

United States Senate

WASHINGTON, DC 20510

March 10, 2024

The Honorable Janet Yellen
Secretary of the Treasury
U.S Department of Treasury
1500 Pennsylvania Avenue NW
Washington, D.C. 20220

The Honorable Daniel I. Werfel
Commissioner
Internal Revenue Service
1111 Constitution Avenue NW
Washington, D.C. 20224

Dear Secretary Yellen and Commissioner Werfel,

We write in support of your recent announcement that the Internal Revenue Service (IRS) is increasing audits of corporate jet usage and cracking down on any executives who are illegally excluding income related to personal trips.¹ With this enforcement action, the IRS is continuing to invest funds from the *Inflation Reduction Act* (IRA) to tackle the nearly \$700 billion in tax revenue that goes uncollected each year,² which is disproportionately owed by high-income and corporate tax cheats.³ We welcome the steps you have taken to make tax enforcement fairer, and we urge you to build on them by using your existing regulatory authority to close the “Standard Industry Fare Level” (SIFL) loophole that allows corporate executives to undervalue, and minimize taxes paid, when they use corporate jets for personal travel.

Current law allows businesses to claim certain tax deductions for private jets. Companies can write off depreciation costs if they purchase a private jet primarily for business purposes.⁴ They can also deduct the cost of travel – including the crew, fuel, and other operating costs – on a corporate jet, but again, only if the trip was made for business purposes.⁵

¹ IRS, “The IRS begins audits of corporate jet usage; part of larger effort to ensure high-income groups don’t fly under the radar on tax responsibilities,” February 21, 2024, <https://www.irs.gov/newsroom/irs-begins-audits-of-corporate-jet-usage-part-of-larger-effort-to-ensure-high-income-groups-dont-fly-under-the-radar-on-tax-responsibilities>.

² IRS. “IRS updates tax gap projections for 2020, 2021; projected annual gap rises to \$688 billion,” October 12, 2023, <https://www.irs.gov/newsroom/irs-updates-tax-gap-projections-for-2020-2021-projected-annual-gap-rises-to-688-billion>.

³ CNBC, “Tax evasion by millionaires and billionaires tops \$150 billion a year, says IRS chief,” Robert Frank, February 22, 2024, <https://www.cnbc.com/2024/02/22/tax-evasion-by-wealthiest-americans-tops-150-billion-a-year-irs.html>.

⁴ ProPublica, “Private Planes and Luxury Yachts Aren’t Just Toys for the Ultrawealthy. They’re Also Huge Tax Breaks,” Paul Kiel, April 5, 2023, <https://www.propublica.org/article/private-jets-yachts-wealthy-tax-deductions-irs-files>.

⁵ *Id.*

As President Biden recognizes,⁶ tax treatment of corporate jets is already generous – small businesses get no big tax break for flying commercial. But some ultra-wealthy executives and corporate taxpayers have gone a step further and claimed these business tax breaks while jetting off for personal travel.⁷ With the help of skilled lawyers and accountants, corporate executives have devised schemes to skirt IRS scrutiny and blur the lines between business and pleasure, including opening offices next to their vacation homes or failing to report non-business passengers on private flights.⁸ These tactics result in millions in lost tax revenue from the nation’s wealthiest individuals and biggest businesses,⁹ but have been enabled over the past decade by an IRS that lacked the resources to scrutinize the dubious accounting.¹⁰

However, in 2022, the IRA delivered significant new funding for the IRS to tackle tax evasion by the wealthiest Americans.¹¹ And last month, the IRS announced plans to use IRA funding to launch dozens of audits related to the personal use of corporate jets.¹² The audits will focus on jet usage by large corporations, large partnerships and high-income taxpayers, analyzing business and personal usage to evaluate eligibility for tax deductions.¹³ This announcement is part of the IRS’ larger effort to crack down on tax evasion by ultra-wealthy and corporate taxpayers – who make up the bulk of our tax gap. In the year and a half since the passage of the IRA, the IRS has collected over \$482 million in unpaid taxes from 1,600 millionaires, ramped up enforcement on multinational corporations that offshore jobs and profits, and cracked down on wealthy partners who evade Medicare and Social Security payroll taxes.¹⁴

