determine the status of these applications, and where appropriate, assist in expediting these applications?**

**Answer:**

I am concerned by the reports of delays in the processing of 501(c) (3) applications. I understand that Acting Commissioner Werfel has set in motion a review of this issue and the process by which the IRS reviews all such applications, with the goal of improving efficiency and thereby reducing the delays in providing applicants with a response.

**Roberts Question 2:**

**Research and Development (R&D) Tax Credit**

**In today's economy, it is vital that Internal Revenue Service policy ensure that the Research and Development tax credit provides real benefit to the thousands of eligible small and medium businesses – engaged in everything from the latest computer software to adopting new manufacturing techniques to the development of cutting edge technology by architects and engineers. As we look to encouraging economic and job growth for our nation – it is clear that greater innovation, applied research, and improved productivity are the keys to accomplishing these goals.**

**However, when it comes to supporting innovation at small and medium businesses, through the R&D tax credit, we are unfortunately falling far short. According to a July 23, 2012 article in the Wall Street Journal, only 1 out of 20 small and medium of eligible businesses take advantage of credits and incentives such as the R&D tax credit. This finding was echoed by the November 2009 GAO report on the R&D tax credit which highlighted that the vast majority of the credit was going to larger businesses.**

**From my discussions with small and medium business owners and their tax advisors, it is clear that a significant roadblock to these companies taking the R&D tax credit is the fact that the Alternative Simplified Credit (ASC) is only available on original tax returns. The ASC was designed to expand the availability of the R&D tax credit for businesses – making it easier for businesses, especially small and medium businesses to take advantage of the credit. However, the Treasury and IRS through regulation in 2008 – without any support in the statute – greatly limited the benefits of the ASC by not allowing it for an amended return. This action by IRS has significantly hamstrung the ability of small and medium businesses to take full advantage of the R&D credit.**

**The 2009 GAO report on the R&D tax credit found that IRS officials they interviewed saw "no problem" with allowing the ASC on amended returns. GAO further determined that there was no reason for preventing a business from selecting an ASC on amended return and recommended that the regulations be changed to allow an ASC election on amended return. I strongly agree.**

**Allowing small and medium businesses to make an ASC election return is a quick, easy, and commonsense policy that will reap immediate benefits in supporting our nation's most innovative businesses and fostering innovation. If you are conformed I ask that you make it a priority that the ASC regulations be reviewed accordingly and that you provide me with your determination as soon as feasible.**

**In addition to the much-needed changes to the regulations to allow for an ASC election on an amended return, what other steps will the IRS take to encourage small and medium companies to take the R&D tax credit? Further, please let me know what roadblocks you see in practice (including in statute) that limit the ability of small and medium businesses from taking the R&D tax credit.**

**Answer:**

Although I am not familiar with the details, it is my understanding that this project was included in Treasury and the IRS' 2013-2014 Priority Guidance Plan. If confirmed, I will review this matter promptly and look forward to discussing the situation further with you.

**Roberts Question 3:**

**Finally, small businesses in many disciplines need to be aware that they qualify for the R&D tax credit and how it can help their businesses grow and be innovative. Can you suggest ways that both congress and the administration can encourage industries, including smaller, professional firms, to be more aware of the opportunity of the R&D tax credit?**

**Answer:**

Focusing on taxpayer outreach and education to ensure that taxpayers understand the rules that apply to them should be an important priority for the IRS. If confirmed, I will look to see whether additional outreach and education would be appropriate in this and other areas.

**Questions from Senator Enzi**

**Enzi Question 1:**

**If you were to be confirmed as the next IRS Commissioner, you would inherit an organization that is mired in scandal and that has a lot of work to gain back the public's trust. My colleagues and I will continue to carefully oversee the investigation of the IRS regarding its targeting of certain conservative organizations applying for tax-exempt status. If you are confirmed, will you commit to having the Service timely provide the information that is requested to fully investigate this matter?**

**This is not an issue that is going to go away. As the Ranking Member on the IRS Oversight subcommittee, I'm committed to getting to the bottom of this and ensuring those who were involved are held accountable. May my colleagues and I expect your cooperation in this effort?**

**Answer:**

If confirmed, I will cooperate with the Committee. I am committed to transparency and to maintaining the good working relationship that Acting Commissioner Werfel has established with the Committee.

