Comment of the Undersigned Organizations on the Commerce Department's Proposed 2030 Census Residency Rule: Tax-Record Requirements Could Exclude Tens of Millions of People, Mostly Low-Income

On September 9, 2026, the Commerce Department released a proposed rule for determining residence in the 2030 Census.[i] This proposal is clearly unconstitutional because it would exclude people from House seat apportionment, even though the 14th Amendment of the Constitution requires "counting the whole number of persons in each State."[ii] While many are sounding the alarm about the unconstitutional proposed exclusion of non-U.S. citizens without green cards,[iii] this comment is focused on the tens of millions of people who would also be intentionally—and unconstitutionally--excluded from the 2030 Census by the proposed requirement that people be included in the Census *only if their address for the proposed residence period is consistent with and evidenced by their tax records* (apparently federal IRS records only).[iv] The proposed rule would also change the relevant time period for determining residence from April 1 to the three months between January 3 and April 1—even though someone's address in this time period may not match their address in tax filings and therefore cannot be confirmed by tax records.[v]

The Decennial Census is supposed to count everyone once, only once, and in the right place.[vi] This is essential for accurate House seat apportionment—and also for redistricting at the federal, state and local levels, and for allocation of federal and state funds. As the Census Bureau has explained, this standard, which was used in the 2020 Census and prior censuses, is grounded in the law providing for the first Census, the Act of March 1, 1790, expressly specifying that persons be enumerated at their "usual place of abode." [vii]

To be clear, tax records serve a vital purpose in the Census when they are used to help ensure that people who did not respond are still counted so that the Census is as complete as possible. But this proposal would instead use tax records to *exclude* people,

violating the Constitution and statute. This could exclude tens of millions of people from the Census, undermining our democracy and diverting critical resources from the people and communities that need it most. This proposed rule must be withdrawn.

Tens of millions of people may not be counted because they have no tax records.

The proposed rule requires that "A person's 'usual residence' should be consistent with, and evidenced by, their tax records (e.g., tax returns, W-2 forms)."

However, many low-income earners are not required to file tax returns. One common reason is that they do not reach the income threshold, as outlined below:

Income at which filing is required[viii]

Status	Under 65	65 or older
Single	$15,750	$17,550
Head of Household	$23,625	$25,625
Married Filing Jointly	$31,500 (both under 65) $33,100 (one under 65)	$33,100 (one under 65) $34,700 (both 65 or older)
Married Filing Separately	$5	$5
Qualifying Surviving Spouse	$31,500	$33,100

In fact, a recent Census Bureau research paper shows that at most, only 76.4% of people in 2020 would have been counted if the Census Bureau only used Internal Revenue Service (IRS) 1040 individual tax return data.[ix]

While the IRS does have tax records for some non-return filers, the proposed rule is troublingly unclear on which records might be used, stating only "(e.g., tax returns, W-2 forms)." For example, many people who do not have tax earnings records have health

insurance coverage under Medicaid or the Children's Health Insurance Program, which would be documented in Form 1095. But if 1095s are not used under this rule, those people would be excluded from the census. The 4.8 million people who receive Supplemental Security Income benefits (and therefore Medicaid coverage reported on the 1095) but not OASDI (Old Age, Survivors, and Disability Insurance) benefits would be excluded.[x] Also, veterans health care is reported on the 1095, but if veterans have no income other than disability payments (which are not taxable or reported income), they would be excluded.

Furthermore, many non-tax return filers do not have tax records such as W-2s or 1099s because they do not have earned income generating current year records. Examples include:

- People without cash earnings;
- Self-employed or gig workers who did not get 1099Ks from their gig employers. because they failed to reach 200 transactions and $20,000 in payments;[xi] and
- People who are self-employed with individual small income sources that do not generate 1099s.

Overall, the Census Bureau study found that only 88.5% of people in 2020 had "Any IRS (1040/1099/1099-R)" forms.[xii] Although the study does not list all of the IRS forms included in "Any IRS," its data seems to demonstrate that this category is far more inclusive than the three forms listed.[xiii] A Census requiring confirmation of address evidenced by tax records could exclude the 11.5% of people who do not have the IRS records included in this study—or more than 38 million people.

