

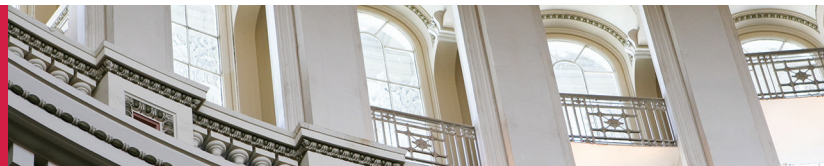


Internal Revenue Service Advisory Council

PUBLIC REPORT



November 2023



INTERNAL REVENUE SERVICE ADVISORY COUNCIL

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See Appendix C for Member Biographies

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GENERAL REPORT
OF THE
INTERNAL REVENUE SERVICE ADVISORY COUNCIL

The Internal Revenue Service Advisory Council (IRSAC), the successor to the Commissioner's Advisory Group established in 1953, serves as an advisory body to the Commissioner of Internal Revenue (Commissioner). The IRSAC's purpose is to provide an organized public forum for Internal Revenue Service (IRS) officials and representatives of the public to discuss tax administration issues. The IRSAC reviews existing tax policy and administrative issues and makes recommendations to achieve efficient and effective tax administration. As part of its duties, the IRSAC conveys the public's perception of professional standards and best practices for tax professionals and IRS activities, offers constructive observations regarding current or proposed IRS policies, programs, and procedures, and advises the Commissioner and senior IRS executives on substantive tax administration matters.

The 2023 IRSAC is composed of 32 members who represent a broad cross-section of the taxpaying public and offer a wealth of experience in the areas of providing tax substantive advice and tax preparation for individuals, small businesses, and large, multi-national corporations; information reporting; tax exempt and government entities; volunteer community tax programs; electronic tax administration and digital services; and professional standards for tax professionals. Each member has a unique tax administration perspective and is committed to providing actionable and informed recommendations to the IRS.

The IRSAC is organized into five subgroups: Wage & Investment (W&I); Small Business/Self Employed (SB/SE); Large Business & International (LB&I); Tax Exempt/Government Entities (TE/GE); and Information Reporting (IR). The Information Reporting Program Advisory Committee (IRPAC) and Advisory Committee on Tax Exempt and Government Entities (ACT) were consolidated into the IRSAC in 2019. The Information Reporting subgroup was recently established to ensure that members have

an effective forum to raise and discuss information reporting and payroll issues and recommendations.

Through four two-day working sessions, three public meetings, and numerous ad-hoc calls throughout the year, the IRSAC worked with the IRS to orient the IRSAC members with the IRS and the IRSAC operations, facilitate issue selection for our November annual report addressing member and IRS raised topics, provide real-time feedback to the IRS, and provide actionable and informed recommendations for the Commissioner. In addition to this November report, notable accomplishments for the IRSAC throughout the year included:

- Provided input to the IRS on development of the electronic portal to handle registration for certain credits and transfers that is required by the Inflation Reduction Act of 2022.
- Provided information to the Government Accountability Office (GAO) on measuring the tax gap.
- Provided input on resolving taxpayer issues that may result from expanded issuance of Form 1099-K starting for the 2023 tax year (this issue is also addressed in the IRSAC's 2023 recommendations).
- Explained issues some taxpayers face who need to obtain several Employer Identification Numbers (EIN) but are limited to obtaining one EIN per responsible party per day.
- Highlighted the need for guidance on R&D expenditures under Section 174 in light of the Tax Cuts and Jobs Act change effective for tax years beginning after December 31, 2021. On September 8, 2023, the IRS issued Notice 2023-63 providing much of this guidance.

Similar to previous IRSAC reports, the 2023 Report reflects several reoccurring key themes. Firstly, and aside from the Inflation Reduction Act of 2022 funding, the report stresses the need for consistent annual appropriations funding so that IRS may achieve its goals of providing efficient, effective, modern service to the nation's taxpayers. Secondly, the report emphasizes the need for the IRS to continue its progress towards executing its modernization plan, and this includes building IT infrastructures to enable

the e-filing of more types of tax forms. Thirdly, the report provides targeted feedback to improve the taxpayer experience by expanding digital options, improving taxpayer correspondence, and simplifying the reporting of tax returns and procedures.

The IRSAC recognizes the IRS Office of National Public Liaison (NPL) for its invaluable assistance, dedication, and support throughout the year, including its efforts to efficiently transition back to in person meetings while navigating public health issues. The IRSAC applauds the successes and hard work of the Business Operating Division (BOD) leaders and staff, Appeals, IRS Communications and Liaison, Operations support, and Services and Enforcement staff, as well as the National Taxpayer Advocate and thanks them for their engagement and support. The IRSAC recognizes the ongoing support from the Commissioner and the IRS workforce for its tireless efforts serving America's taxpayers.

2022 Report Recommendations Progress

As a follow up to the IRSAC's 2022 report, we are pleased to report that as of September 2023, the IRS had implemented, partially or fully, the following actions in accordance with the IRSAC's recommendations:

- Development of simplified taxpayer-centric, high-level messaging regarding funding and modernization needs.
- Focus on ensuring sound relationships with the tax-writing committees of Congress regarding funding needs.
- Issued guidance (Notice 2023-08) regarding the presumption for a withholding agent to treat a non-U.S. issuer as other than a publicly traded partnership (PTP) under Section 1446(f).
- Some enhancements were made to the Compliance Assurance Process (CAP).
- Continuing work to improve and expand online capabilities such as through the IRS Examination Customer Coordination and Innovation Office (ECCIO).
- Completion and ongoing work to improve and simplify Series 8038 Form (tax-exempt bond activities) including e-filing.
- Modifications made to the Preaudit Contact letter for employer plan examinations, and improvements to the process of corrections allowed in the 90-day preaudit period.
- Suggestions made to the Office of Chief Counsel to update Revenue Ruling 2011-1 for changes made to Section 336(e) by the PATH Act, and to clarify the treatment of certain assets of a 457(b) plan.
- Continuing work by the IRS to make timely updates to the Tax Exempt Organization Search (TEOS) Tool.
- IRS working to update the Federal, State and Local Governments (FSLG) website to make it easier to find information needed for compliance purposes.
- Ongoing outreach activities to state government contacts to identify opportunities for the IRS to partner with states that have local service areas that may be willing to including information regarding IRS resources for presentations to local governments.

- FSLG and Indian Tribal Government (ITG) websites updated and improved.
- Ongoing collaboration across BOD product teams to note learnings and best practices regarding use of artificial intelligence BOTs for customer service and continued product development in this area.

New for 2023: IRS Strategic Operating Plan (SOP) Objectives and Initiatives

In April 2023, the IRS released a significant report explaining its long-term plan for strategically using the \$80 billion special 10-year funding allocation from the Inflation Reduction Act of 2022 (P.L. 117-169, Aug. 16, 2022).¹ This report—*IRS Inflation Reduction Act Strategic Operating Plan, FY 2023-2031*, lays out 42 initiatives within five objectives for improving taxpayer services, modernizing IRS activities, and enhancing enforcement for high income individuals and large businesses.²

The five broad objectives shaping the Strategic Operating Plan (SOP), as described in the report, are:

1. *Taxpayer Services*: Dramatically improve services to help taxpayers meet their obligations and receive the tax incentives for which they are eligible.
2. *Resolving Taxpayer Issues*: Quickly resolve taxpayer issues when they arise.
3. *Expanded Enforcement*: Focus expanded enforcement on taxpayers with complex tax filings and high-dollar noncompliance to address the tax gap.
4. *Cutting-Edge Technology*: Deliver cutting-edge technology, data and analytics to operate more effectively.
5. *Workforce*: Attract, retain and empower a highly skilled, diverse workforce and develop a culture that is better equipped to deliver results for taxpayers.

Given the importance of the SOP objectives and 42 initiatives to IRS operations in 2023 and beyond, the IRSAC incorporated these items into its 2023 report. Appendices A and B of the report list all of the 2023 recommendations as well as the active recommendations from the IRSAC's reports for 2019 through 2022, noting which objective or initiative(s) each recommendation corresponds to. The IRSAC believes this mapping is important given the IRS focus on the SOP. The IRSAC finds that its recommendations will help the IRS in meeting the objectives explained in the SOP report.

¹ The Inflation Reduction Act of 2022 (P.L. 117-169, Aug. 16, 2022), SEC. 10301 specifies the categories the \$80 billion is allocated to such as taxpayer services, enforcement and business system modernization.

² See news release IR-2023-72 (April 6, 2023); <https://www.irs.gov/newsroom/irs-unveils-strategic-operating-plan-ambitious-effort-details-a-decade-of-change>; and IRS Strategic Operating Plan FY 2023-2031 (Pub. 3744) at <https://www.irs.gov/about-irs/irs-inflation-reduction-act-strategic-operating-plan>.

Below is a table summarizing how the recommendations in the 2023 report tie to the SOP objectives and initiatives. Details of this mapping of recommendations to the SOP are included in Appendix A, while Appendix B shows how the past recommendations for 2019 through 2022 which are still active map to the SOP objectives and initiatives.

IRSAC Subgroup:	IRSAC Recommendation Mappings to the IRS SOP					
	General	Info Reporting	LB&I	SB/SE	TE/GE	W&I
Objective 1 – Taxpayer Services	1	2	12	38	21	22
Objective 2 – Resolving Taxpayer Issues			1	1	8	
Objective 3 – Expanded Enforcement						
Objective 4 – Cutting-edge Technology	1	10			8	7
Objective 5 - Workforce						
Totals *	2	12	13	39	37	29

*Totals are greater than the number of recommendations in the 2023 IRSAC report because some recommendations map to more than one objective.

ISSUE ONE: Budget Shortfalls Need to be Addressed with Lawmakers

Executive Summary

The Internal Revenue Service (IRS) received substantial funding through the Inflation Reduction Act of 2022³ (IRA) with Congress appropriating funds to spend on enhancing taxpayer services, enforcement activities, operations support, and business systems modernization over a 10-year period.

Separate from the IRA funding, the IRS receives annual budget appropriations from Congress to support ongoing tax administration activities, systems, and resources through the appropriations legislative process. Historically, lawmakers have appropriated monies to the IRS into these same four budget categories: 1) taxpayer services, 2) enforcement, 3) operations support, and 4) business systems modernization (BSM). The IRS is typically limited with respect to the amounts that it can move between these four categories no more than 5% per year between any given category).

For FY 2023, Congress did not appropriate any funding to the IRS for business systems modernization and appropriations for taxpayer services and operations support remained flat⁴ despite record increases in inflation.⁵ Further, lawmakers clawed back some of the IRA funding through the Fiscal Responsibility Act of 2023⁶ and continue to propose bills that seek to reduce annual IRS appropriations and reduce the 10-year additional funding provided by IRA.⁷

There is potentially a misperception that the IRS has, due to the IRA funding, enough money to maintain daily operations, continue advancing in-

³ Inflation Reduction Act of 2022 (P.L. 117-169, Aug. 16, 2022); <https://www.congress.gov/bill/117th-congress/house-bill/5376/text>.

⁴ Consolidated Appropriations Act of 2023 (P.L. 117-328, Dec. 29, 2022); <https://www.congress.gov/bill/117th-congress/house-bill/2617>.

⁵ U.S. Bureau of Labor Statistics: The Economics Daily, July 17, 2023; <https://www.bls.gov/opub/ted/2023/consumer-prices-up-3-0-percent-over-the-year-ended-june-2023.htm>

⁶ Fiscal Appropriations Act of 2023 (P.L. 118-5); <https://www.govinfo.gov/content/pkg/BILLS-118hr3746enr/pdf/BILLS-118hr3746enr.pdf>.

⁷ U.S. Bureau of Labor Statistics: The Economics Daily, July 17, 2023; <https://appropriations.house.gov/sites/republicans.appropriations.house.gov/files/documents/FY24%20Financial%20Services%20and%20General%20Government%20-%20Full%20Committee%20Mark.pdf>.

progress improvements, and complete the overhaul envisioned by the IRA. Reduced annual appropriations, IRA clawbacks, and inflation hamper these efforts.

The IRSAC recommends that the Commissioner and IRS leaders formulate a brief, but impactful analysis (for discussion with lawmakers) that articulates the benefits of increasing annual appropriations to the taxpayer services account and restoring annual funding to the business systems modernization account. The information should also include that the IRS had to supplement annual appropriations with IRA funding to offset inflationary increases that were not included in any of the four categories for FY 2023 appropriations.

Background

Ongoing lack of adequate annual funding culminated in significant problems for taxpayers during the COVID-19 pandemic when the IRS was unable to deliver all necessary services and also faced the challenge of dealing with numerous new legislative changes including delivering recovery payments three times to over 100 million individuals.⁸ When adequate funding is not provided for regular levels of services as well as new demands when tax laws are introduced or change existing administrative processes, our nations' taxpayers cannot get the desired level of service. In addition, when funding is not sufficient to fund taxpayer services and business system modernization projects, there is an increased risk that antiquated processing systems are not sophisticated enough to keep up with increasingly sophisticated fraudsters and bad actors. Furthermore, the burden of managing interactions with the IRS requires individuals and businesses of all sizes to divert more of their precious resources to deal with the agency's inability to provide timely guidance, backlogs due to manual processes required for submitting and processing tax information, time spent by taxpayers and the IRS resolving incorrect, automated treatments, and long call wait times that don't always result in the resolution of the problem due to complex tax code challenges.

⁸ 2021 National Taxpayer Advocate Annual Report; https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/01/ARC21_MSP_01_Processing-Delays.pdf.

Through additional IRA resources, for filing season 2023 the IRS was able to improve taxpayer service, modernize technology, and pursue high-income individuals evading taxes through new initiatives, including:⁹

- Improved taxpayer services: the IRS was able to achieve an 87% level of service on its main taxpayer help line; answer 3 million more calls; reduce phone wait times to 3 minutes from 28 minutes and clear the backlog of unprocessed 2022 individual tax returns with no errors.
- An expanded customer callback option to cover up to 95% of callers needing live assistance.
- An added ability for taxpayers to respond online to 10 of the most common notices for credits, such as the Earned Income Tax Credit and the Health Insurance tax credit, which reduced the time necessary to resolve issues compared to responding through the mail. Subsequently the IRS added an additional 51 notices and letters that can now be responded to online.
- Offering new voice and chatbots to assist taxpayers with obtaining account transcripts and getting additional information from the IRS. Nearly 24,000 payment plans have been established using voicebots for a projected revenue collection of \$152 million.
- Ability to hire nearly 700 employees to open or reopen 42 Taxpayer Assistance Centers across the country providing taxpayers additional options to interact with the IRS.

Increased enforcement activity to ensure high-income taxpayers pay the taxes they owe by closing approximately 175 delinquent tax cases for millionaires, generating \$38 million; pursuing a high-dollar scheme whereby individuals were

⁹ IR-2023-148, Aug. 16 2023 Inflation Reduction Act 1-Year Report Card; <https://www.irs.gov/newsroom/inflation-reduction-act-1-year-report-card-irs-delivers-dramatically-improved-2023-filing-season-service-modernizes-technology-pursues-high-income-individuals-evading-taxes>.

claiming benefits in Puerto Rico without meeting the residence and source rules; and pursuing unlawful offshore tactics such as pension arrangements in Malta.

Increased appropriations are needed for Taxpayer Services

Current annual appropriations for taxpayer services provide enough funding for the IRS to deliver about a 40% service level¹⁰ which translates into long call wait times, delays in correspondence response times, and other taxpayer service issues. In fact, according to the IRS IRA Strategic Operating Plan, annual Congressional appropriations have declined nearly 22% from 2010-2021 even though tax filings increased by more than 8% over similar timeframes.¹¹

To achieve 85% service levels for taxpayers, the IRS funneled approximately \$800 million for filing season 2023 from IRA funds to taxpayer services to make up for shortfalls in annual appropriations from lawmakers. While IRA funding has provided the IRS with temporary boosts in taxpayer services for FY 2023, it is estimated that the money earmarked for taxpayer services will be depleted as of FY 2025. Unless lawmakers act to shore up these budget gaps, taxpayers could see drops in services starting as soon as the 2026 filing season and eventually phone service levels could return to pre-pandemic levels of below 30%.¹² Delays could also be experienced in responses to taxpayer correspondence as the same resources are leveraged to answer telephone inquiries answer correspondence inquiries from taxpayers.

Defunding of Business Systems Modernization for FY 2023

Separate from IRA funding, lawmakers typically appropriate specific funding to the business systems modernization category. Mandates for the modernization efforts stem from the Taxpayer First Act of 2019 (TFA)¹³ which required a restructuring of the agency, modernization of systems, and other initiatives geared towards improving the taxpayer experience. However, TFA mandates were not

¹⁰ 2022 National Taxpayer Advocate Purple Book: https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/01/ARC21_PurpleBook_01_StrengthRights_2.pdf.

¹¹ Internal Revenue Service Inflation Reduction Act Strategic Operating Plan FY 2023-2031; <https://www.irs.gov/pub/irs-pdf/p3744.pdf>.

¹² 2019 National Taxpayer Advocate Annual Report; https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/ARC19_Volume1_MSP_03_IRSFUNDING.pdf.

¹³ Taxpayer First Act of 2019 (P.L. 116-25. July 1, 2019); <https://www.congress.gov/bill/116th-congress/house-bill/3151/text>.

accompanied by additional appropriations and in their *2021 Taxpayer First Act* report to Congress, the IRS communicated that ongoing, multi-year funding was needed to comply with the law.¹⁴ Since then, annual appropriations for business systems modernization have been inconsistent. Over the last five years, the funding level for the BSM account was \$290 million in FY 2017, \$110 million in FY 2018, \$150 million in FY 2019, \$180 million in FY 2020, and about \$223 million in FY 2021.¹⁵ And for FY 2023, Congress did not provide *any* appropriations to the business systems modernization category forcing the IRS to divert money appropriated through the IRA to supplement costs that would normally have been covered through annual appropriations. In its FY 2024 budget requests to Congress, the IRS indicates that ongoing lack of appropriations will derail the implementation of approximately one-third of high-impact modernization initiatives¹⁶ which includes the Enterprise Case Management (ECM) system which would consolidate processing from over 60 disparate systems – into one. There are other high-impact modernization efforts including finishing the development of the Information Return Intake System (IRIS) which will modernize the intake for hundreds of millions of taxpayers returns and allow the IRS to decommission other disparate filing systems.

Business system modernization in industry outside the IRS has a manifold benefit to those enterprises beyond improved processing capabilities. Technology developments such as artificial intelligence (AI) and big data functionalities are providing both benefits and risks that industry must address in business systems to both better serve the marketplace but also protect themselves and their customers. This is a core benefit to businesses of business system modernization.

¹⁴ IRS Taxpayer First Act Report to Congress January 2021; <https://www.irs.gov/pub/irs-pdf/p5426.pdf>.

¹⁵ National Taxpayer Advocate 2022 Purple Book – Legislative Recommendation #2 - Revamp the IRS Budget Structure and Provide Sufficient Funding to Improve the Taxpayer Experience and Modernize the IRS's Information Technology Systems; https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/01/ARC21_PurpleBook_01_StrengthRights_2.pdf. Over the last five years, the funding level for the BSM account was \$290 million in FY 2017, \$110 million in FY 2018, \$150 million in FY 2019, \$180 million in FY 2020, and about \$223 million in FY 2021.

¹⁶ IRS Fiscal Year 2024 Budget in Brief; <https://www.irs.gov/pub/irs-pdf/p5530.pdf>.

Another category of business challenge driving information technology enhancements in industry stems from evolutions in programming languages, infrastructure, and information technology education. The IRS has computing systems that date back to the 1960's, and earlier this year the National Taxpayer Advocate noted that large banks spend \$10 billion to \$14 billion annually on technology while the congressional appropriation for FY 2022 for IRS BSM was only \$275 million, further noting: "That's less than five percent of what the largest banks are spending on new technology each year, and the IRS serves far more people and entities than any bank."¹⁷ The programming technologies of the 1960s pale in comparison to those of today. Add to that the challenge of finding employees that understand and can maintain those systems. Objective 5 of the IRS IRA Strategic Operating Plan discusses the "exceptional talent" the IRS intends to employ and retain.¹⁸ According to the U.S. Government Accountability Office (GAO) fewer and fewer programmers know languages such as COBOL, a language heavily used in critical IRS systems.¹⁹ According to the Association for Computing Machinery (ACM), many colleges have not taught COBOL since the 1980's putting employees and potential employees with experience in their 50's or older.²⁰ The IRS recognizes the importance of replacing legacy systems to employ modern technologies as represented in the IRS IRA Strategic Operating Plan Initiative 4.1, Transform core account data and processing through key projects including updating programming languages in legacy master files, and replacing legacy databases.²¹

¹⁷ NTA Blog: National Taxpayer Advocate Urges Congress to Maintain IRS Appropriations But Re-Direct Some Funds Toward Taxpayer Service and Information Technology Modernization, March 16, 2023; <https://www.taxpayeradvocate.irs.gov/news/nta-blog-nta-urges-congress-to-maintain-irs-appropriations-but-re-direct-some-funds-toward-taxpayer-service-and-it-modernization/>.

¹⁸ IRS Inflation Reduction Act Strategic Operating Plan FY 2023 – 2031; <https://www.irs.gov/pub/irs-pdf/p3744.pdf>.

¹⁹ GAO, Outdated and Old IT Systems Slow Government and Put Taxpayers at Risk, Feb. 15, 2023; <https://www.gao.gov/blog/outdated-and-old-it-systems-slow-government-and-put-taxpayers-risk>. Also see GAO, Information Technology: Agencies Need to Continue Addressing Critical Legacy Systems, GAO-23-106821, May 10, 2023; <https://www.gao.gov/products/gao-23-106821>.

²⁰ COBOL Programmers are Back In Demand. Seriously; <https://cacm.acm.org/news/244370-cobol-programmers-are-back-in-demand-seriously/fulltext>.

²¹ IRS Inflation Reduction Act Strategic Operating Plan FY 2023 – 2031; <https://www.irs.gov/pub/irs-pdf/p3744.pdf>.

Annual Appropriations should be Adjusted for Inflation

Consumers lose purchasing power when the price of items they purchase, such as utilities, food or gasoline increases at a higher rate than the increase in the growth of wages. From March of 2021 through March of 2023 the United States Inflation Rate was higher than the rate of the growth of wages,²² resulting in a decline in the purchasing power of households. Businesses lose purchasing power when prices increase for items such as raw materials, operating costs such as wages and utilities and the cost of machinery used in the business increase at a higher rate than the businesses' ability to pass on the increased cost to their customers. Employees demand wage increases to help them keep up with inflation, and new employees are demanding higher wages for both inflation and because we are in a competitive job market.

Similarly, inflationary increases impact operating and technology costs to the IRS in a variety of ways whether it's maintaining facilities, equipment, and technology for the existing 80,000 employees, or the operational costs associated with hiring thousands of new employees including recruiting/hiring, training, facilities and equipment; or rising costs of doing business with external vendors for business systems modernization or agency projects referenced in the IRS IRA Strategic Operating plan over the next several years.

An analysis of the IRS's *Fiscal Year Budget Reports* from 2019 through 2023²³ indicates that annual Congressional appropriations to the IRS did not consider drastically shifting inflation rates over the same periods.²⁴

²² Difference between the inflation rate and growth of wages in the United States from January 2020 to July 2023; <https://www.statista.com/statistics/1351276/wage-growth-vs-inflation-us/>.

²³ IRS Fiscal Year 2020 Budget in Brief; <https://www.irs.gov/pub/irs-prior/p5530--2019.pdf>, IRS Fiscal Year 2021 Budget in Brief; <https://www.irs.gov/pub/irs-prior/p5530--2020.pdf>, IRS Fiscal Year 2022 Budget in Brief; <https://www.irs.gov/pub/irs-prior/p5530--2021.pdf>, [FY 2023 Budget in Brief](#).

²⁴ Consumer Price Index for All Urban Consumers: All Items in U.S. City Average 2019 – 2023; <https://fred.stlouisfed.org/graph/?g=JIWz#0>.

Fiscal Year	Annual Appropriations (B)	Inflation rate%
2019	\$11.3*	1.81%
2020	\$11.50	1.23%
2021	\$11.90	4.70%
2022	\$12.60	8.00%
2023	\$12.30	3.20%

*Continuing Resolution year

The *FY 2024 Budget in Brief*²⁵ indicates that the IRS is requesting a collective budget of \$14.1 billion which is a \$1.8 billion increase from what was actually appropriated for FY 2023. The IRS notes that some of the increases requested are attributed to inflation and that *“Any reduction in annual discretionary funds – including not providing for inflationary increases to maintain current levels – will require IRA funding to be shifted to general operations. This would be to the detriment of the service, technology, and compliance initiatives envisioned to transform the IRS.”*²⁶

The IRSAC recommends that the Commissioner and IRS leaders formulate a brief, but impactful analysis (for discussion with lawmakers) that articulates the benefits of increasing annual appropriations to the taxpayer services account and for restoring annual funding to the business systems modernization account.

Increases in annual appropriations from Congress should be secured for taxpayer services to ensure that the IRS can deliver at least an 85% service level during the annual filing season without relying on supplemental IRA funding. Communications with lawmakers should highlight how supplemental IRA funding has helped to deliver increased levels of taxpayer services and how delays in specific areas could be improved long-term with increases in annual appropriations.

Restoring and continuing to provide annual appropriations for business systems modernization is critical to ensure, for example, that the IRS can continue

²⁵ Fiscal Year 2024 Budget in Brief; <https://www.irs.gov/pub/irs-pdf/p5530.pdf>.

²⁶ Fiscal Year 2024 Budget in Brief; <https://www.irs.gov/pub/irs-pdf/p5530.pdf>.

to expand the Individual, Tax Professional, and Business Online Account services to help divert less complex service issues to be managed through digital or online channels. Or to ensure, for example, that the IRS can finish projects geared towards securing taxpayer information from constant cybersecurity attacks.²⁷ The efficiencies gained from business system modernization projects will translate into faster service for taxpayers, reduced reliance on manual interventions, more transparency for taxpayers into their tax information, and ultimately will allow the IRS to pivot resources to more complex compliance and enforcement efforts.

IRS leaders should consider how to convey these impactful details in a short and digestible way so that lawmakers are clear about the most important benefits and similarly, the most important consequences of their appropriation decisions. Using FY 2023 data, IRS leaders should consider developing a one-page document that illustrates measurable benefits tied directly to the IRA funding that was diverted to existing taxpayer services and business systems modernization categories, including how the IRS used that funding to offset inflationary increases. A forward-looking preview could be included that highlights when the supplemental IRA funding for taxpayer services and business systems modernization is expected to expire in future years, including concise statements about the expected impact to taxpayers (for example, the estimated reduction in taxpayer service levels for the 2026 filing season could be based on average service levels delivered prior to the IRA funding and the COVID-19 pandemic).

Recommendations

1. Formulate a brief, but impactful analysis (for discussion with lawmakers) that articulates the benefits of:
 - a. Increasing annual appropriations to the taxpayer services account to ensure the IRS can deliver a service level of at least 85% during filing season.

²⁷ IRS Criminal Investigations 2022 Annual Report; <https://www.irs.gov/pub/irs-pdf/p3583.pdf>.

- b. Restoring annual appropriations to the business systems modernization account to ensure the IRS can continue to modernize systems and processes.
- c. Adjusting annual appropriations for inflation to ensure the IRS does not need to rely on other funding (e.g., IRA appropriations) to offset inflationary increases that were not included in annual congressional appropriations.

INTERNAL REVENUE SERVICE ADVISORY COUNCIL

Information Reporting Subgroup Report

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INTRODUCTION

The IRSAC Information Reporting (IR) subgroup is a diverse group of six members working collaboratively with representatives of the IRS addressing a broad range of issues related to information reporting and withholding impacting various industry sectors. The IR subgroup is grateful for the cooperation we received from members of the various business operation divisions within the IRS in producing this report. We are also very appreciative of the assistance given by Tanya Barbosa, IR Subgroup Liaison.

Our report addresses the following topics:

- Section 6050W Guidance Needed for Filers of Form 1099-K
- Corrections of State Information on Information Returns Should be Included in the Combined Federal / State Filing (CF/SF) Program
- Section 302 Escrow and Certification Procedure

ISSUE ONE: Section 6050W Guidance Needed for Filers of Form 1099-K

Executive Summary

Section 6050W of the Internal Revenue Code (IRC) requires a payment settlement entity (PSE) that is a third-party settlement organization (TPSO) to issue and file Forms 1099-K for payments settled over a 'third party payment network'. The American Rescue Plan Act of 2021 changed the section 6050W(e) de minimis reporting exception from \$20,000 paid over more than 200 transactions to the current over \$600 with no transaction threshold.²⁸ This change (now effective with respect to 2023 returns pursuant to Notice 2023-10²⁹) is expected to result in millions of additional Forms 1099-K to be issued and filed with the IRS (and states).

Section 6050W also requires PSEs that are not TPSOs that settle payment card transactions to issue and file Forms 1099-K. Unlike the de minimis threshold afforded to TPSOs, these PSEs report *all* payment card transactions. In the event that there are multiple PSEs processing a reportable payment transaction, Treas. Reg. § 1.6050W-1(a)(4)(ii) indicates that the PSE that “in fact makes payment in settlement of the reportable transaction must file an information return”.

Business payment options have evolved over the last decade since Congress enacted section 6050W through the Housing and Economic Recovery Act of 2008³⁰ and there are now a variety of payment methods, technologies and actors involved in payment processing that were not anticipated when the Act was initially added to the tax law. The current Treasury regulations applicable to section 6050W lack clarity regarding key terminology that many filers need to properly determine if a payment network qualifies as a “third party payment network” for purposes of section 6050W. Lack of relevant examples in the Treasury regulations

²⁸ The American Rescue Plan Act of 2021 (P.L. 117-2, March 11, 2021); <https://www.congress.gov/bill/117th-congress/house-bill/1319>.

²⁹ Notice 2023-10, Revised Timeline Regarding Implementation of Section 6050W(e); <https://www.irs.gov/pub/irs-drop/n-2023-10.pdf>.

³⁰ Housing and Economic Recovery Act of 2008 (P.L. 110-289, July 30, 2008); <https://www.congress.gov/110/plaws/publ289/PLAW-110publ289.pdf>.

leads to confusion about who is required to report when there are multiple parties facilitating activities in the payment process.

With the change in the reporting threshold requiring millions more Forms 1099-K to be issued, the IRSAC recommends that Treasury and the IRS add clarifying definitions to the Treasury regulations in order to prevent duplicate and unnecessary reporting. Additionally, the IRSAC recommends that Treasury and the IRS update examples in the regulations to include relevant scenarios that can occur during modern payment processes available to taxpayers today. The IRSAC believes that providing such clarifying guidance will help minimize the burden of taxpayers receiving multiple Forms 1099-K for the same transactions or receiving Forms 1099-K for transactions that do not represent taxable income.

Background

Treas. Reg. §1.6050W-1(c)(3) provides that the term “third-party payment network” means any agreement or arrangement that –

- A. Involves the establishment of accounts with a central organization by a substantial number of providers of goods or services who are unrelated to the organization and who have agreed to settle transactions for the provision of the goods or services to purchasers according to the terms of the agreement or arrangement;
- B. Provides standards and mechanisms for settling the transactions; and
- C. Guarantees payment to the persons providing goods or services in settlement of transactions with purchasers pursuant to the agreement or arrangement.

Other than in one important aspect discussed below, the above definition of a “third-party payment network” is similar to the statutory definition set forth in section 6050W(d)(3), despite the authority granted to Treasury in section 6050W(g) to provide necessary guidance to prevent unnecessary and/or duplicate reporting.

Two entities may perform similar payment services while one takes the position that it is a TPSO for purposes of section 6050W and the other does not. For example, Zelle is a popular third-party platform that enables payment transfers

for both personal and business purposes. Zelle does not issue Forms 1099-K for any transactions occurring on the Zelle Network.³¹ Cash App is another popular third-party platform that provides individual and business payment services. Cash App issues Forms 1099-K for payments made to ‘Cash for Business’ accounts; but does not issue forms for payments settled for transactions occurring in ‘personal’ Cash App accounts.³²

The nuances of the section 6050W definitions leave networks and payees guessing as to the treatment of the applicability of the reporting requirements which can lead to under- or over-reporting of information.

Clarify the definition of ‘account’

Where under section 6050W(d)(3) an organization agrees to settle transactions for the provision of goods or services and for this purpose establishes relationships, it is unclear what constitutes an “account” under section 6050W(d)(3)(A). The word “account” in section 6050W(d)(2) refers to a payment card account. The word “account” in Treas. Reg. § 1.6050W-1(a)(2) appears to refer to a bank account for the transfer of funds. An “account” with respect to a business customer might refer to the specific designation assigned to customers to distinguish one customer from others in books and records of a business.

Clarify the definition of ‘substantial number of providers of goods and services’

Where an organization operates a network that settles both personal and business transactions, it is important to have clarity as to what is considered a ‘substantial number of providers of goods and services’ for purposes of determining whether the network is a third-party network for section 6050W reporting. First, there are discrepancies in the Treasury regulations when compared to the statute. Section 6050W(d)(3)(A) indicates a “substantial number of persons” but Treas. Reg. § 1.6050W-1(c)(3) references “substantial number of providers”. Second, throughout the Treasury regulations and in the examples

³¹ Zelle, Frequently Asked Questions; <https://www.zellepay.com/faq/does-zelle-report-how-much-money-i-receive-irs>.

³² Cash App, Tax Reporting for Cash App and Form 1099-K FAQs; <https://cash.app/help/US/EN-US/6499-Tax-reporting-1099kfaq>.

provided, the term ‘substantial number’ is used, but there is not enough specificity for an entity to determine whether it operates a third party payment network for section 6050W purposes. The IRS has ruled privately in a PLR 202112002 that the “substantial number” is 50 providers of goods and services, but PLRs are applicable to the taxpayer that presented specific facts and circumstances and are not binding guidance to be relied upon by all taxpayers. Therefore, most PSEs are left to interpret whether a payment network is subject to section 6050W reporting when that payment network includes *any* providers of goods and services; and if the IRS disagrees with such interpretations on audit, the PSE may potentially be subject to penalties and backup withholding liabilities.

The IRSAC recommends that the IRS and Treasury clear up the discrepancy between statute and regulations and clarify whether each ‘person’ should be treated as a separate ‘provider’ of goods and services. The IRSAC also recommends that if a ‘person’ includes entities with multiple owners (e.g., a partnership), the definition should address how to count those types of entities for purposes of this section. Further, the definition should clarify that arrangements where a provider receives payments on behalf of one or more participating payees under the special aggregated payees’ rule in Treas. Reg. § 1.6050W-(d)(1) should be treated as one provider for purposes of this section.

Define the meaning of ‘guarantee of payment’ for purposes of section 6050W

The term ‘guarantee’ can mean different things for federal, state, and local purposes but it is unclear how those nuances apply for purposes of section 6050W. Merriam-Webster Dictionary defines guarantee as ‘to undertake for an answer for the debt, default, or miscarriage of’³³ and ALM Law.com Dictionary defines guarantee as ‘to pledge or agree to be responsible for another’s debt or contractual performance if that other person does not pay or perform’.³⁴ In today’s payment processing environment, most providers guarantee payment in the event that funds are available from the purchaser at the time the transaction is settled. In

³³ [Merriam-Webster Dictionary - 'guarantee'](#).

³⁴ [ALM/Law.com Dictionary: 'guarantee'](#).

other words, a guarantee to reimburse them for goods and services transaction is contingent on other circumstances. In the absence of clear guidance, some PSEs interpret the term differently resulting in underreporting or unnecessary reporting of 1099-K information.

The IRSAC recommends that Treasury and the IRS provide clarifications for the term 'guarantee' in the regulations. The IRSAC believes that the definition should include a legally enforceable obligation that is set forth clearly in a written agreement between the TPSO and the participating payees. The IRSAC also recommends that the Treasury and the IRS update the examples provided in the regulations to provide for scenarios of an arrangement that constitutes a 'guarantee' for purposes of this section.

Provide more certainty when there are multiple PSEs involved in the payment process

The payment industry is made up of a variety of service providers and it is not uncommon for there to be multiple PSEs with contractual obligations to make payments to a participating payee, whether the payments were made via payment cards or processed over third party payment networks. For example, a company that provides software that acts as a gateway to enable merchants to transmit a request for and to receive payments typically includes a legal guarantee for payment to the merchant for transactions processed by the gateway software provider. The gateway software provider usually contracts with another third party to actually settle the payments to the merchant directly. That entity typically does not have any contractual obligation to pay the merchant for goods and services transactions.

Another service provider example is when an independent sales organization (ISO) connects merchants to credit card processors and as part of their services, the ISO conducts suitability and background checks to ensure the merchant is a real person and to identify risks associated with their payment processing. In some arrangements, the ISO is also obligated to prepare ACH instructions for the payment processor who then submits the ACH instructions to the financial institution for payment directly to the merchant.

Treas. Reg. §1.6050W-1(a)(4)(ii) indicates that when there are multiple payment settlement entities obligated to report, only the payment entity that makes payment in settlement of the reportable transaction must file the information return. There are no examples provided in the Treasury regulations to illustrate the deferral of reporting responsibility to one party or the other. In the accompanying IRS instructions for Form 1099-K, the IRS says that ‘the PSE that submits the instruction to transfer the funds must file the return’. Neither the instructions nor the regulations clarify what ‘submit’ or ‘instructions’ means with respect to this sentence. The Form 1099-K instructions go on to say that ‘the PSE obligated to file may designate another person to file the return...if the parties agree in writing’.³⁵ The language does not specify exactly how the IRS expects this ‘designation’ to occur nor what will happen if the parties do not agree in writing for one or the other to file the return.

The discrepancies in the language in the Treasury regulations and the instructions for Form 1099-K cause PSEs to be confused about who is responsible for issuing Form 1099-K. Without clearer guidance in the regulations and practical examples to illustrate who is responsible for reporting, the industry is left to interpret whether they have reporting obligations which leads to under- or over-reporting of information.

Recommendations

1. Clarify the definition of ‘account’ for purposes of section 6050W(d)(3)(A) and Treas. Reg. §1.6050W-1(a)(2).
2. Clarify the discrepancy between section 6050W(d)(3)(A) and Treas. Reg. §1.6050W-1(c)(3) with respect to the use of the term ‘providers’ versus ‘persons’.
3. Define the term ‘substantial’ by providing a baseline number for purposes of Treas. Reg. §1.6050W-1(c)(3).
4. Define the meaning of ‘guarantee’ for purposes of section 6050W(d)(3)(c).

³⁵ Instructions for Form 1099-K; <https://www.irs.gov/pub/irs-pdf/i1099k.pdf>.

5. Add examples in the Treasury regulations to include scenarios of an arrangement that constitutes a guarantee for purposes of section 6050W.
6. Update the Treasury regulations with practical examples illustrating who is required to report when there are multiple PSEs obligated to report the same transaction.

ISSUE TWO: Corrections of State Information on Information Returns Should be Included in the Combined Federal / State Filing (CF/SF) Program

Executive Summary

The IRS established the Combined Federal / State Filing (CF/SF) Program to reduce information return filing burdens for information return issuers such as businesses and for the participating states. Through this CF/SF program, an information return filer can indicate that information returns submitted to the IRS should also be shared with states participating in the program. States choose whether to participate in CF/SF, and a state may allow CF/SF to satisfy their filing requirements for some or all supported information return form-types.

Where a filer discovers a mistake made on a filed information return, that correction is submitted to the IRS, and if the information return is of a type and for a state that participates in CF/SF, the correction is provided to that participating state. There is, however, an exception. If the correction is for a state-only field on the information return, such as the income allocable to the state or the state withholding amount, then the instructions in *IRS Publication 1220; Specifications for Electronic Filing of Forms 1097, 1098, 1099, 3921, 3922, 5498, and W-2G* (Publication 1220) advise that the filer should not submit the corrected form to the IRS.³⁶ The filer must therefore file that correction directly with the state.

This distinction between corrections that may be submitted to the IRS through the CF/SF program and corrections that must be direct-filed to states causes additional burden to filers that rely on the CF/SF program to satisfy their primary information return filing obligations to states. The distinction means that the filer should establish a direct-filing plan for some corrections to states in spite of CF/SF program participation that otherwise satisfies the primary information return filing obligation as well as some other corrections filings for the filer.

The IRSAC recommends that the IRS remove this exception to allow a filer to rely on the CF/SF for sharing all original and corrected information returns to the state for participating states and forms. The IRSAC also recommends that the IRS

³⁶ [Publication 1220 \(Rev. 10-2022\) \(irs.gov\) most recently updated 2-08-2023.](#)

should examine ways to expand CF/SF usage by filers and states to further reduce the overall information return filing burden.

Background

IRS Publication 1220 states that the CF/SF Program “was established to simplify information returns filing for issuers. Through the CF/SF Program, the IRS electronically sends information returns (original and corrected) to participating states.”³⁷

According to the October 2022 version of Publication 1220, 30 states participate in the CF/SF. The IRS processes 11 information return-types through CF/SF: Forms 1099-B, -DIV, -G, -INT, -K, -MISC, -NEC, -OID, -PATR, -R and 5498. Of these forms, it is helpful that the form filed with the most volume according to IRS *Publication 6961, Calendar Year Projections of Information and Withholding Documents for the United States and IRS Campuses*³⁸ (Publication 6961) is the Form 1099-B which is accepted through CF/SF. This alleviates a potentially significant burden on filers by allowing these forms to be filed once to the IRS while at the same time satisfying the reporting obligations to participating states. In fact, the CF/SF program processes the six most frequently filed returns (excluding Form W-2) according to Publication 6961. The number of forms projected to be issued for tax year 2023 of form types that are eligible for the CF/SF program is almost 5 billion out of the 5.6 billion total information return forms projected to be issued.³⁹ Of the 11 information return types forwarded to states through CF/SF, nine of those forms include state-specific fields.

Where a correction must be made only to a state-specific field, such as “State income tax withheld,” Publication 1220 states: “All corrections properly coded for the CF/SF Program will be made available to the participating states. Only send corrections which affect the federal reporting or affect federal and state reporting. *Corrections that apply only to a state filing requirement should be sent*

³⁷ [IRS](https://www.irs.gov/pub/irs-pdf/p1220.pdf), Publication 1220 (Rev. 10-2022), Section 12; <https://www.irs.gov/pub/irs-pdf/p1220.pdf>.

³⁸ [IRS](https://www.irs.gov/pub/irs-pdf/p6961.pdf), Publication 6961, 2022 Update, Rev. 3-2023; <https://www.irs.gov/pub/irs-pdf/p6961.pdf>.

³⁹ [IRS](https://www.irs.gov/pub/irs-pdf/p6961.pdf), Publication 6961, 2022 Update, Rev. 3-2023; <https://www.irs.gov/pub/irs-pdf/p6961.pdf>.

directly to the state [emphasis added].” It is presumed that this means that these corrections should not be provided to the IRS, and if provided to the IRS they will not be forwarded to the CF/SF participating states. The filer must, therefore, have separate processes for filing corrections of “Federal” or “Federal and State” fields compared to “State” fields on information returns.