**Enzi Question 2:**

**Last month, the IRS and Treasury released proposed regulations dealing with tax-exempt organizations, specifically dealing with the qualification requirements for tax exemption as a social welfare organization under Section 501(c)(4) of the tax code.**

**Given that Congress is still investigating the scandal surrounding the targeting by the IRS of certain conservative organizations seeking tax-exempt status, do you believe it would have been more beneficial for the IRS and Treasury to wait for the investigation to conclude before releasing the proposed regulations so that the proposed rules could take into consideration the potential findings of the investigation?**

**Answer:**

In its May 2013 report, TIGTA recommended that IRS and Treasury consider guidance relating to tax exemption requirements for social welfare organizations under section 501(c)(4) of the Internal Revenue Code. I understand that, in response to this recommendation, IRS and Treasury recently jointly issued proposed guidance requesting comments on many aspects of these requirements. If confirmed, I am committed to working with Treasury and the IRS so that all of the comments received are considered carefully and comprehensively. If confirmed, I am also committed to working with the Committee on these important issues.

**Enzi Question 3:**

**I have serious concerns about the level of involvement the IRS will have in the administration of Obamacare. What concerns do you have, and what steps do you believe the IRS needs to be taking to ensure fraud and abuse are minimized (particularly with respect to the premium tax credits) and resources are trained and available to assist taxpayers?**

**Answer:**

I am pleased that the IRS participation in the initial roll out of the Affordable Care Act went smoothly and that Acting Commissioner Werfel and senior management at the IRS are confident that the IRS will be able to effectively implement its responsibilities under the Act. If confirmed, I will work to see that the progress already made continues in the months ahead.

**Enzi Question 4:**

**The tax gap, or the difference between the amount of income tax owed and the amount of income tax that is paid, is estimated to be in the hundreds of billions of dollars ($345 billion in 2006). What are your ideas on how we should address and minimize the tax gap?**

**Answer:**

Voluntary compliance is at its highest when you balance fair but rigorous tax enforcement with strong customer service (including outreach and education) and effectively use third-party reporting. As I discussed during my hearing, some of this depends upon the level of funding provided to the IRS to allow it to maintain a proper balance among enforcement and customer service activities.

**Enzi Question 5:**

**I've heard from the tax community regarding their concerns about the condensed 2013 tax filing season. I'm referring to the timeframe in which the IRS will accept and process individual income tax returns for tax year 2013 in early 2014. The start of the tax filing season has been pushed back a few weeks due to the government shutdown this past October. This could impact a lot of Americans who might see a delay of one or two weeks to receive their refunds. If confirmed as IRS Commissioner, what steps would you take to ensure that the tax filing season begins at its normal time in January 2014?**

**Answer:**

If confirmed, I will continue the efforts of Acting Commissioner Werfel to start the filing season 2014 as soon as possible, consistent with the efficient and effective processing of the millions of returns to be filed. I know the agency is working to reduce the impact of the government shutdown without creating unacceptable levels of risk in the execution of the filing season. I believe that is the appropriate approach.

**Enzi Question 6:**

**Intangible drilling costs, or IDCs, generally include any cost incurred that has no salvage value and is necessary for the drilling of wells or the preparation of wells for the production of natural gas or oil. Isn't it true that federal tax policy allows for the expensing of similar costs for a number of industry activities in addition to oil and natural gas production, including research and experimental expenditures and expenditures by farmers for fertilizer?**

**Answer:**

I am not aware of this particular issue. If confirmed, I will look into this matter.