⁶ The White House, “FACT SHEET: President Biden Is Fighting to Reduce the Deficit, Cut Taxes for Working Families, and Invest in America by Making Big Corporations and the Wealthy Pay Their Fair Share,” March 7, 2024, <https://www.whitehouse.gov/briefing-room/statements-releases/2024/03/07/fact-sheet-president-biden-is-fighting-to-reduce-the-deficit-cut-taxes-for-working-families-and-invest-in-america-by-making-big-corporations-and-the-wealthy-pay-their-fair-share/>.

⁷ ProPublica, “Private Planes and Luxury Yachts Aren’t Just Toys for the Ultrawealthy. They’re Also Huge Tax Breaks,” Paul Kiel, April 5, 2023, <https://www.propublica.org/article/private-jets-yachts-wealthy-tax-deductions-irs-files>.

⁸ *Id.*

⁹ *Id.*

¹⁰ IRS, “The IRS begins audits of corporate jet usage; part of larger effort to ensure high-income groups don’t fly under the radar on tax responsibilities,” February 21, 2024, <https://www.irs.gov/newsroom/irs-begins-audits-of-corporate-jet-usage-part-of-larger-effort-to-ensure-high-income-groups-dont-fly-under-the-radar-on-tax-responsibilities>.

¹¹ The White House, “Empowering the IRS: Understanding the Full Potential of the Inflation Reduction Act’s Historic Investment in the Internal Revenue Service,” February 8, 2024, <https://www.whitehouse.gov/cea/written-materials/2024/02/08/empowering-the-irs-understanding-the-full-potential-of-the-inflation-reduction-acts-historic-investment-in-the-internal-revenue-service/>.

¹² IRS, “The IRS begins audits of corporate jet usage; part of larger effort to ensure high-income groups don’t fly under the radar on tax responsibilities,” February 21, 2024, <https://www.irs.gov/newsroom/irs-begins-audits-of-corporate-jet-usage-part-of-larger-effort-to-ensure-high-income-groups-dont-fly-under-the-radar-on-tax-responsibilities>.

¹³ *Id.*

¹⁴ IRS, “IRS ramps up new initiatives using Inflation Reduction Act funding to ensure complex partnerships, large corporations pay taxes owed, continues to close millionaire tax debt cases,” January 12, 2024, <https://www.irs.gov/newsroom/irs-ramps-up-new-initiatives-using-inflation-reduction-act-funding-to-ensure-complex-partnerships-large-corporations-pay-taxes-owed-continues-to-close-millionaire-tax-debt-cases>.

We are pleased with last month’s announcement and your other recent actions to ensure those at the top are paying what they legally owe in taxes. As you continue your efforts to make tax enforcement fairer, we urge you to pursue further action, using your existing rulemaking authority, by revising or repealing the Standard Industry Fare Level (SIFL) valuation method. Audits are an important tool, but stronger rules on the valuation of personal use of corporate aircraft would close a regulatory loophole that helps wealthy taxpayers maximize corporate jet tax breaks even when reporting personal travel.

The SIFL rules permit outlandish accounting when it comes to the personal use of corporate jets. When executives and their guests use a corporate jet for personal travel and report the trips, the IRS requires them to include the value of their flight as income, making the trip taxable.¹⁵ To calculate the value of the trip, taxpayers can either (1) base the price on what a chartered flight would cost along the same route, or (2) use the Standard Industry Fare Level (SIFL) method, which adds up the miles of the trip and multiplies the total by a per-mile rate.¹⁶ However, current SIFL rates, which are almost always used, are woefully undervalued. Current SIFL rates range from 21 cents and 29 cents per mile, compared to the \$13 to \$29 per mile that chartered companies charge their guests.¹⁷ For example, if an executive uses the company jet for a trip from Houston to Honolulu—a roughly 7,800-mile roundtrip—the fair market value could be \$156,000 or more at \$20 per mile.¹⁸ But using the SIFL mileage rate, the executive would only include income of roughly \$7,111.¹⁹ So, assuming a 37 percent marginal tax rate, the executive would pay approximately \$55,089 less in taxes for the trip by relying on the SIFL method, even before considering payroll or state tax consequences.

