No. 25-988

IN THE

Supreme Court of the United States

STEPHANIE MURRIN,

Petitioner,

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

BRIEF OF *AMICUS CURIAE* CENTER FOR TAXPAYER RIGHTS IN SUPPORT OF PETITIONER

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BRIEF OF CENTER FOR TAXPAYER RIGHTS AS *AMICUS CURIAE* IN SUPPORT OF PETITIONER

The Center for Taxpayer Rights (the "Center") respectfully submits this brief as amicus curiae in support of petitioner, Stephanie Murrin.[1]

STATEMENT OF INTEREST

The Center, a 501(c)(3) not-for-profit corporation, is dedicated to furthering taxpayers' awareness of and access to taxpayer rights. The Center accomplishes its mission, in part, by educating the public and government officials about the role taxpayer rights play in promoting compliance and trust in systems of taxation. The Center also operates a clinic for low-income taxpayers. The Center and its Executive Director, Nina E. Olson, the former National Taxpayer Advocate, have experience advocating on behalf of taxpayers whose voices might otherwise not receive attention. The Center submits this amicus brief because it believes that the conflicting statutory interpretations of 26 U.S.C. § 6501(c)(1) by the U.S. Court of Appeals for the Third Circuit and the U.S. Court of Federal Claims create disparities that undermine confidence in the tax system. The Center also believes

1. Pursuant to Supreme Court Rule 37.2, counsel for the Center for Taxpayer Rights timely notified the parties of its intent to file this amicus curiae brief. Pursuant to Rule 37.6, counsel for amicus curiae states that no counsel for a party authored this brief in whole or in part, and no party or counsel for a party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than amicus curiae, its members, or its counsel made a monetary contribution to the preparation or submission of this brief.

that the Third Circuit's flawed statutory interpretation erodes the fundamental right to a fair tax system and saddles the least culpable taxpayers with the heaviest financial burden.

SUMMARY OF ARGUMENT

The Court should grant certiorari and decide whether 26 U.S.C. § 6501(c)(1) gives the Internal Revenue Service ("IRS") unlimited time to assess taxes, penalties, and interest against innocent taxpayers based on their tax return preparer's fraud. The Third Circuit's decision in *Murrin v. Commissioner*, 158 F.4th 527 (3d Cir. 2025), conflicts with the Federal Circuit's decision in *BASR P'ship v. United States*, 795 F.3d 1338 (Fed. Cir. 2015), and creates a circuit split that results in disparate treatment of similarly situated taxpayers. Those disparities will continue to exist even if more circuits weigh in, because the Court of Federal Claims has nationwide jurisdiction.

Furthermore, resolution of this circuit split is crucial to the fair administration of the tax laws. The Third Circuit's decision leaves Murrin, who did nothing wrong, saddled with a tax debt that is more than five times the amount that was underreported due to her return preparer's fraud. That is an unduly harsh punishment, especially since the IRS was aware that Murrin's preparer was committing tax fraud the entire time Murrin's debt was outstanding and accruing interest, and it did nothing to warn her.

The Third Circuit's decision also poses a danger to taxpayers nationwide. Each year, tens of millions of taxpayers hire return preparers. Those taxpayers face

indefinite exposure to taxes, interest, and penalties under the Third Circuit's ruling. Moreover, due to the lack of regulation over return preparers, the risk of unknowingly hiring a return preparer who commits fraud is significant, particularly for taxpayers from low-to-moderate income and minority communities. The significance of this risk is exemplified by the *millions* of fraudulent tax returns prepared by return preparers who have been enjoined or prosecuted by the Department of Justice for tax fraud. And yet, this widespread harm to innocent taxpayers is unnecessary. The government has many other tools at its disposal to combat tax fraud and make itself whole, including disgorgement and penalties. The Third Circuit's decision to allow the IRS to direct its enforcement efforts toward the least culpable taxpayers based on a misreading of 26 U.S.C. § 6501(c)(1) raises issues of exceptional national importance that warrant this Court's review.