Moreover, this proposed rule would miss many children and other dependents. The Census Bureau study found that 4.36% of people in 2020 – nearly 15 million people—only had 1099s (and no other administrative records, including 1040s), which do not show a person's dependents, such as children, spouses, or other family members.[xiv] The study further notes that "IRS 1040 returns include dependent children, but they only appear with about a one-year lag after birth."[xv]

In another striking example of the gaps in tax records, when the IRS was charged with issuing pandemic payments, it estimated that it was only able to reach 92% of the potentially eligible people.[xvi] A Census that failed to count 8% of the population would miss more than 27 million people.

Finally, one highly vulnerable population particularly likely to be missed under this proposed rule is homeless people who are not at transitory locations. (Transitory locations such as homeless shelters, emergency shelters and domestic violence shelters are addressed separately in the rule.) Many homeless people do not have tax documents or use accommodation addresses on their tax materials because they live on the streets or frequently move between family and friends.

Tens of millions of people with tax records might nonetheless be excluded from the Census or counted at the wrong address because tax addresses are not the same as Census residences.

The Census needs to count everyone at their residence. But tax addresses are not necessarily residence addresses, and they may not cover the same time period as the Census.

Tax filings need to use a mailing address, but that address does not need to be a filer's residence. For example, people who do not get mail delivered to their house can use a post office box on their tax form,[xvii] but a post office box cannot be the census residence since it is not where the person lives. Many people file using their business address or an accountant's address. Military personnel often file using military addresses.

It is concerning that the proposed rule is silent with respect to how conflicts will be handled if someone's residence on their census response is not "consistent with, and evidenced by, their tax records." In the worst-case scenario, they will be excluded altogether from the Census, even if they have tax records. Or, they could be wrongly counted at their tax address, even if their census address is their correct residence.

The potential for conflicts when tax records are used to "evidence" census addresses was demonstrated by the findings of the Census Bureau's simulation of the 2020 Census using administrative records. In that simulation, 8.38% of 1040 records were not on the Master Address File, including 51.72% of rural route addresses.[xviii]

This simulation also showed that only 55.6% of 2020 Census people with IRS data had addresses that only matched in those records.[xix] More than a third of the people--34.17%--had conflicting address information—some addresses in the IRS data matched the census address and some did not[xx]—and this proposed rule creates uncertainty as to whether this would be sufficient to be considered "consistent with" tax records or which address would be used to count someone.

Even more alarmingly, 10.23%—more than 30 million people—had no matching addresses between the IRS records and 2020 Census,[xxi] so their census address could not be "evidenced" by tax records.

Furthermore, tax record addresses are not necessarily for the same period as the proposed residence period. About 11.8 % of the population, or 37 million people, move each year in the United States, averaging three million a month.[xxii] Employers are required to file W-2s and 1099s by January 31, so perhaps six million people may move between the date of their W-2 or 1099 and April 1, 2030. If the individuals do not file a return, the IRS will have an outdated address for them, and it may conflict with the address on their census form. In addition, while W-2s and 1099s are filed in January, they are not processed (and therefore addresses are not updated) until much later in the tax season. Depending on when the Census Bureau receives those updates, it might not have a current address even for someone who moved in the prior year.

Moreover, about 10% of all tax filers request an extension,[xxiii] which means that the IRS will not have a current return for movers who request an extension, and if they move after their W-2 or 1099s are filed, but before they fill out the Census form, their Census response may be excluded under this proposed rule because their census address conflicts with their W-2 or 1099 address.

There are many additional situations where requiring tax records as evidence of residence provides inaccurate or unintended results. For example, college students are supposed to be counted through the group quarters process if they live on campus, but if they are dependents of their parents, their residence from the tax form will conflict with the results of the group quarters information provided by their college.[xxiv] Young children whose parents have joint custody may appear on one parent's tax return and on another's census form. "Snowbirds" move to a different location for winter months, and under the terms of this proposed rule, they would be expected to use that as the residence for their census form—even though it is not their permanent address and also may not be the address on their tax form. Finally, households gain and lose members regularly for a wide range of reasons, but tax returns cover only the prior tax year.