This correction issue means that, for example, if a filer creates Forms 1099-B and discovers an error to the “State tax withheld” field, the corrected forms must all be filed directly with the states. While the original forms were filed with the IRS and the IRS provided those original forms to all CF/SF participating states, that same filing method cannot be used to file these corrections simply because the changes were not made to any federal information reported on the information return. If that filer has not yet established direct-filing to accommodate the now-required filing states, the filer must immediately establish that relationship and create a filing process that complies with requirements of those states with respect to registration, timing, authentication, and data format. The filer must also create the data formatting and record segregation required to create the datasets for filing. This is both a filing and a maintenance complication and burden for information return filers. If the corrected forms could be filed identically to the manner of the original forms, and identically to the manner of corrected forms where a federal field is also corrected, then the filer will have a significantly simplified filing experience for the corrected forms.

Another example of the simplification intended by the CF/SF program is the relief that filers experience with respect to Forms 1099-MISC and 1099-NEC. CF/SF simplifies information return compliance for small businesses and accounts payable departments that issue the majority of these returns for businesses. The relief enjoyed by these information return filers includes preventing each company from needing to register in some CF/SF participating states for direct-state filing of Forms 1099-MISC/NEC including exchanging test files, obtaining a registration number, managing state site logon credentials, and keeping track of the distinct filing deadlines and data formatting requirements. Additionally, data transmission

between a filer and the many additional states were the CF/SF program not used, is each, potentially an opportunity for identity theft if not performed securely.

As illustrated by this Form 1099-MISC/NEC example, the process simplification is not only a function of the number of forms that are filed, but also of the number of businesses and individuals that need to separately register with various states and manage the required components to satisfy their information reporting obligations. Considering the societal trend of persons creating small businesses in the “Gig Economy”, simplification of the filing of Forms 1099-NEC is helpful.

That same filing simplification is eliminated to the extent that a filer must establish the state-direct-filing relationship with CF/SF-participating states because state-only corrections cannot be filed through the CF/SF mechanism. To file state-only corrections to CF/SF participating states, the filer must register and manage that direct-state filing relationship and establish a process to direct-file to states just in case that correction filing obligation arises, and then execute that wholly different process when needed.

Where a large-filer accumulates records for corrections processing, that filer must separate corrections with state-only corrections from those including federal corrections. This is not an intuitive distinction to explain to information technology professionals and requires additional programming and processing effort. Further programming is needed to format these various files according to the requirements of each separate state. Finally, as discussed above, any large entity that files information returns with respect to activities across the United States generally needs to register for potential corrections in each of the CF/SF states where they do business.

The IRSAC understands and appreciates that the “State Information” fields of the various forms 1099 are provided for convenience. This convenience allows information return filers to provide the same Form 1099 or 5498 to both the IRS and state departments of revenue. This simplification is greatly appreciated by information return filers.

Further, we observe that there are forms that are not eligible for CF/SF transmission, such as Forms W-2G, 1098, 1098-E, and 1099-C. This creates a situation where a reporting entity can provide some but not all of their information returns to participating states through CF/SF. This creates a situation where a filer with many lines of business with distinct information return filing needs, such as a financial institution, must establish different processes for some forms they issue versus other forms they issue.

Finally, the IRSAC also wants to recognize an observation and recommendation made by the predecessor advisory group. Prior research by the Information Reporting Program Advisory Committee (IRPAC) showed that a reason that states choose not to participate in CF/SF is the delay in receiving information when relying on CF/SF. This caused the IRPAC to recommend in the 2017 and 2018 General Reports that IRS make available information return content to states on a more real-time schedule.

In the interest of providing more value and operational simplicity to information return filers, thereby providing opportunity for increasing voluntary compliance and reducing the overall burden to information return filers, we make the following recommendations.

Recommendations

1. The IRS should eliminate the restriction on filing state-only corrections of information returns through the CF/SF program, thereby accepting information return corrections of state-only fields from information return issuers. (Aligns to SOP objectives 4.5 – Maximize data utility; objective 4.4 Continue to ensure data security.)
2. The IRS should timely provide to states that participate in CF/SF all corrections, regardless of whether corrections include updates to “Federal” fields. (Aligns to SOP objectives 4.5 – Maximize data utility; objective 4.3 Improve technology operations; objective 4.4 Continue to ensure data security.)

3. The IRS should consider adding forms to the CF/SF program such as Form 1098, 1098-E, W-2G, and 1099-C. (Aligns to SOP objectives 4.5 – Maximize data utility; objective 4.3 Improve technology operations.)
4. The IRS should examine providing information to states earlier and more frequently to increase the value of CF/SF participation to the states, and to encourage states to allow information returns filed through the CF/SF program to satisfy their filing requirements. (Aligns to SOP objectives 4.5 – Maximize data utility; objective 4.3 Improve technology operations; objective 4.4 Continue to ensure data security.)

ISSUE THREE: Section 302 Escrow and Certification Procedure

Executive Summary

Proposed Treas. Reg. §1.1441-3(c)(5)⁴⁰ established an escrow and certification procedure for withholding agents to determine whether withholding is required on certain distributions paid in connection with stock for which there is an established financial market. The 2007 Proposed Regulations' escrow and certification process gives rise to a negative withholding agent and taxpayer experience and rarely results in actual withholding tax. The escrow and certification procedure should be replaced by a presumption rule, or should be updated to eliminate burdensome requirements.

Background

Section 302 of the Internal Revenue Code provides rules for determining when a corporate distribution in redemption of stock is treated as a dividend or a payment in exchange for stock. Such a distribution paid by a U.S. corporation to a non-U.S. taxpayer is subject to U.S. withholding tax if treated as a dividend, but is not subject to U.S. withholding tax if treated as a payment in exchange for stock.⁴¹ To determine dividend versus exchange treatment, Section 302(b) provides a number of tests which generally require a comparison of a shareholder's overall interest in the corporation before the distribution and its overall interest in such corporation after the distribution. In conducting the comparison, the constructive ownership rules of Section 318 generally apply.⁴²

It is virtually impossible for a withholding agent (that would be required to withhold in a case where a distribution is treated as a dividend) to know whether any particular shareholder of a U.S. public corporation meets any of the Section 302 tests for exchange treatment. Therefore, in 2007, Proposed Treas. Reg. §1.1441-3(c)(5) (2007 Proposed Regulations) established an escrow and certification procedure for withholding agents to determine whether withholding is

⁴⁰ REG-140206-06 (Oct. 17, 2007).

⁴¹ Sections 871(a)(1)(A); 881(a)(1); 1441(b); 1442(a); Treas. Reg. §1.1441-2(b)(2)(i).

⁴² Section 302(c).

required on certain distributions paid in connection with stock for which there is an established financial market. The 2007 Proposed Regulations have not been finalized.

The 2007 Proposed Regulations' escrow and certification process is unduly burdensome for both withholding agents and taxpayers, consumes significant resources, and rarely results in actual withholding tax. In the overwhelming majority of public market transactions, the Section 302 tests produce an exchange (as opposed to dividend) result, and the escrowed withholding is reversed.

The certification calculations are often complex, especially in the context of cash out mergers subject to the hypothetical redemption test of *Commissioner v. Clark*, 489 US 726 (Mar. 22, 1989), and taxpayers often do not understand them. This leads to confusion, potential errors, inconsistent application of the rules, and increased time and expense incurred in determining the certification results, and rarely results in any benefit to the Treasury. Tender offers, cash out mergers, and potential Section 304 transactions are each subject to different calculations, which makes administering the certification process difficult for withholding agents and confusing for taxpayers.

- In addition, the process entails many steps, which are all manual.
- Withholding agents need to override systems to process Section 302 payments as dividends, even if the payments are classified otherwise from a non-tax perspective.
- Research regarding the corporate share issuer is required to obtain the necessary information in order to prepare the certification.
- Operations groups must track the number of days elapsed for purposes of determining whether the escrow may be released.
- Payments that are ultimately classified as exchange proceeds and not dividends are required, pursuant to the 2007 Proposed Regulations, to be reported on Form 1042-S, whereas proceeds (from non-Section 302 transactions) are generally not reported on Form 1042-S.

To address these issues and provide a better taxpayer and withholding agent experience, the IRSAC recommends that the IRS provide that withholding

agents can *presume* that a public markets transaction is an exchange (not subject to withholding tax) for U.S. tax purposes, unless the withholding agent has actual knowledge otherwise. If such a presumption is not provided, the IRSAC recommends that the IRS address several practical, operational and interpretational issues with the 2007 Proposed Regulations.

- The 2007 Proposed Regulations require withholding and reporting on presumed foreign persons (that have not provided a Form W-8) even if they provide a Section 302 certification certifying exchange treatment. It is not clear why this should be required if the transaction qualifies as an exchange for that foreign person.
- The 2007 Proposed Regulations require reporting on Form 1042-S even if the non-US person certifies exchange treatment. It is not clear why this should be required, when proceeds are otherwise generally not reported on Form 1042-S.
- The 2007 Proposed Regulations do not permit qualified intermediaries to act as withholding agents with respect to Section 302 transactions. It is not clear why this is the case.
- It is not entirely clear from the 2007 Proposed Regulations whether a withholding agent may obtain a Section 302 certification from a nonwithholding foreign partnership with respect to the nonwithholding foreign partnership's holdings, or whether it is required to obtain individual certifications from the partners of the foreign partnership. The latter is difficult given that the withholding agent often has no relationship with the partners of the nonwithholding foreign partnership.
- It is not clear whether a Section 302 certification signature under penalties of perjury may be provided electronically.
- The 2007 Proposed Regulations require a Section 302 payment certification accompanied by instructions, but there is no standard form or IRS approved certification and instructions document, which leads to inconsistent application of the rules and taxpayer confusion.

- Withholding agents have no guidance with respect to distributions paid in connection with stock that is not traded on an established financial market.

Recommendations

1. The IRS should provide that withholding agents can *presume* that a public markets Section 302 transaction is an exchange (not subject to withholding tax) for U.S. tax purposes, unless the withholding agent has actual knowledge otherwise. (Aligns to SOP objective 1.7 – Provide earlier legal certainty.)
2. If such a presumption is not provided, the IRS should address practical, operational, and interpretational issues with the 2007 Proposed Regulations: (aligns to SOP objective 1.7 – Provide earlier legal certainty):
3. Withholding should not be required on presumed foreign persons (that have not provided a Form W-8) that have provided a Section 302 certification certifying exchange treatment.
4. Reporting on Form 1042-S should not be required if the non-US person provides a Section 302 certification certifying exchange treatment.
5. Qualified intermediaries should be permitted to act as withholding agents with respect to Section 302 transactions.
6. Guidance should be provided regarding whether a withholding agent may obtain a Section 302 certification from a nonwithholding foreign partnership with respect to the nonwithholding foreign partnership's holdings, or whether it is required to obtain individual certifications from the partners of the foreign partnership.
7. It should be made explicitly clear that a Section 302 certification signature under penalties of perjury may be provided electronically.
8. The IRS should consider developing a standard form or IRS approved certification and instructions document.

Guidance should be provided to withholding agents with respect to distributions paid in connection with stock that is not traded on an established financial market.

INTERNAL REVENUE SERVICE ADVISORY COUNCIL

Large Business & International Subgroup Report

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INTRODUCTION

The 2023 IRSAC Large Business & International (LB&I) Subgroup consists of five members, including CPAs and attorneys, representing accounting firms and in-house tax departments, with law firm and government experience. The subgroup members practice in the areas of corporate finance, high net worth individuals, international businesses, real estate, partnerships, trusts, foundations and compliance, policy, controversy, planning, mergers and acquisitions, green and renewable energy credits, quality risk management, and reporting.

The Large Business and International (LB&I) Division is responsible for tax administration activities for domestic and foreign businesses with a United States tax reporting requirement and assets equal to or exceeding \$10 million as well as the Global High Wealth and International Individual Compliance programs. Its vision, as a world class organization responsive to the needs of its customers in a global environment while applying innovative approaches to customer service and compliance, is to apply the tax laws with integrity and fairness through a highly skilled and engaged workforce, in an environment of inclusion where each employee can make a maximum contribution to the mission of the team.

The LB&I subgroup valued the opportunity to work collaboratively with LB&I Commissioner Holly Paz, Deputy Commissioner Jennifer Best, Division Counsel Robin Greenhouse, Special Assistant to the Commissioner Mireille Khoury, and other BOD officials. We also especially appreciated the assistance of Stephanie Burch, LB&I Subgroup Liaison, and Shawn Hooks, LB&I Communications Public Affairs Specialist.

Recommendations prepared by the LB&I subgroup include proposals to:

- Increase Use of Pre-Filing Agreements and Other Tax Certainty Programs [requested by the BOD],
- Accelerate Issuance of Section 174 Guidance,
- Timely Obtain EINs to Comply with the Corporate Transparency Act Requirements, and

- Accelerate the Issuance of IRS Form 6166, Certification of U.S. Residency [all initiated by the subgroup, and accepted by the IRS].

ISSUE ONE: Increase Use of Pre-Filing Agreements and Other Tax Certainty Programs

Executive Summary

Pre-Filing Agreements (PFA) and other similar programs in which the IRS and taxpayers work together to resolve complex issues before a taxpayer files its tax return are not available or well known to most taxpayers. Objective 2 of the IRS' Inflation Reduction Act (IRA) Strategic Operating Plan (SOP) is to quickly resolve taxpayer issues when they arise. Specifically, Initiative 2.4 addresses the expansion of tax certainty and issue resolution programs by successfully increasing participation, resolving complex taxpayer issues, and reducing post-filing compliance activities for participating taxpayers.

The IRSAC has identified certain issues with PFAs and is making recommendations to the LB&I Division regarding the limitation of transactions considered, knowledge and familiarity of such programs by industry professionals, and the prohibitive user fee.

Background

The IRS LB&I Division established the PFA Program with the objective of proactively resolving taxpayer issues that taxpayers are likely to dispute in post-filing audit. The LB&I taxpayer and the IRS can reach agreements on contentious issues through a cooperative effort before the taxpayer files its tax return, mutually benefiting both parties.

Although LB&I has offered the program for many years, taxpayers rarely use PFAs. Current data indicates that LB&I received only 20 PFA program applications from 2019 – 2022, with less than 50% accepted. LB&I would like to see PFA and similar tax certainty programs more widely utilized and attractive to taxpayers and has requested recommendations from the IRSAC on how to make this possible.

The IRSAC has identified obstacles impacting the potential success of PFAs and is making recommendations to address these issues.

Currently, LB&I limits PFAs to either a determination of facts or the application of well-established legal principles to known facts. This limitation as to which issues are eligible for consideration for a PFA seems to be one of the most impactful in terms of leading to low utilization. Since 2019, the PFA program has received or accepted applications to address the following issues:

- Losses on Liquidation of a Foreign Subsidiary
- Sale/Leaseback Transactions
- IRC 165(g), Worthless Stock
- IRC 41, Research Credit
- Loan for Federal Tax purposes
- IRC 856, Real Estate Trust Investment
- Sale Lease Back Transactions
- Passthrough Elections

Among the issues listed above, some were rejected due to failure to meet requirements of Revenue Procedure 2016-30 to adequately describe the issue, facts, law, and proposed methodology; coverage of an issue impacted by recent tax law changes and therefore not meeting the “well-established law” standard; and coverage of an issue relating to a transaction in which two or more persons may take a contrary position. In fact, Revenue Procedure 2016-30 lists a greater number of transactions where the Service **will not** enter into a PFA than ones it will accept. Increasing the scope of qualifying issues for consideration should be a priority for LB&I to further expand the PFA program.

Another issue for consideration is simply to make the program more widely known. Although the IRSAC conducted no formal study, general inquiries to several highly respected, reputable public accounting professionals and private industry leaders alike illustrated how unknown the program is in general. The IRSAC recommends regularly marketing PFAs to a strategically selected target audience for the program’s growth. The IRSAC advises highlighting all benefits of PFAs including the following in LB&I’s advertising efforts:

- Certainty regarding an examined issue at an earlier point than a post-filing examination.
- Measurable cost and time saved by addressing potential tax issues upfront.
- Seeking a PFA with the IRS demonstrates the taxpayer's commitment to transparency and good faith in complying with tax rules.
- Positive customer satisfaction data.
- Taxpayer better positioned in light of increased enforcement with IRS priorities.

Lastly, a major barrier to a PFA is the user fee of \$181,500. The IRSAC understands that the Office of Management and Budget (OMB) determined the program's flat fee. LB&I taxpayers seem unwilling to spend that amount on well-established legal principles. The IRSAC recommends reassessing the fee structure for PFAs and similar tax certainty programs. An option would be to replicate the fee structure of a law firm or similar practice. It is difficult to expect taxpayers to pay the same flat fee for tax issues of varying complexity requiring different amounts of time and resources from IRS personnel.

Recommendations

1. Increase the scope of PFA qualifying issues for consideration by LB&I.
2. Advertise and market PFAs to strategically selected target audiences of corporate tax department and CPA and law firm personnel (such as at conferences and contact with professional tax organizations to which these individuals belong) highlighting advantages.
3. Reassess the fee structure for PFAs and similar tax certainty programs.

ISSUE TWO: Accelerate Issuance of Section 174 Guidance⁴³

Executive Summary

The full impact of the 2017 Tax Cuts and Jobs Act (“TCJA”) continues to be realized despite its enactment six years ago (December 2017). Specifically, TCJA dramatically shifted the treatment of research or experimental (“R&E”) expenditures from immediate expensing in the year incurred to required capitalization and amortization of these expenses over five years (or 15 years if attributable to foreign research). This change from immediate deductibility to required amortization is effective for tax years beginning after December 31, 2021 (*i.e.*, calendar year taxpayers beginning with the 2022 tax year for which tax returns are due in 2023). There is widespread uncertainty among tax practitioners as to the application of the Internal Revenue Code (“IRC”) Section 174 law change that is best addressed by additional guidance from the IRS in the form of binding guidance such as Notices, Revenue Rulings or Treasury Department issued regulations, as to the broader application and more common taxpayer scenarios. In the absence of binding guidance, taxpayers may continue with their own interpretations of which expenditures fall under Section 174. In the meantime, Question & Answers (FAQs, ideally issued as a news release (IR)) could prove helpful, as well.

The IRSAC recommends the issuance of Section 174 guidance that includes specific areas of application, examples of common taxpayer scenarios, discussion of the level of documentation required as part of the Section 174 cost analysis, and safe harbors. In addition, the IRS should identify any current authorities it is anticipating referencing for the interpretation of the phrase “in carrying on” used in Section 162 (ordinary and necessary trade or business expenses) and other related IRC sections versus the “in connection with” language used in Section 174, as an overly broad interpretation of activities meeting the “in connection with” language may result in not allowing taxpayers to utilize other Internal Revenue Code Sections.

⁴³ At the time of final submission for this report in August 2023, no guidance had been issued by the Internal Revenue Service with respect to the IRC Section 174 law change.

Background

Prior to the enactment of TCJA, taxpayers had the ability to treat R&E expenditures as currently deductible, chargeable to capital account or capitalizable and amortizable over a period of 60 months or 10 years.⁴⁴ Effective for tax years beginning after December 31, 2021, TCJA eliminated taxpayers' ability to currently deduct R&E, instead requiring taxpayers to amortize R&E expenditures over 60 months for domestic R&E expenditures (15 years for foreign R&E expenditures). Further, TCJA changed the term R&E expenditures to "specified" R&E expenditures.⁴⁵ IRC Section 174(b) as amended by TCJA provides that specified research or experimental expenditures means "research or experimental expenditures which are paid or incurred by the taxpayer during such taxable year in connection with the taxpayer's trade or business." Former IRC Section 174(a) defined R&E expenditures to mean "research or experimental expenditures which are paid or incurred by [the taxpayer] during the taxable year in connection with [the taxpayer's] trade or business as expenses which are not chargeable to capital account."

This radical shift in the treatment of R&E expenditures has resulted in tax practitioner uncertainty as to the extent and breadth of the Section 174 law change. A significant part of the uncertainty revolves around the "in carrying on" language found in other IRC Sections that allow for current deductibility versus the "in connection with" language of IRC Section 174. This uncertainty may lead to amortization of ordinary and necessary R&E costs paid or incurred in carrying on a taxpayer's trade or business. Without clearer guidance, some tax practitioners may view the "in connection with" language as so broadly encompassing such that all activities that are directly or indirectly allocable to R&E expenditures must be amortized over five years (15 years for foreign research). This broad view may limit a taxpayer's ability to consider tax positions under other IRC Sections such as 162, 167 (depreciation) and 471 (inventory), to name a few. Other practitioners may view "in connection with" and "in carrying on" as quite distinct in application. To

⁴⁴ Prior to the enactment of TCJA and before the effective date of the IRC Section 174 law change, see IRC Section 174(a), IRC Section 174(b), Treas. Reg. Section 1.174-1, and IRC Section 59(e).

⁴⁵ Former IRC Section 174(a), Section 174(b) as amended by TCJA.

date, there is no guidance that indicates whether the Section 174 language of “in connection with” negates the ability of a business with ordinary and necessary R&E expenditures to follow Section 162 treatment.⁴⁶ As there is no clear guidance from Congress, Treasury or the IRS as to the extent of the application of Section 174 versus Section 162 and other IRC Sections to taxpayers’ businesses that in the ordinary course and scope of their businesses incur R&E costs -- such as testing software solutions for ongoing business needs, implementation of AI into business process/procedures, engineering firms, custom machine manufacturers and other similarly situated business -- it is imperative that the IRS issue guidance.

Recommendations

1. Prioritize Section 174 guidance, in the form of binding guidance such as a relevant Notice, Revenue Ruling or Treasury Department issued regulation. In the interim, publicly available Questions & Answers (FAQs, ideally issued as a news release (IR)) would also provide clarity for taxpayers.
2. Include the following topics in the binding guidance:
 - a. Does Section 174 amortization apply to funded research and development in the context of software and non-software if (i) the taxpayer does not own or have rights to the intellectual property or (ii) if the taxpayer does not own the intellectual property but does have rights to the intellectual property?
 - b. Do general and administrative, and operations costs have to be allocated to the capitalized and amortized R&E costs? If so, what allocation methodology should be utilized or what is a reasonable

⁴⁶ Some may argue that the decision in *Snow v. Comm’r*, 416 U.S. 500, 502-503 (1974) provides insight on this interpretation:

Section 174 was enacted in 1954 to dilute some of the conception of “ordinary and necessary” business expenses under § 162(a) (then § 23(a)(1) of the Internal Revenue Code of 1939) adumbrated by Mr. Justice Frankfurter in a concurring opinion in *Deputy v. Du Pont*, 308 U.S. 488, 308 U.S. 499 (1940), where he said that the section in question (old § 23(a)) “involves holding one’s self out to others as engaged in the selling of goods or services.” The words “trade or business” appear, however, in about 60 different sections of the 1954 Act. Those other sections are not helpful here, because Congress wrote into § 174(a)(1) “in connection with,” and § 162(a) is more narrowly written than is § 174, allowing “a deduction” of “ordinary and necessary expenses paid or incurred . . . in carrying on any trade or business.” That and other sections are not helpful here.

allocation approach? Are these approaches considered methods of accounting?

c. What documentation and/ or workpapers are taxpayers required to keep as part of Section 174 cost identification and analysis process?

d. In IRS issued guidance provide examples on “in carrying on” versus “in connection with” as used in Sections 162 and 174 such that taxpayers may appropriately utilize other IRC Sections when considering R&E in the ordinary course of carrying on their trade or business.

3. Consider the following Safe Harbors in guidance under the TCJA change to Section 174:

a. Exclude funded research and funded software development from IRC Section 174 amortization.

b. Include that taxpayers will not be subject to underpayment penalties on quarterly estimated payments if the add back is equal to prior year Qualified Research Expenses (QREs) (or 125%).

c. Provide a safe harbor if estimated payments are based on the same as Accounting Standard Codification (ASC) 730 book research and development amounts.

ISSUE THREE: Timely Obtain EINs to Comply with the Corporate Transparency Act Requirements

Executive Summary

The Corporate Transparency Act (CTA) enacted in early 2021 as part of the National Defense Authorization Act, significantly modified the Bank Secrecy Act and related anti-money laundering rules. U.S. Department of Treasury's Financial Crimes Enforcement Network (FinCEN) is tasked with drafting required regulations and enforcing the rules and regulations of CTA as it takes effect on January 1, 2024,⁴⁷ including reporting deadlines. For entities formed on and after January 1, 2024, the entity must have an employer identification number (EIN) to include in the reporting and meet reporting deadlines that are 30 calendar days after the date of the entity's initial filing with a state-level Secretary of State (or similar authority) or within 30 calendar days of an entity becoming a foreign reporting company. Certain entities registered to do business in the United States do not have a "responsible party" with a United States taxpayer identification number such as a social security number (SSN), *i.e.*, a foreign national, which drastically limits the manner in which these entities apply for an EIN to comply with reporting requirements of the CTA.

For purposes of obtaining an EIN, the IRSAC recommends the IRS allow these domestic formed entities to be treated like foreign-organized entities that obtain EINs by calling the special IRS department that issues EINs to entities organized outside of the United States. This recommendation directly corresponds to Objective 1 of the IRS's Strategic Operating Plan (SOP). Specifically, Objective 1 of the SOP is to "improve services to help taxpayers meet their obligations"

Background

The Corporate Transparency Act (CTA) enacted as part of the National Defense Authorization Act, significantly modified the Bank Secrecy Act and related anti-money laundering rules, and takes effect on January 1, 2024. The goal of CTA is to prevent money laundering, financing of terrorism and other illicit activity by

⁴⁷ January 1, 2024, the CTA effective date as of the date of preparation of this final report in August 2023.

“assisting law enforcement in unmasking shell companies used to hide illicit activities.” CTA seeks to accomplish this by imposing reporting requirements (including strict reporting deadlines) on domestic and foreign businesses (including, but not limited to, limited liability companies, limited partnerships, corporations) registered to do business in the United States. Under CTA, these entities are obligated to disclose previously private information such as ownership and control (including senior officers and other controlling persons).

For entities formed on or after January 1, 2024, the deadline to comply with these reporting requirements is within 30 calendar days of entity creation by filing an initial document with the state-level Secretary of State (or similar authority) or within 30 calendar days of becoming a foreign reporting company. Entities in existence prior to January 1, 2024, have until January 1, 2025, to comply.

Many entities are created in the United States to transact business in the United States; however, such businesses may not be formed by a person that has a taxpayer identification number such as an SSN, i.e., a foreign national. In requesting an EIN from the IRS, the entity must have a “responsible party.” A “responsible party” is “the person who ultimately owns or controls the entity or who exercises ultimate effective control over the entity.” A responsible party must be an individual, which is a natural person, and not an entity.

Without a responsible party, these entities are significantly limited in the manner available to request an EIN. These entities cannot obtain EINs online as the IRS online procedure is for domestic entities with a “responsible party” who has an SSN. Obtaining an EIN by calling the IRS is also not available to these entities because the phone option is only available to entities formed outside of the United States. Therefore, these entities organized in the United States that lack a “responsible party” with an SSN are forced to fax or mail their EIN application to the IRS. The current turnaround time for faxed or mailed EIN applications is several weeks. Moreover, these entities have no way of calling the IRS to inquire about the status of their EIN application or to determine if there was a problem with their EIN application.

Given the strict 30 calendar day compliance deadlines for newly organized entities, time is of the essence in applying for and receiving an EIN to meet the compliance deadlines of the CTA.

Recommendations

1. Expand the phone EIN application process currently available to entities formed outside of the United States to these domestic entities that do not have a “responsible party.”
2. Provide ways that EIN applicants who apply by fax or mail have a way to check on the status of their application such as through on-line tools or by phone.

ISSUE FOUR: Accelerate Issuance of IRS Form 6166, Certificate of Residency

Executive Summary

Taxpayers continue to experience significant delays in receiving IRS Form 6166, Certification of US Tax Residency (CoR). These delays harm the ability of US investors to obtain treaty benefits to which they are entitled. To the extent US investors cannot obtain treaty benefits, the US Treasury bears the cost for foreign taxes that it cannot recover to the extent that US investors claim foreign tax credits on their US tax returns.

The IRSAC recommends accelerating the issuance of CoRs such that taxpayers receive them in a timely manner to avail themselves of treaty benefits. The IRS can best accomplish this by adopting electronic processing of Form 8802, the application for a CoR. This recommendation directly corresponds to Objective 1, and Initiatives 1.2 and 1.5 of the IRS's Strategic Operating Plan (SOP). Specifically, Objective 1 of the SOP is "improve services to help taxpayers meet their obligations and receive the tax incentives for which they are eligible" and SOP Initiative 1.2 is expanding digital services and digital utilization such that taxpayers are able to file all documents electronically, which should also allow the IRS to timely communicate electronically regarding any missing or incomplete information needed for the issuance of CoR and for taxpayers to track the status of processing Form 8802. Finally, Form 8802 electronic filing supports SOP Initiative 1.5 where the IRS will explore providing taxpayers the option to file certain tax returns directly with the IRS online.

In the immediate term while the IRS implements the Objectives of the SOP, the IRS should allow taxpayers to file Form 8802 prior to December 1 and the IRS should begin processing the applications so that CoRs are issued as soon as possible after January 1. An earlier application acceptance date supports SOP Initiative 1.7 for the IRS to provide taxpayers "greater upfront clarity and certainty" via additional guidance on tax issues.

Background

Many US treaty partners require investors to provide an IRS issued CoR demonstrating that the person claiming treaty benefits is a resident of the United States for federal tax purposes. The IRS requires that a taxpayer complete Form 8802, the application for a CoR, and submit it no earlier than December 1 of the prior year for which it seeks certification. The IRS then processes the Forms 8802 and issues CoRs beginning January 1 that are valid until December 31 of the relevant year. The typical processing time ranges from 8-12 weeks, resulting in many taxpayers not receiving CoRs until March.

The turnaround time can be significantly longer in cases where the applicant has filed the current year tax return, but the IRS has not yet posted the return at the time the IRS agent processing the CoR reviews the application. Delays in posting filed tax returns are common for certain large taxpayers, such as regulated investment companies (RICs), whose tax returns can be many hundreds of pages and are required to be paper filed.

Receipt of valid Forms 6166 can also take longer when the IRS makes clerical errors, such as misspelling a taxpayer's name on the form, which require correction before the taxpayer can claim treaty relief. These errors often arise from the manual processing of Forms 8802. The absence of a streamlined method for taxpayers to request a correction or check the status of Form 8802 exacerbates these delays.

Delays in receiving CoRs can cause a permanent loss of treaty benefits for income received prior to the date on which the taxpayer can furnish the CoR to the withholding agent. This permanent loss arises in those countries that require a taxpayer to furnish a valid CoR to the withholding agent before the payment date for an income event and which do not allow for retroactive treaty relief through tax reclaims.

Even when a taxpayer can claim treaty relief after an income event, the time can be truly short. In certain markets, for example, taxpayers receive interest payments on January 15th, and a taxpayer must provide a CoR to the local custodian by January 31st to apply a reduced treaty rate. This problem is more

severe for taxpayers that do not receive a CoR before a custodian pays first-quarter dividends, which typically occurs around March 15.

This cost of lost treaty relief is borne by the US Treasury to the extent US investors claim foreign tax credits for the foreign tax withheld. For tax-exempt investors, including individuals owning US retirement accounts investing through investment funds, these investors bear the cost directly through lower returns to fund participants.

Recommendations

1. Prioritize electronic filing of Form 8802, Application for United States Residency Certification.
2. Accelerate the submission date of Form 8802 prior to December 1 and begin processing applications on a rolling basis once received, so they are ready to be issued as soon as possible after January 1.
3. Engage and educate other countries' competent authorities so they are aware of the IRS timeline for issuing CoRs and advocate for grace periods for taxpayers to provide CoRs to claim treaty benefits.
4. Create a streamlined method for taxpayers to request a correction or check the status of Form 8802, preferably electronically.

INTERNAL REVENUE SERVICE ADVISORY COUNCIL

Small Business/Self-Employed Subgroup Report

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INTRODUCTION

The 2023 IRSAC Small Business/Self-Employed (SB/SE) subgroup is a collaborative group of seven members, including CPAs, enrolled agents, attorneys, academics, and former IRS employees. The collective tax experience of the members includes representation of individual and entity taxpayers in tax return preparation, tax planning and advice, and tax litigation and procedure, as well as teaching and instructing current and future tax professionals.

The SB/SE Business Operating Division (BOD) serves more than 57 million small business owners and self-employed taxpayers with business interests having less than \$10 million of assets. Its mission is to help small business and self-employed taxpayers understand and meet their tax obligations, while applying the tax law with integrity and fairness to all.

The SB/SE subgroup members are honored to serve on the IRSAC. We thank all the IRS personnel we communicated with for their cooperation and assistance. We especially thank Tanya Taylor, SB/SE Subgroup Liaison, for her guidance and organization.

The BOD requested our assistance for the following issues discussed in this report:

- Acceptance of Tax Payments in Cryptocurrency
- Impact on Taxpayers of Modifying Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return
- Form 1099-K Reporting
- Modifying Form 2290, Heavy Highway Vehicle Use Tax Return

The SB/SE Subgroup initiated the following topics that were accepted by the IRS, as discussed in this report:

- IRS Paid Preparer Due Diligence Penalties
- Field Collection Customer Service

ISSUE ONE: Acceptance of Tax Payments in Cryptocurrency

Executive Summary

Initiative 1.10 of the IRS's *Inflation Reduction Act Strategic Operating Plan*, Publication 3744, calls for the IRS to "make payments easy" for taxpayers. The Small Business and Self-Employed (SB/SE) Division of the IRS asked the IRSAC to evaluate how the IRS might accept payments in cryptocurrency to provide a more convenient experience for taxpayers who hold cryptocurrency and need to pay estimated taxes or a balance due. While the IRS cannot directly accept cryptocurrency by regulation—and likely would not want to do so for operational reasons—the IRS is considering partnering with a private contractor, as it currently does for credit/debit card payments, to accept cryptocurrencies on its behalf and convert them to US Dollars (USD) before forwarding the funds to the Treasury. The IRS is also considering reminding taxpayers that they can use debit cards that convert cryptocurrency holdings to USD with the existing debit card payment process.

Background

Cryptocurrency Terminology

Cryptocurrencies are digital media of exchange that use cryptography to irreversibly settle transactions without a centralized authority. The classification of cryptocurrencies under US laws is a complex and evolving topic, with both security and commodity regulatory regimes asserted for different coins or tokens. However, for federal tax purposes, all types of cryptocurrencies are treated as property per Notice 2014-21. All exchanges of cryptocurrency are taxable, both sales and trades between two coins or for USD or other property.

A cryptocurrency *wallet* refers to a mathematically generated combination of a publicly known address for receiving funds, and a secret key that allows access to its contents. Cryptocurrencies can generally be held and transferred using freely available software on a computer without any third-party having access to the funds, sometimes called an offline wallet. In this case, the user must protect and remember their secret key to access their coins. *Hosted wallets* function as a kind

of deposit account for cryptocurrencies. The coins themselves are stored in wallets under the control of the service provider, and the user must log in to the provider's website or app to instruct the provider to send, trade, or otherwise use the coins. Often, providers will offer both exchange and hosted wallet services together to allow for immediate settlement of trades because the provider already has control over the coins in the hosted wallet.

Tax Payment Methods

Section 6311 provides the IRS with broad latitude to accept for payment of federal internal revenue taxes, including interest and penalties, "any commercially acceptable means that the Secretary deems appropriate." Section 6311(d)(2) authorizes the IRS to enter contracts with private firms to accept payments where it is cost-beneficial for the government. Credit/debit payments are specifically required to be processed at no cost to the IRS (other than a fee directly passed on to the taxpayer), although this specific provision does not appear to apply to other methods such as cryptocurrency. While enabled under the IRC, entering contracts to accept cryptocurrency would require the IRS/Treasury to engage in rulemaking to expand the statute's implementing regulations.

The IRS has utilized this statute to award three zero-cost procurements⁴⁸ for firms to accept credit and debit card payments on its behalf. All fees are charged directly to the taxpayer; firms were evaluated based on the fees they proposed to charge. The taxpayer is free to choose from the three vendors, which are clearly listed along with their fees on IRS.gov. The payments are forwarded by the vendors to the Treasury and ultimately credited to the taxpayer's account based on the supplied information.

Cryptocurrency-funded Debit Cards

Several cryptocurrency hosted wallet services have partnered with banks to issue debit cards which are funded by automatically liquidating the user's cryptocurrency assets to settle their purchases.⁴⁹ This functionality is transparent to the merchant,

⁴⁸ Awarded to Link2Gov Corp. (Pay1040), ACI Payments, Inc., and WorldPay US, Inc. (payUSAtax); <https://www.irs.gov/payments/pay-by-debit-or-credit-card-when-you-e-file>.

⁴⁹ Though card networks require banks to serve as the issuer of credit and debit cards, many banks partner with various types of financial companies to provide their customers with debit card access.

which charges the card and receives payment in the desired fiat currency, such as USD. Therefore, these cards can already be used to pay federal taxes through the IRS's card payment vendors.

The IRS asked the IRSAC to consider whether they should add language to IRS.gov⁵⁰ concerning the credit/debit card payment program to advertise the acceptance of these cryptocurrency-backed debit cards. The IRSAC considers this to be a relatively uncontroversial change as it does not require any changes to regulations and merely increases the visibility of a payment option that taxpayers already have under the current system. Therefore, the IRSAC recommends proceeding to add the proposed language.

Acceptance and Exchange of Cryptocurrency

The IRS is considering expanding its current Section 6311(d)(2) contracts to seek vendors that can accept federal tax payments in cryptocurrencies and convert them to USD. As with credit/debit cards, the vendor would handle all of the details of interacting with the specific cryptocurrency blockchains and transmit the received funds in USD to the Treasury by bank transfer. Users would provide their TIN and other identifying information to the vendor, which would forward it along with the amount of payments it successfully received to enable the IRS to credit the taxpayer's account.

Benefits of accepting cryptocurrencies would include taxpayer convenience, eliminating the hassle and delays of first transferring the cryptocurrency to an exchange, trading it for USD, withdrawing the USD to a bank, and then scheduling an EFT from the bank to the IRS. Since Overstock.com (now Bed Bath & Beyond) became the first major retailer to accept bitcoin in 2014, just five years after bitcoin's launch in 2009, merchant acceptance and consumer interest has rapidly grown. A Deloitte survey of 2,000 senior retail leaders in 2021 found that 85% agreed "that digital currency payments will be ubiquitous in our industry in 5 years,"

For example, many brokerages offer a debit card that might liquidate mutual funds or create a margin loan to pay for purchases. P2P payment apps also offer debit cards allowing users to spend their balance without first withdrawing it to a bank. Similar to these applications, cryptocurrency-backed debit cards are completely indistinguishable from regular bank debit cards from the merchant's view.

³ See <https://www.irs.gov/payments/pay-your-taxes-by-debit-or-credit-card>.

and around three-quarters intended to accept digital currencies in the next two years, making it clear that cryptocurrency payments are not only "commercially acceptable," but a customer expectation.⁵¹

Because an IRS contract provides vendors with a large stream of non-discretionary payments, with minimal advertising required, vendors may be willing to offer below-market fees for exchanging the currency to compete for the contract.⁵² Moreover, cryptocurrency payments are irrevocable which eliminates a major expense for processors, unlike credit/debit cards which can be reversed weeks later in limited circumstances such as unauthorized use of a card. Unlike payment cards, a fee⁵³ is directly paid to the decentralized cryptocurrency network itself by the sender as part of the transfer, so vendors will not pay network fees. If the IRS accepts cryptocurrency payments under Section 6311, taxpayers would be able to pay with cryptocurrency up to the deadline without needing extra time to first sell their cryptocurrency if they do not already have sufficient funds available in USD. Taxpayers with substantial trading, usage, or investments in cryptocurrencies are more likely to need to make estimated tax or balance due payments based on their cryptocurrency trading and usage. However, it is important that taxpayers understand that by paying their taxes in cryptocurrency they will still realize a tax gain or loss, the same as if they had sold the cryptocurrency themselves to make a payment in USD.

Exchange Rates and Fees

One issue the IRS and taxpayers will face in evaluating the fees charged by the companies (vendors) contracted to process cryptocurrency payments is the fact that exchange fees can be implemented as both a percentage surcharge on the transaction or as a spread or markup on their quoted exchange rate, similar to foreign currency exchange services. Using only the latter type of fees may mislead

⁵¹ See "Merchants Getting Ready for Crypto: Merchant Adoption of Digital Currency Payments Survey," <https://www2.deloitte.com/us/en/pages/consulting/articles/digital-currency-payments-merchant-adoption-survey.html>.

⁵² For example, the current rates for credit card payments to the IRS are considerably lower than the credit card surcharges for other "cash-like" applications such as P2P apps or rent payments.

⁵³ These may be referred to as miner fees, transaction fees, or "gas" depending on the cryptocurrency. They are paid by the sender as part of the blockchain transaction itself.

some consumers into thinking that there are "zero fees" on the transaction, and the combination of both fee types could make it hard to compare different vendors' fees easily and accurately.

Regardless of how the fees are communicated to taxpayers, it will be necessary for the IRS to have some way of comparing total fees to determine which vendors will be most cost-effective as required by Section 6311. It would appear necessary that the vendors make some commitment not to adjust the exchange rate below the fair market value as a means of charging higher fees than initially expected by the IRS. Of course, the contract cannot fix the exchange rate at a specific value, since the market values of cryptocurrency constantly fluctuate, so an external source of fair market prices is needed.

The IRSAC suggests that it would be better to have all vendors use a standardized exchange rate. The Chicago Mercantile Exchange (CME), the largest US-based commodity exchange, provides standardized USD exchange rates (daily and real-time) for Bitcoin and select other cryptocurrencies.⁵⁴ These rates are determined using a public formula that aggregates activity from multiple markets where the cryptocurrencies are traded. Because they are used to settle the CME's cryptocurrency futures regulated by the Commodity Futures Trading Commission (CFTC), they are subject to a high degree of public and governmental oversight. Similar services are provided by other firms such as S&P Dow Jones, Intercontinental Exchange, Inc., and CoinMarketCap. The IRSAC recommends that the IRS choose an independent, trustworthy source of cryptocurrency price quotes and require all vendors to use it as the exchange rate to USD. Any fees the vendor plans to charge consumers would be expressed as a percentage of the transaction (or a fixed USD amount, if not varying with the transaction size), and not built into the exchange rate. This allows taxpayers to compare the vendors to each other, and to the cost of other payment methods such as credit/debit card, with one number.

⁵⁴ See <https://www.cmegroup.com/markets/cryptocurrencies/cme-cf-cryptocurrency-benchmarks.html>.

Independence from Vendor's Other Services

The IRSAC believes that it is essential to require vendors to directly accept payments over the cryptocurrency network itself (in addition to allowing taxpayers to directly draw from vendor-hosted wallets if the vendor proposes to offer that option). Taxpayers must not be required to use any exchange, hosted wallet, or other services provided by the vendor, be required to agree to terms beyond that necessary to operate the tax payment service itself or be required to authorize disclosure and processing of their personal information beyond what is necessary to process the tax payments.

