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Submitted through the Federal E-rulemaking Portal

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The Honorable Daniel Werfel
Commissioner
Internal Revenue Service
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Re: Proposed Regulations regarding Disclosures of Return Information Reflected on Returns to Officers and Employees of the Department of Commerce, Including the Bureau of the Census, for Certain Statistical Purposes and Related Activities (REG-123376-22)

Dear Dr. Aron-Dine, Mr. Werfel, and Ms. Rollinson:

Thank you for the opportunity to comment on the Notice of Proposed Rulemaking on disclosure of tax return information to the US Census Bureau for certain research purposes, as published by the Internal Revenue Service (IRS) and the Department of the Treasury in the Federal Register on March 29, 2024.¹ We are researchers who conduct quantitative and qualitative work in a range of policy spheres, including taxes, health care, income and public benefits, race and equity, and statistical data privacy. Our research makes extensive use of data from the US Census Bureau and the IRS.

Expanding the range of tax data shared with the US Census Bureau will aid research and policy analyses on the impacts of the US federal tax system and other public programs. In doing so, the proposed rule has the potential to inform reforms that will improve the effectiveness and fairness of the federal tax system and other policies, and advance upward mobility and equity for families across the US.

As noted in the preamble to the proposed rule, the changes would enhance the US Census Bureau's research capacity and improve the quality of its statistical estimates. Enhancing the information released by the US Census Bureau would be of great value to research efforts more

¹ "Disclosures of Return Information Reflected on Returns to Officers and Employees of the Department of Commerce, Including the Bureau of the Census, for Certain Statistical Purposes and Related Activities," REG-123376-22, 89 FR 22101 (March 29, 2024).

broadly, including our own. As highlighted below, the proposal includes the sharing of numerous specific data elements for which there are currently no data available of comparable quality.

The proposed regulations are authorized by Code section 6103(j)(1)(A), which empowers the IRS to promulgate regulations permitting the sharing of tax return data with the US Census Bureau “for the purpose of, but only to the extent necessary in, the structuring of censuses and national economic accounts and conducting related statistical activities authorized by law.”

We offer a few recommendations to build on the proposal.

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Key research benefits

Research on the tax system’s distributional impacts

Sharing detailed tax data with the US Census Bureau has the potential to greatly enhance research into the effects of the US tax system, and especially its distributional impacts across demographic groups. The Urban-Brookings Tax Policy Center regularly deploys its microsimulation model to produce estimates of how the latest tax proposals and enacted legislation would affect federal government revenue and the distribution of tax burdens among income groups.² Like microsimulation models used in government and other analytical organizations, the model relies on a public-use file of income tax returns produced by the IRS’s Statistics of Income Division. However, to produce accurate estimates for a full range of tax proposals, that data must be supplemented by imputations for variables or individuals who do not appear in the public-use file.

As part of that process, the Urban-Brookings Tax Policy Center supplements the public-use file with information on other demographic characteristics and sources of income not reported on tax returns through a constrained statistical match with data from the US Census Bureau’s March 2012 Current Population Survey (CPS). That match also generates a sample of individuals who do not file individual income tax returns (“nonfilers”). This allows us to estimate the revenue and distributional impact of tax proposals (such as refundable tax credits) that would potentially affect current nonfilers.

Enhanced data sharing between IRS and the US Census Bureau would enable direct, rather than statistical, matching of IRS and US Census Bureau survey data. Analysis of that directly matched data would allow us to check for the accuracy of our statistical match and to make improvements to the matching algorithm. That could potentially improve our estimates of the effects of tax policy on revenues and on after-tax incomes, especially at the lower end of the income distribution. It would also permit more accurate distributional analysis across age, household type, and the broad range of demographic information collected in the CPS as discussed further below.

Research on health policies

² More information here: Urban-Brookings Tax Policy Center. 2022. [Brief Description of the Tax Model](#). Washington, DC: Urban-Brookings Tax Policy Center.