**Enzi Question 7:**

**The percentage depletion deduction is an essential component of natural resources production in this country. Businesses have made clear that capital cost-recovery tax provisions are essential to create and maintain jobs in states like Wyoming where American energy is produced. Would you agree that percentage depletion is an important cost recovery mechanism for domestic energy production in this country?**

**Answer:**

While I spent four summers working at an oil refinery to help pay for my college education and support the maintenance of a strong energy sector in this country, I am not informed enough about this matter to comment at this time. I would also note that issues of tax policy are within the province of the Treasury Department and policy proposals in this area would be developed by them.

**Enzi Question 8:**

**Congress clearly intended to exempt orphan drugs from the Affordable Care Act's (ACA) branded drug fee, but unfortunately IRS's temporary rule doesn't accomplish this for all FDA-designated orphan drugs. Doesn't it make sense that using the broadest definition of the orphan drug exemption will encourage manufacturers to develop these treatments?**

**Answer:**

As we discussed during my hearing, I am not familiar with the details of this matter and, if confirmed, I will review the issue and discuss it with you further.

**Enzi Question 9:**

**If a drug has been designated by the FDA as an orphan drug pursuant to section 526 of the federal Food, Drug, and Cosmetic Act, but its manufacturer claimed a R&D tax credit for testing expenses instead of the orphan drug tax credit, the drug currently would not be exempted from the ACA fee. Since the Orphan Drug tax credit expressly defines qualified clinical testing expenses as qualified research expenses under the R&D tax credit, don't you agree that the Orphan Drug tax credit is modeled upon and incorporates the key element of the R&D tax credit, so taking the R&D credit should be sufficient to exempt the drug?**

**Answer:**

As we discussed during my hearing, I am not familiar with this specific issue but, if confirmed, I will study this matter and talk with you further about it.

**Enzi Question 10:**

**Under the IRS' temporary rule, a manufacturer that did not claim the orphan drug tax credit in a prior year but whose tax year isn't closed could amend their return and thereby qualify for the ACA's orphan drug exclusion, while a similarly situated manufacturer whose prior tax years were closed could not. Isn't that an inequitable situation?**

**Answer:**

I appreciate your concern about this issue but have not been briefed on the matter. If confirmed, I will become more knowledgeable about the issue and discuss it with you further.

**Enzi Question 11:**

**The ACA branded drug fee is an amount set in the law and distributed among all manufacturers based on drug utilization in public programs. Exempting orphan drugs thus would not reduce federal revenues, and would only result in a very slight redistribution of financial responsibility, isn't that correct?**

**Answer:**

If confirmed, I will be briefed about this matter and discuss it with you.

**Questions from Senator Cornyn**

**Cornyn Question 1:**

**The IRS has repeatedly downplayed concerns about potential fraud when it comes to premium tax credits available under Obamacare. However, the Treasury Inspector General for Tax Administration (TIGTA) recently released an audit of the premium tax credit program and reported "the IRS may be unable to identify ACA refund fraud or schemes prior to the issuance of erroneous refunds."**

1) **Considering that the Congressional Budget Office projected that exchange subsidies and related spending will cost taxpayers over a trillion dollars over the next 10 years, what efforts will you undertake to prevent premium tax credit fraud?**

**Answer:**

If confirmed, I will make it a high priority at the IRS to reduce the risk of incorrect payments. I understand that at the time that each individual tax return is received by the IRS, and before any refund is paid, the IRS will check key eligibility requirements against Marketplace transaction data that has been pre-positioned prior to the tax filing season. If confirmed, I will work with IRS staff to evaluate the risks of overpayments and develop methods to reduce risks.

**Cornyn Question 2:**

**Reports have recently surfaced of Obamacare navigators encouraging individuals to misreport their taxable income in order to receive higher subsidies than they are legally eligible to receive.**

2) **What should the IRS do to ensure that these individuals are identified and unable to defraud the American people?**

**Answer:**

I understand that the IRS takes allegations of fraud against the tax system seriously. I am not familiar with the specific details that you raise and if confirmed, I intend to learn more about them.