For example, the Colorado Department of Revenue (DOR)⁵⁵ and Utah State Tax Commission have arrangements to accept cryptocurrency payments through a vendor that also operates an exchange and hosted wallet service. However, taxpayers cannot directly send cryptocurrency to the vendor as a tax payment. First, taxpayers must already have or open an account with the vendor and agree to its terms, not only those specific to the tax payment. Then, they must hold the cryptocurrency in the hosted wallet before initiating the payment. After the payment is complete, the account remains open. This is unlike the current credit card payment process, where taxpayers have no account or ongoing relationship with the payment vendors.

In addition to creating friction for taxpayers not already storing their cryptocurrency with the vendor, this arrangement could give the vendor's non-tax payment services a unique and unfair advantage over competitors and could create the appearance of a government endorsement of the vendor's hosted wallet or exchange services.

The IRS should provide that as soon as vendors receive cryptocurrency in the manner designated for tax payments, the payment is deemed received and the

⁵⁵ See Colorado Dept. of Revenue, "Crypto Currency Now Accepted For All State Tax Payments" at <https://tax.colorado.gov/cryptocurrency>. While the Colorado DOR simply states that it accepts cryptocurrency payments, the IRSAC suggests that the IRS use language that clarifies that the cryptocurrency is accepted and converted to USD by a third-party vendor, not the IRS itself (that is, the IRS is not handling the cryptocurrency). For example, the first sentence on the IRS's credit card payment page makes this distinction clear: "The IRS uses third party payment processors for payments by debit and credit card."

vendor is liable to the IRS for the agreed-upon USD equivalent, less fees, of the payment. Taxpayers and the IRS would be insulated from any market volatility that occurs after the transaction is completed but before the processor sells the received cryptocurrency.

Know Your Customer/Anti-Money Laundering (KYC/AML) Requirements

One potential point of friction in accepting cryptocurrency payments is the significant compliance burdens placed on money services businesses (MSBs), a category which includes cryptocurrency exchanges and payment processors. On many popular exchanges, sending payments to other people at all, or in excess of relatively low limits, requires uploading identity documents or other verification steps. Tax payments may be of relatively large amounts, are typically made infrequently, and taxpayers may not have any prior relationships with the vendors selected by the IRS to accept them.

The IRSAC believes that it would be redundant for vendors to be required to independently verify taxpayer's identities when accepting tax payments. All tax payments are linked to the real-life identity, TIN, and address of a taxpayer, and this information is readily accessible to authorized federal agencies, including the IRS. When the IRS accepts cash payments in excess of \$10,000, it does not file Form 8300 as a private business would. Likewise, the IRS should work with vendors and regulatory agencies such as FinCEN to minimize the regulatory burdens that would apply to taxpayers and vendors acting on behalf of the Treasury in delivering a tax payment service.

In particular, it is essential that any KYC/AML mechanisms do not exclude international taxpayers, who could particularly benefit from cryptocurrency payments. For example, EINs, ITINs and SSNs should be accepted, and US mailing addresses, residency, and US-specific IDs should not be required. Transaction limits also must not be set too low to allow taxpayers to pay significant balances, limits could otherwise frustrate collection efforts or cause taxpayers to miss payment deadlines.

Recommendations

1. The IRS should add the proposed language clarifying that credit/debit cards that use cryptocurrency to cover USD purchases can be used for payments to the IRS via the three card services vendors. On a similar note, language should be added clarifying that foreign issued and foreign currency denominated debit and credit cards that are capable of being charged in USD are also accepted under the current system.
2. The IRS should utilize a zero-cost procurement to obtain one or more contracts with vendors that will accept cryptocurrency payments and pay its value in USD to the IRS on the user's behalf, at a rate displayed to the user before the transaction.
 - a. Although the IRS initially proposed adding acceptance of cryptocurrency as an additional requirement to one of the three credit/debit card processing procurements at the next renewal, the IRSAC believes that it would be most cost-efficient to create a separate procurement (or multiple ones, to provide taxpayers a choice of vendors) specifically for cryptocurrency payments. This will preserve the ability to select the best providers in each category and ensure that firms only prepared to engage in one type of payments, which might have more competitive rates, are not excluded from participating in the procurement.
 - b. The procurement should require that all vendors use an IRS-designated exchange rate from an independent entity. Vendors must show fees to the taxpayer and in their proposal as a separate line item, not as a spread or markup included in the exchange rate itself. This will allow vendors to be fairly evaluated by the IRS and allow taxpayers to easily compare the fees between providers or other methods of payment, in the same way they can with card payments.
 - c. The procurement should not require fees for processing cryptocurrency to be similar to those for accepting credit card payments, because the nature of these payment networks is completely different. If a benchmark is to be used by the IRS for evaluating reasonableness of fees, the

IRSAC recommends that the IRS look to fees for selling cryptocurrency on major exchanges, since that would be the alternative for taxpayers who want to use their cryptocurrencies to pay tax.

- d. The procurement should require that taxpayers are not required to use any other product or service provided by the vendor, including a "hosted wallet" or cryptocurrency exchange, nor to consent to any non-essential processing or use of their personal or tax payment information.
3. The IRS should consider whether it would be beneficial to accept foreign currency payments using a similar model to the one proposed for cryptocurrency payments, where the foreign currency would be accepted and exchanged by an IRS-contracted vendor and then paid to the IRS in USD. Providing a means for taxpayers to directly pay with foreign currencies would allow taxpayers who do not reside in or frequently visit the US to avoid maintaining a US bank account or making international wire transfers to pay their tax obligations, and could help increase tax awareness and compliance for international taxpayers, including US citizens living or working abroad.⁵⁶

⁵⁶ The IRS presently has a method for international taxpayers with a foreign bank account but without a U.S. bank account to make tax payments but notes that it is "can be costly." See <https://www.irs.gov/individuals/international-taxpayers/foreign-electronic-payments>. IRM 5.21.4 provides a manual procedure for revenue officers to accept tax payments in foreign currency, with processing handled by the IRS employee.

ISSUE TWO: Impact on Taxpayers of Modifying Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return

Executive Summary

The Small Business/Self-Employed Division of the IRS (SB/SE) Examination Division requested the IRSAC's feedback on the impact of creating a separate amended return (Form 709-X) related to Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return, and what should be included on the new form.

Form 709 is used to report transfers subject to the federal gift and certain generation-skipping transfer (GST) taxes and to figure the tax due, if any, on those transfers, or allocation of the lifetime GST exemption to property transferred during the transferor's lifetime. The taxpayer uses the same form (Form 709) for any amendments. The multi-use of the form can create confusion and challenges for processing and ensuring accuracy of returns.

The issue with the current process is that taxpayers filing supplemental or amended returns are not attaching the required information to allow appropriate processing by Estate and Gift Tax Campus Operations.

After review of the forms and meeting with IRS experts involved in examining Form 709, the IRSAC determined that taxpayer compliance and IRS processing can be improved via creation of a Form 709-X. Changes to Form 709, and its instructions are also warranted with these changes.

Background

Form 709 is used to report transfers subject to federal gift and certain generation-skipping transfer (GST) taxes and the allocation of the lifetime GST exemption to property transferred during the transferor's lifetime. The current Form 709 is a paper filed form used for both original and amended returns. All gift and GST taxes are filed on a calendar year basis. Listed are all reportable gifts made during the calendar year on one Form 709. This means an individual must file a separate return for each calendar year a reportable gift is given (for example, a gift given in 2022 must be reported on a 2022 Form 709). Only one Form 709 is filed for any

one calendar year. Form 709 tracks a taxpayer's gift giving for a lifetime. Each Form 709 filed annually includes all prior year reported gifts, giving an ongoing total of lifetime gifts to date. If any changes or corrections need to be made to any annually filed return, an amended 709 must be filed.

Currently, there is no separate form to amend Form 709 (there is no Form 709-X). Instead, Form 709 for the applicable year is corrected and resubmitted with additional documentation, as necessary. Filers are to write "Amended" at the top of page one of Form 709 to indicate it is an amended return. The current Form 709 instructions have minimal information regarding the process to amend the return and what documentation to submit with the amended return. These minimal instructions cause the amended returns to be received without the appropriate documentation to justify the changes to the amended returns. In other cases, all documentation from the original return is resubmitted with new information and it is difficult to determine what information is necessary for the positions taken on the amended return.

In addition to the limited instructions for filing an amended return, the amended return is filed at the Covington, KY service center and the original return is filed at the IRS processing center in Kansas City, MO. When the amended return is received, the original return needs to be physically located at Kansas City and sent to Covington for processing. As the returns are cumulative, returns for multiple years may need to be pulled for review. All returns are currently stored as paper and are time consuming to locate. There are more than 40 years of returns on file on paper.

SB/SE is currently scanning historic United States Gift Tax (Form 709) returns that go back to the year 1976 under the Scanning as a Service (SCaaS) initiative. Historic Forms 709 are being scanned by three external contractors and transmitted back to the IRS through a secure electronic transfer method. Form 709 is filed on paper and processed in Kansas City. All gift tax returns are stored in the Files Consolidated Site (C-Site) located in Independence, MO, until the donor is deceased. Following the death of the donor, the historic gift tax returns are either associated with the estate tax return or scheduled for destruction, if no estate tax

return is required to be filed. SB/SE's initial focus has been on beginning SCaaS with the oversized historical gift tax returns in the C-Site. Each external contractor currently has 130 boxes of gift tax returns and will receive an additional 50 boxes by August 30, 2023. There is no set number of returns in each box because the size of a gift tax return and any attachments vary in size. The contractors will continue to scan historic gift returns, as funding permits.

Current gift tax returns are being scanned under the Estate & Gift (E&G) Research, Applied Analytics & Statistics (RAAS) Scanning Pilot. The pilot currently is focused on fulfilling E&G's examination work plan needs. Scanning effort represents approximately 5% of filed returns per year. This pilot's funding ends in FY2023.

In 2019, 248,821 Form 709 returns were filed and 247,794 of these returns had no tax obligation. In 2020, 174,026 Form 709 returns were filed and 173,511 of these returns had no tax obligation. Records for amended filed returns include both Form 709 and Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return filings. Amended returns filed for 2019 totaled 11,052 and for 2020 totaled 11,471.

The due date for Form 709 matches that for Form 1040 (April 15). The process to extend the due date is to use the same form that is used to extend Form 1040 (Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return) and the extended due date is the same (October 15). An extension of time to file Form 709 is only allowed if the individual is also extending the time to file their Form 1040. If an individual extends the time to file their Form 1040, this automatically also extends the time to file Form 709 for that year. If an individual only needs an extension of time to file Form 709 and not Form 1040, they can extend the Form 709 due date to October 15 by filing Form 8892, Application for Automatic Extension of Time to File Form 709 and/or Payment of Gift/Generation-Skipping Transfer Tax.

Recommendations

1. A Form 709-X, Amended United States Gift (and Generation-Skipping Transfer) Tax Return, should be created. Features of this form and its instructions:
 - a. The form should include a section for the filer to explain the reason for the amended return (see Form 1040-X as a model).
 - b. It should be used for any change needed to the original Form 709 including correcting valuations.
 - c. The form should list the most common reasons for filing, designed to allow the filer to check which reasons apply.
 - d. The instructions should clearly state what documentation is required to be submitted with the amended return and that prior submitted information does not need to be resubmitted.
 - e. The Form 709 instructions should be modified to explain when Form 709-X should be filed and the time frame for doing so.
2. In addition to creating Form 709-X, consideration should be given to moving the Form 709 and if created the Form 709-X to the modernized e-file platform. Electronic filing creates more accurate return filing and allows accessibility without having to search through paper returns housed at multiple IRS locations.
3. Consideration should be given to making the Form 709 a supplemental Schedule to the 1040 U.S. Individual Income Tax Return, rather than a separate filing. This should make more individuals aware of the gift reporting rules and make it easier to comply (and the due dates are already the same).⁵⁷

⁵⁷ Similar to the filing of Schedule H (Form 1040), Household Employment Taxes, if an individual has no income tax filing requirement for the year but has a gift tax filing requirement, the Schedule 709 can be filed separately.

ISSUE THREE: Form 1099-K Reporting

Executive Summary

The American Rescue Plan Act (ARPA) of 2021 decreased the de minimis threshold for reporting on third-party settlement organizations (TPSOs) from an excess of \$20,000 on 200 or more transactions to any qualifying transaction in excess of \$600. The IRS requested the IRSAC to provide recommendations on how personal transactions reported on a Form 1099-K should be reported on an individual's Form 1040.

Background

Section 6050W, Returns relating to payments made in settlement of payment card and third-party network transactions, requires a payment settlement entity (PSE) to report the gross amount of reportable payment transactions to each payee and the IRS. The reporting is provided on Form 1099-K, "Payment Card and Third-Party Network Transactions". There are two types of PSEs: (A) a merchant acquiring entity handling payment card transactions (such as debit and credit cards), and (B) a TPSO handling third party network transactions (such as payment processing companies).

For payment card transactions, all transactions handled by the merchant acquiring entity must be reported as there is no de minimis exception. However, TPSOs must only report the payments processed for a customer for the year if the payments for goods or services for the year exceed \$600. Prior to 2022 and since enactment, this exception was higher and a TPSO only had to issue a Form 1099-K if they processed over \$20,000 of payments during the year for a customer and there were over 200 transactions. The ARPA (P.L. 117-2; March 11, 2021) lowered the filing threshold for tax years beginning after December 31, 2021.

In late 2022, the IRS issued Notice 2023-10 (released December 23, 2022), to delay the implementation of the requirements of the ARPA until 2023, treating 2022

as a transition period due to confusion that arose on dealing with Forms 1099-K that involved non-taxable payments.⁵⁸

The reduced filing threshold is expected to result in millions of additional Forms 1099-K to be filed with the IRS and provided to taxpayers for 2023. If a taxpayer utilizes multiple TPSOs they could receive multiple Forms 1099-K each year. Many small businesses will use the same TPSO for their business transactions, which could include multiple businesses, and also for personal transactions. In addition, there are multiple forms or schedules where the transactions included on the Form 1099-K could be reported on a tax return, including Schedule 1, Additional Income and Adjustments to Income; Form 8949, Sales and Other Dispositions of Capital Assets; Schedule D, Capital Gains and Losses; Schedule C, Profit or Loss from Business (Sole Proprietorship); Schedule E, Supplemental Income and Loss; and Schedule F, Profit or Loss from Farming.

The IRS provided FAQs (FS-2022-41; Dec. 2022) related to the proper reporting of information reported on Form 1099-K in an individual's Form 1040. For personal items sold at a loss, the FAQs instruct the taxpayer to report the income on Schedule 1, Additional Income and Adjustments to Income, as follows: report the proceeds (the Form 1099-K amount) on Part I-Line 8z-Other income, using the description "Form 1099-K personal items sold at a loss" and to report the costs (up to but not more than the proceeds amount) on Part II-Line 24z-Other Adjustments, using the description "Form 1099-K Personal Item sold at a loss". For personal items included in the Form 1099-K that are not considered as income (such as reimbursement for a concert ticket purchased by a friend) and which the taxpayer is unable to get issuer to provide a corrected Form 1099-K, the FAQs instruct the taxpayer to report the income on Schedule 1, Additional Income and Adjustments to Income, as follows: report the proceeds (the Form 1099-K amount) on Part I-Line 8z-Other income, using the description "Form 1099-K received in error (with the amount)" and to report the costs on Part II-Line 24z-Other Adjustments, using the description "Form 1099-K Received in error".

⁵⁸ Also see IR-2022-226 (Dec. 23, 2022).

FAQs in FS-2022-41 (Dec. 2022) were replaced by FS-2023-06 (March 2023). One change from the earlier FAQs is that the IRS states that for the sale of a personal use asset at a loss (such as a refrigerator), rather than reporting it on Schedule 1 lines 8z and 24z, the taxpayer may choose instead to use Form 8949 and Schedule D, using code “L” on Form 8949 to indicate that the loss is nondeductible.

IRS information technology systems are designed to match information returns, such as Forms W-2 and 1099, to the taxpayer’s tax returns. If a match is not possible, the IRS is likely to send a CP2000 notice to the taxpayer proposing additional tax, interest and penalties or seeking additional information. Taxpayers can either respond by mail or by calling the IRS to explain how and where the unmatched information appears on their tax return. With the many possibilities of forms and schedules in a tax return for the Form 1099-K information to be reported, the possibility of a taxpayer receiving multiple Forms 1099-K and the possibility of personal items being included in the Form 1099-K, the likelihood of a CP2000 being generated is greater than with other Forms 1099.

Unlike most information reporting forms, the amount reported on Form 1099-K is not reported directly on the taxpayer’s tax return and most likely will not tie to the amounts required to be reported as gross receipts. Form 1099-K reports gross amounts of payments processed without any reduction for refunds a business issued or fees the payment processor charged. Thus, Form 1099-K generally always needs reconciliation to see how it ties to a business owner’s books.

The drop in the de minimis threshold for filing of Form 1099-K by TPSOs means some business owners might for the first time receive a Form 1099-K reporting business receipts. For example, a self-employed driver who uses a gig platform app to find customers and has less than \$20,000 of transactions or less than 200 transactions for the year did not receive a Form 1099-K before 2023. But with the lowered threshold, provided the driver has over \$600 of payments processed by the gig platform, they will receive a Form 1099-K. As it reports the gross amount of payments, the driver needs to reconcile it to remove processing

fees and refunds and perhaps other amounts to tie the amount to their business records. A key purpose of lowering the threshold was to increase the likelihood that business owners would receive a Form 1099-K from a TPSO, thereby lowering the tax gap.

Yet, the drop in the de minimis threshold for Forms 1099-K issued by TPSOs, also means that individuals selling household items on an online auction site and using a TPSO to receive payments will receive a Form 1099-K if the transactions processed by a single TPSO exceed \$600 for the year. If all of the sales are personal-use assets sold at a loss, the Form 1099-K will not represent taxable income. If some personal use assets were sold at a gain (taxable) and some at a loss (non-taxable), the recipient needs to figure out how best to report this on their Form 1040 and avoid receiving a CP2000 notice.

Another situation where an individual will receive a Form 1099-K showing non-taxable amounts is if someone transferring funds to them codes it incorrectly on the TPSO system. For example, Amy and her friends have dinner at a restaurant. Amy pays the bill and asks each of her friends to reimburse her for their share by transferring funds to her using PayPal. When one of her friends makes the transfer to Amy, the friend incorrectly answers the question of whether the transfer is for goods or services, thinking they are paying for food (a good), when they are not buying anything from Amy but instead transferring money to Amy to reimburse her for covering their dinner tab temporarily. If these types of errors exceed \$600 for the year, Amy will receive a Form 1099-K. While Amy can ask the issuer to provide a corrected form (or cancel the form), the TPSO is reluctant to do so based on the answer received from the persons who transferred funds to Amy. Amy will need to figure out how to report the Form 1099-K amount on her return to avoid receiving a CP2000 notice.

A new form or schedule to reconcile the Forms 1099-K to the actual reportable income would provide taxpayers the opportunity to explain discrepancies to the IRS at the time of filing, thus providing useful information on the original return without the IRS having to issue CP2000 notices and engage in

an expensive and time-consuming exchange of letters or phone calls, both for the taxpayer and the IRS.

Recommendations

1. Create a new form or schedule (Form) to reconcile Forms 1099-K to the actual reportable income on the individual's Form 1040. This would benefit both business owners and individuals who receive erroneous Forms 1099-K or ones that include taxable and non-taxable amounts. Such a form could also be used to reconcile other types of information returns that may be incorrect.
2. The new Form should provide the ability to indicate personal items included in the Form 1099-K that are not considered income.
3. If the amounts reported on the Form 1099-K include amounts that are reported on multiple forms or schedules, the new Form should provide the ability to indicate the amounts and form or schedule it is reported on in the individual's Form 1040.
4. If the amounts reported on the Form 1099-K include items that are not income (such as sales tax collected) the new Form should provide the ability to indicate those amounts in the reconciliation.
5. The instructions to the new Form should clearly indicate the new Form is not required to be completed if there are no personal items included in the Form 1099-K or the amounts are not reported on multiple forms or schedules on the individual's Form 1040.

ISSUE FOUR: Modifying Form 2290, Heavy Highway Vehicle Use Tax Return

Executive Summary

The Small Business/Self-Employed Division of the IRS (SB/SE) requested the IRSAC's feedback on the impact of creating new forms related to the excise tax on heavy highway vehicles and what should be included on any new forms.

Form 2290, Heavy Highway Vehicle Use Tax Return, is used to compute and pay tax due under Section 4481 on certain use of heavy highway vehicles defined as having a taxable gross weight of 55,000 pounds or more (see Section 4482(b) and Treas. Reg. §41.4482(b)-1)). This form is also used for address changes and amended returns. The multi-use of Form 2290 can create confusion and challenges for processing and ensuring accuracy of returns. The IRS has considered the possibility of creating a separate amended return form (Form 2290-X) as well as a new address change form to improve processing and compliance evaluation.

After review of the forms and meeting with IRS experts involved in examining Form 2290, the IRSAC determined that taxpayer compliance and IRS processing can be improved via creation of a Form 2290-X as well as having taxpayers alert the IRS to address changes using existing change of address forms. Changes to Form 2290 and instructions are also warranted with these changes.

Background

Form 2290, Heavy Highway Vehicle Use Tax Return, is an annual form due by August 31, to report and pay the annual excise tax on heavy highway vehicles (taxable gross weight of 55,000 pounds or more) and expected to be used for over 5,000 miles during the tax period, for the annual period ending June 30. This form (see Exhibit 1) includes a Tax Computation table to allow calculation of the excise tax based on the weight of the vehicle, whether the vehicle is for logging, and the period of taxable use. The Tax Computation table categorizes vehicles by weight from Category A at 55,000 pounds to Category V at over 75,000 pounds. These categories A through V are also used in the Partial-Period Tax Tables included in the Form 2290 instructions.

Form 2290 includes two copies of Schedule 1, Schedule of Heavy Highway Vehicles. Filers list all vehicles subject to tax for the period, the vehicle identification number (VIN) and the “category” A through W (W is for tax-suspended vehicles that are not subject to tax). Two copies of this schedule are included to readily enable the IRS to return one copy marked “stamped” as proof of filing and payment. Filers need this proof of payment to register their vehicles in a state, the District of Columbia, Canada or Mexico.

Form 2290 includes a “Consent to Disclosure of Tax Information” for the filer to allow the IRS to disclose payment information to the U.S. Department of Transportation, U.S. Customs and Border Protection, and to state Departments of Motor Vehicles. Information shared includes the VIN and that the tax reported on Form 2290 was paid. If the consent is not signed and returned, this information cannot be shared by the IRS.

Form 2290-V, Payment Voucher, is also part of Form 2290. The IRS notes that use of this voucher allows the IRS to “more promptly and accurately” credit a filer’s payment if the taxpayer does not e-file and pay electronically.

Taxpayers with 25 or more vehicles for which tax is being paid must e-file and the IRS encourages all filers to e-file. Per the Form 2290 instructions, e-filing enables the taxpayer to receive their “stamped” Schedule 1 within minutes. For the period July 1, 2021 through June 30, 2022, the IRS reports that 1,115,799 Forms 2290 were filed with about 90 percent e-filed.⁵⁹

In addition to annually filing Form 2290, the owner of a heavy highway vehicle subject to the IRC §4481 excise tax must also file a Form 2290 by the last day of the month following any month of first use for a vehicle acquired during the year (unless the first use is in July in which case the vehicle is included in the annual filing). For example, if a vehicle is first used in February, the owner must file Form 2290 and pay the appropriate tax amount on the newly-acquired vehicle(s) by March 31. The instructions to Form 2290 include tables to help compute the tax for partial periods. Continuing with this example of a newly-

⁵⁹ Per the IRS, there were 3,558,046 vehicles reported for the period July 1, 2023 through June 30, 2022 (approximately 3 vehicles per return on average).

acquired vehicle first used in February, if the vehicle's taxable gross weight is 62,000 pounds (Category H), the tax for the partial period is \$105.83 (\$79.37 if it is a logging vehicle) representing prepayment of the tax for February through June. For a full year, the tax on this vehicle is \$254.00 (\$190.50 if it is a logging vehicle).

If a taxpayer stops using a vehicle during the year or the weight drops, no adjustment to tax is made. If tax was paid on a vehicle but its use drops to 5,000 miles or less, a credit can be claimed on next year's return.

If a filer discovers after filing Form 2290 that an error was made, such as omitting a vehicle or entering an incorrect VIN, an amended return is needed. There is no separate Form 2290-X so Form 2290 is used. Page 1 of Form 2290 (see Exhibit 1) includes two possible boxes to be checked if the taxpayer is amending a prior Form 2290 filed. One box is for "Amended Return" and is only to be checked if the filer is reporting additional tax due to an increase in taxable gross weight of a vehicle or suspended vehicles exceeding the mileage use limit.

For an amended return due to an increase in vehicle weight, line 3 on page 1 is also to be completed and the amended form is due by the last day of the month following the month that the weight increased. The month that the weight increased is to be noted on page 1 in the space to the right of "Amended Return."

For an amended return due to a suspended vehicle exceeding the mileage use limit of 5,000 miles, tax is computed and the filer notes in the box to the right of "Amended Return" on page 1 the month in which the 5,000 miles limit was exceeded. The amended return is due by the last day of the month following the month in which miles exceeded 5,000.

While not highlighted in the Form 2290 instructions, an amended return would also be needed if a vehicle was incorrectly omitted from the annual return. However, some taxpayers might file Form 2290 without checking the amended return box but are filing to add an omitted vehicle. This second Form 2290 is a "duplicate" and IRS personnel must compare it to the original to determine why it was filed. This duplicate return situation might also occur if the filer does not e-file and thus must wait days or weeks to receive the IRS stamped Schedule 1. While waiting, the paper filer might file another return, perhaps because they do not know

if the IRS received the first filed return. Again, IRS personnel must review the duplicate return and compare it against the first return to try to determine why another return was filed for the same period.

If a filer is correcting a VIN previously reported incorrectly on Schedule 1, the box for “VIN Correction” on page 1 of Form 2290 should be checked. A statement should also be attached to the return to explain the VIN correction.

An amended return might also be filed if the original return used an incorrect taxpayer name or EIN. This might occur when a taxpayer realizes that records for ownership of a vehicle don’t match the name or EIN used on Form 2290.

Because Form 2290 is used for both original filing as well as an amended return, it is not obvious to the IRS why the amended return was filed and personnel must compare the amended return to the original.

Form 2290 also includes a box on page 1 to check if the taxpayer’s address has changed since the last form was filed. The Form 2290 instructions do not make any reference to the standard IRS forms for reporting an address change. These forms are Form 8822, Change of Address; and Form 8822-B, Change of Address or Responsible Party - Business.

The box on page 1 of Form 2290 to indicate an address change and no reference in the instructions to Forms 8822 and 8822-B might cause a filer to think that checking the Form 2290 box has alerted the IRS to an address change for all tax purposes. Given that the IRS already has forms for reporting address changes, Form 2290 should not include the check-box for address change. The instructions should remind filers that unless e-filing is used, the stamped Schedule 1 will be sent to the address on page 1 and the instructions should explain how to report an address change.

Recommendations

1. Form 2290-X, Amended Heavy Highway Vehicle Use Tax Return, should be created. Features of this form and its instructions:
 - a. It should include a section for the filer to explain the reason for the amended return and note that the filer may also attach supporting

documentation and new forms and schedules (see Form 1040-X as a model).

- b. It should be used for any change needed to the original Form 2290 including correcting a VIN.
 - c. It should list the most common reasons for filing, designed to allow the filer to check which reasons apply.
 - d. The instructions should be clear that Form 2290-X is not used to report a vehicle acquired after the annual filing of Form 2290, but instead Form 2290 is filed to report and pay tax on the new vehicle(s).
2. The Form 2290 instructions should be modified to explain when Form 2290-X should be filed and the time frame for doing so.
 3. The address change check box should be removed from page 1 of Form 2290. The instructions should be updated to remind the filer to use their current address and if there has been an address change, they should file Form 8822 or Form 8822-B as appropriate to report the change to the IRS for all tax purposes.
 4. The Form 2290 instructions should remind filers what to do if the name for a truck registration does not tie to the EIN or name on Form 2290 and the importance of the taxpayer's name and EIN used on Form 2290 (or 2290-X) match.

EXHIBIT 1

Form 2290 (Rev. July 2023) Department of the Treasury Internal Revenue Service	Heavy Highway Vehicle Use Tax Return For the period July 1, 2023, through June 30, 2024 Attach both copies of Schedule 1 to this return. Go to www.irs.gov/Form2290 for instructions and the latest information.	Keep a copy of this return for your records. OMB No. 1545-0143
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Type or Print	Name	Employer identification number (EIN)
	Address (number, street, and room or suite no.)	
	City or town, state or province, country, and ZIP or foreign postal code	

Check if applicable:

<input type="checkbox"/> Address Change <input type="checkbox"/> Amended Return Check this box if reporting (a) additional tax from an increase in taxable gross vehicle weight or (b) suspended vehicles exceeding the mileage use limit. Don't check this box for any other reason.	<input type="checkbox"/> VIN Correction Check this box if you are correcting a vehicle identification number (VIN) listed on a previously filed Schedule 1 (Form 2290). Attach an explanation to the return. Don't check this box for any other reason. <input type="checkbox"/> Final Return Check this box if you no longer have taxable vehicles to report.
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Part I Figuring the Tax

Caution: If you purchased a used vehicle from a private seller, see instructions.

		Y	Y	Y	Y	M	M
1 Was the vehicle(s) reported on this return used on public highways during July 2023 ? If "YES," enter 202307 in the boxes to the right. If "NO," see the table on page 3 of the instructions	1						
2 Tax. Enter the Total from Form 2290, page 2, column (4)	2						
3 Additional tax from increase in taxable gross weight (see instructions)	3						
4 Total tax. Add lines 2 and 3	4						
5 Credits (Attach supporting documentation. See instructions.)	5						
6 Balance due. Subtract line 5 from line 4. This is the amount you owe. Check the applicable box if payment is through: EFTPS <input type="checkbox"/> Credit or debit card <input type="checkbox"/>	6						

Part II Statement in Support of Suspension (Complete the statements that apply. Attach additional sheets if needed.)

7 I declare that the vehicles reported on Schedule 1 as suspended (category W) are expected to be used on public highways (check the boxes that apply): 5,000 miles or less 7,500 miles or less for agricultural vehicles during the period July 1, 2023, through June 30, 2024, and are suspended from the tax. Complete and attach Schedule 1.

8a I declare that the vehicles listed as suspended on the Form 2290 filed for the period July 1, 2022, through June 30, 2023, were not subject to the tax for that period except for any vehicles listed on line 8b. **Check this box if applicable.**

b Vehicle identification numbers _____

9 I declare that vehicle identification numbers _____ were listed as suspended on the Form 2290 filed for the period July 1, 2022, through June 30, 2023. These vehicles were sold or transferred to _____ on _____.

At the time of the transfer, the vehicles were still eligible for the suspension of the tax. Attach a separate list if needed.

Third Party Designee Do you want to allow another person to discuss this return with the IRS? See instructions. **Yes.** Complete the following. **No**

Designee's name	Phone no.	Personal identification number (PIN)	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
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Sign Here Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature	Date
Type or print name below signature.	Telephone number

Paid Preparer Use Only

Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
Firm's name	Firm's EIN		Phone no.	

Tax Computation

Category	Taxable gross weight (in pounds)	(1) Annual tax (vehicles used during July)		(2) Partial-period tax (vehicles first used after July) See the tables at the end of the separate instructions.		(3) Number of vehicles		(4) Amount of tax (col. (1) or (2) multiplied by col. (3))	Category
		(a) Vehicles except logging*	(b) Logging vehicles*	(a) Vehicles except logging*	(b) Logging vehicles*	(a) Vehicles except logging*	(b) Logging vehicles*		
A	55,000	\$100.00	\$75.00	\$	\$			\$	A
B	55,001 – 56,000	122.00	91.50						B
C	56,001 – 57,000	144.00	108.00						C
D	57,001 – 58,000	166.00	124.50						D
E	58,001 – 59,000	188.00	141.00						E
F	59,001 – 60,000	210.00	157.50						F
G	60,001 – 61,000	232.00	174.00						G
H	61,001 – 62,000	254.00	190.50						H
I	62,001 – 63,000	276.00	207.00						I
J	63,001 – 64,000	298.00	223.50						J
K	64,001 – 65,000	320.00	240.00						K
L	65,001 – 66,000	342.00	256.50						L
M	66,001 – 67,000	364.00	273.00						M
N	67,001 – 68,000	386.00	289.50						N
O	68,001 – 69,000	408.00	306.00						O
P	69,001 – 70,000	430.00	322.50						P
Q	70,001 – 71,000	452.00	339.00						Q
R	71,001 – 72,000	474.00	355.50						R
S	72,001 – 73,000	496.00	372.00						S
T	73,001 – 74,000	518.00	388.50						T
U	74,001 – 75,000	540.00	405.00						U
V	over 75,000	550.00	412.50						V
Totals. Add the number of vehicles in columns (3)(a) and (3)(b). Enter the total here. (This should be the same total of taxable vehicles shown on Schedule 1, Part II, line c.) Add the amounts in column (4). Enter the total here and on Form 2290, line 2								\$	
W	Tax-Suspended Vehicles (See Part II on page 7 of the instructions.)								

Complete both copies of Schedule 1 (Form 2290) and attach them to Form 2290.

* See page 2 of the instructions for information on logging vehicles.

Consent to Disclosure of Tax Information

For the period July 1, 2023, through June 30, 2024

By signing, dating, and entering my employer identification number below, I hereby consent to the Internal Revenue Service (IRS) disclosing information about my payment of the heavy highway vehicle use tax (HVUT) for the tax period listed above to the federal Department of Transportation (DOT), U.S. Customs and Border Protection (CBP), and to state Departments of Motor Vehicles (DMV). The information disclosed to the DOT, CBP, and state DMVs will be my vehicle identification number (VIN) and verification that I have paid the HVUT. The IRS may disclose the information to the DOT, CBP, and to the DMVs of the 50 states and the District of Columbia who have other taxing, registration, or information collecting authority. I agree that the American Association of Motor Vehicle Administrators (AAMVA), a third-party nonprofit organization, may be used as an intermediary to transmit my VIN and payment information from the IRS to the state DMVs.

I understand that the information to be disclosed is generally confidential under the laws applicable to the IRS and that the agency receiving the HVUT information is not bound by these laws and may use the information for any purpose as permitted by other federal laws and/or state law. To be effective, this consent must be received by the IRS within 120 days of the date below.

If signed by a corporate officer or party other than the taxpayer, I certify that I have the authority to execute this consent to disclosure of tax information.

Sign Here	Signature _____	Date _____
	_____	_____
	Type or print name below signature.	Employer identification number (EIN) _____

ISSUE FIVE: IRS Paid Preparer Due Diligence Penalties

Executive Summary

The issue of improving the Due Diligence Training Module to help paid preparers better understand their responsibilities regarding certain tax credits and benefits for eligible taxpayers was addressed in a prior IRSAC report (2021). However, there are still many outstanding questions and concerns related to these penalties and the related IRS training and preparer audits. The issues contained herein were initially raised by the SB/SE Subgroup and accepted by the IRS.

IRS Due Diligence warning letters are sent to paid preparers at the same time Due Diligence audits are being conducted. These penalties are very expensive and there appears to be no consistent treatment during the audit and Appeals processes. Concerns about how these audits are conducted were also raised by the IRSAC SB/SE Subgroup. Additionally, returns that are self-prepared with the use of commercial tax preparation software where the providers might also provide expert guidance and assistance to clients do not appear to be subject to these standards and penalties. There needs to be parity in this process among all parties.

Background

A history of the Due Diligence penalty of Section 6695(g) is provided for additional insights on when and why this penalty was added to Section 6695 and to better understand how it works and its changes over time.⁶⁰

Key legislative dates in the history of Section 6695(g) (details follow this bulleted list):

- 1976 – enactment of Section 6695(a) through (f).
- 1997 – addition of Section 6695(g), Failure to Be Diligent in Determining Eligibility for Earned Income Credit, imposing a \$100 penalty.

⁶⁰ This history focuses primarily on the enactment of Section 6695 in 1976 and later legislative changes. It does not address the issuance of all IRS or Treasury reports on this penalty provision such as from the U.S. Treasury Inspector General for Tax Administration (TIGTA) or the National Taxpayer Advocate and does not address the history of regulations issued under Section 6695.

- 2011 – Section 6695(g) penalty increased from \$100 per failure to \$500.
- 2014 – Section 6695 penalty amounts to be adjusted annually for the effects of inflation.
- 2015 – Section 6695(g) penalty expanded to also apply where paid preparer prepares return of individual claiming Child Tax Credit (Section 24) and the American Opportunity Tax Credit (AOTC) (Section 25A). Treasury Department required to conduct a study on the Section 6695(g) penalty.
- 2017 – Section 6695(g) penalty expanded to include returns where either the IRC §24(h) other dependent credit is claimed or head of household filing status is used.

Section 6695, Other assessable penalties with respect to the preparation of tax returns for other persons, was enacted as part of the Tax Reform Act of 1976 (P.L. 94-455; Oct. 4, 1976). At that time this provision imposed penalties on preparers for failure to (a) furnish a copy of the return to the taxpayer, (b) sign a return, (c) furnish an identifying number, (d) retain a copy or list, and (e) to file a correct information return. Section 6695(f) imposed a penalty where the income tax return preparer endorsed or otherwise negotiated an income tax return check issued to a taxpayer. When enacted, these penalties only applied to income taxes (Subtitle A of Title 26 of the U.S. Code).

The rationale for the new Section 6695 penalties (which did not include the subsection (g) Due Diligence penalty until the Taxpayer Relief Act of 1997 (see below)) was congressional concern that the “substantial increase in the number of persons whose business is to prepare income tax returns for individuals and families of moderate income ... led to a number of problems” for the IRS. These problems included preparers guaranteeing a refund to customers, having customers sign a blank return, and some preparers claiming fictitious deductions or exemptions to increase refund amounts. Also, while tax returns included a signature line for paid preparers, no penalty applied for failure to sign the return.⁶¹

⁶¹ Joint Committee on Taxation, General Explanation of the Tax Reform Act of 1976, page 357, *et seq.*; reproduced in 1976-3 C.B. 345, *et seq.*

The Deficit Reduction Act of 1984 (P.L. 98-369; July 18, 1984), amended IRC §6695(b) to apply not only for failure to sign a return or claim for refund but also for failure to “advise the taxpayer of the substantiation requirements of section 274(d) and obtain written confirmation from the taxpayer that such requirements were met with respect to any deduction or credit claimed on such return or claim for refund.” This change though was repealed retroactively by P.L. 99-44; May 24, 1985). The Omnibus Budget Reconciliation Act of 1989 (P.L. 101-239; Dec. 19, 1989) increased the penalty amounts for violation of Section 6695(a), (b), and (c) from \$25 per failure to \$50 and added maximum penalty amounts for each type of failure listed at subsections (a), (b) and (c).

The Taxpayer Relief Act of 1997 (P.L. 105-34; Aug. 6, 1997) added Section 6695(g) calling for additional Due Diligence for income tax return preparers who prepared returns where the Earned Income Credit (EIC) was claimed. Failure to exercise the Due Diligence requirement could result in a penalty of \$100 per failure. New Section 6695(g) originally read as follows, effective for tax years beginning after 1996:

(g) Failure To Be Diligent in Determining Eligibility for Earned Income Credit. -Any person who is an income tax return preparer with respect to any return or claim for refund who fails to comply with Due Diligence requirements imposed by the Secretary by regulations with respect to determining eligibility for, or the amount of, the credit allowable by section 32 shall pay a penalty of \$100 for each such failure.

The rationale for adding this new Due Diligence requirement and penalty was explained as follows by the Joint Committee on Taxation: “The Congress believed that more thorough efforts by return preparers are important to improving EIC compliance.”⁶²

In addition to adding the EIC Due Diligence penalty for paid return preparers, P.L. 105-34 also added restrictions for individuals who improperly claim the EIC. Section 32(k) was added to impose a 10-year disallowance period if the

⁶² Joint Committee on Taxation, General Explanation of Tax Legislation Enacted in 1997, [JCS-23-97](https://www.jct.gov/publications/1997/jcs-23-97/) (Dec. 17, 1997), page 281; <https://www.jct.gov/publications/1997/jcs-23-97/>.

EIC was improperly claimed due to fraud and two years if due to reckless or intentional disregard of the rules.⁶³

In December 1997, the IRS issued Notice 97-65 with a worksheet and instructions for how preparers should comply with the new IRC §6695(g) Due Diligence requirement when preparing a 1997 return where the filer claimed the EIC. This notice addresses documentation, how to obtain required information, a reminder that the preparer “may not ignore the implications of information furnished to, or known by, the preparer, and must make reasonable inquiries if the information furnished to, or known by, the preparer appears to be incorrect, inconsistent, or incomplete.” The IRS also noted that the Section 6695(g) penalty “will not be applied with respect to a particular return or claim for refund if the preparer can demonstrate to the satisfaction of the Service that, considering all the facts and circumstances, the preparer’s normal office procedures are reasonably designed and routinely followed to ensure compliance with the 1997 Due Diligence requirements, and the failure to meet the 1997 Due Diligence requirements with respect to the return or claim for refund in question was isolated and inadvertent.” A similar statement is included in the regulations issued after 1997 at Treas. Reg. §1.6695-2(d).

The IRS Restructuring and Reform Act of 1998 (P.L. 105-206; July 22, 1998) called upon the Treasury Department to conduct a study on interest and penalty provisions in the IRC. This report was issued in October 1999. While the report refers to the IRC §6695 penalties at footnote 207, the “report makes no recommendations with respect to this particular penalty.”⁶⁴

In 2007, the U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (P.L. 110-28; May 25, 2007), broadened Section 6695 penalties to apply to taxes and returns under all of Title

⁶³ See Section 32(k); Treas. Reg. §1.32-3; Form 8862, Information To Claim Certain Credits After Disallowance; and Congressional Research Service, *The Earned Income Tax Credit (EITC): Legislative History*, April 28, 2022; <https://crsreports.congress.gov/product/details?prodcode=R44825>.

⁶⁴ U.S. Dept. of the Treasury, Report to The Congress on Penalty and Interest Provisions of the Internal Revenue Code, Oct. 1999, page 97; <https://home.treasury.gov/system/files/131/Report-Penalty-Interest-Provisions-1999.pdf>.

26 (it removed “income” from the title of Section 6695 and from “an income tax return preparer” and “income tax return”).⁶⁵

The Due Diligence penalty at Section 6695(g) was increased from \$100 to \$500 by the United States–Korea Free Trade Agreement Implementation Act (P.L. 112-41; Oct. 21, 2011) for returns required to be filed after 2011. This change was part of the “offsets” section of this legislation so apparently increased to generate revenue.

The Tax Increase Prevention Act of 2014 (P.L. 113-295; Dec. 19, 2014), added Section 6695(h) to adjust the Section 6695 penalty amounts annually for the effects of inflation, effective for returns required to be filed after 2014.

The Consolidated Appropriations Act, 2016 (P.L. 114-113; Dec. 18, 2015) expanded the Due Diligence penalty at Section 6695(g) to also apply to the Child Tax Credit (CTC) (IRC §24) and the American Opportunity Tax Credit (AOTC) (Section 25A(a)(1)), effective for tax years beginning after 2015. The title of subsection 6695(g) was changed to: Failure To Be Diligent in Determining Eligibility for Child Tax Credit; American Opportunity Tax Credit; and Earned Income Credit.

