

# What Tools Does the IRS Need to Reduce the Tax Gap?: Transcript

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The federal tax gap – the difference between all U.S. taxes owed and taxes paid – may be as high as \$1 trillion per year. The Biden administration has proposed to recoup some of that revenue by spending more on IRS enforcement. But what are the tradeoffs to consider, and how should policymakers close the tax gap while still encouraging voluntary compliance by the vast majority of taxpayers?

In [a July 28 “Taxing Issues” webinar](#), Nina Olson of the [Center For Taxpayer Rights](#) and Fred Goldberg with [Shrink the Tax Gap](#) joined Tax Analysts president and CEO Cara Griffith to explore the challenges the IRS faces and some innovative possible solutions.

CARA GRIFFITH : Welcome everyone. I'm Cara Griffith, the president and CEO of Tax Analysts. I'm so pleased that you've joined us for this discussion on an issue that continues to make headlines: the tax gap and its relationship to IRS funding.

Today's event is the 11th in Tax Analysts' series of public discussions that we call Taxing Issues. We launched this series in 2020 as part of our 50th anniversary celebration, and through it, we're bringing the tax community together with leading policy makers and experts for bipartisan discussions on the future of tax policy.

While I hope that we can hold in-person events in the near future, we will, for now, continue to hold these discussions in a virtual format, and we welcome your feedback on how to make them more interactive. We also welcome your suggestions on future webinar topics. You can send your feedback and suggestions to [events@taxanalysts.org](mailto:events@taxanalysts.org). We also welcome your questions for today's event. Thank you to those that emailed their questions in advance. Please use the chat feature to submit questions during today's event. For our panel discussion, I will begin by asking a few questions, and then I will turn to questions from you, our audience, and I promise to get to as many of your questions as time permits.

And now, on to the topic at hand. IRS Commissioner Chuck Rettig made news this spring when he told the Senate Finance Committee that the tax gap, that is the difference between what taxpayers owe and what they actually pay, could be \$1 trillion or more a year. That estimate is

well above previous estimates, which were closer to \$440 to up to \$630 billion.

Now, whatever is the right figure, it's hard to argue with the idea of reducing the tax gap. There are numerous contributing factors to the overall tax gap, with individual income tax reporting the largest piece of the overall pie. Collecting taxes that are already owed should be an easy way to raise more revenue without having to change the tax code.

But the issue of how to collect more taxes has been controversial with some lawmakers and taxpayers. Individuals who mainly have W-2 income generally comply with the rules when they do their taxes, but compliance is much lower for businesses and for those who have income from investments and non-labor sources. So that being said, it's not that easy for businesses and high-income individuals to comply with the complicated rules that they face. And let's remember, non-compliance is not the same as willful tax evasion.

When it comes to reducing the tax gap, one important issue is how much information the IRS is already getting from taxpayers, and how much more it needs to raise compliance rates. For example, should the IRS receive information on bank withdrawals and deposits, which might give the IRS a better picture of a taxpayer's true income, or is that an invasion of privacy?

The IRS would also need to analyze any additional information that it receives, and that requires a greater investment in technology and customer service. Would the President and Congress make that investment in the IRS?

Over the last decade, as I'm sure most of you know, presidents and congresses have cut the IRS budget significantly. The Center on Budget and Policy Priorities says that the IRS budget is down nearly 20%, in inflation-adjusted terms, since 2010. Not surprisingly, that has led to big staff cuts. The number of revenue agents has shrunk by 39%, and it's now at levels that we haven't seen since 1954. That, in turn, has significantly reduced audit rates. In fact, audits of millionaires fell by 71% between 2010 and 2019.

While the IRS's budget and staff have shrunk, its work has only grown. The number of individual income tax returns is at 7% since 2010. And since then, the IRS has assumed new responsibilities to implement the Foreign Account Tax Compliance Act, the Affordable Care Act, and of course, the Tax Cuts and Jobs Act. To help pay for an infrastructure package, President Biden proposed to increase the IRS budget by 80 billion over 10 years. That would enable the IRS to hire 5,000 new enforcement agents, which the administration said would focus on auditing large corporations and high-income individuals. The administration estimates that would raise 700 billion over 10 years.

But earlier this month, Senate Republicans, who are negotiating the infrastructure package with Senate Democrats and the White House, forced President Biden to drop his plan to finance it through higher IRS funding. That means Democrats will likely include the higher IRS funding in a larger Democrat-only economic recovery package that they would pass under the fast-track reconciliation process. So where does that leave the issue of the tax gap and IRS funding? Well, to help us sort it out today, we have two preeminent voices in the debate.

First, we have Nina Olson. Nina is the founder and Executive Director of the [Center for Taxpayer Rights](#), a group that focuses on the awareness and protection of taxpayer rights. But as we all remember, Nina served as the National Taxpayer Advocate for 18 years, and she

often focused on issues related to tax compliance and the IRS budget.