ARGUMENT

I. The Third Circuit's decision creates a circuit split that results in disparate treatment of similarly situated taxpayers.

Proper exercise of the taxing power requires that the Internal Revenue Code be administered uniformly, preventing arbitrary discrepancies that burden taxpayers based solely on geography or jurisdictional happenstance. See *United States v. Windsor*, 570 U.S. 744, 749–52 (2013) (considering a challenge to the federal definition of marriage on the ground that it deprived taxpayers in certain states of the estate tax exemption for surviving spouses); see also *United States v. Kaiser*, 363 U.S. 299, 308 (1960) (Frankfurter, J., concurring) ("The Commissioner cannot

tax one and not tax another without some rational basis for the difference."); cf. *Nat'l Fed'n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 572 (2012) (emphasizing that sustaining a tax depends on whether "Congress *has* properly exercised its taxing power" (emphasis in original)). The IRS's own policies acknowledge the importance of uniform tax administration to promoting trust in the tax system. See I.R.M. § 20.1.1.2.2(1)(a) (Nov. 25, 2025) ("If the IRS does not administer penalties uniformly . . . overall confidence in the tax system is jeopardized.").

Here, the circuit split over the interpretation of 26 U.S.C. § 6501(c)(1)—whether the fraud of a third-party tax return preparer triggers an unlimited assessment period against an innocent taxpayer—directly contravenes principles of fairness and uniformity. In *Murrin*, 158 F.4th at 530, the Third Circuit allowed the IRS "to assess tax beyond the statute of limitations due to the wrongdoing of someone other than" the taxpayer. That holding exposes individuals like Murrin to indefinite liability and crushing interest accruals even though they did nothing wrong. In contrast, the Federal Circuit in *BASR*, 795 F.3d at 1347, emphasized the absence of "allegations that BASR, or even its accountant, knew or should have known that the tax return was false or incorrect." For that reason, the court declined to extend the assessment limitations period and instead granted repose to the taxpayer.

These contrasting interpretations mean that innocent taxpayers who unwittingly hire fraudulent preparers and whose cases are appealable to the Third Circuit face perpetual exposure to IRS assessments, while those whose cases are appealable to the Federal Circuit benefit from the standard three-year assessment limitations

period under 26 U.S.C. § 6501(a). Such disparate treatment of similarly situated taxpayers undermines the fair and uniform administration of the federal government's taxing authority.

Congress has offered taxpayers a choice of fora in which to litigate tax disputes, but only in the Tax Court may a taxpayer contest the Commissioner's determination of deficiency "without paying a cent." *Flora v. United States*, 362 U.S. 145, 175 (1960); see also 26 U.S.C. § 6213(a) (once a taxpayer is properly before the Tax Court, the IRS is precluded from making an assessment of a deficiency until sometime after "the decision of the Tax Court has become final"). Before bringing suit in a district court or the Court of Federal Claims, however, a taxpayer must generally pay the determined deficiency "in full." *Flora*, 362 U.S. at 175; see also *Shore v. United States*, 9 F.3d 1524, 1526 (Fed. Cir. 1993) ("The full payment requirement of . . . *Flora* applies equally to tax refund suits brought in the Court of Federal Claims.").

The venue for appealing a Tax Court decision is determined by the taxpayer's residence. See 26 U.S.C. § 7482(b). Similarly, a refund suit is brought in the district court of "the judicial district where the plaintiff resides," 28 U.S.C. § 1402(a)(1), and an appeal from the district court's decision would lie in "the court of appeals for the circuit embracing the district." 28 U.S.C. § 1294(1). On the other hand, the Court of Federal Claims enjoys nationwide jurisdiction "to render judgment upon any claim against the United States," 28 U.S.C. § 1491(a)(1), with appeals lying in the Federal Circuit. 28 U.S.C. § 1295(a)(3).