P.L. 114-113 also called for the Treasury Department to conduct a study for the House Ways and Means and Senate Finance Committees on the effectiveness of the preparer Due Diligence penalty. This study was required to evaluate:

“(A) The effectiveness of the questions currently asked as part of the due-diligence requirement with respect to minimizing error and fraud.

(B) Whether all such questions are necessary and support improved compliance.

(C) The comparative effectiveness of such questions relative to other means of determining (i) eligibility for these tax credits and (ii) the correct amount of tax credit.

⁶⁵ Included in the subtitle of P.L. 110-28 called the Small Business and Work Opportunity Tax Act of 2007.

(D) Whether Due Diligence of this type should apply to other methods of tax filing and whether such requirements should vary based on the methods to increase effectiveness.

(E) The effectiveness of the preparer penalty under section 6695(g) in enforcing the Due Diligence requirements.”

The report on the EIC was due by December 18, 2016, and the report on the CTC and AOTC was due by December 18, 2017.⁶⁶

For the filing of 2016 returns, the IRS made “significant revisions” to Form 8867, Paid Preparer’s Due Diligence Checklist, to have all of the Section 6695(g) items listed on a single form.⁶⁷

The Tax Cuts and Jobs Act (P.L. 115-97; Dec. 22, 2017)⁶⁸ expanded the Section 6695(g) Due Diligence requirements for paid return preparers to include returns where the taxpayer claimed head of household filing status. Because P.L. 115-97 also modified Section 24 on the CTC to also include an “other dependent credit” (\$500 per Section 24(h)), this new credit also requires paid return preparers to engage in additional Due Diligence to avoid the Section 6695(g) penalty. The title of subsection (g) of Section 6695 was changed to: Failure to Be Diligent in Determining Eligibility for Certain Tax Benefits. These changes were effective for tax years beginning after 2017. Preparers who fail to meet the Due Diligence requirements are subject to a monetary penalty for each failure in the amount of \$500 which is indexed for inflation. For returns filed in 2022, the penalty was \$560 for each occurrence. Thus, a return filed with a failure in each of the four applicable credits or filing status (EITC, AOTC, CTC/ACTA/ODC and HOH) could be assessed a penalty of \$2,240 per return.

⁶⁶ An EIC report was issued by the Treasury Dept. in July 2016: Report to Congress on Strengthening Earned Income Tax Credit Compliance through Data Driven Analysis; <https://home.treasury.gov/system/files/131/Report-EITC-Data-Driven-Compliance-2016.pdf>.

⁶⁷ Preamble to REG-103474-18 (July 18, 2018), proposed regulations under Section 6695(g). The preamble notes that the expectation was that Form 8867 would be further modified for 2018 to include head of household filing status.

⁶⁸ This Act is officially known as an act providing “for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018.”

Despite the recommendations in the prior IRSAC report, the average Due Diligence audit penalty assessed against paid preparers in 2021 and 2022 was \$65,642.70 and increased considerably in FY 2022 from 2021, as shown below:⁶⁹

- FY 2021: \$60,622.10
- FY 2022: \$70,654.30

The no-change rate for these due diligence audits was exceptionally low as shown below. These figures appear to indicate that the one of the reasons for this is that the Due Diligence training is not providing the intended results of increased compliance and that further actions in this area are warranted.⁷⁰

- FY 2021: 2.2% no change rate (356 audits conducted)
- FY 2022: 3.8% no change rate (369 audits conducted)

The returns selected for these audits are based upon an IRS algorithm, not actual return inspection. Thus, these penalties can be and are being assessed against preparers without the IRS ever looking at the actual tax returns prepared to determine if the tax preferences involved: Earned Income Tax Credit (EITC), American Opportunity Credit (AOTC), Child Tax Credit (CTC) Additional Child Tax Credit (ACTC), Other Dependent Credit (ODC) and Head of Household (HOH), were accurately computed/determined. Thus, it is possible for paid preparers to be assessed Due Diligence Penalties on returns that were accurate and prepared correctly but did not take all of the appropriate actions when preparing the tax returns. While it is understood that this is a legal application of the penalty, it does not appear to be in the public interest and some sort of enforcement discretion seems warranted. This issue needs to be addressed to ensure fairness in the process.

Many paid preparers are unaware of the material impact of the Due Diligence audit process and the potential large penalty assessments resulting from such audits, and others have indicated they will not prepare returns with these issues to avoid possibly being penalized. During numerous National Public Liaison (NPL) conference calls, the IRS has suggested that taxpayers go to a VITA

⁶⁹ Source: IRS FOIA Request.

⁷⁰ Source: IRS FOIA Request.

site/preparer if their preparer won't prepare their return and they have the impacted issues noted above. This issue affects the most vulnerable/lower-income taxpayers, their right to representation and preparers that work with that population extensively. Assessment of large penalties for potentially unintentional mistakes and due diligence failures, can make it risky for practitioners to support clients who may be the most in need of accessible and affordable assistance.

Letters sent out in relation to these due diligence penalties also contain rather strong language. It is important that the information on these letters be accurate and complete. For example, Letter 5025-F states: "Remember: It's your job to make sure your client is eligible for any tax benefits claimed." It would be more accurate to state: "Remember: While taxpayers are responsible for the contents of their tax return, paid preparers have specific due diligence requirements for certain tax benefits claimed by clients."

In addition, obtaining, reviewing, and maintaining relevant documents to support tax benefits covered by Section 6695(g) is also part of the "specific due diligence requirements" and should be mentioned in this part of Letter 5025-F.

These Due Diligence audits are currently conducted in-person or virtually at the IRS' discretion. It was suggested that the IRS change this process to be more "customer friendly" as noted in the SOP and similar to how the Independent Office of Appeals handles its conferences. Appeals has made it easier for taxpayers to request the type of conference they prefer. There was a change made to the Internal Revenue Manual (IRM) which removed some of the restrictions required to request a Face-To-Face (FTF) conference, so now taxpayers are afforded the choice, without restriction, to have a telephonic, virtual (i.e., Teams, Zoom, etc.) or FTF Appeals Conference. Affording preparers this option would be an improvement to the process and improve customer service which is a key component of the SOP.

Additionally, it was noted, based upon one SB/SE subgroup member's experience, that there appears to be some inconsistency in the application of these Due Diligence Penalties amongst the SB/SE Revenue Agents and Appeals Officers conducting these audits and Appeals conferences nationwide. It was

suggested that SB/SE and Appeals revisit their training materials and courses to ensure consistency and fairness in these processes and that all parties receive the same training to ensure understanding and consistency. Parties should have the same training to allow for consistent treatment during the audit and Appeals processes.

Recommendations

1. Allow the Due Diligence audits to be Face-To-Face, Virtual, or telephonic at the tax preparer's option/discretion following the example previously set forth by the Independent Office of Appeals as referenced in SOP Initiative 1.1, Improve the availability and accessibility of Customer Service.
2. SB/SE and Appeals should be encouraged to attend the same training courses and programs related to handling such cases and to review their training modules to enhance and/or improve the process and ensure consistency for all parties. This recommendation ties to SOP Initiative 1.3, Ensure the employees have the right tools, and Initiative 1.9, Help taxpayers understand and claim the appropriate credits and deductions.
3. In line with SOP section 2.3, Develop taxpayer-centric notices, it is recommended that the IRS amend/revise the wording in the Due Diligence Warning Letters (L5025-F and L4858 included with this report) sent to tax practitioners related to their Due Diligence Requirements. Currently, the wording is somewhat strong and accusatory to the tax preparers without the IRS ever having looked at any actual tax returns.
4. Increase the number of informal "Knock and Talk" visits with paid preparers to discuss and explain their Due Diligence deficiencies before conducting an audit. This additional step could result in helping paid preparers avoid substantial financial hardships when penalties are assessed. This activity relates to SOP Initiative 1.1, Improve the availability and accessibility of customer service. and Initiative 1.9, Help taxpayers understand and claim the appropriate credits and deductions.



Department of the Treasury
Internal Revenue Service
Wage & Investment
[Street address]
[City, State ZIP]

Date:
02/01/2023
Preparer ID number:

Contact telephone number:
866-860-4259
Contact e-mail address:
wi.rcpreparerresponse@irs.gov

[Recipient name]
[Address line 1]
[Address line 2]
[Address line 3]

You may not have met your due diligence requirements

Dear [Name]:

Why we're sending you this letter

You are preparing tax returns during the 2022 filing season claiming at least one of the benefits listed below.

Paid preparers must comply with all due diligence requirements for the following credits and filing status.

- Earned Income Tax Credit (EITC)
- American Opportunity Tax Credit (AOTC)
- Child Tax Credit (CTC) / Additional Child Tax Credit (ACTC) / Credit for Other Dependents (ODC)
- Head of Household (HoH) filing status

If you don't prepare accurate returns and comply with due diligence requirements under Internal Revenue Code Section 6695(g) and Section 1.6695-2(b) of the Income Tax Regulations, **you may face:**

- A preparer audit and a penalty of \$560 per failure for each tax benefit per return filed in 2022; on average a preparer was penalized \$60,000 dollars during an audit.
- The suspension or termination of your e-filing privileges.
- A referral to the IRS Criminal Investigation Division.

Your client may face:

- An audit, which will hold their refund until we can determine eligibility.
- An obligation to repay any refund, plus interest, if ineligible for the tax benefit claimed on the return.
- A ban from claiming the tax benefit for 2 years (if the claim was due to reckless or intentional disregard of rules and regulations) or 10 years (if the claim was due to fraud).

Remember: It's your job to make sure your client is eligible for any tax benefits claimed.

What you need to do

You don't need to respond to this letter.

1. Complete and send Form 8867, Paid Preparer's Due Diligence Checklist, with every future return or claim for refund you prepare which claims any of the benefits listed above.
2. Complete all worksheets, or equivalents, showing how you computed the credits claimed on a return or amended return.

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Catalog Number 747891

3. **Conduct an in-depth interview with every client each year.** Question any client if any information seems incorrect, inconsistent, or incomplete. **Apply a commonsense standard to the information your client provides.** Ask additional probing and relevant questions if any information appears to be incorrect, inconsistent, or incomplete. Document your questions and the client's responses.
4. Keep all required records for the applicable retention period, including copies of any documents you relied on to determine eligibility for the benefits listed above and to compute the amount of the credits.

Common EITC errors include:

- Claiming an incorrect amount of earned income. Mistakes include under reporting wages and misreporting income and expenses from Schedule C, Profit or Loss from Business.
- Claiming qualifying children for EITC who don't appear to meet the relationship, residency, age, or joint return tests.
- Claiming EITC under HoH filing status without appearing to meet the marriage, qualifying person, or cost of keeping up a home test.

What happens next

We'll continue to review returns you prepare claiming these benefits to ensure you're meeting your due diligence requirements and initiate the compliance activities referenced above if necessary.

Where you can find more information

- Review Publication 4687, Paid Preparer Due Diligence.
- Use the tax return preparer toolkit on our website at www.irs.gov/toolkit, which includes a free due diligence training module and other resources.



- Find tax forms or publications by visiting www.irs.gov/forms or calling 800-TAX-FORM (800-829-3676).

If you have questions, you can contact us at the phone number or email address on the first page of this letter. For security purposes, don't include any personally identifiable information (PII) belonging to your clients. PII includes information that can be used to distinguish or trace the identity of an individual. Please note that we can't provide you with information about specific returns.

Sincerely,

Ishmael P. Alejo

Ishmael P. Alejo

Director, Refundable Credits Program Management



Department of the Treasury
Internal Revenue Service
Wage & Investment
[Street address]
[City, State ZIP]

Fecha:

02/01/2023

Número de ID del preparador:

Número de teléfono de contacto:

866-860-4259

Dirección de correo electrónico de contacto:

wi.rcpreparerresponse@irs.gov

[Recipient name]
[Address line 1]
[Address line 2]
[Address line 3]

Es posible que usted no haya cumplido sus requisitos de diligencia debida

Estimado(a):

Por qué le enviamos esta carta

Usted prepara declaraciones de impuestos durante la temporada de presentación 2022 que reclaman al menos uno de los beneficios enumerados a continuación. Los preparadores remunerados deben cumplir todos los requisitos de diligencia debida para los siguientes créditos y estado civil para efectos de la declaración.

- Crédito tributario por ingreso del trabajo (*EITC*, por sus siglas en inglés)
- Crédito tributario de oportunidad para los estadounidenses (*AOTC*, por sus siglas en inglés)
- Crédito tributario por hijos (*CTC*, por sus siglas en inglés) / Crédito tributario adicional por hijos (*ACTC*, por sus siglas en inglés) / Crédito por otros dependientes (*ODC*, por sus siglas en inglés)
- Estado civil para efectos de la declaración de cabeza de familia (*HoH*, por sus siglas en inglés)

Si usted no prepara las declaraciones exactas ni cumple los requisitos de diligencia debida conforme a la sección 6695(g) del Código de Impuestos Internos y la sección 1.6995-2(b) de las Normas de Impuestos sobre los Ingresos, usted puede enfrentar:

- Una auditoría del preparador y una multa de \$560 por incumplimiento, por cada beneficio tributario por declaración presentada en 2022; en promedio, un preparador fue sancionado con \$60,000 dólares durante una auditoría.
- La suspensión o terminación de sus privilegios de presentación electrónica.
- Una remisión a la División de Investigación Criminal del *IRS*.

Su cliente puede enfrentar:

- Una auditoría, que retendrá su reembolso hasta que podamos determinar la elegibilidad.
- La obligación de devolver cualquier reembolso, más los intereses, si no tiene derecho al beneficio tributario reclamado en la declaración.
- La prohibición de reclamar el beneficio tributario durante dos años (si la reclamación se debió a un descuido negligente o intencional de las normas y reglamentos) o diez años (si la reclamación se debió al fraude).

Recuerde: Es su trabajo asegurarse de que su cliente sea elegible para cualquier beneficio tributario reclamado.

Lo que usted debe hacer

No tiene que responder a esta carta.

Letter 4858 (en-sp) (Rev. 9-2022)
Catalog Number 747891

1. Complete y envíe el Formulario 8867, *Paid Preparer's Due Diligence Checklist* (Lista de verificación de diligencia debida del preparador remunerado), en inglés, con cada declaración futura o reclamación de reembolso que usted prepare que reclame cualquiera de los beneficios enumerados anteriormente.
2. Complete todas las hojas de trabajo o equivalentes, que muestren cómo calculó los créditos reclamados en una declaración o en una declaración enmendada.
3. **Realice una entrevista detallada con cada cliente cada año.** Haga preguntas a cualquier cliente si alguna información parece incorrecta, inconsistente o incompleta. **Aplice un estándar de sentido común a la información que proporciona su cliente.** Haga preguntas relevantes y de sondeo adicionales si alguna información parece ser incorrecta, inconsistente o incompleta. Documente sus preguntas y las respuestas del cliente.
4. Conserve todos los registros requeridos durante el período de retención aplicable, incluidas las copias de los documentos en los que usted se basó para determinar la elegibilidad para los beneficios enumerados anteriormente y para calcular la cantidad de los créditos.

Los errores comunes del EITC incluyen:

- Reclamar una cantidad incorrecta de ingresos del trabajo. Los errores incluyen la información insuficiente de salarios y la información errónea de ingresos y gastos del Anexo C, *Profit or Loss from Business* (Ganancias o pérdidas del negocio), en inglés.
- Reclamar hijos calificados para el EITC que no parecen cumplir con los requisitos de parentesco, residencia, edad o declaración conjunta.
- Reclamar el EITC con el estado civil para efectos de la declaración de *HoH* que no parece cumplir con los requisitos de matrimonio, persona calificada o el costo de mantener un hogar.

Lo que sucede a continuación

Continuaremos revisando las declaraciones que usted prepare reclamando estos beneficios, para asegurar que usted cumple sus requisitos de diligencia debida e iniciar las actividades de cumplimiento mencionadas anteriormente, si es necesario.

Dónde puede encontrar más información

- Revise la Publicación 4687(SP), Preparadores Remunerados-La Diligencia Debida.
- Utilice el kit de herramientas para preparar declaraciones de impuestos, en nuestra página web en, www.irs.gov/toolkit, en inglés, que incluye un módulo de capacitación sobre diligencia debida gratuito v otros recursos.



- Encuentre los formularios o publicaciones de impuestos visitando www.irs.gov/forms, o llame al 800-TAX-FORM (800-829-3676).

Si tiene preguntas, puede comunicarse con nosotros al número de teléfono o a la dirección de correo electrónico indicados en la primera página de esta carta. Para propósitos de seguridad, no incluya ninguna información de identificación personal (*PII*, por sus siglas en inglés) que pertenezca a sus clientes. La *PII* incluye información que se puede utilizar para distinguir o rastrear la identidad de un individuo. Por favor, tenga en cuenta que no podemos proporcionarle información sobre declaraciones específicas.

Atentamente,

Ishmael P. Alejo

Ishmael P. Alejo

Director, Refundable Credits Program Management

Letter 4858 (en-sp) (Rev. 9-2022)
Catalog Number 747891



Department of the Treasury
Internal Revenue Service
Wage and Investment
4800 Buford Highway MS 50
Chamblee, GA 30341

Date:

02/01/2023

Preparer ID number:

Contact telephone number:

866-860-4259

Contact e-mail address:

wi.rcpreparerresponse@irs.gov

[Recipient name]
[Address line 1]
[Address line 2]
[Address line 3]

**Alert: Our review shows you prepared inaccurate tax returns in [YYYY].
You risk preparer penalties from an audit, and we may inform your
clients about mistakes you made on their returns.**

Dear [Name]:

Why we're sending you this letter

Our review of the tax returns you prepared in [YYYY] shows client returns inaccurately claiming tax benefits and that you possibly failed your due diligence requirements. Failure to perform such due diligence can result in penalties under Internal Revenue Code Section 6695(g), Failure to be Diligent in Determining Eligibility for Certain Tax Benefits, and 1.6695-2(a) of the Income Tax Regulations. We may also inform your clients that you prepared their returns inaccurately.

In addition, you and your clients may face one or all the following consequences:

You may face:

- A preparer audit and a penalty of \$560 per failure for each tax benefit per return or claim for refund filed in [YYYY]; in [YYYY], the average total penalty was around \$60,000.
- The suspension or termination of your e-filing privileges.
- A referral to the IRS Criminal Investigation Division.

Your client may face:

- An audit, which will hold their refund until we can determine eligibility.
- An obligation to repay any refund, plus interest, if ineligible for the tax benefit claimed on the return.
- A ban from claiming the tax benefit for 2 years (if the claim was due to reckless or intentional disregard of rules and regulations) or 10 years (if the claim was due to fraud).

We can't tell you which returns were questionable or provide specific information from those returns; however, we found the following primary issues:

Remember: It's your job to make sure your client is eligible for any tax benefits claimed.

What you need to do

- Conduct an in-depth interview with every client each year.

Letter 5025-F (en-sp) (Rev. 11-2022)
Catalog Number 74874K


Meet your specific due diligence requirements. The most common reason we assess due diligence penalties is for failure to meet the knowledge requirement. You should always:

- Apply a commonsense standard to the information your client provides.
- Ask additional probing and relevant questions if any information appears to be incorrect, inconsistent, or incomplete.
- Document additional questions you ask and the client's response.

What happens next

This letter is for your information to ensure you are aware of the due diligence requirements and potential consequences for not meeting them. You don't need to respond. We'll check returns you prepare claiming these benefits to ensure you're meeting your due diligence requirements.

Where you can find more information

- Review Publication 4687, Paid Preparer Due Diligence.
- Use the preparer toolkit on our website at [IRS.gov/toolkit](https://www.irs.gov/toolkit), which includes a free Due Diligence Training and other resources.
- QR Code: 

- Find forms or publications by visiting [IRS.gov/forms](https://www.irs.gov/forms) or calling 800-TAX-FORM (800-829-3676).

If you have questions, you can contact us at the phone number or email address on the first page of this letter. For security purposes, don't include any personally identifiable information (PII) belonging to your clients in an email. PII includes information used to distinguish or trace the identity of an individual.

Sincerely,

Ishmael P. Alejo

Ishmael P. Alejo

Director

Refundable Credits Program Management



Department of the Treasury
Internal Revenue Service
Wage and Investment
4800 Buford Highway MS 50
Chamblee, GA 30341

Fecha:

02/01/2023

Número de ID del Preparador:

Número de contacto:

866-860-4259

Dirección de correo electrónico de contacto:

wi.rcpreparerresponse@irs.gov

[Recipient name]
[Address line 1]
[Address line 2]
[Address line 3]

Alerta: Nuestra revisión muestra que usted preparó declaraciones de impuestos inexactas en [YYYY]. Usted corre el riesgo de que se le impongan las multas de una auditoría del preparador y podemos informar a sus clientes sobre los errores que cometió en sus declaraciones de impuestos.

Estimado(a) [Name]:

Por qué le enviamos esta carta

Nuestra revisión de las declaraciones de impuestos de [YYYY] que usted preparó, muestra que las declaraciones de los clientes reclaman incorrectamente los beneficios tributarios y que usted posiblemente no cumplió con sus requisitos de diligencia debida. El incumplimiento de ejercer tal diligencia debida puede resultar en multas conforme a las secciones 6695(g), *Failure to be Diligent in Determining Eligibility for Certain Tax Benefits* (Incumplimiento de ser diligente para determinar la elegibilidad para ciertos beneficios tributarios), en inglés, del Código de Impuestos Internos (*IRC*, por sus siglas en inglés) y la 1.6695-2(a) sobre los Reglamentos del Impuesto sobre los Ingresos, en inglés. **También podemos informar a sus clientes que usted preparó sus declaraciones de manera inexacta.**

Además, usted y sus clientes pueden enfrentar una o todas las siguientes consecuencias:

Usted puede enfrentar:

- Una auditoría del preparador y una multa de \$560 por incumplimiento por cada beneficio tributario reclamado por cada declaración o reclamo para reembolso presentado en [YYYY]; en [YYYY], el promedio total de la multa fue aproximadamente \$60,000.
- La suspensión o terminación de sus privilegios de presentación electrónica.
- Una remisión a la División de Investigación Criminal del *IRS*.

Su cliente puede enfrentar:

- Una auditoría, que retendrá su reembolso hasta que podamos determinar su elegibilidad.
- La obligación de reintegrar cualquier reembolso, más los intereses, si no es elegible para el beneficio tributario reclamado en la declaración.
- Una prohibición de reclamar el beneficio tributario por 2 años (si la reclamación se debió a un descuido negligente o intencional de las normas y reglamentos) o 10 años (si la reclamación se debió al fraude).

No podemos informarle qué declaraciones fueron dudosas o proporcionarle información específica sobre esas declaraciones; sin embargo, encontramos los siguientes problemas principales:

Recuerde: Es su trabajo asegurarse de que su cliente es elegible para cualquier beneficio tributario que reclame.

Letter 5025-F (en-sp) (Rev. 11-2022)
Catalog Number 74874K

Lo que usted tiene que hacer

Cumplir con sus requisitos específicos de diligencia debida.


La razón más común por la que imponemos las multas de diligencia debida es por no cumplir con el requisito de conocimiento. Usted siempre debe:

- Realizar una entrevista detallada con cada cliente cada año.
- Aplicar un estándar de sentido común a la información que proporciona su cliente.
- Hacer preguntas relevantes y de sondeo adicionales si alguna información parece ser incorrecta, inconsistente o incompleta.
- Documentar las preguntas adicionales que haga y las respuestas del cliente.

Qué sucede después

Esta carta es para su información para asegurar que conoce los requisitos de diligencia debida y las posibles consecuencias de no cumplirlos. No tiene que responder. Revisaremos las declaraciones que prepare reclamando estos beneficios para asegurar que usted cumple con sus requisitos de diligencia debida.

Dónde puede obtener más información

- Revise la Publicación 4687(SP), La Diligencia Debida.
- Utilice el juego de herramientas del preparador en nuestra página web, [IRS.gov/toolkit](https://www.irs.gov/toolkit), en inglés, que incluye un adiestramiento gratuito sobre la Diligencia Debida y otros recursos.
- QR Code: 

- Encuentre los formularios o publicaciones visitando [IRS.gov/forms](https://www.irs.gov/forms), o llamando al 800-TAX-FORM (800-829-3676)

Si tiene preguntas, puede comunicarse con nosotros al número de teléfono o dirección de correo electrónico en la primera página de esta carta. Para propósitos de seguridad, no incluya en un correo electrónico ninguna información de identificación personal (*PII*, por sus siglas en inglés) de sus clientes. La *PII* incluye información utilizada para distinguir o rastrear la identidad de una persona.

Atentamente,

Ishmael P. Alejo

Ishmael P. Alejo

Director

Refundable Credits Program Management

ISSUE SIX: Field Collection Customer Service

Executive Summary

This topic, while not one the IRS asked the IRSAC to address this year, includes important issues that the SB/SE subgroup of the IRSAC voted to include in this report and the topic was accepted by the IRS.

Taxpayers with outstanding tax liability and/or delinquent returns are often referred to local IRS offices for collection and compliance. Revenue Officers (RO) are assigned to these cases and make direct contact with the taxpayer or the taxpayer's Power of Attorney (POA) in an effort to resolve them.

The Internal Revenue Service Inflation Reduction Act Strategic Operating Plan is structured to achieve five objectives. The two objectives that apply to this report are: 1. Dramatically improve services to help taxpayers meet their obligations and receive the tax incentives for which they are eligible, and 2. Quickly resolve taxpayer issues when they arise.

Communication is key to resolving these cases effectively, efficiently, fairly, and rapidly to provide the best taxpayer experience. There does not appear to be any uniform and consistent policy concerning returning telephone calls and responding to faxes. There are often long delays in assigning cases when there is a change of RO. This causes taxpayer frustration and can lead to continuing nonpayment and noncompliance.

Background

On July 24, 2023, the IRS announced a change to its longstanding policy of ROs making unannounced visits to taxpayers. This was done to reduce public confusion and enhance overall safety measures for taxpayers and IRS employees. ROs will now send a Letter 725-B appointment letter to the taxpayer. If there is a POA on file, then the IRS will call the representative or issue a Letter 725-B to schedule a phone or office appointment with the representative. The procedure will be the same as if the RO had made a field call to the taxpayer's home or place of business or left their calling card with a request for callback, and the taxpayer failed to respond. The RO may include the Summary of Taxpayer Contact (Form 9297)

with the appointment letter. Interim guidance was issued on July 24, 2023. This serves as the Internal Revenue Manual (IRM) guidance until it is incorporated in the IRM by the authors of each IRM section.

The IRS believes the new interim guidance regarding scheduled appointments will improve the overall experience for taxpayers and employees alike. Providing taxpayers and their representatives with advanced notice of a meeting will result in better prepared taxpayers and cooperative taxpayer engagement.

Letter 725-B requires the taxpayer to schedule or confirm an appointment with the RO. The easiest way to do this is by telephone. If the RO is not available, the taxpayer can leave a message on their voicemail.

At the scheduled meeting, the RO educates the taxpayer of the liability, requests financial information and/or unfiled tax returns, and requests payment. Form 9297 will have a specific date for the taxpayer to comply. The RO will often leave a business card with contact information.

If it has not previously been done, and if the case facts and circumstances warrant, the RO will send by certified mail or hand deliver a Final Notice of Intent to Levy (Letter 1058). This letter provides 30 days for the taxpayer to request a Collection Due Process Hearing with an Appeals Officer. As it relates to Letter 1058, if the taxpayer does not request the hearing within 30 days, or comply with deadlines established by the RO, they can be subject to a levy that may apply to their wages and bank accounts.

At this point in time, the taxpayer or their POA will work with the RO to attempt to resolve paying the outstanding taxes. Some of the possible solutions are a full payment, an Installment Agreement, an Offer in Compromise, a Penalty Abatement, and filing correct or amended returns.

The RO may determine to file a Notice of Federal Tax Lien against the taxpayer. After the notice of lien is filed, Letter 3172 (Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320) will be sent by certified mail or hand delivered. The letter provides 30 days for the taxpayer to request a Collection Due Process Hearing with an Appeals Officer.

The interaction with the RO and complying with requests for written documentation and records can be overwhelming for any taxpayer. Some taxpayers will attempt to navigate this on their own. Others will retain a tax professional to represent and guide them. Most taxpayers are most likely unfamiliar with IRS procedures and have limited understanding of taxes and the consequences of not complying with requests from the IRS. Very often, taxpayers will have questions following their contacts with the RO.

Taxpayers or their POA contact an RO for many reasons, including questions about the RO's requests, clarification of issues, request for additional time to respond, new proposals to resolve the case, and follow up on proposals previously made. These conversations are essential to moving forward on the case and taking any further action.

There are several ways the taxpayer or their POA can communicate with the RO. Telephone calls to the office or cell phone are the fastest and most common. Every RO is provided a government cell phone. There have been some circumstances where new ROs have not received a cell phone because of supply chain issues, but the vast majority receive a cell phone when they onboard as an RO. Mail, faxes, and hand deliveries are used to provide requested documents, but are not effective for quickly asking and answering taxpayer questions.

Email correspondence with a taxpayer/representative is not permissible. However, there are several projects currently in place that will improve the customer experience when working with an RO. For example, the IRS recently deployed the Document Upload Tool (DUT). The DUT is an application on IRS.gov where taxpayers and representatives can upload documentation by using a one-time use Unique Access Code (10-digit alphanumeric code provided by an IRS employee). Similarly, they rolled out Secure Messaging for revenue officers and taxpayers. Secure Messaging is like a web-based email service. Users (revenue officers, taxpayers, and representatives) can securely send messages, respond, and even include document attachments pertaining to the assigned IRS Collection case.

RO case inventory ranges from 49 to 79 for lower grade officers and 34 to 50 for higher grade, with more experienced officers being assigned more complex cases. These cases require much work and attention. They have telephone calls to make, appointments, field visits, paperwork, correspondence to read and write, and financial documentation to read and process. As a result, often the taxpayer hears a recorded message when he calls. The contents of the message vary by RO. Some greetings are detailed, while others only contain the RO's name, followed by a beep.

The taxpayer next waits for a return call. While they wait, the RO may be taking collection action, including levies, which may cause significant hardship to the taxpayer.

One option the taxpayer has if they cannot contact the RO is to call or fax their Group Manager (GM). However, they do not know who this is if it is not included in the voice message or correspondence the taxpayer received from the RO.

In some instances, the RO is transferred, retires, or for whatever other reason is no longer responsible for the case. This is not always communicated to the taxpayer. Although this change is usually known to the IRS weeks or months in advance, often there is a long period of time where there is no contact person for the taxpayer. When someone new is eventually assigned the file, the prior RO may not have fully documented the matter and their interactions with the taxpayer thereby requiring the taxpayer start all over again and risk losing a resolution that was previously agreed upon.

In some instances, the GM is no longer the RO's supervisor. Despite the fact that this may have been known for many months prior, the transition to a new GM is often very slow. As a result, there could be several acting managers for a long period of time. While it is a good practice for the IRS to give these temporary assignments to current ROs who may be interested in a future promotion, the taxpayer who needs to communicate with the GM may be calling a different person not familiar with their case every time there is a new acting manager.

The IRS has provisions in the Internal Revenue Manual (IRM) relating to RO customer service, communication with taxpayers, and reassignment of inventory.

IRM 5.1.10.4, Responding to Taxpayers, (1) requires a revenue officer to promptly respond to taxpayers, return calls as soon as practicable, and to check voice messages daily. (2) guides a revenue officer to leave a secure fax number for taxpayer or representative's use in their voicemail greeting. This IRM provision also requires that when a revenue officer will be out of the office for an extended period, that they leave a message directing the caller to an alternate person for assistance. This is very important in cases of emergency, such as the RO levying the taxpayer prior to being out of the office so that the taxpayer may attempt to secure a release of the levy. This IRM section is not routinely followed or enforced.

GMs communicate expectations to their group on an annual basis pursuant to IRM 1.4.50.2.1, Communication Expectations. These expectations include a discussion on timeliness of actions which involve being responsive to taxpayers and/or representatives.

IRM 1.4.50.10.3, Reassignment of Departing Revenue Officer Inventory. Field Collection has specific guidance on the reassignment of taxpayer cases when an RO permanently departs the group or will be absent for 90 or more days. The GM must make an assignment determination on each case. In cases where there has not been contact with the taxpayer or the taxpayer's authorized representative, the GM may assign the case to another RO or return the case to the queue. If there has been contact with the taxpayer or the taxpayer's POA, the case should be transferred to another RO within a reasonable period of time, normally within 45 days. This section of the IRM is not consistently followed.

ROs have a performance expectation in Critical Job Element 3A, Customer Service, to provide responsive, courteous service to taxpayers or representatives. GMs are required to evaluate an RO's performance in meeting their Critical Job Elements and provide ongoing feedback to ROs about their performance using the processes outlined in IRM 1.4.50.5.1, Performance Evaluation, and 1.4.50.5.2, Review (Overview). During Operational Reviews of a group's performance,

required by IRM 1.4.50.13.2, Operational Reviews, Territory Managers will assess whether taxpayers and representatives are receiving timely and appropriate service as part of the review components outlined in Exhibit 1.4.50-10, Commonly Selected Review Components. Outside of the performance evaluation process, taxpayers or representatives may contact GMs or territory managers if they are not being responded to in a timely manner.

ROs are required to follow IRM 10.5.1.6.8.1, Emails to Taxpayers and Representatives, which currently only allows emails in limited situations. These limited situations require taxpayers to specifically request an email and accept the risk of email contact. Even then, the only information that can be emailed may include confirming the date and time of an appointment but not the nature of an appointment, or emails with links to publicly available forms and publications on irs.gov that do not include specific revenue rulings or court cases that may unintentionally disclose the nature of a tax matter. Alternative methods of digital communications are being explored including the Document Upload Tool which allows for taxpayers or representatives to upload documents directly from their laptops to a secure application for retrieval by the RO working their case. Pursuant to Interim Guidance Control Number NHQ-01-1121-0004, Approval to Accept Signatures & Digital Signatures, Approval to Receive Documents & Transmit Encrypted Documents by Email – Updated Nov 2021, ROs may use email to send or receive sensitive taxpayer information. This Interim Guidance requires authentication, authorization, and encryption when sending/receiving emails. The guidance is scheduled to expire October 31, 2023, but may be extended.

The RO new-hire training modules do not include a general customer service training module. However, since discussing this topic with the IRSAC, a proposal has been submitted for a Customer Service module to be included in Continued Professional Education (CPE) for ROs next year. Additionally, the IRSAC's feedback has been shared with the director, Field Collection, and his staff. The director issued a communication to all Field Collection employees reiterating the IRM requirements regarding voicemail and return phone calls along with a reminder of the critical job elements that apply.

Despite the provisions of the IRM, ROs and their managers are not routinely following them. Many voice messages contain little or no information to assist the taxpayer. Also, not all calls are timely returned. ROs are transferring or retiring and often no one is timely assigned their cases. This leads to taxpayer confusion and frustration and inhibits taxpayer ability to comply with requests and stay compliant.

Recommendations

1. ROs should return telephone calls within two business days.
2. RO voice messages should include their fax number, their working hours, and the name, telephone number, and fax number of their GM.
3. RO correspondence to a taxpayer and their POA should include their fax number, their working hours, and the name, telephone number, and fax number of their GM.
4. Voice messages should advise if the RO is on vacation, leave, or out of the office for more than three days and, if so, when they will return.
5. If an RO or GM is retiring or transferring, their voice message should reflect that with details on alternative contacts.
6. If an RO is retiring or transferring, the RO should fully document the case before transferring it to the RO or GM taking over the case.
7. If an RO is retiring or transferring, there should be an overlap in transfer of a case so that the prior RO can discuss the case with the new RO to make sure there is a smooth transition.
8. If a GM is retiring or transferring, expedite the process of selecting a permanent replacement.
9. Continue to explore the use of email. Extend Interim Guidance Control Number NHQ-01-1121-0004, Approval to Accept Signatures & Digital Signatures, Approval to Receive Documents & Transmit Encrypted Documents by Email.
10. Include a Customer Service module in the Continued Professional Education (CPE) for RO new-hire training.

11. Issue a communication to all Field Collection employees reiterating the IRM requirements regarding voicemail and return telephone calls, along with a reminder of the critical job elements that apply.

INTERNAL REVENUE SERVICE ADVISORY COUNCIL

Tax Exempt and Government Entities Subgroup Report

Nancy Ruoff, Subgroup Chair

Joseph Bender

Sharon Brown

Sam Cohen

Jodi Kessler

Tara Sciscoe

Brian Yacker

INTRODUCTION

The IRSAC Tax Exempt & Government Entities (TE/GE) subgroup is a diverse group of seven members working collaboratively with representatives of TE/GE regarding a broad range of issues, including employee plans, exempt organizations, Indian tribal governments, state and local government entities and tax-advantaged bonds. The subgroup members include attorneys, certified public accountants, and financial and benefit advisors. The TE/GE subgroup is grateful for the cooperation received from members of the Tax Exempt and Government Entities Division of the IRS in producing this report. Our report addresses the following five topics:

- Recommendations on Self-Correction Guidance for Employee Plans,
- Recommendations for the Non-Bank Trustee Program,
- Recommendations for More Effective Engagement with Exempt Organizations,
- Recommendations for Effective Engagement for Section 218 and 218A Agreements, and
- Recommendations for Increasing the Tax Reporting Threshold for Slot Machine Jackpot Winnings

ISSUE ONE: Recommendations on Self-Correction Guidance for Employee Plans

Executive Summary

The IRS permits retirement plan sponsors to correct most plan failures and maintain tax-favored status under a comprehensive system of correction programs referred to as the Employee Plans Compliance Resolution System (EPCRS), set out in Revenue Procedure 2021-30.⁷¹ The EPCRS includes three components: (i) the self-correction program (SCP); (ii) the voluntary correction program (VCP), and (iii) the audit closing agreement program (Audit CAP). Section 305 of the SECURE 2.0 Act of 2022,⁷² signed into law on December 29, 2022, significantly expanded the SCP under EPCRS to include most inadvertent failures so long as corrected within a reasonable time frame, except as otherwise provided in the Internal Revenue Code, Treasury Regulations, or other guidance of general applicability prescribed by the Secretary of the Treasury. Section 305 directs the IRS to update the EPCRS consistent with Section 305 within two years of enactment.

Employee Plans (EP), an office of the Tax Exempt and Government Entities (TE/GE) Division of the IRS, is responsible for overseeing compliance with the retirement plan provisions of the Internal Revenue Code. To assist the IRS in updating the EPCRS as directed by Section 305 of SECURE 2.0 Act of 2022, EP has asked the IRSAC for: (i) advice as to whether there are additional plan failures and/or correction methods that should be addressed in the EPCRS to guide plan sponsors in light of the further expansion of the SCP; (ii) feedback on whether there are any available means that the IRS could use to keep better apprised of how and when plan sponsors self-correct plan failures on an on-going basis; and (iii) whether there are inadvertent failures that EP should continue to require be filed under the VCP.

⁷¹ Revenue Procedure 2021-30: <https://www.irs.gov/pub/irs-drop/rp-21-30.pdf>.

⁷² Secure 2.0 Act of 2022 (P.L. 117-328 (Dec. 29, 2022), Division T; <https://www.congress.gov/bill/117th-congress/house-bill/2617>).

Background

Self-correction under the SCP is particularly attractive to plan sponsors because it does not require filing the correction with the IRS or paying a fee to the IRS. Over the years, the IRS has expanded the availability of the SCP for plan failures under the EPCRS. The EPCRS outlines correction methods for many plan failures that, if followed, will preserve the tax-qualification of the retirement plan. Plan sponsors may also use other reasonable methods to self-correct plan failures, so long as the method is consistent with the principles under the EPCRS. Section 305 of SECURE 2.0 significantly expanded the SCP under the EPCRS to include most inadvertent failures regardless of when the error occurred if corrected within a reasonable time period after identification of the failure. Section 305 also directs the IRS to update the EPCRS consistent with Section 305 within two years of December 29, 2022, in part to provide guidance on correction methods required to be used to correct eligible inadvertent failures, including general principles of correction if a specific correction method is not specified. Due to this legislative expansion of the SCP, many errors that the IRS has historically required to be corrected under the VCP may now instead be corrected under the SCP.

The IRS issued Notice 2023-43⁷³ on May 25, 2023, to provide interim guidance on Section 305. Notice 2023-43 permits plan sponsors to self-correct eligible inadvertent failures before the EPCRS is updated if certain requirements are met, including that the self-correction satisfies all of the provisions applicable to self-correction set forth in the EPCRS, but not including certain specified failures. Notice 2023-43 further states that until an updated EPCRS is issued, the IRS will treat the self-correction of an eligible inadvertent failure that is completed by the last day of the 18th month following the date the failure is identified by the plan sponsor as completed within a reasonable period. A plan sponsor that completes a self-correction in accordance with Notice 2023-43 will be treated as having applied a good faith, reasonable interpretation of Section 305 of the SECURE 2.0 Act.

⁷³ IRS Notice 2023-43: <https://www.irs.gov/pub/irs-drop/n-23-43.pdf>.

The IRSAC TE/GE Subgroup conducted informal surveys of plan sponsors and practitioners in various industry groups to assist it in responding to the IRS' request for information and guidance. As expected, the responses reflect that plan sponsors use the EPCRS to correct – through both the SCP and the VCP – a broad range of retirement plan failures.

The IRSAC believes that clear correction parameters and guidance in the EPCRS encourages plan sponsors to establish practices and procedures designed to ensure compliance, and to timely identify and correct plan errors when they occur despite such practices and procedures. The IRSAC identified the following areas with respect to which the recommendations below request the IRS to provide further guidance in the EPCRS:

- 1) Failures can occur when contributions are made to the wrong plan. Many governmental employers maintain multiple retirement plans under Code Sections 403(b), 401(a) and 457(b). Occasionally, contributions that should be made to one type of plan, such as to a 401(a) plan, are erroneously deposited in another type of plan, such as a 403(b) plan. The most efficient and effective correction method would be to directly transfer the assets from the plan to which they were made in error, to the plan to which they should have been made, with earnings. This correction method also has the least adverse effect on the participant while placing the participant in the position they would have been in had the error not occurred. However, without specific guidance under EPCRS or in the Internal Revenue Code or regulations, it is not clear that a plan sponsor could implement this correction.
- 2) Many plan sponsors struggle with calculating actual lost earnings for failures that have occurred over many payroll periods, that cross calendar years, or that implicate multiple recordkeepers. Not all recordkeepers have the capacity or willingness to calculate actual lost earnings, and the cost to the plan sponsor of hiring a third party to calculate the earnings can often exceed the amount of the lost earnings. Additionally, there can be a long delay in making the participant whole due to the time it takes the

recordkeeper or third party to calculate the lost earnings. It would significantly reduce the burden on plan sponsors and facilitate the timeliness of corrections if they could use the Department of Labor's lost earnings calculator as a reasonable alternative method for calculating lost earnings.