To reiterate, tax records and other administrative records are a vital resource for conducting a complete Census. They should be used to include people by enumerating people who do not respond, using multiple sources. However, this analysis demonstrates the many problems with using tax record addresses to exclude people.

Many people could be excluded because tax filings do not include everyone at many residences.

A census return is supposed to include everyone at the residence address. A tax return only includes the taxpayer, spouse, and dependents. For complex households, that may not include everyone in the residence. For example, a taxpaying couple might not include on their tax return their parents who share the home, while the parents do not file a tax return because they have not yet claimed Social Security benefits and have no reportable income. Another possibility is that a taxpaying couple might not include on their return a sibling and the sibling's child, while the sibling might be a college student with no reportable income.

Conclusion: The undersigned organizations urge the Census Bureau and the Department of Commerce to withdraw the entire proposed rule, including the tax-record requirement.

Administrative records, including but not limited to tax records, have an important place in ensuring an accurate count both when preparing for the census and for enumerating people who have not responded. In the 2020 Census, the Census Bureau used tax records and other administrative records to count people who had not responded on their own or been available when census enumerators came to them.[xxv] In most cases, it used administrative records from more than one source so it could be confident that the information was accurate.

However, this proposed rule would turn the use of tax records on its head. Rather than being used to supplement the count to ensure completeness, they would be used to unconstitutionally exclude tens of millions of people from the Census.

Because the tax record requirement would primarily exclude low-income people who are not required to file tax returns, the adoption of this proposed rule would result in significant undercounts in low-income communities. That would lead to apportionment and redistricting data that gives those communities fewer representatives and less political power in the U.S. House of Representatives, state legislatures, community legislatures, and school districts. It also would reduce the amount of federal funds allocated to communities, state allocations of federal funds, and state funds that flow through census data.

This comment highlights only one major problem in the proposed rule: the required use of tax records to evidence someone's residence. There are many others, including the unconstitutional proposed exclusion of non-U.S. citizens without green cards, eliminating questions about race and ethnicity from the census form, and banning future questions about sexual orientation. This proposed rule would even plainly violate the law that requires the Secretary of Commerce to "take a decennial census of population as of the

first day of April of such year,"[xxvi] by instead defining residence as where someone has spent the most days in three-month period.

As demonstrated in this Comment, the Census Bureau's own studies show that requiring tax records to evidence addresses would exclude tens of millions of people. The Census Bureau also has already agreed not to use administrative records such as tax records for redistricting purposes.[xxvii] This proposed rule is unconstitutional, unlawful, and so thoroughly flawed that it must be withdrawn.

Signed,

AACTE (American Association of Colleges for Teacher Education)
American Educational Research Association
American Friends Service Committee
Amherst Survival Center
Arizona Center for Economic Progress
Arkansas Advocates for Children and Families
Association for Special Children and Families
Being Alive/People with AIDS Action Coalition, Inc.
Brooklyn Center for Independence of the Disabled (BCID)
Census Quality Reinforcement (CQR) Task Force
Center for Elder law & Justice
Center for Law and Social Policy (CLASP)
Center for the Study of Social Policy (CSSP)
CenterLink
Chicago Women in Trades
Child Care Law Center
Childhood Obesity Initiative
Children at Risk
Citizen Action of New York

Clean Elections Texas

Coalition on Human Needs

Colorado Consumer Health Initiative

Colorado Organization for Latina Opportunity and Reproductive Rights (COLOR)

Community Change Action

Community Economic Development Association of Michigan (CEDAM)

Community of Caring Mental Health

Congregation of Our Lady of Charity of the Good Shepherd, U.S. Region

Council of the Great City Schools

Courage California

COYOTE RI

East Bay Housing Organizations

East Bay Sanctuary Covenant

East Boston Social Centers

Edgewater Action

Empowering Pacific Islander Communities (EPIC)

Energy Coordinating Agency

Enlace Communitario

Equality State Policy Center

Fayetteville Alumnae Chapter of Delta Sigma Theta Sorority, Inc.

