September 14, 2021

The Honorable Ron Wyden, Chairman
The Honorable Mike Crapo, Ranking Member
U.S. Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Wyden and Ranking Member Crapo:

We write with regard to a Treasury Department proposal that we understand may be included in the budget reconciliation package that would dramatically expand the mandatory reporting regime for private financial information in the United States. These provisions would not only require annual reporting of net inflows and outflows of all business and individual financial accounts, by itself a dramatic and unwarranted expansion in the IRS reporting regime, but would also require peer-to-peer payment apps and other similar services such as Square Cash and Venmo to collect sensitive information that would put users at risk. Specifically, it would require these entities to collect Taxpayer Identification Numbers ("TINs") for virtually all payee accounts in order to comply with the new reporting obligations.[1] There is no evidence that reporting of gross inflows and outflows from peer-to-peer payment accounts would address any "tax gap for business income," and requiring these entities to collect TINs from everyday users would significantly increase data breach and identify theft risks for the hundreds of millions of Americans who use these services.

Currently, the Treasury Department requires that Third Party Settlement Organizations (TPSOs) and Payment Settlement Entities (PSEs) issue 1099-K tax forms to (and therefore collect TINs from) business customers – specifically, customers who receive payments for the goods or services.[2] However, these reporting requirements do not apply to most peer-to-peer payment services, even when they are specifically used for business transactions.[3] The Treasury Department's proposal would expand reporting not only to all business users of these apps, but to any payee accounts with over $600 in gross flow. This change would not only be an unprecedented expansion of the mandatory reporting regime, but would also run contrary to the Department's own recommendations.

In April of 2021 the Treasury Department Inspector General issued a report concerning the "challenges" posed by the rise in the use of peer-to-peer payment applications for the sale of good or

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[1] Dept. of the Treasury, *General Explanations of the Administration's Fiscal Year 2022 Revenue Proposals* (May 2021), 88, https://home.treasury.gov/system/files/131/General-Explanations-FY2022.pdf ("payment settlement entities would collect Taxpayer Identification Numbers (TINs) and file a revised Form 1099-K expanded to all payee accounts (subject to the same de minimis threshold), reporting not only gross receipts but also gross purchases, physical cash, as well as payments to and from foreign accounts, and transfer inflows and outflows.")
[2] 26 U.S.C. § 6050W.
[3] Treas. Inspector Gen. For Tax Admin., Report No. 2021-30-022, *The Internal Revenue Service Faces Challenges in Addressing the Growth of Peer-to-Peer Payment Application Use* 4 (2021), https://www.treasury.gov/tigta/auditreports/2021reports/202130022fr.pdf.

services and other business purposes.[4] The Inspector General recommended that the IRS address this problem by clarifying the definition of TPSO, dedicating enforcement resources to "establishing a compliance initiative" to recover some of the estimated $29 Billion unreported income identified through 1099-K audits, and requiring business taxpayers to complete the e-commerce minimum income probe.[5] The IRS Management agreed with the first and third recommendations, but did not "believe there is a demonstrated compliance problem that warrants a compliance initiative project."[6] Yet the Department now proposes a massive expansion of financial reporting that would cover all accounts, not just business accounts, despite a lack of evidence that the reporting would do anything to address a tax gap.

Requiring peer-to-peer payment apps like Square Cash and Venmo to provide the IRS with tax reports on all accounts meeting the $600 minimum would not only be a massive expansion in reporting on private financial accounts, it would also require those entities to collect TINs from virtually all account holders. Because most individuals do not hold a separate TIN from their Social Security Number ("SSN"), unlike businesses, this means that these private entities will be collecting SSNs of millions of Americans.[7]

It is important to emphasize the unique status of the SSN in the world of privacy. There is no other form of personal identification that poses a greater risk to privacy. The 2017 Equifax data breach exposed the SSNs of almost half of the U.S. population. The SSN was never meant to be an all-purpose identifier. The fact that the SSN is now so pervasive as both an identifier and an authenticator in both the public and private sector has undoubtedly contributed to the catastrophic rise in data breaches, identity theft, and financial fraud.

SSNs are the "keys to the kingdom" for identity thieves.[8] The SSN is so valuable because it can be used to open new accounts without any other identifying information, and it is very difficult to change. Many retailers and banks will extend credit offers to individuals with an SSN attached to a good credit score, even if the names do not match.[9] Criminals in possession of SSNs can completely derail a person's financial future. A criminal in possession of your stolen SSN can:

- File fraudulent tax returns in your name
- Open new accounts in your name
- Take out lines of credit in your name

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4 *See*, *id*.
5 *Id.*
6 *Id*.
7 *Q2 2021 Shareholder Letter* 4 (Aug. 2021), https://s27.q4cdn.com/311240100/files/doc_financials/2021/q2/Q2-2021-Shareholder-Letter.pdf (In June 2021, Square Cash App reached 40 million active customers); Charity L. Scott, *Venmo to Charge Users for Selling Goods and Services*, Wall Street Journal (June 26, 2021) ("PayPal Chief Executive Dan Schulman said during an earnings call in February that Venmo's user base had increased 32% in 2020 to nearly 70 million active accounts.")
8 Fed. Trade Comm'n., *Security in Numbers: SSNs and ID Theft* 2 (Dec. 2008), https://www.ftc.gov/sites/default/files/documents/reports/security-numbers-social-security-numbers-and-identity-theft-federal-trade-commission-report/p075414ssnreport.pdf.
9 Bob Sullivan, *Your Social Security Number Isn't a Secret*, N.Y. Times (Sept. 13, 2017), https://www.nytimes.com/2017/09/13/opinion/your-social-security-number-isnt-a-secret.html.

- Receive unemployment, food stamps and Social Security benefits in your name
- Apply for student loans, obtain driver's licenses and passports in your name

Our groups urge you to reject the Treasury Department's proposal to expand tax reporting for individual peer-to-peer payment service accounts and instead explore ways to improve tax compliance that do not put Americans' SSNs at risk. At minimum, the expanded reporting requirement should be scaled back to apply only to business accounts or individual accounts with a high de minimus threshold, adjusted for inflation over time. Peer to Peer payment apps and other similar services that currently do not collect TINs should not be required to do so under the new reporting requirements.

Thank you for your attention to this important matter.

Sincerely,

Chicago Consumer Coalition

Consumer Federation of America

Consumer Action

Constitutional Alliance

Electronic Privacy Information Center (EPIC)

Media Alliance

National Workrights Institute

Virginia Citizens Consumer Council

Columbia Consumer Education Council (South Carolina)