- 3) Self-correction by retroactive amendment should be expanded. For example, it would be helpful to allow a retroactive amendment to correct an actual deferral percentage/actual contribution percentage (ADP/ACP) testing error by changing testing methods (i.e., prior year to current year), if (i) the amendment would have been permitted under the Internal Revenue Code and underlying regulations if it were timely adopted and (ii) the matching formula either applies to highly compensated employees (HCEs) and non-HCEs uniformly, or favors non-HCEs. Additionally, self-correction by retroactive amendment to conform to actual operation should be permitted even where it results in cutbacks to participant benefits or rights if there is clear evidence that participants received the benefits and rights that were communicated to them and could not have reasonably expected the greater benefit or rights.

The IRSAC believes that self-correction should not be permitted for retroactive plan amendments to conform to operation if the amendments cutback participant rights or benefits except where there is clear evidence that the plan operation was consistent with participant communications and expectations.

- 4) Many governmental plans require mandatory employee contributions, which contributions are frequently dictated by state law. It would be helpful if the IRS provided guidance on how to correct failures involving an underpayment of mandatory employee contributions, such as where an employee was inadvertently excluded from the plan or had contributions calculated on the wrong compensation, or excess mandatory employee contributions, such as where contributions were calculated on the wrong compensation.

- 5) Required minimum distribution (RMD) failures sometimes occur because the financial institution/insurer holding the participant's account fails to timely begin RMDs, regardless of plan terms and despite plan sponsor direction. This typically occurs when such vendors have been deselected as an approved vendor under the plan, but due to contractual restrictions, the plan sponsor cannot force the transfer of plan assets to an approved vendor. It would be helpful to have guidance on how to correct an RMD failure when a deselected vendor fails or refuses to make RMDs, and the plan sponsor has no control over the assets.
- 6) Section 301 of SECURE 2.0 made several changes with respect to correcting overpayments. Revising EPCRS to address these statutory changes will assist plan sponsors, including the application of these new rules for governmental employers that are not subject to the changes impacting ERISA plans.
- 7) It would be helpful if the general organization of EPCRS were reconsidered to make it easier to locate all guidance related to a particular correction. For example, the correction methods available for missed deferrals are located both in the main sections of EPCRS and Appendix A.

The types of plan errors that are currently being filed under the VCP is a valuable source of information for EP to determine additional guidance that may be needed under the EPCRS for plan sponsors to adequately self-correct for these same errors. The VCP is frequently used by plan sponsors when the EPCRS does not address a correction approach for that type or error, or where the plan sponsor proposes to correct in a manner not set forth under the EPCRS. EP could review the VCP filings made over the last several years to identify failures that are not currently addressed under the EPCRS, as well as those with respect to which alternative correction approaches would be helpful to plan sponsors. The IRS could also survey its EP audit team to identify whether on audit it is finding that the self-correction methods being used by plan sponsors are within the parameters of the EPCRS or whether further correction is being required.

EP asked members of the IRSAC TE/GE subgroup how it could better keep apprised on how employers are using the SCP to inform the drafting of the EPCRS. The IRSAC believes that requesting comments from plan sponsors on the EPCRS updates continues to be the best mechanism to gather information on how employers are using the SCP. While the Form 5500 could be a vehicle for plan sponsors with ERISA-covered plans to report self-corrections made that year to the IRS, the IRSAC is concerned that this kind of reporting could chill self-audits and corrections due to fear that such disclosures will trigger an IRS audit. Additionally, since there are so many different types of failures, it would be difficult to secure sufficient information from this kind of disclosure to be helpful to the IRS, without being unduly burdensome to the plan sponsor. Finally, this approach would not gather information with respect to non-ERISA covered plans.

Recommendations

1. Expand EPCRS to permit direct transfers between different types of plans maintained by the same employer when contributions have erroneously been made to one plan when they should have been made to another plan. (Recommendations 1-8 align to SOP objective 2.4 – Expand tax certainty and issue resolution programs.)
2. Expand EPCRS to allow plan sponsors to use the Department of Labor lost earnings calculator as a reasonable alternative method for calculating lost earnings when correcting failures.
3. Expand EPCRS to allow a retroactive amendment to correct an ADP/ACP testing error by changing testing methods if the amendment would have been permitted under the Internal Revenue Code if timely adopted and it does not favor HCEs over non-HCEs.
4. Expand EPCRS to allow plan sponsors to self-correct failures to timely amend the plan for tax law changes.
5. Expand EPCRS to provide guidance on how to correct failures regarding both underpayments of and excess mandatory employee contributions with respect to governmental plans.

6. Expand EPCRS to address corrections of missed RMDs due to vendor failures when a deselected vendor fails or refuses to make RMDs, and the plan sponsor has no control over the assets.
7. Update EPCRS to address statutory changes in Section 301 of SECURE 2.0 with respect to correcting overpayment errors.
8. Reorganize the EPCRS to group together all correction methods related to a single type of failure to facilitate compliance.
9. Review the types of errors being filed under the VCP to determine additional guidance that may be needed under the EPCRS for plan sponsors to adequately self-correct for the same errors. (Aligns to SOP objective 4.6 - Apply enhanced analytics capabilities to improve tax administration.)
10. Continue to request comments from plan sponsors on the EPCRS updates to gather information on how employers are using the SCP. (Aligns to SOP objective 4.8 – Partner to expand insights.)

ISSUE TWO: Recommendations for the Non-Bank Trustee Program

Executive Summary

Employee Plans (EP), an office of the Tax Exempt and Government Entities (TE/GE) Division of the IRS, is responsible for overseeing compliance with the retirement plan provisions of the Internal Revenue Code. Generally, only a bank or an insurance company can act as trustee or custodian of fiduciary accounts. Section 408(a)(2) of the Internal Revenue Code authorizes the IRS to approve other persons to custody fiduciary accounts, and the IRS has issued Treas. Regs. §1.408-2(e)(2) through (8) setting forth the requirements that an entity must satisfy in order to be approved as a non-bank trustee or custodian (NBT).

EP asked the IRSAC for: (i) feedback on how the NBT program is currently being used and whether it continues to serve a useful purpose that cannot be met by alternative options; (ii) any recommended changes with respect to the NBT program's procedures or compliance goals; and (iii) advice on whether the NBT program should be terminated, frozen, or otherwise modified in light of declining interest in the program.

Background

Under Revenue Procedure 2023-4,⁷⁴ an entity that is not a bank or an insurance company can request to be approved as a NBT by submitting a written application that provides clear and convincing proof that the requirements set forth in Treas. Regs. §1.408-2(e)(2) through (8) are satisfied. These include a demonstration of the applicant's diversity and continuity of ownership, fiduciary experience with retirement plans, high degree of solvency and a minimum net worth, capacity to account for a large number of individuals, fitness to handle funds, adherence to rules of fiduciary conduct, and a minimum fidelity bond. If approved by the IRS as a NBT, the entity can handle certain fiduciary accounts, including (i) medical savings accounts (MSAs), (ii) health savings accounts (HSAs), (iii) Section

⁷⁴ Revenue Procedure 2023-4: https://www.irs.gov/irb/2023-01_IRB.

401(a), 403(b) and governmental 457(b) accounts, (iv) traditional and Roth IRAs, (v) SIMPLE IRAs, (vi) deemed IRAs, and (vii) Coverdell educational savings accounts. A notice of NBT approval will remain effective until revoked by the IRS or withdrawn by the entity. NBTs are required to notify the IRS if they no longer are acting as an NBT, as well as of any changes that may affect the entity's status as a NBT.

The number of entities requesting to be a NBT under the NBT program has declined over time. For the almost six-year period from 2018 through 2023, a total of 30 requests (five to six per year on average) for approval to serve as a NBT have been filed with the IRS. Of those, fifteen requests were approved by the IRS, ten requests were either denied by the IRS or withdrawn by the entity, and five requests are currently under review.

As of October 2022, there were 70 entities that are approved as NBTs under the NBT program, with the oldest approval letters dating from 1982.⁷⁵ The majority of the NBTs are financial services companies, but they also include church organizations, state governments, associations/fraternal unions, insurance companies, retirement plan and health and welfare plan administrators/brokers, and payroll service companies.

Entities generally request NBT status to make available specific investments that are not offered by traditional banks and custodians and/or to offer a full suite of services to their clients without incurring the additional cost or loss of control associated with outsourcing the custodial services to a bank. For example:

- A governmental retirement system or church benefits board may request NBT status to administer deemed IRAs under its qualified retirement plan or 403(b) plan. Deemed IRAs can only be offered to individuals eligible to participate in the qualified retirement plan or 403(b) plan and, therefore, are limited in scope and purpose.
- A financial services company may request NBT status to administer IRAs in order to allow IRA owners to invest in non-traditional investments, such as private REITs, non-publicly traded equity and similar investments that

⁷⁵ Nonbank Trustees List: <https://www.irs.gov/pub/irs-tege/nonbank-trustee-list.pdf>.

are not traditionally permitted by established custodians.

- A church extension fund may request NBT status in order to administer IRAs, HSAs, and/or Coverdell educational savings accounts for the purpose of allowing the owners of these accounts to invest in securities issued by the fund, which help to support church ministries.
- A payroll company or health and welfare plan broker or third-party administrator may request NBT status in order to administer HSAs for its clients.

Securing approval as a NBT is much less time consuming and expensive than forming a bank. Banking is a highly regulated activity. The process to organize a bank can take between one to two years, and requires that the entity create a business plan, form a board of directors, put in place a senior management team with banking experience, form a separate legal entity, and meet significant financial, capital adequacy, and risk management requirements. The entity must then apply and receive approval for a federal or state charter, as well as from the Federal Deposit Insurance Company and potentially the Federal Reserve, and state permits or licenses. The capital adequacy requirements are much higher than the NBT net worth requirements. Once established, the bank continues to be subject to significant ongoing regulation.

Some entities that have received or apply for NBT status are tax-exempt entities under Section 501(c)(3), and it would not be within their tax-exempt purpose to establish a bank. Other entities may not be able to satisfy the much more stringent rules for forming a bank, including the capital adequacy requirements. Finally, the time and cost of forming a bank may be prohibitive given the limited purpose for which many entities use their NBT status.

Audits of NBTs are conducted at least once every five years. Since 2014, the IRS has conducted 82 audits of NBTs: (i) 44 audits were closed by the IRS with no audit findings or requested changes; (ii) the IRS requested operational corrections in 26 audits; (iii) the NBT voluntarily withdrew its approval letter in 11 audits, generally because the entity was no longer using its NBT status; and (iv) the IRS revoked the NBT approval letter in one audit. The audits show a high level of

compliance with Treas. Reg. § 1.408-2(e), with most violations minor in scope and correctable.⁷⁶ However, the audits are limited in that they look only at compliance with the Treasury Regulations, and while they ensure that the NBT has audited financial statements, do not independently examine whether the underlying assets actually exist. Accordingly, an NBT audit would be unlikely to uncover fraud.

The IRSAC recognizes that there has been a decline over time in applications under the NBT program, as well as an increase in NBT program withdrawals. The IRSAC also recognizes that the IRS has limited resources, and that it is important that those resources be used efficiently and appropriately to ensure enforcement of the tax laws and to protect taxpayers. However, the IRSAC believes that closing the program would create a significant burden on NBT entities. Many of these entities would not have the financial or human capital to establish a bank, given the limited scope for which they use their NBT status, and the closure of the program could cause significant business disruption to ongoing operations.

The IRSAC does not have sufficient information to make a recommendation as to whether or not to close the NBT program to new applicants. Although the number of entities that are requesting NBT status has declined over the years, the IRSAC believes that NBT status has, at least historically, provided an important alternative to bank status. However, if NBT program applications continue to decline and/or current NBTs continue to withdraw from the program, this would indicate that entities have identified other means to achieve the same goals without NBT status.

The IRSAC believes that it is important to continue to provide oversight of NBTs, however, given the limited scope of the NBT audits and the significant number of audits resulting in no findings or insignificant operational corrections, modifications to the frequency of audits and/or adding reporting requirements may reduce the oversight burden for the IRS. For example, a periodic reporting requirement could require the NBT to certify that it continues to meet the NBT

⁷⁶ See also Treasury Inspector General for Tax Administration (TIGTA) report, Oversight of Nonbank Trustees Has Improved, but Resources Expended on the Program Should Be Reevaluated, May 11, 2012; <https://www.tigta.gov/articles/press-releases/tigta-irs-oversight-nonbank-trustees-improves-now-resources-should-be>.

program regulatory rules, including the net worth and fidelity bond requirements, as well as provide other information that EP could use to identify NBTs that may be at higher risk of non-compliance. In addition, the report could require the NBT to provide information that EP could use to evaluate the continued utility of the program, such as how the entity using its NBT status, the number of fiduciary accounts it handles, and the assets held in those fiduciary accounts.

Recommendations

1. The IRS should continue to maintain the NBT program for entities with current NBT status. (Recommendations 1-3 align with SOP objectives 4 – Deliver cutting-edge technology, data, and analytics to operate more effectively)
2. The IRS should continue to monitor the number of NBTs and new applications for NBT status and evaluate on an ongoing basis whether the costs of maintaining the NBT program outweigh the utility of making the program available to new applicants.
3. The IRS should consider auditing NBTs on a less frequent basis and instead implementing an annual or other periodic reporting period requirement to monitor compliance more efficiently for NBTs.

ISSUE THREE: Recommendations for More Effective Engagement Between IRS and Exempt Organizations

Executive Summary

The IRS asked IRSAC for input, feedback, and suggestions for improving the level of engagement between the IRS (TE/GE in particular) and the immense and diversified population of actively operating domestic exempt organizations. To improve engagement, the IRS wants to identify the different approaches it should take to best engage with the many diverse types of exempt organizations. The IRS believes that improving engagement with exempt organizations should greatly increase the overall compliance of all different types of exempt organizations filing periodic nonprofit tax returns with the IRS.

Background

In the 2022 IRS Data Book, the IRS reports there were 1.97 million organizations⁷⁷ classified as tax-exempt organizations, nonexempt charitable trusts, and split-interest trusts actively operating in the United States.

There are many different types of exempt organizations with whom the IRS must engage, managing not only the differences between charitable organizations and other noncharitable exempt organizations, but also the differences within the charitable (Section 501(c)(3)) sector, including the differences between small social services organizations, and youth athletic leagues, and religious organizations and hospitals and all different types of schools.

There are size divergences in the exempt organization sector as reflected in the fact that there are gross receipt and asset thresholds that generally control whether an organization files Form 990-N, Electronic Notice (e-Postcard) for Tax-Exempt Organizations Not Required to File Form 990; Form 990-EZ Form 990-EZ, Short Form Return of Organization Exempt From Income Tax, filers; or Form 990, Return of Organization Exempt from Income Tax. There are also many

⁷⁷ 2022 IRS Data Book Table 14: <https://www.irs.gov/statistics/soi-tax-stats-tax-exempt-organizations-and-nonexempt-charitable-trusts-irs-data-book-table-14>

exempt organizations (primarily churches and public schools) that are not annually required to file any version of the Form 990.

There are also key differences within the exempt organization sector regarding the “financial sophistication” of the entities ranging from exempt organizations that are all volunteer run with little to no financial expertise to exempt organizations with financial departments akin to the Fortune 500. On a related note, very small exempt organizations generally do not hire outside financial advisors (such as CPAs to undertake accounting and tax compliance tasks), while the mid-sized exempt organizations generally do, and the largest exempt organizations generally have in-house personnel from a financial perspective. There are differing levels of awareness that different types of exempt organizations possess for the wealth of resources made available by the IRS to exempt organizations on their website under the charities section of [irs.gov](https://www.irs.gov)⁷⁸ and otherwise. One of the IRSAC attendees at a 2023 IRS Nationwide Tax Forum noted that the TE/GE session was well attended but the level of information presented was too specialized. Focusing on more mainstream information, such as a basic introduction to exempt organizations highlighting the great resources on the [irs.gov](https://www.irs.gov) website, could broaden the impact of the outreach at such events. The IRS has developed an excellent collection of resources freely available to exempt organizations on the charities portion of [irs.gov](https://www.irs.gov), for example, Audit Technique Guides, Snapshots, Internal Revenue Manual, EO Textbooks, etc. Efforts to better publicize and promote the resources available on the Charities portions of [irs.gov](https://www.irs.gov) will expand the knowledge at all levels of charitable and other types of exempt organizations and increase compliance.

Recommendations

1. Prominently promote and highlight available nonprofit resources in outreach materials and websites that target all levels of individuals at various nonprofit organizations (stayexempt.org, Tax Exempt Organization Search, IRS EO Business Master File, monthly EO Newsletter, Life Cycles, etc.).

⁷⁸ IRS.gov Charities and Non-Profits: <https://www.irs.gov/charities-and-nonprofits>.

- (Recommendations 1-9 align with SOP objective 1 – Dramatically improve services to help taxpayers meet their obligations and receive the tax incentives for which they are eligible.)
2. Review and improve current resources including the following:
 - a. Promote resources through the monthly EO Newsletter, ensuring use of “plain English” as much as possible in communications and highlighting the features available to organizations.
 - b. Review and update the EO Business Master File on a timely basis, to improve usability including consideration of removal of the need to use the Legend.
 - c. Ensure timely and complete updates to the Tax-Exempt Organization Search (TEOS) to improve the usability and accuracy of this resource for organizations.
 - d. Expand the EO Snapshots to include a broader array of exempt organization topics beyond those topics related to private foundations.
 3. Develop additional resources on the following topics of potential interest to exempt organizations:
 - a. Electronic filing requirements
 - b. Information tax return filing deadlines
 - c. Form 8940
 - d. Public disclosure obligations
 - e. IRS audits of exempt organizations
 4. Develop new resources on the following topics of potential interest to exempt organizations:
 - a. Annotated Form 990
 - b. Getting Things Done with the IRS
 - c. Plain English Glossary
 5. Update the charities section of irs.gov to reflect separate, focused pages of resources for small, mid-size and large exempt organizations, including references to resources regarding the basics of the §501(c)(3) exemption,

- allowing organizations to quickly access the information most relevant to their needs.
6. Make change of address cards available to exempt organizations and include prominent links on irs.gov for exempt organizations to change their address of record with the Internal Revenue Service.
 7. Require exempt organizations to have an e-mail address for more efficient and effective communications. Require exempt organizations to include the e-mail address on Form 990 and expand the EO Business Master File to include an e-mail column.
 8. Update IRS documentation to recommend (or require, per recommendation #7) that small exempt organizations obtain an “organization e-mail” that can be passed down to future volunteer Board members.
 9. Consider increasing accessibility to Form 990-EZ for self-preparation by exempt organizations.
 10. Develop training sessions, such as those presented at the TE/GE session at the IRS Nationwide Tax Forums, to match the level of the audience in attendance to ensure understanding of the material, highlighting the exempt organization resources available at irs.gov for attendees seeking more detailed information. (Aligns with SOP objective 1.9 – Help taxpayers understand and claim appropriate credits and deductions.)
 11. Increase communication via partnerships with states, community foundations and nonprofit associations to expand communication channels through participation and/or inclusion of IRS materials in their outreach/engagement efforts. (Aligns with SOP objective 4.8 – Partner to expand insights.)

ISSUE FOUR: Recommendations for Effective Engagement for Section 218 and 218A Agreements

Executive Summary

Section 218⁷⁹ and Section 218A⁸⁰ agreements authorized by the Social Security Act are established between the Social Security Administration (SSA) and state or local government entities (Section 218) or tribal councils (Section 218A) to document the agreed-upon Social Security and Medicare coverage for state and local government employees and tribal council positions. Each agreement is unique to the entity that enters into the agreement increasing the complexity of accurate application and enforcement of the terms of the agreement.

At the request of the IRS Government Entities (GE) area, the IRSAC is providing recommendations for effective engagements between the IRS and state and local governments and Indian Tribal Governments (ITG) to promote increased awareness and accurate application of existing Section 218 and Section 218A agreements.

Background

In the original Social Security Act of 1935, state and local government employees and Indian tribal council members were excluded from Social Security coverage. Beginning in 1951, under Section 218 of the Social Security Act, states could elect to enter into voluntary agreements, commonly referred to as Section 218 agreements, to provide Social Security and Medicare or Medicare-only coverage to certain state and local government employees. The Tribal Social Security Fairness Act of 2018⁸¹ added Section 218A to the Social Security Act to provide Indian tribes the ability to enter into a voluntary agreement, referred to as a Section 218A agreement, to extend social security coverage to Indian tribal council positions.

Each agreement is unique and Social Security coverage of government employees can vary greatly from state to state and within a state or local area,

⁷⁹ Social Security Act Section 218: https://www.ssa.gov/OP_Home/ssact/title02/0218.htm.

⁸⁰ Social Security Act Section 218A: https://www.ssa.gov/OP_Home/ssact/title02/0218A.htm.

⁸¹ Tribal Social Security Fairness Act of 2018: <https://www.congress.gov/bill/115th-congress/house-bill/6124>.

increasing the challenge of training, enforcement, and compliance with the terms of the agreement. For example, a specific class of employees (i.e., police officers) may be subject to social security coverage under the Section 218 agreement for city 'A' but that same class of employees may be exempt from social security coverage under the Section 218 agreement for the neighboring city 'B'. In addition, as of April 20, 1983, Section 218 agreements were made irrevocable so the coverage in place as of that date cannot be revoked. Modifications to Section 218 agreements may be made in limited circumstances such as the consolidation of school districts that had different coverage for similar positions under the Section 218 agreements for the original school districts.

For Section 218 agreements, each state has an identified State Social Security Administrator (SSSA) responsible for working with the SSA and ensuring performance of the state's responsibilities under the agreement. IRSAC TE/GE meets quarterly with the National Conference of State Social Security Administrators (NCSSSA) to provide updates and information regarding changes. In addition, the IRSAC recognizes the IRS for providing a key resource in Publication 963,⁸² the Federal-State Reference Guide, a cooperative publication of the SSA, IRS, and NCSSSA, which provides a comprehensive reference for Social Security and Medicare coverage and tax withholding requirements for state, local and Indian tribal government employees, and public employers.

However, even with key resources and information available, the IRS office of Federal, State, and Local Governments (FSLG) in the Tax Exempt and Government Entities (TE/GE) operating division reports that risks identified in field examinations related to Section 218 agreements include:

- 1) Entities that are unaware of the existence of a Section 218 agreement for their covered units.
- 2) Entities that are aware of the existence of a Section 218 agreement but are unfamiliar with, or incorrectly interpreting, the terms of the agreement.

⁸² IRS Publication 963: <https://www.irs.gov/pub/irs-pdf/p963.pdf>.

- 3) Entities that are not withholding social security and Medicare correctly based on the terms of the Section 218 agreement.
- 4) Entities that have consolidated and not reviewed/addressed the impacts to the Section 218 agreements of the covered units that are now a combined entity.
- 5) Entities that have experienced a change to a state retirement plan which may require modifications to the Section 218 agreements and/or mandatory coverage requirements.

Recommendations

1. To address the level of turnover that can occur in state government positions, identify the most effective method to complete an annual outreach to all named State Social Security Administrators and Indian Tribal government contacts responsible for Section 218/218A oversight in order to communicate the requirements of Publication 963 and highlight key best practices for consideration in fulfilling this responsibility. (Recommendations 1-5 align with SOP objectives 1.7 – Provide earlier legal certainty and 1.9 - Help taxpayers understand and claim appropriate credits and deductions.)
2. Identify the most efficient method to provide direct collaboration and training opportunities on a semi-annual basis between the IRS and the state/ITG administrators to provide updates, highlight current trends/risk, encourage best practices, increase trust via direct contact with key resources, and invite dialogue on questions from states/ITG and/or sharing between states of effective compliance efforts. Consider recording and posting training sessions, when possible, for future reference/training.
3. Engage with state-level municipal service organizations to include information regarding Section 218 agreements in annual conferences/outreaches to increase the awareness and understanding of the agreements and compliance requirements.
4. Engage with Indian Tribal Governments organizations to include information regarding Section 218A agreements in annual

conferences/outreaches to increase the awareness and understanding of the agreements and compliance requirements.

5. Designate an employee from the IRS Office of Indian Tribal Governments to answer Section 218A questions and provide ongoing services and support in this area.

ISSUE FIVE: Recommendations for Increasing the Tax Reporting Threshold for Slot Machine Jackpot Winnings

Executive Summary

The current threshold for tax information reporting for slot machine jackpot winnings at casinos was set at \$1,200 in 1977 through Treasury regulation and has been stagnant since then. Since establishing the \$1,200 threshold in 1977, inflation has decreased the value of that threshold, resulting in an increased number of Form W-2G reports filed each year. Failure to index this reporting threshold has placed an unnecessary compliance burden on the player (taxpayer), increased administrative costs for tribal (and commercial) casinos, and creates paperwork backlogs and operational burdens at the IRS.

When accounting for inflation, a comparable jackpot reporting threshold today is estimated to be approximately \$5,800. The IRSAC recommends raising the reporting threshold and subsequently increasing it based on inflation cost-of-living-adjustments each year. In the alternative, the IRS should consider incrementally increasing the threshold over a period of three to five years or until such time as the threshold meets an inflation adjusted amount equal to the threshold established in 1977.

Raising the reporting threshold to reflect inflation will streamline and enhance the quality of information collected and enable the IRS to focus its enforcement resources on those taxpayers most likely to have year-end net slot winnings.

Finally, because this threshold was initially set by regulatory action, such a change should also be made via regulatory action.

Background

Treas. Reg. § 1.6041.10 currently sets the tax reporting threshold for slot machine jackpot wins at \$1,200. When a customer at a tribal (or commercial) casino wins a jackpot at a slot machine of \$1,200 or more, a W-2G must be filed. The value of a \$1,200 jackpot today is not the same as a \$1,200 jackpot in 1977. According to the Bureau of Labor Statistics, since the implementation of this

threshold (June 30, 1977) a comparable jackpot reporting threshold today would be \$5,838.63.⁸³ The IRSAC notes that H.R. 3125⁸⁴ was introduced in the House of Representatives on May 5, 2023, to amend the Internal Revenue Code of 1986 to increase the information reporting threshold for slot winnings to \$5,000.⁸⁵

The static reporting threshold has led to a dramatic increase in the number of reportable jackpots and thus the operational and labor costs of the IRS. In 2020, a year when most casinos closed for a portion of the year and reopened at significantly reduced capacity levels due to COVID-19, the IRS processed 15,842,229 Forms W-2G.⁸⁶ By the IRS's own estimates, the number of Forms W-2G will increase to 18,042,600 by 2029.⁸⁷ Historical data also shows this number has been increasing significantly over time, with under 9 million Forms W-2G processed in 2005.⁸⁸

At the same time, most slot machine customers are in a net loss position at the end of the year. Unlike other forms of tax information reporting that report actual income, the Form W-2G reporting of a "payment" on a gross basis is different from the ultimate determination of the patron's taxable gain or loss from slot play. Updating the slot jackpot reporting threshold to a realistic level such as \$5,800 would reduce some of this W-2G "flag" reporting and help the IRS focus on forms and taxpayers associated with net gambling income at the end of the taxable year.

Raising the reporting threshold to reflect inflation would not only be beneficial to IRS operations but would also ease operational burdens on the tribal (and commercial) casino operators. Tribal (and commercial) casinos bear significant labor costs and a business revenue loss because of this tax information reporting, as slot machines must be shut down and taken out of production of

⁸³CPI Inflation Calculator: <https://data.bls.gov/cgi-bin/cpicalc.pl?cost1=1%2C200.00&year1=197707&year2=202212>.

⁸⁴ H.R. 3125: <https://www.congress.gov/bill/118th-congress/house-bill/3125/text?s=1&r=3>.

⁸⁵ H.R. 3125 would add Section 6041(h) to place the slot machine reporting threshold in the IRC and adjust it annually for inflation. Currently, the threshold is set in Treasury regulations under Section 6045 (Treas. Reg. 1.6041-10).

⁸⁶ See Table 2, p. 5: "Projections of Information and Withholding Documents United States All Media Grand Total: Calendar Years 2021–2029" <https://www.irs.gov/pub/irs-pdf/p6961.pdf>.

⁸⁷ Ibid.

⁸⁸ See Table 2 in "Historical Publication 6961 Tables": <https://www.irs.gov/statistics/soi-tax-stats-calendar-year-projections-publication-6961>.

revenue to fulfill tax information reporting obligations. While tribal (and commercial) casino employees obtain information from slot machine customers to fill out Form W-2G, slot machines are locked down anywhere from 20 to 45 minutes. As noted earlier, there are millions of Forms W-2G sent to the IRS each year, resulting in significant lost revenue and valuable employee time.

The IRSAC acknowledges that an increase in the threshold may initiate additional legislative action at the state level to address the impact to existing state statutes that are based on the W-2G threshold (i.e., debt setoff program matching).

The Department of Treasury has regulatory authority to update the slot jackpot reporting threshold and has exercised such authority in the past. Treasury described this regulatory history in the preamble to the proposed version of Reg. § 1.6041.10 in 2015:

“Section 6041 generally requires information reporting by every person engaged in a trade or business who, in the course of such trade or business, makes payments of gross income of \$600 or more in any taxable year. The current regulatory reporting thresholds for winnings from bingo, keno, and slot machines deviate from this general rule. Prior to the adoption of the current thresholds in 1977, reporting from bingo, keno, and slot machines, was based on a sliding scale threshold tied to the amount of the wager and required the wager odds to be at least 300 to 1. On January 7, 1977, temporary regulation §7.6041-1 was published establishing reporting thresholds for payments of winnings from bingo, keno, and slot machine play in the amount of \$600. In Announcement 77-63, 1977-8 IRB 25, the IRS announced that it would not assert penalties for failure to file information returns before May 1, 1977, to allow the casino industry to submit, and the IRS to consider, information regarding the industry’s problems in complying with the reporting requirements. After considering the evidence presented by the industry, the IRS announced in a press release that effective May 1, 1977, information reporting to the IRS would be required on payments of winnings of \$1,200 or more from a bingo game or a slot machine play,

and \$1,500 or more from a keno game net of wager. On June 30, 1977, § 7.6041-1 was amended to raise the reporting thresholds for winnings from a bingo game and slot machine play to \$1,200, and the reporting threshold for winnings from a keno game to \$1,500.⁸⁹

The amendment to Reg. § 7.6041 raising the slot reporting threshold to \$1,200 in 1977 was “issued under the authority contained in section 7805 of the Internal Revenue Code of 1954.”⁹⁰

Recommendations

1. Pursue addition to the IRS Priority Guidance Plan to increase the tax reporting threshold for slot machine jackpot winnings to \$5,000 (modification to Treas. Reg. 1.6041-10). (Recommendations 1-2 align with SOP 4.7 – Strategically use data to improve tax administration.)
2. For calendar years beginning after the first year of a \$5,000 threshold, consider periodic increases to increase the threshold to a dollar amount multiplied by the cost-of-living adjustment.

⁸⁹ See Preamble to Prop. Reg. § 1.6051-10 (REG-132253-11), 80 Federal Register 11600 (March 4, 2015); <https://www.govinfo.gov/content/pkg/FR-2015-03-04/pdf/2015-04437.pdf>.

⁹⁰ T.D. 7492, 42 Federal Register 33286 (June 30, 1977): <https://www.govinfo.gov/content/pkg/FR-1977-06-30/pdf/FR-1977-06-30.pdf>. Note that this regulation has been replaced with Reg. 1.6041-10 (see preamble to T.D. 9807 (Jan, 4, 2017); <https://www.govinfo.gov/content/pkg/FR-2016-12-30/pdf/2016-31575.pdf>).

INTERNAL REVENUE SERVICE ADVISORY COUNCIL

Wage & Investment Subgroup Report

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INTRODUCTION

The IRSAC Wage & Investment (W&I) subgroup is a collaborative group of eight members including CPAs, enrolled agents, attorneys, payroll professionals and volunteer income tax assisters.

The members' collective tax experience includes accounting and tax return preparation (ranging from solo practitioners to large, commercial tax preparation firms), tax planning and advice, payroll processing, and representation of individual and business taxpayers from many segments of our society.

The W&I spectrum covers a large and diverse population of taxpayers with a wide range of income and tax return complexity. W&I encompasses tax return processing, forms publication, electronic products and services, preventive and corrective identity theft programs, and the overall administration for delivering timely, accurate, and excellent service while reducing taxpayer burden.

The COVID-19 pandemic presented the IRS with many opportunities to assist American workers, families, businesses, and industries with much needed tax relief provided by the CARES Act, the Consolidated Appropriations Act, the American Rescue Plan Act of 2021 and the Inflation Reduction Act of 2022.

During this past year, our subgroup worked closely with our IRS W&I colleagues to provide feedback and recommendations to help improve taxpayer service, compliance, and administration.

At the request of the W&I Division, our report addresses the following four topics:

- Prior Year DIY Product
- Notices and Communication
- Forms Modernization
- Modernizing the ITIN Process

We thank W&I Commissioner Ken Corbin, and the many IRS personnel with whom we've worked closely this year for their cooperation and assistance in developing this report and for their recognition of the Subgroup as an integral resource.

We especially thank our liaisons from the National Public Liaison Division, including Maria Salazar, for their guidance and facilitation of our service, providing information, advice, and access to essential IRS personnel needed to develop our report.

ISSUE ONE: Prior Year DIY Product

Executive Summary

IRS has a high volume of paper-filed, do-it-yourself (DIY) prior-year tax returns filed annually. It aims to reduce the amount of paper it receives and the corresponding processing work by working with the industry to provide a secure way for DIY filers to submit prior year returns. At the current time, there is no way for a taxpayer to electronically file their own prior year returns. The return either must be paper filed, or a taxpayer needs to seek the assistance of a paid professional to file. Further, at the current time, only the current and two years prior can be filed electronically. All older years must be paper filed.

Initial perspective

IRS receives millions of paper-filed prior-year returns self-prepared by taxpayers. These returns create a significant demand, given paper handling and processing requirements at IRS. The IRS wants to enable these prior year returns to be electronically filed with an initial focus on DIY solutions; electronic return originators (EROs) are already allowed to e-file the two prior tax years. Additionally, the IRS is looking to implement any solution that minimizes the submission of fraudulent returns or increases identity theft risks.

To that end, the IRS has requested initial feedback on the IRS's proposed range of potential implementations of the electronic filing of prior year self-prepared tax returns starting in the 2024 filing season, including its fraud prevention requirements.

The IRSAC final report is released in November 2023. Therefore, IRSAC W&I Subgroup submitted its initial preliminary views to the IRS in a memorandum in March 2023 (see below). The IRS also requested feedback from the IRSAC Wage & Investment Subgroup on the IRS's proposed implementation of the electronic filing of prior year self-prepared tax returns starting in the 2024 filing season.

Background

IRS must reduce paper filings

In 2011, the IRS began to accept electronically filed prior year Form 1040s prepared by practitioners, but not from a taxpayer who self-prepared a return using DIY tax software. Concerning paper-filed returns, taxpayer-prepared DIY returns must be coded and entered into the IRS's processing systems.

Between Filing Season (FS) 2018 and FS 2021, the IRS reports that the total volume of paper-filed prior-year returns increased from approximately 3 million to over 5.6 million. Reasons for this increase include (1) a trend of traditional non-filers filing a prior year return in order to claim tax benefits under COVID legislation⁹¹ and (2) a trend of taxpayers who were required to file having to submit a paper return after using the non-filer tool. The IRS estimates that about 55% of paper-filed prior-year returns are from DIY taxpayers. As a result, the IRS is looking to develop, launch and support a DIY prior-year tax return solution in January 2024 for prior years 2021 and 2022 to reduce the amount of paper received.

Identity Theft Fraud (IDT) is an important consideration

A critical aspect of a practitioner-prepared return is the practitioner's validation of the taxpayer's identity before filing a return.

As noted above, current taxpayers may not use DIY software to prepare and electronically file prior year Form 1040s. One significant barrier to e-filing of DIY returns for prior years is the inability of taxpayers to validate their identity as they do with current year returns by using either (i) an IRS-approved shared secret from a prior year return (e.g., Prior Year Adjusted Gross Income) or a Prior Year Personal ID PIN, or (ii) an Identity Protection PIN (IP PIN).

As a side note, the IRS does not require an IP PIN on current-year DIY returns and, assuming there is fraud in the current year, the IRS should have a basis for treating prior-year returns differently.

⁹¹ During the COVID pandemic numerous taxpayers filed prior year returns to secure their Economic Impact Payment (EIP).

Creating a process that taxpayers can easily use to DIY file returns should be considered. DIY filing should make the submission of prior year returns easier, but one concern is putting too many restrictions or conditions on the DIY self-preparing taxpayer that would make it harder for them to file and remain or get in compliance, e.g., such as by forcing them to a practitioner support model or discouraging them from trying to file at all.

Potential opportunity

First, the IRS faces a challenge with receiving and processing "paper" materials, as was reported for multiple years during the recent COVID pandemic. The IRSAC agrees that it is in the national interest of the IRS to reduce the number of paper-filed returns.

Second, it is an understandable requirement for the IRS to identify and stop fraudulent "identity theft" tax returns. The IRS is asking for the IRSAC's view of a suitable approach to validate taxpayer identity in an initial launch of DIY solutions to file prior year self-prepared returns.

The IRS has framed the viable solutions around this taxpayer validation requirement by using one of several existing approaches⁹²:

- a) Use current year e-filed DIY return signature options, e.g., a shared secret (when available), a \$0 AGI (when no shared secrets are open), or PIN (which must always be used when one is issued to a taxpayer); or
- b) Use IP PIN only; or
- c) Use AGI \$0, i.e., Prior Year \$0, or an IP PIN.

Of course, there are several potential issues associated with using any of the above validation methods, as described next.

Item "a": The use of current year e-filed DIY return signature options involves one of the following: a shared secret (when available), a \$0 AGI (when no

⁹² A different potential option is the possibility of generating a "one-time" PIN for people who have created an IRS personal online account. However, though considered, the IRS still needs to assess whether or how such a solution could be implemented by January 2024.

shared secrets are available), or PIN (which must always be used when one is issued to a taxpayer). Taxpayer use of a "shared secret" for prior year returns can create confusion, i.e., determining a Prior Year AGI may be complicated and incorrect entries will result in an e-file reject.

Item "b": The use of an IP PIN only is doable, but there may be delays in getting approved to use an IP PIN for the first time using, for example, a mailed request. On the other hand, taxpayers can get an IP PIN "same day" using the online validation solution. Failure to include an IP PIN is also a top e-file rejection reason, with taxpayers often unaware they need to have an IP PIN with every tax return they file after they have received an IP PIN.⁹³ Taxpayers cannot opt out of IP PIN usage once they are approved to use one.⁹⁴

Item "c": AGI \$0 (i.e., Prior Year \$0) or an IP PIN presents the abovementioned issues. This may present new risks for fraudulent return submissions.

Given the 2024 target, the IRSAC believes relying on the IP PIN is the safest initial approach.⁹⁵ It avoids the other customary models that would likely generate more taxpayer confusion and reduce the potential for fraud in self-prepared prior-year returns.

Likely Assumptions

- On average, DIY taxpayers are likely to be more technically savvy than those who use the services of practitioners.

⁹³ See 25.23.2.9.3 (09-06-2023); IP PINs are generated for every taxpayer identification number (TIN) in the IP PIN population; however, some accounts will have an IP PIN generated but will not have a CP01A notice mailed because the notice was suppressed.

⁹⁴ The IRS received funding to implement an IP PIN opt-out option, but does not have an exact date when the opt-out option will be made available at this time. Only taxpayers that opted into the IP PIN program will be able to opt-out. Taxpayers who are a confirmed victim of identity theft will not be able to opt-out.

⁹⁵ Programming allowing DIY prior year filing is in place and shared in the SOR 8/31/2023 with industry.

- Taxpayers who must file a prior year return often must file returns for multiple previous and current years.
- Taxpayers who last filed tax returns several years ago should be made aware of their options to comply with tax filing requirements, but they may hesitate to provide the IRS personal information or initiate contact with the IRS.
- The shared secret model used by DIY taxpayers is a known issue and is a current top e-file reject driver. Taxpayers need help finding their previously filed returns. It is even more challenging to locate the correct information when filing a prior year's return because this is potentially an attempt to amend multiple past years.
- Some taxpayers will be sensitive about offering up their private information to the IRS or IRS vendors facilitating the issuance of an IP PIN. For example, the information that must be provided to ID.me stated: "To verify their identity with ID.me, taxpayers must provide a photo of an identity document such as a driver's license, state ID, or passport. They will also need to take a selfie picture with a smartphone or a computer with a webcam. Once their identity has been verified, they can securely access IRS online services."
- Some taxpayers will be unable to complete the same-day IP PIN process due to a lack of access to technology or other issues impeding their ability to authenticate their identity electronically.

Electronic Filing

Taxpayers should have the opportunity to electronically file returns that have open dues dates based on the statute limitations. Tax returns that are filed to obtain refunds have a statute of limitations due date of three years after the original due date. For example, a timely filed 2019 tax return is due on April 15, 2020. If a taxpayer is unable to file timely, they generally have three years from the original due date to file and still get his/her refund. In this example, the refund statute expiration date (RSED) would be April 15, 2023. The IRS limits the current electronic filing system that tax professionals use to filing only two years of prior years' returns. In this example, a 2019 return cannot be filed electronically. This

places an additional burden on the IRS to process paper tax returns from a prior year where the filing deadline based on the statute is looming. The benefits of increasing the scope of e-file must be balanced by the increased costs to support the e-file system on both the IRS and industry partners supporting e-file.

One of the main goals of the IRS is voluntary compliance. Taxpayers must file their income tax returns and pay their fair share of tax. Further, for taxpayers to be considered for various collections activities, they must file tax returns for the current, and all prior years. By allowing taxpayers to file all year's tax returns, it would serve both taxpayers and the IRS well to enable DIY tax return filings for all years.

For administrative convenience, the IRS defines compliance for non-filers in general as six years' worth of outstanding returns. This is spelled out in Policy Statement 5-133, Delinquent Returns-enforcement of filing requirements, and is found in the Internal Revenue Manual at 1.2.1.6.18. By allowing at least six years of DIY electronic filing, taxpayers would also become eligible for a settlement such as installment agreements and offers-in-compromise.

Guiding Principles

In anticipation of its recommendations, the IRS should focus on working under specific guiding principles such as:

- Continue to support existing, legacy solutions to file prior-year return options for those who do not want to obtain an IP PIN, i.e., using an electronic return originator, paid preparer, and paper filing.
- Protect the IRS and taxpayers from potential identity thieves by providing a reasonable solution to self-validate taxpayers, including some assurance that the individual filing is coming from the correct person.
- Rely on existing solutions whenever possible, e.g., expanding the use of IP PIN.
- Offer a DIY solution to help self-preparing taxpayers file and gain compliance quickly.

- During any launch, the IRS should have a designed learning effort that enables the IRS to adjust the protections for DIY prior year returns in future years to increase usage and strengthen and invest in related programs it relies on to allow e-filing solutions such as the IP PIN program.