First Focus on Children

Food Research & Action Center (FRAC)

Good Business Colorado Association

Hawaii Children's Action Network Speaks!

Helena Service for Peace and Justice/SERPAJ

Hispanic and Immigrant Center of Alabama

Hunger Free America

Hunger Free Oklahoma

Hyde Park Neighborhood Association

Hypertrophic Cardiomyopathy Association

Illinois poor people Canpaign

Immigrant Hope Gainesville

Indivisible Monroe County Illinois

Just Harvest

Justice + Joy National Collaborative

La Red de Pueblos Trasnacionales

Latino Texas Policy Center

Least Of These, Inc

Liberation Cafe'

MACS 2030 - Minnesotans for the American Community Survey & 2030 Census

MaryCatherine Jones Consulting, LLC

Mayerson JCC

Mercer County Food Bank

Michigan's Children

Mississippi Coalition for Citizens with Disabilities

Mountain Resource Center

National Advocacy Center of the Sisters of the Good Shepherd

National Association for Family Child Care

National Association of Social Workers

National Disability Rights Network (NDRN)

National Education Association

National Immigration Law Center

National Nurse-Led Care Consortium

National Women's Law Center

N'COBRA (National Coalition of Blacks for Reparations in America

Neighbor to Neighbor

Network of Jewish Human Service Agencies

New Haven Legal Assistance Assoc. Inc.

NH Hunger Solutions

Ninth Missionary Baptist Church Food Bank

Ohio AEYC

OKANOGAN COUNTY COMMUNITY ACTION COUNCIL INC

Orange County United Way

Organization for Latino Health Advocacy

Our Children Oregon

Passionist Solidarity Network

Peace Educators Allied for Children Everywhere

Placer Independent Resource Services

Pride Community Center of the Brazos Valley

Prison Policy Initiative

Public Advocacy for Kids (PAK)

RESULTS-Massachusetts

Resurrection House, Inc.

Safer Foundation

Sarah Webster Fabio Center for Social Justice

Sauti Yetu Center for African Women, Inc

Service Employees International Union

Serving at-risk families everywhere, Inc.

Shields for Families

Sister Carmen Community Center

Sisters of St. Joseph Healthcare Foundation

Sound Generations

South Central Community Action Programs, Inc.

St. Matthew Trinity Lunchtime MInistry

Sunnyside Community Services

The Gathering of Southeast WI, Inc.

The George Gund Foundation

TransCanWork, Inc.

Unitarian Universalists for Social Justice

United Way Southeast Louisiana

Up Valley Family Centers of Napa County

Valley Oak Children's Services, inc

Voice Buffalo

Whitmore Lake Area Human Servicews

Worcester County Food Bank

YWCA Columbus

---

[i] https://www.federalregister.gov/documents/2026/09/10/2026-18481/decennial-census-of-the-population-of-americans-proposed-residence-criteria-and-proposed-regulations

[ii] https://www.archives.gov/milestone-documents/14th-amendment

[iii] https://www.npr.org/2026/09/09/nx-s1-5845147/trump-us-census-citizenship-question-race-categories, https://www.politico.com/news/2026/09/09/trump-administration-2030-census-citizenship-count-01068927

[iv] Proposed rule Section 60.2: General Definition of "Usual Residence" for Conducting the Decennial Census

a. A person's "usual residence" is the residence at which they have lawfully spent the greatest number of days during the census enumeration period. A person's "usual residence" should be consistent with, and evidenced by, their tax records (e.g. , tax returns, W-2 forms).

b. A person is considered to have spent a day at a residence if he or she spent at least one hour physically and lawfully present there that day. A person may spend a certain day at more than one residence.

c. The census enumeration period runs from January 3 to April 1 during decennial census years. April 1 is referred to below as "Census Day." See 13 U.S.C. 141(a).