**We know that the IRS singled out Tea Party groups who were applying for 501(c) (4) status based on ideology. This revelation was followed by additional accounts of abuse and mismanagement by the Internal Revenue Service, including a recently reported news story**

**about a cancer patient, who after fighting to have his cancelled health insurance reinstated, was notified that he was being audited by the IRS. The responsibility granted to the IRS requires a level of nonpartisanship and public trust that has been seriously endangered by the agency's actions.**

**Cornyn Question 3:**

3) **Why should the American people have any confidence that the IRS will fairly and objectively implement Obamacare?**

**Answer:**

I agree with you that it is important that the IRS operate in a fair, even-handed, and non-partisan manner. If confirmed, I will work with the dedicated professionals at the IRS so that the Internal Revenue Code is administered with fairness and integrity. My goal would be for the agency to find problems quickly, fix them promptly, make sure they stay fixed, and be transparent about the entire process. I also would benefit from the information and views provided by the Treasury Inspector General for Tax Administration, the Government Accountability Office, and the Office of the Taxpayer Advocate Service, the Whistleblower office, and this Committee. Public trust is the IRS' most important and valuable asset.

**Cornyn Question 4:**

4) **What will you do to restore taxpayers' confidence in the IRS?**

**Answer:**

If confirmed, my goal would be for the IRS to find problems quickly, fix them promptly, make sure they stay fixed, and be transparent about the entire process. My experience is that the people in an organization who know the most about what is going on are the front line employees. If confirmed, I intend to listen to those employees and make sure they understand that they are seen as part of the solution, not part of the problem. Public trust is the IRS' most important and valuable asset. In every area of the IRS, taxpayers need to be confident that they will be treated fairly, no matter what their background or their affiliations.

**Cornyn Question 5:**

**From 2010 through 2012 the IRS received $488 million from the Health Insurance Reform Implementation Fund (HIRIF), a slush fund administered by the Department of Health and Human Services (HHS) for the implementation of Obamacare. However, in 2013 when the Treasury Inspector General of Tax Administration (TIGTA) conducted an audit, it found that the IRS had misplaced $67 million of taxpayer money from the fund.**

5) **How are the American people supposed to trust the IRS with their health care when the IRS can't be trusted to even manage its own money?**

**Answer:**

I know that the IRS takes its budgetary responsibilities very seriously. I understand that the TIGTA report you reference expressed concern about indirect cost amounts that TIGTA believed should have been charged against the HIRIF funds but were not. I understand that the report found that all charges against HIRIF were appropriate.

**Cornyn Question 6:**

6) **What mechanisms will you put in place to ensure that all of the money spent by the IRS is accounted for by the agency?**

**Answer:**

With regard to your concern about the accounting of money spent at the IRS, I understand that the agency has received a clean audit opinion on its financial statements for more than ten years.

**Cornyn Question 7:**

**On November 25, 2013, Senator Coburn and I recently wrote to Acting IRS Commissioner Daniel Werfel and Director of National Intelligence James Clapper to express our serious concern about a September 2013 report issued by the Government Accountability Office (GAO) regarding security clearances. The GAO found that there are approximately 8,400 individuals who were deemed eligible for security clearances that owe a combined total of approximately $85 million in unpaid federal taxes. GAO went on to identify shortcomings in the mechanisms used to identify unpaid federal tax debt held by security clearance applicants.**

7) **If confirmed, do we have your commitment that you will work to swiftly address this issue, taking every necessary step to ensure that tax information held by the IRS is made available, in a timely manner, to relevant federal agencies for use in the security clearance background investigation process?**

**Answer:**

I am not familiar with the details of this report, although I believe it is important for all taxpayers, including federal employees, to pay any taxes due in a timely fashion.

However, it is my understanding that the IRS can only disclose the names of taxpayers who are delinquent in their taxes in limited situations.