Next, we have Fred Goldberg. As most of you know, Fred has a wealth of public and private sector experience. He was IRS Commissioner, the IRS Chief Counsel, and the Assistant Treasury Secretary for Tax Policy. Fred is currently of counsel with Skadden, and is also part of a non-profit group called [Shrink the Tax Gap](#).

So Nina, you recently testified before Congress on this issue. In your remarks, which there are links for in the viewing page, you note that closing the tax gap is a monumental task, but it's a task that we must undertake. You also caution against allowing the focus on increased enforcement to come at the expense of taxpayers' service and taxpayer rights. Can you walk us through what you mean by that?

**NINA OLSON:** Yes. Thank you, Cara, and thank you for having this call today, this session today.

You mentioned in your opening that tax non-compliance does not mean tax evasion, and I think that that's very important. We can't equate the tax gap with tax evasion. There are many reasons why people do not comply with the law that go anywhere from they simply don't have the money, they've had some kind of a setback, which many people experience as a result of the coronavirus or a natural disaster, or just making bad business decisions, or being in a bad industry that tanks because of conditions outside of your control. Having an illness.

And then there are on the other end of the spectrum people who are actively literally trying to evade the law as opposed to avoid minimizing their taxes. And any approach to the tax gap has to take into consideration all of those factors, that whole continuum of rationale. Because if you approach the tax gap and take measures against the tax gap over-reaching and using the wrong approach, you will actually exacerbate the tax gap. People will take self-help measures, they will do what's called in the economic and psychological literature loss repair. And so you have to really be careful about that.

And the other side of that is that at any time that the IRS reaches out, it is going to also generate some service needs, that taxpayers have due process rights, they have the requirement to be notified about what is expected of them and then given an opportunity to challenge the government's position. And that's anywhere from just sending them a mere notice during a math error, to an audit, to a collection action.

And so as we focus on the decline of revenue agents and revenue officers, if we don't equally focus on the decline of taxpayer advocate employees or people on the phone who are answering only between 5% to 15% of the calls that come in, which is disgraceful, or people not being able to work in the error resolution unit that resolves errors that show up on returns, all of those things have an eroding effect on people's willingness to comply with the law. And the last point I also make on this is a really stunning figure, that the IRS does collect about \$3.6 trillion in revenue a year. But of that \$3.6 trillion dollars, according to the IRS's own statistics of income, less than 2% of that is brought in as a result of direct enforcement action, namely a revenue agent, a revenue officer, an appeals officer, somebody doing something on the enforcement side.

All the rest comes in by either the indirect effect of knowing that the IRS could audit you or something, but also the fact that taxpayers are willing to comply voluntarily, and part of the reason why they're willing to comply voluntarily is that they believe that they will be trusted, they will be treated properly if they make a mistake, or they can get the advice and assistance they need. And as we erode that over time by eroding taxpayer service, we really risk increasing the tax gap by converting people who are trying to comply into people who are not able to comply and are not going to comply because of the way they've been treated.

**GRIFFITH:** Thanks, Nina. I always, without question, learn something when I listen to you. I had no idea that such a small number really was brought in by audit and enforcement -- which means such a large number then really is voluntary compliance, which is remarkable. [I'll have a] couple of follow-up questions.

But first before I get into that, Fred, as I mentioned earlier, you're part of a non-profit group called Shrink the Tax Gap, it was started by Charles Rossotti and Fred Forman. The group has a stated purpose of making the federal tax system more equitable by proposing plans to increase compliance and making it faster and easier to interact with the IRS. Could you briefly walk us through the proposal from the group to shrink the tax gap?

**FRED GOLDBERG:** Sure, Cara. And just to be clear, I think the starting point is what the proposal is not, and it's not a question of folks not understanding, those of us who are doing the talking need to be clear. It is not about more money for more audits, that's simply not what the program is about. Second, it's not about funding business as usual. Third, it's not about throwing \$80 billion at the IRS and tell them to go play in the street. It's not about any of those things. The starting point for what it's about builds on what Nina said: The core to our tax system's success and survival is how we treat the vast majority of taxpayers who are doing the best they can to comply with the system. That's what holds it together. And candor matters, the world we live in right now is a world where the IRS is facing an overwhelming inventory, and business as usual isn't gonna get through it.

We're facing a world where more than 130 million working men and women pay what they owe but can't get through to the IRS. That's the reality, and that's where it needs to start, 'cause doing right by working men and women, small businesses trying to get it right, that's the IRS's first obligation, and that's what our proposal's about, that's what the administration's proposal is about.