In *Murrin*, the Third Circuit "acknowledge[s]" that its "holding today departs from the Federal Circuit's opinion that the IRS is limited 'to the three-year limitations period unless the taxpayer possessed the intent to evade tax.'" 158 F.4th at 538 (quoting *BASR*, 795 F.3d at 1350). Moreover, the Third Circuit recognized that at the very least, *Payne v. Commissioner*, 224 F.3d 415, 421 (5th Cir. 2000), leaves open the possibility of the Fifth Circuit's siding with the Federal Circuit's *BASR* holding. *Murrin*, 158 F.4th at 538 n.12. If the Fifth or another circuit were to agree with *BASR*, under the *Golsen* rule, the Tax Court would be bound to follow that holding in every case appealable to such a circuit. See *Golsen v. Commissioner*, 54 T.C. 742, 757 (1970) (for reasons of "efficient and harmonious judicial administration," the Tax Court will follow the law of the circuit in which appeal lies). Thus, the outcome for two different taxpayers in the Tax Court could well differ depending upon the circuits to which their respective cases are appealable. The result would be a fractured system of litigating tax disputes in which substantive outcomes hinge on zip codes, undermining public trust and voluntary compliance.

But even if no other circuit joins the Federal Circuit, the existing circuit split would nonetheless persist. Assume arguendo that all regional circuits line up behind the Third, and consider a taxpayer like Murrin who, lacking any intent to defraud, happened to engage a fraudulent preparer. She would face an open-ended assessment limitations period in the Tax Court—the only forum available to her that does not require her to pay the disputed tax before suing. So too if she were to pay in full and sue for a refund in the district court of the judicial district in which she resides. But were she to bring that

refund suit in the Court of Federal Claims, she would be entitled to the standard three-year assessment limitations period of 26 U.S.C. § 6501(a). This arbitrary and unequal treatment disproportionately impacts taxpayers who cannot afford to litigate in the more favorable court—the Court of Federal Claims—due to the *Flora* pay-then-sue rule. Litigating in district court and the Court of Federal Claims is also generally more expensive than the Tax Court.

Indeed, this arbitrariness is exacerbated by an essential feature of litigating in the Court of Federal Claims: "nonexistence of jury trials." *James v. Caldera*, 159 F.3d 573, 589–90 (Fed. Cir. 1998) (Michel, J., dissenting). Given that the "Court of Claims is a legislative, not a constitutional court," the absence of a jury there has been held not to violate the Seventh Amendment. *United States v. Sherwood*, 312 U.S. 584, 587 (1941). Nevertheless, electing to sue in that court does amount to "waiv[ing] the right to a jury trial." *Arunga v. United States*, 465 F. App'x 966, 967 n.2 (Fed. Cir. 2012) (unpublished). In short, a taxpayer like Murrin could obtain the protection of the standard assessment limitations period of 26 U.S.C. § 6501(a) only by paying the amount at issue and giving up her constitutional right to a trial by jury. Conditioning the statutory protection of timely repose on forgoing this fundamental procedural right in a non-equivalent forum creates coercive pressure that undermines the voluntariness required for constitutional waivers. Cf. *Brady v. United States*, 397 U.S. 742, 748 (1970) ("[w]aivers of constitutional rights . . . must be voluntary[,] . . . knowing, intelligent acts").

II. Resolution of the issue presented in Murrin's petition is crucial to the fair administration of the tax laws.

The fair administration of the tax laws is an issue of exceptional national importance. Taxpayers have a fundamental "right to a fair and just tax system." 26 U.S.C. § 7803(a)(3)(J). In 1998, at the insistence of Congress,[2] the IRS changed its Mission Statement to underscore the importance of "applying the tax law with integrity and fairness to all." See IRS, *The Agency, its Mission and Statutory Authority*.[3] The Third Circuit's holding—that even taxpayers who had no fraudulent intent are subject to an indefinite statute of limitations and crushing interest charges based on their tax return preparer's fraud—leaves these fundamental principles of fairness in shambles.

