

Congress of the United States

Washington, DC 20515

December 14, 2022

Mr. Sundar Pichai
Chief Executive Officer
Google
1600 Amphitheatre Parkway
Menlo Park, California 94043

Dear Mr. Pichai –

We write with grave concerns following a report that major tax preparation companies such as H&R Block, TaxAct, and TaxSlayer have been “secretly transmitting sensitive financial information” to Meta and Google when Americans file their taxes online, including “data on users’ income, filing status, [and] refund amounts.”¹ If true, this is an appalling breach of users’ trust and a potentially illegal abuse of sensitive taxpayer data that raises questions about the misuse of data by the tax preparation companies and about the role of Google in facilitating these abuses. Given these new reports, we seek a full accounting of and explanation for the disclosure of taxpayer data to Google.

Tax preparation companies – including Intuit, H&R Block, TaxAct, and TaxSlayer – have spent millions lobbying the U.S. government to ensure that tax filing is outsourced to them from the Internal Revenue Service (IRS).² Members of Congress have long warned that privatization of such an essential government function forces Americans to pay unnecessary fees and share private information with third parties³ – and the latest allegations reveal significant new risks from this arrangement.

Last month, *The Markup* reported that major tax preparation companies, including H&R Block, TaxAct, and TaxSlayer have been transmitting sensitive taxpayer data to Meta via widely-used code called the Meta Pixel.⁴ Meta provides the Pixel code free of charge to any business that wants to embed it in its website, profiting both Meta and the business in question.⁵ The Pixel is invisible to users but records their browsing history and even information they enter online,

¹ The Markup, “Tax Filing Websites Have Been Sending Users’ Financial Information to Facebook,” Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022, <https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>.

² Office of U.S. Senator Elizabeth Warren, “Tax Maze: How the Tax Prep Industry Blocks Government from Making Tax Day Easier,” April 4, 2016, https://www.warren.senate.gov/files/documents/Tax_Maze_Report.pdf.

³ Office of U.S. Senator Elizabeth Warren, “Senator Warren Leads 22 Colleagues in Introducing the Tax Filing Simplification Act of 2022,” July 13, 2022, <https://www.warren.senate.gov/newsroom/press-releases/senator-warren-leads-22-colleagues-in-introducing-the-tax-filing-simplification-act-of-2022>.

⁴ The Markup, “Tax Filing Websites Have Been Sending Users’ Financial Information to Facebook,” Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022, <https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>.

⁵ *Id.*

allowing the business to then target them with Facebook ads, for example promoting to them the products they have looked at but have yet to purchase.⁶ Meanwhile, Meta uses the data from its two million plus Pixels to understand the habits of internet users, improve its algorithms, and drive its profits, including its nearly \$115 billion in 2021 advertising revenues.⁷ Google's analytics tool fills a similar role, harvesting data to power Google's advertising business, which raked in over \$200 billion last year.⁸

In the case of tax prep companies, The Markup reports that the Meta Pixel invisibly gathered and transmitted highly sensitive taxpayer data without their explicit permission. Reportedly, the data includes names and email addresses, and more sensitive financial information such as income, filing status, refund amounts, health savings account usage, dependents' names and college scholarship amounts, including of non-Facebook users.⁹ The Markup also reported that some data gathering was enabled by default, and some was proactively enabled by companies, such as TaxAct configuring the Pixel to send dollar amounts like adjusted gross income to Meta.¹⁰ *The Markup* reviewed company websites and found no disclosures that specifically mentioned Facebook or its parent company Meta.¹¹

While the report focused primarily on disclosure to Meta, the Markup reported that at least one tax preparation company sent sensitive financial data to Google as well. It reported, "TaxAct... also uses Google's analytics tool on its website, and *The Markup* found similar financial data, but not names, being sent to Google through its tool."¹²

Such unauthorized disclosures of sensitive taxpayer data would be clearly inappropriate and potentially illegal. The Internal Revenue Code clearly states that "returns and return information shall be confidential," with limited exceptions.¹³ One of the exceptions is for a taxpayer to designate a third party to receive return information, but those third parties "shall not use the information for any purpose other than the express purpose for which consent was granted and shall not disclose return information to any other person without the express permission of, or request by, the taxpayer."¹⁴

A tax preparer "who knowingly or recklessly (1) discloses any information furnished to him for, or in connection with, the preparation of any such return, or (2) uses any such information for

⁶ *Id.*

⁷ *Id.*; Meta, "Meta Reports Fourth Quarter and Full Year 2021 Results," February 2, 2022, <https://investor.fb.com/investor-news/press-release-details/2022/Meta-Reports-Fourth-Quarter-and-Full-Year-2021-Results/default.aspx>.

⁸ Google, Analytics, Marketing Platform, <https://marketingplatform.google.com/about/analytics/>; Barron's, "Twitter's Ad Business Isn't Worth Tweeting About," Eric J. Savitz, November 1, 2022, <https://www.barrons.com/articles/dow-stocks-sp500-nasdaq-bear-51669922634>.

⁹ The Markup, "Tax Filing Websites Have Been Sending Users' Financial Information to Facebook," Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022, <https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ 26 U.S.C. § 6103(a).

¹⁴ 26 U.S.C. § 6103(c).

any purpose other than to prepare, or assist in preparing, any such return” faces civil and criminal liability, including \$1,000 per unauthorized disclosure or actual and punitive damages, and up to one year in prison.¹⁵ Relevant regulations further outline the very specific requirements for disclosure agreements, including that consent “must specify the tax return information to be disclosure or used by the return preparer,” “the specific recipient”, and “the particular use authorized.”¹⁶ A further notice even specifies the exact format of certain consent forms, down to specific language and even text size.¹⁷ Former National Taxpayer Advocate Nina Olson helped draft these regulations and has emphasized the specificity required in any disclosure agreement and the shortfalls in your company’s agreement, asking: “Do they have a list saying they’re going to disclose the refund amounts, and your children, and your whatever to Facebook?”¹⁸ We are gravely concerned by reports that TaxAct, and potentially other tax preparation websites, may have shared data with Google without proper notice or consent. .

Meta has said in the past that it limits the types of data it will collect through the Pixel.¹⁹ Meanwhile, it is not clear if Google has any policy against transmitting sensitive information via its analytics tool. A Google spokesperson only stated to *The Markup* that Google “has strict policies against advertising to people based on sensitive information” and that Google Analytics data “is obfuscated, meaning it is not tied back to an individual and our policies prohibit customers from sending us data that could be used to identify a user.”²⁰ Given many instances of supposedly de-identified information being re-linked to individual consumers, we would like to know more about the nature of this obfuscated information.

If *The Markup*’s reporting is accurate, taxpayers deserve justice for this abuse of their private tax information, and we hope that the IRS and if merited, the Department of Justice, will act to impose appropriate penalties on companies. In addition, individual taxpayers might normally be able bring a civil action for damages.²¹ But it appears that H&R Block, TaxAct, and TaxSlayer have attempted to limit those rights by sneaking in mandatory arbitration clauses.²² Tax prep companies should not be able to force taxpayers to give up important statutory protections and remedies just for the privilege of filing their taxes.

¹⁵ 26 U.S.C. § 7216; 26 U.S.C. § 7431; 26 U.S.C. § 6713.

¹⁶ 26 C.F.R. § 301.7216-3(a)(3)(i); 26 C.F.R. § 301.7216-2.

¹⁷ Internal Revenue Service, Rev. Proc. 2013-14.

¹⁸ The Markup, “Tax Filing Websites Have Been Sending Users’ Financial Information to Facebook,” Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022, <https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>; Procedurally Taxing, “The Facebook Pixel and Unauthorized Use and Disclosure of Tax Return and Tax Return Information,” Nina Olson, November 29, 2022, <https://procedurallytaxing.com/the-facebook-pixel-and-unauthorized-use-and-disclosure-of-tax-return-and-tax-return-information/>.

¹⁹ Meta Business Help Center, “About Sensitive Financial Information,” <https://www.facebook.com/business/help/2770378636585929?id=188852726110565>; Meta Business Help Center, “About Restricted Meta Business Tools Data,” <https://www.facebook.com/business/help/1057016521436966?id=188852726110565>.

²⁰ *Id.*

²¹ 26 U.S.C. § 7431; see also, for example, New York State Taxpayer Bill of Rights, <https://www.tax.ny.gov/tra/tax-law-article-41.htm>.

²² Procedurally Taxing, “The Facebook Pixel and Unauthorized Use and Disclosure of Tax Return and Tax Return Information,” Nina Olson, November 29, 2022, <https://procedurallytaxing.com/the-facebook-pixel-and-unauthorized-use-and-disclosure-of-tax-return-and-tax-return-information/>.