Recommendations

1. Work with tax software companies to enable a do-it-yourself (DIY) tax software solution to prepare and electronically file prior year returns by the filing season that commences in January 2024 for previous tax years 2021 and 2022. This cooperation could include enabling their products to file previous year returns electronically and messaging and presenting the IP PIN option.⁹⁶
2. Begin with an approach that is most likely to mitigate fraud, and the IRSAC supports using an IP PIN to submit DIY Prior Year returns.
3. Have a backup plan. If Plan A is IP PIN and there is pushback or low utilization, the IRS should have a Plan B as a backup plan and consider the impacts of switching courses. In effect, the IRS can always start with a particular approach but adjust as necessary as it learns more. This "learn and adjust" approach should be part of any product launch program, i.e., evaluate and adjust after capturing feedback.
4. Enable taxpayers to:
 - a. electronically file returns with open due dates based on the statute of limitations, and
 - b. to help ensure compliance and collections efforts, include electronic filing of tax returns for all years.⁹⁷

⁹⁶ On August 17th, Electronic Filing Services (eFS) notified industry of the PY DIY implementation which would be received in the August 31st SOR package. The IRS plans to release additional communications for Filing Season readiness.

⁹⁷ The concept of including "all years" would enable taxpayers who were non-filers an easy way to file all of their back year tax returns as necessary. Enabling all years to be electronically filed would also enable the IRS to allow for the six years that its collection teams need to start a payment plan other payment options, including offers-in-compromise and other payment approaches.

ISSUE TWO: Notices and Communication

Executive Summary

The exchange of notices between taxpayers and the IRS generates millions of individual communication transactions. Taxpayers send most correspondence by mail on paper. The IRS is working to improve the customer experience, including developing and expanding communication avenues to supply more efficient ways for taxpayers or tax professionals to submit requested documentation online instead of mailing responses to the IRS. IRS is also desiring to reduce the frequency of duplicate submissions between receipt channels – Documentation Upload Tool (DUT)⁹⁸, fax and mail.

Under the Taxpayer Services Objective of the IRS's Strategic Operating Plan, Initiative 1.2, the IRS seeks to expand digital services and digitization. Under Initiative 2.3, the IRS seeks to develop taxpayer-centric notices.

The Return Integrity Verification Operations (RIVO) function remains focused on strategies that will enhance the customer experience while modernizing communication avenues. This can be achieved by ensuring IRS letters and notices are easy to understand and promoting electronic options using current technologies, with an eye on digital efforts that may be on the horizon.

RIVO would like the IRSAC to explore the following:

- Provide input on expected taxpayer behavior when submitting documentation that IRS requested.
- Provide insights into taxpayer behaviors and taxpayer understanding of RIVO letters, provide recommendations for clarifying language in the letters to improve taxpayer's understanding and suggest research methods as RIVO moves forward.

⁹⁸ The Documentation Upload Tool at <https://apps.irs.gov/app/digital-mailroom/> allows taxpayers to reply to certain IRS letters by scanning or photographing their letter and documents and uploading them as .pdf, .jpg, .jpeg and .png files.

- Provide insights to the IRS on its current electronic options for submitting documentation and develop recommendations for additional electronic options as technologies evolve.

Background

The exchange of notices between taxpayers and the IRS generates millions of individual transactions. Currently, taxpayers submit correspondence by mail on paper. The IRS is continuing its focus on the customer experience, including developing and expanding communication avenues. As a result, the IRS is implementing modern technology platforms to provide more efficient ways for taxpayers or tax professionals to submit requested documentation online instead of mailing responses to the IRS.

For example, in 2021, IRS launched the Document Upload Tool (DUT) to enable digital correspondence for the automated questionable credit (AQC) program (Letters 4800C and 3219C).⁹⁹ In early 2023, the IRS expanded the program by providing a link and an access code to specific taxpayers so they can upload selected documents to the IRS.¹⁰⁰ The IRS currently limits usage of the DUT online upload to specific IRS computer paragraph (CP) series notices, which are potentially sent to more than 500,000 taxpayers each year. In addition, the IRS has identified 53 other notices that could be appropriate for this type of secure digital communications.

The other options for taxpayers to send the requested documentation include paper responses via United States Postal Service and facsimile (“fax”).

The IRS added language to letters and notices to clarify how and when to submit documentation, including a statement to use *only one* method for document submission. However, many taxpayers continue to submit the same information through multiple channels to the IRS.

⁹⁹ CL-21-25, August 26, 2021, “Innovation at Work – Using Technology to Bring the IRS Forward”: <https://www.irs.gov/about-irs/innovation-at-work-using-technology-to-bring-the-irs-forward>.

¹⁰⁰ FS-2023-05, Feb. 2023, “IRS expands secure digital correspondence for taxpayers”: <https://www.irs.gov/newsroom/irs-expands-secure-digital-correspondence-for-taxpayers>.

IRS must reduce paper-filed returns

Two key indicators for success of the Strategic Operating Plan are: (1) Wider array of digital options to help taxpayers and tax professionals interact with the IRS and have a more seamless customer experience, and (2) Higher proportion of paperless processes and systems throughout the IRS, from intake to processing. In the Strategic Operating Plan, the IRS also plans a strategic shift away from a situation where “filing and communications are paper-based and inconvenient for taxpayers” towards “electronic filing and communication options that are simpler and will make it easier to interact with the IRS.”¹⁰¹

IRS has enabled DUT to process several IRS notices and letters

For example, in early 2023, the IRS expanded the DUT to enable digital correspondence from the taxpayer by supplying a URL and a time-limited unique access code to a specific taxpayer so they can upload their documents to the IRS. DUT access is decided by the IRS at the program level and is not available for certain documents such as those requiring physical signatures.

There is currently not a mechanism in place to prevent tax professionals from using DUT to send documentation on their client’s behalf. The IRS is not able to distinguish whether the taxpayer sent a document directly or if another party submitted it for them.

The DUT online upload is a choice for the following notices that RIVO seeks feedback on:

- CP05A, Notice of Held Refund
- 4800C, Questionable Credit 30 Day Contact Letter
- 3219C, Statutory Notice of Deficiency

But there is a challenge for RIVO

The IRS Return Integrity & Verification Operation (RIVO) continues to expand the digital footprint by including more programs within DUT, allowing taxpayers to

¹⁰¹ Pub. 3744, Internal Revenue Service Inflation Reduction Act Strategic Operating Plan FY2023 to 2031, pgs. 19-20: <https://www.irs.gov/pub/irs-pdf/p3744.pdf>.

upload their responses directly to the IRS using a phone or computer, in lieu of responding by mail or fax.

RIVO treats Non-Identity Theft fraudulent returns in several different compliance treatment streams, including Automated Questionable Credits (AQC) and Wage Only Work (WOW), primarily in a pre-refund atmosphere. The RIVO letter/notice is issued to explain the type of review being conducted and the documentation the taxpayer should submit to substantiate their response to the IRS letter/notice.

The IRS updated letters and notices to include an enclosure with Quick Response (QR) codes to encourage participation with DUT. Within a letter itself (for example, the 4800C), the letter references the choice to use DUT and provides the website a taxpayer may use to respond. Notice 1452, Reply to the IRS Online -Documentation Upload Tool, is an enclosure that is mailed with the letters/notices and has a response QR Code. A video showing how to use the tool is also available online.¹⁰²

Taxpayers are filing the same information through multiple channels

Language in letters and notices have been updated to clarify how and when to send documentation, including a statement to use *only one* methodology for document submission. Additionally, many of the communications have been submitted for Spanish translations, with more languages on the horizon.

However, many taxpayers continue to send the same information through multiple channels to the IRS. Information sent through DUT, mail, and fax does not go directly onto the taxpayer's account. When taxpayers send documentation through multiple channels, the IRS must match information submitted in response to one notice through multiple channels to the taxpayer and consolidate the information together before reviewing the documentation.

¹⁰² Documentation Upload Tool Video:
<https://www.irsvideos.gov/Individual/PayingTaxes/DocumentationUploadToolVideo>.

Potential Opportunities

First, the IRS faces a challenge with “paper” materials. The IRSAC agrees that it is in the national interest for the IRS to reduce the number of paper-filed returns as well as correspondence. DUT usage has increased since implementation, including the response rates for RIVO notices.

Second, it will likely increase efficiency for the IRS to recognize and reduce the instances where taxpayers are filing duplicate responses through the multiple channels.

Although the IRS needs taxpayers to send only through one channel, RIVO analysis of taxpayer replies identified situations in which taxpayers are providing the same information through all available options, which can inflate inventory reports and delay resolution to the taxpayer’s account.

It appears that some taxpayers believe that supplying information to all available options will produce a faster outcome when, in fact, doing so will cause duplication in inventory reports and delay processing the taxpayer’s refund.

Alternatively, there may be other drivers of that behavior:

- people may send mail first, then go to other methods as they later obtain access to DUT or fax, or
- people may not find the DUT approachable and easy to use and may only return to it later as a last resort when their refund is delayed, or
- people do not have an acknowledgment the IRS received their mail, and do not have a quick way to confirm the IRS received their mail and resubmit the same documentation.

Taxpayer Reactions

IRS notices can be long and complicated. In the context of RIVO notices, when the IRS holds a taxpayer’s refund, the taxpayer may find their situation more urgent and may try to contact the IRS multiple times over the correspondence period to ensure the taxpayer’s refund is on track.

Taxpayers who have not interacted with the IRS before may feel overwhelmed and anxious because the IRS is holding their refund. RIVO should work toward creating an experience that is not intimidating. Taxpayers who have interacted with the IRS in the past may be inclined to respond by mail and follow up through phone calls since that is what they have always done. The digital divide may continue to be a problem with some taxpayers continuing to rely on mailing correspondence through the USPS. Taxpayers who visit the DUT may understand it as a place to upload their “proof” separately after they mail a response to the IRS.

Taxpayers and their representatives who use the DUT need confirmation with a time and date stamp that they submitted their documentation and the type of documentation submitted. Confirmation that the IRS received the taxpayer’s response would be particularly beneficial to the elderly, low-income, and those who speak English as a second language.

The IRSAC recommendations below address the following topics:

- Recommendations for clarifying language in the letters to improve taxpayer’s understanding.
- Recommendations suggesting research methods as RIVO moves forward.
- Insights into taxpayer behaviors and their understanding of IRS letters.
- Insights for the IRS on its current electronic options for submitting documentation.
- Insights into developing recommendations for additional electronic options as IRS technologies evolve.

Recommendations

1. Provide taxpayers with a time/date stamped receipt as proof of their submission through DUT.¹⁰³

¹⁰³ This is particularly important for taxpayers responding to a Statutory Notice of Deficiency such as Letter 3219. The IRS should deliver these receipts electronically at the time of submission followed by notification through USPS.

2. The RIVO program should collaborate with the Taxpayer Experience Office to understand the challenges taxpayers face navigating IRS processes and identify global changes to the DUT that would increase taxpayer usage of the DUT and make the DUT more user-friendly.
3. The RIVO program should work to revise notices to:
 - Clearly and distinctly show the “New” Documentation Upload Tool option on notices and correspondences to help taxpayers understand they could respond quickly using a mobile device.
 - Include a direct call to action on page 1 of the CP letters directing the taxpayer to respond and presenting the response options with DUT listed first; also noting that responses through multiple channels may slow response.¹⁰⁴
 - On page 1 of the CP letters, give taxpayers digital options by specifically saying that information can include “Pictures, screenshots, and files of ...” instead of just saying “copies of”.
 - On page 1 of the CP letters, delineate “Next Steps” into “Next Steps for You” and “Next Steps for IRS” so the taxpayer can easily understand what they need to do and what the IRS will do following their response (or lack of response). Complete a user study on the notices and observe taxpayers reading and trying to respond to each letter in question.
4. Rename the Documentation Upload Tool and redesign the landing page (splash page) so it clearly names itself as an online response option that taxpayers receiving IRS letters/notices may use to respond.¹⁰⁵
5. Enable taxpayers to retrieve and view digital copies of their submissions through their Taxpayer Online Account and see what step of the process their notice is in.¹⁰⁶

¹⁰⁴ For example, instead of saying “If you are unable to fax” on page one of CPC05A, say “Upload your response through our Documentation Upload Tool [with a link to the tool]; if you are unable to use the DUT, respond by fax or mail.”

¹⁰⁵ For example, the title might indicate it is a e-notice response service or a secure portal.

¹⁰⁶ This is particularly crucial for taxpayers in pre-refund verification programs; the IRS could also provide this information through Where’s My Refund.

6. Develop programming and modernize underlying systems to take documents sent through DUT and automatically attach them to the taxpayer's account.¹⁰⁷
7. Incorporate a direct path to the DUT from the Taxpayer Online Account and Tax Professional Online Account and digitally provided copy of the taxpayer's notice as an authenticated service to streamline processes.
8. Build an interface meant for taxpayer representatives to allow them to upload documents on behalf of taxpayers through the DUT, provide them date/stamped receipt, and a method for them to access digital copies of the information.
9. When a taxpayer phones the IRS, use technology to identify whether they have an open notice under the RIVO program and route their call to an assistor.

¹⁰⁷ Clerical attachment should only be needed if they fall out due to errors. The IRS should mirror this programming for fax submissions as well as for paper submissions, if the IRS will be scanning these in the future.

ISSUE THREE: Forms Modernization

Executive Summary

To date, many IRS forms are fillable Portable Document Format (PDF) forms that are not well handled on mobile devices. As a result, the IRS is working to modernize its forms to meet the requirements of the 21st Century Integrated Digital Experience Act (IDEA), which requires all IRS forms to be digitized and fully functional on mobile devices and to improve the taxpayer experience.

More specifically, under the Taxpayer Services Objective of the IRS's Strategic Operating Plan, Initiative 1.2 directs the expansion of digital services and digitalization, working toward the following measures of success:

- (i) Improved taxpayer experience for preparing and submitting documents,
- (ii) Decreased processing times for end-to-end digital processes,
- (iii) Elimination of backlogs in paper and manual processes,
- (iv) Increased accuracy of translation data,
- (v) Accessibility for taxpayers with disabilities and in taxpayers' preferred languages, and
- (vi) Reduced environment impact through decreased paper usage, shipping, and storage.

To comply with this guidance and the legislation, the IRS W&I Media & Publications section has created a Digital Mobile and Adaptive Forms (DMAF) team to manage the creation of the next-generation of IRS forms in adaptive format and to create, test and deliver an initial selection of adaptive forms supporting the following goals: (i) improving internal workflows and return data availability to enhance the digital service delivery for taxpayers, including the use of e-signatures; (ii) improving access to IRS forms for completion and digital submission; and (iii) ensuring ease of use and simplification of forms including multilingual forms.

DMAF is requesting feedback from the IRSAC on possible forms and priorities for consideration, and any concerns on making these forms in a more user-friendly format.

Background

DMAF is evaluating and prioritizing current forms for development into mobile adaptive forms with initial deliveries by the end of 2023.¹⁰⁸ The first forms to be produced as adaptive forms are being evaluated by several criteria including:

- **Taxpayer Impact:** weighting factors relate to taxpayer demand for the form, and the impact on taxpayer wait time (for example, the length of time the taxpayer waits for a refund of taxes paid).
- **Feasibility:** weighting factors relate to whether it is a stand-alone form or one that has minor or significant dependences on another form or business process; weighting factors related to whether the IRS business unit receives submissions as PDF or has access to scanners and software to decode and extract data; weighting factors based on whether the IRS form owner has access to a database that can receive and store Extensible Markup Language (XML) data from adaptive forms.
- **Other Considerations:** weighting factors related to ad hoc information that justifies a higher priority such as organizational importance and/or readiness.

The Forms Modernization Roadmap is also flexible so that, as development business priorities change, the development of adaptive forms will be reprioritized on several factors such as evolving business needs and capabilities, legislative requirements, and the ability to maximize taxpayer experience.

¹⁰⁸ IRS has also announced that at least 20 of the most used non-tax forms will be available in digital, mobile friendly formats that make them easy for taxpayers to complete and submit and will include a Request for Taxpayer Advocate Service Assistance, making it easier for taxpayers to get the help they need. See FS-2023-18, Aug. 2023: <https://www.irs.gov/newsroom/irs-launches-paperless-processing-initiative>.

Draft List of Potential IRS Forms

IRS DMAF has provided the IRSAC with the below preliminary list of prioritized forms for conversion subject to any changes triggered by contingencies.¹⁰⁹

Form Number	Title
911	Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance order)
15109	Request for Tax Deferment
13909	Tax-Exempt Organization Complaint (Referral)
13533	VITA/TCE Partner Sponsor Agreement
14242	Reporting Abusive Tax Promotions and/or Preparers
12661	Disputed Issue Verification
13711	Request for Appeal of Offer in Compromise
14335	Contact Information for VITA and TCE Grant Programs
3439 A	Statement of Annual Income (Corporate)
15314	TE/GE Secure Messaging Taxpayer Agreement Authorization of Disclosure to Designated Users
13533 A	FSA Remote Sponsor Agreement
15116	Information Sheet
14095	The Health Coverage Tax Credit (HCTC) Reimbursement Request Form
14452	OVDP Foreign Account or Asset Statement
12508	Questionnaire For Non-Requesting Spouse
14039 B	Business Identity Theft Affidavit
3949 A	Information Referral
9368	Questionnaire - Scholarship or Fellowship Grant
9249	Questionnaire - Housing Exclusion Sect. 911
14039	Identity Theft Affidavit
4506 A	Request for a Copy of Exempt or Political Organization IRS Form
14368	Contact Information Update Form
13683	Statement of Disputed Issues
8821 A	IRS Disclosure Authorization for Victims of Identity Theft
211	Application for Award For Original Information

¹⁰⁹ For example, the recently passed Fiscal Responsibility Act of 2023 reduced the IRS's long-term funding by \$20 Billion.

The IRSAC Assessment

The IRSAC generally supports IRS modernization of forms to improve the taxpayer experience or to materially improve IRS internal processing efforts and costs.

The IRSAC suggests focusing on or adding the below forms based on its field experience and taxpayer demands and usage.

- Prioritize Form 14039 - Identity Theft Affidavit. Form 14039 should be moved to the "Top 5" list. One practitioner in the IRSAC Wage & Investment Subgroup noted that, this year, more than ever before in the history of her 30+ year business, there has been over 30 of her clients who have had their identity stolen and a return filed using their name and SSN. Currently, a person who has had their identity stolen and used to file a tax return must mail in the Form 14039 along with their tax return and wait a considerable amount of time for the IRS to process the return manually along with the ID theft form. If this form could be filed or submitted electronically, the Service may be able to note the taxpayer's account and allow them to electronically file the return as opposed to having to file on paper and wait for the refund. That would help ease the burden on citizens that are dealing with such an ordeal.
- Prioritize Form 8821A, *IRS Disclosure Authorization for Victims of Identity Theft*. The Form 8821A relates to the submission of a Form 14039 and, as such, should be equally prioritized given its usage by victims of identity theft. Coincidentally, it would be additionally helpful to taxpayers dealing with identity theft if they could go to the "Identity Theft Central" <https://www.irs.gov/identity-theft-central> portion of the IRS website and upload the various forms that the IRS needs.
- Evaluate the addition of Form 2848, *Power of Attorney*. In addition to the above two identity theft forms, a form that is not listed, and already has several ways to submit, is Form 2848. Part of IRS's effort to improve the

processing of Powers of Attorney in this area should be to consider adding this form to the DMAF process.

- Evaluate the addition of Form W-7, *Application for IRS Individual Taxpayer Identification Number (ITIN)*. The submission of Form W-7 initiates the challenging process of obtaining an Individual Taxpayer Identification Number. If the ITIN process will be improved in the future, the modernization of this form would be helpful to taxpayers.¹¹⁰

VITA/TCE-related Forms

Given its interest in improving the taxpayer experience, the IRSAC notes that several of the IRS’ proposed forms focused on the Volunteer Income Tax Assistance (VITA) program and completed by VITA program managers or site coordinators. The IRS Stakeholder Partnerships, Education & Communication (SPEC) division has already made headway in modernizing several of IRS VITA-related forms by creating a Microsoft Excel workbook that does a lot of the work of completing the forms.¹¹¹

Given the SPEC improvements and the focus of these forms on VITA management, the IRSAC believes the IRS focus should focus, instead, on forms that are used by taxpayers in large numbers and that the below forms are examples of forms that should not be included in the IRS’ near-term forms modernization effort:

Form Number	Title
13533	VITA/TCE Partner Sponsor Agreement
14335	Contact Information for VITA and TCE Grant Programs
13533 A	FSA Remote Sponsor Agreement

¹¹⁰ The ITIN process is also being separately addressed in the IRSAC Wage & Investment Subgroup section of the 2023 IRSAC Report.

¹¹¹ SPEC notes that including these forms in the DMAF initiative will help the transition to paperless processes in the future.

Recommendations

1. Publish publicly the set of common evaluation criteria it uses to assess specific IRS forms for modernization, and any new forms that may be identified and prioritized for addition.
2. Continue to focus on the forms identified for modernization with a focus on improving the taxpayer experience, including the prioritization of Form 14039 and Form 8821A.
3. Evaluate the following forms for the forms modernization effort:
 - Form 2848, Power of Attorney
 - Form W-7, *Application for IRS Individual Taxpayer Identification Number*
4. Evaluate the prioritization level of VITA/TCE-related forms that are focused on VITA/TCE program management activities as a possible opportunity to free up time that is more taxpayer focused unless there are significant IRS operational issues that need to be resolved.

ISSUE FOUR: Modernizing the ITIN Process

Executive Summary

The current process for applying or renewing an Individual Taxpayer Identification Number (ITIN) can be burdensome for taxpayers and for the IRS. For taxpayers, securing expert help to complete this process can be difficult despite the numerous efforts done by the IRS through the Taxpayer Assistance Centers (TACs), Certifying Acceptance Agents (CAAs), Volunteer Income Tax Assistance (VITA) locations, Low Income Taxpayer Clinics (LITC) locations, and partnerships with Community-Based Organizations (CBOs) that can offer support to this vulnerable group of taxpayers. For the IRS, processing an ITIN application or renewal can take up to 11 weeks given that the only way to process the application is through paper. Currently, IRS efforts this tax year has brought down the processing time of ITINs to 6 weeks of W-7 applications received with returns.

The IRSAC believes that the issuance of ITINs is critical to promote taxpayer compliance. It also believes that there is an opportunity to modernize the ITIN application process and, in doing so, improve the taxpayer experience.

In its Strategic Operating Plan, the IRS gives modernizing the ITIN application process as an example of how it will become fully digital and modernize processes to improve the taxpayer experience and organizational efficiency.¹¹²

Background

Applying for an ITIN can be a burdensome process including time, paper processing, securing tax help for this unique group of taxpayers, and maintaining trust among community members. Typically, the applicant must submit original documentation to the IRS via regular mail unless they are able to secure certified copies of documents. While taxpayers are able to use a combination of 2 of 13 documents outside of using their passport to accompany their applications, in practice, most taxpayers submit their valid passport, which can be their only government picture ID they may have, putting them at risk of not accessing medical care in hospitals, conducting errands in their children's

¹¹² Pub. 3744, Internal Revenue Service Inflation Reduction Act Strategic Operating Plan FY2023-2031, page 22: <https://www.irs.gov/pub/irs-pdf/p3744.pdf>.

school or doctor offices, among other vital risks they confront when they mail the original passport to the IRS, wait for a significant amount of time before getting it back, and risk loss in the mail.

The IRS partners with over 9,000 CAAs and with approximately 400 CAAs abroad.¹¹³ Unfortunately, there are often geographical areas in the US that may have difficulty finding a CAA, in particular CAAs that are operated by a CBO and are often better equipped to support vulnerable taxpayers that need ITINs. Moreover, both the original application and the ITIN renewal must be submitted by mail and accompanied by a tax return in most cases. Bottom line, taxpayers needing ITINs seem to be disproportionately affected by administrative burden¹¹⁴ when compared to their counterparts that use an SSN or a business that uses an EIN number.

Moreover, doctors and schools may be unfamiliar with the specific guidance around submitting medical or educational documentation that the IRS requires for dependents.¹¹⁵ For example, taxpayers that are submitting an ITIN application for a child do not have a standard medical record form or health record form to provide the school or doctor that follows IRS guidelines. As a consequence, many applications are delayed due to errors in the required documentation since the taxpayer may be unaware of the correct instructions to provide to schools or doctors.

The administrative costs to the IRS can be significant and the taxpayer whose ITIN was incorrectly denied or delayed can spend a lot of time and money resolving the issue. For example, where the spouse or the child's ITIN is denied, the IRS will go on to process an incomplete tax return that will lead to incomplete refunds or balances due. And the delays in either issuance or renewals for one household member alone, can turn into several years of adjustments.

¹¹³ Beginning August 15, 2022, the IRS imposed a moratorium on the CAA application process while it modernizes the process; CAA applications have not yet resumed. See: <https://www.irs.gov/individuals/new-itin-acceptance-agent-program-changes>.

¹¹⁴ Including immigrants in the U.S. tax system is fiscally responsible and can boost economic growth by lifting the well-being of their families at: <https://equitablegrowth.org/including-immigrants-in-the-u-s-tax-system-is-fiscally-responsible-and-can-boost-economic-growth-by-lifting-the-well-being-of-their-families/>.

¹¹⁵ Form W-7 Instructions, page 4: <https://www.irs.gov/pub/irs-pdf/iw7.pdf>. Pub. 1915, page 9: <https://www.irs.gov/pub/irs-pdf/p1915.pdf>.

There are additional collateral consequences. Tax returns are the accepted proof of income for many state and locally-run programs, such as free and reduced price school meals, Supplemental Nutrition Assistance Program (SNAP) benefits, and student aid after filing a Free Application for Federal Student Aid (FAFSA). When the primary taxpayer's ITINs are denied, the returns are processed¹¹⁶ but the refund may be delayed, costing families additional wait time for local services and inability to access funds for which they may be eligible.

Lastly, while an ITIN's main purpose is to voluntarily comply with a federal tax obligation, other economic and social programs may require ITINs for submission of applications. State and local tax agencies also utilize the federal ITIN for state filings. While by design securing an ITIN is only relevant for taxpayers submitting federal tax returns, in practice not being able to have an ITIN hampers the ability of this group of taxpayers to access local, state and private economic and social supports.

Numerous agencies have commented on ways to improve the process of applying for an ITIN including the Taxpayer Advocate Service,¹¹⁷ The US Government Accountability Office (US GAO)¹¹⁸ and Treasury Inspector General for Tax Administration (TIGTA).¹¹⁹

The IRSAC believes there is an opportunity to offer insights to the IRS to reduce paper submissions, increase efficiencies and improve the taxpayer experience in this area, including the promotion of a model based on the respective roles of CAAs, VITA locations, and CBOs, improving the use of administrative data inform tax administration, as well as the promotion of educational materials that help families better understand the

¹¹⁶ If the IRS process the return but is unable to issue an ITIN, the IRS may create an Internal Revenue Service Number (IRSN) for the taxpayer. The IRSN would later be closed when the taxpayer later obtains an ITIN. See IRM 3.21.263.5.5 (01-01-2015).

¹¹⁷ NTA Blog: Most Taxpayers Needing a New ITIN Are Prohibited From Filing Electronically, Causing Unnecessary Refund Delays: <https://www.taxpayeradvocate.irs.gov/news/nta-blog-most-taxpayers-needing-a-new-itin-are-prohibited-from-filing-electronically-causing-unnecessary-refund-delays/>.

¹¹⁸ 2018 TAX FILING: IRS Managed Processing Challenges and Enhanced Its Management of Tax Law Changes: <https://www.gao.gov/assets/gao-18-471.pdf>.

¹¹⁹ 2020-40-064, Processes Do Not Ensure That Individual Taxpayer Identification Numbers Are Issued Only to Qualifying Individuals With a Tax Administration Need: <https://www.tigta.gov/sites/default/files/reports/2022-02/202040064fr.pdf>.

application process and the required documentation such as doctor and school reports forms.

Recommendations

1. Develop a pre-filing ITIN application procedure that allows new ITIN applicants and ITIN holders with expired ITINs to submit Form W-7 separately and ahead of their income tax return.
2. Identify two to three key improvements that would cause more VITAs to provide CAA services, such as:
 - a. Review the CAA application process to make it more accessible to minority communities.
 - b. Publicize the CAA program as a VITA engagement and promote it by highlighting each VITA site that partners with a CAA or acquires the ability to provide CAA services.
 - c. Declare a CAA-ITIN Awareness Day.
3. Test and scale up the effect of combined VITA/CAA services by executing a carefully targeted “pilot program” to evaluate the co-location of VITA services with new CAA services in two to three key geographical areas where TACs are not easily reached.
4. Establish a requirement for all VITA sites to apply for at least one CAA or show a working agreement with a CAA as part of their grant application.
5. Improve the Acceptance Agent (AA) Program AA/CAA locator online search tool¹²⁰ by incorporating the same zip code search mechanism used by the IRS VITA locator tool¹²¹, including the option to search for AA, CAA, or both, and including a support process for AAs and CAAs to update their contact information.
6. Ensure that Quality Assurance (QA) on the IRS Direct File Pilot includes multiple test cases with ITIN holders as the primary, secondary, or dependent.

¹²⁰ Acceptance Agent Program: <https://www.irs.gov/individuals/international-taxpayers/acceptance-agent-program>.

¹²¹ Get Free Tax Prep Help: <https://irs.treasury.gov/freetaxprep/>.

7. Build a specialized customer service ITIN unit with consistently and highly trained staff that is also diverse, multilingual, and multicultural.
8. Review Form W-7 instructions with the goal of including better plain language instructions and update required documents to include educational materials and illustrative examples when appropriate.
9. Evaluate the capability of using document upload tools to minimize the use of paper for Form W-7 applications and allow for electronic filing.
10. Allocate IRS staff on Taxpayer Assistance Centers to perform CAA and uploading services, without the taxpayer having to mail their documents, W-7 and 1040 documents when staffing allows it.
11. Digitize the ITIN application process by creating an online portal for applications and supplemental documents, if needed.
12. Work with the Treasury Department's Office of Tax Analysis (OTA) and other partners to better understand and publish the needs of taxpayers with ITINs by using data and research.

APPENDIX A: 2023 IRSAC Report

Mapping Recommendations from the 2023 IRSAC Report to the IRS Strategic Operating Plan (SOP) Initiatives

The objectives and initiatives in the table are from the Internal Revenue Service Inflation Reduction Act Strategic Operating Plan, FY 2023-2031 (Publication 3744).

- Full report available at: <https://www.irs.gov/about-irs/irs-inflation-reduction-act-strategic-operating-plan>
- News release on the report (IR-2023-72; April 6, 2023): <https://www.irs.gov/newsroom/irs-unveils-strategic-operating-plan-ambitious-effort-details-a-decade-of-change>

The following is a summary list of the initiatives within each of the five Objectives.

Initiatives in Objective 1 on Taxpayer Services

Objective 1 Dramatically improve services to help taxpayers meet their obligations and receive the tax incentives for which they are eligible		
1.1 Improve the availability and accessibility of customer service: Taxpayers will be able to receive on-demand customer service or schedule service ahead of time	1.5 Explore direct file: The IRS will explore providing taxpayers the option to file certain tax returns directly with the IRS online	1.9 Help taxpayers understand and claim appropriate credits and deductions: Taxpayers, including individuals and small businesses, will receive education and assistance in claiming available incentives
1.2 Expand digital services and digitalization: Taxpayers will be able to file all documents securely and exchange correspondence electronically	1.6 Enable taxpayers to access their data: Taxpayers will be able to access, download, and seamlessly share their tax data and IRS history	1.10 Make payments easy: Taxpayers will be able to make payments more easily and seamlessly through all service channels
1.3 Ensure employees have the right tools: Employees will have the right tools and information to quickly and effectively meet the needs of taxpayers	1.7 Provide earlier legal certainty: Taxpayers will have greater upfront clarity and certainty additional guidance on tax issues	1.11 Build status-tracking tools for taxpayers: Taxpayers will be able to use new status-tracking tools to see real-time status updates, next steps, and estimated time to process documents and resolve issues
1.4 Improve self-service options: Taxpayers will have access to secure online accounts where they can view their account and profile information, make changes, interact with the IRS, and manage preferences for payments, refunds, and communications	1.8 Deliver proactive alerts: Taxpayers will be able to receive alerts to help them meet filing and payment obligations, understand opportunities to claim certain incentives and learn about life changes that could impact their taxes	1.12 Streamline multichannel customer assistance: Taxpayers will be able to quickly, securely and accessibly get the help they need, resolve more issues in a single contact, and experience minimal delays during interactions with us

Initiatives in Objective 2 on Resolving Taxpayer Issues

Objective 2 Quickly resolve taxpayer issues when they arise

- 2.1 Identify issues during filing:** The IRS will send taxpayers notifications about potential issues as they file returns to help them correct errors and claim credits and deductions
- 2.2 Deliver early and appropriate treatments for issues:** The IRS will provide taxpayers with timely and tailored post-filing treatments to resolve issues and omissions on their tax returns
- 2.3 Develop taxpayer-centric notices:** The IRS will send taxpayers notices they can understand, delivered in ways they prefer, with clear explanations of issues and steps to resolution
- 2.4 Expand tax certainty and issue resolution programs:** Taxpayers will be able to resolve potential compliance issues up front through expanded pre-filing and tax certainty programs
- 2.5 Offer proactive debt resolution:** The IRS will proactively offer taxpayers appropriate options for past-due payment resolution
- 2.6 Expand engagement with non-filers:** The IRS will provide early, tailored outreach to taxpayers who do not file on time
- 2.7 Use improved data and analytics to tailor timely collections contacts:** The IRS will provide early, tailored contacts to all taxpayers with past-due balances, and will only escalate to more intensive treatments when appropriate

Initiatives in Objective 3 on Expanded Enforcement

Objective 3 Focus expanded enforcement on taxpayers with complex tax filings and high-dollar noncompliance to address the tax gap

- 3.1 Employ centralized, analytics-driven, risk-based methods to aid in the selection of compliance cases:** The IRS will use improved analytics to aid in the selection of cases predicted to be at risk of noncompliance, choosing enforcement treatments that maximize opportunities to improve and sustain taxpayer compliance while ensuring fairness in selection
- 3.2 Expand enforcement for large corporations:** The IRS will increase enforcement activities to help ensure tax compliance of large corporate taxpayers
- 3.3 Expand enforcement for large partnerships:** The IRS will increase enforcement activities to help ensure tax compliance of large partnerships
- 3.4 Expand enforcement for high-income and high-wealth individuals:** The IRS will increase enforcement activities to help ensure tax compliance of high-income and high-wealth individuals
- 3.5 Expand enforcement in areas where audit coverage has declined to levels that erode voluntary compliance:** The IRS will increase enforcement activities in other key areas where audit coverage has declined while complying with Treasury's directive not to increase audit rates relative to historical levels for small businesses and households earning \$400,000 per year or less
- 3.6 Pursue appropriate enforcement for complex, high-risk and emerging issues:** The IRS will enhance detection of noncompliance and increase enforcement activities for complex, high-risk, and novel emerging issues, including digital assets, listed transactions and certain international issues
- 3.7 Promote fairness in enforcement activities:** The IRS will help promote fairness for all taxpayers by addressing noncompliance appropriately in a balanced manner

Initiatives in Objective 4 on Modern Tech

Objective

4 Deliver cutting-edge technology, data, and analytics to operate more effectively

- 4.1 Transform core account data and processing:** The IRS will modernize the systems used to access and process taxpayer data
- 4.2 Accelerate technology delivery:** The IRS will deliver faster and better results by accelerating design, development and delivery of user-centered technology by shifting to a “product and platform” operating model that incorporates business and technology perspectives
- 4.3 Improve technology operations:** The IRS will enhance core technology processes and platforms to support the delivery of expanded capabilities for taxpayers and employees
- 4.4 Continue to ensure data security:** The IRS will continue to protect taxpayer data and IRS systems from cyber threats as we transform
- 4.5 Maximize data utility:** The IRS will improve the storage and management of data to support improved taxpayer services and enforcement
- 4.6 Apply enhanced analytics capabilities to improve tax administration:** IRS employees will use data and insights to enhance delivery of tax administration and improve the taxpayer experience
- 4.7 Strategically use data to improve tax administration:** The IRS will use enhanced data and explore additional innovative analytic techniques to improve strategic planning, decision-making and compliance measurement
- 4.8 Partner to expand insights:** The IRS will engage with external partners to develop new insights to generate value for taxpayers and policymakers

Initiatives in Objective 5 on Workforce

Objective

5 Attract, retain, and empower a highly skilled, diverse workforce and develop a culture that is better equipped to deliver results for taxpayers

- 5.1 Redesign hiring and onboarding:** The IRS will implement fast, streamlined hiring processes that address challenges known today, use data to match candidates to the right jobs, and deliver more effective onboarding programs
- 5.2 Attract a talented and diverse workforce:** The IRS will build new talent pipelines and attract a workforce that reflects the diversity of the people we serve
- 5.3 Improve the employee experience:** The IRS will improve the employee experience by offering more flexibility, building a more collaborative team culture, and better equipping personnel
- 5.4 Help employees grow and develop:** The IRS will deliver growth and learning opportunities by developing attractive career pathways for all employees, integrating training and skill-building, and better equipping managers to lead high-performing teams
- 5.5 Develop a data-savvy workforce:** The IRS will create hiring and training programs to build a data-savvy workforce that uses the improved data environment to serve taxpayers and meet mission goals more effectively
- 5.6 Elevate workforce planning strategy:** The IRS will leverage workforce planning best practices to forecast and meet hiring demand more effectively to avoid disruption and satisfy business needs
- 5.7 Improve organizational structures and governance:** The IRS will implement new organizational structures and distributed and transparent decision processes to support more collaborative, effective and efficient tax administration
- 5.8 Build a culture of service and continuous improvement:** The IRS will build a customer-centric culture by empowering employees and leaders to put the customer first and rewarding outstanding service

Note: Where the SOP Initiative column shows 1, 2, 3, 4 or 5 rather than, for example, 1.7, it means that the recommendation does not fit precisely within an initiative but does fit in an SOP objective (see list above from the SOP report).

ID#	ISSUE	RECOMMENDATIONS	SOP INITIATIVES
2023-GEN-1	Budget Shortfalls Need to be Addressed with Lawmakers	<p>1. Formulate a brief, but impactful analysis (for discussion with lawmakers) that articulates the benefits of:</p> <p>a. Increasing annual appropriations to the taxpayer services account to ensure the IRS can deliver a service level of at least 85% during filing season.</p> <p>b. Restoring annual appropriations to the business systems modernization account to ensure the IRS can continue to modernize systems and processes.</p> <p>c. Adjusting annual appropriations for inflation to ensure the IRS does not need to rely on other funding (e.g., IRA appropriations) to offset inflationary increases that were not included in annual congressional appropriations.</p>	1, 4
2023-IR-1	Section 6050W Guidance Needed for Filers of Form 1099-K	<p>1. Clarify the definition of 'account' for purposes of section 6050W(d)(3)(A) and Treas. Reg. §1.6050W-1(a)(2).</p> <p>2. Clarify the discrepancy between section 6050W(d)(3)(A) and Treas. Reg. §1.6050W-1(c)(3) with respect to the use of the term 'providers' versus 'persons'.</p> <p>3. Define the term 'substantial' by providing a baseline number for purposes of Treas. Reg. §1.6050W-1(c)(3).</p> <p>4. Define the meaning of 'guarantee' for purposes of section 6050W(d)(3)(c).</p> <p>5. Add examples in the Treasury regulations to include scenarios of an arrangement that constitutes a guarantee for purposes of section 6050W.</p> <p>6. Update the Treasury regulations with practical examples illustrating who is required to report when there are multiple PSEs obligated to report the same transaction.</p>	1.7
2023-IR-2	Corrections of State Information on Information	<p>1. The IRS should eliminate the restriction on filing state-only corrections of information returns through the CF/SF</p>	4.4 & 4.5

	Returns Should be Included in the Combined Federal / State Filing (CF/SF) Program	<p>program, thereby accepting information return corrections of state-only fields from information return issuers.</p> <p>2. The IRS should timely provide to states that participate in CF/SF all corrections, regardless of whether corrections include updates to “Federal” fields.</p> <p>3. The IRS should consider adding forms to the CF/SF program such as Form 1098, 1098-E, W-2G, and 1099-C.</p> <p>4. The IRS should examine providing information to states earlier and more frequently to increase the value of CF/SF participation to the states, and to encourage states to allow information returns filed through the CF/SF program to satisfy their filing requirements.</p>	<p>4.3, 4.4 & 4.5</p> <p>4.3 & 4.5</p> <p>4.3, 4.4 & 4.5</p>
2023-IR-3	Section 302 Escrow and Certification Procedure	<p>1. The IRS should provide that withholding agents can presume that a public markets Section 302 transaction is an exchange (not subject to withholding tax) for U.S. tax purposes, unless the withholding agent has actual knowledge otherwise. (Aligns to SOP objective 1.7 – Provide earlier legal certainty.)</p> <p>a. If such a presumption is not provided, the IRS should address practical, operational, and interpretational issues with the 2007 Proposed Regulations: (aligns to SOP objective 1.7 – Provide earlier legal certainty):</p> <p>i. Withholding should not be required on presumed foreign persons (that have not provided a Form W-8) that have provided a Section 302 certification certifying exchange treatment.</p> <p>ii. Reporting on Form 1042-S should not be required if the non-US person provides a Section 302 certification certifying exchange treatment.</p> <p>iii. Qualified intermediaries should be permitted to act as withholding agents with respect to Section 302 transactions.</p> <p>iv. Guidance should be provided regarding whether a withholding agent may obtain a Section 302 certification from a</p>	1.7

		<p>nonwithholding foreign partnership with respect to the nonwithholding foreign partnership's holdings, or whether it is required to obtain individual certifications from the partners of the foreign partnership.</p> <p>v. It should be made explicitly clear that a Section 302 certification signature under penalties of perjury may be provided electronically.</p> <p>vi. The IRS should consider developing a standard form or IRS approved certification and instructions document.</p> <p>vii. Guidance should be provided to withholding agents with respect to distributions paid in connection with stock that is not traded on an established financial market.</p>	
2023-LBI-1	Increase Use of Pre-Filing Agreements and Other Tax Certainty Programs	1. Increase the scope of PFA qualifying issues for consideration by LB&I.	1.7, 2.4
		2. Advertise and market PFAs to strategically selected target audiences of corporate tax department and CPA and law firm personnel (such as at conferences and contact with professional tax organizations to which these individuals belong) highlighting advantages.	1.7
		3. Reassess the fee structure for PFAs and similar tax certainty programs.	1.7
2023-LBI-2	Accelerate Issuance of Section 174 Guidance	1. Prioritize Section 174 guidance, in the form of binding guidance such as a relevant Notice, Revenue Ruling or Treasury Department issued regulation. In the interim, publicly available Questions & Answers (FAQs, ideally issued as a news release (IR)) would also provide clarity for taxpayers.	1.7

	<p>2. Include the following topics in the binding guidance:</p> <ul style="list-style-type: none"> a. Does Section 174 amortization apply to funded research and development in the context of software and non-software if (i) the taxpayer does not own or have rights to the intellectual property or (ii) if the taxpayer does not own the intellectual property but does have rights to the intellectual property? b. Do general and administrative, and operations costs have to be allocated to the capitalized and amortized R&E costs? If so, what allocation methodology should be utilized or what is a reasonable allocation approach? Are these approaches considered methods of accounting? c. What documentation and/ or workpapers are taxpayers required to keep as part of Section 174 cost identification and analysis process? d. In IRS issued guidance provide examples on “in carrying on” versus “in connection with” as used in Sections 162 and 174 such that taxpayers may appropriately utilize other IRC Sections when considering R&E in the ordinary course of carrying on their trade or business. 	<p>1.7</p>
	<p>3. Consider the following Safe Harbors in guidance under the TCJA change to Section 174:</p> <ul style="list-style-type: none"> a. Exclude funded research and funded software development from IRC Section 174 amortization. b. Include that taxpayers will not be subject to underpayment penalties on quarterly estimated payments if the add back is equal to prior year Qualified Research Expenses (QREs) (or 125%). c. Provide a safe harbor if estimated payments are based on the same as Accounting Standard Codification (ASC) 730 book research and development amounts. 	<p>1.7</p>

2023-LBI-3	Timely Obtain EINs to Comply with the Corporate Transparency Act Requirements	<p>1. Expand the phone EIN application process currently available to entities formed outside of the United States to these domestic entities that do not have a “responsible party.”</p> <p>2. Provide ways that EIN applicants who apply by fax or mail have a way to check on the status of their application such as through on-line tools or by phone.</p>	1.1
2023-LBI-4	Accelerate Issuance of IRS Form 6166, Certificate of Residency	<p>1. Prioritize electronic filing of Form 8802, Application for United States Residency Certification.</p> <p>2. Accelerate the submission date of Form 8802 prior to December 1 and begin processing applications on a rolling basis once received, so they are ready to be issued as soon as possible after January 1.</p> <p>3. Engage and educate other countries’ competent authorities so they are aware of the IRS timeline for issuing CoRs and advocate for grace periods for taxpayers to provide CoRs to claim treaty benefits.</p> <p>4. Create a streamlined method for taxpayers to request a correction or check the status of Form 8802, preferably electronically.</p>	<p>1.4</p> <p>1.2</p> <p>1</p> <p>1</p> <p>1.6</p>
2023-SBSE-1	Acceptance of Tax Payments in Cryptocurrency	<p>1. The IRS should add the proposed language clarifying that credit/debit cards that use cryptocurrency to cover USD purchases can be used for payments to the IRS via the three card services vendors. On a similar note, language should be added clarifying that foreign issued and foreign currency denominated debit and credit cards that are capable of being charged in USD are also accepted under the current system.</p>	1.10

2. The IRS should utilize a zero-cost procurement to obtain one or more contracts with vendors that will accept cryptocurrency payments and pay its value in USD to the IRS on the user's behalf, at a rate displayed to the user before the transaction.

a. Although the IRS initially proposed adding acceptance of cryptocurrency as an additional requirement to one of the three credit/debit card processing procurements at the next renewal, the IRSAC believes that it would be most cost-efficient to create a separate procurement (or multiple ones, to provide taxpayers a choice of vendors) specifically for cryptocurrency payments. This will preserve the ability to select the best providers in each category and ensure that firms only prepared to engage in one type of payments, which might have more competitive rates, are not excluded from participating in the procurement.

b. The procurement should require that all vendors use an IRS-designated exchange rate from an independent entity. Vendors must show fees to the taxpayer and in their proposal as a separate line item, not as a spread or markup included in the exchange rate itself. This will allow vendors to be fairly evaluated by the IRS and allow taxpayers to easily compare the fees between providers or other methods of payment, in the same way they can with card payments.

c. The procurement should not require fees for processing cryptocurrency to be similar to those for accepting credit card payments, because the nature of these payment networks is completely different. If a benchmark is to be used by the IRS for evaluating reasonableness of fees, the IRSAC recommends that the IRS look to fees for selling cryptocurrency on major exchanges, since that would be the alternative for taxpayers who want to use

1.10

their cryptocurrencies to pay tax.
d. The procurement should require that taxpayers are not required to use any other product or service provided by the vendor, including a "hosted wallet" or cryptocurrency exchange, nor to consent to any non-essential processing or use of their personal or tax payment information.

