

Congress of the United States
Washington, DC 20510

April 18, 2022

Sasan K. Goodarzi
Intuit
2700 Coast Ave
Mountain View, CA 94043

Dear Mr. Goodarzi,

We are writing regarding your company’s ongoing pattern of hiring former regulators to defend TurboTax products that scam American taxpayers into paying for services that should be free. Most recently, a court filing related to the Federal Trade Commission’s (FTC) complaint against Intuit for its deceptive advertisements of its “bogus” free tax preparation products¹ revealed that former FTC Commissioner Jon Liebowitz has served as outside counsel for Intuit.² Given this new revelation and Intuit’s track record of lobbying to protect its shady business practices,³ we seek to understand the extent to which Intuit has used former government officials to defend and maintain its unethical and potentially illegal practices that cost American taxpayers billions of dollars.⁴

TurboTax and the Free File Scam

On March 29, 2022, the FTC brought a complaint against Intuit for “deceiving consumers with bogus advertisements pitching ‘free’ tax filing that millions of consumers could not use.”⁵ This action is both welcome and long overdue. We have called for U.S. government action against Intuit,⁶ and years of reports have shown Intuit profiteering off of vulnerable Americans – and

¹ Federal Trade Commission, “FTC Sues Intuit for Its Deceptive TurboTax ‘free’ Filing Campaign,” press release, March 29, 2022, <https://www.ftc.gov/news-events/news/press-releases/2022/03/ftc-sues-intuit-its-deceptive-turbotax-free-filing-campaign>.

² OpenSecrets, “Intuit spends millions lobbying amid accusations of deceptive TurboTax advertising,” Anna Massoglia, March 31, 2022, <https://www.opensecrets.org/news/2022/03/intuit-spends-millions-lobbying-amid-accusations-of-deceptive-turbotax-advertising/>.

³ OpenSecrets, “Intuit spends millions lobbying amid accusations of deceptive TurboTax advertising,” Anna Massoglia, March 31, 2022, <https://www.opensecrets.org/news/2022/03/intuit-spends-millions-lobbying-amid-accusations-of-deceptive-turbotax-advertising/>; ProPublica, “Inside TurboTax’s 20-Year Fight to Stop Americans From Filing Their Taxes for Free,” Justin Elliott and Paul Kiel, October 17, 2019, <https://www.propublica.org/article/inside-turbotax-20-year-fight-to-stop-americans-from-filing-their-taxes-for-free>.

⁴ ProPublica, “Senate Investigation Criticizes the IRS for Failing to Oversee Free Filing Program,” Justin Elliott, June 9, 2020, <https://www.propublica.org/article/senate-investigation-criticizes-the-irs-for-failing-to-oversee-free-filing-program>.

⁵ Federal Trade Commission, “FTC Sues Intuit for Its Deceptive TurboTax ‘free’ Filing Campaign,” press release, March 29, 2022, <https://www.ftc.gov/news-events/news/press-releases/2022/03/ftc-sues-intuit-its-deceptive-turbotax-free-filing-campaign>.

⁶ U.S. Senator Elizabeth Warren, “Senator Warren Leads Colleagues Questioning Intuit’s Deceptive Practices That Led Low- and Middle-Income Taxpayers to Pay Unnecessary Fees,” press release, May 23, 2019, <https://www.warren.senate.gov/oversight/letters/senator-warren-leads-colleagues-questioning-intuits-deceptive-practices-that-led-low-and-middle-income-taxpayers-to-pay-unnecessary-fees>.

hiring hordes of lobbyists to shield its crooked business practices from government action. In 2003, Intuit and other financial services successfully lobbied the Internal Revenue Service (IRS) to create the Free File program, where a consortium of private companies including Intuit would provide free tax preparation services, instead of providing those services directly to low- and middle-income taxpayers.⁷

The Free File program has been a failure, scamming taxpayers into paying for services that should be free. Free File was supposed to cover 70% of American taxpayers, but as of 2018, only approximately 3% of taxpayers participated each year.⁸ As we noted in 2019, deceptive practices and outright sabotage from Free File companies have driven this under-utilization, and Intuit, with approximately 60% market share in consumer tax software, bears much of the blame for these practices.⁹ Intuit deliberately hid its IRS Free File program from Google results using “dark patterns” – adding code into the website to suppress results, and instead pushing taxpayers into their in-house “freemium” edition where they could be tricked into paying into services that should be free under Free File.¹⁰ In addition, Intuit repeatedly changed the names and landing pages for the Free File and freemium programs, creating additional confusion for consumers that are eligible for truly free filing.¹¹

After lobbying for years to keep the Free File program in place and even attempting to codify it into law to prevent the IRS from creating a truly free alternative,¹² Intuit left the Free File program in 2021, “throw[ing] the future of the program into doubt.”¹³ The IRS still has not set up a government-run alternative, although in 2021 it renegotiated its memorandum of understanding (MOU) with the Free File Alliance to remove the provision prohibiting the IRS from doing so.¹⁴

⁷ ProPublica, “Inside TurboTax’s 20-Year Fight to Stop Americans From Filing Their Taxes for Free,” Justin Elliott and Paul Kiel, October 17, 2019, <https://www.propublica.org/article/inside-turbotax-20-year-fight-to-stop-americans-from-filing-their-taxes-for-free>.