We strongly support the proposal to provide the US Census Bureau with information on health coverage, Marketplace coverage parameters, and employer coverage offers on Forms 1095-A (Health Insurance Marketplace Statement), 1095-B (Health Coverage), and 1095-C (Employer-Provided Health Insurance Offer and Coverage). Together, the information reported on these forms provides a comprehensive record of health coverage nationwide and fills important gaps in data. This information, which currently is not shared publicly, is more complete than anything available for research and is also very likely more accurate because it is reported by coverage providers rather than individuals. The 1095 data cover all individuals, not just policyholders. The 1095 data also provide details on offers of employer coverage often misreported on household surveys. The tax subsidy for employer-sponsored health insurance is one of the largest in the tax code in terms of forgone revenue, and the 1095 data would support research on how proposed changes to the tax code would affect individuals and families. In addition, the 1095 data include information on Marketplace subsidies for all individuals.

Matching these data with demographic information and other US Census Bureau data would permit important research into the effects of proposed policy changes on coverage and the relationship between health disparities and coverage. The information regarding health savings accounts (HSAs) from Form 5498-SA would also be valuable, as the policy considerations surrounding HSAs are a frequent and important focus of ongoing research.

Research on income supports and social assistance

The individual income tax code provides substantial benefits to families with low incomes, especially those with children. In recent years, two tax credits alone—the earned income tax credit (EITC) and the refundable portion of the child tax credit—have provided over \$100 billion per year in cash assistance to low-income working families.

To understand the impact of these policies on different populations, as well as their interaction with other social assistance programs families may be eligible for (e.g., the Supplemental Nutritional Assistance Program [SNAP] and child care subsidies), researchers rely upon publicly available datasets like the US Census Bureau’s Current Population Survey Annual Social and Economic Supplement (CPS-ASEC).

But the US Census Bureau’s datasets, like the CPS-ASEC, do not include actual tax liabilities or credit receipt, even though these data are necessary to determine poverty rates under the Supplemental Poverty Measure (SPM). And they do not include information on the actual demographic composition of tax units or these units’ tax-filing statuses. This information is foundational to determining eligibility and benefit levels under a variety of tax programs. For example, these datasets also do not include relevant information as to whether children meet the complex criteria to be claimed as a “qualifying child” for a benefit. Instead, the US Census Bureau models these data elements using microsimulation models.

Yet, US Census Bureau data have historically underestimated credit receipt compared with IRS administrative data, limiting understanding of how tax benefits impact families.³ By disclosing various data elements like tax-filing status, income from various sources, the number of EITC qualifying children, the amount of tax credits like EITC and the child tax credit that families receive, and tax liabilities, the IRS would provide the Census Bureau with valuable information to

³ Wheaton, Laura, and Kathryn Stevens. 2016. [The Effect of Different Tax Calculators on the Supplemental Poverty Measure](#). Table 1C: Federal Income Tax: Comparison of Tax Credits: Simulated vs. Targets, Tax Year 2012. Washington, DC: Urban Institute.

have a more accurate understanding of the impact of current tax benefits and the potential impact of modifications to these provisions.

Although matched tax and US Census Bureau data could not be released in raw form due to privacy concerns, it would be possible to create “synthetic” versions of the data that matched the statistical properties of the original data without any risk to private information. That synthetic data could then be used to improve the modeling of nonfilers and of other information not appearing on tax returns.

Research on disparities related to race, ethnicity, and other inequities

The IRS does not ask for tax filers’ race or ethnicity on tax forms. Because no tax provisions are explicitly tied to race or ethnicity, such data are not required to administer the tax code. Some have argued that the IRS collecting this data could make some taxpayers reluctant to file their federal individual income tax returns because of concerns about IRS examiners having access to that information.⁴

Nevertheless, although the tax code does not explicitly mention race, it can exacerbate racial and ethnic disparities. For years, scholars called attention to how the federal tax code and its administration might exacerbate long-standing racial disparities in income, housing, wealth, education, and employment.⁵