Now, there is this tax gap. As you mentioned, it's about \$600 billion, and the majority of that number, the vast majority of that number comes from upper-income taxpayers. That's bigger than the total taxes paid by 90% of Americans, that's how big it is. And according to our estimates and the Penn Wharton estimates and the administration's estimates, going forward with a long-term plan will yield around \$1.4 trillion over the next 10 to 15 years. It'll be faster than that, slower than that. \$1.4 trillion is a gigantic number, but it's less than 20% of the tax gap. It's not about business as usual, it's about taking a page from where the private sector has been going for years, which is using data and using technology to do a dramatically better job

on the service side and doing a dramatically better job in selecting which returns to audit and how to audit them.

A 20%-40% no-change rate and more than six months to resolve a routine correspondence audit is a horrible waste of resources, and is just plain unfair to taxpayers. The reality is it's a mess, and it's been a mess that's been in the making for years. And it's not gonna be easy to fix overnight. That's not gonna happen. It requires the kind of long-term investment that the administration has proposed, that we have recommended, to invest in technology, bring in qualified personnel. And it's enhanced information reporting. The 80 billion dollar number is so frustrating, Cara, 'cause that's not the right way to talk about it, just like it's not right to talk about it as if it's more money for more audits.

And for crying out loud, why can't people get it right? Why can't we do a better job of communicating? This is a 6% rate of growth, which is manageable, over 10 years, and at the end of that 10 years the IRS will be smaller and far more able to live up with the reasonable expectations of Congress and the American people. Now, it needs to be accompanied. And I just take my hat off. And Nina has been a champion, advocating for taxpayers. And she's a hero, 'cause that's what she is.

So is Senator Grassley, so is Senator Portman. Lots of folks who committed to that. But it needs to be accompanied by legislated additional taxpayer protections and taxpayer rights. That's what this is always about. And finally, it requires measurable service standards, and it requires measurable compliance goals, because once you measure something, which is what most of us have to live with every day, that permits both Congress and the administration to hold the IRS accountable for what we the people, what the government expects them to deliver. It's not, "Take your power and play in the street," it's "You better deliver." All of this can be done with long-term funding properly invested, recruiting properly done, additional protections of taxpayers, and more information reporting. There's not a question about whether it can be done, the only question is whether it's gonna be done. I'm done.

**GRIFFITH:** That was fascinating. And what I'm hearing from both of you is that it is service first, and if we can get better service, then we can do something about closing the tax gap.

Fred, you mentioned additional taxpayer rights, and Nina, let's turn to you on that. What additional taxpayer rights would be properly legislated into something? Let's say we get additional funding for the IRS and we have the ability to move forward with the proposal, like what Fred outlined, which for those that haven't had the opportunity [to go to the website](#) you really should, it is thoughtful and it changes the way that you think about the tax gap. Rather than we need auditors because we need revenue, it really does lay out a terrific plan. But let's dig into it a little bit. What additional taxpayer rights should be legislated into a proposal like this?

**OLSON:** So what's so interesting about the proposal for Shrink the Tax Gap is its reliance on information, and its moving away from using that information in just a matching environment, because matching and rule-based environments are not going to get you where you need to be,

with the kind of sophisticated transactions that are going on out there, the kind of pattern recognition you really need to do that is being done in tax administrations all over the world today, and in the private sector in their own industries.

And so if you just get more information reporting and you use it as matching, all you're gonna get is the low-hanging fruit, and you're going to have very high false positive rates, which then burdens legitimate taxpayers. And we already have that problem in the IRS's fraud detection system, where it has false positive rates ranging from 60%-81%. And one year there was one rule that they had that had an over 90% false positive rate. And why that rule even existed, I don't know.

So what you need to bring about is a feedback loop, and truly, an artificial intelligence system where you're not having the IRS make up rules and then plow data through, but you're having the system learning from a data set and developing the... Identifying the patterns, and then learning from false positives and false negatives as it goes on and gets smarter and smarter. Now, that brings up, well, how do you use these things? And that's where the protections need to be.

So one thing that I propose, we already have 6201 [d], which requires when the IRS is just doing document matching like automated underreporting, that if a taxpayer has cooperated with the investigation, has brought forward reasonably probative evidence, then the government has to show, and if it gets to tax court, something other than just waving a 1099 and saying, "Okay, you have this income and therefore it's you." The presumption that the government is correct doesn't apply in that instance. And I believe that that protection needs to be brought down at the exam level, that you use information matching to identify those cases that you think are worthy of investigation, but then you have to use your intelligence and other information to say, "These are the ones we really should be looking at." And that is what the Shrink the Tax Gap proposal has been saying all along, it's not for information matching, it's in order to, with a bunch of other information to be able to identify those people we really are concerned about and that we need to go after.