⁸ The Hill, “Free File providers scam taxpayers; Congress shouldn’t be fooled,” Dennis J. Ventry Jr., July 6, 2018, <https://thehill.com/opinion/finance/395762-free-file-providers-scam-taxpayers-congress-cant-be-fooled/>.

⁹ U.S. Senator Elizabeth Warren, “Senator Warren Leads Colleagues Questioning Intuit’s Deceptive Practices That Led Low- and Middle-Income Taxpayers to Pay Unnecessary Fees,” press release, May 23, 2019, <https://www.warren.senate.gov/oversight/letters/senator-warren-leads-colleagues-questioning-intuits-deceptive-practices-that-led-low-and-middle-income-taxpayers-to-pay-unnecessary-fees>; ProPublica, “TurboTax Deliberately Hid Its Free File Page From Search Engines,” Justin Elliott, April 26, 2019, <https://www.propublica.org/article/turbotax-deliberately-hides-its-free-file-page-from-search-engines>.

¹⁰ ProPublica, “TurboTax Deliberately Hid Its Free File Page From Search Engines,” Justin Elliott, April 26, 2019, <https://www.propublica.org/article/turbotax-deliberately-hides-its-free-file-page-from-search-engines>.

¹¹ NPR, “Federal Trade Commission accuses Intuit of deceptively advertising TurboTax as free,” Laurel Wamsley, March 29, 2022, <https://www.npr.org/2022/03/29/1089490958/free-turbotax-ftc-intuit>.

¹² Vox, “Why I’m boycotting TurboTax this year,” Dylan Matthews, April 15, 2019, <https://www.vox.com/2016/3/29/11320386/turbotax-boycott-lobbying-tax-filing-season-tax-day-april-15>.

¹³ ProPublica, “TurboTax-Maker Intuit Will Leave Free Tax Filing Partnership With IRS,” Justin Elliott and Paul Kiel, July 16, 2021, <https://www.propublica.org/article/turbotax-maker-intuit-will-leave-free-tax-filing-partnership-with-irs>.

¹⁴ CNBC, “Congress may change how tax preparers are regulated. Why that matters,” Lorie Konish, August 25, 2021, <https://www.cnbc.com/2021/08/25/your-tax-preparer-may-not-be-regulated-some-want-congress-to-fix-that.html>.

Intuit’s bad-faith participation in the Free File program has cost American taxpayers billions of dollars, including military members, students, and disabled Americans.¹⁵ A 2019 report found that Intuit was charging as much as \$150 for military members who were eligible for the Free File program, mainly by offering “free military taxes” on a site that funneled users into their paid products.¹⁶ Intuit has targeted people with disabilities, unemployed Americans, and people with student loans for its upselling scams, forcing them to pay for forms that had previously been included in the Free Edition.¹⁷

Intuit’s Use of the Revolving Door

Intuit has gotten away with these Free File scams thanks to extensive lobbying and adroit influence-peddling – including repeated use of revolving door hires. Intuit’s lobbying program topped \$3.2 million in 2021, focusing on opposing automatic filing that would expand free tax preparation services and putting up roadblocks for any proposed consumer protections.¹⁸ And Intuit has frequently deployed former regulators as lobbyists.

For example, Dave Williams was the IRS’s top negotiator on the Free File program in the early 2000s. Williams “was very commercially sensitive” and “didn’t want to offend the industry,” according to Mark Ernst, the former CEO of H&R Block, a Free File Alliance member alongside Intuit.¹⁹ Worse, Williams “was particularly open to having sidebar conversations with key people where he could imagine himself landing some day,” per Ernst.²⁰ That day came in 2013 when Intuit hired Williams to serve as Chief Tax Officer, and during his seven years with Intuit, the Free File MOU was renewed four times, despite the program’s clear failures.²¹ Reporting indicates that Williams is one of the several former IRS officials who have gone on to work at your company.²²

The revolving door between the IRS and Free File Alliance companies has also swung in the other direction, raising similar concerns about conflicts of interest. After departing H&R Block, Ernst himself went on to serve as IRS Deputy Commissioner during the George W. Bush and

¹⁵ ProPublica, “Senate Investigation Criticizes the IRS for Failing to Oversee Free Filing Program,” Justin Elliott, June 9, 2020, <https://www.propublica.org/article/senate-investigation-criticizes-the-irs-for-failing-to-oversee-free-filing-program>.

¹⁶ ProPublica, “TurboTax Uses A ‘Military Discount’ to Trick Troops Into Paying to File Their Taxes,” Justin Elliott and Kengo Tsutsumi, May 23, 2019, <https://www.propublica.org/article/turbotax-military-discount-trick-troops-paying-to-file-taxes>.