Most prior research at the intersection of racial disparities and taxation has relied on analyzing tax data breakdowns by income from the IRS, and separately, race and ethnicity data from the Federal Reserve's Survey of Consumer Finances and US Census Bureau (such as from the CPS or American Community Survey).⁶ More recently, the US Treasury Department and the Urban-Brookings Tax Policy Center, among others, have developed imputation approaches that can estimate demographic characteristics of taxpayers using rigorous research methods.⁷

Although rigorous, these strategies are imperfect and cannot paint a full picture of the distributional impacts of tax policies and practices. If the US Census Bureau were to have access to a more robust set of tax items, as proposed, and if it were to (A) conduct further research on their intersection with demographic information while also (B) releasing statistics based on that information for external researchers, it would expand the evidence base on the tax system’s impacts on income and wealth inequalities in the US. The availability of high-quality tax data with

⁴ U.S. Government Accountability Office (GAO). 2022. Tax Equity: Lack of Data Limits Ability to Analyze Effects of Tax Policies on Households by Demographic Characteristics. GAO-22-104553. Washington, DC: GAO; Bearer-Friend, Jeremy. 2019. Should the IRS Know Your Race? The Challenge of Colorblind Tax Data. 73 *Tax Law Review* 1 (2019). Available at SSRN: <https://ssrn.com/abstract=3231315>.

⁵ See, for example: Moran, Beverly L., and William Whitford, 1996. “A Black Critique of the Internal Revenue Code.” *Wisconsin Law Review* 4, 751-820. Brown, Dorothy A., 2021. *The Whiteness of Wealth: How the Tax System Impoverishes Black Americans—And How We Can Fix It*. New York, NY: Crown Publishing Group.

⁶ See, for example: Urban-Brookings Tax Policy Center. 2020. *Racial Disparities and the Income Tax System*. Washington, DC: Urban-Brookings Tax Policy Center; Holtzblatt, Janet, Swati Joshi, Nora Cahill, and William G. Gale. 2023. *Racial Disparities in the Income Tax Treatment of Marriage*. Washington, DC: Urban-Brookings Tax Policy Center; Goldin, Jacob, and Katherine Michelmoro. 2022. “Who Benefits from the Child Tax Credit?” *National Tax Journal* 75 (1). <https://doi.org/10.3386/w27940>.

⁷ See, for example: Fisher, Robin. 2023. *Estimation of Race and Ethnicity by Re-Weighting Tax Data*. Technical Paper 11, Office of Tax Analysis. Washington, DC: US Treasury Department; Khitatrakun, Surachai, Gordon B. Mermin, Benjamin R. Page, and Jeffrey Rohaly. 2023. *A New Approach for Estimating the Impact of Tax Policies by Race and Ethnicity*. Washington, DC: Urban-Brookings Tax Policy Center.

race and ethnicity breakdowns from the US Census Bureau could also aid research that identifies the structural drivers of racial inequities, going beyond analyses of disparities.⁸

It is worth noting that this proposal would complement, not substitute, various existing research projects that the US Treasury Department and others have undertaken using imputation approaches. For example, a 2023 study by the US Treasury Department showed that various tax expenditures, such as those offering preferential rates for capital gains and dividends, disproportionately benefit White families with higher incomes.⁹

However, using the US Treasury Department's existing research tools and methods, the researchers of the 2023 report could not study the potential disparities in tax benefits for retirement savings—some of the largest provisions in the federal income tax system in terms of revenue forgone and contributors to large racial wealth gaps that affect Black, Latine, Native American, and other families of color.¹⁰ Under the proposal, the US Census Bureau could access tax data on individual retirement arrangements (IRAs), for example, which could help expand what we know about who benefits—and who does not—from tax-advantaged retirement plans.