The injustice to Murrin here is not only the decades-late and unexpected tax bill; it is the accrual of enormous interest and penalty charges that she neither knew existed nor had the ability to curtail. The parties agree that Murrin did nothing wrong. Pet. App. 2a–3a. She did what any responsible taxpayer would do: hire an experienced professional to prepare her returns. She had no idea that her return preparer committed fraud over twenty-five years ago on several of her tax returns to the tune of

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2. See IRS Restructuring and Reform Act of 1998, Pub. L. No. 105–206, 112 Stat. 685, Sec. 1002 ("The Internal Revenue Service shall review and restate its mission to place a greater emphasis on serving the public and meeting taxpayers' needs.").

3. https://www.irs.gov/about-irs/the-agency-its-mission-and-statutory-authority (as visited Mar. 20, 2026).

$65,318. Pet. App. 3a, 20a. Because of daily compounding interest and penalties, that $65,318 debt morphed into $328,000—more than *five times* the original unpaid tax. Pet. App. 3a, 20a. Had the IRS informed Murrin of her return preparer's fraud and her corresponding debt earlier, she could have made a deposit with the IRS to stop interest from accruing. See 26 U.S.C. § 6603. But by the time the IRS notified Murrin of this deficiency, her accrued interest alone exceeded $250,000 and she owed $13,064 in accuracy-related penalties. Pet. App. 3a, 20a. This result is unduly harsh. This cannot have been Congress's intent in creating a fraud exception to the general statute of limitations for assessment.

The Third Circuit's decision also poses a danger to taxpayers writ large. Because of the Third Circuit's decision, every taxpayer who hires a professional to prepare their tax return, from individuals and small business owners to billionaires and Fortune 500 companies, is at risk of indefinite tax exposure and crushing interest. Of the 160 million individual income tax returns the IRS receives every year, over half are filed by return preparers. See Nat'l Taxpayer Advoc., *2025 Annual Report to Congress*, at 99[4]; see also IRS, *2024 Data Book*, Table 4.[5] In recent years, more than half of those preparers were "non-credentialed" preparers—meaning they were not attorneys, certified public accounts, or enrolled agents. See Nat'l Taxpayer

4. https://www.taxpayeradvocate.irs.gov/reports/2025-annual-report-to-congress/(as visited Mar. 20, 2026).

5. https://www.irs.gov/pub/irs-pdf/p55b.pdf (as visited Mar. 20, 2026).

Advoc., *2025 Annual Report to Congress*, at 99.[6] Despite efforts within the IRS to do so, the agency has no statutory authority to regulate return preparers. *Loving v. I.R.S.*, 742 F.3d 1013, 1014 (D.C. Cir. 2014). As such, anyone with an IRS preparer tax identification number ("PTIN")—which can be obtained online in 15 minutes—may prepare a federal tax return. See IRS, *PTIN Requirements for Tax Return Preparers*[7]; IRS, *Understanding Tax Return Preparer Credentials and Qualifications*.[8] This makes the error rate for tax returns prepared by non-credentialed preparers exceptionally high. See Nat'l Taxpayer Advoc., *2026 Purple Book*, at vi (finding that in 2024, 96% of audit adjustments related to the Earned Income Tax Credit were attributable to returns prepared by non-credentialed preparers).[9] Adding fuel to the fire, "[m]ost taxpayers are not competent to discern error in the substantive advice of an accountant or attorney." *United States v. Boyle*, 469 U.S. 241, 251 (1985). Indeed, two-thirds of respondents to a 2024 nationwide survey of low-income taxpayers stated they hired a return preparer "because they were not comfortable preparing the return themselves." See Center for Taxpayer Rights, *2025 Filing*

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6. https://www.taxpayeradvocate.irs.gov/reports/2025-annual-report-to-congress/ (as visited Mar. 20, 2026).

7. https://www.irs.gov/tax-professionals/ptin-requirements-for-tax-return-preparers (as visited Mar. 20, 2026).

8. https://www.irs.gov/tax-professionals/understanding-tax-return-preparer-credentials-and-qualifications (as visited Mar. 20, 2026).

9. https://www.taxpayeradvocate.irs.gov/reports/2025-annual-report-to-congress/national-taxpayer-advocate-2026-purple-book/ (as visited Mar. 20, 2026).

