

United States Senate

WASHINGTON, DC 20510

February 15, 2019

The Honorable Steven T. Mnuchin
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

The Honorable Charles Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Secretary Mnuchin and Commissioner Rettig:

Getting a federal income tax refund is the largest financial transaction of the year for tens of millions of working Americans and a key component of annual family budgets. People whose incomes are steady from year to year justifiably expect their tax refunds to remain steady as well. That is why we are concerned that many taxpayers will be shocked to learn during the 2019 tax filing season that instead of receiving the big tax refunds they were promised by the Administration, they instead owe taxes *as well as* penalties for underpayment. The IRS, in response to a January 3, 2019 letter from Senator Wyden,¹ said they will waive penalties for taxpayers who paid estimated taxes in the amount of at least 85 percent of the taxes they owed in 2018 (or 100 percent of the tax they owed in 2017) – down from the normal requirement to pay at least 90 percent of what they owed in 2018 to avoid penalties.² While this is a step in the right direction, we worry that it is not enough.

We want to reiterate that this potentially nasty tax surprise for many taxpayers did not need to happen. If the Administration had simply left withholding tables untouched, most taxpayers would have had the proper amount of taxes withheld from their pay. Instead, it seems to us, the Administration promised households a huge tax cut and so reduced withholding last year to appear to make good on that promise – at the price of a 2019 tax filing season in which tens of millions of taxpayers discover they are under-withheld for 2018 and have to pay back the phantom windfall to the IRS. In fact, Chairman Neal and Senator Wyden raised this specific concern in a letter early last year to the IRS.³

¹ See Senate Finance Committee: <https://www.finance.senate.gov/ranking-members-news/ahead-of-upcoming-filing-season-wyden-asks-irs-to-drop-penalties-for-unexpected-tax-bills-due-to-trump-tax-scam->

² See IRS: <https://www.irs.gov/newsroom/irs-waives-penalty-for-many-whose-tax-withholding-and-estimated-tax-payments-fell-short-in-2018>.

³ See Senate Finance Committee: <https://www.finance.senate.gov/ranking-members-news/wyden-neal-question-political-manipulation-at-irs-seek-to-prevent-hardworking-americans-from-getting-hit-with-massive-tax-bill>.

Senate Democrats are not the only ones sounding the alarm. Early filing season statistics are in and the results are not pretty. The average refund is down 8.4 percent.⁴ Independent experts are calling for the IRS to provide additional penalty relief to those who have been under-withheld. For example, the American Institute of Certified Public Accountants (AICPA) wrote you on January 28 to say that “the adjusted withholding tables did not account for factors such as the elimination of the personal and dependency exemptions or reduced itemized deductions” and that taxpayers may be under-withheld as a result.⁵ AICPA suggests waiving penalties for taxpayers who paid 80 percent of what they owed in 2018 or 2017 instead of 85 percent and 100 percent, respectively. AICPA also recommends providing an expedited process for taxpayers to request an abatement of any penalties. This is just one possible approach. *To be clear, we are not seeking penalty relief for taxpayers who purposefully understate their incomes or who otherwise attempt to avoid their tax obligations.*

Because of the Administration’s 2018 withholding manipulation, we believe the American people are unfortunately in store for a surprise pocketbook reckoning that will require millions to pay higher taxes under the new tax law than what they were promised. The pain caused by the Administration’s tax bill was entirely avoidable. Democrats would have crafted a broad middle class tax cut, but we were cut out of the process. However, we would like to work with the Administration and IRS to spare working families the additional injury of tax penalties when they discover the claim of huge tax refunds was too good to be true.

Sincerely,



Ron Wyden
United States Senator



Charles E. Schumer
United States Senator



Maria Cantwell
United States Senator




Thomas R. Carper
United States Senator

⁴ See IRS, Filing Statistics for Week Ending February 1, 2019: <https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-february-1-2019>.

⁵ AICPA, Penalty Relief Needed for Taxpayers for 2018 Filing Season, letter to Secretary Mnuchin and Commissioner Rettig, January 28, 2019: <https://www.aicpa.org/press/pressreleases/2019/aicpa-calls-for-additional-penalty-relief-for-taxpayers-for-2018.html>


Tammy Baldwin
United States Senator



Richard J. Durbin
United States Senator



Chris Van Hollen
United States Senator

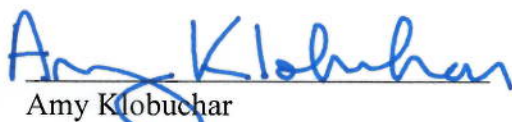

Patty Murray
United States Senator



Sheldon Whitehouse
United States Senator

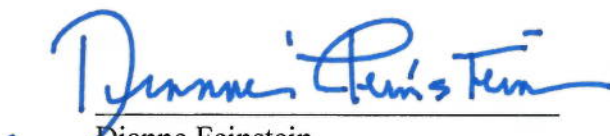

Edward J. Markey
United States Senator

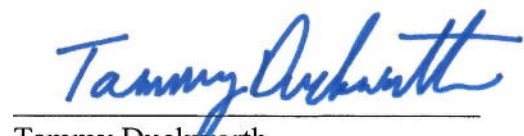

Ben Cardin
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Robert Menendez
United States Senator


