The Importance of Enforcement to Taxpayer Fairness
Prepared Testimony for the Hearing "Taxpayer Fairness," October 13, 2020
U.S. House of Representatives, Committee on Ways and Means, Oversight Subcommittee
Leandra Lederman[*]

Chairman Pascrell, Ranking Member Kelly, and distinguished members of the Subcommittee:

Thank you for the opportunity to testify on the topic of taxpayer fairness. My name is Leandra Lederman. I am the William W. Oliver Professor of Tax Law at Indiana University Maurer School of Law in Bloomington, Indiana and the Director of its Tax Program. I have been a full-time law professor for over 25 years, including over 15 years at the Maurer Law School. My research includes a particular focus on issues relating to tax compliance and the federal tax gap. I have also written about the need for increased funding for the IRS.

I would like to make four main points in my testimony:

1. **Audits deter noncompliance**. Studies show that audits yield substantial tax revenue, both from those audited and due to very positive indirect effects on tax compliance.

2. **The IRS needs adequate funding.** The Internal Revenue Service (IRS) needs sufficient funding to have a reasonable audit presence, provide service to taxpayers who need help complying, and maintain cybersecurity. The budget cuts the IRS has experienced since 2011 have resulted in crippling reductions in enforcement and service.

3. **Some taxpayers have more opportunity than others for noncompliance.** Taxpayers whose income is largely not subject to third-party reporting, such as self-employed individuals, have much more opportunity for noncompliance and, statistically, contribute much more to the federal tax gap.

4. **Enforcement of the tax laws is an important part of taxpayer fairness.** If the tax laws are not enforced, compliant taxpayers feel foolish and lose the motivation to comply. That is a problem for a tax system that is based on voluntary compliance, particularly with respect to taxpayers with significant opportunities for noncompliance.

I will now discuss each of these points, in turn.

1. Audits deter noncompliance.

Empirical studies generally find that audits increase tax compliance.[1] Audits have three types of effects. First, they bring in direct revenue. For example, "IRS enforcement activities in fiscal 2017 produced $56 billion in revenue, of which $12 billion was from auditing, while the entire IRS enforcement budget was $4.7 billion."[2] And, of course, an increase in the number of audits brings in more revenue, particularly when audit rates are as low as they currently are for the IRS.[3]

Second, audits have an important pro-compliance effect on taxpayers who are *not* audited. Studies analyzing the effect on tax payments of increased audit rates typically find a very positive effect.[4] This in itself provides a compelling reason to maintain an audit presence. Estimates of the indirect effect of audits vary from $4 to $12 for each $1 directly collected from enforcement.[5] Thus, the "spillover" effect of audits on tax collections is much larger than the direct effect of audits.[6] Accordingly, an increase in the direct revenue from audits is only a portion of the gains from increased audits. It is also worth noting that studies have found that tax penalties do not have nearly the deterrent effect that audits do.[7]

Third, audits have an indirect effect on the future tax payments of those who are audited in a particular year. For example, a recent study of IRS data on individuals found in part that "an audit increases subsequent reported wage income by 1.3 percent and sole-proprietorship income, reported on schedule C of form 1040, by 14.2 percent on average." [8] The study also found that "audits have a long-term effect on tax reporting."[9] Note that this study found that "the effect of audit is much larger when there is less third-party reporting …."[10] This result is consistent with the fact that taxpayers have much less opportunity for noncompliance with respect to income that is reported to the IRS by third parties, as discussed below.

There are several recent studies that looked at the effect of audits on subgroups of audited individual taxpayers. Those studies generally found that taxpayers who are audited and found to owe additional tax for that year increase their tax payments in subsequent years. By contrast, these studies generally found that taxpayers who are audited and *not* found to owe additional tax decreased their tax payments for the succeeding years, although the results were not always statistically significant. [11] These results are consistent with the idea that taxpayer concern about the prospect of owing taxes has a deterrent effect. Individuals who were not found to owe additional tax may conclude that they had overpaid taxes (especially if they were issued a refund) or that they have a "safe" period in which to report less tax, especially if audits are non-random.[12]

It is difficult to be certain from these studies whether a tax collector should select its taxpayers for audit more carefully—to better identify taxpayers who owe tax—or do more thorough audits, so as to increase detection of underreporting. However, a recent laboratory experiment found that "audit effectiveness is an important determinant of the specific deterrent effect of audits. Taxpayers declare a larger share of their income after experiencing an audit that detects all undeclared income while ineffective audits decrease post-audit compliance."[13] While further research in this area would be helpful, this study supports the intuitive notion that audit effectiveness affects specific deterrence with respect to those audited.