Season Mystery Shopping Visits, at 27.[10] In short, most taxpayers hire return preparers, most of those preparers are not credentialed, and most taxpayers cannot detect their own preparer's errors or fraud. That puts tens of millions of taxpayers at risk of indefinite exposure to taxes, penalties, and interest every year.

The Third Circuit's decision harms taxpayers from low-to-moderate income and minority communities most of all. Return preparers who commit fraud often set up shop in low-income areas and prey on low-income individuals. This fact is borne out by data gathered by the United States Department of Justice ("DOJ"), the National Taxpayer Advocate ("NTA"), and the IRS. In numerous injunction suits, the DOJ has asserted that the return preparers actually *targeted* low-income individuals in connection with their fraudulent return preparation schemes. See, e.g., *United States v. Stinson*, 729 F. App'x 891, 893 (11th Cir. 2018) (affirming injunction order against a return preparer that owned ten tax preparation businesses that were "[s]ituated in low-income areas," and "engaged in aggressive, 'guerrilla marketing' and directly targeted 'underprivileged, undereducated poor people.'"); *United States v. ITS Fin., LLC*, 592 F. App'x 387, 390 (6th Cir. 2014) (affirming injunction order against a nationwide tax preparation franchise whose "business model began with luring low-income customers."). These preparers target low-to-moderate income individuals because those individuals need their tax refunds the most, and there are certain refundable tax credits—like the Earned Income Tax Credit ("EITC")—that are only available

10. https://taxpayer-rights.org/wp-content/uploads/2026/03/Mystery-Shopping-Report-03-16-26.pdf (as visited Mar. 20, 2026).

to those individuals. The rampant EITC-related errors and fraud by preparers—particularly non-credentialed preparers—has been identified time and again as one of the most serious problems faced by taxpayers in the NTA's annual reports to Congress. See, e.g., Nat'l Taxpayer Advoc., *2023 Annual Report to Congress*, at 66-69; Nat'l Taxpayer Advoc., *2026 Purple Book*, at vi.[11]

EITC fraud committed by return preparers disproportionately affects taxpayers from minority communities. In 2024, the IRS reported that it had identified 87,000 "high-risk" registered return preparers since 2005 through a compliance initiative designed to reduce improper payments associated with refundable tax credits, like the EITC. See IRS, RAAS-RICS Collaboration on Exam Disparity, *Research on Audit Rates by Race and Ethncity: 2024 Update*, at 187.[12] The preparers on this list submitted 17 million tax returns for tax year 2019. *Id.* According to the IRS, clients of those preparers are "disproportionately drawn from minority communities." *Id.* Because "audit rates are higher for clients of high-risk preparers," these preparers "raise[] the relative audit rate for Black taxpayers." *Id.*

Given the devastating financial consequences of the Third Circuit's order to all taxpayers, but especially low-to-moderate income taxpayers, certiorari is warranted.

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11. https://www.taxpayeradvocate.irs.gov/reports/2023-annual-report-to-congress/full-report/; https://www.taxpayeradvocate.irs.gov/reports/2025-annual-report-to-congress/national-taxpayer-advocate-2026-purple-book/ (as visited Mar. 20, 2026).

12. https://taxpolicycenter.org/sites/default/files/irs_tpc_2024_slides_0.pdf (as visited Mar. 20, 2026).

III. The significant risk of hiring a return preparer who commits fraud is exemplified by return preparer injunction suits and prosecutions.