If these shocking reports of breaches of taxpayer privacy by tax preparation companies using Meta and Google tools are true, it underscores the need for the IRS to provide its own free tax filing software, so American taxpayers can prepare and file their taxes directly with the federal government instead of being forced to use tax preparation companies that turn that data over to Big Tech firms. If accurate, this story would also clearly demonstrate the disingenuousness of past arguments by tax prep industry that efforts by the IRS to break the monopoly of private tax filing companies would somehow “jeopardize taxpayer privacy.”²³


To better understand the nature and extent of the alleged sharing of taxpayer data with Google and Google’s use of this data, we ask that you answer the following questions by January 3, 2023:

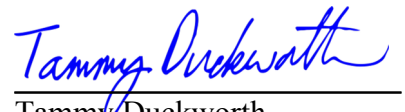
1. Which tax preparation companies have used Google’s analytics tool, or any other tool that might intentionally or unintentionally leak taxpayer information to Google, on their website, and when did they do so?
2. What specific types of taxpayer data have been collected by Google’s analytics tool on each of these tax preparation company websites since it was first enabled?
 - a. Were taxpayer names, addresses, and email addresses harvested? If so, for how many taxpayers was this information harvested?
 - b. Was information on taxpayers’ filing status harvested? If so, for how many taxpayers was this information harvested?
 - c. Was information on taxpayers’ dependents harvested? If so, for how many taxpayers was this information harvested?
 - d. Was information on any types of taxpayers’ income or assets harvested? If so, please specifically list all types of information that was shared, and the number of taxpayers whose information was harvested.
 - e. Was information on taxpayers’ tax refunds or tax owed harvested? If so, for how many taxpayers was this information harvested?
 - f. Was other taxpayers’ information – such as information on dependents’ college scholarship amounts, information on deductions, or any other type of information in taxpayers’ filings – harvested? If so, please specifically list all types information that was harvested, and the number of taxpayers whose information was harvested.
3. If Google believes the information it collected from tax preparation websites was obfuscated to prevent its linkability to individual taxpayers, what information can Google provide about the form of this obfuscated information or technical analyses performed by Google that guarantee the anonymity of consumers from whom information was collected?
4. Which types of taxpayer data did Google’s analytics tool harvest by default and which were proactively enabled by the tax preparation companies?
5. Has Google’s analytics tool been embedded in any tax preparation companies’ Free File software? If so, please answer questions #1-3 above specifically for that Free File software.


²³ Office of U.S. Senator Elizabeth Warren, “Tax Maze: How the Tax Prep Industry Blocks Government from Making Tax Day Easier,” April 4, 2016, pgs. 10-11, https://www.warren.senate.gov/files/documents/Tax_Maze_Report.pdf.

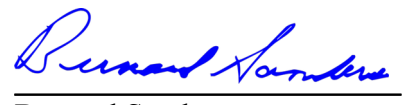
6. Has Google's analytics tool been embedded in the TaxSlayer software made available to Volunteer Income Tax Assistance (VITA) sites? If so, please answer questions #1-5 specifically for the TaxSlayer software made available to VITA.
7. Does Google still have any of this taxpayer data? Has Google taken any steps to identify or delete this data? If so, what is the process for doing so?
8. Does Google have any policies against the harvesting and transmission of sensitive information with Google's analytics tool? If so, please provide all relevant policies, including any potential repercussions for businesses that violate these policies.
9. If Google does have a policy as described in question #7, does Google have a mechanism to detect and prevent sensitive information from being sent via Google's analytics tool? If so, please describe this mechanism and how it detects potentially sensitive information being sent via use of Google's analytics tool or any other Google business tools. Please also identify any potentially sensitive data that this mechanism has detected being sent via these tax preparation companies' use of Google's analytics tool or any other Google business tools? What steps, if any, did Google take upon detecting such data?
10. What communication, if any, has Google had with tax preparation companies regarding their use of Google's analytics tool and the information harvested?
11. What is the exact nature of the data sharing agreements between Google and the tax preparation companies?
12. How much money have these tax preparation companies spent on Google advertising in the past year?
13. How much revenue does Google estimate that it generated for these tax preparation companies from Google advertising in the past year?
14. How much revenue does Google estimate that it generated for itself from use of the data harvested by its analytics tool on these tax preparation company websites?
15. Will you commit not to harvest taxpayer data via Google Analytics or any other method for tax filers that use online tax filing products to file their 2022 taxes?

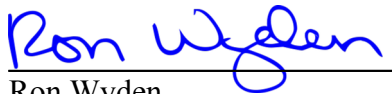
Sincerely,


Elizabeth Warren
United States Senator

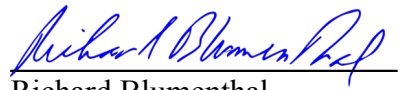

Tammy Duckworth
United States Senator


Sheldon Whitehouse
United States Senator


Bernard Sanders
United States Senator



Ron Wyden
United States Senator



Richard Blumenthal
United States Senator



Katie Porter
Member of Congress



Brad Sherman
Member of Congress

Congress of the United States

Washington, DC 20515

December 14, 2022

Jeff Jones
President and CEO
H&R Block
1301 Main Street
Kansas City, MO 64105

Dear Mr. Jones –

We write with grave concerns following a report that H&R Block and other tax preparation companies have been secretly “transmitting sensitive financial information to Facebook when Americans file their taxes online,” including “data on users’ income, filing status, [and] refund amounts.”¹ If true, this is an appalling breach of users’ trust and a potentially illegal misuse of sensitive taxpayer data that raises significant questions about whether Congress and the Administration should act to limit the role of your company and other predatory private tax preparation companies.

Millions of American taxpayers have trusted your company with sensitive financial data in order to file their tax returns.² Federal law and regulations include strong protections for taxpayer data, with civil and criminal penalties for disclosing data without explicit consent, including fines and even jail time.³ Given these new reports, and H&R Block’s track record of profiting off American tax filers,⁴ we seek a full accounting of your potential disclosure of taxpayer data to Meta.

H&R Block and other tax preparation companies have spent millions lobbying the U.S. government to ensure that tax filing is outsourced to them from the Internal Revenue Service (IRS).⁵ Members of Congress have long warned that privatization of this essential government function forces Americans to pay unnecessary fees and share private information with third parties⁶ – and the latest allegations reveal significant new risks from this arrangement.

¹ The Markup, “Tax Filing Websites Have Been Sending Users’ Financial Information to Facebook,” Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022, <https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>.

² H&R Block, “How H&R Block uses Azure AI to transform tax returns,” November 22, 2022, <https://www.hrblock.com/tax-center/newsroom/around-block/about-us/company-leverages-microsoft-professional-services/>.

³ 26 U.S.C. § 6103; 26 U.S.C. § 6713; 26 U.S.C. § 7216; 26 U.S.C. § 7431; 26 C.F.R. § 301.7216-3; 26 C.F.R. § 301.7216-2; Internal Revenue Service, Rev. Proc. 2013-14.

⁴ ProPublica, “TurboTax and H&R Block Used ‘Unfair and Abusive Practices,’ State Regulator Finds,” Justin Elliot, July 15, 2020, <https://www.propublica.org/article/turbotax-and-h-r-block-used-unfair-and-abusive-practices-state-regulator-finds>.

⁵ Office of U.S. Senator Elizabeth Warren, “Tax Maze: How the Tax Prep Industry Blocks Government from Making Tax Day Easier,” April 4, 2016, pg. 9, https://www.warren.senate.gov/files/documents/Tax_Maze_Report.pdf.

⁶ Office of U.S. Senator Elizabeth Warren, “Senator Warren Leads 22 Colleagues in Introducing the Tax Filing Simplification Act of 2022,” July 13, 2022, <https://www.warren.senate.gov/newsroom/press-releases/senator->

Last month, *The Markup* reported that major tax preparation companies, including H&R Block, TaxAct, and TaxSlayer have been transmitting sensitive taxpayer data to Meta via widely-used code called the Meta Pixel.⁷ Meta provides the Pixel code free of charge to any business that wants to embed it in its website, profiting both Meta and the businesses that embed it.⁸ The Pixel is invisible to users but records their browsing history and even information they enter online, allowing the business to then target them with Facebook ads, for example promoting to them the products they have looked at but have yet to purchase.⁹ Meanwhile, Meta uses the data from its two million plus Pixels to understand the habits of internet users, improve its algorithms, and drive increased profits.¹⁰

In the case of tax prep companies, *The Markup* reports indicate that the Meta Pixel invisibly gathered and transmitted highly sensitive taxpayer data. The data is reported to include names and email addresses, and more private financial information such as income, filing status, refund amounts, health savings account usage, dependents' names and college scholarship amounts, including of non-Facebook users.¹¹ According to the report, H&R Block specifically embedded a Meta Pixel on its site that gathered "information on filers' health savings account usage and dependents' college tuition grants and expenses."¹²

The Markup reviewed company websites and found no disclosures specifically indicating that taxpayers' information would be transferred to Facebook or its parent company Meta. Reportedly, H&R Block's request for disclosure references "H&R Block Personalized Services, LLC" – but not Facebook or Meta. If true, then taxpayers were not adequately informed of this transfer of their data.

At least one tax preparation company has also reportedly sent sensitive financial data to Google. According to *The Markup*, "TaxAct... also uses Google's analytics tool on its website, and the *The Markup* found similar financial data, but not names, being sent to Google through its tool."¹³

Such unauthorized disclosures of sensitive taxpayer data would be clearly inappropriate and potentially illegal. The Internal Revenue Code clearly states that "returns and return information shall be confidential," with limited exceptions.¹⁴ One of the exceptions is for a taxpayer to designate a third party to receive return information, but those third parties "shall not use the information for any purpose other than the express purpose for which consent was granted and

[warren-leads-22-colleagues-in-introducing-the-tax-filing-simplification-act-of-2022](#).

⁷ The Markup, "Tax Filing Websites Have Been Sending Users' Financial Information to Facebook," Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022, <https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ 26 U.S.C. § 6103(a).

shall not disclose return information to any other person without the express permission of, or request by, the taxpayer.”¹⁵

A tax preparer “who knowingly or recklessly (1) discloses any information furnished to him for, or in connection with, the preparation of any such return, or (2) uses any such information for any purpose other than to prepare, or assist in preparing, any such return” faces civil and criminal liability, including \$1,000 per unauthorized disclosure or actual and punitive damages, and up to one year in prison.¹⁶ Relevant regulations further outline the very specific requirements for disclosure agreements, including that consent “must specify the tax return information to be disclosed or used by the return preparer,” “the specific recipient”, and “the particular use authorized.”¹⁷ A further notice even specifies the exact format of certain consent forms, down to specific language and even text size.¹⁸ Former National Taxpayer Advocate Nina Olson helped draft these regulations and has emphasized the specificity required in any disclosure agreement and the shortfalls in your company’s agreement, asking: “Do they have a list saying they’re going to disclose the refund amounts, and your children, and your whatever to Facebook?”¹⁹ We are gravely concerned by reports that H&R Block and other tax preparation companies do not.