2. The IRS needs adequate funding.

The IRS collects significant revenue to fund the federal government.[14] For example, the IRS reported that "[i]n fiscal year 2019, the IRS collected almost $3.56 trillion in revenue and processed more than 253 million tax returns."[15] To do its job effectively, the IRS needs funding for enforcement, for service to taxpayers, and for cybersecurity. In turn, that means that the IRS needs sufficient resources for such things as personnel, training, and technology.

In 2011, Congress began cutting the IRS's budget.[16] Congress has cut the IRS's budget in most years, so 2010 is the most recent high point for IRS funding, in inflation-adjusted dollars.[17] As a result, the IRS has experienced significant reductions in its staffing and activities. The Congressional Budget Office (CBO) recently reported that "[t]he IRS's appropriations have fallen by 20 percent in inflation-adjusted dollars since 2010, resulting in the elimination of 22 percent of its staff. The amount of funding and staff allocated to enforcement activities has declined by about 30 percent since 2010."[18]

The overall IRS audit rate for individuals has declined from 1.1% in 2010[19] to 0.4% in 2019.[20] Similarly, the overall audit rate for corporations has declined from 1.4 percent for 2010[21] to 0.7 percent for 2019.[22] And this decline in audit rates was before the global pandemic. The CBO observed that "[t]he disruptions stemming from the 2020 coronavirus pandemic will further reduce the ability of the IRS to enforce tax laws."[23]

Moreover, audit rates have declined more sharply at the top. The audit rate for individuals reporting $1,000,000 or more of income fell from 8.4 percent for 2010 fiscal year[24] to 2.4 percent for 2019.[25] The audit rate for corporations reporting $10,000,000 or more of income dropped from 16.6 percent to 6.2 percent during the same period. [26] By contrast, the audit rate for individuals claiming an earned income tax credit reporting under $25,000 of income decreased from 2.4% in 2010[27] to 1.2% in 2019. [28]

The single largest subcategory of the federal tax gap is individuals' business income, at an estimated average of $110 billion per tax year.[29] Individual business income, generally reported on Schedule C of the individual income tax return, cannot simply be checked with return matching. That is because it is not generally subject to third-party reporting, as discussed below. A recent report by the Treasury Inspector General for Tax Administration (TIGTA) found that the IRS collected substantial tax from auditing "returns [that] contain either a single Schedule C loss that was equal to or greater than $100,000 or multiple Schedule C forms that showed combined losses that were equal to or greater than $100,000.… The 1,142 [audited] returns [in this category] had an average examination assessment of $53,183, which was greater than the examination results of seven of the 10 Small Business/Self-Employed Division's (SB/SE) Field Examination function strategies."[30] TIGTA also "identified 33,176 individual returns with at least one Schedule C reporting loss equal to or greater than $100,000 that were never considered or selected for examination …."[31] Without examination, any underreporting on these returns generally cannot be detected.

As a result of its findings, TIGTA recommended in part that the IRS "[c]onduct a national CIP [(Compliance Initiative Project)] on tax returns with at least one Schedule C attached, no gross receipts, and more than $100,000 in losses to evaluate it as a new strategy or workstream."[32] IRS management disagreed with this recommendation. It referred to changes it had made more recently, as well as to the need to balance audit coverage across multiple areas.[33] IRS management also highlighted the problems created by budget cuts combined with increased responsibilities:

> The IRS staffing budget decreased over 15% from FY 2013 to FY 2018 and between FY 2011 to FY 2018 a hiring freeze was in effect. During this time, we

> faced increasing challenges, including implementation of new tax law provisions, such as the Foreign Account Tax Compliance Act (FATCA), the Affordable Care Act (ACA), and the Tax Cuts and Jobs Act (TCJA). Over the last two years we have been able to increase the hiring of enforcement personnel, but with an aging workforce and increased attrition, it will take considerable time for us to increase our enforcement staffing at any level of significance. Because of these funding and staffing limitations, we must make difficult decisions regarding priorities and the type of enforcement actions we pursue and service we provide….[34]

This IRS response thus highlights how stretched it is to provide audit coverage and service to taxpayers. This response also does not fully address the period of budget cuts. In response to a May 2020 TIGTA report mentioned below, IRS management responded in part that "[s]ince Fiscal Year (FY) 2010, the IRS has lost nearly a third of its enforcement personnel, including more than half of its revenue officers (the Collection employees who work the most complex cases)."[35] With staffing and audit rates so low, there is limited possibility to shift resources away from one area even when it appears that increased audits in another area would be very productive.