Amy Klobuchar
United States Senator


Jack Reed
United States Senator


Dianne Feinstein
United States Senator

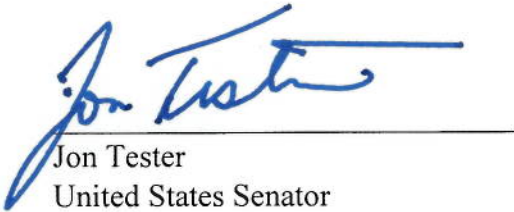

Tammy Duckworth
United States Senator



Catherine Cortez Masto
United States Senator



Debbie Stabenow
United States Senator



Jon Tester
United States Senator



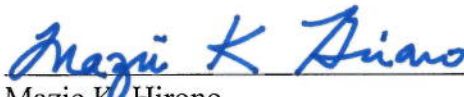
Tom Udall
United States Senator



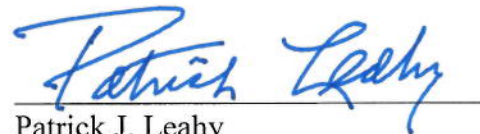
Brian Schatz
United States Senator



Jeffrey A. Merkley
United States Senator



Mazie Hirono
United States Senator



Patrick J. Leahy
United States Senator



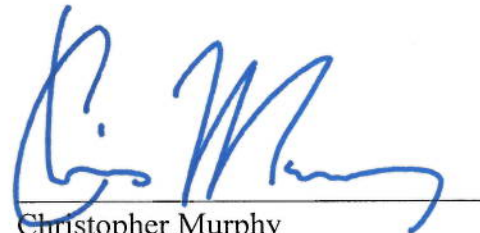
Tina Smith
United States Senator



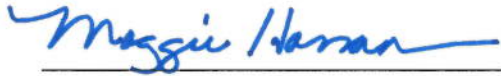
Martin Heinrich
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Gary C. Peters
United States Senator



Christopher Murphy
United States Senator



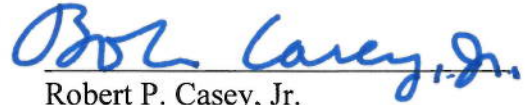
Margaret Wood Hassan
United States Senator



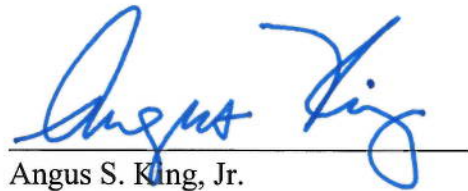
Cory A. Booker
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Sherrod Brown
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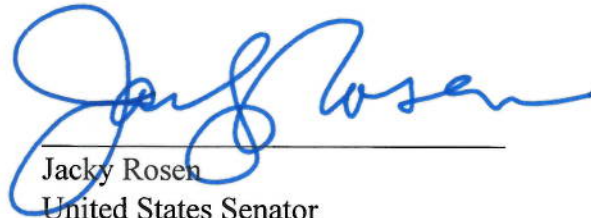
Robert P. Casey, Jr.
United States Senator



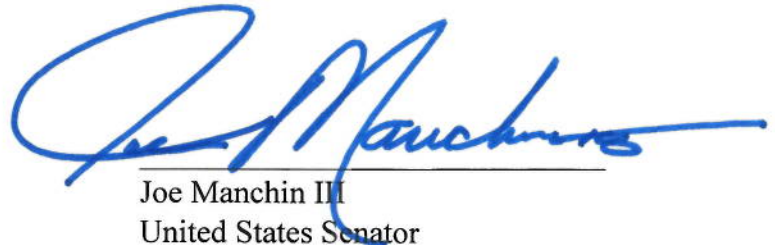
Angus S. King, Jr.
United States Senator



Kyrsten Sinema
United States Senator



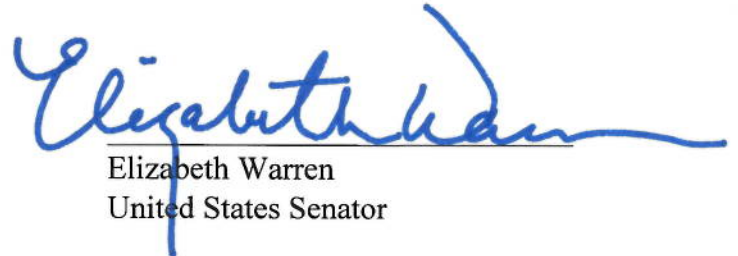
Jacky Rosen
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Joe Manchin III
United States Senator



Kamala D. Harris
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Elizabeth Warren
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Bernard Sanders
United States Senator



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