The volume of return preparers committing fraud shows that the dangers described above are not theoretical. The DOJ's website posts more than 1,000 injunctions against fraudulent tax return preparers—some of whom are household names. See U.S. Dep't of Justice, *Tax Division: Program to Shut Down Schemes and Scams*.[13] For example, on December 3, 2019, Liberty Tax Service ("Liberty") consented to an injunction to remedy tax fraud at more than 2,800 of its stores. See Press Release, U.S. Dep't of Justice, *Justice Department Announces Settlement with Liberty Tax Service* (Dec. 3, 2019)[14]; see also *United States v. Franchise Group Intermediate L1, LLC, d/b/a Liberty Tax Service*, No. 2:19-cv-00653, at ECF No. 19 (E.D.V.A. Dec. 20, 2019). The complaint against Liberty described the rampant EITC fraud that allegedly took place at several Liberty stores and the *thousands* of fraudulent tax returns prepared by Liberty employees. *Id.* at ECF No. 1 ¶¶ 7–19. Furthermore, the complaint alleged that the IRS assessed over 25,000 separate penalties against Liberty return preparers from 2012 to 2016. *Id.* at ¶ 34.

Similarly, on September 28, 2007, Jackson Hewitt consented to an injunction after the government alleged

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13. https://www.justice.gov/archives/tax/program-shut-down-schemes-and-scams (as visited Mar. 20, 2026).

14. https://www.justice.gov/archives/opa/pr/justice-department-announces-settlement-liberty-tax-service (as visited Mar. 20, 2026).

that a significant portion of returns prepared at its offices contained false head-of-household filing status, phony Schedule A and C deductions, and fraudulent EITC claims, among other issues. See Press Release, U.S. Dep't of Justice, *Corporations That Owned Jackson Hewitt Franchises in Three States Agree to Be Barred from Tax Return Preparation* (Sept. 28, 2007)[15]; see also *United States v. Smart Tax of North Carolina, Inc.*, No. 5:07-cv-00125, at ECF Nos. 1 and 30 (E.D.N.C. Apr. 3, 2007). In criminal cases, the numbers are equally alarming. For example, on December 17, 2024, a return preparer named Raphael Alvarez (known as the "Magician") pleaded guilty to a decade-long scheme involving over 90,000 fraudulent returns. See Press Release, U.S. Atty's Office for the S. Dist. of N.Y., *Bronx Tax Preparer Pleads Guilty To Filing Tens Of Thousands Of False Tax Returns, Causing $145 Million In Losses* (Dec. 17, 2024).[16]

Many small and independent tax preparation businesses suffer from the same problems. During the 2025 filing season, the Center for Taxpayer Rights conducted a study where participants—called "testers"—posed as potential customers at 18 small tax preparation businesses across six states. See Center for Taxpayer Rights, *2025 Filing Season Mystery Shopping Visits*,

15. https://www.justice.gov/opa/pr/corporations-owned-jackson-hewitt-franchises-three-states-agree-be-barred-tax-return (as visited Mar. 20, 2026).

16. https://www.justice.gov/usao-sdny/pr/bronx-tax-preparer-pleads-guilty-filing-tens-thousands-false-tax-returns-causing-145 (as visited Mar. 20, 2026).

at 3–5.[17] *Almost all* of the returns prepared during this study—23 of the 25 total returns—reported an incorrect refund amount. *Id.* Those returns claimed inflated EITCs, improper head of household status, overstated dependents, and improper business deductions. The U.S. Government Accountability Office ("GAO") has conducted similar undercover studies and reached similar conclusions. See U.S. Gov't Accountability Office, *GAO-26-107823*, *Paid Tax Return Preparers: Opportunities Remain to Improve IRS Oversight*, at 3 (finding repeated errors by return preparers, such as failing to report income and claiming ineligible children for the EITC).[18] In fact, according to the GAO, tax returns prepared by return preparers from tax years 2006 through 2009 had a higher estimated rate of errors (60 percent) than self-prepared returns (50 percent). See U.S. Gov't Accountability Office, GAO-14-467T, *Paid Tax Return Preparers: Inaccurate Returns and Improper Payments*, at 20.[19]

The volume of enjoined and prosecuted preparers and the error rate derived from studies conducted by the Center for Taxpayer Rights and the GAO suggest that there are hundreds of thousands, if not millions, of innocent taxpayers like Murrin that are encountering bad return preparers and, in turn, exposed to an indefinite statute of limitations under the Third Circuit's opinion. This number will only rise with the Department of

17. https://taxpayer-rights.org/wp-content/uploads/2026/03/Mystery-Shopping-Report-03-16-26.pdf (as visited Mar. 20, 2026).