And then I think the other thing about any time you're talking about artificial intelligence is that you have to have protections about biases in data, and that you also are really making sure that there's transparency in the systems themselves, and I know there's proprietary information, but governments are struggling all over the world with this issue about how people can understand what are in these black boxes of algorithms, so that if you get a result, you are not just accepting that result, but you're using it as one more piece of information with which to then with human intelligence, decide how to proceed. You can't take the human being out of it. And so that goes to staffing that the IRS needs to not only, as Fred said, bring in a whole different generation. And by generation I mean in skills of people. But you have to have data scientists and you have to have data ethicists. You have to have people that are thinking deeply about the use of data and the possible misuse of data.

**GRIFFITH:** Fred, I wanna give you a chance just to respond as well.

**GOLDBERG:** Sure, I just I'm such a Nina fan, and Nina and I would be great bartenders 'cause I'm the glass half-full guy always optimistic, and Nina is the glass half-empty person. So she can start with mine, fill it up because there's a... I agree with her comments entirely about the program she is referring to, which is the positive side of that story is the GAO, while making all of the same points Nina made, said the yield on that program was 15 to one, and they recommended using the same kind of artificial intelligence that Nina is referring to elsewhere. And so that's an important point. The administration's return on the... Its funding proposal over 10 years is about three and a half to one. They didn't score technology. Okay. They were scoring business as usual. This is all about not business as usual.

So the upside of the story is the IRS is an incredibly talented organization, they are succeeding with the use of technology. There's a program that is not overly well done, the National Coordinated Investigations Unit, it was launched by a guy named Don Fort at CI using technology that was transforming their enforcement efforts. But as Nina says the other side of this is you're not gonna get it right all the time, and when you do screw up, which will happen, why should it take six months or a year or two years to resolve it?

So when you're talking about taxpayer protections, sunshine and goals is the answer. There's nothing wrong with the Congress holding hearings with the Treasury or Treasury Oversight Board or the IRS itself committing to prompt closure. How can you possibly send a notice to a taxpayer without the resources to respond when the taxpayer gets back to you? Well, that's a standard. And if you have to report how well you're doing it, you're gonna get it right. When Congress passed the law saying get electronic filing up over 80%, what happened? The IRS is an incredibly responsive and capable institution, if it has clear priorities. You can give them that kind of instruction, you can set standards for quality service, you can measure all of this stuff, and if you measure it and report on it, the IRS is gonna deliver. And when they don't, you'll hold them accountable. But that's just another example. Set time targets, close enough cases. That's what taxpayers deserve.

**GRIFFITH:** In many ways, it's like when we do performance reviews, we create SMART goals, which are... I don't remember what the S is, but it's measurable, attainable... These are the things, and this is how we get people to respond to what we wanna do, is that you break it down, you make it into chunks and then you can accomplish it.

We just had a question from the audience, which actually fits well into the conversation that we're having on technology, and it was one that I was wondering in my head, 'cause when you start talking about AI and technology, these are difficult concepts even for the best, most well-funded technology company out there.

So the question is, attempts to upgrade technology at federal agencies have generally exceeded costs and underperformed expectations. How could the IRS do it different and actually have a result where they come out with a system that actually works in a timely fashion, and we move in the direction of getting a system that, I wanna say, that does collect more data and that does crunch more data in a more accurate fashion?

**OLSON:** The commissioner said something really interesting on a program the other day where he said that the same people who are responsible for programming changes to the filing season are the same people who were developing the Child Tax Credit update portal and everything like that. That's the same issue when IRS was given the responsibility to do the Affordable Care Act, the same for FATCA. The same, people are all charged with that. So some of it is that you actually really do have to almost create an entirely separate unit in the IRS that is responsible for doing that major upgrade, and there is business systems modernization in the IRS, but I'm really talking about an entirely separate unit that's just charged with this multi-year changeover of systems, so that the folks that are doing the day-to-day can really focus on the day-to-day and not be pulled off of other projects because another project comes in.

And I think that some of that is educating Congress, understanding you pass legislation, there is an IT component and it can't be absorbed in the normal IRS IT budget or even be absorbed in the business modernization budget, without some things hitting the cutting room floor that were already underway. And part of the reason why the IRS hasn't been able to do it well over the years, and I wanna make very clear that I think it is absolutely a miracle and due only to the dedication of the employees of the IRS that we don't have a collapsed filing season. I mean, they have pulled off a miracle, and they pulled off a miracle last year with the economic impact payments. And so I don't mean this to be critical. I mean this to be realistic, which is that Congress is going to have to factor in the money that is necessary to deliver initiatives. And Congress also has to commit sustained funding to the IT side, 'cause if you give money to IRS one year, but they can't know that they're going to get a sustained funding the next year, the next year, the next year, this project is going to take at least 10 to 15 years to really get rid of Individual Master File and Business Master File completely and replace it. So this is a huge project.