**Cornyn Question 8, 9, 10 and 11:**

**The Internal Revenue Service (IRS) is responsible for administering the Earned Income Tax Credit (EITC), which is a refundable tax credit available to certain taxpayers. According to the most recent IRS estimates, 21 to 25 percent of the EITC payments made in Fiscal Year 2012 were paid in error or at least $11 billion in improper payments were made. Unfortunately, improper EITC payments are an annual event. According to the Treasury Department, at least $110 billion in improper EITC payments have been made over the past ten years. The Treasury Inspector General for Tax Administration (TIGTA) also states that "the IRS is unlikely to achieve any significant reduction in EITC improper payments."**

8) **Do you agree with TIGTA's statement?**
9) **As IRS Commissioner, what strategy will you put in place to eliminate EITC improper payments?**
10) **What additional legislative action do you think is necessary to eliminate EITC improper payments?**
11) **In August 2013, TIGTA reported that the IRS is still not in compliance with Executive Order 13520. Executive Order 13520 requires the IRS to provide the Inspector General with an annual report detailing specific information on improper EITC payments. This report is due within 120 calendar days of the publication of the Department of the Treasury's annual Agency Financial Report. If confirmed, do we have your commitment that you will work to swiftly address this issue?**

**Answer:**

I appreciate your concern about the risk of incorrect payments. If confirmed, I will make it a high priority at the IRS to reduce the risk of incorrect payments. I look forward to learning more about this issue and working with the Committee in this area.

**Cornyn Question 12, 13, and 14:**

**The IRS relies extensively on its computer systems to carry out the responsibilities of administering our Nation's tax laws. As such, it must ensure that its computer systems are effectively secured to protect sensitive financial and taxpayer data. The need for doing so will certainly increase because the IRS will be heavily involved in administering Obamacare. Unfortunately, the Treasury Inspector General for Tax Administration**

**(TIGTA) continues to believe that the IRS's Modernization Program remains a major risk even though the IRS has spent billions of taxpayers' money to improve its computer systems. Most recently, the Treasury Inspector General recently issued a report on the Customer Account Data Engine 2 (CADE 2) Program, which is one of the IRS's top information technology modernization projects and will replace the current Individual Master File (IMF) account settlement system. TIGTA noted that the CADE 2 Program is experiencing delays and cost-overruns and expressed concerns about the effectiveness of the program.**

12) **What explains the IRS's inability to effectively manage its modernization system?**
13) **Given the IRS's record on modernizing its computer systems and the 501(c)(4) scandal, are you confident that the agency will be able effectively and efficiently manage Obamacare?**
14) **In your opinion, is the IRS ready to administer Obamacare?**

**Answer:**

All organizations, both public and private, encounter challenges in managing large IT projects. I understand that the IRS has made substantial progress on managing its IT projects in recent years and the IRS' business systems modernization program was recently removed from the GAO's high risk list. I also understand that the IRS has successfully rolled out several key ACA systems. If confirmed, successful implementation of the ACA and other important IT projects will be a high priority.

**Cornyn Question 15:**

**Some argue that the IRS Commissioner should have professional experience in representing taxpayers before the IRS.**

15) **Do you agree with this view?**

**Answer:**

No. My understanding is that one of the goals of the 1998 IRS Restructuring and Reform Act was that the Commissioners of the IRS would have strong management background and experience. I signed on to this challenge because I have had a longstanding commitment to public service and most of my career has been spent helping large organizations respond to significant financial and management challenges. The IRS is fortunate to have an experienced workforce committed to the mission of the agency. If confirmed, I am excited to work with the employees of the agency, and with this Committee, as the IRS moves forward into the future.

**Cornyn Question 16:**

**The 1998 IRS Restructuring and Reform Act created the IRS Oversight Board. The Board is an independent body charged to oversee the IRS in its administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws.**

**16) What are your views on the Board and their role in overseeing the IRS?**

**Answer:**

I understand that Acting Commissioner Werfel has found the Board to be helpful in considering actions to be taken and problems being confronted. I also understand that the Board provides an independent review of the IRS budget and raises issues of concern on its own as a result of its quarterly meetings with IRS executives. If confirmed, I would be pleased to discuss this matter further with you and the Committee.

