



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

SECRETARY OF THE TREASURY

April 23, 2019

The Honorable Richard E. Neal
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Neal:

I write in response to your April 13 letter to the Commissioner of Internal Revenue concerning your April 3 request to obtain the confidential tax returns (and other return information) of President Trump and related business entities for 2013 through 2018. As explained in my April 10 letter, the Department of the Treasury shares your view that the Committee's request is unprecedented.¹ Accordingly, the Department cannot act upon your request unless and until it is determined to be consistent with law.

Due to the serious constitutional questions raised by this request and the serious consequences that a resolution of those questions could have for taxpayer privacy, the Department is consulting with the Department of Justice. Although federal law establishes no deadline for a response to your request, we expect to provide the Committee with a final decision by May 6, after receiving the Justice Department's legal conclusions.²

As you know, the overwhelming majority of requests for tax return information from the Congressional tax committees seek statistical data to inform the drafting of tax legislation. That is wholly appropriate, and we remain committed to promptly providing information to assist the committees in their legislative work. Your April 3 request is categorically different. It seeks the returns of a single individual taxpayer for an asserted purpose that is at odds with what you and many others have repeatedly said is the request's intent: to publicly release the President's tax returns. The Supreme Court has made clear that exposure for the sake of exposure is never a permissible purpose of Congressional inquiries,³ and this principle is all the more important when private and legally protected tax information is at stake.

¹ See Robert Rubin, *Trump's Tax Returns in the Spotlight if Democrats Capture the House*, Wall St. J., Oct. 3, 2018 (“This has never happened before, so you want to be very meticulous,” Mr. Neal said.”).

² Unlike other provisions in section 6103, subsection (f) imposes no deadline for action on the Committee's request. Compare 26 U.S.C. § 6103(f) with, e.g., *id.* at (g)(5). In the absence of a statutory deadline, agencies are entitled to a reasonable time to evaluate a requested action. While the Committee's April 3 letter was received three months after the beginning of the current Congress, we expect to provide the Committee with a final decision in substantially less time.

³ See *Watkins v. United States*, 354 U.S. 178, 200 (1957).

History demonstrates that private tax return information is susceptible to abuse for partisan purposes—regardless of which party is in power. Unless carefully restrained by law, this risk threatens the privacy of all taxpayers. Millions of Americans are required to entrust their personal financial information to the IRS every year, and they rightly expect that their information will be used only for legitimate governmental purposes. The Department takes this public trust seriously. IRS employees are forbidden from accessing return information unless the information is necessary to perform their bona fide job responsibilities. Accessing private tax returns for any other purpose is prohibited, and intentionally disclosing tax return information for political purposes would be an egregious violation of the trust that American taxpayers place in the IRS. Any IRS employee who does so could face criminal penalties, in addition to termination.

Your request presents the question whether there are any legal limits on the ability of a Congressional tax-writing committee to obtain an individual's private tax returns from the IRS and disclose them publicly. Your April 13 letter indicates that the Committee believes there is only one: the Committee need simply recite a legislative purpose, after which the Department must ignore all evidence in the public record, however overwhelming, that the asserted purpose is pretext for a constitutionally suspect one. We have concerns about that view of the law because it appears to neglect our respective constitutional duties. The Committee's request presents the legal question especially starkly because the public record surrounding the request indicates an impermissible purpose that is impossible to ignore. The resolution of this issue could set a precedent that will reverberate for years to come—again, regardless of which party is in power.

Out of respect for the Committee on Ways and Means, this letter explains some of the legal concerns that have prompted the Department to consult the Department of Justice.

The Constitutional Limits

Our concerns begin with common ground. Based on your April 13 letter, the Committee appears to agree that a request under 26 U.S.C. § 6103(f)—like any government action—must comply with the Constitution. The Committee's authority under section 6103(f) cannot, of course, exceed Congress's powers under Article I. Consequently, parsing the language of section 6103(f) alone cannot resolve the legal issues raised by your request.