If *The Markup*’s reporting is accurate, taxpayers deserve justice for this abuse of their private tax information, and we hope that the IRS and, if merited, the Department of Justice, will act to impose appropriate penalties on your company. In addition, individual taxpayers might normally be able bring a civil action for damages.²⁰ But it appears that H&R Block and the other tax preparation companies have attempted to limit those rights by sneaking in mandatory arbitration clauses.²¹ Tax prep companies should not be able to force taxpayers to give up important statutory protections and remedies just for the privilege of filing their taxes.

Apart from the immediate relief that impacted taxpayers deserve, these shocking reports of breaches of taxpayer privacy by tax preparation companies underscores the need for the IRS to provide its own free tax filing software. American taxpayers should have the option of preparing and filing their taxes directly with the federal government instead of being forced to share private information with third parties that have a long record of abusive behavior, now potentially including turning over that data to Big Tech firms. If accurate, this story also illustrates the disingenuousness of past arguments by tax prep industry that efforts by the IRS to break the

¹⁵ 26 U.S.C. § 6103(c).

¹⁶ 26 U.S.C. § 7216; 26 U.S.C. § 7431; 26 U.S.C. § 6713.

¹⁷ 26 C.F.R. § 301.7216-3(a)(3)(i); 26 C.F.R. § 301.7216-2.

¹⁸ Internal Revenue Service, Rev. Proc. 2013-14.

¹⁹ The Markup, “Tax Filing Websites Have Been Sending Users’ Financial Information to Facebook,” Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022, <https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>; Procedurally Taxing, “The Facebook Pixel and Unauthorized Use and Disclosure of Tax Return and Tax Return Information,” Nina Olson, November 29, 2022, <https://procedurallytaxing.com/the-facebook-pixel-and-unauthorized-use-and-disclosure-of-tax-return-and-tax-return-information/>.

²⁰ 26 U.S.C. § 7431; see also, for example, New York State Taxpayer Bill of Rights, <https://www.tax.ny.gov/tra/tax-law-article-41.htm>.

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stranglehold of private tax filing companies would somehow “jeopardize taxpayer privacy.”²² Indeed, such efforts may be necessary to protect taxpayer data by removing it from the grip of rapacious third parties.

To better understand the nature and extent of H&R Block’s alleged sharing of sensitive taxpayer data with Meta, we ask that you answer the following questions by January 3, 2023:

1. Did H&R Block embed the Meta Pixel in its website? If so, when was the Pixel first embedded?
2. What, if any, specific types of taxpayer data have been collected and shared through the Meta Pixel on the H&R Block website since the Pixel was first embedded?
 - a. Were taxpayer names, addresses, and email addresses shared? If so, for how many taxpayers was this information shared?
 - b. Was information on taxpayers’ filing status shared? If so, for how many taxpayers was this information shared?
 - c. Was information on taxpayers’ dependents shared? If so, for how many taxpayers was this information shared?
 - d. Was information on any types of taxpayers’ income or assets shared? If so, please specifically list all types of information that was shared, and the number of taxpayers whose information was shared.
 - e. Was information on taxpayers’ tax refunds or tax owed shared? If so, for how many taxpayers was this information shared?
 - f. Was other taxpayers’ information – such as information on dependents’ college scholarship amounts, information on deductions, or any other type of information in taxpayers’ filings – shared? If so, please specifically list all types of information that was shared, and the number of taxpayers whose information was shared.
3. Which types of taxpayer data did the Meta Pixel collect and share by default and which were proactively enabled by H&R Block?
4. Did H&R Block disclose and receive user consent for the specific taxpayer data to be sent to Facebook or Meta? Please provide all H&R Block data disclosure agreements.
5. What is the exact nature of any agreements between H&R Block and Meta with regard to data sharing?
6. How much money did H&R Block spent on Facebook advertising in each of the last five years?
7. How much revenue does H&R Block estimate that it generated from Facebook advertising in the past year?
8. With what other companies besides Meta does H&R Block share taxpayer data? What specific data is shared by H&R Block, and for what purposes?
9. Is H&R Block using a mandatory arbitration clause in order to compel taxpayers to give up their right to sue pursuant to 26 U.S. Code § 7431?²³ Would your company be willing to waive this clause for the purpose of addressing the damage done to taxpayers by the improper data sharing by your company?

²² Office of U.S. Senator Elizabeth Warren, “Tax Maze: How the Tax Prep Industry Blocks Government from Making Tax Day Easier,” April 4, 2016, pgs. 10-11, https://www.warren.senate.gov/files/documents/Tax_Maze_Report.pdf.

²³ 26 U.S.C. § 7431.

10. Will you commit not to send taxpayer data to Meta, Google, or any other third party not explicitly named in your consent agreements for tax filers that use your product to file their 2022 taxes?

Sincerely,




Elizabeth Warren
United States Senator



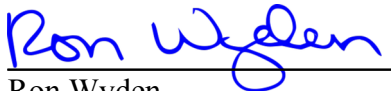
Tammy Duckworth
United States Senator



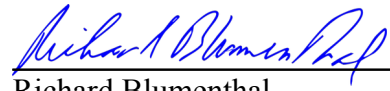
Sheldon Whitehouse
United States Senator



Bernard Sanders
United States Senator



Ron Wyden
United States Senator



Richard Blumenthal
United States Senator



Katie Porter
Member of Congress



Brad Sherman
Member of Congress

Congress of the United States

Washington, DC 20515

December 14, 2022

Sasan Goodarzi
Chief Executive Officer
Intuit
2700 Coast Avenue
Mountain View, CA 94043

Dear Mr. Goodarzi –

We write with grave concerns following a report that H&R Block, TaxAct, TaxSlayer have been secretly “transmitting sensitive financial information to Facebook when Americans file their taxes online,” including “data on users’ income, filing status, [and] refund amounts.”¹ Federal law and regulations include strong protections for taxpayer data, with civil and criminal penalties for disclosing data without explicit consent, including fines and even jail time.²

While we appreciate that, according to reports, Intuit’s TurboTax website has not sent financial information to Facebook (although it has sent other information about taxpayers),³ the reported sharing of such data by other tax preparation companies would be an appalling breach of users’ trust and a potentially illegal misuse of sensitive taxpayer data that raises significant questions about whether Congress and the Administration should act to limit the role of predatory private tax preparation companies. Given these new reports and private tax preparation companies’ track record of profiting off American tax filers,⁴ we are seeking a full accounting of the disclosure of taxpayer data to Facebook from all of the major tax preparation companies.

Tax preparation companies – including Intuit, H&R Block, TaxAct, and TaxSlayer – have spent millions lobbying the U.S. government to ensure that tax filing is outsourced to them from the Internal Revenue Service (IRS).⁵ Members of Congress have long warned that privatization of this essential government function forces Americans to pay unnecessary fees and share private

¹ The Markup, “Tax Filing Websites Have Been Sending Users’ Financial Information to Facebook,” Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022, <https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>.

² 26 U.S.C. § 6103; 26 U.S.C. § 6713; 26 U.S.C. § 7216; 26 U.S.C. § 7431; 26 C.F.R. § 301.7216-3; 26 C.F.R. § 301.7216-2; Internal Revenue Service, Rev. Proc. 2013-14.

³ The Markup, “Tax Filing Websites Have Been Sending Users’ Financial Information to Facebook,” Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022, <https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>.

⁴ ProPublica, “TurboTax and H&R Block Used ‘Unfair and Abusive Practices,’ State Regulator Finds,” Justin Elliot, July 15, 2020, <https://www.propublica.org/article/turbotax-and-h-r-block-used-unfair-and-abusive-practices-state-regulator-finds>.

⁵ Office of U.S. Senator Elizabeth Warren, “Tax Maze: How the Tax Prep Industry Blocks Government from Making Tax Day Easier,” April 4, 2016, pg. 9, https://www.warren.senate.gov/files/documents/Tax_Maze_Report.pdf.

information with third parties⁶ – and the latest allegations reveal significant new risks from this arrangement.

Last month, *The Markup* reported that major tax preparation companies, including H&R Block, TaxAct, and TaxSlayer have been transmitting sensitive taxpayer data to Facebook via widely-used code called the Meta Pixel.⁷ Meta provides the Pixel code free of charge to any business that wants to embed it in its website, profiting both Meta and the businesses that embed it.⁸ The Pixel is invisible to users but records their browsing history and even information they enter online, allowing the business to then target them with Facebook ads, for example promoting to them the products they have looked at but have yet to purchase.⁹ Meanwhile, Meta uses the data from its two million plus Pixels to understand the habits of internet users, improve its algorithms, and drive increased profits.¹⁰

In the case of tax prep companies, *The Markup* reports indicate that the Meta Pixel invisibly gathered and transmitted highly sensitive taxpayer data. The data is reported to include names and email addresses, and more private financial information such as income, filing status, refund amounts, health savings account usage, dependents' names and college scholarship amounts, including of non-Facebook users.¹¹ According to *The Markup*'s reporting, Intuit did embed the Meta Pixel in its TurboTax website, but “did not send financial information to Meta but rather usernames and the last time a device signed in,” and in some circumstances, “information like an order ID number and user’s email address after they signed in”.¹²

At least one tax preparation company also reportedly sent sensitive financial data to Google. According to *The Markup*, “TaxAct... also uses Google’s analytics tool on its website, and *The Markup* found similar financial data, but not names, being sent to Google through its tool.”¹³ *The Markup* reviewed company websites and found no disclosures specifically indicating that personal financial information would be transferred to Facebook or its parent company Meta.