**Cornyn Question 17:**

**This past summer, Acting IRS Commissioner Daniel Werfel announced that the IRS would conduct an agency-wide special "fairness review" of the criteria used to select small businesses and individuals for audit. This review appears to be in response to the May 2013 report issued by the Treasury Inspector General for Tax Administration (TIGTA) that found that the IRS targeted Tea Party and other conservative political groups and individuals for additional scrutiny. But I believe the American people deserve better than a simple review by the same agency that has abused their trust. They deserve to know that they will not be singled out by the IRS because of their political or religious beliefs.**

**17) What are your views on giving TIGTA the responsibility to review and consult with the IRS on any criteria it uses to select tax returns for audit, assessment, or any heightened scrutiny or review, to ensure that the criteria does not discriminate against taxpayers on the basis of race, religion, or political ideology?**

**Answer:**

One of the key recommendations in Acting Commissioner Werfel's 30-Day Report was to perform a review of all audit selection criteria used throughout the agency. TIGTA already has the responsibility to review IRS operations and programs. If confirmed, I look forward to continuing a close working relationship with TIGTA.

**Cornyn Question 18 and 19:**

**The Research & Development (R&D) tax credit is an important tool to encourage innovation and job creation through the tax code. The Alternative Simplified Credit (ASC) was intended by Congress to broaden the number of companies that would be eligible to take advantage of the incentives provided by the R&D tax credit. From discussions with small and medium business owners in Texas, it is clear that a significant roadblock to these companies taking the R&D tax credit is the fact that the Alternative Simplified Credit (ASC) is only available on original returns.**

**Congress passed the ASC to expand the availability of the R&D tax credit for businesses – making it easier for businesses, especially small and medium businesses, to determine their eligibility for the credit. However, the Treasury and IRS through regulation in 2008, which appears not to be supported by statute, greatly limited the benefits of the ASC by not allowing it for an amended return. This action by Treasury and IRS has significantly hindered the ability of small and medium businesses to take full advantage of the R&D credit. A GAO report on the R&D credit stated that this regulation, again, with no basis in statute, disproportionately disadvantages small and medium businesses.**

**18) What are your views on these regulations?**
**19) If confirmed, will you work to make sure that small and medium businesses are on a level playing field when it comes to using the R&D tax credit?**

**Answer:**

Although I am not familiar with the details, it is my understanding that this project was included in Treasury and the IRS' 2013-2014 Priority Guidance Plan. If confirmed, I will review this matter promptly and look forward to discussing the situation further with you.

**Cornyn Question 20, 21, 22, and 23:**

**The IRS Restructuring & Reform Act of 1998 (RRA) created the so-called "Ten Deadly Sins" (Section 1203), which defines certain acts or omissions for which an IRS employee is to be fired if there has been a judicial or final administrative determination. The IRS Commissioner has the sole discretion, which he cannot delegate, to determine whether to take a personnel action other than termination for the described acts or omissions. Most, but not all, of the acts or omissions involve mistreatment of taxpayers, such as falsifying information and harassment.**

**20) What are your thoughts on Section 1203?**
**21) Do you think that is should be strengthened?**
**22) What are your views on requiring the IRS Commissioner to fire any IRS employee who violates the Constitutional rights of a taxpayer, their**

**representative, or another IRS employee as described by Section 1203(b)(3)(A) of the RRA?**

**23) What are your views on adding to the list of fireable offenses under Section 1203 the development or use by an IRS employee of any methodology that applies disproportionate scrutiny to any applicant who is applying for tax-exempt status based on the ideology expressed in the name or purpose of the organization?**

**Answer:**

I am still learning about the full implications of Section 1203. If confirmed, I will look into this area further. I do think that it is important for IRS employees to meet high standards, fully respect taxpayer rights, and instill faith in our tax system. If confirmed, I will continue to move forward with the important progress Acting Commissioner Werfel has made in the tax-exempt area.