Moreover, the coverage issue with respect to the Schedule C filers identified by TIGTA is not an isolated case. Earlier in 2020, TIGTA made discouraging findings with respect to high-income non-filers:

> The IRS did not work 369,180 high-income nonfilers, with estimated tax due of $20.8 billion. Of the 369,180 high-income nonfilers, 326,579 were not placed in inventory to be selected for work and 42,601 were closed out of the inventory without ever being worked. In addition, the remaining 510,235 high-income nonfilers, totaling estimated tax due of $24.9 billion, are sitting in one of the Collection function's inventory streams and will likely not be pursued as resources decline.[36]

"Reduced enforcement of the tax laws … has perverse effects" including that "fraudsters benefit more than those who are trying to comply."[37] Restoring the IRS's budget at least to 2010 levels (in inflation-adjusted dollars) would be a very helpful step that would bring significant return on investment. The CBO recently estimated that "increasing the IRS's funding for examinations and collections by $20 billion over 10 years would increase revenues by $61 billion and that increasing such funding by $40 billion over 10 years would increase revenues by $103 billion."[38] Importantly, this refers only to the *direct effects* of enforcement, not the spillover or positive indirect effect on voluntary compliance.[39] Others have estimated larger effects of increased investment in the IRS.[40]

3. Some taxpayers have more opportunity than others for noncompliance.

The federal income tax system relies on voluntary compliance, meaning that taxpayers report and calculate their tax liabilities in the first instance. The IRS estimates an overall voluntary compliance rate of 83.6 percent, meaning that percentage of taxes due are paid on time without direct enforcement activity.[41] That figure is fairly high. However, it does not mean that virtually

everyone simply complies with the tax law out of an intrinsic motivation to pay taxes. The IRS has consistently found that levels of tax compliance vary with the transparency of the item.

For example, with respect to wages and salaries, where the taxpayer's employer both withholds taxes and reports payment amounts to the IRS, the IRS estimates a 99 percent voluntary compliance rate.[42] Where there is no withholding requirement but substantial information reporting is required of the payor, the IRS still estimates a voluntary compliance rate of 95 percent.[43] Thus, transparency even in the absence of withholding is highly effective in spurring accurate reporting and timely payment. With respect to income categories where third-party information reporting applies but is incomplete, the IRS still estimates a voluntary compliance rate of 83 percent.[44] But where there is no third-party reporting—such as with respect to sole proprietorships—the IRS estimates a much lower voluntary compliance rate of only 45 percent.[45]

This pattern in estimated voluntary compliance rates highlights the importance of opportunity for noncompliance. Taxpayers logically perceive much less opportunity to misreport when they receive an information return that they know is also sent to the IRS.[46] Withholding taxes and information reporting are not panaceas, and they do impose some reporting burden on third parties, but they tend to greatly increase tax compliance where they apply.[47]

Taxpayers with mainly third-party-reported types of income, such as wages and salaries, interest, and dividends, therefore have relatively little opportunity for noncompliance. That is not to say that they have zero opportunity for noncompliance. It is certainly possible for a taxpayer whose income is subject to third-party reporting to invent a deduction that would not be subject to such reporting. However, that requires an affirmative claim on the return. Such a claim is more visible to the IRS than omitted income of a variety not subject to information reporting. Without an audit regime, such taxpayers could invent large deductions or credits with impunity. But such taxpayers have little opportunity for noncompliance with respect to the bulk of their income.