It is also common ground that Congress's investigative power is not unlimited. Article I grants Congress no express power to investigate. The Supreme Court has explained that Congress's investigative power exists as an "auxiliary to the legislative function," and so "the only legitimate object" of this power is "to aid [Congress] in legislating."⁴ As the authorities cited in your letter establish, Congressional committee requests for information must be pertinent to an investigation within the jurisdiction of the committee and must reasonably serve a legitimate legislative purpose.

⁴ *McGrain v. Daugherty*, 273 U.S. 135, 174, 178 (1927).

The Supreme Court has made clear that “[n]o inquiry is an end in itself; it must be related to, and in furtherance of, a legitimate task of the Congress.”⁵ The Court has also made clear what is illegitimate, expressing “no doubt that there is no congressional power . . . to expose for the sake of exposure.”⁶

The Committee’s Asserted Purpose

The Committee’s April 3 letter requests President Trump’s tax returns ostensibly to conduct “oversight” of “the extent to which the IRS audits and enforces the Federal tax laws against a President.” But an honest assessment of the Committee’s purpose must start with a recognition that the Committee’s letter is not the beginning of the story.

The Committee’s April 3 request is the culmination of a long-running, well-documented effort to expose the President’s tax returns for the sake of exposure. This effort arose from the presidential election campaign of 2016. After the President took office, this effort continued throughout the previous Congress with what you and Representative Pascrell described in a committee report as the Committee Democrats’ “steadfast . . . pursuit” to use section 6103(f) “to have [President Trump’s] individual tax returns disclosed to the public.”⁷ Then-Leader Pelosi and senior Ways and Means Committee members repeatedly acknowledged that the purpose of requesting the President’s tax returns was to “make those tax returns public.”⁸ Indeed, the chief architects of the April 3 request also served as original cosponsors of a House resolution of inquiry that sought to force the immediate public release of the President’s tax returns.⁹

Although those efforts failed in the last Congress, Leader Pelosi made clear that exposing the President’s tax returns would remain a top priority in the current Congress, describing it as “one of the first things we’d do—that’s the easiest thing in the world.”¹⁰ With the new majority in place, the Committee took up Speaker Pelosi’s charge and, in your own words, “constructed” a “case” to obtain the President’s tax returns.¹¹ The public record demonstrates that the animating purpose of this effort

⁵ *Watkins*, 354 U.S. at 187.

⁶ *Id.* at 200.

⁷ H.R. Rep. No. 115-73, Dissenting Views, at 8 (Mar. 30, 2017), <https://www.congress.gov/115/crpt/hrpt73/CRPT-115hrpt73.pdf> (“Committee Democrats remain steadfast in our pursuit to have [President Trump’s] individual tax returns disclosed to the public.”).

⁸ Transcript, House Democratic Leadership Press Conference at 2017 Issues Conference (Feb. 8, 2017), <https://www.speaker.gov/newsroom/282017/> (hereinafter Issues Conference).

⁹ H. Res. 186, 115th Cong. (Mar. 9, 2017).

¹⁰ John Wildermuth, *Pelosi: Trump’s tax returns are fair game if Democrats win House*, S.F. Chron., Oct. 11, 2018, <https://www.sfchronicle.com/politics/article/Pelosi-Trump-s-tax-returns-are-fair-game-if-13297954.php> (quoting Leader Pelosi).

¹¹ Sunlen Serfaty, et al., *Republicans Warn Trump Tax Request ‘Sets A Dangerous Standard’ and Accuse Dems Of Weaponizing IRS*, CNN, Apr. 5, 2019, <https://www.cnn.com/2019/04/04/politics/trump-tax-returns-request-republicans-congress/index.html> (“[W]e wanted to make sure that the case that we constructed was in fact one that would stand up under the critical scrutiny of the federal courts.”).

was and remains exposure of a political opponent's private tax information. A chronology of this public record is attached to this letter as Appendix A.¹²

No doubt aware of the public record showing that the Committee's constructed case is a pretext for exposure, the Committee has urged the Department to "not . . . question or second guess" the motives behind the legislative purpose the Committee now invokes. But it is not questioning or second-guessing the Committee to credit its Chairman's and Members' own public statements as to the purpose of their request, or to credit similar statements by the Speaker of the House.