18. https://www.gao.gov/assets/gao-26-108723.pdf (as visited Mar. 20, 2026).

19. https://www.gao.gov/products/gao-14-467t (as visited Mar. 20, 2026).

Treasury's decision on October 2, 2025, to end its "Direct File" program, which allowed taxpayers to avoid hiring return preparers by electronically filing their returns directly with the IRS. See U.S. Dep't of the Treasury, *Report on the Conclusion and Replacement of the Direct File Pilot Program* (Oct. 2, 2025).[20]

IV. The IRS does not need to impose an indefinite statute of limitations on innocent taxpayers to achieve its enforcement objectives, and the government has an interest in uniformity among its enforcement tools.

The IRS's ability to monitor and track return preparers, coupled with the many enforcement tools already at its disposal, allow it to identify bad actors and pursue penalties, injunctions, disgorgement, and criminal enforcement. The IRS, therefore, does not need to pursue innocent taxpayers beyond the three-year statute of limitations to make itself whole and meet its enforcement goals.

Once a bad actor is identified, the IRS has several enforcement options. It can impose penalties on the return preparer for: understatements of tax; failure to furnish the taxpayer with a copy of their return; failure to sign a return; and failure to supply a PTIN. See 26 U.S.C. §§ 6694 and 6695.[21] In addition to IRS preparer penalties,

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20. https://home.treasury.gov/system/files/131/Report-Replacement-of-Direct-File-2025.pdf (as visited Mar. 20, 2026).

21. On February 26, 2026, Senate Finance Committee Chair Mike Crapo introduced the Taxpayer Assistance and Service Act ("TAS ACT"), S.3931, 119th Cong. (2026). The TAS Act seeks to

the DOJ may seek injunctions and disgorgement to stop bad actors and make itself whole. As discussed above, the DOJ can, and regularly does, pursue injunctions against return preparers. The DOJ also regularly seeks disgorgement in those suits to collect ill-gotten gains.[22] See, e.g., *United States v. Stinson*, 239 F. Supp. 3d 1299, 1326 (M.D. Fla. 2017), *aff'd*, 729 F. App'x 891 (11th Cir. 2018) (ordering disgorgement against a return preparer under 26 U.S.C. § 7402, because "it reminds the defendant of its legal obligations, serves to deter future violations of the Internal Revenue Code, and promotes successful administration of the tax laws"); Press Release 25-389, U.S. Dep't of Justice, *Justice Department Continues Efforts to Stop Unlawful Tax Return Preparers* (Apr. 15, 2025).[23] Importantly, the government maintains there is no statute of limitations for injunction or disgorgement suits. *United States v. Meyer*, 376 F. Supp. 3d 1290, 1298 (S.D. Fla. 2019).

Where civil remedies fail, the government has criminal enforcement tools. Return preparers can be prosecuted

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expand return preparer penalties. If passed, the TAS Act would provide additional avenues for the IRS to pursue penalties against return preparers.

22. Disgorgement is "grounded in the principle that '[a] person is not permitted to profit by his own wrong.'" *United States Sec. & Exch. Comm'n v. Sripetch*, 154 F.4th 980, 982 (9th Cir. 2025), *cert. granted sub nom. Sripetch v. SEC*, No. 25-466, 2026 WL 73091 (U.S. Jan. 9, 2026) (quoting Restatement (Third) of Restitution and Unjust Enrichment § 3 (A.L.I. 2011)).

23. https://www.justice.gov/opa/pr/justice-department-continues-efforts-stop-unlawful-tax-return-preparers (as visited Mar. 20, 2026).

for assisting, procuring, or advising on the preparation of a return that is fraudulent or false. 26 U.S.C. § 7206(2). Similarly, return preparers can be prosecuted for the delivery and disclosure of a fraudulent or false return. 26 U.S.C. § 7207.