By contrast, individuals who own businesses have much greater opportunities for noncompliance. An important part of that opportunity is with respect to the business's income. That income generally is not reported to by third parties to the IRS. It would be difficult, for example, to impose an information-reporting requirement on consumers.[48] They generally are not set up in the way businesses are to provide that reporting. Some businesses also receive some payments in cash.[49] In general, there is lower tax compliance with respect to amounts that lack a paper trail.[50]

It is also plausible for an individual who owns a business to claim significant business deductions for items like salaries, consulting fees, travel, advertising, and supplies. Those may all be legitimate business expenses. But a business owner might also deduct as business expenses expenditures that are actually personal in nature, such as transfers to family members who did not actually perform services for the business. In order to detect such false claims and deter misreporting of this type, the IRS needs to conduct audits. These audits require the resources to determine what the facts were of the taxpayer's business activities.

Note also that employees typically do not have the opportunity to claim a deduction for business expenses. The deduction of unreimbursed employee business expenses is restricted; they are

treated as miscellaneous itemized deductions (MIDs). Many of these deductions historically were eliminated by the 2-percent floor (only allowing MIDs in the aggregate above 2 percent of the taxpayer's adjusted gross income).[51] The law generally known as the Tax Cuts and Jobs Act of 2017 eliminated the deduction of MIDs entirely for tax years 2018 through 2025.[52] So, even with respect to trade or business deductions, a very common type of deduction, someone who simply earns a wage or salary does not have the same opportunity for noncompliance that a business owner does.

4. Enforcement of the tax laws is an important part of taxpayer fairness.

The IRS's mission is to "[p]rovide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all."[53] Fairness is thus part of the IRS's mission, as the IRS itself has highlighted.[54]

Part of that fairness is protecting the taxpaying public. Former IRS Commissioner Rossotti explained that "[t]o succeed in its mission, the IRS formulated three strategic goals: service to *each* taxpayer, service to *all* taxpayers and productivity through a quality work environment. They represent not only the IRS' goals, but also how it judges its success."[55] With respect to "service to all taxpayers," Commissioner Rossotti explained in part that "[o]ur tax system depends on each person who is voluntarily meeting his or her tax obligations having confidence that his or her neighbor or competitor is also complying."[56] No taxpayer should feel like a "chump" for complying with the tax laws.[57] Enforcing the tax laws demonstrates to taxpayers that noncompliance doesn't pay.

The taxpaying public may not generally have a sense of the types of tax claims high-income or wealthy individuals make. The recent N.Y. Times reporting on President Trump's tax returns has provided examples of the kinds of things high earners may claim on their tax returns.[58] It shines a spotlight on tax claims the taxpaying may public may find unfair when they cannot themselves generate tax losses that shelter unrelated income or deduct their expenditures on hairstyling, for example.

Most important, enforcing the tax laws increases the fairness of the tax system. A progressive income tax tends to reduce income inequality.[59] However, a recent study found that tax evasion unravels that effect.[60] This is because higher-income taxpayers tend to have more opportunities for tax evasion.[61] Taxpayer fairness thus calls for enforcement of the tax laws. It also calls for enforcement where there is more opportunity for noncompliance, even if these audits are more expensive to conduct because they cannot simply be done by correspondence, for example. Enforcement depends on IRS resources, so part of taxpayer fairness is adequately funding the IRS.

Thank you for the opportunity to testify on this important set of issues. I am happy to answer questions.

---

[*] William W. Oliver Professor of Tax Law, Indiana University Maurer School of Law. This testimony represents my own views and not those of any organization with which I am affiliated or have been

affiliated in the past. I thank David Gamage, Matthias Kasper, Stephen Mazza, and Susan Morse for comments on earlier drafts.

[1] *See* Leandra Lederman, *Does Enforcement Reduce Voluntary Tax Compliance?*, 2018 B.Y.U. L. REV. 623, 655-62 (discussing studies in the United States and elsewhere, which generally find strong positive effects of audits).

[2] Charles O. Rossotti, *Recover $1.6 Trillion, Modernize Tax Compliance and Assistance*, 166 TAX NOTES FED. 1411, 1412 (Mar. 2, 2020) (citing IRS DATA BOOK 2017). More generally, in its most recent tax gap study, the IRS estimated that for tax years 2011 to 2013, it would ultimately collect $60 billion per year in "enforced and other late payments." IRS Pub. 1415, *Federal Tax Compliance Research: Tax Gap Estimates for Tax Years 2011–2013* at 12 (Rev. Sept. 2019), https://www.irs.gov/pub/irs-pdf/p1415.pdf.