Such unauthorized disclosures of sensitive taxpayer data would be clearly inappropriate and potentially illegal. The Internal Revenue Code clearly states that “returns and return information shall be confidential,” with limited exceptions.¹⁴ One of the exceptions is for a taxpayer to designate a third party to receive return information, but those third parties “shall not use the information for any purpose other than the express purpose for which consent was granted and

⁶ Office of U.S. Senator Elizabeth Warren, “Senator Warren Leads 22 Colleagues in Introducing the Tax Filing Simplification Act of 2022,” July 13, 2022, <https://www.warren.senate.gov/newsroom/press-releases/senator-warren-leads-22-colleagues-in-introducing-the-tax-filing-simplification-act-of-2022>.

⁷ The Markup, “Tax Filing Websites Have Been Sending Users’ Financial Information to Facebook,” Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022, <https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ 26 U.S.C. § 6103(a).

shall not disclose return information to any other person without the express permission of, or request by, the taxpayer.”¹⁵

A tax preparer “who knowingly or recklessly (1) discloses any information furnished to him for, or in connection with, the preparation of any such return, or (2) uses any such information for any purpose other than to prepare, or assist in preparing, any such return” faces civil and criminal liability, including \$1,000 per unauthorized disclosure or actual and punitive damages, and up to one year in prison.¹⁶ Relevant regulations further outline the very specific requirements for disclosure agreements, including that consent “must specify the tax return information to be disclosed or used by the return preparer,” “the specific recipient”, and “the particular use authorized.”¹⁷ A further notice even specifies the exact format of certain consent forms, down to specific language and even text size.¹⁸ Former National Taxpayer Advocate Nina Olson helped draft these regulations and has emphasized the specificity required in any disclosure agreement and the shortfalls in your company’s agreement, asking: “Do they have a list saying they’re going to disclose the refund amounts, and your children, and your whatever to Facebook?”¹⁹ We are gravely concerned by reports that many tax preparation companies do not.

If *The Markup*’s reporting is accurate, taxpayers deserve justice for this abuse of their private tax information, and we hope that the IRS and if merited, the Department of Justice, will act to impose appropriate penalties on tax preparation companies that have broken the law. In addition, individual taxpayers might normally be able bring a civil action for damages.²⁰ But it appears that H&R Block, TaxAct, and TaxSlayer have attempted to limit those rights by sneaking in mandatory arbitration clauses.²¹ Tax prep companies should not be able to force taxpayers to give up important statutory protections and remedies just for the privilege of filing their taxes.

Apart from the immediate relief that impacted taxpayers deserve, these shocking reports of breaches of taxpayer privacy by tax preparation companies underscores the need for the IRS to provide its own free tax filing software. American taxpayers should have the option of preparing and filing their taxes directly with the federal government instead of being forced to share private information with third parties that have a long record of abusive behavior, now potentially including turning over that data to Big Tech firms. If accurate, this story also illustrates the disingenuousness of past arguments by tax prep industry, including Intuit, that efforts by the IRS to break the stranglehold of private tax filing companies would somehow “jeopardize taxpayer

¹⁵ 26 U.S.C. § 6103(c).

¹⁶ 26 U.S.C. § 7216; 26 U.S.C. § 7431; 26 U.S.C. § 6713.

¹⁷ 26 C.F.R. § 301.7216-3(a)(3)(i); 26 C.F.R. § 301.7216-2.

¹⁸ Internal Revenue Service, Rev. Proc. 2013-14.

¹⁹ The Markup, “Tax Filing Websites Have Been Sending Users’ Financial Information to Facebook,” Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022, <https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>; Procedurally Taxing, “The Facebook Pixel and Unauthorized Use and Disclosure of Tax Return and Tax Return Information,” Nina Olson, November 29, 2022, <https://procedurallytaxing.com/the-facebook-pixel-and-unauthorized-use-and-disclosure-of-tax-return-and-tax-return-information/>.

²⁰ 26 U.S.C. § 7431; see also, for example, New York State Taxpayer Bill of Rights, <https://www.tax.ny.gov/tra/tax-law-article-41.htm>.

²¹ Procedurally Taxing, “The Facebook Pixel and Unauthorized Use and Disclosure of Tax Return and Tax Return Information,” Nina Olson, November 29, 2022, <https://procedurallytaxing.com/the-facebook-pixel-and-unauthorized-use-and-disclosure-of-tax-return-and-tax-return-information/>.

privacy.”²² Indeed, such efforts may be necessary to protect taxpayer data by removing it from the grip of rapacious third parties.

The report from *The Markup* indicates that Intuit reportedly used the Meta Pixel but has not sent taxpayer’s sensitive financial information to Meta. To better understand the nature and extent of Intuit’s alleged use of the Pixel, We ask that you answer the following questions by January 3, 2023:

1. Did Intuit embed the Meta Pixel in its website? If so, when was the Pixel first embedded?
2. What, if any, specific types of taxpayer data have been collected and shared through the Meta Pixel on the Intuit website since the Pixel was first embedded?
 - a. Were taxpayer names, addresses, and email addresses shared? If so, for how many taxpayers was this information shared?
 - b. Was information on taxpayers’ filing status shared? If so, for how many taxpayers was this information shared?
 - c. Was information on taxpayers’ dependents shared? If so, for how many taxpayers was this information shared?
 - d. Was information on any types of taxpayers’ income or assets shared? If so, please specifically list all types of information that was shared, and the number of taxpayers whose information was shared.
 - e. Was information on taxpayers’ tax refunds or tax owed shared? If so, for how many taxpayers was this information shared?
 - f. Was other taxpayers’ information – such as information on dependents’ college scholarship amounts, information on deductions, or any other type of information in taxpayers’ filings – shared? If so, please specifically list all types of information that was shared, and the number of taxpayers whose information was shared.
3. Which types of taxpayer data did the Meta Pixel collect and share by default and which were proactively enabled by Intuit?
4. Did Intuit disclosure and receive user consent for the specific taxpayer data to be sent to Facebook specifically? Please provide all Intuit data disclosure agreements.
5. What is the exact nature of any agreements between Intuit and Facebook with regard to data sharing?
6. How much money did Intuit spent on Facebook advertising in each of the last five years?
7. How much revenue does Intuit estimate that it generated from Facebook advertising in the past year?
8. With what other companies besides Facebook does Intuit share taxpayer data? What specific data is shared by Intuit, and for what purposes?
9. Does Intuit include a mandatory arbitration clause in its terms of use that could compel taxpayers to give up their right to sue pursuant to 26 U.S. Code § 7431 if Intuit improperly disclosed their data?²³ If so, would your company be willing to remove or

²² Office of U.S. Senator Elizabeth Warren, “Tax Maze: How the Tax Prep Industry Blocks Government from Making Tax Day Easier,” April 4, 2016, pgs. 10-11, https://www.warren.senate.gov/files/documents/Tax_Maze_Report.pdf.

²³ 26 U.S. Code § 7431.

waive this clause for the purpose of addressing any damage done to taxpayers by any improper data sharing by your company?

10. Will you commit not to send taxpayer data to Meta, Google, or any other third party not explicitly named in your consent agreements for tax filers that use your product to file their 2022 taxes?

Sincerely,



Elizabeth Warren
United States Senator



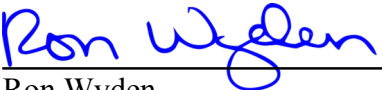
Tammy Duckworth
United States Senator



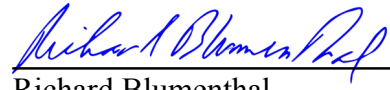
Sheldon Whitehouse
United States Senator



Bernard Sanders
United States Senator



Ron Wyden
United States Senator



Richard Blumenthal
United States Senator



Katie Porter
Member of Congress



Brad Sherman
Member of Congress

Congress of the United States

Washington, DC 20515

December 14, 2022

Mr. Mark Zuckerberg
Chairman and Chief Executive Officer
Meta
1 Hacker Way
Menlo Park, California 94025

Dear Mr. Zuckerberg –

We write with grave concerns following a report that major tax preparation companies such as H&R Block, TaxAct, and TaxSlayer have been secretly “transmitting sensitive financial information to Facebook when Americans file their taxes online,” including “data on users’ income, filing status, [and] refund amounts.”¹ If true, this is an appalling breach of users’ trust and a potentially illegal abuse of sensitive taxpayer data that raises questions about the misuse of data by the tax preparation companies and about Meta’s role in facilitating these abuses. Meta itself states that “we have policies around the kinds of information businesses can share with us. We don’t want websites or apps sending us sensitive information about people”² – but these policies appear to have failed when it comes to tax preparation companies’ sharing of taxpayer data. Given this new revelation about such information being harvested by the Meta Pixel, we seek a full accounting of and explanation for the potential disclosure of taxpayer data to Meta.

Tax preparation companies – including Intuit, H&R Block, TaxAct, and TaxSlayer – have spent millions lobbying the U.S. government to ensure that tax filing is outsourced to them from the Internal Revenue Service (IRS).³ We have long warned that privatization of such an essential government function forces Americans to pay unnecessary fees and share private information with third parties⁴ – and the latest allegations reveal significant new risks from this arrangement.

Last month, *The Markup* reported that major tax preparation companies, including H&R Block, TaxAct, and TaxSlayer have been transmitting sensitive taxpayer data to Meta via widely-used code called the Meta Pixel.⁵ Meta provides the Pixel code free of charge to any business that

¹ The Markup, “Tax Filing Websites Have Been Sending Users’ Financial Information to Facebook,” Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022, <https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>.

² <https://www.facebook.com/business/help/2770378636585929?id=188852726110565>.

³ Office of U.S. Senator Elizabeth Warren, “Tax Maze: How the Tax Prep Industry Blocks Government from Making Tax Day Easier,” April 4, 2016, pg. 9, https://www.warren.senate.gov/files/documents/Tax_Maze_Report.pdf.

⁴ Office of U.S. Senator Elizabeth Warren, “Senator Warren Leads 22 Colleagues in Introducing the Tax Filing Simplification Act of 2022,” July 13, 2022, <https://www.warren.senate.gov/newsroom/press-releases/senator-warren-leads-22-colleagues-in-introducing-the-tax-filing-simplification-act-of-2022>.