Even if those public statements could be ignored, the Committee's stated interest in "the extent to which the IRS audits and enforces the Federal tax laws against a President" is difficult to accept on its face. As an objective matter, the terms of the Committee's request do not fit the Committee's asserted purpose in several respects. To start, the Committee does not inquire about the IRS's procedures for presidential audits. Although the IRS has conducted mandatory examinations of Presidents' tax returns since 1976, the Committee does not request additional information about those policies or ask whether those policies and procedures have changed over time.¹³ Nor does the Committee ask for any information about the extensive protections that ensure such audits are conducted with extreme confidentiality and without improper interference.

In addition, the request seeks tax information related only to the current President. The Committee's exclusive focus on a single taxpayer cannot be explained by the public availability of past Presidents' tax returns; to the best of our knowledge, much of the tax information that the Committee requests for President Trump, including all IRS audit files, has never been publicly released with respect to any past President.

Further, any genuine assessment of the effectiveness of a specific taxpayer audit requires reviewing the outcome of the audit—revisions in liability, settlements, and other resolutions. But rather than request completed audit files on past Presidents, the Committee seeks the returns of the only President for whom the audit process necessarily remains ongoing, as sitting Presidents are subject to mandatory examinations under IRS rules.¹⁴

On the other hand, the Committee's request is perfectly tailored to the other purpose that you have repeatedly and publicly stated: to obtain and expose the President's tax returns. *See* App. A.

The Department's Concerns

The Committee has not denied that the stated purpose of its April 3 letter is a constructed pretext. Instead, it has maintained that the veracity of its stated purpose is irrelevant as a matter of law. As noted, the Committee's April 13 letter asserts that "the motivations underlying Congressional action

¹² Appendix B, also attached to this letter, catalogues additional statements concerning the Committee's purpose and the efforts culminating in the Committee's April 3 request.

¹³ *See* IRM § 3.28.3.1; *see also* Joint Committee on Taxation, Background Regarding the Confidentiality and Disclosure of Federal Tax Returns (JCX-3-19) (Feb. 4, 2019), <https://www.jct.gov/publications.html?func=startdown&id=5159>.

¹⁴ *See* IRM § 3.28.3.4.3 ("Individual income tax returns for the President and Vice President are subject to mandatory examinations.").

are not to be second guessed.” It is not clear to us that the Executive Branch must always accept a pretextual legislative justification as constitutionally adequate, in the face of widespread, contemporaneous acknowledgment by the Committee Chairman and other key Members that the actual objective is to use the IRS as a means to expose the tax returns of a political opponent. Nor do we share your confidence that there is no limit to the willingness of the courts to accept obviously pretextual legislative justifications for information demands—particularly when private tax information is at risk.

We emphasize that the Department’s concerns with the legality of the Committee’s request extend far beyond its particulars. Taxpayer confidentiality is the linchpin of our tax system of self-assessment and voluntary compliance. The IRS promises to “administer the disclosure provisions of the Internal Revenue Code . . . according to the spirit and intent of these laws, ever mindful of the public trust.”¹⁵ This trust would be eroded if government officials could obtain the tax returns of any person they dislike solely for the sake of exposure, to achieve partisan political aims, or for other impermissible purposes—merely by constructing a pretextual case and demanding all other government actors blindly defer to that pretext. If that were so, nothing could stop a committee chairman from obtaining the tax returns of any politically disfavored individual—whether it be the head of a civil rights organization, an executive of a major corporation, a political donor, or a local activist. In all of these cases, a committee chairman would need only assert, as here, that he wants the returns of a particular individual in order to review the adequacy of the IRS’s process of auditing that individual.

The Department recognizes that the Executive Branch and Legislative Branch have an obligation to work together to accommodate their respective legitimate needs and interests. To the extent the Committee wishes to understand, for genuine oversight purposes, how the IRS audits and enforces the Federal tax laws against a President, we would be happy to accommodate that interest by providing additional information on the mandatory audit process. I would encourage the Committee to defer its unprecedented request and revisit this issue after it has the opportunity to work together with the Department to meet its stated legislative needs.