In other words, by using the SIFL method, wealthy taxpayers can undervalue their personal trips, in some cases by 100 times below market rates.²⁰ This is deeply unfair, and it means that taxpayers are effectively subsidizing the private travel of millionaires and billionaires.

The Treasury Department and the IRS have clear authority to revisit these income inclusion regulations to more accurately reflect the benefit that executives receive when they use

¹⁵ IRS, “The IRS begins audits of corporate jet usage; part of larger effort to ensure high-income groups don’t fly under the radar on tax responsibilities,” February 21, 2024, <https://www.irs.gov/newsroom/irs-begins-audits-of-corporate-jet-usage-part-of-larger-effort-to-ensure-high-income-groups-dont-fly-under-the-radar-on-tax-responsibilities>.

¹⁶ Rev. Rul. 2023-19, I.R.B. 2023-41,” https://www.irs.gov/irb/2023-41_IRB#REV-RUL-2023-19.

¹⁷ Medium, “How Treasury and the IRS have the authority to eliminate a little-known tax subsidy for executives’ personal use of corporate jets,” The Tax Law Center at NYU Law, February 22, 2024, <https://medium.com/@taxlawcenter/how-treasury-and-the-irs-have-the-authority-to-eliminate-a-little-known-tax-subsidy-for-executives-ec62ec1fc958>.

¹⁸ Airstream Jets, “Distance Card,” <https://airstreamjets.com/jet-card/>; Paramount Business Jets, “Legacy 650 Private Jet Charter,” <https://www.paramountbusinessjets.com/private-jet-charter/aircraft/legacy-650>.

¹⁹ Rev. Rul. 2023-19, I.R.B. 2023-41,” https://www.irs.gov/irb/2023-41_IRB#REV-RUL-2023-19; 26 CFR § 1.61-21.

²⁰ *Id.*; Medium, “How Treasury and the IRS have the authority to eliminate a little-known tax subsidy for executives’ personal use of corporate jets,” The Tax Law Center at NYU Law, February 22, 2024, <https://medium.com/@taxlawcenter/how-treasury-and-the-irs-have-the-authority-to-eliminate-a-little-known-tax-subsidy-for-executives-ec62ec1fc958>.

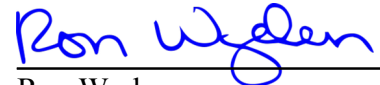
corporate jets for personal travel.²¹ We urge you to require that executives who use corporate jets pay tax based on fair market value or a more reasonable approximation of it.

Again, we appreciate the IRS's commitment to using new funding to make our tax code fairer, including the recent announcement of audits of wealthy taxpayers who claim millions in deductions for their use of corporate jets.²² As the agency moves forward with these audits, we urge you also to pursue rulemaking to properly close the SIFL loophole that allows ultra-wealthy taxpayers to avoid tax on personal trips. To ensure attention to this matter, we respectfully ask that you provide us with a staff-level briefing by March 25, 2024.

Sincerely,



Elizabeth Warren
United States Senator



Ron Wyden
United States Senator
Chairman, Committee on
Finance



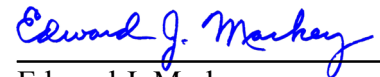
Bernard Sanders
United States Senator



Sheldon Whitehouse
United States Senator



Chris Van Hollen
United States Senator



Edward J. Markey
United States Senator

²¹ *Id.*

²² IRS, "The IRS begins audits of corporate jet usage; part of larger effort to ensure high-income groups don't fly under the radar on tax responsibilities," February 21, 2024, <https://www.irs.gov/newsroom/irs-begins-audits-of-corporate-jet-usage-part-of-larger-effort-to-ensure-high-income-groups-dont-fly-under-the-radar-on-tax-responsibilities#:~:text=In%20general%2C%20the%20tax%20code,business%20use%20and%20personal%20use.>