⁵ The Markup, “Tax Filing Websites Have Been Sending Users’ Financial Information to Facebook,” Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022,

wants to embed it in its website, profiting both Meta and the business in question.⁶ The Pixel is invisible to users but records their browsing history and even information they enter online, allowing the business to then target them with Facebook ads, for example promoting to them the products they have looked at but have yet to purchase.⁷ Meanwhile, Meta uses the data from its two million plus Pixels to understand the habits of internet users, improve its algorithms, and drive its profits, including its nearly \$115 billion in advertising revenues last year.⁸

In the case of tax prep companies, *The Markup* reports that the Meta Pixel invisibly gathered and transmitted highly sensitive taxpayer data without their explicit permission. The data is reported to include names and email addresses, and more sensitive financial information such as income, filing status, refund amounts, health savings account usage, dependents' names and college scholarship amounts, including of non-Facebook users.⁹ According to the report, some data gathering was enabled by default, and some was proactively enabled by companies, such as TaxAct configuring the Pixel to send dollar amounts like adjusted gross income to Meta.¹⁰ *The Markup* reviewed company websites and found no disclosures that specifically mentioned Facebook or its parent company Meta.¹¹

At least one tax preparation company has reportedly sent sensitive financial data to Google as well. According to *The Markup*, "TaxAct... also uses Google's analytics tool on its website, and *The Markup* found similar financial data, but not names, being sent to Google through its tool."¹²

Such unauthorized disclosures of sensitive taxpayer data would be clearly inappropriate and potentially illegal. The Internal Revenue Code clearly states that "returns and return information shall be confidential," with limited exceptions.¹³ One of the exceptions is for a taxpayer to designate a third party to receive return information, but those third parties "shall not use the information for any purpose other than the express purpose for which consent was granted and shall not disclose return information to any other person without the express permission of, or request by, the taxpayer."¹⁴

A tax preparer "who knowingly or recklessly (1) discloses any information furnished to him for, or in connection with, the preparation of any such return, or (2) uses any such information for any purpose other than to prepare, or assist in preparing, any such return" faces civil and criminal

<https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*; Meta, "Meta Reports Fourth Quarter and Full Year 2021 Results," February 2, 2022,

<https://investor.fb.com/investor-news/press-release-details/2022/Meta-Reports-Fourth-Quarter-and-Full-Year-2021-Results/default.aspx>.

⁹ The Markup, "Tax Filing Websites Have Been Sending Users' Financial Information to Facebook," Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022,

<https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ 26 U.S.C. § 6103(a).

¹⁴ 26 U.S.C. § 6103(c).

liability, including \$1,000 per unauthorized disclosure or actual and punitive damages, and up to one year in prison.¹⁵ Relevant regulations further outline the very specific requirements for disclosure agreements, including that consent “must specify the tax return information to be disclosed or used by the return preparer,” “the specific recipient”, and “the particular use authorized.”¹⁶ A further notice even specifies the exact format of certain consent forms, down to specific language and even text size.¹⁷ Former National Taxpayer Advocate Nina Olson helped draft these regulations and has emphasized the specificity required in any disclosure agreement and the shortfalls in your company’s agreement, asking: “Do they have a list saying they’re going to disclose the refund amounts, and your children, and your whatever to Facebook?”¹⁸ We are gravely concerned by reports that H&R Block, TaxAct, and TaxSlayer do not.

Meta itself says that it limits the types of data it will collect through the Pixel. The Meta Business Help Center claims that “we don’t want websites for apps sending us sensitive information about people.”¹⁹ Meta warns that “advertisers should not share Business Tools Data with Meta that they know or reasonably should know is either from or about children under the age of 13, or includes health or financial information, or other categories of sensitive information.”²⁰ Meta specifically states that “categories of financial data about an individual that are considered potentially sensitive” include, but are not limited to: financial data including income, loan amounts, and debt status, including student loan debt,²¹ and states that its signals filtering mechanism can detect if a business is sending sensitive data about an individual via Meta Business Tools like the Meta Pixel, promising “that data will be removed before it can be stored and used in our ads ranking and optimization systems.”²² Yet, according to *The Markup*, income and other sensitive data – which Meta specifically states may not be sent via the Pixel – was indeed sent to Meta. Reportedly, TaxAct sent data labeled “student_loan_interest,” which the Meta signals filtering mechanism failed to identify as student loan debt.²³

If *The Markup*’s reporting is accurate, taxpayers deserve justice for this abuse of their private tax information, and We hope that the IRS and if merited, the Department of Justice, will act to impose appropriate penalties on companies. In addition, individual taxpayers might normally be

¹⁵ 26 U.S.C. § 7216; 26 U.S.C. § 7431; 26 U.S.C. § 6713.

¹⁶ 26 C.F.R. § 301.7216-3(a)(3)(i); 26 C.F.R. § 301.7216-2.

¹⁷ Internal Revenue Service, Rev. Proc. 2013-14.

¹⁸ The Markup, “Tax Filing Websites Have Been Sending Users’ Financial Information to Facebook,” Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022, <https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>; Procedurally Taxing, “The Facebook Pixel and Unauthorized Use and Disclosure of Tax Return and Tax Return Information,” Nina Olson, November 29, 2022, <https://procedurallytaxing.com/the-facebook-pixel-and-unauthorized-use-and-disclosure-of-tax-return-and-tax-return-information/>.

¹⁹ Meta Business Help Center, “About Sensitive Financial Information,” <https://www.facebook.com/business/help/2770378636585929?id=188852726110565>.

²⁰ Meta Business Help Center, “About Restricted Meta Business Tools Data,” <https://www.facebook.com/business/help/1057016521436966?id=188852726110565>.

²¹ <https://www.facebook.com/business/help/2770378636585929?id=188852726110565>.

²² *Id.*

²³ The Markup, “Tax Filing Websites Have Been Sending Users’ Financial Information to Facebook,” Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022, <https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>.

able bring a civil action for damages.²⁴ But it appears that H&R Block, TaxAct, and TaxSlayer have attempted to limit those rights by sneaking in mandatory arbitration clauses.²⁵ Tax prep companies should not be able to force taxpayers to give up important statutory protections and remedies just for the privilege of filing their taxes.

These shocking reports of breaches of taxpayer privacy by tax preparation companies using Meta's tools underscores the need for the IRS to provide its own free tax filing software, so American taxpayers can prepare and file their taxes directly with the federal government instead of being forced to use tax preparation companies that, reportedly, may turn that data over to Big Tech firms. If accurate, this story also clearly demonstrates the disingenuousness of past arguments by tax prep industry that efforts by the IRS to break the monopoly of private tax filing companies would somehow "jeopardize taxpayer privacy."²⁶ Meta and TurboTax-owner Intuit are key members of the Computer and Communications Industry Association, which has made this potentially misleading argument.²⁷

To better understand the nature and extent of the alleged sharing of sensitive taxpayer data with Meta and Meta's potential use of this data, we ask that you answer the following questions by January 3, 2023:

1. Which tax preparation companies have embedded the Meta Pixel in their website and when did they do so?
2. Does Meta obtain taxpayer information other than through the Meta Pixel? If so, how is this data collected, and from what companies, and what data is collected?
3. What specific types of taxpayer data has the Meta Pixel harvested on these tax preparation company websites since the Pixel was first embedded?
 - a. Were taxpayer names, addresses, and email addresses harvested? If so, for how many taxpayers was this information harvested?
 - b. Was information on taxpayers' filing status harvested? If so, for how many taxpayers was this information harvested?
 - c. Was information on taxpayers' dependents harvested? If so, for how many taxpayers was this information harvested?
 - d. Was information on any types of taxpayers' income or assets harvested? If so, please specifically list all types of information that was shared, and the number of taxpayers whose information was harvested.

²⁴ 26 U.S.C. § 7431; see also, for example, New York State Taxpayer Bill of Rights, <https://www.tax.ny.gov/tra/tax-law-article-41.htm>.

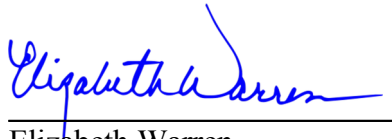
²⁵ Procedurally Taxing, "The Facebook Pixel and Unauthorized Use and Disclosure of Tax Return and Tax Return Information," Nina Olson, November 29, 2022, <https://procedurallytaxing.com/the-facebook-pixel-and-unauthorized-use-and-disclosure-of-tax-return-and-tax-return-information/>.

²⁶ Office of U.S. Senator Elizabeth Warren, "Tax Maze: How the Tax Prep Industry Blocks Government from Making Tax Day Easier," April 4, 2016, pgs. 10-11, https://www.warren.senate.gov/files/documents/Tax_Maze_Report.pdf.

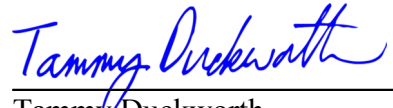
²⁷ Computer and Communications Industry Association, "Members," <https://www.ccianet.org/about/members/>; Office of U.S. Senator Elizabeth Warren, "Tax Maze: How the Tax Prep Industry Blocks Government from Making Tax Day Easier," April 4, 2016, pgs. 10-11, https://www.warren.senate.gov/files/documents/Tax_Maze_Report.pdf; Computer and Communications Industry Association, "Government Competition," Wayback Machine capture on July 26, 2022, <https://web.archive.org/web/20220726161151/https://www.ccianet.org/advocacy/government-competition/>.