Evolving technology and artificial intelligence ("AI") enhance available enforcement tools and minimize the burden of examining fraud cases.[24] In the return preparer context, AI can be used to identify patterns of behavior across seemingly unconnected returns and scrape websites to identify fraud. See Organization for Economic Co-operation and Development, *Governing with Artificial Intelligence: AI in Tax Administration* (2024).[25] The IRS is utilizing AI and has nearly 100 AI projects underway. See I.R.M. § 10.24.1 (Feb. 10, 2026); see also *IRS Fraud Detection and AI*, Tax Notes Today Fed. (Mar. 16, 2026) (noting that AI-driven techniques are now being used to analyze unstructured data sets and

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24. The unlimited statute of limitations in fraud cases is often attributed to the "special disadvantage to the Commissioner in investigating these types of returns." *Murrin v. Commissioner*, T.C. Memo 2024-10, at *8-9 (citing *Allen v. Commissioner*, 128 T.C. 37, 40 (2007)); see *BASR*, 795 F.3d at 1361 (Prost, C.J., dissenting) (Judge Prost's dissent notes that fraud cases are often more difficult to investigate). Ongoing legal scholarship suggests that developments in technology require a review of the statute of limitations where tax authorities utilize technology to better perform their functions. See Stephen Daly, *Artificial Intelligence, the Rule of Law and Public Administration: The Case of Taxation*, 83 Cambridge L.J. 437, 437–38 (2024).

25. https://www.oecd.org/en/publications/governing-with-artificial-intelligence_795de142-en/full-report/ai-in-tax-administration_30724e43.html (as visited Mar. 20, 2026).

social media posts to uncover tax fraud).[26] AI allows the IRS to identify fraudulent activity by return preparers more quickly, reducing the need to pursue these claims against innocent taxpayers past the regular three-year statute of limitations.

In short, the government has an arsenal of tools at its disposal to combat tax fraud. The Third Circuit reads into 26 U.S.C. § 6501(c)(1) provisions that are not there to give the government yet another tool: the ability to assess decades-old tax liabilities, penalties, and interest against innocent taxpayers. But that tool is unnecessary and erodes the fair administration of the tax laws.

Certiorari is warranted not only because of the national taxpayer interest in fair and uniform tax administration, but also because of the government's own interest in uniform and efficient enforcement. Consider an IRS Revenue Agent examining a ten-year-old return of a taxpayer who was the victim of a fraudulent return preparer. At the end of a lengthy audit, the Revenue Agent assesses taxes, penalties, and interest. The taxpayer chooses to file suit in the Court of Federal Claims. The DOJ must immediately concede the case under the precedent of *BASR*, 795 F.3d at 1347. In this scenario, not only did the innocent taxpayer waste time and money on the audit, but the Revenue Agent wasted scarce government resources. Because the government cannot predict whether a taxpayer will file suit in the Court of Federal Claims or Tax Court, granting certiorari is necessary for efficient tax enforcement.

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26. https://www.taxnotes.com/tax-notes-today-federal/artificial-intelligence/irs-fraud-detection-and-ai/2026/03/16/7vgg6 (as visited Mar. 20, 2026).

CONCLUSION

Filing federal income tax returns each year is the one thing every person in the United States who has income must do that subjects them to substantial civil and criminal penalties if done incorrectly. Because the "federal income tax code is massive and complicated," *Loving*, 742 F.3d at 1014, most taxpayers turn to professionals to assist them with this unwelcome, but required, task. And despite IRS efforts to regulate professional tax return preparers, in most states, a license is required to cut hair but not to professionally prepare federal tax returns. The Third Circuit's holding allows the IRS to hold taxpayers vicariously liable for the sins of their return preparers, notwithstanding the absence of any language supporting that vicarious liability in the statute. The result is an unduly harsh and inconsistent enforcement regime that is unnecessary in light of return preparer penalties, disgorgement, and other tools available to the government to address return preparer fraud. The Center for Taxpayer Rights respectfully requests that this Court grant certiorari now to ensure that the IRS's mission to enforce the tax laws with integrity and fairness to all is fulfilled.

Respectfully submitted,

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