[3] The IRS reported an overall audit rate for individuals of 0.4 percent for audits performed in fiscal year 2019. IRS DATA BOOK 45 tbl. 17b (2019), https://www.irs.gov/pub/irs-pdf/p55b.pdf. For "Corporation income tax returns, except Form 1120–S," it reported an overall audit rate of 0.7 percent for the same fiscal year. *Id.* Increasing these low, current audit rates should produce additional revenues in excess of the cost of the additional audits. *See* Natasha Sarin & Lawrence Summers, *CBO Recognizes, but Understates, Potential of Tax Compliance Efforts*, 168 TAX NOTES FED. 443, 446 (July 20, 2020) (explaining that current IRS audit levels are not close to producing diminishing returns, given the high returns on IRS audits when audit rates were higher).

[4] *See, e.g.*, James Alm, Ali Enami & Michael McKee, *Who Responds? Disentangling the Effects of Audits on Individual Tax Compliance Behavior*, 48 ATLANTIC ECON. J. 147, 148 (2020) (observing that "[m]ost all empirical evidence suggests that an increase in the audit rate increases the compliance rate, with estimated reported income-audit rate elasticities generally finding a significant positive elasticity, often between 0.2 and 0.4 and occasionally larger" and finding similar average effects in a combination of five laboratory experiments, although underlying behavior is heterogenous); Lederman, *supra* note 1, at 662 (concluding, after summarizing studies, that "[o]verall, these results suggest that an audit regime and audit threats generally are effective deterrents.").

[5] James Alm, *What Motivates Tax Compliance?*, 33 J. ECON. SURVEYS 353, 365 (2019) ("Audits also typically have a 'spillover' effect, or an increase in compliance independent of revenues generated directly from the audits themselves, whose magnitude varies from 4 to 12 (e.g. 'general deterrence').").

[6] *See, e.g.*, Jeffrey A. Dubin, *Criminal Investigation Enforcement Activities and Taxpayer Noncompliance*, 35 PUB. FIN. REV. 500, 519 (2007) (finding in a simulation that doubling audit rates provide estimates that "show that reported tax collections rise by $20.47 billion; this change is the indirect effect of doubling the audit rate. The difference between these two estimated differences is approximately $1.356 billion and represents the direct revenue effect."); IRS PUB. 1916, Alan H. Plumley, *The Determinants of Individual Income Tax Compliance: Estimating the Impacts of Tax Policy*, *Enforcement, and IRS Responsiveness* 35 & fig. 6 (Nov. 1996), https://www.irs.gov/pub/irs-soi/pub1916b.pdf (finding an 11.67 to 1 indirect effect of audits started in 1991). The 1996 IRS study also estimated that "if the *AuditRate* were to have been 1.65 percent in 1991 instead of the actual 0.65 percent, an additional $56 billion of additional tax would have been reported voluntarily." *Id.* at 35-36.

[7] *See* Alm, *supra* note 5, at 365 ("Audits also have a greater deterrent impact than fines, despite their theoretical equivalence, at least in an expected value sense…. Laboratory experiments typically find that a higher fine rate leads to marginally more compliance, with an estimated reported income-fine rate elasticity less than 0.1."); Lederman, *supra* note 1, at 664-65 ("With respect to monetary sanctions, studies sometimes find a positive effect, but they generally do not find as strong an effect of fines as they do of audit threats, or they do not get statistically significant results.") (footnotes omitted). "A policy implication is that increasing penalties may not have a noticeable effect on compliance, unless the probability of detection is increased significantly." James Alm, Betty R. Jackson & Michael McKee, *Estimating the Determinants of Taxpayer Compliance with Experimental Data*, 45 NAT'L TAX J. 107, 110 (1992).