- e. Was information on taxpayers' tax refunds or tax owed harvested? If so, for how many taxpayers was this information harvested?
 - f. Was other taxpayers' information – such as information on dependents' college scholarship amounts, information on deductions, or any other type of information in taxpayers' filings – harvested? If so, please specifically list all types of information that was harvested, and the number of taxpayers whose information was harvested.
4. Which types of taxpayer data did the Meta Pixel harvest by default and which were proactively enabled by the tax preparation companies?
 5. Has the Meta Pixel been embedded in any tax preparation companies' Free File software? If so, please answer questions #1-3 above specifically for that Free File software.
 6. Has the Meta Pixel been embedded in the TaxSlayer software made available to Volunteer Income Tax Assistance (VITA) sites? If so, please answer questions #1-5 specifically for the TaxSlayer software made available to VITA.
 7. Does Meta still have any of this taxpayer data? Has Meta taken any steps to identify or delete this data? If so, what is the process for doing so?
 8. Please describe the Meta signals filtering mechanism and how it detects potentially sensitive information being sent via use of the Meta Pixel or any other Meta business tools.
 9. Please describe Meta's policies regarding violations of its restrictions on Meta business tools data and any repercussions for businesses that send sensitive information via the Meta Pixel or any other Meta business tools.
 10. What potentially sensitive data, if any, has Meta's signals filtering mechanism detected being sent via these tax preparation companies' use of the Meta Pixel or any other Meta business tools? What steps, if any, did Meta take upon detecting such data?
 11. What communication, if any, has Meta had with these tax preparation companies regarding their use of the Meta Pixel and the information harvested?
 12. What is the exact nature of the data sharing agreements between Meta and the tax preparation companies?
 13. How much money have these tax preparation companies spent on Facebook advertising in the past year?
 14. How much revenue does Meta estimate that it generated for these tax preparation companies from Facebook advertising in the past year?
 15. How much revenue does Meta estimate that it generated for itself from use of the data harvested by the Meta Pixel on these tax preparation company websites?
 16. Will you commit not to harvest taxpayer data via the Meta Pixel or any other method for tax filers that use online tax filing products to file their 2022 taxes? If so, please provide details on how Meta intends to implement this commitment.

Sincerely,



Elizabeth Warren
United States Senator



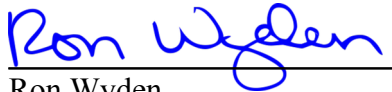
Tammy Duckworth
United States Senator



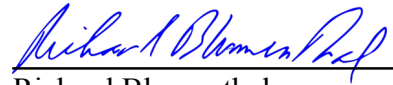
Sheldon Whitehouse
United States Senator



Bernard Sanders
United States Senator



Ron Wyden
United States Senator



Richard Blumenthal
United States Senator



Katie Porter
Member of Congress



Brad Sherman
Member of Congress

Congress of the United States

Washington, DC 20515

December 14, 2022

Curtis Campbell
President
TaxAct
3200 Olympus Blvd Suite 100
Dallas, TX 75019

Dear Mr. Campbell –

We write with grave concerns following a report that TaxAct and other tax preparation companies have been secretly “transmitting sensitive financial information to Facebook when Americans file their taxes online,” including “data on users’ income, filing status, [and] refund amounts.”¹ If true, this is an appalling breach of users’ trust and a potentially illegal misuse of sensitive taxpayer data that raises significant questions about whether Congress and the Administration should act to limit the role of your company and other predatory private tax preparation companies.

Millions of American taxpayers have trusted your company with sensitive financial data in order to file their tax returns.² Federal law and regulations include strong protections for taxpayer data, with civil and criminal penalties for disclosing data without explicit consent, including fines and even jail time.³ Given these new reports and TaxAct’s track record of profiting off American tax filers,⁴ we seek a full accounting of your potential disclosure of taxpayer data to Meta.

TaxAct and other tax preparation companies have spent millions lobbying the U.S. government to ensure that tax filing is outsourced to them from the Internal Revenue Service (IRS).⁵ Members of Congress have long warned that privatization of this essential government function forces Americans to pay unnecessary fees and share private information with third parties⁶ – and the latest allegations reveal significant new risks from this arrangement.

Last month, *The Markup* reported that major tax preparation companies, including TaxAct, H&R Block, and TaxSlayer have been transmitting sensitive taxpayer data to Meta via widely-used

¹ The Markup, “Tax Filing Websites Have Been Sending Users’ Financial Information to Facebook,” Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022, <https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>.

² TaxAct, “TaxAct Helps Americans File for Less and Get More with its Tax Software,” January 14, 2021, <https://www.taxact.com/press/2021/press-releases/taxact-helps-americans-file-for-less-and-get-more>.

³ 26 U.S.C. § 6103; 26 U.S.C. § 6713; 26 U.S.C. § 7216; 26 U.S.C. § 7431; 26 C.F.R. § 301.7216-3; 26 C.F.R. § 301.7216-2; Internal Revenue Service, Rev. Proc. 2013-14.

⁴ Office of U.S. Senator Elizabeth Warren, “Tax Maze: How the Tax Prep Industry Blocks Government from Making Tax Day Easier,” April 4, 2016, pg. 9, https://www.warren.senate.gov/files/documents/Tax_Maze_Report.pdf.

⁵ *Id.*

⁶ Office of U.S. Senator Elizabeth Warren, “Senator Warren Leads 22 Colleagues in Introducing the Tax Filing Simplification Act of 2022,” July 13, 2022, <https://www.warren.senate.gov/newsroom/press-releases/senator-warren-leads-22-colleagues-in-introducing-the-tax-filing-simplification-act-of-2022>.

code called the Meta Pixel.⁷ Meta provides the Pixel code free of charge to any business that wants to embed it in its website, profiting both Meta and the business in question.⁸ The Pixel is invisible to users but records their browsing history and even information they enter online, allowing the business to then target them with Facebook ads, for example promoting to them the products they have looked at but have yet to purchase.⁹ Meanwhile, Meta uses the data from its two million plus Pixels to understand the habits of internet users, improve its algorithms, and drive increased profits.¹⁰

In the case of tax prep companies, *The Markup* reports indicate that the Meta Pixel invisibly gathered and transmitted highly sensitive taxpayer data. The data is reported to include names and email addresses, and more private financial information such as income, filing status, refund amounts, health savings account usage, dependents' names and college scholarship amounts, including of non-Facebook users.¹¹ According to the report, TaxAct embedded a Meta Pixel on its site that gathered "users' filing status, their adjusted gross income, and the amount of their refund," a parameter labeled "student_loan_interest," and "the names of dependents in an obfuscated, but generally reversible, format."¹² Reportedly, TaxAct transmitted dollar amounts like adjusted gross income "as parameters to a 'custom event,' which are sent only if the pixel is configured beyond the default by a website operator or another application the website operator adds to their site." In other words, from these reports, TaxAct appears to have actively customized the Meta Pixel in order to send this taxpayer information to Meta. The Markup also reported that the TaxAct website "uses Google's analytics tool on its website" and has sent "similar financial information, but not names" to Google through its tool.¹³

The Markup reviewed company websites and found no disclosures specifically indicating that personal financial information would be transferred to Facebook or its parent company Meta. Reportedly, TaxAct's request for disclosure references its sister company "TaxSmart Research LLC" – but not Facebook, Meta, or Google. As of November 21, 2022, TaxAct reportedly had removed the Meta Pixel from its website but was continuing to send information to Google Analytics.¹⁴ If all these reports are true, then taxpayers were not adequately informed of these transfers of their data. Such unauthorized disclosures of sensitive taxpayer data would be clearly inappropriate and potentially illegal. The Internal Revenue Code clearly states that "returns and return information shall be confidential," with limited exceptions.¹⁵ One of the exceptions is for a taxpayer to designate a third party to receive return information, but those third parties "shall not use the information for any purpose other than the express purpose for which consent was

⁷ The Markup, "Tax Filing Websites Have Been Sending Users' Financial Information to Facebook," Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022, <https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ 26 U.S.C. § 6103(a).

granted and shall not disclose return information to any other person without the express permission of, or request by, the taxpayer.”¹⁶

A tax preparer “who knowingly or recklessly (1) discloses any information furnished to him for, or in connection with, the preparation of any such return, or (2) uses any such information for any purpose other than to prepare, or assist in preparing, any such return” faces civil and criminal liability, including \$1,000 per unauthorized disclosure or actual and punitive damages, and up to one year in prison.¹⁷ Relevant regulations further outline the very specific requirements for disclosure agreements, including that consent “must specify the tax return information to be disclosed or used by the return preparer,” “the specific recipient”, and “the particular use authorized.”¹⁸ A further notice even specifies the exact format of certain consent forms, down to specific language and even text size.¹⁹ Former National Taxpayer Advocate Nina Olson helped draft these regulations and has emphasized the specificity required in any disclosure agreement and the shortfalls in your company’s agreement, asking: “Do they have a list saying they’re going to disclose the refund amounts, and your children, and your whatever to Facebook?”²⁰ We are gravely concerned by reports that TaxAct and other tax preparation companies do not.

If *The Markup*’s reporting is accurate, taxpayers deserve justice for this abuse of their private tax information, and we hope that the IRS and if merited, the Department of Justice, will act to impose appropriate penalties on your company. In addition, individual taxpayers might normally be able bring a civil action for damages.²¹ But it appears that TaxAct and the other tax preparation companies have attempted to limit those rights by sneaking in mandatory arbitration clauses.²² Tax prep companies should not be able to force taxpayers to give up important statutory protections and remedies just for the privilege of filing their taxes.

Apart from the immediate relief that impacted taxpayers deserve, these shocking reports of breaches of taxpayer privacy by tax preparation companies underscores the need for the IRS to provide its own free tax filing software. American taxpayers should have the option of preparing and filing their taxes directly with the federal government instead of being forced to share private information with third parties that have a long record of abusive behavior, now potentially including turning over that data to Big Tech firms. If accurate, this story also illustrates the disingenuousness of past arguments by tax prep industry that efforts by the IRS to break the

¹⁶ 26 U.S.C. § 6103(c).

¹⁷ 26 U.S.C. § 7216; 26 U.S.C. § 7431; 26 U.S.C. § 6713.