¹⁷ *Id.*

¹⁸ Vox, “Why I’m boycotting TurboTax this year,” Dylan Matthews, April 15, 2019, <https://www.vox.com/2016/3/29/11320386/turbotax-boycott-lobbying-tax-filing-season-tax-day-april-15>.

¹⁹ ProPublica, “Inside TurboTax’s 20-Year Fight to Stop Americans From Filing Their Taxes for Free,” Justin Elliott and Paul Kiel, October 17, 2019, <https://www.propublica.org/article/inside-turbotax-20-year-fight-to-stop-americans-from-filing-their-taxes-for-free>.

²⁰ *Id.*

²¹ Internal Revenue Service, “Free File: About the Free File Alliance,” website accessed: April 14, 2022, <https://www.irs.gov/e-file-providers/about-the-free-file-alliance>.

²² ProPublica, “Inside TurboTax’s 20-Year Fight to Stop Americans From Filing Their Taxes for Free,” Justin Elliott and Paul Kiel, October 17, 2019, <https://www.propublica.org/article/inside-turbotax-20-year-fight-to-stop-americans-from-filing-their-taxes-for-free>.

Obama administrations, where he oversaw information technology services, among other issues.²³

Intuit and other Free File companies also paid an undisclosed sum to John Friedman, a former member of President Obama’s National Economic Council, to write a 2013 study touting the success of the program in generating free tax returns outside of Free File itself, which Intuit used in 2018 to lobby the IRS to justify keeping the program despite critiques from external experts.²⁴

The latest revelation of Intuit’s hiring of former FTC Chair Jon Leibowitz to defend itself from an FTC complaint raises conflict of interest concerns for Mr. Leibowitz and the FTC about why the agency failed to closely monitor the company for so long, and about Intuit’s willingness to use these tactics to delay and avoid program reforms that threaten its shady business practices.

Necessary Reforms to Allow Truly Free Filing

Intuit has shown time and time again that it will not stop its “free” filing scams. That is why we have championed commonsense tax filing simplification reforms, and introduced legislation to close the revolving door that protects corporate scams like Free File.

Our *Tax Filing Simplification Act* would protect American taxpayers from companies like Intuit that profiteer off of honest American taxpayers. Americans waste an average of 13 hours and \$240 each year filing their taxes,²⁵ and our legislation would end this waste by directing the IRS to develop simplified tax filing tools, including a truly free Free File replacement. It would allow millions of taxpayers to avoid tax preparation entirely, instead providing them with a pre-filled tax return that they would only need to sign and return to IRS. This legislation would make life simpler for every American – and end Intuit’s tax filing scams.

Questions

To better understand Intuit’s use of the corrupt revolving door and its use of former regulators for lobbying and representation to shield the company from regulatory scrutiny, we ask that you answer the following questions by May 2, 2022:

1. Since January 1, 1999, how many Intuit employees or external partners have previously worked for the federal government in tax policy or other positions in the IRS, the Treasury Department, or elsewhere in the executive branch? For each of these employees, please provide the following information:
 - a. What position(s) they served in in the federal government, the time period in which they served, and what their specific responsibilities were in those positions, including any regulatory or legislative matters they worked on that affected Intuit clients.

²³ *Id.*

²⁴ *Id.*

²⁵ IRS, “1040 (and 1040 – SR),” December 21, 2021, p. 107, <https://www.irs.gov/pub/irs-pdf/i1040gi.pdf#page=107>.

- b. Any interactions they had with Intuit in their role as a government regulator, and whether future roles at the company were discussed.
 - c. What position(s) they served in at Intuit, or which cases they worked on as outside counsel, and the time periods in which they held these positions or worked on behalf of Intuit.
 - d. Their compensation at Intuit, and any bonuses or other compensation they received in relation to their government service.
 2. Since January 1, 1999, how many former Intuit employees or external partners have subsequently gone on to work for the federal government in the IRS, the Treasury Department, or elsewhere in the executive branch? For each of these employees, please provide the following information:
 - a. What position(s) they held in the federal government, the time period in which they served, and what their specific responsibilities were in those positions, including any regulatory or legislative matters they worked on that affected Intuit clients.
 - b. Any interactions they had with Intuit in their role as a government regulator, and whether future roles at the company were discussed.
 - c. What position(s) they served in at Intuit, or which cases they worked on as outside counsel, and the time periods in which they held these positions or worked on behalf of Intuit.
 - d. Their compensation at Intuit, and any bonuses or other compensation they received in relation to their government service.
 3. What are Intuit's policies to guard against conflicts of interest for employees or external partners who formerly worked for the federal government? Specifically, are Intuit employees allowed to or incentivized to represent the company in front of agencies they previously worked for?
 4. Since October 30, 2002, how much revenue have you made off of taxpayers making less than \$73,000?
 5. Since January 1, 1999, how much money has Intuit spent lobbying the federal government on tax preparation and filing matters, or defending the company from the actions of federal or state regulators?

Thank you for your attention to this matter.

Sincerely,



Elizabeth Warren
United States Senator



Katie Porter
Member of Congress



Brad Sherman
Member of Congress