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40 Washington Sq. South, New York, NY 10012

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Commissioner Charles Rettig

Internal Revenue Service

1111 Constitution Ave. NW, Washington, DC 20224

Dear Commissioner Rettig,

The Tax Law Center at NYU Law is a public interest initiative that seeks to improve the integrity of the tax system. Our staff of tax law experts includes those with experience across tax administration, private practice, and the tax legislative process.

We corresponded previously about the Internal Revenue Service Advisory Council (IRSAC) application process for 2022. I wanted to thank you again for taking the time to respond to our letter on this matter, and for appointing several new members to the IRSAC whose experiences reflected many of our recommendations.

The IRS is currently selecting the next cohort of Electronic Tax Administration Advisory Committee (ETAAC) members for three-year terms beginning in September 2022. We appreciate that the IRS has encouraged applications from “people representing the viewpoints of average taxpayers, including consumer advocates and others with an interest in tax issues.”

Consistent with that call for applications, we recommend, as the IRS reviews applications, strongly prioritizing the selection of ETAAC applicants with expertise on the barriers that low- and moderate-income families face to electronically filing their federal tax returns and claiming refundable credits. We also recommend prioritizing the selection of applicants that understand the intersections between racial equity and access to technology.

Currently, only 2 out of 23 members have emphasized in their [ETAAC biographies on the IRS website](#) substantial experience working directly with or advocating on behalf of low- and moderate-income tax filers, both through service as VITA site coordinators.

Preventing identity theft and refund fraud are crucial objectives to ensure that low-income families can access the refundable credits to which they are entitled, especially because identity theft and losing access to tax refunds can be more costly and distressing to those with limited financial resources. However, these objectives must be pursued without creating unnecessary and unequal obstacles for low-income families and people of color. For example, a substantial body of research has found that facial recognition algorithms are more likely to misidentify Black, Asian, and American Indian people than white people. These disparities are a major reason that civil rights advocates recommended that the IRS terminate its contract with ID.me. Furthermore, low-income people are more likely to experience challenges with identity verification software – including ID.me – because of limited access to smartphones, computers, and certain government documents. Applicants with a deep understanding of how electronic tax administration decisions can either create, or deconstruct, barriers to tax filing for underserved communities would add

critical value to ETAAC and offer insight on best practices for building accessible and equitable online tax filing platforms.

As you know, it will be especially important to have ETAAC members that have experience with online platforms serving low-income families if the monthly Child Tax Credit and Earned Income Tax Credit expansions are extended for additional years under the Build Back Better Act. The IRS will need expertise on best practices for electronic benefit delivery to ensure that the refundable credits are reaching as many eligible families as possible.

The IRS and Treasury should also ensure that ETAAC's membership reflects the richness of racial, ethnic, gender, and other identities found among the American taxpayers they serve and that ETAAC is inclusive along all lines of difference. This goal is aligned with [ETAAC's charter](#), which calls for a "diverse and balanced membership."

We consider it highly appropriate to appoint applicants who fulfill the characteristics above, even if they have never worked for a business that provides paid tax preparation, accounting, or payroll services. The perspectives that members with such backgrounds provide are valuable, but the IRS and Treasury should also look beyond this profile to ensure that ETAAC includes all important perspectives on tax administration. For example, staff members at community-based organizations, government agencies that provide social services, technology nonprofits, and other organizations outside of paid tax law or accounting practice have important insight into the barriers low-income families face to accessing services electronically. Similarly, the IRS and Treasury should also consider accepting early- to mid-career applicants to ETAAC, who may bring different perspectives and insights on the tax system that would complement the deep experience of members who have served in more senior roles.

Heavily weighting the considerations outlined above when selecting the next cohort of ETAAC members would be consistent with Executive Order 13985 (EO 13985), which asks federal agencies to pursue equity, meaning "consistent and systematic fair, just, and impartial treatment of all individuals," including those in various underserved communities as outlined by EO 13985.

The IRS should have substantial flexibility to nominate several candidates meeting the criteria above, as [the public announcement](#) for ETAAC's 2022 application cycle notes that there are up to 10 positions available. Furthermore, if the IRS finds that it did not receive applications that allow it to meet these goals, we strongly recommend re-opening the application window until a diverse pool of candidates with substantial experience serving low-income families has applied.

Please feel free to reach out to us if you have any questions about our comments above. Thank you for your consideration.

Sincerely,



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CC: Melvin Hardy