

United States Senate

WASHINGTON, DC 20510

October 5, 2015

The Honorable Mitch McConnell
Majority Leader
S-230, US Capitol
Washington, DC 20510

The Honorable Harry Reid
Democratic Leader
S-221, US Capitol
Washington, DC 20510

The Honorable John Boehner
Speaker of the House
H-232, US Capitol
Washington, DC 20515

The Honorable Nancy Pelosi
Democratic Leader
H-204, US Capitol
Washington, DC 20515

Dear Majority Leader McConnell, Democratic Leader Reid, Speaker Boehner, and Democratic Leader Pelosi:

We, the undersigned Senators, ask that you oppose including language requiring the Secretary of Treasury to contract with private collection agencies (PCAs) to collect taxes as an offset to any legislation negotiated by the House and Senate. Such language was included in the six-year highway funding extension bill approved by the Senate on July 29 despite the objections and concerns previously raised by the undersigned Senators, the Administration, the National Taxpayer Advocate, and a coalition of civil and consumer rights groups.

We are concerned by projections that the use of PCAs will bring in \$2.5 billion in revenue.¹ We believe that such estimates, which do not take into account factors like administration costs, are unrealistic, and that the use of PCAs will actually result in a loss of revenue to the federal government. Indeed, every previous attempt to use PCAs to collect taxes have resulted in a loss to the federal government despite projections that their use would generate billions in unpaid taxes. The 1996 pilot program was projected to raise \$27.5 million according to the U.S. Treasury. However, the pilot program actually resulted in a \$3 million loss to taxpayers.

During the most recent attempt, extending from 2006-2009, the IRS awarded contracts to PCAs to collect on low-priority cases the IRS would otherwise not be able to pursue due to limited resources. This effort was projected to raise more than \$2 billion in revenue. Instead, it resulted in the Treasury collecting \$63.4 million in revenue while accruing total costs of \$67.8 million, a loss of \$4.4 million to the federal government.

¹ From FY 2015 to FY 2025, the use of PCAs to collect tax debt is expected to generate gross revenue of approximately \$5.0 billion. Pursuant to the PCA provision in the DRIVE Act and Internal Revenue Code section 6306(c), up to 25 percent of the amounts collected by PCAs may be retained to compensate PCAs for their services, and up to 25 percent of such amounts are dedicated to a special compliance personnel program in the IRS. Thus, the net revenue available under the PCA provision is projected to be approximately \$2.5 billion.

In addition to being a fiscally dubious proposition, we are concerned that using PCAs to collect taxes will jeopardize taxpayer rights. The last attempt to turn over tax collection to PCAs resulted in contractor fines totaling thousands of dollars. In fact, in one instance these violations led to one of the contracts being terminated. Furthermore, allowing contractors to collect taxes on a commission basis incentivizes aggressive collection tactics and minimizes due process in order to maximize profits.

We also believe this latest attempt to turn over tax collection to private contractors will unfairly target low-income taxpayers. IRS employees, unlike the PCAs, have a variety of tools at their disposal with which they can help delinquent taxpayers meet their tax obligations, especially those facing financial difficulties. These include the ability to postpone, extend or suspend collection activities for limited periods of time; making available flexible payment schedules that provide for skipped or reduced monthly payments; the possibility of waiving late penalties or postponing asset seizures and Offers In Compromise (OICs), an agreement between a struggling taxpayer and the agency that settles a tax debt for less than the full amount owed.

In contrast, the PCA's sole interest is to collect from a taxpayer the balance due amount they have been provided. They have no interest in whether the taxpayer owes other taxes or may not have filed required returns. They cannot provide any advice or use the tools IRS employees have, such as extensions or OICs. This is a model that will have little efficacy with many of the IRS's most problematic collection cases. After analyzing collection data for FY 2013, the IRS found that 79 percent of the cases that fall into the "inactive tax receivables" category involve taxpayers with incomes below 250 percent of the federal poverty level. Thus, nearly four-fifths of these taxpayers are almost surely in the "can't pay" category and cannot make payments when contacted by a PCA. Not only are these low-income taxpayers more vulnerable to aggressive or abusive PCA representatives, but by working with PCAs, they are given less options for actually meeting their tax obligations.

Subjecting taxpayers that are struggling to make ends meet and can't afford legal representation to private contractors whose sole motivation is to maximize their own profits at the taxpayers' expense is a questionable proposition that undermines taxpayer rights, places a bulls-eye on the back of low income taxpayers, and has historically lost taxpayer dollars every time it has been attempted. For these reasons, we strongly urge you to reject offsetting the cost of any final highway funding measure—or of any future legislation—by permitting PCAs to collect taxes on a commission basis.

Thank you for your consideration of this important matter.

Sincerely,



Sherrod Brown
United States Senator



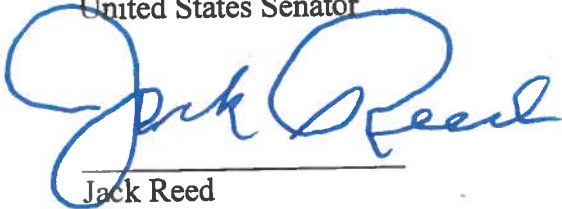
Ron Wyden
United States Senator



Edward J. Markey
United States Senator



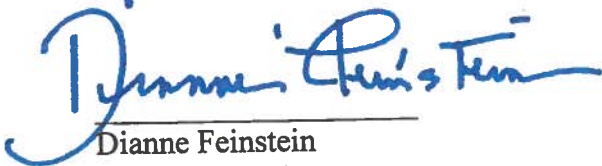
Al Franken
United States Senator



Jack Reed
United States Senator



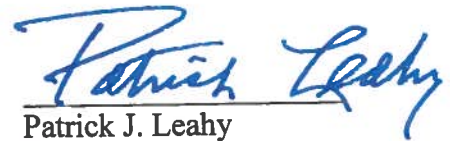
Elizabeth Warren
United States Senator



Dianne Feinstein
United States Senator



Benjamin L. Cardin
United States Senator



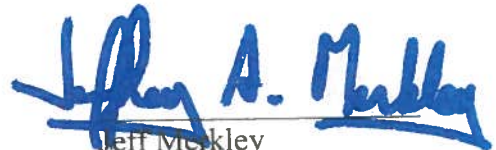
Patrick J. Leahy
United States Senator



Bernard Sanders
United States Senator



Sheldon Whitehouse
United States Senator



Jeff Merkley
United States Senator



Tom Udall
United States Senator



Barbara A. Mikulski
United States Senator

A handwritten signature in blue ink that reads "Robert Menendez". The signature is stylized with a large, looping "R" and a trailing flourish.

Robert Menendez
United States Senator

A handwritten signature in blue ink that reads "Bill Nelson". The signature is written in a cursive style with a long, sweeping underline.

Bill Nelson
United States Senator