

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES  
WASHINGTON, DC 20515

September 29, 2020

The Honorable William Barr  
Attorney General  
United States Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-001

Dear Attorney General Barr,

We write to express serious concern regarding the publication of President Trump's private tax information in the pages of the New York Times on September 27, 2020.<sup>1</sup> As you know, 26 U.S.C. § 6103 is designed to protect all American taxpayers from having their confidential tax information disclosed without their consent. This leak of the President's private tax information weakens the integrity of § 6103 and should be a serious concern for all Americans who do not wish to have their personal tax information weaponized against them – especially for political purposes. To ensure the effectiveness of § 6103, Congress imposes criminal liability for such unauthorized disclosures as detailed in 26 U.S.C. § 7213 and 26 U.S.C § 7216.

The New York Times story at issue details extensive tax information and claims that the information came from an individual or individuals with “legal access” to the documents. The story makes no claim regarding the legality of the disclosure. Given the public statements from the President and his representatives, it is clear that the President did not authorize this disclosure. Only a small number of individuals are likely to have had “legal access” to the information at issue. For most of the individuals with access to the information, an unauthorized disclosure would constitute a federal crime.

Officers and employees of the United States, including Internal Revenue Service employees, are subject to criminal liability for an unauthorized disclosure of a tax return or tax return information.<sup>2</sup> The same liability attaches to a state employee making an unauthorized disclosure.<sup>3</sup> The criminal penalties for individuals described above are as follows:

Any violation of this paragraph shall be a felony punishable upon conviction by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution, and if such offense is committed by any officer or employee of the United States, he shall, in addition to any other punishment, be dismissed from office or discharged from employment upon conviction for such offense.<sup>4</sup>

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<sup>1</sup> Russ Buettner, Susanne Craig & Mike McIntire, *Long Concealed Records Show Trump's Chronic Losses and Years of Tax Avoidance*, N.Y. Times, Sept. 27, 2020, <https://www.nytimes.com/interactive/2020/09/27/us/donald-trump-taxes.html?action=click&module=Spotlight&pgtype=Homepage>.

<sup>2</sup> 26 U.S.C. § 7213(a)(1).

<sup>3</sup> 26 U.S.C. § 7213(a)(2).

<sup>4</sup> 26 U.S.C. § 7213(a)(1).

Criminal liability also attaches to any person engaged in the business of preparing, or providing services related to, tax returns when such a person makes an unauthorized disclosure of any tax return or tax return information.<sup>5</sup>

A person guilty of an unauthorized disclosure in this scenario

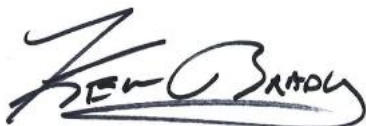
shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$1,000 (\$100,000 in the case of a disclosure or use to which section 6713(b) applies), or imprisoned not more than 1 year, or both, together with the costs of prosecution.<sup>6</sup>

Given the seriousness of the unauthorized disclosure of the President's tax returns and tax return information and the threat it poses to the integrity of our tax system, it is imperative that we determine whether the individual or individuals that disclosed the information committed a federal crime in doing so.

We therefore ask the Department of Justice to open an investigation into the potential criminal disclosure of confidential tax information to the New York Times. Please note that we have also asked the Internal Revenue Service to open an investigation into this matter focused on whether any employees at the agency are responsible for the unauthorized disclosure.

We also ask that this investigation be opened and conducted quickly due to the seriousness of the situation. Understanding the sensitivities of criminal investigations, we ask that you keep our staff updated on any investigation plans and progress that you are able to share. Molly Fromm, Rachel Kaldahl, and Sean Clerget on the Ways and Means Committee staff will serve as points of contact.

Sincerely,



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Kevin Brady  
Ranking Member  
House Committee on Ways and Means



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Mike Kelly  
Ranking Member  
Ways and Means Subcommittee on Oversight

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<sup>5</sup> 26 U.S.C. § 7216(a).

<sup>6</sup> *Id.*