Charge and Response

The Issue: The Biden Administration has proposed a sweeping new information reporting requirement on annual gross inflows and outflows of financial accounts. If enacted, this proposal would require financial institutions to report to the IRS account information on nearly every American that has a bank account.

Charge: This proposal will not affect most Americans.

Response: The vast majority of accounts held at financial institutions would be captured by this reporting requirement. The proposal requires reporting on accounts with a gross flow threshold of $600 – both in and out of the account – (e.g., $300 deposit and $300 withdrawal). Therefore, virtually every American who has a bank account would be captured by this new requirement.

Despite claims that this proposal would not require financial institutions to track specific transactions, proposed exemptions to this reporting requirements that have been reported publicly as under consideration by policymakers would in fact complicate the collection process even more by requiring financial institutions to track certain types of exemptions. This requirement would require banks and credit unions to determine whether the money flowing in and out of an account to another account is owned by the same owner, is going into a foreign account or whether the funds moving in and out is in cash.

Charge: This proposal targets wealthy Americans who do not pay what they owe in taxes.

Response: Whether the de minimis threshold is $600, $10,000 or even $100,000, it would capture the accounts of millions of consumers and small businesses. Because the proposal is based on the amount of money that goes in and out of an account over the course of an entire year, an individual making minimum wage would easily be captured at a $10,000 threshold. Further, a consumer or small business that makes $50,000 or more after taxes could be captured by this proposal assuming a $100,000 threshold (roughly $50,000 in and $50,000 out), adding an extra layer of surveillance for the 99% of Americans that pay the taxes they owe. This does not align with the Biden Administration's goal of "targeting enforcement actions where they belong: on higher earners who do not fully report their tax liabilities."[1]

Charge: The IRS reporting requirement would "simply" require financial institutions to add two pieces of information on Form 1099-INT.

Response: This reporting would significantly expand Form 1099 reporting to include millions of accounts not currently subject to reporting. The information reported is more than two new boxes; each Form 1099 contains highly personal information, including the account holder's name, address, and taxpayer identification number.

Additionally, banks and credit unions do not track transactions between accounts with the same owners, to foreign accounts, or in physical cash for tax information reporting purposes. On interest-bearing accounts, banks report to their customers and to the IRS the interest that is

[1] https://home.treasury.gov/news/featured-stories/the-case-for-a-robust-attack-on-the-tax-gap

earned or paid if it is at least $10. The interest that is reported on 1099-INT is typically includible in gross income. In contrast, this new reporting requirement would include amounts that are not indicative of income.

Financial institutions, and in particular smaller financial institutions that rely on third-party vendors, would also have to bear significant costs to design and build new systems to aggregate and organize the data that they have on all accounts, no matter the size of the account.

Charge: This proposal would only add costs to financial institutions, not to taxpayers.

Response: Given this new information will be used specifically for audit detection, it is highly likely that new tax preparation procedures will be needed, resulting in additional costs to taxpayers. These new costs will likely hit small business owners hard, as both personal and business transactions are often conducted within the same bank account. Tax preparation professionals would also be required to review this additional information and produce explanations related to the differences between reported income and the bank account information.

Charge: Financial institutions already report financial transactions over $10,000, so setting the reporting threshold at that level would eliminate additional reporting burden and ease privacy concerns.

Response: No similar reporting system to the one proposed by the Administration currently exists. Banks and credit unions currently report deposits, withdrawals, exchange of currency or other payment or transfer in currency over $10,000 in a single day (or over multiple days if conducted to evade reporting requirements) to the Financial Crimes Enforcement Network to help prevent money laundering and other financial crime. There is nothing inherently suspicious about having more than $10,000 move through your financial account over the course of an entire year. That type of general account surveillance is unprecedented and deeply concerning.

Charge: The IRS is well positioned to securely handle this additional data reporting.

Response: The GAO found that the "IRS's ability to process and use information returns is limited by its outdated legacy information technology (IT) systems," and that the "IRS does not have a coordinated approach with cross-agency leadership that strategically considers how information reporting could be improved to promote compliance with the tax code."[2] Further, the IRS experiences 1.4 billion cyberattacks annually, has had multiple data breaches, and continues to deal with the fallout of identity theft and false tax returns. When all is said and done, the IRS is not able to adequately process all the information it already receives, and it has proven that it has issues protecting the data that it already has. Providing the IRS even more information on American taxpayers will only further expose them to cyber attacks and data breaches.

[2] GAO Report to Congress, "Better Coordination Could Improve IRS's Use of Third-Party Information Reporting to Help Reduce the Tax Gap," December 2020. https://www.gao.gov/assets/720/711468.pdf