¹⁸ 26 C.F.R. § 301.7216-3(a)(3)(i); 26 C.F.R. § 301.7216-2.

¹⁹ Internal Revenue Service, Rev. Proc. 2013-14.

²⁰ The Markup, “Tax Filing Websites Have Been Sending Users’ Financial Information to Facebook,” Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022, <https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>; Procedurally Taxing, “The Facebook Pixel and Unauthorized Use and Disclosure of Tax Return and Tax Return Information,” Nina Olson, November 29, 2022, <https://procedurallytaxing.com/the-facebook-pixel-and-unauthorized-use-and-disclosure-of-tax-return-and-tax-return-information/>.

²¹ 26 U.S.C. § 7431; see also, for example, New York State Taxpayer Bill of Rights, <https://www.tax.ny.gov/tra/tax-law-article-41.htm>.

²² Procedurally Taxing, “The Facebook Pixel and Unauthorized Use and Disclosure of Tax Return and Tax Return Information,” Nina Olson, November 29, 2022, <https://procedurallytaxing.com/the-facebook-pixel-and-unauthorized-use-and-disclosure-of-tax-return-and-tax-return-information/>.

stranglehold of private tax filing companies would somehow “jeopardize taxpayer privacy.”²³ Indeed, such efforts may be necessary to protect taxpayer data by removing it from the grip of rapacious third parties.

To better understand the nature and extent of TaxAct’s alleged sharing of sensitive taxpayer data with Meta and Google, we ask that you answer the following questions by January 3, 2022:

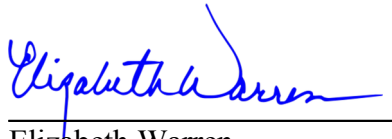
1. Did TaxAct embed the Meta Pixel in its website? If so, when was the Pixel first embedded?
2. What, if any, specific types of taxpayer data have been collected and shared through the Meta Pixel on the TaxAct website since the Pixel was first embedded?
 - a. Were taxpayer names, addresses, and email addresses shared? If so, for how many taxpayers was this information shared?
 - b. Was information on taxpayers’ filing status shared? If so, for how many taxpayers was this information shared?
 - c. Was information on taxpayers’ dependents shared? If so, for how many taxpayers was this information shared?
 - d. Was information on any types of taxpayers’ income or assets shared? If so, please specifically list all types of information that was shared, and the number of taxpayers whose information was shared.
 - e. Was information on taxpayers’ tax refunds or tax owed shared? If so, for how many taxpayers was this information shared?
 - f. Was other taxpayers’ information – such as information on dependents’ college scholarship amounts, information on deductions, or any other type of information in taxpayers’ filings – shared? If so, please specifically list all types of information that was shared, and the number of taxpayers whose information was shared.
3. Which types of taxpayer data did the Meta Pixel collect and share by default and which were proactively enabled by TaxAct?
4. Did TaxAct disclose and receive user consent for the specific taxpayer data to be sent to Facebook or Meta specifically? Please provide all TaxAct data disclosure agreements.
5. What is the exact nature of any agreements between TaxAct and Meta with regard to data sharing?
6. When did TaxAct first enable Google Analytics in its website?
7. What specific types of taxpayer data has Google Analytics harvested on the TaxAct website since it was first enabled?
 - a. Were taxpayer names, addresses, and email addresses shared? If so, for how many taxpayers was this information shared?
 - b. Was information on taxpayers’ filing status shared? If so, for how many taxpayers was this information shared?
 - c. Was information on taxpayers’ dependents shared? If so, for how many taxpayers was this information shared?

²³ Office of U.S. Senator Elizabeth Warren, “Tax Maze: How the Tax Prep Industry Blocks Government from Making Tax Day Easier,” April 4, 2016, pgs. 10-11, https://www.warren.senate.gov/files/documents/Tax_Maze_Report.pdf.

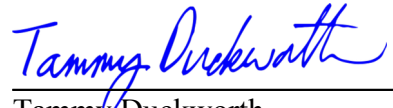
- d. Was information on any types of taxpayers' income or assets shared? If so, please specifically list all types of information that was shared, and the number of taxpayers whose information was shared.
 - e. Was information on taxpayers' tax refunds or tax owed shared? If so, for how many taxpayers was this information shared?
 - f. Was other taxpayers' information – such as information on dependents' college scholarship amounts, information on deductions, or any other type of information in taxpayers' filings – shared? If so, please specifically list all types of information that was shared, and the number of taxpayers whose information was shared.
8. If TaxAct believes the information shared with Google through Google Analytics was obfuscated to prevent its linkability to individual taxpayers, what information can it provide about the form of this obfuscated information or technical analyses it performed that guarantee the anonymity of consumers from whom information was collected?
 9. Which types of taxpayer data did Google Analytics harvest by default and which were proactively enabled by TaxAct?
 10. Did TaxAct disclose and receive user consent for the specific taxpayer data to be sent to Google specifically? Please provide all TaxAct data disclosure agreements.
 11. What is the exact nature of any agreements between TaxAct and Google with regard to data sharing?
 12. Has TaxAct embedded the Meta Pixel or Google Analytics code in its Free File software? If so, please answer questions #1-10 above specifically for TaxAct's Free File software.
 13. How much money did TaxAct spend on Facebook advertising in each of the last five years?
 14. How much revenue does TaxAct estimate that it generated from Facebook advertising in the past year?
 15. With what other companies besides Meta and Google does TaxAct share taxpayer data? What specific data is shared by TaxAct, and for what purposes?
 16. Is TaxAct using a mandatory arbitration clause in order to compel taxpayers to give up their right to sue pursuant to 26 U.S. Code § 7431?²⁴ Would your company be willing to waive this clause for the purpose of addressing the damage done to taxpayers by the improper data sharing by your company?
 17. Will you commit not to send taxpayer data to Meta, Google, or any other third party not explicitly named in your consent agreements for tax filers that use your product to file their 2022 taxes?

Sincerely,

²⁴ 26 U.S. Code § 7431.



Elizabeth Warren
United States Senator



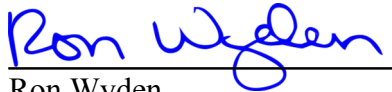
Tammy Duckworth
United States Senator



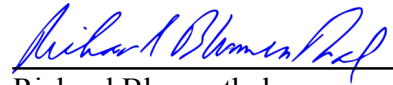
Sheldon Whitehouse
United States Senator



Bernard Sanders
United States Senator



Ron Wyden
United States Senator



Richard Blumenthal
United States Senator



Katie Porter
Member of Congress



Brad Sherman
Member of Congress

Congress of the United States

Washington, DC 20515

December 14, 2022

Brian Rhodes
President and CEO
TaxSlayer
945 Broad Street
Augusta, GA 30901

Dear Mr. Rhodes –

We write with grave concerns following a report that TaxSlayer and other tax preparation companies have been secretly “transmitting sensitive financial information to Facebook when Americans file their taxes online,” including “data on users’ income, filing status, [and] refund amounts.”¹ If true, this is an appalling breach of users’ trust and a potentially illegal misuse of sensitive taxpayer data that raises significant questions about whether Congress and the Administration should act to limit the role of your company and other predatory private tax preparation companies.

Millions of American taxpayers have trusted your company with sensitive financial data in order to file their tax returns.² Federal law and regulations include strong protections for taxpayer data, with civil and criminal penalties for disclosing data without explicit consent, including fines and even jail time.³ Given these new reports and TaxSlayer’s track record of profiting off American tax filers,⁴ we seek a full accounting of your potential disclosure of taxpayer data to Meta.

TaxSlayer and other tax preparation companies have spent millions lobbying the U.S. government to ensure that tax filing is outsourced to them from the Internal Revenue Service (IRS).⁵ Members of Congress have long warned that privatization of this essential government

¹ The Markup, “Tax Filing Websites Have Been Sending Users’ Financial Information to Facebook,” Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022, <https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>.

² TaxSlayer, “Who is TaxSlayer?” October 31, 2022, <https://www.taxslayer.com/blog/get-to-know-taxslayer/>.

³ 26 U.S.C. § 6103; 26 U.S.C. § 6713; 26 U.S.C. § 7216; 26 U.S.C. § 7431; 26 C.F.R. § 301.7216-3; 26 C.F.R. § 301.7216-2; Internal Revenue Service, Rev. Proc. 2013-14.

⁴ Office of U.S. Senator Elizabeth Warren, “Tax Maze: How the Tax Prep Industry Blocks Government from Making Tax Day Easier,” April 4, 2016, pg. 9, https://www.warren.senate.gov/files/documents/Tax_Maze_Report.pdf; ProPublica, “Elizabeth Warren and Other Senators Call for Refunds and Investigations of TurboTax and H&R Block,” Office of U.S. Senator Elizabeth Warren, “Warren Leads Colleagues Calling for the FTC and IRS to Investigate and Oust Tax Preparation Companies Profiting by Misleading Low-Income Taxpayers,” May 3, 2019, <https://www.warren.senate.gov/oversight/letters/warren-leads-colleagues-calling-for-the-ftc-and-irs-to-investigate-and-oust-tax-preparation-companies-profiting-by-misleading-low-income-taxpayers>.

⁵ Office of U.S. Senator Elizabeth Warren, “Tax Maze: How the Tax Prep Industry Blocks Government from Making Tax Day Easier,” April 4, 2016, pg.9, https://www.warren.senate.gov/files/documents/Tax_Maze_Report.pdf.

function forces Americans to pay unnecessary fees and share private information with third parties⁶ – and the latest allegations reveal significant new risks from this arrangement.