[8] Jason DeBacker, Bradley T. Heim, Anh Tran & Alexander Yuskavage, *Once Bitten, Twice Shy? The Lasting Impact of IRS Audits on Individual Tax Reporting*, 61 J. LAW & ECON. 1, 5 (2018) (also stating that "[a]n audit increases reported taxable income by an average of $1,185 per year, equivalent to about 2.9 percent of the average taxable income.").
[9] *Id.*
[10] *Id.*
[11] *See* Sebastian Beer, Matthias Kasper, Erich Kirchler & Brian Erard, *Do Audits Deter or Provoke Future Tax Noncompliance? Evidence on Self-Employed Taxpayers*, 66 CESIFO ECON. STUD. 248, 249-50 (Sept. 2020) (study using IRS data finding that "[a]mong taxpayers who have received an additional tax assessment as a result of their audit, we find evidence of a massive pro-deterrent effect…. Conversely, we find that audits play a counter-deterrent role among those who have not experienced an additional tax assessment."); Jason DeBacker, Bradley T. Heim, Anh Tran & Alexander Yuskavage, *Once Bitten, Twice Shy? The Lasting Impact of IRS Audits on Individual Tax Reporting*, 61 J. LAW & ECON. 1, 17-18 (2018) (study using IRS data, finding that "[w]e see the strongest and most statistically significant response from the group with positive adjustments. Almost all the coefficients for the other two groups are statistically insignificant and have much lower point estimates."); Norman Gemmell & Marisa Ratto, *Behavioral Responses to Taxpayer Audits: Evidence from Random Taxpayer Inquiries*, 65 NAT'L TAX J. 33, 55 (2012) (finding with respect to randomly audited United Kingdom taxpayers, that "previously audited taxpayers who were found to be compliant reduced their subsequent compliance. The opposite response was observed for taxpayers previously found to be noncompliant."); Gabriele Mazzolini, Laura Pagani & Alessandro Santoro, *The Deterrence Effect of Real-World Operational Tax Audits* 23-24 (Dep't of Econ. Mgmt. & Statistics, Univ. of Milan, Bicocca, Working Paper No. 359, Jan. 2017), https://ssrn.com/abstract=2914374 (results of study of tax audits in Italy "show that in the case of null outcome [of the audit] the coefficient is negative but non-significant…. [and] that when the outcome of the audit is a positive assessment of additional income, subsequent tax compliance increases significantly, on average by 4,110 euro.").
[12] *See* Lederman, *supra* note 1, at 685.
[13] Matthias Kasper & James Alm, *Audits, Audit Effectiveness, and Post-Audit Tax Compliance* 4 (2020) (WU International Taxation Research Paper Series No. 2020-12), https://ssrn.com/abstract=3695035.
[14] *See* John A. Koskinen, *Prepared Remarks of John A. Koskinen, Commissioner Internal Revenue Service Before The Urban-Brookings Tax Policy Center, Washington, D.C.* 2 (April 8, 2015), https://www.taxpolicycenter.org/sites/default/files/alfresco/publication-pdfs/2000180-prepared-remarks-of-irs-commissioner-before-tpc.pdf ("[W]e estimate that every $1 invested in the IRS budget produces $4 in revenue. The cumulative effect of the cuts in enforcement personnel since Fiscal 2010 is an estimated $7-8 billion a year in lost revenue for the government.").
[15] IRS, *The Agency, its Mission and Statutory Authority*, https://www.irs.gov/about-irs/the-agency-its-mission-and-statutory-authority (last visited Oct. 10, 2020).
[16] *See* Congressional Budget Office, *Trends in the Internal Revenue Service's Funding and Enforcement* 1 (July 8, 2020), https://www.cbo.gov/publication/56467 ("Appropriations for the IRS have fallen by a total of about 20 percent in real (inflation-adjusted) dollars between 2010 and 2018. With the exception of 2016, real appropriations have consistently fallen below the previous year's level over that period.").
[17] *See id.* at 10 Fig. 6 (showing 2008 through 2018).
[18] *Id.* at 1.
[19] IRS DATA BOOK 22 tbl. 9a (2010), https://www.irs.gov/pub/irs-soi/10databk.pdf (returns examined in fiscal year 2010).
[20] IRS DATA BOOK (2019), *supra* note 3, at 45 tbl. 17b (returns examined in fiscal year 2019).
[21] IRS DATA BOOK (2010), *supra* note 19, at 22 tbl. 9a (statistics for "Corporation income tax returns, except Form 1120–S, total"; returns examined in fiscal year 2010).
[22] IRS DATA BOOK (2019), *supra* note 3, at 45 tbl. 17b (statistics for "Corporation income tax returns, except Form 1120–S, total"; returns examined in fiscal year 2019).