And I also think... And there's a little bit of exhaustion that's in the IRS, rightfully so, and that's where bringing in fresh eyes really does help. And I felt that... I've experienced that myself when we... The Taxpayer Advocate Service, tried to replace our case management system, and in fact, that was one of the casualties of the Affordable Care Act, 'cause we were 60% through the programming and had spent \$20 million, and when Affordable Care Act and FATCA came, all programming and all development on any new project was stopped and put into programming for FATCA and the Affordable Care Act. But going through that, you know, my own employees really want... What they were thinking about was creating a new system that was faster than the one that we had, but not different, not imagining something that would be radically different and use technology to eliminate all sorts of tasks that you are doing today. And I think sometimes that's where fresh blood comes in and says, "Well, wait, why are you trying to just reinvent something that's faster than just revolutionary?" And that's sort of what I see the Shrink the Tax Gap in some of these other proposals as doing, trying to get the IRS over that hump of not doing business as it has been, but thinking about it in a different way. And this is a heavy lift, but we really don't have a choice.

**GRIFFITH:** I think that's an important point to make, that we don't really have it. This has to be done, we have to solve this. Fred, I wanna let you respond.



**GOLDBERG:** I'm just... I spend my days singing from Nina's hymn book. I totally agree with what she's saying here, but in the world of action, that there are folks who've had incredible experience at the IRS, incredible experience in the private sector, who would give their right arms and work for a dollar to be part of this venture. They're the folks there. And one of the barriers is rules around hiring folks. You talk to folks, there're thousands of professionals short on the... Short on the HR side. When it takes you nine months or a year on whether to decide to hire a person, the odds are, they're somewhere else. Those rules can be cleaned up. They can be cleaned up through executive action, they can be cleaned up through legislative action.

If you talk to folks at the service, the procurement side on working with, partnering with and using technology worked very well for the CI folks, but it is exceedingly difficult on the civil side. But those rules can be changed, some of them by executive action, some of them by legislation. And I don't wanna leak anything here, I'm gonna get in real trouble. But I believe that Charles and Fred who are really just unbelievable, they're up there in the Nina category of God or something, but Charles and Fred are putting together some material on the HR recruiting side, they're putting together material. They're both technology guys. I stub with a quill tip pen, but they are putting together just real world practical discussions, analysis of how to deal with hiring issues, how to deal with the use of technology. And I wanna echo what... The career folks at the IRS, on the technology side, are as good as anybody in the private sector, they really are. Set 'em free to do their thing. Listen to what they have to say. Give 'em priorities. This is... This is doable. It's a question of will, and the question of a long-term investment, and a question of protecting taxpayers. Just go get it done. I don't know what to say.

**GRIFFITH:** Well, it is, it's a question of, "Can... Do we have the guts to actually do it?" But it does require a multi-year plan to get there. And one question that... I guess I put it together over the weekend and thinking about this was, there's often thought that there's a... There's a knowledge gap at the IRS too, in terms of... And I don't know that this is true, and so I'm interested to get both of your opinions on it. In terms of the availability of resources, when you look at a large firm, the large accounting firm, a large law firm, there's a lot of resources available, they have very... They have people that focus on very specific things. When you look at something like partnerships, which is the usual example that is given, is there a knowledge gap at the IRS that says they can be... I don't wanna say outsmarted, but they can be outmaneuvered by a more well-funded law firm, accounting firm. And then you've got the people at the IRS that are struggling to come up with the same level of expertise. I will have to say, we've had several people from Tax Analysts, some of our best reporters that I hate to see go, but they have chosen to go to the IRS, and some are working in the partnership group. They are very, very smart. They're very, very knowledgeable. So I wanna say it's not true, but I'm interested to hear your opinions on that.

**OLSON:** Well, I think when you talk to practitioners, there're many practitioners who will tell you about how difficult it is for them when they're dealing with an IRS employee, not a not a Chief Council employee, but an IRS employee, and they're trying to explain something and the employee's saying, "Well, that's... " They're just not... They're wrong, the employee is wrong. But there you are trying to not tick that employee off and sound more arrogant... Sound arrogant by saying, "Well, I know better than you." I think that some of the... There is a knowledge gap. I

mean a wrote a... I've made that a most serious problem several times in my career as the national taxpayer advocate, and we demonstrate it, the declining funding that was dedicated to training and more importantly to just education, and I think that... I can trace that back to the Star Wars taping and everything like that, where Congress put limits on money that was spent on training such that I as the head of an organization with 2000 employees, could only personally approve 20,000 worth of training for one event and then 50,000, only the Commissioner could approve and anything over that had to go over to the Secretary of the Treasury for his approval.