Although the Committee has asserted that any response from the Department other than production of the requested materials will be “interpreted as a denial,” that would be a misinterpretation. The Committee’s request has not been denied or granted at this time. The Department expects to take final action on the Committee’s request by May 6, after receiving the Justice Department’s legal conclusions.

Sincerely,



Steven T. Mnuchin

¹⁵ IRS Pub. 1075, Tax Information Security Guidelines for Federal, State and Local Agencies, at 1, <https://www.irs.gov/pub/irs-pdf/p1075.pdf>.

APPENDIX A

Chronology

The 2016 Election

The effort to expose President Trump's tax returns began during the 2016 election. The Democratic candidate for President urged then-candidate Trump to release his returns. When he declined to do so, the Democratic candidate sought to generate political pressure to force their release, repeatedly criticizing his decision and expressing her belief that public exposure of the returns would be politically damaging to her opponent.¹

Representative Neal's Advocacy for Exposure

When President Trump took office after the election, the House Minority Leader and senior Democratic members of the Committee on Ways and Means (including Ranking Member Neal) took up their party's election season demands in Congress. Their chosen tool was section 6103(f). The stated rationales have shifted over time, but the objective remained constant: Use section 6103(f) to obtain the tax returns and make them public.

As Ranking Member of the Committee, Representative Neal immediately began urging the Committee to obtain President Trump's tax returns for the purpose of releasing them. In February 2017, he explained his desire for a public opportunity to "see the tax forms" and for "the media to sift and sort" them.² In March 2017, Ranking Member Neal and other Members urged Chairman Kevin Brady to submit a section 6103(f) request "for copies of the President's federal tax returns for the last ten years."³ They explained that the Committee should "then vote . . . to submit the President's federal tax returns to the House of Representatives and Senate—thereby, if successful, making them available to the public."⁴ In April 2017, Ranking Member

¹ See, e.g., *The Lead with Jake Tapper* (CNN television broadcast May 11, 2016) ("[W]hy doesn't he want to release them? Yes, well, we're going to find out."), <http://www.cnn.com/TRANSCRIPTS/1605/11/cg.01.html>; *New Day* (CNN television broadcast Aug. 2, 2016) ("We would like to see those tax returns, wouldn't we?"), <http://www.cnn.com/TRANSCRIPTS/1608/02/nday.03.html>; *The Situation Room* (CNN television broadcast Aug. 12, 2016) ("He refuses to do what every other presidential candidate in decades has done and release his tax returns."), <http://www.cnn.com/TRANSCRIPTS/1608/12/sitroom.01.html>; *Erin Burnett OutFront* (CNN television broadcast Sept. 6, 2016) ("He said that the American people don't care about his tax returns, and in fact, he's also said that it's none of our business. I just think he's dead wrong."), <http://www.cnn.com/TRANSCRIPTS/1609/06/ebo.01.html>; *The Situation Room* (CNN television broadcast Sept. 7, 2016) ("He clearly has something to hide."), <http://www.cnn.com/TRANSCRIPTS/1609/07/sitroom.02.html>; *Newsroom* (CNN television broadcast Sept. 27, 2016) ("Maybe he doesn't want the American people, all of you watching tonight, to know that he's paid nothing in Federal taxes. . . ."), <http://www.cnn.com/TRANSCRIPTS/1609/27/cnr.03.html>.

² Press Conference, Rep. Richard Neal, C-SPAN Video, at 19:10-20:19 (Feb. 14, 2017), <https://www.c-span.org/video/?424013-1/house-democrats-call-investigation-wake-michael-flynn-resignation>.

³ Letter from Hon. Bill Pascrell, Jr., et al., to Hon. Orrin Hatch, Chairman, S. Comm. on Finance, & Hon. Kevin Brady, Chairman, H. Comm. on Ways & Means (Mar. 2, 2017).