[23] Congressional Budget Office, *supra* note 16, at 1.
[24] IRS DATA BOOK (2010), *supra* note 19, at 22 tbl. 9a (returns examined in fiscal year 2010).
[25] IRS DATA BOOK (2019), *supra* note 3, at 45 tbl. 17b (returns examined in fiscal year 2019).
[26] *Compare* IRS DATA BOOK (2010), *supra* note 19, at 22 tbl. 9a (returns examined in fiscal year 2010) *with* IRS DATA BOOK (2019), *supra* note 3, at 45 tbl. 17b (returns examined in fiscal year 2019).
[27] IRS DATA BOOK (2010), *supra* note 19, at 22 tbl. 9a (returns examined in fiscal year 2010).
[28] IRS DATA BOOK (2019), *supra* note 3, at 45 tbl. 17b (returns examined in fiscal year 2019).
[29] IRS PUB. 5364, *Tax Gap Estimates for Tax Years 2011–2013* 4 (Sept. 2019), https://www.irs.gov/pub/irs-pdf/p5364.pdf.
[30] Treas. Inspector Gen. for Tax Admin., *Returns With at Least One Schedule C Reporting No Income and Substantial Schedule C Losses Pose Significant Compliance Risk* 1 (Sept. 28, 2020), https://www.treasury.gov/tigta/auditreports/2020reports/202030056fr.pdf. The report covered tax years 2013 through 2017. *Id.*
[31] *Id.* at 6.
[32] *Id.* at 10 (Recommendation 1). As worded, the IRS's response does not seem to address the context of taxpayers with more than one Schedule C that together produce over $100,000 in losses.
[33] *Id.* at 20 ("Our various workload selection methodologies identify the most productive returns for examination while balancing coverage and other non-compliance objectives. We do not believe there is justification to commit significant additional resources to this population based on the non-statistical results of the 2016 CIP, which was conducted before our implementation of revised algorithms and methodologies for improving the selection of returns for examination.") (Aug. 25, 2020 Memorandum for Michael E. McKenney, Deputy Inspector General for Audit, from Eric C. Hylton, Commissioner, Small Business/Self-Employed Division, Attachment).
[34] *Id.* at 19 (Aug. 25, 2020 Memorandum for Michael E. McKenney, Deputy Inspector General for Audit, from Eric C. Hylton, Commissioner, Small Business/Self-Employed Division).
[35] Treas. Inspector Gen. for Tax Admin., *High-Income Nonfilers Owing Billions of Dollars Are Not Being Worked by the Internal Revenue Service* 31 (May 29, 2020), https://www.treasury.gov/tigta/auditreports/2020reports/202030015fr.pdf (May 7, 2020 Memorandum for Michael E. McKenney, Deputy Inspector General for Audit, from Eric C. Hylton, Commissioner, Small Business/Self-Employed Division).
[36] Treas. Inspector Gen. for Tax Admin., *High-Income Nonfilers Owing Billions of Dollars Are Not Being Worked by the Internal Revenue Service* 1 (May 29, 2020), https://www.treasury.gov/tigta/auditreports/2020reports/202030015fr.pdf.
[37] Leandra Lederman, *The IRS, Politics, and Income Inequality*, 150 TAX NOTES 1329, 1332 (Mar. 14, 2016). *See also* John A. Koskinen, *Prepared Remarks of John A. Koskinen, Commissioner Internal Revenue Service Before The Urban-Brookings Tax Policy Center, Washington, D.C.* 2 (Apr. 8, 2015), https://www.taxpolicycenter.org/sites/default/files/alfresco/publication-pdfs/2000180-prepared-remarks-of-irs-commissioner-before-tpc.pdf ("The cumulative effect of the cuts in enforcement personnel since Fiscal 2010 is an estimated $7-8 billion a year in lost revenue for the government. As some have called it, this amounts to a tax cut for tax cheats.").
[38] Congressional Budget Office, *supra* note 16, at 1.
[39] *Id.* ("CBO's estimates are subject to considerable uncertainty and only capture the direct effect of enforcement activities.").
[40] *See* Natasha Sarin & Lawrence Summers, *CBO Recognizes, but Understates, Potential of Tax Compliance Efforts*, 168 TAX NOTES FED. 443, 448 (July 20, 2020) (making "more optimistic assumptions," that include a deterrence effect); *see also* Charles O. Rossotti & Fred L. Forman, *Recover $1.6 Trillion, Modernize Tax Compliance and Assistance: The How-To*, 168 TAX NOTES FED. 1961 (Sept. 14, 2020) (making a comprehensive proposal that includes more use of third-party reporting and better use of technology).
[41] IRS PUB. 5364, *supra* note 29, at 7.