That brings training to a halt and it brings... What you're doing is you're creating computer-based training and not sophisticated computer-based training, but just computer just sort of dumbed-down training to show that you're getting something out there to employees and certainly not the kind of case studies and interactive training and hands-on training that you might really... And problem-solving that you really need with some of the more sophisticated things. And I know that people have been trying to reverse that and Congress asked in the Taxpayer First Act for a comprehensive training plan, the IRS has talked about creating an IRS University, but what I don't see in that plan is bringing in the private sector and the clinics and the tax practitioners to come in and also help train. And I think that would be enormously helpful because the tax bar and the CPAs and the enrolled agents all want the best for the IRS, and so they are a really good resource. The other thing I'd say, and this goes to investing in the people that you have and also using your investments to bring in the best people. There are programs in existence already, there are personnel authorities available already for IRS employees to be able to pursue higher degrees.

Now, Chief Counsel has done it for years where people can get LL.M.s in taxation, but they have to commit a certain number of years to work for the Chief Counsel or else they have to repay the tuition pro rata. And that's worked great for Chief Counsel, and we were able to use that in task for some of my attorney advisors. But why not do that for the IT folks, so that they could then get higher degrees in computer science, in math, advanced mathematics degrees, in advanced ethics degrees. Why not for the revenue agents going deeply into forensic accounting and getting a degree in forensic accounting and getting... And using that as a hiring authority, so that people would want to come in because they can have their advanced education paid for. And so what if they leave after five or six years? If we get five or six years out of really bright, really talented people and they go out and they talk about what they got from the IRS, you are now creating a self-generating stream of good and talented people to come in and you're also elevating the role of public service, being that part of your career path would be working in public service at some point. And that authority exists today, but it costs money, and I've suggested to Congress that they specifically set aside money for that so that the IRS can use it both to build the skills of the employees who are there, and then use it to recruit really talented people who are looking to build their own skills as well.

**GRIFFITH:** Couldn't agree with you more. Tax Analysts is a non-profit, we don't pay as well as a big company does, so I am so grateful when people come, they are here for a couple of years. If they go on... We've had numerous people that have gone on to the IRS, they go on to do... To go to a law firm, they go on to do big things, I am grateful for the time that they spent at Tax Analysts, and then I enjoy watching their careers as they progressed onward.

Well, let's turn to some questions from the audience, 'cause we've actually had quite a few come in. Fred this first one I think is gonna be for you. This one is on the expanded Form 1099. So the question is, does the Republican insistence on removing expanded Form 1099 information reporting for taxpayers aggregate financial inflows and outflows significantly hobble the Biden Administration's plans to tackle the tax gap, and if not, why? And are there any alternatives?

**GOLDBERG:** Well, there are a couple of pieces here, Cara. The first is the system works best when there is information, the best information for... Forms of information, what Nina described back in the 1980s, 40 years ago. That's the first time the system moved to broader information reporting. They cut all the low-hanging fruit, one computer could match forms with the different computers forms and they could send out a computer letter to the taxpayer. That was great. But that's happening. What's happening now is there are lots... There are well over three billion information returns provided to the IRS. The problem is it's a leaky bucket, and the way the information reporting works historically is it is about a specific type of income, a pension distribution, interest, dividends, sale of a security and all of that. It gets more complicated. Sales security data no basis. 1099-Ks, so-called gig accounting, you don't know what the income is. You know what the gross receipts are. Fact is even more complicated to use.

But the reality is there is a leaky bucket of shadow income, and if you don't plug the leaky bucket, it's gonna continue to leak. Now, the administration has a specific proposal, Shrink The Tax Gap in a somewhat different proposal. You gotta be aware of privacy, and security, and confidentiality, but it's not about going after the little guy. The administration's proposal structurally patches the bucket. And that's why it's there. Is it burdensome? It's the same information these institutions are already doing, it's the same institutions, it's the same information it's already required under the so-called gig economy reporting rules. Is it the perfect answer? No, there is not perfect answer. You shouldn't be doing this if you think there's a perfect answer. But does it go in the right direction? For sure. Can it be cleaned up? Are there other ways to do it? For sure. But to do nothing is a huge mistake.

**GRIFFITH:** Interesting. Well, this question has gotten several up votes. The question is, has anyone estimated the amount of tax over-reporting and/or over-payments annually, and if so, how does this affect the net tax gap? You're both smiling, so I assume you both wanna answer.

**GOLDBERG:** This is Nina's sweet spot. Go for it.

**OLSON:** So I was just gonna say, and Fred mentioned the basis reporting, GAO went before that was enacted, GAO did a report that showed that taxpayers not just under-reported their capital gains by over-estimating the basis, but they also underestimated the basis and harmed themselves by paying too much overestimating the capital gains. Because they didn't have that information. And I think that's sort of the way you look at information reporting, there's both...

