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Strip Mining of Consumer Financial Information Is not a Solution to the "Tax Gap"

A new Administration proposal would require banks and other financial institutions to report to the IRS on the deposits and withdrawals of all business and personal accounts with a de minimis exception for accounts with a balance of less than $600.

This overreaching proposal should be rejected in favor of less intrusive alternatives. Financial institutions, small business and consumer groups oppose the proposal.

Mining of consumer financial information is intrusive and indiscriminate

- Consumer groups are speaking out against the broad, untargeted nature of the proposal. Ed Mierzwinski of U.S. Public Interest Research Group has said: "They are collecting information about everybody and I don't know why it is necessary to collect information about everybody."[1]
- Collection of financial data to determine tax liability must be targeted and justified. The Administration proposal would amount to an intrusive and indiscriminate fishing expedition unsupported by any reasonable suspicion of tax evasion.
- Steven Rosenthal of the Urban Institute and Brookings Institution's Tax Policy Center notes that: "In 1998, Congress added Code sec. 7602(e), which prevents the use of 'financial status or economic reality examination techniques to determine the existence of unreported income… unless the Secretary has a reasonable indication that there is a likelihood of such unreported income.'"[2] The concerns that motivated this statutory provision are as relevant today as they were in 1998 and must continue to guide Congress.

Mining of consumer financial information undermines the goal of reducing the unbanked

- Banking the unbanked – and keeping them in the banking system – is an important policy priority. The unbanked often fall prey to non-bank lenders and check cashers, incurring exorbitant interest rates and fees. They jeopardize their personal security by carrying cash.
- In many American communities, there is a high level of distrust of government in general and the IRS in particular. These include certain marginalized communities as well as those recently arrived from authoritarian regimes that spy on their citizens.
- This distrust is a primary reason why too many Americans opt-out of the banking system. Indiscriminate sharing of financial account data with the IRS will only increase the challenge of reducing the unbanked population and will likely drive many of those currently in the banking system to leave.

[1] Neil Haggerty, "Banks, consumer advocates unite against tax reporting proposal," *American Banker*, June 17, 2021.
[2] Steven Rosenthal, "Biden's effort to close the tax gap is well intentioned but flawed," Tax Vox: Business Taxes, May 3, 2021.

The Proposal will increase taxpayer complexity and confusion

- Taxpayers will likely have to receive new 1099s for every account they hold containing funds flow information that is not relevant to their tax liability. Giving taxpayers more forms and more data to sort and evaluate will make tax compliance significantly more complex and confusing.
- For example, in jointly held accounts, a taxpayer may not be responsible for reporting all (or any) inflows reflected in the account. This will be case when couples divorce or when a taxpayer holds a joint account with an aging parent to assist with money management, among other common scenarios.
- Tax simplicity is an important goal that promotes tax compliance. The proposal would create new complexity for taxpayers at all income levels.

IRS must use the data it already has to reduce the tax gap

- The IRS already collects more data than it can process, including data reported under the Foreign Accounts Tax Compliance Act (FATCA). The IRS should begin by making better use of this data. Community banks support needed IRS systems enhancements for this purpose.
- Rosenthal of the Tax Policy Center believes that: "In practice, the IRS' task would be daunting and, in fact, bury the agency in a sea of unproductive information."[3] Brian Reardon of the S-Corporation Association, a small business group, says that: "Treasury has demonstrated it can't secure the information it already collects, let alone put it to good use. Giving them access to employers bank accounts is just a bad idea."
- Suspicious Activity Reports (SARs) and Currency Transaction Reports (CTSs) already filed by community banks with Treasury could be used to flag possible unreported income and direct IRS audits. This could be accomplished without any new data collection.

Mining of consumer financial information would enlist community banks as agents of the IRS

- The Proposal would require financial institutions to perform a police function on behalf of the IRS, an inherently governmental role that is inappropriate for private sector institutions.
- Community banks collect financial data for the purpose of serving their customers: to safeguard their funds, provide checking, card, and other payments services, and extend credit. The IRS has no justifiable right to this data. It is not and must not be a public good. This overreaching proposal would fundamentally redefine the relationship among financial institutions, their customers, and the IRS.

[3] Rosenthal, "Biden's effort to close the tax gap."