Last month, *The Markup* reported that major tax preparation companies, including TaxSlayer, H&R Block, and TaxAct have been transmitting sensitive taxpayer data to Meta via widely-used code called the Meta Pixel.⁷ Meta provides the Pixel code free of charge to any business that wants to embed it in its website, profiting both Meta and the business in question.⁸ The Pixel is invisible to users but records their browsing history and even information they enter online, allowing the business to then target them with Facebook ads, for example promoting to them the products they have looked at but have yet to purchase.⁹ Meanwhile, Meta uses the data from its two million plus Pixels to understand the habits of internet users, improve its algorithms, and drive increased profits.¹⁰

In the case of tax prep companies, *The Markup* reports indicate that the Meta Pixel invisibly gathered and transmitted highly sensitive taxpayer data. The data is reported to include names and email addresses, and more private financial information such as income, filing status, refund amounts, health savings account usage, dependents' names and college scholarship amounts, including of non-Facebook users.¹¹ According to the report, TaxSlayer specifically embedded a Meta Pixel on its site that gathered information including “phone numbers, the name of the user filling out the form, and the names of any dependents added to the return.”¹² TaxSlayer reportedly used a Pixel feature called “automatic advanced matching” that “scans forms looking for fields that it thinks contains personally identifiable information” to harvest, which *the Markup* found to be turned off by default. In other words, from these reports, TaxSlayer appears to have actively customized the Meta Pixel in order to send taxpayer information to Meta. The Markup also reported finding a Meta Pixel on a tax preparation site operated by Ramsey Solutions, which uses a version of TaxSlayer's service,¹³ That Pixel reportedly “gathered even more personal data from a tax return summary page, including information on income and refund amounts.”¹⁴

The Markup reviewed company websites, including TaxSlayer's website, and found no disclosures specifically indicating that taxpayers' information would be transferred to Facebook or its parent company Meta. If true, then taxpayers were not being adequately informed of this transfer of sensitive data.

⁶ Office of U.S. Senator Elizabeth Warren, “Senator Warren Leads 22 Colleagues in Introducing the Tax Filing Simplification Act of 2022,” July 13, 2022, <https://www.warren.senate.gov/newsroom/press-releases/senator-warren-leads-22-colleagues-in-introducing-the-tax-filing-simplification-act-of-2022>.

⁷ The Markup, “Tax Filing Websites Have Been Sending Users' Financial Information to Facebook,” Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022, <https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

At least one tax preparation company also reportedly sent sensitive financial data to Google. According to *The Markup*, “TaxAct... also uses Google’s analytics tool on its website, and *The Markup* found similar financial data, but not names, being sent to Google through its tool.”¹⁵

Such unauthorized disclosures of sensitive taxpayer data would be clearly inappropriate and potentially illegal. The Internal Revenue Code clearly states that “returns and return information shall be confidential,” with limited exceptions.¹⁶ One of the exceptions is for a taxpayer to designate a third party to receive return information, but those third parties “shall not use the information for any purpose other than the express purpose for which consent was granted and shall not disclose return information to any other person without the express permission of, or request by, the taxpayer.”¹⁷

A tax preparer “who knowingly or recklessly (1) discloses any information furnished to him for, or in connection with, the preparation of any such return, or (2) uses any such information for any purpose other than to prepare, or assist in preparing, any such return” faces civil and criminal liability, including \$1,000 per unauthorized disclosure or actual and punitive damages, and up to one year in prison.¹⁸ Relevant regulations further outline the very specific requirements for disclosure agreements, including that consent “must specify the tax return information to be disclosure or used by the return preparer,” “the specific recipient”, and “the particular use authorized.”¹⁹ A further notice even specifies the exact format of certain consent forms, down to specific language and even text size.²⁰ Former National Taxpayer Advocate Nina Olson helped draft these regulations and has emphasized the specificity required in any disclosure agreement and the shortfalls in your company’s agreement, asking: “Do they have a list saying they’re going to disclose the refund amounts, and your children, and your whatever to Facebook?”²¹ We are gravely concerned by reports that TaxSlayer and other tax preparation companies do not.

If *The Markup*’s reporting is accurate, taxpayers deserve justice for this abuse of their private tax information, and we hope that the IRS and if merited, the Department of Justice, will act to impose appropriate penalties on your company. In addition, individual taxpayers might normally be able bring a civil action for damages.²² But it appears that TaxSlayer and the other tax preparation companies have attempted to limit those rights by sneaking in mandatory arbitration

¹⁵ *Id.*

¹⁶ 26 U.S.C. § 6103(a).

¹⁷ 26 U.S.C. § 6103(c).

¹⁸ 26 U.S.C. § 7216; 26 U.S.C. § 7431; 26 U.S.C. § 6713.

¹⁹ 26 C.F.R. § 301.7216-3(a)(3)(i); 26 C.F.R. § 301.7216-2.

²⁰ Internal Revenue Service, Rev. Proc. 2013-14.

²¹ The Markup, “Tax Filing Websites Have Been Sending Users’ Financial Information to Facebook,” Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022, <https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>; Procedurally Taxing, “The Facebook Pixel and Unauthorized Use and Disclosure of Tax Return and Tax Return Information,” Nina Olson, November 29, 2022, <https://procedurallytaxing.com/the-facebook-pixel-and-unauthorized-use-and-disclosure-of-tax-return-and-tax-return-information/>.

²² 26 U.S.C. § 7431; see also, for example, New York State Taxpayer Bill of Rights, <https://www.tax.ny.gov/tra/tax-law-article-41.htm>.

clauses.²³ Tax prep companies should not be able to force taxpayers to give up important statutory protections and remedies just for the privilege of filing their taxes.

Apart from the immediate relief that impacted taxpayers deserve, these shocking reports of breaches of taxpayer privacy by tax preparation companies underscores the need for the IRS to provide its own free tax filing software. American taxpayers should have the option of preparing and filing their taxes directly with the federal government instead of being forced to share private information with third parties that have a long record of abusive behavior, now potentially including turning over that data to Big Tech firms. If accurate, this story also illustrates the disingenuousness of past arguments by tax prep industry that efforts by the IRS to break the stranglehold of private tax filing companies would somehow “jeopardize taxpayer privacy.”²⁴ Indeed, such efforts may be necessary to protect taxpayer data by removing it from the grip of rapacious third parties.

To better understand the nature and extent of TaxSlayer’s alleged sharing of sensitive taxpayer data with Meta, we ask that you answer the following questions by January 3, 2023:

1. Did TaxSlayer embed the Meta Pixel in its website? If so, when was the Pixel first embedded?
2. What, if any, specific types of taxpayer data have been collected and shared through the Meta Pixel on the TaxSlayer website since the Pixel was first embedded?
 - a. Were taxpayer names, addresses, and email addresses shared? If so, for how many taxpayers was this information shared?
 - b. Was information on taxpayers’ filing status shared? If so, for how many taxpayers was this information shared?
 - c. Was information on taxpayers’ dependents shared? If so, for how many taxpayers was this information shared?
 - d. Was information on any types of taxpayers’ income or assets shared? If so, please specifically list all types of information that was shared, and the number of taxpayers whose information was shared.
 - e. Was information on taxpayers’ tax refunds or tax owed shared? If so, for how many taxpayers was this information shared?
 - f. Was other taxpayers’ information – such as information on dependents’ college scholarship amounts, information on deductions, or any other type of information in taxpayers’ filings – shared? If so, please specifically list all types of information that was shared, and the number of taxpayers whose information was shared.
3. Which types of taxpayer data did the Meta Pixel collect and share by default and which were proactively enabled by TaxSlayer?

²³ Procedurally Taxing, “The Facebook Pixel and Unauthorized Use and Disclosure of Tax Return and Tax Return Information,” Nina Olson, November 29, 2022, <https://procedurallytaxing.com/the-facebook-pixel-and-unauthorized-use-and-disclosure-of-tax-return-and-tax-return-information/>.

²⁴ Office of U.S. Senator Elizabeth Warren, “Tax Maze: How the Tax Prep Industry Blocks Government from Making Tax Day Easier,” April 4, 2016, pgs. 10-11, https://www.warren.senate.gov/files/documents/Tax_Maze_Report.pdf.

4. Did TaxSlayer disclose and receive user consent for the specific taxpayer data to be sent to Facebook or Meta specifically? Please provide all TaxSlayer data disclosure agreements.
5. What is the exact nature of any agreements between TaxSlayer and Meta with regard to data sharing?
6. Please answer questions #1-5 specifically for the TaxSlayer software used by Ramsey Solutions.
7. Has TaxSlayer embedded the Meta Pixel in its Free File software? If so, please answer questions #1-5 above specifically for TaxSlayer's Free File software.
8. Has TaxSlayer embedded the Meta pixel in the software made available to Volunteer Income Tax Assistance (VITA) sites? If so, please answer questions #1-5 specifically for the software made available to VITA.
9. How much money did TaxSlayer spent on Facebook advertising in each of the last five years?
10. How much revenue does TaxSlayer estimate that it generated from Facebook advertising in the past year?
11. With what other companies besides Meta does TaxSlayer share taxpayer data? What specific data is shared by TaxSlayer, and for what purposes?
12. Is TaxSlayer using a mandatory arbitration clause in order to compel taxpayers to give up their right to sue pursuant to 26 U.S. Code § 7431?²⁵ Would your company be willing to waive this clause for the purpose of addressing the damage done to taxpayers by the improper data sharing by your company?
13. Will you commit not to send taxpayer data to Meta, Google, or any other third party not explicitly named in your consent agreements for tax filers that use your product to file their 2022 taxes?

Sincerely,



Elizabeth Warren
United States Senator



Tammy Duckworth
United States Senator

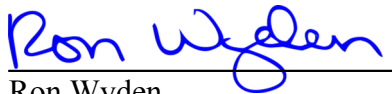


Sheldon Whitehouse
United States Senator




Bernard Sanders
United States Senator

²⁵ 26 U.S. Code § 7431.



Ron Wyden
United States Senator



Richard Blumenthal
United States Senator



Katie Porter
Member of Congress



Brad Sherman
Member of Congress