[v] These concerns have also been raised by Barry Johnson, former Chief Data and Analytics Officer at the Internal Revenue Service, the Director of the IRS Statistics of Income Division, and the Statistical Official for the Department of the Treasury. Mr. Johnson drew primarily on tax record research, while this report also draws on Census Bureau research that further amplifies the size of the problem. https://taxpolicycenter.org/taxvox/using-tax-records-verify-residence-could-put-2030-census-accuracy-risk

[vi] https://www.census.gov/programs-surveys/decennial-census/about/why.html

[vii] Residence Criteria and Residence Situations for the 2020 Census of the United States, https://www.census.gov/content/dam/Census/programs-surveys/decennial/2020-census/2020-Census-Residence-Criteria.pdf

[viii] https://www.irs.gov/individuals/check-if-you-need-to-file-a-tax-return

[ix] Producing U.S. Population Statistics Using Multiple Administrative Sources, J. David Brown and Marta Murray-Close, November 2023, https://www2.census.gov/library/working-papers/2023/adrm/ces/CES-WP-23-58.pdf, pg. 2.

[x] https://www.ssa.gov/policy/docs/quickfacts/stat_snapshot/

[xi] https://www.irs.gov/newsroom/the-working-families-tax-cuts-what-gig-economy-workers-should-know

[xii] https://www2.census.gov/library/working-papers/2023/adrm/ces/CES-WP-23-58.pdf, pg. 16

[xiii] This study includes a category of administrative records called "Any IRS" and gives three examples of those forms: 1040, 1099, and 1099-R. It then shows that 36.92% of people in the 2020 Census were found *only* in "Any IRS" records (and no other administrative records), of which 21.28% only had a 1040 form and 4.36% only had a 1099 form (and 0% only had a 1099-R, as discussed on pg. 8 of the study). Therefore, 11.28% of the people in the 2020 Census had IRS forms beyond the 1040, 1099, or 1099-R as their matching administrative records. This demonstrates that the "Any IRS" category is more inclusive than those three listed forms, although the study does not detail which additional forms may or may not have been included.

[xiv] Id.

[xv] Id. at pg. 3.

[xvi] https://www2.census.gov/library/working-papers/2023/adrm/ces/CES-WP-23-24.pdf. This paper was careful to note that its potentially eligible population is an estimate and "has some shortcomings." Further, the estimate was itself derived in part from IRS records, which of course would not reflect those people who are not in the IRS records at all. While these figures must be treated as a rough estimate, it is a separate indication of the general size of the problem that requiring IRS documentation to count people would create.

[xvii] https://www.irs.gov/pub/irs-pdf/i1040gi.pdf

[xviii] Real-Time 2020 Administrative Record Census Simulation, www2.census.gov/programs-surveys/decennial/2020/program-management/evaluate-docs/EAE-2020-admin-records-experiment.pdf at Table 7.

[xix] Id. at Table 45.

[xx] Id.

[xxi] Id.

[xxii] https://www2.census.gov/programs-surveys/demo/visualizations/geographic-mobility/acs-1yr/residence.pdf; Excluding movers from abroad, 37 million people moved within the United States in 2024. (33.3 million within the same region, 3.8 million between regions of the U.S.). American Community Survey 1-year Table S0702: Movers Between Regions - Census Bureau Table.

[xxiii] https://www.irs.gov/statistics/filing-season-statistics

[xxiv] Census IRS Rule Threatens College Town Representation, National Redistricting Foundation, https://redistrictingfoundation.org/policies/census-irs-rule-threatens-college-town-representation/

[xxv] https://www.census.gov/newsroom/blogs/random-samplings/2021/04/administrative_recor.html

[xxvi] 13 U.S. Code § 141 - Population and other census information | U.S. Code | US Law | LII / Legal Information Institute

[xxvii] At its May 2024 meeting, the National Advisory Committee for the Census Bureau recommended that "the U.S. Census Bureau clarify that local population counts based chiefly on administrative records, such as the Annual Administrative Records Population Estimates, are not fit for purposes such as legislative redistricting that call for an accurate enumeration of local populations." In September 2024, the Census Bureau accepted this recommendation. (https://www2.census.gov/about/partners/cac/nac/meetings/2024-05/nac-spring-2024-recommendations.pdf, Recommendation 21.)