⁴ *Id.*

Neal recalled the 2016 election and asserted that President Trump was “supposed to” have made these returns available to the public as a candidate.⁵

Ranking Member Neal also served as an original cosponsor of a resolution of inquiry, H. Res. 186, providing that “the Secretary of the Treasury is directed to furnish to the House of Representatives, not later than 10 days after the adoption of this resolution, the full tax returns of Donald J. Trump for tax years 2006 through 2015.”⁶ Ranking Member Neal explained that the resolution was designed to force the immediate public exposure of those returns.⁷

On March 30, 2017, the Committee voted down H. Res. 186 and issued a report condemning the resolution as an “abuse of authority.”⁸ In dissenting views included in the committee report, Ranking Member Neal reiterated his “steadfast” objective of exposing the President’s tax returns to the public:

Committee Republicans continue to block our requests for this Committee to exercise its authority under Section 6103 of the Internal Revenue Code to obtain, examine, and make available to the public President Trump’s federal tax returns. . . . Committee Democrats remain steadfast in our pursuit to have [President Trump’s] individual tax returns disclosed to the public.⁹

Ranking Member Neal’s dissenting views made no mention of any interest in understanding how the IRS audits and enforces the Federal tax laws against a President, as the Committee’s April 3 letter now asserts.

Other Senior House Democrats’ Advocacy for Exposure

Leader Pelosi and other senior Ways and Means Committee members also repeatedly stated that the purpose of requesting President Trump’s tax returns was to “make those tax returns public.”¹⁰ Leader Pelosi explained that requesting the returns would satisfy the public’s “right to know”¹¹ and complained that Republicans “won’t join us in the release of the President’s tax returns.”¹²

⁵ “This is not about the law, this is about custom and practice. It’s a settled tradition . . . candidates reach the level of expectation that they’re supposed to release their tax forms.” Press Conference, Minority Leader Nancy Pelosi, Demanding a Vote Requiring President Trump to Release Tax Returns (Apr. 5, 2017), <https://www.speaker.gov/newsroom/4517/> (remarks of Ranking Member Richard Neal).

⁶ H. Res. 186, 115th Cong. (Mar. 9, 2017).

⁷ See *id.*; H.R. Rep. No. 115-73, Dissenting Views, at 8 (Mar. 30, 2017), <https://www.congress.gov/115/crpt/hrpt73/CRPT-115hrpt73.pdf> (hereinafter Ways & Means Report).

⁸ Ways & Means Report, at 3.

⁹ Ways & Means Report, Dissenting Views, at 7-8 (emphasis added).

¹⁰ Transcript, House Democratic Leadership Press Conference at 2017 Issues Conference (Feb. 8, 2017), <https://www.speaker.gov/newsroom/282017/> (hereinafter Issues Conference).

¹¹ 163 Cong. Rec. H2498 (daily ed. Mar. 28, 2017) (statement of Rep. Pelosi), <https://www.congress.gov/115/crec/2017/03/28/CREC-2017-03-28-house.pdf>.

¹² Press Conference, Minority Leader Nancy Pelosi (July 13, 2017), <https://www.speaker.gov/newsroom/71317-8/>.

Exposure for the sake of exposure was the one constant purpose that drove the requests that Ranking Member Neal and other senior Committee members advocated throughout the previous Congress. In addition, Congressional leaders offered a wide variety of evolving rationales and speculation about what, if anything, might be found in the tax returns upon their exposure. Before the conclusion of the Special Counsel's investigation, a common theory was that the President's tax returns would show "the President's relationship with Russia," "disruption of our [2016] election," and "any personal embarrassment to the President."¹³ Leader Pelosi speculated: "We think [the returns] will show us some connection that will be useful in the investigation of what do the Russians have on Donald Trump"¹⁴

Another theory offered by the lead sponsor of H. Res. 186, Representative Pascrell, was that exposure of the President's tax returns would help "make sure the President and his family are not hiding financial ties that could cause conflicts in decision making."¹⁵ Representative Pascrell also thought it was "imperative for the public to know" the President's "self-reported net worth,"¹⁶ and Ranking Member Neal thought they should know "just how extensive [his] overseas investments have been," based on the tax returns¹⁷

In yet another theory, Ranking Member Neal's dissent in support of H. Res. 186 explained that the President's tax returns would give the "clearest picture" of the President's "financial health" and inform the consideration of tax reform legislation (which was enacted in December 2017).¹⁸

Other theories included speculation that the tax returns would expose the President's "emoluments";¹⁹ would show his "charitable donations" or "tax loopholes";²⁰ would reveal whether he had a "Chinese connection";²¹ or would "maybe . . . be a path to some other

¹³ Issues Conference, *supra* note 10; Press Conference, Minority Leader Nancy Pelosi (Mar. 8, 2017), <https://www.speaker.gov/newsroom/382017-2/>.

