

June 16, 2021

The Honorable Chairman Ron Wyden
Finance Committee
U.S. Senate
Washington, D.C. 20510

The Honorable Senator Charles E. Grassley
Finance Committee
U.S. Senate
Washington, D.C. 20510

Dear Chairman Wyden and Senator Grassley:

National Whistleblower Center, Taxpayers Against Fraud, Project On Government Oversight, and Government Accountability Project, write you in support of your legislation – the IRS Whistleblower Program Improvement Act of 2021 – which makes several important and much-needed changes and reforms to the IRS whistleblower program. Our organizations have been advocating for whistleblowers for decades and view this legislation as critical to the continued success of the IRS whistleblower program.

The IRS has stated that since the 2006 amendments which created the modern mandatory tax whistleblower program, the U.S. Treasury has collected over \$6 billion dollars from those seeking to evade taxes. Our experience shows that the indirect benefit of the tax whistleblower program -- through improved compliance by taxpayers – amounts to billions of dollars more in additional revenues collected voluntarily. As Congress and the Biden Administration are considering ways to address the significant loss of revenues due to the “tax gap” – there is no question that a key to bridging the tax gap is to build on the tremendous success of the IRS whistleblower program.

While the IRS whistleblower program has been a great success, we believe that legislative changes you have put forward will strengthen the program and build on its achievements. We are confident that the legislation you have introduced will encourage more knowledgeable informed whistleblowers to come forward to assist the IRS and result in billions of additional tax dollars being collected.

We particularly encourage you to focus on the following provisions which would most significantly benefit whistleblowers and foster engagement with the IRS Program:

1. **Provide for De Novo Review.** The Tax Court's recent decision to disregard the intent of Congress for de novo review and instead provide for "arbitrary and capricious" review has had a devastating impact on the program. It is vital for any successful whistleblower award program that the whistleblower is guaranteed an independent, de novo review of their claim. Whistleblowers must have confidence that they will be able to a fair and impartial review of whether they are entitled to an award.
2. **Remove Sequester of Whistleblower Awards.** The Office of Management and Budget has imposed a sequester for tax whistleblower awards, thus shortchanging whistleblowers of the award to which they are entitled to under the statute. Whistleblowers are paid from the dollars that are collected due to their information. These are all dollars that the government would never see but for the whistleblower. The government should be rewarding these whistleblowers the full amount to which they are entitled to build confidence in the program and encourage other whistleblowers to come forward.
3. **Include Interest on Whistleblower Awards.** Currently, it can be up to ten years for the whistleblower to receive an award. Unlike a taxpayer – the whistleblower doesn't get any interest when the government is holding money that it owes the whistleblower – but hasn't paid. Your reform – of requiring interest to run if the IRS doesn't make an award decision within a year – will do much to encourage the IRS to promptly pay awards. Nothing encourages more whistleblowers to come forward more than seeing that other whistleblowers are being paid. Delay of award payments today is causing significant harm to the whistleblower program.
4. **Provide the Assumption of Anonymity in Tax Court.** Too often whistleblowers are afraid to exercise their right to go to Tax Court because they are concerned of retribution. By providing an assumption of anonymity, your legislation will give whistleblowers greater confidence to come forward given that they can protect their rights anonymously. In addition, this change will reduce a significant amount of frivolous, costly, and unnecessary litigation in tax court.
5. **Dedicate Funding for the Whistleblower Office.** Providing that up to \$10 million dollars of the tax dollars collected thanks to the whistleblower program are dedicated to administering the whistleblower office will ensure adequate staffing and funding for the office and foster greater support for the tax whistleblower program. We have seen such funding mechanisms be of significant benefit to the success of the whistleblower award programs under the False Claims Act and the Commodity Futures Trading Commission.
6. **Clarify Deduction for Attorney's Fees.** The 2006 amendment certified that whistleblower attorney's fees would not be included as income under the new

mandatory award program. Your proposal is one of basic fairness – and ensures that the same tax treatment is provided for attorney’s fees under the discretionary program.

7. **Improve IRS Annual Report.** The Congress will benefit from better understanding the issues that whistleblowers are identifying to the IRS. Often the first-time that the IRS is aware of a tax shelter or other tax evasion is through a whistleblower submission.

On behalf of whistleblowers, we thank you both for your leadership on this important issue and championing these much-needed reforms. Improving the tax whistleblower program is a vital part of addressing the tax gap – and your legislation will do much to encourage whistleblowers to come forward.

Please feel free to contact us with any questions or comments. We would be eager to meet and further discuss how your efforts will improve the IRS whistleblower program. Please contact Dakotah Manson, at dakotah.manson@whistleblowers.org to schedule a meeting.

Sincerely,

National Whistleblower Center
Taxpayers Against Fraud
Project On Government Oversight
Government Accountability Project