3. The IRS should consider whether it would be beneficial to accept foreign currency payments using a similar model to the one proposed for cryptocurrency payments, where the foreign currency would be accepted and exchanged by an IRS-contracted vendor and then paid to the IRS in USD. Providing a means for taxpayers to directly pay with foreign currencies would allow taxpayers who do not reside in or frequently visit the US to avoid maintaining a US bank account or making international wire transfers to pay their tax obligations, and could help increase tax awareness and compliance for international taxpayers, including US citizens living or working abroad.

1.10

<p>2023-SBSE-2</p>	<p>Impact on Taxpayers of Modifying Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return</p>	<p>1. A Form 709-X, Amended United States Gift (and Generation-Skipping Transfer) Tax Return, should be created. Features of this form and its instructions:</p> <ul style="list-style-type: none"> a. The form should include a section for the filer to explain the reason for the amended return (see Form 1040-X as a model). b. It should be used for any change needed to the original Form 709 including correcting valuations. c. The form should list the most common reasons for filing, designed to allow the filer to check which reasons apply. d. The instructions should clearly state what documentation is required to be submitted with the amended return and that prior submitted information does not need to be resubmitted. e. The Form 709 instructions should be modified to explain when Form 709-X should be filed and the time frame for doing so. 	<p>1</p>
		<p>2. In addition to creating Form 709-X, consideration should be given to moving the Form 709 and if created the Form 709-X to the modernized e-file platform. Electronic filing creates more accurate return filing and allows accessibility without having to search through paper returns housed at multiple IRS locations.</p>	<p>1.2</p>
		<p>3. Consideration should be given to making the Form 709 a supplemental Schedule to the 1040 U.S. Individual Income Tax Return, rather than a separate filing. This should make more individuals aware of the gift reporting rules and make it easier to comply (and the due dates are already the same).</p>	<p>1</p>
<p>2023-SBSE-3</p>	<p>Form 1099-K Reporting</p>	<p>1. Create a new form or schedule (Form) to reconcile Forms 1099-K to the actual reportable income on the individual's Form 1040. This would benefit both business owners and individuals who receive erroneous Forms 1099-K or ones that include taxable and non-taxable</p>	<p>1</p>

		<p>amounts. Such a form could also be used to reconcile other types of information returns that may be incorrect.</p> <p>2. The new Form should provide the ability to indicate personal items included in the Form 1099-K that are not considered income.</p> <p>3. If the amounts reported on the Form 1099-K include amounts that are reported on multiple forms or schedules, the new Form should provide the ability to indicate the amounts and form or schedule it is reported on in the individuals Form 1040.</p> <p>4. If the amounts reported on the Form 1099-K include items that are not income (such a sales tax collected) the new Form should provide the ability to indicate those amounts in the reconciliation.</p> <p>5. The instructions to the new Form should clearly indicate the new Form is not required to be completed if there are no personal items included in the Form 1099-K or the amounts are not reported on multiple forms or schedules on the individuals Form 1040.</p>	
			1
			1
			1
			1.8 & 3.7
2023-SBSE-4	Modifying Form 2290, Heavy Highway Vehicle Use Tax Return	<p>1. Form 2290-X, Amended Heavy Highway Vehicle Use Tax Return, should be created. Features of this form and its instructions:</p> <p>a. It should include a section for the filer to explain the reason for the amended return and note that the filer may also attach supporting documentation and new forms and schedules (see Form 1040-X as a model).</p> <p>b. It should be used for any change needed to the original Form 2290 including correcting a VIN.</p> <p>c. It should list the most common reasons for filing, designed to allow the filer to check which reasons apply.</p> <p>d. The instructions should be clear that Form 2290-X is not used to report a vehicle acquired after the annual filing of Form 2290, but instead Form 2290 is filed</p>	1

		to report and pay tax on the new vehicle(s).	
		2. The Form 2290 instructions should be modified to explain when Form 2290-X should be filed and the time frame for doing so.	1
		3. The address change check box should be removed from page 1 of Form 2290. The instructions should be updated to remind the filer to use their current address and if there has been an address change, they should file Form 8822 or Form 8822-B as appropriate to report the change to the IRS for all tax purposes.	1.4
		4. The Form 2290 instructions should remind filers what to do if the name for a truck registration does not tie to the EIN or name on Form 2290 and the importance of the taxpayer's name and EIN used on Form 2290 (or 2290-X) match.	1.4
2023-SBSE-5	IRS Paid Preparer Due Diligence Penalties	1. Allow the Due Diligence audits to be Face-To-Face, Virtual, or telephonic at the tax preparer's option/discretion following the example previously set-forth by the Independent Office of Appeals as referenced in SOP Initiative 1.1, Improve the availability and accessibility of Customer Service.	1.1
		2. SB/SE and Appeals should be encouraged to attend the same training courses and programs related to handling such cases and to review their training modules to enhance and/or improve the process and ensure consistency for all parties. This recommendation ties to SOP Initiative 1.3, Ensure the employees have the right tools, and Initiative 1.9, Help taxpayers understand and claim the appropriate credits and deductions.	1.3

		<p>3. In line with SOP section 2.3, Develop taxpayer-centric notices, it is recommended that the IRS amend/revise the wording in the Due Diligence Warning Letters (L5025-F and L4858 included with this report) sent to tax practitioners related to their Due Diligence Requirements. Currently, the wording is somewhat strong and accusatory to the tax preparers without the IRS ever having looked at any actual tax returns.</p>	2.3
		<p>4. Increase the number of informal “<i>Knock and Talk</i>” visits with paid preparers to discuss and explain their Due Diligence deficiencies <u>before</u> conducting an audit. This additional step could result in helping paid preparers avoid substantial financial hardships when penalties are assessed. This activity relates to SOP Initiative 1.1, Improve the availability and accessibility of customer service. and Initiative 1.9, Help taxpayers understand and claim the appropriate credits and deductions.</p>	1.1 & 1.9
2023-SBSE-6	Field Collections Customer Service	<p>1. ROs should return telephone calls within two business days.</p>	1.10
		<p>2. RO voice messages should include their fax number, their working hours, and the name, telephone number, and fax number of their GM.</p>	1.10
		<p>3. RO correspondence to a taxpayer and their POA should include their fax number, their working hours, and the name, telephone number, and fax number of their GM.</p>	1.10
		<p>4. Voice messages should advise if the RO is on vacation, leave, or out of the office for more than three days and, if so, when they will return.</p>	1.10
		<p>5. If an RO or GM is retiring or transferring, their voice message should reflect that with details on alternative contacts.</p>	1.10
		<p>6. If an RO is retiring or transferring, the RO should fully document the case before transferring it to the RO or GM taking over the case.</p>	1.10

		7. If an RO is retiring or transferring, there should be an overlap in transfer of a case so that the prior RO can discuss the case with the new RO to make sure there is a smooth transition.	1.10
		8. If a GM is retiring or transferring, expedite the process of selecting a permanent replacement.	1.10
		9. Continue to explore the use of email. Extend Interim Guidance Control Number NHQ-01-1121-0004, Approval to Accept Signatures & Digital Signatures, Approval to Receive Documents & Transmit Encrypted Documents by Email.	1.10
		10. Include a Customer Service module in the Continued Professional Education (CPE) for RO new-hire training.	1.10
		11. Issue a communication to all Field Collection employees reiterating the IRM requirements regarding voicemail and return telephone calls, along with a reminder of the critical job elements that apply.	1.10
2023-TEGE-1	Recommendations on Self-Correction Guidance for Employee Plans	1. Expand EPCRS to permit direct transfers between different types of plans maintained by the same employer when contributions have erroneously been made to one plan when they should have been made to another plan.	2.4
		2. Expand EPCRS to allow plan sponsors to use the Department of Labor lost earnings calculator as a reasonable alternative method for calculating lost earnings when correcting failures.	2.4
		3. Expand EPCRS to allow a retroactive amendment to correct an ADP/ACP testing error by changing testing methods if the amendment would have been permitted under the Internal Revenue Code if timely adopted and it does not favor HCEs over non-HCEs.	2.4
		4. Expand EPCRS to allow plan sponsors to self-correct failures to timely amend the plan for tax law changes.	2.4
		5. Expand EPCRS to provide guidance on how to correct failures regarding both	2.4

		<p>underpayments of and excess mandatory employee contributions with respect to governmental plans.</p> <p>6. Expand EPCRS to address corrections of missed RMDs due to vendor failures when a deselected vendor fails or refuses to make RMDs, and the plan sponsor has no control over the assets.</p> <p>7. Update EPCRS to address statutory changes in Section 301 of SECURE 2.0 with respect to correcting overpayment errors.</p> <p>8. Reorganize the EPCRS to group together all correction methods related to a single type of failure to facilitate compliance.</p> <p>9. Review the types of errors being filed under the VCP to determine additional guidance that may be needed under the EPCRS for plan sponsors to adequately self-correct for the same errors.</p> <p>10. Continue to request comments from plan sponsors on the EPCRS updates to gather information on how employers are using the SCP.</p>	
			2.4
			2.4
			2.4
			4.6
			4.8
2023-TEGE-2	<u>Recommendations for the Non-Bank Trustee Program</u>	1. The IRS should continue to maintain the NBT program for entities with current NBT status.	4
		2. The IRS should continue to monitor the number of NBTs and new applications for NBT status and evaluate on an ongoing basis whether the costs of maintaining the NBT program outweigh the utility of making the program available to new applicants.	4
		3. The IRS should consider auditing NBTs on a less frequent basis and instead implementing an annual or other periodic reporting period requirement to monitor compliance more efficiently for NBTs.	4
2023-TEGE-3	Recommendations for More Effective Engagement Between IRS and Exempt Organizations	1. Prominently promote and highlight available nonprofit resources in outreach materials and websites that target all levels of individuals at various nonprofit organizations (stayexempt.org, Tax Exempt Organization Search, IRS EO	1

	<p>Business Master File, monthly EO Newsletter, Life Cycles, etc.).</p>	
	<p>2. Review and improve current resources including the following: a. Promote resources through the monthly EO Newsletter, ensuring use of “plain English” as much as possible in communications and highlighting the features available to organizations. b. Review and update the EO Business Master File on a timely basis, to improve usability including consideration of removal of the need to use the Legend. c. Ensure timely and complete updates to the Tax-Exempt Organization Search (TEOS) to improve the usability and accuracy of this resource for organizations. d. Expand the EO Snapshots to include a broader array of exempt organization topics beyond those topics related to private foundations.</p>	<p>1</p>
	<p>3. Develop additional resources on the following topics of potential interest to exempt organizations: a. Electronic filing requirements b. Information tax return filing deadlines c. Form 8940 d. Public disclosure obligations e. IRS audits of exempt organizations</p>	<p>1</p>
	<p>4. Develop new resources on the following topics of potential interest to exempt organizations: a. Annotated Form 990 b. Getting Things Done with the IRS c. Plain English Glossary d. The Basics of the §501(c)(3) Exemption</p>	<p>1</p>
	<p>5. Update the charities section of irs.gov to reflect separate, focused pages of resources for small, mid-size and large exempt organizations allowing organizations to quickly access the information most relevant to their needs.</p>	<p>1</p>
	<p>6. Make change of address cards available to exempt organizations and</p>	<p>1</p>

		include prominent links on irs.gov for exempt organizations to change their address of record with the Internal Revenue Service.	
		7. Require exempt organizations to have an e-mail address for more efficient and effective communications. Require exempt organizations to include the e-mail address on Form 990 and expand the EO Business Master File to include an e-mail column.	1
		8. Update IRS documentation to recommend (or require, per recommendation #7) that small exempt organizations obtain an “organization e-mail” that can be passed down to future volunteer Board members.	1
		9. Consider increasing accessibility to Form 990-EZ for self-preparation by exempt organizations.	1
		10. Develop training sessions, such as those presented at the TE/GE session at the IRS Nationwide Tax Forums, to match the level of the audience in attendance to ensure understanding of the material, highlighting the exempt organization resources available at irs.gov for attendees seeking more detailed information.	1.9
		11. Increase communication via partnerships with states, community foundations and nonprofit associations to expand communication channels through participation and/or inclusion of IRS materials in their outreach/engagement efforts.	4.8
2023-TEGE-4	Recommendations for Effective Engagement for Section 218 and 218A Agreements	1. To address the level of turnover that can occur in state government positions, complete an annual outreach via email to all named State Social Security Administrators and Indian Tribal government contacts responsible for Section 218/218A oversight including an attachment of Publication 963 and highlighting key best practices for	1.7 & 1.9

		<p>consideration in fulfilling this responsibility.</p>	
		<p>2. Coordinate a semi-annual outreach webinar between the IRS Section 218/218A champion for each IRS segment/group and the state/ITG administrators to provide updates, highlight current trends/risk, encourage best practices, increase trust via direct contact with key resources, and invite dialogue on questions from states/ITG and/or sharing between states of effective compliance efforts. Recordings of the webinars can be posted on the website for future reference/training.</p>	<p>1.7 & 1.9</p>
		<p>3. Engage with state-level municipal service organizations to include information regarding Section 218 agreements in annual conferences/outreaches to increase the awareness and understanding of the agreements and compliance requirements.</p>	<p>1.7 & 1.9</p>
		<p>4. Engage with Indian Tribal Governments organizations to include information regarding Section 218A agreements in annual conferences/outreaches to increase the awareness and understanding of the agreements and compliance requirements.</p>	<p>1.7 & 1.9</p>
		<p>5. Designate an employee from the IRS Office of Indian Tribal Governments to answer Section 218A questions and provide ongoing services and support in this area.</p>	<p>1.7 & 1.9</p>
<p>2023-TEGE-5</p>	<p>Recommendations for Increasing the Tax Reporting Threshold for Slot Machine Jackpot Winnings</p>	<p>1. Pursue addition to the IRS Priority Guidance Plan to recommend and support through appropriate authorities, including the Secretary of the Treasury, an increase to the tax reporting threshold for slot machine jackpot winnings to \$5,000 (modification to Treas. Reg. 1.6044.71-10).</p>	<p>4.7</p>

		2. For calendar years beginning after the first year of a \$5,000 threshold, consider periodic increases to increase the threshold to a dollar amount multiplied by the cost-of-living adjustment.	4.7
2023-WI-1	Prior Year DIY Product	1. Work with tax software companies to enable a do-it-yourself (DIY) tax software solution to prepare and electronically file prior year returns by the filing season that commences in January 2024 for previous tax years 2021 and 2022. This cooperation could include enabling their products to file previous year returns electronically and messaging and presenting the IP PIN option	1.2
		2. Begin with an approach that is most likely to mitigate fraud, and the IRSAC supports using an IP PIN to submit DIY Prior Year returns.	4.4
		3. Have a backup plan. If Plan A is IP PIN and there is pushback or low utilization, the IRS should have a Plan B as a backup plan and consider the impacts of switching courses. In effect, the IRS can always start with a particular approach but adjust as necessary as it learns more. This "learn and adjust" approach should be part of any product launch program, i.e., evaluate and adjust after capturing feedback.	4.4
		4. Enable taxpayers to: a. electronically file returns with open due dates based on the statute of limitations, and b. to help ensure compliance and collections efforts, include electronic filing of tax returns for all years.	1.2
2023-WI-2	Notices and Communication	1. Provide taxpayers with a time/date stamped receipt as proof of their submission through DUT.	4.3
		2. The RIVO program should collaborate with the Taxpayer Experience Office to understand the challenges taxpayers face navigating IRS processes and identify global changes to the DUT that would	4.3

	<p>increase taxpayer usage of the DUT and make the DUT more user-friendly.</p>	
	<p>3. The RIVO program should work to revise notices to:</p> <ul style="list-style-type: none"> • Clearly and distinctly show the “New” Documentation Upload Tool option on notices and correspondences to help taxpayers understand they could respond quickly using a mobile device. • Include a direct call to action on page 1 of the CP letters directing the taxpayer to respond and presenting the response options with DUT listed first; also noting that responses through multiple channels may slow response. • On page 1 of the CP letters, give taxpayers digital options by specifically saying that information can include “Pictures, screenshots, and files of ...” instead of just saying “copies of”. • On page 1 of the CP letters, delineate “Next Steps” into “Next Steps for You” and “Next Steps for IRS” so the taxpayer can easily understand what they need to do and what the IRS will do following their response (or lack of response). Complete a user study on the notices and observe taxpayers reading and trying to respond to each letter in question. 	<p>4.3</p>
	<p>4. Rename the Documentation Upload Tool and redesign the landing page (splash page) so it clearly names itself as an online response option that taxpayers receiving IRS letters/notices may use to respond.</p>	<p>1.2</p>
	<p>5. Enable taxpayers to retrieve and view digital copies of their submissions through their Taxpayer Online Account and see what step of the process their notice is in.</p>	<p>1.4</p>
	<p>6. Develop programming and modernize underlying systems to take documents sent through DUT and automatically attach them to the taxpayer’s account.</p>	<p>1.4</p>
	<p>7. Incorporate a direct path to the DUT from the Taxpayer Online Account and</p>	<p>1.4</p>

		<p>Tax Professional Online Account and digitally provided copy of the taxpayer's notice as an authenticated service to streamline processes.</p> <p>8. Build an interface meant for taxpayer representatives to allow them to upload documents on behalf of taxpayers through the DUT, provide them date/stamped receipt, and a method for them to access digital copies of the information.</p> <p>9. When a taxpayer phones the IRS, use technology to identify whether they have an open notice under the RIVO program and route their call to an assistor.</p>	
			1.4
			1.1
2023-WI-3	Forms Modernization	1. Publish publicly the set of common evaluation criteria it uses to assess specific IRS forms for modernization, and any new forms that may be identified and prioritized for addition.	4.3
		2. Continue to focus on the forms identified for modernization with a focus on improving the taxpayer experience, including the prioritization of Form 14039 and Form 8821A.	4.3
		3. Evaluate the following forms for the forms modernization effort: <ul style="list-style-type: none"> o Form 2848, Power of Attorney o Form W-7, Application for IRS Individual Taxpayer Identification Number 	1.2
		4. Reduce the prioritization level of VITA/TCE-related forms that are focused on VITA/TCE program management activities to free up time that is more taxpayer focused unless there are significant IRS operational issues that need to be resolved.	1
2023-WI-4	Modernizing the ITIN Process	1. Develop a pre-filing ITIN application procedure that allows new ITIN applicants and ITIN holders with expired ITINs to submit Form W-7 separately and ahead of their income tax return.	1
		2. Identify two to three key improvements that would cause more VITAs to provide CAA services, such as: <ul style="list-style-type: none"> a. Review the CAA application process to make it more accessible to minority 	1

	<p>communities.</p> <p>b. Publicize the CAA program as a VITA engagement and promote it by highlighting each VITA site that recruits a CAA.</p> <p>c. Declare a CAA-ITIN Awareness Day.</p>	
	<p>3. Test and scale up the effect of combined VITA/CAA services by executing a carefully targeted “pilot program” to evaluate the co-location of VITA services with CAA services in two to three key geographical areas where TACs are not easily reached.</p>	1
	<p>4. Establish a requirement for all VITA sites to apply for at least one CAA or show a working agreement with a CAA as part of their grant application.</p>	1
	<p>5. Improve the Acceptance Agent (AA) Program AA/CAA locator online search tool by incorporating the same zip code search mechanism used by the IRS VITA locator tool, <u>including the option to search for AA, CAA, or both</u>, and including a support process for AAs and CAAs to update their contact information.</p>	1
	<p>6. Ensure that Quality Assurance (QA) on the IRS Direct File Pilot includes multiple test cases with ITIN holders as the primary, secondary, or dependent.</p>	1
	<p>7. Build a specialized customer service ITIN unit with consistently and highly trained staff that is also diverse, multilingual, and multicultural.</p>	1
	<p>8. Review Form W-7 instructions with the goal of including better plain language instructions and update required documents to include educational materials and illustrative examples when appropriate.</p>	1
	<p>9. Evaluate the capability of using document upload tools to minimize the use of paper for Form W-7 applications and allow for electronic filing.</p>	1
	<p>10. Allocate IRS staff on Taxpayer Assistance Centers to perform CAA and uploading services, without the taxpayer</p>	1.2

	<p>having to mail their documents, W-7 and 1040 documents when staffing allows it.</p>	
	<p>11. Digitize the ITIN application process by creating an online portal for applications and supplemental documents, if needed.</p>	<p>1.2</p>
	<p>12. Work with the Treasury Department's Office of Tax Analysis (OTA) and other partners to better understand and publish the needs of taxpayers with ITINs by using data and research.</p>	<p>1</p>

APPENDIX B: 2023 IRSAC Report

Mapping Active Recommendations from 2019 - 2022 IRSAC Reports to the IRS Strategic Operating Plan (SOP) Initiatives

The objectives and initiatives in the table are from the Internal Revenue Service Inflation Reduction Act Strategic Operating Plan, FY 2023-2031 (Publication 3744).

- Full report available at: <https://www.irs.gov/about-irs/irs-inflation-reduction-act-strategic-operating-plan>
- News release on the report (IR-2023-72; April 6, 2023): <https://www.irs.gov/newsroom/irs-unveils-strategic-operating-plan-ambitious-effort-details-a-decade-of-change>

The following is a summary list of the initiatives within each of the five Objectives.

Initiatives in Objective 1 on Taxpayer Services

Objective 1 Dramatically improve services to help taxpayers meet their obligations and receive the tax incentives for which they are eligible		
<p>1.1 Improve the availability and accessibility of customer service: Taxpayers will be able to receive on-demand customer service or schedule service ahead of time</p> <p>1.2 Expand digital services and digitalization: Taxpayers will be able to file all documents securely and exchange correspondence electronically</p> <p>1.3 Ensure employees have the right tools: Employees will have the right tools and information to quickly and effectively meet the needs of taxpayers</p> <p>1.4 Improve self-service options: Taxpayers will have access to secure online accounts where they can view their account and profile information, make changes, interact with the IRS, and manage preferences for payments, refunds, and communications</p>	<p>1.5 Explore direct file: The IRS will explore providing taxpayers the option to file certain tax returns directly with the IRS online</p> <p>1.6 Enable taxpayers to access their data: Taxpayers will be able to access, download, and seamlessly share their tax data and IRS history</p> <p>1.7 Provide earlier legal certainty: Taxpayers will have greater upfront clarity and certainty additional guidance on tax issues</p> <p>1.8 Deliver proactive alerts: Taxpayers will be able to receive alerts to help them meet filing and payment obligations, understand opportunities to claim certain incentives and learn about life changes that could impact their taxes</p>	<p>1.9 Help taxpayers understand and claim appropriate credits and deductions: Taxpayers, including individuals and small businesses, will receive education and assistance in claiming available incentives</p> <p>1.10 Make payments easy: Taxpayers will be able to make payments more easily and seamlessly through all service channels</p> <p>1.11 Build status-tracking tools for taxpayers: Taxpayers will be able to use new status-tracking tools to see real-time status updates, next steps, and estimated time to process documents and resolve issues</p> <p>1.12 Streamline multichannel customer assistance: Taxpayers will be able to quickly, securely and accessibly get the help they need, resolve more issues in a single contact, and experience minimal delays during interactions with us</p>

Initiatives in Objective 2 on Resolving Taxpayer Issues

Objective 2 Quickly resolve taxpayer issues when they arise

- 2.1 Identify issues during filing:** The IRS will send taxpayers notifications about potential issues as they file returns to help them correct errors and claim credits and deductions
- 2.2 Deliver early and appropriate treatments for issues:** The IRS will provide taxpayers with timely and tailored post-filing treatments to resolve issues and omissions on their tax returns
- 2.3 Develop taxpayer-centric notices:** The IRS will send taxpayers notices they can understand, delivered in ways they prefer, with clear explanations of issues and steps to resolution
- 2.4 Expand tax certainty and issue resolution programs:** Taxpayers will be able to resolve potential compliance issues up front through expanded pre-filing and tax certainty programs
- 2.5 Offer proactive debt resolution:** The IRS will proactively offer taxpayers appropriate options for past-due payment resolution
- 2.6 Expand engagement with non-filers:** The IRS will provide early, tailored outreach to taxpayers who do not file on time
- 2.7 Use improved data and analytics to tailor timely collections contacts:** The IRS will provide early, tailored contacts to all taxpayers with past-due balances, and will only escalate to more intensive treatments when appropriate

Initiatives in Objective 3 on Expanded Enforcement

Objective 3 Focus expanded enforcement on taxpayers with complex tax filings and high-dollar noncompliance to address the tax gap

- 3.1 Employ centralized, analytics-driven, risk-based methods to aid in the selection of compliance cases:** The IRS will use improved analytics to aid in the selection of cases predicted to be at risk of noncompliance, choosing enforcement treatments that maximize opportunities to improve and sustain taxpayer compliance while ensuring fairness in selection
- 3.2 Expand enforcement for large corporations:** The IRS will increase enforcement activities to help ensure tax compliance of large corporate taxpayers
- 3.3 Expand enforcement for large partnerships:** The IRS will increase enforcement activities to help ensure tax compliance of large partnerships
- 3.4 Expand enforcement for high-income and high-wealth individuals:** The IRS will increase enforcement activities to help ensure tax compliance of high-income and high-wealth individuals
- 3.5 Expand enforcement in areas where audit coverage has declined to levels that erode voluntary compliance:** The IRS will increase enforcement activities in other key areas where audit coverage has declined while complying with Treasury's directive not to increase audit rates relative to historical levels for small businesses and households earning \$400,000 per year or less
- 3.6 Pursue appropriate enforcement for complex, high-risk and emerging issues:** The IRS will enhance detection of noncompliance and increase enforcement activities for complex, high-risk, and novel emerging issues, including digital assets, listed transactions and certain international issues
- 3.7 Promote fairness in enforcement activities:** The IRS will help promote fairness for all taxpayers by addressing noncompliance appropriately in a balanced manner

Initiatives in Objective 4 on Modern Tech

Objective

4 Deliver cutting-edge technology, data, and analytics to operate more effectively

4.1

Transform core account data and processing: The IRS will modernize the systems used to access and process taxpayer data

4.2

Accelerate technology delivery: The IRS will deliver faster and better results by accelerating design, development and delivery of user-centered technology by shifting to a “product and platform” operating model that incorporates business and technology perspectives

4.3

Improve technology operations: The IRS will enhance core technology processes and platforms to support the delivery of expanded capabilities for taxpayers and employees

4.4

Continue to ensure data security: The IRS will continue to protect taxpayer data and IRS systems from cyber threats as we transform

4.5

Maximize data utility: The IRS will improve the storage and management of data to support improved taxpayer services and enforcement

4.6

Apply enhanced analytics capabilities to improve tax administration: IRS employees will use data and insights to enhance delivery of tax administration and improve the taxpayer experience

4.7

Strategically use data to improve tax administration: The IRS will use enhanced data and explore additional innovative analytic techniques to improve strategic planning, decision-making and compliance measurement

4.8

Partner to expand insights: The IRS will engage with external partners to develop new insights to generate value for taxpayers and policymakers

Initiatives in Objective 5 on Workforce

Objective

5 Attract, retain, and empower a highly skilled, diverse workforce and develop a culture that is better equipped to deliver results for taxpayers

5.1

Redesign hiring and onboarding: The IRS will implement fast, streamlined hiring processes that address challenges known today, use data to match candidates to the right jobs, and deliver more effective onboarding programs

5.4

Help employees grow and develop: The IRS will deliver growth and learning opportunities by developing attractive career pathways for all employees, integrating training and skill-building, and better equipping managers to lead high-performing teams

5.7

Improve organizational structures and governance: The IRS will implement new organizational structures and distributed and transparent decision processes to support more collaborative, effective and efficient tax administration

5.2

Attract a talented and diverse workforce: The IRS will build new talent pipelines and attract a workforce that reflects the diversity of the people we serve

5.5

Develop a data-savvy workforce: The IRS will create hiring and training programs to build a data-savvy workforce that uses the improved data environment to serve taxpayers and meet mission goals more effectively

5.8

Build a culture of service and continuous improvement: The IRS will build a customer-centric culture by empowering employees and leaders to put the customer first and rewarding outstanding service

5.3

Improve the employee experience: The IRS will improve the employee experience by offering more flexibility, building a more collaborative team culture, and better equipping personnel

5.6

Elevate workforce planning strategy: The IRS will leverage workforce planning best practices to forecast and meet hiring demand more effectively to avoid disruption and satisfy business needs

Note: Where the SOP Initiative column shows 1, 2, 3, 4 or 5 rather than, for example, 1.7, it means that the recommendation does not fit precisely within an initiative but does fit in an SOP objective (see list above from the SOP report).

ID#	ISSUE	RECOMMENDATIONS	SOP INITIATIVE
2019-IRSA C-3	IRS Penalty Process	The IRS is considering a process where prior to notifying a taxpayer about proposed penalties, they will identify if a taxpayer qualifies for a FTA waiver and grant the taxpayer penalty relief automatically. If the taxpayer does qualify for the FTA, the IRS will notify the taxpayer through an official mailing. The IRSAC applauds the IRS for considering this efficient process for handling penalty waivers. The IRSAC recommends the notification to the taxpayer of the FTA application also include information that if a taxpayer chooses to utilize a reasonable cause abatement, they may do so within a thirty-to-sixty-day timeframe. The IRSAC believes taxpayers should retain the right to choose whether or not to pursue penalty abatement through a reasonable cause defense, even if a FTA is available to them. The IRSAC recommends the Office of Servicewide Penalties retroactively apply the reasonable cause abatement to the taxpayer's account, thus preserving a possible future FTA waiver.	2
2019-IRSA C-6	Continued Support to Improving the Free File Program by Increasing IRS Oversight and Re-evaluating the MOU	9 - Limit third-party advertising on FFA member Free File sites. Currently, some FFA members permit third-party vendors to advertise services on the FFA member's Free File website while taxpayers are going through the tax-filing process. Such activity is both confusing and potentially misleading depending on the content of the advertising.	1
2019-LBI-1	Issue by Issue Extension of Elements of the CAP Program	For LB&I taxpayers, with assets over \$XX million that have certified audited financial statements, we recommend that the IRS allow them to file a form requesting a decision for specific issue(s) for a specific year. This form should allow the taxpayer to identify such an issue(s) and provide relevant documents, opinions or other evidence to support its position(s). See pages 165 to 166 of the report for further details.	2.4

2019-LBI-2	Establishing Safe Harbors by Accepting “Book” Treatment or Otherwise Relying on Independent Third Parties	1 - De Minimis Expenditures (see pages 167 to 169 of the report for details).	2.4
		2 - Foreign Tax Credit Receipts (see pages 169 to 170 of the report for details).	2.4
		3 - Solar Investment Tax Credits (ITC) – Section 25D (Residential Energy Efficient Property) and Section 48 (Energy Credit) (see pages 170 to 171 of the report for details).	1.7
		4 - Cross-Border Intercompany Transactions – Regulation W (see pages 171 to 172 of the report for details).	2.4
2019-LBI3-4b	QI Agreements and Pooled Reporting for Sections 1446(a) and 1446(f)	The IRSAC recommends that the amended QI Agreement allow for pooled reporting of Section 1446(a) and Section 1446(f) income by primary and non-primary QIs for direct account holders of these QIs. This would ensure compliance with both the IRS reporting obligations that QIs must fulfill and local data privacy laws that these same QIs are subject to in their jurisdictions.	2
2019-SBSE-1	Form W-4 2020 Version	3 - The IRSAC recommends the IRS further clarify the “withhold at a higher rate” check box in step 2 and provide examples of the higher amounts of withholding. The IRSAC further recommends the IRS state that the employee could check Single status even when married to have additional withholding (as in prior years).	1
2019-SBSE-3	Sharing Economy and Impact on the Tax Gap	3 - Publish a definition of “gross amount” for purposes of transaction thresholds for reporting on Form 1099-K that excludes from the reportable amount items that are not part of the economic transaction between the parties. Specifically, the IRSAC recommends that the IRS provide a way to exclude from the reportable amount items that are not part of the economic transaction between the parties (e.g., discounts, returns, allowances and taxes collected on the transaction). The current full gross amount is not meaningful as a business transaction amount and is not easy to use from a reconciliation point of view. The IRSAC recommends that the IRS consider alternative ways of addressing this issue and might want to consider adding a box to Form 1099-K to allow voluntary reporting of an adjustment amount (e.g., for returns, allowances, discounts, etc.). The IRSAC recommends that the IRS work with businesses	1

		to understand better alternative definitions of “gross amount” that would be more useful for reporting purposes.	
		4 - Consider reviewing the definition of “third party settlement organization” (TPSO) for purposes of tax reporting and filing to reduce the type of participants in the sharing economy whose income is reportable on Form 1099-K and thus, would be then reportable on other information returns such as Form 1099-MISC. The IRSAC suggests that the IRS focus this review on how the “tie breaker rule” is employed when determining when the regulations under section 6041 or 6041A apply, rather than when section 6050W should be applied.	1.7
2019-SBSE-7	On-Demand Payroll	The IRSAC recommends that the IRS pursue the creation of guidance for on-demand payroll, working with other stakeholders such as the Social Security Administration, Department of Labor, Consumer Financial Protection Bureau and possibly the various states, as quickly as possible that addresses the issues and questions outlined above.	1.7
2019-SBSE-8	Employer Reporting, Form 945, Annual Return of Withheld Federal Income Tax	1 - Make needed changes to forms, publications and instructions, to require employer identification number (EIN) consistency in information return reporting and on Forms 945/945-A by tax year 2021 or sooner.	3
		2 - Fully implement the IRS’s communication plan to achieve payor awareness of the compliance requirements and to articulate a requirement for consistent EIN reporting. A timely IRS communication effort would be informative on tax compliance rules and would help enable payors to make any needed system and process changes to help ensure that information returns, and Forms 945/945-A are reported under the same EIN.	2

		3 - Continue focusing on training and education on backup withholding requirements for both taxpayers and IRS compliance and audit staff.	3
		4 - Continue to explore adding a Schedule R for Form 945/945-A to enable reporting of organizational structures as determined by the IRS to serve as an aid in compliance efforts.	1
		5 - Develop and issue a letter to the taxpayer when an EIN inconsistency is identified between information return reporting and Forms 945/945-A. This letter would be used to inform and educate the taxpayer for one or two years prior to issuance of any penalty for non-compliance.	2.2
2019-TEGE-1	Changing the IRS Advisory Opinion Process to Increase Transparency and Improve Operational Compliance for Pre-Approved Retirement Plans	1 - Improve operational compliance for employers adopting pre-approved plans with minimal additional resources from the IRS by providing the employers with increased transparency related to: (1) the control environment related to plan compliance and (2) the employer's and administrator's roles and responsibilities relating to compliance. (See pages 133 to 137 of the report for further details.)	1
		2 - Improve operational compliance for employers adopting pre-approved plans by: (1) documenting known or suspected operational compliance problems with pre-approved plans and (2) sharing knowledge of those problems with the pre-approved plan providers so they can address administrative issues within their scope of responsibility and help educate adopting employers about common compliance problems arising within the employer's responsibilities. (See pages 138 to 142 of the report for further details.)	1.8
2019-TEGE-3	Self Correction for Tax-Advantaged Bonds	1 - The IRS should establish a consolidated, to the extent practicable, flexible multi-level self-correction program, in a revenue procedure that is periodically updated, that encourages compliance by incentivizing issuers to self-correct. We suggest that the self-correction program be established with flexibility for the IRS to refine the program, describing additional applicability, additional remedial actions and moving particular violations to different levels for remediation.	1

		2 - Similar to what has been done with respect to employee plans, we suggest that for existing violations there be three levels of voluntary correction (see pages 156 to 157 of the report for further details).	2.2
		3 - With respect to the overall program, we recommend that the required remediation be refined to encourage issuers to identify and voluntarily correct violations early. Cash payment remediation that is significantly less than the liability as a result of an audit and that is scaled to encourage early correction will facilitate self-correction in an efficient manner.	2.2
		4- We recommend a simplified reasonable formula be provided for cash payments and not necessarily attempt to calculate tax exposure. To lessen complexity, we suggest that the new revenue procedure build upon and potentially cross reference concepts in existing “change in use” procedures of Treasury Regulation §1.141-12 and Revenue Procedure 2018-26.	2.2
		5 - We recommend that issuers be provided more flexible methods of remediation, building upon concepts in the “change in use” procedures of Treasury Regulation §1.141-12 and Revenue Procedure 2018-26 such as permitting remediation by investment in tax-exempt obligations and/or expenditures on qualified project costs.	2.2
2019- WI-2	Test to Expand Systemic Verification to Improve Voluntary Compliance for Income Reporting	1 - Provide access and visibility to the informational notice via the taxpayer online account. This platform already functions within the electronic Authentication, Authorization and Access (eA3) framework and is an essential electronic taxpayer resource. This will improve communication with the taxpayer and potentially increase the response rate as the online account adoption rate grows. The IRSAC suggests the taxpayer receive a notification that the letter has been sent to their online account.	1
		3 - Add an informational box to Form 1040X, Amended U.S. Individual Income Tax Return, Part III – Explanation of Changes section indicating the source of the amendment being made. By adding this data point to the Form 1040X, the IRS could gain valuable metrics on	4.7

		response rates for different communications channels, including this informational notice.	
		4 - Upon selection of taxpayers that qualify for the informational notice (Letter 6115C), send a copy to the third-party designee indicated on the originally filed tax return. This will result in the IRS receiving a faster response.	2.3
2019-WI-3	IRS Form 1040X – Electronic Filing	3 - Allow taxpayers to use an Identity Protection PIN (IP PIN) on an e-filed individual amended return.	1.1
2019-WI-4	Improve Marketing/Promotion and Participation of VITA/TCE Programs and Other Services	2 - Contact other federal agencies that follow SPEC’s anti-poverty goals (e.g., U.S. Department of Agriculture’s Supplemental Nutrition Assistance Program, U.S. Department of Housing and Urban Development, etc.) to promote SPEC’s programs. In addition, other federal agencies such as the Social Security Administration and Veteran Affairs would also have clients in common with SPEC’s goals. By introducing SPEC’s programs to these other federal agencies, SPEC could receive referrals from these organizations. [SPEC (Stakeholder Partnerships, Education and Communication) is the outreach and education function of the Wage and Investment (W&I) Division.]	1
		7 - Create a webpage for community partners separate from the VITA webpage, which is primarily directed to volunteers. The partner page should include information about the VITA grant and provide a link to the grant application and instructions. The site should also provide the marketing materials that local VITA sites can download and use to promote their local programs. A simple scheduling program or app that VITA sites could download for scheduling appointments to ensure sufficient volunteer coverage would also be helpful. The partner page should also promote opportunities and ideas that community partners could use to expand their programs (e.g., promoting the use of coalition grants, successful marketing strategies, etc.). These resources would be especially beneficial to smaller VITA sites that may have limited funds for developing their	1

		materials and marketing strategies. Last, the site should include testimonials from existing partners touting their programs and discussing how VITA benefits local communities.	
2020-SBSE-4	Identity Theft and Form 1099 Filing	6 - Require the payer to obtain the correct identification number and address for the worker/vendor after it has been notified that the information provided to it is inaccurate and after two attempts require back-up withholding from the payments.	3
		7 - Request legislation to provide for back-up withholding from payments made to known bad actors. The legislation should specify the back-up withholding rate as the maximum individual income tax rate. The IRS will receive the back-up withholding and the IDT victim would receive the benefit of the back-up withholding. Using the highest individual income tax rate could be a deterrent to individuals stealing another individual's identity.	3
2020-TEGE-1	Establish Comprehensive Resources for Native American Taxpayers and Federally Recognized Tribes	6 - Improve access, increase understanding, and increase the use of the IRS self-correction programs already available to tribes by providing descriptions and links to these programs from the webpage.	1
		8 - Include in the database executive orders that supplement or modify treaties.	1
2020-TEGE-4	Private Foundation Education to Encourage Compliance	1 - To heighten awareness of the complex private foundation restrictions, we recommend that the IRS develop and refer to a page on the irs.gov website that includes information, in easily understood formats, regarding descriptions of common pitfalls faced by private foundations. The IRS might consider building upon the helpful information in irs.gov/charities-non-profits/private-foundations to provide a more comprehensive and easily accessible resource for private foundations. Posting videos	1

		and podcasts relating to private foundation restrictions and common pitfalls would be helpful to ensure easy access to information. To facilitate smaller entities' awareness of the resources available, we suggest that reference to the webpage be included in each private foundation determination letter, in the Form 1023 instructions, and the Form 990-PF instructions.	
		2 - Provide outreach to tax return preparers regarding the private foundation information on the website, such as at seminars or on the tax return preparer portion of irs.gov.	1
2020-TEGE -6	How Can the Form 990 Instructions be Improved to Minimize or Eliminate Ambiguities that Exist with Regard to Tax-Favored Cooperative Organizations ?	1 - Form 990 Part IV, line 28 c refers to "certain interested persons" and then recommends a careful review of the instructions for Schedule L. The "Specific Instructions" section of the Schedule L Instructions defines "Interested Persons" differently, depending on which part of the Form is being completed. Clarity as to exactly what definition is intended for Form 990 is essential in order to correctly report director independency.	1
		2 - Form 990, Part I, Line 14 and Part IX, Line 4 requires reporting of "Benefits Paid to Members" which specifically includes patronage dividends paid by 501(c)(12) cooperatives to their members. No guidance is provided on how to treat payments to members to retire their patronage capital and how to report these items. Clear instructions on how to report patronage capital retirement payments should bring consistency in reporting among cooperatives.	1
		3 - Clarification on how a patronage sourced loss from a prior year is recovered in the current year. Many tax professionals are of the view that the only option for recovery is to report the actual patronage allocation and then explain the loss or net income reported on Part I, Line 19 in Schedule O. If this is the case, the Form 990 instructions should so specify.	1