¹⁴ Press Conference, Minority Leader Nancy Pelosi (Apr. 6, 2017), <https://www.speaker.gov/newsroom/4617-4/>.

¹⁵ Press Conference, House Democrats (Feb. 14, 2017) (statement of Rep. Bill Pascrell, Jr.), <http://www.cq.com/doc/newsmakertranscripts-5142259?0&search=FDVxTm49>.

¹⁶ Letter from Hon. Bill Pascrell, Jr., to Hon. Kevin Brady, Chairman, H. Comm. on Ways & Means (Feb. 1, 2017), <https://pascrell.house.gov/news/documentsingle.aspx?DocumentID=2195>.

¹⁷ Press Conference, Rep. Richard Neal, C-SPAN Video, at 19:46 (Feb. 14, 2017), <https://www.c-span.org/video/?424013-1/house-democrats-call-investigation-wake-michael-flynn-resignation>.

¹⁸ Ways & Means Report, Dissenting Views, at 7.

¹⁹ Letter from Hon. Elijah E. Cummings, Ranking Member, H. Comm. on Oversight & Gov't Reform, et al., to Hon. Paul Ryan, Speaker, U.S. House of Reps., at 2,6 (Jan. 12, 2017), https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2017-01-12.Ranking%20Members%20to%20Speaker%20Ryan%20Re.Trump_.pdf; *see also* Amendment offered by Rep. Doggett to the Authorization and Oversight Plan of the H. Comm. on Ways & Means (Feb. 14, 2017), <https://gop-waysandmeans.house.gov/wp-content/uploads/2017/02/20170214-Doggett-Amendment.pdf>.

²⁰ *See, e.g.*, 163 Cong. Rec. H4212 (May 16, 2017) (statement of Rep. Pascrell), <https://www.congress.gov/congressional-record/2017/05/16/house-section/article/H4212-1>.

²¹ Press Conference, Minority Leader Nancy Pelosi, Demanding a Vote Requiring President Trump to Release Tax Returns (Apr. 5, 2017), <https://www.speaker.gov/newsroom/4517/>.

questions.”²² At other times, Leader Pelosi simply explained that exposure of the President’s tax returns would “fulfill” a campaign “promise,” or would “honor tradition.”²³

Although the efforts to force the public release of President Trump’s tax returns in the previous Congress failed (despite numerous letters, committee amendments, resolutions, and other attempts),²⁴ Leader Pelosi made clear that the effort would continue if Democrats took the House in 2018. The *San Francisco Chronicle* reported in October 2018 that Leader Pelosi “told the [paper’s] editorial board” that “demanding the president’s tax returns ‘is one of the first things we’d do—that’s the easiest thing in the world.’”²⁵

The Committee’s Construction of a Pretextual Purpose

With a new Democratic majority in the House, the Committee pressed ahead in the effort to obtain and release the President’s tax returns. Chairman Neal had recognized the unprecedented nature of the Committee’s planned request: “This has never happened before, so you want to be very meticulous.”²⁶

In January 2019, the Committee spokesperson explained the plan to “force” the disclosure of the President’s returns: “[Chairman Neal] wants to lay out a case about why presidents should be disclosing their tax returns before he formally forces [the President] to do it.”²⁷

Because Congress may only conduct investigations to further a legitimate legislative purpose, Congressional investigations ordinarily begin with a legislative purpose, and that purpose defines the scope of the documents that are pertinent to the Committee’s investigation.²⁸ But here, by the Committee’s own admission, the Committee’s investigation began in the opposite direction. The Committee started with the documents it planned to obtain and release (the President’s tax returns), and then it sought—in Chairman Neal’s words—to “construct[]” a “case” for seeking the documents that would appear to be in furtherance of a legitimate legislative purpose.²⁹

²² Press Conference, Minority Leader Nancy Pelosi (June 2, 2017), <https://www.speaker.gov/newsroom/6217-4/>.

