



February 11, 2020

The Honorable Richard Neal  
1102 Longworth House Office Building  
Washington D.C. 20515

The Honorable Kevin Brady  
1139 Longworth House Office Building  
Washington D.C. 20515

Dear Chairman Neal and Ranking Member Brady:

On behalf of the National Taxpayers Union (NTU), I write to express our strong opposition to the “Transparency in Health Care Investments Act of 2020” (H.R. 5825).<sup>1</sup> This legislation would require private businesses to share significant and sensitive information with the Internal Revenue Service (IRS), make that information immediately available for public consumption without effective due process for affected taxpayers, and levy onerous penalties of up to \$1 million per return for incomplete or incorrect information. It represents a political pursuit of private entities rather than a serious attempt at policymaking. The proposal would inflict serious collateral damage throughout the system tax administration and dispute resolution that Members of Congress recently came together in bipartisan fashion to reform. We urge the Chairman to withdraw this legislation, or for the Committee to otherwise reject it at the markup stage.

The Transparency in Health Care Investments Act takes an expansive view both of which investors are required to file additional forms with the IRS and of what information these investors need to provide to the agency. Any person who “holds an interest in” a specified medical care provider, “controls” such provider, and “receives any service from any person engaged in an applicable trade or business” would have to file this new return. The person would have to provide a long list of sensitive business information to the IRS, including gross receipts from Medicare, Medicaid, private health insurers, and “any receivable”; all real estate assets; payments to related persons; and *any* “other information as the Secretary [of the Treasury] may reasonably require.”

The fines for incomplete or incorrect information are exorbitant, set at \$5,000 a day, with penalties reaching up to \$1 million. The bill does not appear to provide any safe harbor for incomplete or incorrect information furnished by mistake. This means that a person or entity who commits an error on their return, with no malicious intent, could still be on the hook for thousands of dollars in IRS penalties. To make matters worse, the legislation does not apply deficiency procedures under Subchapter B of Chapter 63 of the Internal Revenue Code to these new and required tax returns. The deficiency procedures are a critical protection for taxpayers, especially for a new policy that has massive potential for harm to business reputations, bureaucratic maladministration by the Service, and even intentional abuse on the part of the government. Because of the penalty's "assessable" nature, a taxpayer would be forced to pay it in full before having any right to legal challenge, effectively depriving all but those with the most substantial means from being able to avail themselves of collection due process. The extraordinary (and in our belief untenable) burdens this legislation places on taxpayers ought to have demanded more serious thought about procedural safeguards for directly

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<sup>1</sup> “Markup of Health Legislation.” Ways & Means Committee, February 10, 2020. Retrieved from: <https://waysandmeans.house.gov/legislation/markups/markup-health-legislation-0> (Accessed February 10, 2020.)

affected taxpayers, let alone the implications for millions of other Americans in other situations who could suffer because of this unwarranted expansion of IRS authority. As NTU has testified before the Oversight Subcommittee these past several years, tactics that the tax agency is permitted to use in one setting (e.g., information document requests and summons powers) are often wielded to the detriment of taxpayer rights throughout the system.

Finally, we must warn of the dangerous precedent we believe this legislation would set. Allowing policymakers to craft legislation that targets one political interest could very well open the floodgates to future legislators and regulators doing the same. Businesses, trade associations, non-profits, advocacy and interest groups, think tanks - these could all become IRS targets in the future if this legislation is allowed to advance to the President's desk.

After so much bipartisan cooperation over several Congresses involving both Democratic and Republican Chairs over salutary reforms like those contained in the Taxpayer First Act (TFA), it is particularly disheartening to see a proposal such as H.R. 5825 originating in the very Committee that fostered this comity in the first place. As an eager participant in the proceedings that led to enactment of TFA barely half a year ago, NTU strongly urges you to reverse course and withdraw this bill. Otherwise, we urge the Committee to soundly reject the legislation at the markup stage, and on the floor of the House if it reaches that point. Thank you for your consideration, and should you have any questions, I am at your service.

Sincerely,

Pete Sepp  
President, National Taxpayers Union

CC: The Honorable John Lewis  
The Honorable Lloyd Doggett  
The Honorable Mike Thompson  
The Honorable John Larson  
The Honorable Earl Blumenauer  
The Honorable Ron Kind  
The Honorable Bill Pascrell  
The Honorable Danny Davis  
The Honorable Linda Sanchez  
The Honorable Brian Higgins  
The Honorable Terri Sewell  
The Honorable Suzan DelBene  
The Honorable Judy Chu  
The Honorable Gwen Moore  
The Honorable Dan Kildee  
The Honorable Brendan Boyle  
The Honorable Don Beyer  
The Honorable Dwight Evans  
The Honorable Brad Schneider  
The Honorable Tom Suozzi

The Honorable Jimmy Panetta  
The Honorable Stephanie Murphy  
The Honorable Jimmy Gomez  
The Honorable Steven Horsford  
The Honorable Devin Nunes  
The Honorable Vern Buchanan  
The Honorable Adrian Smith  
The Honorable Kenny Marchant  
The Honorable Tom Reed  
The Honorable Mike Kelly  
The Honorable George Holding  
The Honorable Jason Smith  
The Honorable Tom Rice  
The Honorable David Schweikert  
The Honorable Jackie Walorski  
The Honorable Darin LaHood  
The Honorable Brad Wenstrup  
The Honorable Jodey Arrington  
The Honorable Drew Ferguson  
The Honorable Ron Estes