	<p>4 - Form 990, Part IX – Clarification on what system is acceptable to complete the Statement of Functional Expenses. The Instructions' current guidance is "Use the organization's normal accounting method to complete this section. If the organization's accounting system doesn't allocate expenses, the organization can use any reasonable method of allocation." Unfortunately, this does not address expenses that must be reclassified in order to report expenses in the proper categories of lines 1–23. Guidance should be provided as to whether the IRS prefers that preparers: (1) re-create records to fit into each line item, (2) use current accounting classifications then reclassify director compensation, wages, benefits and payroll taxes and report remaining amounts on line 24, or (3) use current accounting classifications and reclassify only compensation and benefits for directors, officers and key employees, then explain A&G expenses on Schedule O. If all such methods are acceptable, the instructions should so state.</p>	1
	<p>5 - Form 990, Part VII on reporting of compensation for officers, directors, key employees, etc. does not provide clarity on the reporting of 457(f) deferred compensation benefits. Guidance could specify that reporting should follow Schedule J, Part II, Column F, and further provide a mechanism to avoid double reporting. Although the 990 instructions do provide a "Where to Report" chart beginning on page 34 which references Schedule J, there is no specific reference to Schedule J, Part II, Column F, which states that the preparer should "Enter in column (F) any payment reported in this year's column (B) to the extent such payment was already reported as deferred compensation to the listed person in a prior Form 990, 990-EZ, or 990-PF."</p>	1
	<p>6 - With respect to multi-employer plans, some clarification on reporting methods would be helpful. Specifically, with multi-employer plans, the employer could report the annual contribution made for the individual's benefit. For financial accounting purposes, multi-employer</p>	1

		plans use cash basis reporting based on actual payment to the plan during the year. The actuarial value of benefits earned are not recorded. The IRSAC recommends that the instructions provide that following the financial accounting requirements for multi-employer plans is an acceptable reporting method. This guidance would simplify reporting and facilitate greater understanding of these amounts by the general public.	
2020-TEGE-7	Relief for Employee Plans in times of National Emergency	1 - The IRSAC recommends that the IRS update Revenue Procedure 2018-58 per nine suggestions included at pages 118 to 120 of the report.	1
		2 - Seek input from the employee benefits practitioner community regarding other recommendations to update Revenue Procedure 2018-58. Once the updated Revenue Procedure is published, the IRS should provide additional outreach to employee benefits practitioners regarding the updated guidance, such as at seminars or on the employee plans portion of the Tax Exempt & Government Entities operating division site at irs.gov.	1
2020-WI-1	Taxpayer Digital Communications Next Step and Taxpayer Digital Communications Outbound Notification	4 - Focus resources on authenticated chat questions. While general tax questions are thoroughly supported in the marketplace via practitioners and multiple search engines, the IRS is the only service provider that can answer account-specific questions and/or make corrections to accounts. Thus, the IRS should focus resources on authenticated chat support to help resolve the more difficult account specific inquiries.	2.2
		6 - Explore incorporating TDC into the Practitioner Priority Service (PPS) operation – enabling more efficient and effective two-way communication between the IRS and tax professionals. Also, please note the PPS discussion in the SB/SE subgroup report.	2
		7 - Accelerate its Customer Experience Service Delivery (CX/SD) Plan to leverage its “Hey, Neighbor” messaging, which is intended to write content as if a human wrote it, eliminating legalese and bureaucratic language that may unnecessarily confuse a taxpayer.	2.3

		8 - Move forward with Release 2 of the TDC-ON for taxpayers to cease the generation of paper notices and request the push of notifications via text or email; OLA Analytics overwhelmingly support this request.	2.3
		9 - Develop a workflow authorization—an Application Programming Interface (API)—to share digital notices, resolution correspondence, and other considerations that would significantly enhance the abilities of Third-Party Designee or other authorized third-parties to be copied on notices and correspond with the IRS on the taxpayer’s behalf. Enable taxpayers to authorize the IRS to share digital notices with their tax professionals and entities such as firms and tax software providers as this would help coordinate efforts to resolve taxpayer notices. This collaboration would be best accomplished through a structured data sharing protocol that would authenticate related parties that are deemed essential to resolving taxpayer notices and ultimately reduce the need for manual review of resolution correspondence.	2.3
2020-WI-3	Reporting & Outreach Business Identity Theft	1 - Research, develop, and implement secure digital channels for BMF IDT-related correspondence – including the initial filing of Form 14039-B.	4.4
2020-WI-4	Promotion of the Taxpayer’s Responsibility to Update Their Current Mailing Address	1 - Create a banner, link or button on the IRS website “storefront” targeting users who have recently changed their mailing address.	1
		2 - Use mass-mailing situations as an opportunity to communicate the need to update an address to taxpayers.	1
2020-WI-5	Employer Tax Forms and Information Reporting	1 - Create a checkbox on Form W-2 that can be checked by employers who use an Employer/Payer Appointment of Agent or CPEO reporting arrangement (see additional details at page 158 of the report).	1
		2 - Include, to clarify the identity of both the employer and the third-party agent, an additional field/box on Form W-2 to reflect the actual (common law) employer’s EIN.	1

2021- GEN- 2	Implementati on of the Taxpayer First Act Section 1302, Modernizatio n of Internal Revenue Service Organizatio nal Structure	3 - Consider maintaining a sub-structure or segmentation within the new Exam Office that mimics the taxpayer-specific expertise that the TE/GE, SB/SE, and LB&I organizations provide today.	1.1
		4 - Consider retaining the infrastructure (i.e., people, process, and funding) that supports special programs tailored to taxpayer's needs, e.g., the CAP, ICAP, and VCAP.	1.1
2021- GEN- 3	Independent Office of Appeals	2 - Fully implement Enterprise Case Management (ECM) software and paperless case files throughout Appeals and the IRS so that cases can seamlessly travel from Exam and Collections databases into the Appeals database, greatly speeding the time a taxpayer's case can move to Appeals.	1.2
2021- GEN- 5	Circular 230 Revision	Work with the Treasury Department to update Circular 230 for currency, relevancy, and readability.	1.9
2021- IR-1	Payers of Income Related to Digital Assets Need Information Reporting & Withholding Guidance	1 - Expedite the release of the modifications under Section 6045 in order to minimize ongoing taxpayer issues with digital asset transactions.	1.7
		2 - Develop a strategic plan for analyzing and providing the industry with applicable withholding and information reporting guidance for other digital asset related transactions including income from staking, lending activities and NFT marketplaces.	1.7
		3 - Update existing publications and Form 1099 Instructions with examples of digital asset transactions subject to the requirements. Leverage traditional communications like Internal Revenue Bulletins to articulate guidance for more specific application of details.	1.7
2021- IR-4	Negative Interest Rates	1 - Publish guidance with respect to the source of a negative rate payment. Such guidance should be broad enough to cover payments on routine financial transactions such as deposits, collateral on derivatives, margin loans and repos.	1.7

		2 - If there are scenarios in which published guidance treats a negative rate payment as U.S. source fixed or determinable annual or periodical (FDAP) income, (i) such guidance should be effective only after an adequate transition period for withholding agents to modify systems to account for such guidance, and (ii) the IRS should not challenge taxpayers who have taken a reasonable position with respect to the tax characterization and source of a negative rate payment prior to the effective date of such guidance	1.7
2021-LBI-4	Ensuring the Timely Issuance of Certificate of Residency Forms	1 - Permit electronic filing of Form 8802, Application for United States Residency Certification.	1.5
		2 - Accelerate the submission date of Form 8802 prior to December 1st and begin processing applications on a rolling basis once received, so they are ready to be issued as soon as possible after January 1st.	1.7
2021-SBSE-1	The IRS COVID19 Response	4 - Expand Tax Pro Online Account functionality to provide authorized representatives with access to digital notices, particularly for Collection notices.	1.4
		5 - Expand authenticated text chat for authorized third parties to resolve collection issues.	1.4
2021-SBSE-2	The Compliance Effort Around Abusive Promoters and Preparers	3 - Create a well-equipped and specialized, independent function (an Abusive Promotion Termination Task Force (APTTF)) with dedicated, attached Revenue Agents, Revenue Officers, Special Agents, Tax Analysts, Data Analysts, and Chief Counsel attorneys, who are assigned to the same management team.	1.9
		6 - Inform and educate Congress and its staffers on the importance of, and the need for, enhanced legal authority to more expeditiously penalize abusive promoters and preparers.	1.9
2021-WI-1	Review of Paid Preparer Due Diligence Training Module	4 - Consider using a more interactive and engaging training platform, including audio/video like the one used for VITA/TCE training.	1.9
2021-WI-2	Determining the Usefulness of	2 - Establish criteria to identify IRS publications and products with declining taxpayer appeal and usage.	1

	Publication 535		
2021-WI-3	Determining the Usefulness of Publication 938	1 - Develop Publication 938 as a searchable database with real-time information on REMICs and CDO issuers.	1
		2 - Study the possibility of changing the quarterly publication frequency to semiannual or annual, thereby reducing the friction caused by collecting Forms 8811, updating and formatting the publication, as these are very time-consuming tasks that are performed manually.	1
2022-GEN-1	IRS Business and IT Modernization	4 - Eliminate paper by increasing electronic filing and communications capabilities and, where appropriate, implementing electronic filing mandates.	4
2022-IR-1	Alignment of Electronic Signature Requirements on Withholding Certificates	1 - The IRSAC recommends the IRS align the electronic signature rules between Forms W-9, W-4, W-4P, and W-4R and the Form W-8 withholding certificates by issuing guidance that electronic signatures are allowable on Forms W-9, W-4, W-4R and W-4P regardless of whether the payor has developed an “electronic submission system”, as long as the form reasonably demonstrates that it has been electronically signed by the recipient identified on the form (or a person authorized to sign for the recipient).	1.1
		2 - The IRSAC also recommends the IRS modify the signature block on Forms W-9, W-4, W-4P, and W-4R to accommodate an electronic signature (identical to the Forms W-8).	1.1
2022-IR-3	Enabling Business Online Accounts and Electronic Communications and Transactions	1 - Explore ways to tackle paper processing of employment tax returns.	4.1
		2 - Develop a secure e-mail process for businesses and the IRS to receive and send time-sensitive penalty correspondence or correspondence that contains private taxpayer information.	4.1
2022-IR-4	Wage Reporting for Payments to Incarcerated Individuals	1 - Update Publication 15 (Circular E), Employer’s Tax Guide and Instructions for Forms W-2 and 1099-NEC to include a cautionary note related to individuals who are incarcerated, and to reference the Office of Chief Counsel guidance.	1.7
		1 - Prioritize electronic filing of Form 8802.	1.2

2022-LBI-1	Accelerate Issuance of IRS Form 6166, Certification of U.S. Residency	3 - Extend the temporary relief allowing taxpayers to provide only a signed base tax return without attachments or schedules with its application for certification for a year for which a return was recently due.	1
		4 - Engage and educate other competent tax authorities so they are aware of the IRS timeline for issuing CoRs and advocate for grace periods (unrelated to the COVID pandemic) for taxpayers to provide CoRs to claim treaty benefits.	2.4
2022-LBI-3	Procedures For Partners that Receive Late Schedule K-1 Filings	1 - Use good faith estimates with respect to late received Schedules K-1 to timely file their Form 1120.	2.4
		2 - Correct any such estimated amounts (to the extent necessary) on the subsequent tax year's Form 1120 (including the payment of any interest attributable to an increase in tax for the original reporting year resulting from such true-up and consent to extend the statute of limitations solely with respect to these corrected amounts).	1.8
		3 - Include an attestation signed under penalty of perjury that the estimated amounts are good faith estimates to best knowledge of the corporate taxpayer and the Schedules K-1 were not received on or prior to September 15 and similar timing for fiscal year large corporate taxpayers.	2.4
		4 - IRSAC also recommends that LB&I seek public comment from large corporate taxpayers that are domestic partners on this procedure with respect to correcting items of income, gain, loss, deduction and/or credit.	4.8
2022-SBSE-1	Examination Customer Coordination and Innovation Office	1 - Improve the functionality of the IRS's Online Account to make it a "one-stop-shop" for taxpayers to obtain tailored online service while guarding against the risk of identity theft.	1.4
		3 - Improve the ability of taxpayers to satisfy their tax obligations online by expanding on taxpayers' current ability to obtain transcripts through their Taxpayer Account.	1.4
2022-TEGE-2	Recommendations for Employee Plan	1 - Adopt the Preaudit Contact program as a regular, broad-based compliance tool utilized prior to the commencement of audits where a specific compliance area of focus has been	3

	Examination Compliance Approaches	identified and continue to refine the program over time as EP receives stakeholder feedback and evaluates plan sponsor questions and responses.	
2022-TEGE-5	Recommendations for Effective State Engagement to Promote Employment Tax Compliance	1 - Partner with national organizations serving state, county, and local government entities to communicate and highlight available IRS FSLG resources through inclusion of information in organization's developed communication channels (listserv/newsletters/conferences/webinars, etc.). Organizations may include the National Association of State Auditors, Comptrollers and Treasurers (NASACT), National Association of Counties (NACO), National League of Cities (NLC), National Association of Towns & Townships (NATaT), and/or national HR/Payroll management associations.	1.9
		3 - Develop an FSLG user community education/dialogue group by establishing an on-going, monthly, virtual FSLG compliance education series open to all FSLG entities which highlights a different topic each month using the existing resources (videos, etc.) and is hosted live by an IRS FSLG representative capable of leading a discussion and answering questions on the topic.	1.9
		4 - Market existing resources through development of a short-term marketing campaign to highlight and communicate compliance resources for a "Top Five Focus" aimed at increasing compliance in the top areas for audit findings in employment tax as applied to State and Local government workers.	1.9
		2 - There needs to be a procedure in place that a business can authenticate on-line to receive BMF TDS transcripts.	1.4
2022-WI-1	Business Master File (BMF) Transcript Delivery Service (TDS)	3 - BMF Transcript availability should include a focus on the following high value information, and forms/returns: Entity Information and Forms 94X Series, 990, and 2290.	1.4
		4 - IRS should add the following data elements to BMF transcripts: <ul style="list-style-type: none"> • Entity information including type of entity, EIN and name/address verification. • For LLC entities, an indicator as to business 	1.6

		entity type selected. • The parent tax identification number for all EINs assigned to disregarded entities.	
		5 - IRS should consider the expansion of BMF Transcripts as part of the IRS modernization plans.	1.6
		6 - IRS should schedule regular engagement with industry members, including outreach via IRS Stakeholder liaisons who regularly meet with industry leaders in each state, to understand the relative benefits of implementing specific new transcript deliveries through TDS.	1.9
2022- WI-2	Artificial Intelligence BOTS for Customer Service	1 - Prioritize the following topics for authenticated Voicebot/Chatbot support from its current list of potential AI bot implementations: Identity Theft, IP PIN, Refund Inquiries, Balance Due Inquiries and POAs.	1.2, 4
		2 - Prioritize the implementation of authenticated voice and chat bot services, that also include appropriate authentication and identify protection for the individual, and enable taxpayers to receive taxpayer-specific information, such as return processing status (including amended returns) and prior year AGI.	1.2, 4
		3 - Improve the effectiveness of its bots by implementing metrics and measurement points that enable continuous feedback and correction processes.	4
2022- WI-3	Tax Pro Account Online Features	1 - Prioritize the following five features for implementation into the Tax Pro Account: • Secure Messaging Integration • Access to Case Status and Contact History • Receive Notices sent to Client • View Client Tax Records/In-App Transcript Download • Update Third Party Information	1.2
		2 - Continue to drive increased adoption and usage of Tax Pro Account by proactively promoting, obtaining ongoing feedback, and continuously improving the account features.	1.2
		3 - Consider the development and expansion of the Tax Pro Account as part of the IRS business modernization plans.	1.2

		4 - Schedule regular engagement with industry members to understand the relative benefits and prioritization of potential new features in the Tax Pro Account.	1
2022-WI-4	Form SS-4, EIN Application, Daily Limit per Responsible Party	Increase the EIN issuances limitation to 10 per responsible party, per day. This increase would enable applicants that require multiple EINs to obtain them in a more expedited manner.	1

APPENDIX C: IRSAC Member Biographies

*Indicates New Member

Amanda Aguiard – Ms. Aguiard is the Chief Operations Officer with Padgett Business Services. She has been involved in assisting small business taxpayers for over 20 years with income and other tax issues. Prior to joining Padgett Business Services she worked with large accounting firms in her capacity as a National Ambassador for New Zealand-headquartered Xero. She co-founded and runs Elefant, a training and consulting company for accountants and Bookkeepers. Aguiard holds a Bachelor of Science degree in Accounting from the University of Louisiana at Lafayette and a Master of Taxation from the University of Denver. Aguiard represents small business, and she is a member of the AICPA and the Society of Louisiana CPAs. **(Small Business/Self-Employed Subgroup)**

Martin Armstrong – Mr. Armstrong is VP of Payroll Shared Services for Charter Communications, a Fortune 100 company and the second largest cable operator in the United States. He has held executive roles with Time Warner Cable and Caesars Entertainment, is a retired Navy Supply Corps officer, and is the former Accounting & Finance Area Chair for the University of Phoenix, where he was named the 2018 Distinguished Faculty of the Year. Armstrong is a former Vice President, Board of Advisor, and current member for the American Payroll Association, the Society for Human Resource Management, and the National Association of Tax Professionals. Armstrong is also the Chair of the Payroll Advisory Board for Bloomberg Tax and Accounting, and an Advisory Board Member for the Workforce Institute. Armstrong is a Certified Payroll Professional (CPP), and holds a MBA degree from the University of Maryland University College (UMUC), and a Doctor of Business Administration (DBA) degree from Argosy University. Dr. Armstrong has written for, or been covered by, the Wall Street Journal, APA's PAYTECH magazine, the Bloomberg Tax Payroll Administration Guide, Human Resource Executive, The Paycard Advisor, Accountant's World, The Institute of Management & Administration, Training

Magazine, the Workforce Institute, and Business Finance. **(IRSAC Chair and Wage & Investment Subgroup)**

***Joseph Bender** – Mr. Bender is Partner with Difede Ramsdell Bender PLLC in Washington, D.C. Bender has practiced federal tax law for nearly 30 years. Over the last 15 years, his practice has focused on investments by tax-exempt organizations, particularly leveraged and unleveraged investments, unrelated business income tax, unrelated debt-financed income, and real estate investment trusts (REIT). **(Tax Exempt & Government Entities Subgroup)**

Sharon Brown – Ms. Brown is a Partner at Barclay Damon LLP, where she is the cochair of the Public Finance Practice Area and a member of the Tax Practice Area and the tax credits team. She primarily concentrates her legal practice on the federal tax treatment of tax-exempt bond financings and serves as bond counsel, underwriters' counsel, and special-tax counsel. Ms. Brown also routinely handles a wide variety of public finance transactions, including multifamily and single-family housing, power and energy, and 501(c)(3) financings. She has been named to Law360's Influential Women in Tax Law list, and she received the Trailblazing Women in Public Finance Award from The Bond Buyer in 2018. In addition to her role at Barclay Damon, Ms. Brown is a federal income tax adjunct at New York Law School. She is a member of the National Association of Bond Lawyers, the New York State Association for Affordable Housing, the New York State Government Finance Officers Association, and the Municipal Forum of New York. **(Tax Exempt & Government Entities Subgroup)**

Jeremiah Coder – Mr. Coder has more than 15 years of policy and technical tax expertise focused on international, domestic and state tax policy issues spanning different industries, client types, issues and countries. He provides policy and technical advice regarding international, U.S., and Organization for Economic Cooperation and Development (OECD) tax developments, including digital taxation, nexus and profit allocation, information exchange and reporting programs, tax transparency, and tax controversy matters. He previously served

as a tax policy adviser to the OECD and has had various roles in private practice and as a contributing editor for Tax Analysts. Mr. Coder is a member of the American Bar Association, Federal Bar Association, and International Fiscal Association, and a fellow of the American College of Tax Counsel. **(Large Business & International Subgroup)**

Sam Cohen – Mr. Cohen is Government Affairs/Legal Officer with the Santa Ynez Band of Chumash Mission Indians, a federally recognized Indian tribe. He advises the tribe and its members on the application of federal, state and tribal laws. He has worked with the IRS Indian Tribal Governments Office on a notice for draw-down loans and a notice for refunding tribal government bonds. Mr. Cohen has also worked on a \$93 million Tribal Economic Development Bond (TEDB) issuance for a new hotel tower and parking garage. He is a member of the General Welfare Exclusion Subcommittee of the Treasury Tribal Advisory Committee. **(Tax Exempt & Government Entities Subgroup)**

Alison Flores – Ms. Flores is Principal Tax Research Analyst with H&R Block. She is a tax attorney with over 15 years of experience. She supplies guidance on complex tax areas to over 70,000 tax professionals and responds to their feedback and questions. She helps cross-functional teams understand and implement changes that affect taxpayers. Her team works to understand systemic tax administration challenges, finds opportunities to bring awareness to those challenges and proposes solutions. She leads the internal research tool for H&R Block delivering tax research materials on an online research platform. She has a deep understanding of issues facing individual and small business taxpayers and knowledge of how refundable credits and other tax benefits have changed over the years. Flores holds a Bachelor of Arts in English and History from Bethel College and a Juris Doctorate from the University of Kansas School of Law. Flores works with tax professionals and the tax preparation industry. **(Wage & Investment Subgroup)**

***Christine Freeland** – Ms. Freeland is President of Christine Z. Freeland, CPA PC, in Chandler, Arizona. Freeland has volunteered tax services at both the local and state levels. At the national level, she has served as president of the National Society of Accountants (NSA). Freeland was also the NSA presenter for the IRS Nationwide Tax Forum in 2020 and 2021. She also works with the Arizona Association of Accounting and Tax Professionals and has developed continuing education events for IRS Tax Security Awareness Week. Freeland also teaches Circular 230 Ethics annually and participates in roundtables. **(Small Business/Self-Employed Subgroup)**

***Aidan Hunt** – Mr. Hunt is a recent graduate of the University of North Carolina – Chapel Hill in North Carolina. Hunt holds a Bachelor of Arts degree in computer science and linguistics. He has volunteered as a tax preparer through the VITA program, where he obtained an advanced-level tax law certification and prepared returns for families and individuals. Hunt is passionate about helping the IRS provide accurate information to individuals and helping clients feel more aware of their tax liabilities. **(Small Business/Self-Employed Subgroup)**

***John Kelshaw** – Mr. Kelshaw is the former Tax Compliance Director at Jackson Hewitt Tax Services in Sarasota, Florida. Kelshaw has almost 40 years of experience at the IRS working on complex tax issues. He has conducted audits of individuals, small businesses, large corporations, and international taxes. Kelshaw has also worked as a senior Appeals Officer, serving as an independent arbiter to resolve unagreed, complex tax issues. He is an Enrolled Agent (EA). **(Small Business/Self-Employed Subgroup)**

Jodi Kessler – Ms. Kessler is Assistant Director Tax at MIT. Ms. Kessler has 13 years of experience in higher education focusing on all aspects of taxation, including federal, state, local and international filing rules and requirements; gifts to and from a university; rules on withholding and reporting of all types of payments made by a university; and providing information on entity creation and

dissolution. She has collaborated successfully with several departments to advise on tax rules and informational reporting at universities including The Ohio State University and Harvard University. At the Massachusetts Institute of Technology (MIT), she analyzed reporting and developed improved processes for reporting payments including employee compensation, service and non-service scholarships and fellowships, independent contractors and foreign recipients; she has developed trainings on the tax implications and reporting requirements of payments MIT issues to both U.S. tax residents and nonresidents. Ms. Kessler is a member of the National Association of College & University Business Officers (NACUBO). **(Tax Exempt & Government Entities Subgroup)**

Mason Klinck – Mr. Klinck is the VITA Site Manager for Making Opportunity Count (MOC). He is an EA with 20 years of experience as a tax preparer. Formerly an agent for the IRS and a tax shelter auditor for the California Franchise Tax Board, he has worked with law and CPA firms in return preparation, collections, audits, appeals, innocent spouse relief and U.S. Tax Court petitions. As the VITA manager for his community agency, he supervises the preparation of tax returns for low-income taxpayers and represents distressed taxpayers before the state and the IRS. In response to the COVID-19 pandemic, he implemented a virtual system of tax preparation for MOC clients. He has volunteered for Low Income Taxpayer Clinics in California, Vermont, and Massachusetts. Fluent in several languages, Klinck holds both a Bachelor and Master of Arts in Modern Languages from Oxford University, a Master of Business Administration from Boston College, and a Master of Science in Taxation from California State University. Klinck serves on the Commissioner's Advisory Council of the Massachusetts Department of Revenue and is a director of the Massachusetts Society of Enrolled Agents. **(Wage & Investment Subgroup)**

Steven Klitzner – Mr. Klitzner, a Florida Attorney, has more than 20 years of experience representing taxpayers before the IRS. He devotes 100% of his law

practice to tax resolution and controversy work. He is admitted to the U.S. Supreme Court, U.S. District Court Southern District of Florida, and U.S. Tax Court. He has had multiple speaking engagements with the American Society of Tax Problem Solvers and teaches continuing education courses to CPAs, EAs, and attorneys around the country. Mr. Klitzner is a member of the Florida Bar Tax Section, American Society of Tax Problem Solvers, Advisory Board of the Tax Defense Institute, South Florida Tax Litigation Association, Florida Lawyers Network, and Provisors. **(Chair, Small Business/Self-Employed Subgroup)**

***Anthony Massoud** – Mr. Massoud is Vice President of Corporate Finance and Tax with Van Metre Companies in Fairfax, Virginia. Massoud began his tax career at a CPA firm, working with high-net-worth individuals and international businesses. He has also served as a Tax Manager for a real estate company, managing over 200 partnership returns, in addition to trusts, foundations, and high-net-worth individual tax returns. Massoud has lived around the world, including in the Democratic Republic of Congo, France, Saudi Arabia, and Bahrain. **(Large Business and International Subgroup)**

***Susan Nakano** – Ms. Nakano is Senior Manager of Corporate Tax with Discover Financial Services in Riverwoods, Illinois. Nakano is experienced in operations, audit, risk and information technology. She helps internal business partners develop tax-compliant processes and is an expert in federal and state tax codes, as well as regulations and guidance requirements. Nakano works in information reporting, focused on reporting for a bank depository and lending institution as well as for credit card settlements. **(Information Reporting Subgroup)**

***Annette Nellen** – Ms. Nellen is Professor of Accounting and Taxation and MST Program Director at San Jose State University. Nellen is a CPA and attorney and is active in the tax sections of the AICPA (including former chair of the Tax Executive Committee), ABA (vice chair of the Tax Policy & Simplification

Committee), and California Lawyers Association (member of the Tax Executive Committee). She is the recipient of the 2013 Arthur J. Dixon Memorial Award given by the Tax Division of the AICPA, the highest award given by the accounting profession in the area of taxation. Nellen has written numerous tax articles and is a co-author/co-editor of four tax textbooks. She is a frequent speaker at conferences and education programs for tax professionals focusing on tax developments, property transactions, digital assets, tax research, ethics, tax reform and tax policy and has testified several times before various legislative committees and tax reform commissions on tax policy and reform. Prior to joining SJSU in 1990, she worked at the IRS (revenue agent and lead instructor) and a Big 4 CPA firm. **(IRSAC Vice Chair and Small Business/Self-Employed Subgroup)**

T. Charles Parr III – Mr. Parr is a Partner with ABIP CPAs & Advisors. Mr. Parr has over 40 years of diversified tax and audit experience with small to large publicly and privately held companies, both in private practice and with two Big-Four Firms; merger and acquisition representation, due diligence review, feasibility studies, financing and tax consultation; litigation support in bankruptcy and non-bankruptcy proceedings on corporate reorganizations and other technical tax testimony; medium to large corporate bankruptcy “turnaround” reorganization planning, business management consultation, and related tax compliance; planning, supervision of information gathering, and technical review for compliance and information reporting of U.S. based multi-nationals and non-U.S. multinationals operating within the U.S; feasibility study, implementation and ongoing compliance filings for large and small Foreign Sales Corporations and Interest Charge – DISCS; domestic and foreign large-case corporate IRS examination representation and coordination with legal counsel in provision of information, technical research and expert witness testimony. Mr. Parr is a member of American Institute of Certified Public Accountants (AICPA) and the Texas Society of CPAs. **(Large Business and International Subgroup)**

Luis Parra – Mr. Parra has over 25 years of experience in tax audit representation, accounting, taxes, and budget planning for individuals, business and non-profit organizations in the Northeast and Caribbean. Parra previously worked for 12 years in payroll in Puerto Rico. He is an Enrolled Agent (EA) who has worked with field and office examinations, appeals examinations, collections, and representation. Parra has been a tax instructor for more than 20 years, teaching in English and Spanish throughout his continuing education company, “American Tax Club, Inc.” (Ameritax). He serves as a Spanish instructor designated by the IRS Stakeholder Liaison Office in New York and the Latino Tax Professionals Association. **(Wage & Investment Subgroup)**

Phillip Poirier – Mr. Poirier is a Senior Fellow with the Social Policy Institute at Washington University in St. Louis. His work focuses on investigating ways to leverage our system of tax administration to improve the financial lives of low- and moderate-income Americans and active duty military service members. He has experience as a VITA tax preparer and has worked with national organizations on VITA program issues including volunteer management, virtual tax services and cybersecurity. After a private legal practice advising technology companies, Mr. Poirier worked with Intuit Inc. in legal, regulatory, business development and compliance positions. He has an extensive background in tax, electronic tax administration, personal finance, consumer and professional online and mobile offerings, and regulatory/policy issues in the digital economy. Mr. Poirier served in the U.S. Navy and Naval Reserve for nearly three decades, retiring as a Captain. He is former chair of the IRS Electronic Tax Administration Advisory Committee, and a member of the Taxpayer Opportunity Network. He holds a J.D. from the University of San Diego School of Law, and a B.S. in International Security Affairs from the U.S. Naval Academy. **(Chair, Wage & Investment Subgroup)**

Seth Poloner – Mr. Poloner is Executive Director/Global Head of the Operational Tax Advisory Group at Morgan Stanley. Mr. Poloner has 18 years of experience

as a tax attorney at both a large international law firm and a major global financial services firm. In his current role, he leads a team of tax attorneys and professionals responsible for legal interpretation, advice and risk management related to global operational taxes. He provides advice on all aspects of U.S. information reporting and withholding, including non-resident alien and backup withholding; Forms 1042-S and 1099 reporting, including cost basis; validation of Forms W-9 and W-8; and the Foreign Account Tax Compliance Act (FATCA), Qualified Intermediary and Qualified Derivatives Dealer regimes. Mr.

Poloner also provides business unit advisory support for the firm's retail wealth management and stock plan businesses, including advising with respect to new products and transactions, addressing client inquiries and drafting and updating tax-related policies and communications. Mr. Poloner is vice-chair of the Securities Industry and Financial Markets Association (SIFMA) Tax Compliance Committee. **(Information Reporting Subgroup)**

Jeffrey A. Porter – Mr. Porter is Member/CPA with Porter & Associates CPAs, PLLC. He is a CPA with over 40 years of experience preparing business and individual tax returns. His firm represents small- to medium-sized businesses and high net worth individuals spread across a wide spectrum of industries. He has been active in the American Institute of Certified Public Accountants for over 30 years, with prior service on the Board of Directors, its Governing Council and chair of its Tax Executive Committee. He served on the Steering Committee for the AICPA National Tax Conference for 20 years and served as Chair of the Conference for over 10 years. In 2016, he received the Arthur J. Dixon Memorial Award, the highest honor bestowed by the accounting profession in taxation. He has testified before the U.S. House of Representatives and the U.S. Senate five times on tax related matters. Porter holds a Bachelor of Business Administration from Marshall University and a Master of Taxation from the University of Tulsa. Porter represents small and medium-sized businesses, and he is a member of the AICPA and the West Virginia Society of CPAs. **(Small Business/Self-Employed Subgroup)**

Dawn Rhea – Ms. Rhea is Partner at Weaver & Tidwell, L.L.P. focusing her practice on green and renewable energy credits, tax controversy, tax consultancy and quality risk management. She helps lead Weaver’s Inflation Reduction Act federal non-fuel credit initiatives advising on production, investment, carbon sequestration, clean hydrogen, advanced energy projects, credit monetization, base rate enhancements, and structuring. Ms. Rhea represents taxpayers before the IRS during all stages of examination and appeal process, as well as Private Letter Rulings and other taxpayer relief. Previously, Ms. Rhea served as Chief Legal Office for Aureus Finance Group, LLC, where she advised principals on legal and financial matters regarding investment opportunities and the overall ecosystem of intended acquisitions, investments, and financings.

She was also a National Tax Director with Moss Adams, LLP representing corporations, S corporations and partnerships in merger and acquisition transactions ranging from \$50 to \$700 million. She was leader in the tax controversy, QSBS, and transaction cost practices. Ms. Rhea is a member of the California Bar, the New York Bar, the Texas Bar, and the American Bar Association (Section of Taxation). She is a Certified Public Accountant in Louisiana and Texas. **(Large Business & International Subgroup)**

***Brayan Rosa-Rodriguez** – Mr. Rosa-Rodriguez Executive Director of the Instituto del Desarrollo de la Juventud (Youth Development Institute) based in San Juan, Puerto Rico. Rosa-Rodriguez successfully executed a tax credit campaign focused on Latino taxpayers in key states such as California, Arizona, Texas, Florida and Puerto Rico. This campaign leveraged the American Rescue Plan improvements to the Child Tax Credit and Earned Income Tax Credits. He has also supported the production and dissemination of research related to economic policy, poverty, tax credits, and program implementation, as well as public policy briefs and educational materials regarding tax policy and the job market. Rosa-Rodriguez coordinates these advocacy efforts with local, state, and national partners. **(Wage & Investment Subgroup)**

Nancy Ruoff – Ms. Ruoff is the Director of the Office of Accounts and Reports for the State of Kansas which maintains responsibility for statewide accounting and payroll systems, compliance, agency audits, internal control, debt collection, policies, procedures, and reporting including the Annual Comprehensive Financial Report (ACFR) and statewide Single Audit for all state agencies including the Executive, Legislative, and Judicial branches of government and seven higher education regent institutions. Ms. Ruoff has over 32 years of experience in payroll, systems, and project management including business applications and upgrades, analysis and application of Federal State and Local regulations, and identification and implementation of system enhancements and efficiencies. Ms. Ruoff is a CPA and an active participant in various industry groups. **(Chair, Tax Exempt & Government Entities Subgroup)**

Jon Schausten – Mr. Schausten is the Director of Payroll and HRIS with American United Life Insurance Company DBA OneAmerica. He is a Certified Payroll Professional with over 20 years of payroll experience with union, multi-state and international payrolls. He oversees payroll, time and attendance, HRIS and HR Shared Services. He managed payroll for expatriate associates including foreign income and tax returns. He assisted the Social Security Administration in its five- year modernization project articulating the needs of payroll professionals in using online services. He is a member of American Payroll Association (APA) and was named the 2020 American Payroll Association Payroll Man of the Year. He has received the 2017 Prism Award for Management. He is currently the Vice President of APA and serves as Co-Chair of the Government Relations Task Force for IRS Issues and Co-Chair of Social Networking Committee. Schausten holds a Bachelor of Business Administration in Human Resources Management from Marian University. Schausten represents the information reporting community and payroll industry. **(Information Reporting Subgroup)**

Tara Sciscoe – Ms. Sciscoe is a Partner at Ice Miller, LLP where she is a member of the Employee Benefits group. She has 28 years of experience advising

employers, plans and trusts with respect to the design and compliance of their employee benefit programs. Ms. Sciscoe has a national practice in representing public pension systems and governmental and tax-exempt colleges, universities, university systems, and school corporations with respect to their unique benefit issues, which frequently involve multiple interrelated plans on the state and institutional level. She is general counsel to the seventh largest denominational church plan in the U.S., which administers retirement plans and deemed IRAs for churches across the country, and regularly advises church and church-related organizations on employee benefit matters. Ms. Sciscoe is an active member of the National Association of College and University Attorneys and the Church Alliance Core Lawyer Working Group, and frequently writes and presents for these and other groups. She is chair of Ice Miller's Higher Education practice and chair of the Retirement Plan Committee. She holds a J.D. from the University of Michigan and a Bachelor of Arts from Duke University. Sciscoe represents tax-exempt organizations and employee plans. **(Tax Exempt & Government Entities Subgroup)**

Paul Sterbenz – Mr. Sterbenz is Director of Information Reporting with Fifth Third Bank. Mr. Sterbenz has 25 years of experience performing information reporting and withholding in the financial services industry. He manages consultation and support to areas of the bank responsible for the production and filing of information reports (including Forms 1099 series, 1042-S, etc.) and the production and filing of annual withholding tax returns (including Forms 945 and 1042). Mr. Sterbenz is responsible for managing the bank's Foreign Bank and Financial Account Report (FBAR) filings and manages the bank's relationship with IRS and other tax authorities with respect to audits and process issues including the corporation's response to penalty and B notices. He monitors regulatory and legislative developments and advises management on the potential tax implications of new legislation, regulations and rulings. Mr. Sterbenz is a member of the American Banking Association's Information Reporting Advisory Group (IRAG) and is a

member of the American Bankers Association. **(Information Reporting Subgroup)**

Kathryn Tracy – Ms. Tracy is Managing Partner with Kat & Bud Enterprises LLC. Ms. Tracy has owned and operated an accounting and income tax firm since 1992. Her accounting practice offers full-service electronic bookkeeping, accounting and tax preparation services. She prepares over 1,600 returns annually for individuals, corporations, partnerships, non-profit organizations, and estates and trusts. She also prepares information reporting returns. Ms. Tracy is a former IRS Revenue Agent (1987- 1992) with individual and business audit experience, including payroll returns. She played an active part in the fraud-non-filer group researching complex tax law issues. Ms. Tracy works with the IRS local Taxpayer Advocate Service office and speaks to various professional groups throughout Arizona. She has been a VITA volunteer and instructor for 32 years and served on team that wrote the 2019 and 2020 Form 6744 VITA/TCE Volunteer Assistor's Test/Retest. Ms. Tracy is a member of the National Association of Enrolled Agents (NAEA). **(Wage & Investment Subgroup)**

Wendy Walker – Ms. Walker is Solution Principal with Sovos, a global tax software company. She helps ensure customers (including financial institutions and insurers, multinational corporations, payment processors, gig platforms and more) remain compliant with their withholding and information reporting obligations. A respected industry voice, Ms. Walker appears regularly in business and industry publications such as Law360, Bloomberg, and Forbes. She previously worked in financial services for over 15 years at J.P. Morgan Chase and Zions Bancorporation leading tax operations and compliance teams focused on Form W-8 and W-9 and withholding compliance, and information reporting for more than 12 million Forms 1098, 1099-INT, 1099-A, 1099-C, 1042-S, 1099-MISC and more. Ms. Walker is a member of the Council for Electronic Revenue Communication Advancement (CERCA), National Association of Computerized Tax Processors (NACTP), and is the chair of the Risk Committee 1099-K

Subgroup at the Electronic Transactions Association (ETA). Walker holds a Bachelor of Science in Management from Franklin University and a M.B.A. from Ohio Dominican University. **(Chair, Information Reporting Subgroup)**

Sean Wang – Mr. Wang is a Director with Charles Schwab's Information Reporting Policy & Compliance group, where he advises and supports internal business line partners on information reporting and withholding compliance, corporate digital projects, and implementation of new or changes of information reporting and withholding rules. He was previously a Senior Manager with EY where he advised and assisted banking, insurance, and asset management clients on domestic reporting and withholding issues (i.e., Forms 1099 and backup withholding), nonresident alien reporting and withholding issues (i.e., Forms 1042-S and section 1441 withholding), the Foreign Account Tax Compliance Act (FATCA) and the Common Reporting Standard (CRS). Mr. Wang received a Bachelor of Business Administration in Accounting from the University of Massachusetts at Amherst. He is a Certified Public Accountant and a member of the AICPA and the Massachusetts Society of CPAs. **(Information Reporting Subgroup)**

Katrina Welch – Ms. Welch has over 25 years of tax management and strategic decision-making experience. As Vice President - Tax for Solera, the global leader in vehicle life cycle management, she delivers strategic tax planning by working closely with the business entities to drive operational initiatives, as well as leading tax policy, controversy, compliance, and reporting. Previously, Ms. Welch led the global tax function at Texas Instruments. She also served as the Tax Executives Institute (TEI) 2019-2020 International President and has been a TEI member for over 20 years, with prior service as TEI Senior Vice President, a member of TEI's Executive Committee and on the TEI Board of Directors. **(Chair, Large Business and International Subgroup)**

***Brian Yacker** – Mr. Yacker is Partner, Nonprofit Services, at Baker Tilly in Irvine, California. Yacker’s career has focused on working with tax-exempt organizations and he currently serves over 1,000 different nonprofits, including public charities, private foundations, hospitals, higher education institutions, religious organizations, social clubs, business organizations, and labor organizations. He is currently a member of the AICPA Exempt Organization (EO) Tax Technical Resource Panel, a Board member for the TE/GE EO Council, and is on the National Association of State Charity Officials (NASCO) Public Day Planning Committee. **(Tax Exempt & Government Entities Subgroup)**