You can go after under-reporting, but you can also use it to identify instances where the taxpayer is actually hurting themselves. And if I might go into this, it's not really a direct answer to the question, but using technology to assist taxpayers is really important. One of the things I've been really after the IRS about is we now have a childless worker EITC that has been enhanced. It's now a significant amount of money for people in that income level. And it is just simply a look up table. And we're not even talking about artificial intelligence here, we're just... Here's your wages. Here's the number you get as a single person for this. Why aren't we shooting it out to those people using sort of a reverse math error to help the taxpayer if they haven't claimed it on their return? And that to me is something that...

Talk about building trust with taxpayers. Being affirmative, using data affirmatively in that way, would be a very positive thing. Now, I will tell you a story about EITC over-claims, which is something that gets a lot of attention, EITC over payments. One of the things that the IRS doesn't do well at all on some of these rule-based systems is it doesn't take the data that are the results of, for example, taxpayer advocate service cases and feed that back in to whatever formulas they have to inform the formulas for when the machines are saying, "This is an over-claim." And when we sit down with the taxpayer and go to the auditors and say, "Look at this documentation. Look at this," and they 100% give the taxpayer what they requested on the return. That information isn't going back into the system, so that the machine can then say, "Well, what about this pattern made us select it?" Which might now... We can adjust our algorithm so that we now know that's not an indicator of an error.

And instead, what we do is we just that person the next year who has already gone through an audit and demonstrated that that child lived with them for more than half the year, now gets selected the next year and has to go through the same process. So there's no learning in the system. And eventually, people just give up. And that is not a system that we should be building or reinforcing. And that's where data also can really help. It can lighten the burden on taxpayers, and mean that taxpayers won't be selected for audit because you're using data much more intelligently than just merely matching.

If you were just using the bank reporting and saying, "Oh well, this person has \$100,000 in bank deposits and they've only reported \$80,000 on gross receipts on their 1040," that's not telling you anything. You've gotta ask, why is there that difference? It could be any number of reasons, none of which mean that the person reported correctly. And that's precisely what Shrink the Tax Gap is not proposing to do. It's proposing to use it in an intelligent way to identify those differentials where you want to pursue further, and use other data that you've got to also select those cases better. The IRS doesn't have a 360-degree view of taxpayers, and until it builds that system where it's looking at all data that it's got available so it can get that full picture, it will continue to select legitimate taxpayers that it shouldn't be looking at and missing the taxpayers that it should be looking at.

And I'll just say one last thing and turn over to Fred, which is... I keep saying to people, it's like a kaleidoscope. It's got all those tiny little pieces of glass in there, and you turn that kaleidoscope one fraction of the 180 degrees, and you get an entirely different picture. And that's what it is with data. If you are missing... If you're storing in one of your 60 database systems that critical piece of data, and it's not in the system that's helping you select the case for exam, you're gonna get the wrong picture and you're gonna select the wrong person.

**GRIFFITH:** Fred, I wanna give you a chance to respond.

**GOLDBERG:** A couple of things. And Cara, I wanna go back to the other question about the outgunned IRS point. And a lot of it is about education. A lot of it is about training, but it's really a lot about data. If you send someone out to do a large case audit, they have to ask the taxpayer for a copy of the return, they don't even got it yet. And the whole point of all this is to equip these capable, committed women and men doing this work, with the tools to do their job. The second point is that a lot of the... It's a complicated question because a lot of the issues that folks find very troublesome are issues with the law. Not with whether the agents know what they're doing. And one of the weird incentives that an agent has, the way the system is managed, propose an adjustment, that, the rationale is that requires integrity. You probably ought to look at recovery rates, that's an important question. And you probably ought to look at whether it's a problem with the law, not with the taxpayer. This more than six months residency rule is understandable in certain contexts, but it is one of the biggest single-inequities visited by the tax system in the real world.

Because it works fine. I got a wife, five kids, we've lived together for 40 years, no problem. But in the real world in these lower income and vulnerable communities, if you have a single mom who's working the midnight to 8:00 AM shift, where is the kid supposed to sleep? And so a lot of what the rules-based folks think about all of this, is a rules-based rules... That of rules that don't deal with the realities of low income, vulnerable, deeply caring communities who love their children. So that is, you can say it's a compliance problem and go make that single mom give the money back, or you can say, this is just a stupid rule. So you need to think about all of these pieces when you work through it. But as long as folks like me are raising their hand and speaking up, there's hope.

**GRIFFITH:** That's 100% true. I think that as long as we have people like Nina, like you Fred and others who genuinely care about the rights of taxpayers, we will see a better result and we will get to something that's better. Because I think that is often the case, everyone gets lumped into... You hear there's a tax gap, well it must be that people aren't paying their taxes. And why are they not paying their taxes? Well, they just don't want to, they... Whatever reason, and there's a lot of reasons, there's a lot of nuance. And I think that listening to people like both of you, you sort of start to realize how much nuance there really is. And how much good behavior there is and maybe some additional educated behavior that there needs to be.

