Senator Chuck Grassley  
Questions for the Record  
“Internal Revenue Service Operations and  
The President’s Budget for Fiscal Year 2016”

**Question 1:**

As I mentioned at your hearing, I appreciate kind words you have given concerning the IRS whistleblower program and look forward to hearing back from you related to the issues I lay out below.

First, the payments to whistleblowers have slowed to a trickle at best. This is whistleblowers waiting for payment where dollars have been collected and the holdup is with the IRS processing and checking the boxes for a payment. Often it is the whistleblower office waiting for someone in the field, or in senior management to move paper. I ask that your office review all whistleblower cases pending payment and bring the Drano to unclog the holdup.

Second, I again find myself frustrated with an IRS Chief Counsel office that seems to wake up every day seeking ways to undermine the whistleblower program both in the courts and the awards. I am especially concerned that chief counsel is throwing every argument it can think of against whistleblowers in tax court. It appears at times that the Chief Counsel’s office thinks its job is to come up with hyper technical arguments and seek to deny awards to whistleblowers who have risked their lives to uncover big time tax cheats. I ask that your office and the director of the whistleblower office review the chief counsel’s wasteful and harmful litigation positions that undermine the whistleblower program and go directly against your support for the whistleblower program.

Third, with tight budgets at the IRS it is all the more imperative that the IRS works with whistleblowers and their counsels on cases. The IRS criminal investigators have had great success using whistleblowers to go after banks and terrorist organizations, but the IRS civil division still hasn’t gotten the message of working with whistleblowers. I note that the IRS hasn’t been shy about paying outside law firms big money to help it in big examinations, yet ignores the possibility of harnessing whistleblowers and their lawyers who won’t cost the IRS a dime from its budget.

Commissioner, I appreciate your willingness to provide detailed written response addressing these three points.

**Question 2:**

During the hearing, I asked you about the ability of individuals receiving deferred action to amend tax returns and claim the earned income tax credit (EITC) as a result of the President’s executive action. Your answer essentially confirmed that this is the case, but in doing so you also suggested that those receiving deferred action would have had to of already filed tax return for the year in question. However, a page on IRS’ website titled “Claiming EITC for Prior Tax
Years” would appear to suggest even if one failed to file a tax return in a previous year, they may now file a return for that year and claim the EITC. Could you please clarify your remarks and address whether someone receiving deferred actually must have previously filed a tax return during the year in question to claim the EITC retroactively? Also, please verify, whether or if, the IRS intends to revisit the March 2000 IRS Chief Counsel Advice concerning the ability of individuals to amend their tax returns to claim the EITC once obtaining a Social Security Number.

**Question 3:**

The Affordable Care Act created tax credits that can go directly to your insurance company to pay for coverage. If the credits were more than a person was supposed to get, they were supposed to pay that back to the IRS at the end of the year. Last month the IRS decided that it would waive some of these overpayments.

- How much money do you estimate this decision will cost?
- Will you report back to me after tax season has ended, to give me the exact amount of money the IRS waived?
- How will the IRS determine whether people actually need a waiver, or just don’t want to pay what they owe?

**Question 4:**

I asked you about nonprofit hospitals and whether the IRS is doing enough to ensure they are complying with requirements, particularly financial assistance policy requirements in the ACA. Please describe the IRS’s efforts to audit hospitals for financial assistance policy requirements in FY 2014 and FY 2015, and any planned activity the IRS intends to conduct in this area going forward.

**Question 5:**

Commissioner, in an email you sent to IRS employees you referenced the need to make tough choices given budget constraints and suggested employee furloughs may have to be implemented. Before you take such actions, I hope that you consider cutting back on the number of hours dedicated by IRS employees to union work while on the taxpayer dime, which reportedly topped 500,000 for fiscal year (FY) 2013. If the budget constraints are as dire as you contend, existing resources must be used efficiently and effectively as they can. IRS agents performing union work, when they could instead be assisting taxpayers, is certainly not the most efficient use of resources. What, if any, changes have you taken or do you plan to take to reduce hours spent on union time or “official time” given current budget constraints? Additionally, please provide me with the number of hours IRS employees dedicated to union work in FY 2014.

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and, as well the number of hours so far spent on union work in FY2015. Additionally, please include the number of IRS agents who have dedicated 50% or more of their working hours to union activities.