²³ Blog Post, Minority Leader Nancy Pelosi, *Where are President Trump’s Tax Returns?*, (June 20, 2017), <https://www.speaker.gov/newsroom/where-are-president-trumps-tax-returns/>.

²⁴ See Rep. Bill Pascrell, *President Trump’s Tax Returns*, <https://pascrell.house.gov/issues/president-trumps-tax-returns/> (last visited Apr. 23, 2019).

²⁵ John Wildermuth, *Pelosi: Trump’s tax returns are fair game if Democrats win House*, *S.F. Chron.*, Oct. 11, 2018 (quoting Leader Pelosi), <https://www.sfchronicle.com/politics/article/Pelosi-Trump-s-tax-returns-are-fair-game-if-13297954.php>.

²⁶ Robert Rubin, *Trump’s Tax Returns in the Spotlight if Democrats Capture the House*, *Wall St. J.*, Oct. 3, 2018.

²⁷ Brian Faler, *Incoming Democratic Tax Chairman Won’t Make Quick Grab For Trump’s Returns*, *Politico*, Jan. 2, 2019 (quoting Committee Spokesperson), <https://www.politico.com/story/2019/01/02/congress-trump-tax-returns-richard-neal-1056839>.

²⁸ See 163 Cong. Rec. S2260 (daily ed. Apr. 4, 2019) (statement of Sen. Grassley), <https://www.congress.gov/116/crec/2019/04/04/CREC-2019-04-04-senate.pdf>.

²⁹ Sunlen Serfaty, et al., *Republicans Warn Trump Tax Request ‘Sets A Dangerous Standard’ and Accuse Dems Of Weaponizing IRS*, *CNN*, Apr. 5, 2019, <https://www.cnn.com/2019/04/04/politics/trump-tax-returns-request->

The Committee knew that exposure for the sake of exposure would not be a legitimate purpose, and so the Committee could no longer rely upon prior statements to that effect. At the same time, the Committee lacked jurisdiction to rely upon other frequently cited public justifications for the request—such as interest in “the Russian connection”³⁰ and the President’s alleged financial conflicts of interest. Other House committees might have tried to make 6103(f) requests based upon such justifications, but no other House committee would have the authority to publicly release the tax returns after obtaining them. As the Committee was advised by the former Chief of Staff of the Joint Committee on Taxation, there is “one key for purposes of disclosing the information to the public” and the statute “gave that key to the tax committees.”³¹ To use this key, the Committee on Ways and Means had to make the request, and the other justifications that might have been offered by other committees had to be discarded.

Thus, the Committee with the key to publicly disclose the tax returns, in Chairman Neal’s words, “constructed” a “case” to justify its request.³² The result was the Committee’s letter of April 3, asserting a single legislative interest in “the extent to which the IRS audits and enforces the Federal tax laws against a President,” and requesting the tax returns and related documents of just one of them—President Trump.³³

republicans-congress/index.html (“[W]e wanted to make sure that the case that we constructed was in fact one that would stand up under the critical scrutiny of the federal courts.”).

³⁰ Press Conference, Minority Leader Nancy Pelosi, Demanding a Vote Requiring President Trump to Release Tax Returns (Apr. 5, 2017), <https://www.speaker.gov/newsroom/4517/>.

³¹ Transcript, *Legislative Proposals and Tax Law Related to Presidential and Vice-Presidential Tax Returns: Hearing before Subcomm. on Oversight, H. Comm. on Ways & Means*, 116th Cong. (Feb. 7, 2019) (statement of Joseph K. Yin, Professor, Univ. of Virginia Law School), <https://waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/documents/Transcript%20-%20Final.pdf>.

³² Serfaty, *supra* note 30 (quoting Chairman Neal).

³³ Letter from Hon. Richard E. Neal, Chairman, H. Comm. on Ways & Means, to Hon. Charles P. Rettig, Comm’r, IRS (Apr. 3, 2019), <https://waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/documents/Neal%20Letter%20to%20Rettig%20%28signed%29%20-%202019.04.03.pdf>.