**OLSON:** You know, if I can add something there also about the tax gap. The tax gap, we have to be really careful that we don't just move deck chairs around. Like we can bring on more auditors and assess a whole bunch of taxes in under reporting. But if we also aren't dealing with the fact of how are people going to pay these bills when they come due. All you've done is shrunk the under-reporting portion of the tax gap and increased the under payment portion of the tax gap. And so you haven't gotten any overall gain, and so that also... We've been talking sort of on the exam side, but on the collection side, it really means really radically rethinking

how do we deal with collecting of tax. And that may even include, since we now have 1099-K reporting at the \$600 level. And we have a whole community of gig workers, where there's been very little education and outreach about this issue. And we'll get slammed regardless of what year this is implemented. When they start seeing 1099s coming in, an income that they hadn't been reporting at all because there had been no visibility, so why report it?

And they're gonna owe and they're going to owe maybe not income tax, but self-employment tax, which will be significant. And so we maybe need to think about ways to have voluntary withholding on independent contractors. There are countries like New Zealand and Australia who have implemented it, UK has some, some withholding. There are ways to set rates that take into account cost of goods sold and things like that. Which might be a way of keeping people out of trouble and also give them stability. And I've talked about this before, the voluntary withholding proposal that we put forward was generated because the hair salon association and the travel agent association came into us and said, "We have independent contractors, they rent salon booths from us. But there's a high turnover 'cause they keep getting into trouble with their taxes. And we already have an employee on our payroll to answer the phone, so we're in the employment, we would love... We would be very happy to withhold from them and get it into the system so we can keep these good, good contractors and not have the stress on them." And that's voluntary. Why can't we do that? Our Chief Council said, "Can't be done, you need to legislate a proposal."

**GRIFFITH:** That's an interesting parentheses.

**OLSON:** It's not... I think it could be done. But you know, that was Chief Counsel's position back in 2003 and they haven't changed it.

**GRIFFITH:** Yeah. So one question that came in that relates somewhat, has anyone assessed efficiencies in the automated correspondence process?

**OLSON:** Well, Fred's already talked about how it takes X months. The idea of correspondence exam was to be efficient and not burdensome. I'm not gonna... I've written volumes about the correspondence exam. Incoherent letters, people not understanding what's being asked of them. Fred talked about the low-income population, we did a survey of taxpayers who had actually been audited for EITC. And 25% of them said they didn't know that they had been audited, that the audit letter that they received was telling them that they were being audited. So if you don't know you're being audited, that is gonna change how you interact with the audit. But I do think that there are ways, and this goes to technology. There are ways of using technology to get the efficiencies of correspondence exam with the benefits of office exam and that is virtual audits.

We are the surveys show that most people have some form of a smartphone device. So they

can do FaceTime, they can do Skype, they can do Zoom, they can do that. And so you can... And we also know from a psychological stuff that when you give people an appointment, they show up better than if you tell them, respond by correspondence in 30 days. So use correspondent, set up an appointment, do virtual course exams with people from the service centers. And let the employees, the tax payers hold up that piece of paper to a camera. So just like in an office exam, the IRS agent can say, "Well, that gives me some proof, but I need this piece of information." The taxpayer walks from that interaction knowing precisely what they need to get. They don't do that when they get a cryptic letter from the IRS or a correspondence exam.

**GRIFFITH:** That's a really good point, and that could be a silver lining of some of the things that we've learned over the course of the last year, is just how much we can do in a virtual setting. Fred we've got just a couple of minutes left. I just wanna give you the last word, so to speak, if you have anything and you'd like to share.

**GOLDBERG:** Nope.

**GRIFFITH:** You're not allowed just to say nope.

**GOLDBERG:** I think so much of this is doable. And I think the stories... I'm very curious why the Chief Counsel's Office would say, "No, you can't, it is illegal to implement voluntary withholding." And I think the disconnect runs in all directions. Because it feels collectively like we've all lost sight of what this whole thing is about. Which is making it work in, for the country. Why can't that law... Why should that be illegal? I have no freaking idea why it's illegal, maybe it is, maybe it's not. But if it's uncertain go with what you think the right answer is. If it is a revealed tablet that says, "It shall be illegal to do that," well, you're kinda stuck. But a practical approach to making this stuff work, makes sense. But I keep coming back to the same dull story. All of this is doable, the only question is whether the collective we is gonna do it. That's it.

**GRIFFITH:** I think you're 100% correct. I think it is whether the collective we, can make this happen and it will be one step at a time. Hopefully though, we will get there and we will make the first steps that we need to, to a better system overall. Well I can't thank you both enough this was a lot of fun, it was educational, it was informative, and I'm sure that our audience feels the same. I appreciate your time today, and I look forward to the next time. Thanks, everyone.

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