

United States Senate

WASHINGTON, DC 20510

October 25, 2017

The Honorable John Koskinen
Commissioner
Internal Revenue Service
1111 Constitution Avenue NW
Washington, DC 20224

Dear Commissioner Koskinen:

We write to urge you to reconsider an Internal Revenue Service (IRS) decision that will result in lower-income military retirees losing federal benefits unnecessarily.

As you know, the IRS recently expanded its application of the Federal Payment Levy Program (FPLP) to include military retirement payments.¹ The FPLP permits the IRS to collect “overdue taxes through a continuous levy on certain federal payments.”² By expanding the FPLP to military retirement payments, the IRS gained the ability to impose a levy on retirement payments to veterans in an effort to recoup back taxes.

The Internal Revenue Code permits the IRS to release a levy if it determines the levy is “creating an economic hardship due to the financial condition of the taxpayer.”³ To implement that statutory requirement, the IRS has developed a low-income filter, which prevents the automatic imposition of a levy against any taxpayer whose income falls below 250 percent of the federal poverty level.⁴ The low-income filter reflects the IRS’ judgment that taxpayers with incomes below that threshold have a strong case that a levy would create financial hardship.

Currently, the low-income filter is used to screen out low-income taxpayers receiving Social Security old age or disability benefits and Railroad Retirement Board benefits.⁵ As the IRS has already determined, it does not make good business sense or good policy to require these individuals to affirmatively raise the hardship exception to a levy on their own.

¹ IRS Taxpayer Advocate Service, *Federal Payment Levy Program: The New IRS Automated Levies on Military Retirement Payments May Be Harming Veterans Experiencing Economic Hardship (Part II)* (Sept. 1, 2017) (<https://taxpayeradvocate.irs.gov/news/federal-payment-levy-program-the-new-irs-automated-levies-on-military-retirement-payments-may-be-harming-veterans-experiencing-economic-hardship-part-ii>).

² IRS, Federal Payment Levy Program (<https://www.irs.gov/businesses/small-businesses-self-employed/federal-payment-levy-program>).

³ 26 U.S.C. § 6343(a)(1)(D).

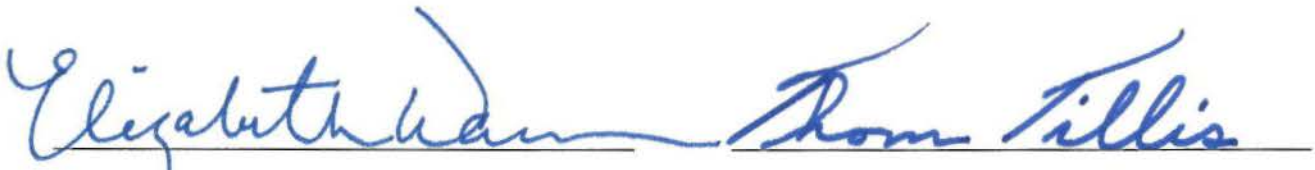
⁴ IRS, Internal Revenue Manual 5.19.9.3.2.3 (https://www.irs.gov/irm/part5/irm_05-019-009r#idm140064917483264).

⁵ IRS Taxpayer Advocate Service, *Federal Payment Levy Program: The New IRS Automated Levies on Military Retirement Payments May Be Harming Veterans Experiencing Economic Hardship (Part II)* (Sept. 1, 2017) (<https://taxpayeradvocate.irs.gov/news/federal-payment-levy-program-the-new-irs-automated-levies-on-military-retirement-payments-may-be-harming-veterans-experiencing-economic-hardship-part-ii>).

Yet the IRS is not using the same low-income filter for low-income veterans receiving military retirement benefits. There is no rational basis for this distinction. Our veterans have the same financial constraints as non-veterans when their income falls below 250 percent of the federal poverty level. Surely our military retirees – most of whom have spent more than 20 years serving their country⁶ – should receive the same level of protection for their hard-earned retirement benefits that others receive for their Social Security benefits.

We urge you to promptly reconsider your decision to not apply the low-income filter to military retirees. After all that our veterans have sacrificed for us, they should not lose access to retirement benefits unnecessarily.

Sincerely,



Elizabeth Warren
United States Senator

Thom Tillis
United States Senator

⁶ DOD Office of the Actuary, Statistical Report on the Military Retirement System, Fiscal Year 2015 (July 2016), at 128 (http://actuary.defense.gov/Portals/15/Documents/MRS_StatRpt_2015%20Final%20v2.pdf?ver=2016-07-26-162207-987).