**Cornyn Question 24:**

**As you know, the IRS recently proposed a regulation on the political activities of 501(c)(4)s (or social welfare organizations). The proposed regulation, as drafted, does not cover 501(c)(5)s (labor unions), and 501(c)(6)s (trade associations). Instead, the proposed rule simply requests comments on including 501(c)(5)s and 501(c)(6)s. It is interesting that the Treasury Inspector General for Tax Administration (TIGTA) report issued in May 2013 on 501(c)(4)s included a discussion of the political activity rules for 501(c)(4)s, 501(c)(5)s, and 501(c)(6)s and notes that all three groups are covered by the so-called "primary activity test." Furthermore, TIGTA highlighted that the lack of specific guidance to specialists led to confusion and delays in the review of 501(c)(4) applications.**

**24) In response to a question by Ranking Member Hatch about the application of the proposed rule to 501(c)(5)s & 501(c)(6)s, you responded that 'the regulations need to be evenhanded and fair' and that 'people need to have the view that the IRS is a nonpolitical, nonpartisan agency.' With this in mind, what are your thoughts on providing social welfare organizations with the right to seek a declaratory judgment in federal court when the IRS fails to process their application within nine months or when the IRS has made an adverse determination? This is the same procedural protections Section 7428 of the Internal Revenue Code provides to 501(c)(3) applicants and perhaps this judicial review would ensure that 501(c)(4) applicants do not have to wait indefinitely, and it would ensure that organizations that disagree with an IRS denial can have their day in court.**

**Answer:**

As you note, I have already expressed my belief that regulations need to be evenhanded and fair and that people need to have the view that the IRS is a

nonpolitical, nonpartisan agency. If confirmed, I am committed to continuing the important work begun by Acting Commissioner Werfel in this regard. I have not previously had the occasion to consider the proposal you raise. If confirmed, I look forward to learning more about it.

**Questions from Senator Burr**

**Burr Question 1:**

**As you may be aware, the IRS currently has a program known as IRS Free File, which is a voluntary, public-private partnership among the IRS, the States and tax software companies to enable Americans who earn below a certain income to prepare and file their federal return for free. I understand that this program is set to expire soon. If confirmed, will you seek to extend the program? If not, why not?**

**Answer:**

I think the Free File program provides an important service to lower-and middle- income taxpayers. If confirmed, I will promptly review the status of the program.

**Burr Question 2:**

**Over the past year veterans organizations across the country have reported being targeted for special enforcement action by the IRS –including being fined up to $1,000 a day. If confirmed, will you commit to a review of these incidents, a review of the guidance issued to veterans groups and to communicating your findings to the Committee?**

**Answer:**

If confirmed, I will be briefed on this important issue and look forward to working with the Committee.

**Burr Question 3:**

**Will you commit to working with veterans groups to ensure that official IRS guidance is clear and that IRS personnel receive adequate training to ensure consistent enforcement of IRS rules?**

**Answer:**

If confirmed, I am committed to partnering with external stakeholders, such as veterans' organizations, and providing the IRS workforce with appropriate training.

**Question from Senator Isakson**

**Isakson Question 1:**

**If you are approved to become the IRS Commissioner, will you support an extension or making permanent the IRS Free File program for eligible Americans? The IRS Free File program, which is up for renewal in 2014, has been renewed twice since 2003.**

**Answer:**

I think the Free File program provides an important service to lower-and middle-income taxpayers. If confirmed, I will promptly review the status of the program.

**Question from Senator Toomey**

**Toomey Question 1:**

**In an effort to encourage orphan drug development, the drafters of the Patient Protection and Affordable Care Act sought to exclude orphan drugs from the new fee to be paid by pharmaceutical manufacturers for the sales of brand name drugs. In its temporary rule on this provision, the Internal Revenue Service (IRS) specified that the exemption would only apply to drugs that applied for and were granted the Orphan Drug Tax Credit (ODTC) created in Section 45C of the IRS code. However, under this interpretation, a product could be indicated by the Food and Drug Administration (FDA) solely for the treatment of a rare disease but still subject to the fee if it did not claim the ODTC, or was ineligible to claim the ODTC. Do you believe that the IRS currently possesses the authority to modify the exception to encompass all drugs that are indicated by the FDA solely to treat rare diseases, or would this change require legislative action?**

**Answer:**

As we discussed during my hearing, I am not familiar with this specific issue, but I will study this matter and talk with you further about it if confirmed.

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