[42] *Id.*
[43] *Id.* This category [i]ncludes pensions & annuities, unemployment compensation, dividend income, interest income, taxable Social Security benefits." *Id.* at 7 n.4.
[44] *Id.* This category "[i]ncludes partnership/S corp. income, capital gains, alimony income." *Id.* at 7 n.5.
[45] *Id.* "[i]ncludes nonfarm proprietor income, other income, rents and royalties, farm income, Form 7497 income." *Id.* at 7 n.6.
[46] *See* Leandra Lederman, *Statutory Speed Bumps: The Roles Third Parties Play in Tax Compliance*, 60 STAN. L. REV. 695, 697 (2007) (analogizing to a red-light camera).
[47] *See* Leandra Lederman, *Reducing Information Gaps to Reduce the Tax Gap: When Is Information Reporting Warranted?*, 78 FORDHAM L. REV. 1733, 1736 (2010).
[48] *See id.* at 1752-53 (pointing out problems with such an approach).
[49] Susan Morse, Stewart Karlinsky & Joseph Bankman, *Cash Businesses and Tax Evasion*, 20 STAN. L. & POL'Y REV. 37, 37 (2009) ("Underpayment of tax on business income is commonly attributed to the receipt of cash.").
[50] *See, e.g.*, *id.*, at 39-40 ("Cash income represents one extreme of an income visibility spectrum while income subject to third-party reporting or withholding occupies the other end."); Dina Pomeranz, *No Taxation Without Information: Deterrence and Self-Enforcement in the Value Added Tax*, 105 AM. ECON. REV. 2539, 2541 (2015) (finding a positive effect of paper trails with respect to the Value Added Tax in Chile).
[51] I.R.C. § 67(a) ("In the case of an individual, the miscellaneous itemized deductions for any taxable year shall be allowed only to the extent that the aggregate of such deductions exceeds 2 percent of adjusted gross income.").
[52] *See* I.R.C. § 67(g) ("Notwithstanding subsection (a), no miscellaneous itemized deduction shall be allowed for any taxable year beginning after December 31, 2017, and before January 1, 2026.").
[53] IRS, *The Agency, Its Mission and Statutory Authority*, *supra* note 15.
[54] *See* IRS, *New IRS Mission Statement Emphasizes Taxpayer Service* 2, https://www.irs.gov/pub/irs-news/ir-98-59.pdf ("The final mission statement underscores the agency's efforts to help individuals while ensuring that all taxpayers are served the by agency's commitment to apply the law fairly to all.").
[55] Charles O. Rossotti, *Modernizing the IRS*, 53 ADMIN. L. REV. 615, 617 (2001) (emphasis in original).
[56] *Id.*
[57] *See* Janet Novack, *Are You a Chump?*, FORBES 125 (Mar. 5, 2001) ("'[H]ow can the IRS assure folks who are paying their fair share that they're not chumps?'") (quoting former IRS Commissioner Lawrence B. Gibbs).
[58] *See, e.g.*, Russ Buettner, Susanne Craig & Mike McIntire, *The President's Taxes: Long-Concealed Records Show Trump's Chronic Losses And Years of Tax Avoidance*, N.Y. TIMES (Sept. 27, 2020), https://www.nytimes.com/interactive/2020/09/27/us/donald-trump-taxes.html; David Leonhardt, *18 Revelations From a Trove of Trump Tax Records*, N.Y. TIMES (Sept. 27, 2020), https://www.nytimes.com/2020/09/27/us/trump-taxes-takeaways.html.
[59] Denvil Duncan & Klara Sabirianova Peter, *Unequal Inequalities: Do Progressive Taxes Reduce Income Inequality?*, 23 INT. TAX & PUB. FIN. 762, 781 (2016) ("As predicted, we find that PIT [(Personal Income Tax)] progressivity reduces observed inequality in reported net income and show that this negative effect on observed income inequality is particularly strong in countries with more developed democratic institutions.").
[60] *See id.* at 764 ("We show that the differential effect of progressivity on inequality in income versus consumption is increasing with weaker legal institutions that can trigger a large tax evasion response. We find that weaker law and order is associated with significantly smaller negative (and sometimes even positive) effects of progressivity on inequality in consumption.").
[61] *See* Lederman, *supra* note 37, at 1332.