In line with the Biden Administration's Executive Order on Racial Equity, policymakers, advocates, and researchers could benefit from more robust and routinized federal data that helps help identify opportunities for improving the equitable impacts of the federal tax system.¹¹

Ensuring the privacy and confidentiality of blending IRS and US Census Bureau data

The main challenge for publicly sharing statistics and data is that it involves balancing a fundamental trade-off between the usefulness of the information shared from the data, often referred to as utility, and the potential harm to individuals from privacy disclosures, such as reidentification or disclosure of sensitive attributes, commonly referred to as privacy loss or disclosure risk. This trade-off between statistical utility and privacy loss will be crucial, especially when releasing statistics and data from two data sources that contain sensitive information.

Given the sensitivity of the involved data sources, we encourage the IRS to continue carefully evaluating the *technical* and *policy solutions* for safely sharing the various blended data (i.e., merged data from more than one source).

For example, the Statistics of Income Division at the IRS worked with the US Department of Education to update the College Scorecard, a web-based search tool that helps future college students and their families search and compare colleges by costs, economic outcomes, field of study, and more. Decisionmakers identified adding “statistical noise” as the technical solution

⁸ See, for example: Ashley, Shena, et al. 2022. [Scoring Federal Legislation for Equity: Definition, Framework, and Potential Application](#). Washington, DC: Urban Institute; Balu, Rekha, et al. 2023. [Research Within versus Outside Existing Systems: Framing and Studying the Effects of Structural Racism](#). Washington, DC: Urban Institute.

⁹ Cronin, Julie-Anne, Portia DeFilippes, and Robin Fisher. 2023. [Tax Expenditures by Race and Hispanic Ethnicity: An Application of the U.S. Treasury Department's Race and Hispanic Ethnicity Imputation](#). Working Paper 122, Office of Tax Analysis. Washington, DC: US Treasury Department.

¹⁰ Urban-Brookings Tax Policy Center. 2024. [How the Federal Income Tax System Worsens Racial Disparities](#). Washington, DC: Urban-Brookings Tax Policy Center.

¹¹ “Executive Order on Advancing Racial Equity and Support for Underserved Communities through the Federal Government,” White House, January 20, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communitiesthrough-the-federal-government/>.

because the blended information has high potential disclosure risk. However, statistics based on smaller numbers of observations showed significantly higher variability from the noise addition because of the ease of identifying a small group (e.g., it is easier to identify a specific record in a group of 10 than a group of 50). Because the general public (typically not researchers) use the College Scorecard to make lifechanging decisions, the policy solution involved suppressing or removing statistics that used a number of observations falling below a certain numeric threshold.

A recent National Academies report, “Toward a 21st Century National Data Infrastructure: Managing Privacy and Confidentiality Risks with Blended Data,” provides a model framework that helps with navigating the technical and policy solutions for blending sensitive data.¹² The report highlights College Scorecard as an example of how two federal agencies carefully implemented their technical and policy solutions while conducting proper stakeholder engagement.

In addition to the privacy considerations, the IRS should implement data governance principles, such as accessibility and transparency, throughout the process of blending IRS and US Census Bureau data. Following such principles will help build and maintain trust among the data users while informing them of how each part of the blended data came together. In other words, knowing the sources for each variable, when the information was collected, and whether the data came from administrative records or a survey will be crucial to ensure proper data use.

Additional Considerations

Although the proposed rule as published would be extremely valuable, certain improvements and clarifications could enhance its value further:

- Ensure the US Census Bureau releases enhanced CPS-ASEC data with new IRS data matched to it.
- Release detailed cross tabs of newly released tax data by income, geographic area, filing type, and other available tax return statistics.

Ultimately, we hope that expanding information at the intersection of taxes and various demographics (including, but not limited to, race and ethnicity), while ensuring effective safeguards to taxpayer confidentiality, will lead to more informed policy debates and help promote a more just system for all taxpayers.

¹² National Academies of Sciences, Engineering, and Medicine. 2024. [Toward a 21st Century National Data Infrastructure: Managing Privacy and Confidentiality Risks with Blended Data](https://doi.org/10.17226/27335). Washington, DC: The National Academies Press. <https://doi.org/10.17226/27335>.

Sincerely,

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