Internal Revenue Service Advisory Council

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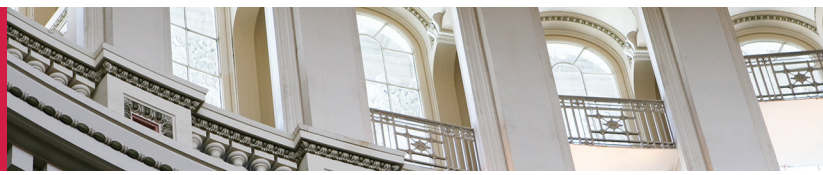

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INTERNAL REVENUE SERVICE ADVISORY COUNCIL

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TABLE OF CONTENTS

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 2022 IRSAC is composed of 34 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:

- Real-time feedback to the IRS Office of Professional Responsibility regarding CAF number usage.
- Comments on IRS online business account access and authentication.
- Feedback regarding progress of IRS Omni-channel Strategies to provide an integrated seamless communication strategy for taxpayers and the IRS.
- Feedback regarding Information Returns Intake System.
- Worked with the IRS regarding obtaining guidance on substitute Forms W-4P and W-4R.

Similar to previous IRSAC reports, the 2022 Report reflects several reoccurring key themes. Firstly, the report stresses the need for consistent and multi-year funding for the IRS to achieve its goals of providing efficient, effective, modern service to the nation's taxpayers. The report emphasizes the need for achieving modernization generally and provides ideas and support for IRS initiatives to effectuate such modernization. Secondly, the report provides targeted feedback to improve the taxpayer experience while supporting crucial enforcement efforts, and navigating a rapidly changing digital environment. Thirdly, the report provides suggestions for effectively transitioning taxpayers to a more digital experience. Lastly, the report stresses the importance of effective communication between the IRS and a diverse nation of taxpayers. As the IRS continues to recover from the far-reaching impacts of the COVID-19 pandemic, builds on its budgetary success achieved through the Inflation Reduction Act, and encounters

shifting political and economic conditions and workforce issues, the IRSAC has endeavored to support the IRS in providing effective, timely, taxpayer service.

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, a former IRSAC Chair, and the IRS workforce for its tireless efforts serving America's taxpayers.

2021 Report Recommendations Progress

As a follow up to the IRSAC's 2021 report, we are pleased to report that as of May 2022, the IRS had implemented, partially or fully, the following actions in accordance with the IRSAC's recommendations:

- Appeals has moved beyond the pilot test phase for the Taxpayer Digital Communications (TDC) portal allowing taxpayers and representatives to communicate and exchange documents with Appeals electronically.
- Appeals successfully held its first practitioner feedback panel live on zoom.gov.
- Appeals complies with the requirements of the Taxpayer First Act and the Freedom of Information Act allowing taxpayers to request and receive all nonprivileged documents in their case file.
- Appeals has ensured that IRS counsel and examination participation is limited during Appeals hearings to the non-settlement portion with strict adherence to the settlement portion being decided on the hazards of litigation.
- In addition to the IRM update in September 2021 and training held for all staff in June 2021, Appeals revised training classes for Collection Appeals new hires to highlight the updated CAP procedures.
- Appeals established the Taxpayer Experience Steering Committee to improve and simplify communications with taxpayers.
- The IRS has committed to taking all filing deadlines, including for information returns, into consideration when determining appropriate disaster relief under section 7508A of the Internal Revenue Code of 1986, as amended (Code).
- Guidance with respect to Rev. Proc. 94-69 will be updated to allow taxpayers to inform the IRS of adjustments to an original filed income tax return while obtaining penalty protection.
- Secure messaging has been implemented as an option for all eligible correspondence examinations in all five SB/SE Campuses. Secure

messaging has also been expanded to five of the seven Automated Underreporting sites.

- Intranet connectivity and expanded bandwidth has been improved for remote connectivity of IRS employees.
- IRS Office of Promotor Investigations (OPI) has requested upgrades for technology to provide the IRS tools to address complex noncompliance.
- Implemented continuous training for existing employees with the abusive provisions compliance effort.
- The OPI has taken steps to develop an internal database of promoters and preparers of abusive transactions.
- The OPI will continue to pursue the sharing of information with state and local law enforcement, as limited by section 6103, with respect to abusive transactions.
- The IRS will update the Federal, State, and Local Government (FSLG) website through addition of a “Recent Developments” section.
- The FSLG landing page will be updated to ensure unique FSLG guidance is provided.
- The FSLG has implemented regular communication via GOV Delivery messaging and newsletters, holds education and outreach events, and promotes the IRS.gov/FSLG website.
- The IRS added language to the Return Preparers Strategy Letters 5025 and 4858 that informs preparers about the availability of the paid preparer due diligence training module on the tax return preparer toolkit available on IRS.gov.

ISSUE ONE: IRS Business and IT Modernization

Executive Summary

Over the past several years, numerous stakeholders - including the IRSAC - have encouraged higher and more sustained, multiyear IRS funding to enable improved IRS taxpayer services, enforcement and modernization. Although the IRS's annual appropriations incrementally improved over the past 2-3 years, the timing and manner of funding the IRS still created material challenges especially given the adverse impact of operating under continuing resolutions (CRs).

In 2022, Congress passed the Inflation Reduction Act which provides a once-in-a-generation opportunity to upgrade the IRS's service, enforcement, and IT capabilities. However, we would note that the Inflation Reduction Act was largely partisan legislation and may not foreshadow the broader bipartisan support necessary to sustain the IRS's policy objectives over the long term.

The IRSAC applauds the tireless and effective efforts of the Commissioner, the IRS Office of Legislative Affairs, and the IRS Communications and Liaison staff in supporting the budgetary and modernization needs of the IRS. The IRSAC believes that Congressional willingness to fund the IRS is directly impacted by its view of the efficiency and effectiveness of the agency. For that reason, the IRSAC supports the continued efforts of the IRS in building alignment and trust between the IRS and Congress essential to the agency's sustained ability to serve taxpayers by persevering in the use of the well-worn path of frequent and effective communication, transparency and, ultimately, accountability.

Background

IRS plays a critical role for government and taxpayers

The IRS is the primary source of funding for the United States government and collected more than $4 trillion in gross taxes in FY 2021. The IRS makes it possible for the government to perform its vital functions, and plays a significant role in supporting economic growth and recovery.

In addition, the personal finances of many low and moderate income individual taxpayers are heavily dependent on refundable credits issued by the IRS. In fact, an IRS refund often accounts for a material portion of the annual income of lower income taxpayers.[1]

Taxpayers expect modernized, resilient and secure IRS operations and digital services

The bar for IRS performance is continually being raised as taxpayers experience new technologies in their personal lives that deliver on-demand, seamless customer experiences. Taxpayers question why the IRS can't provide an accurate status of their return processing or refund issuance when their other financial and personal experiences enable them to seamlessly transact and track other business matters online from banking to merchandising purchases.

IRS funding has been unstable, but recent legislation has provided significant new funding for modernization as well as taxpayer services and enforcement

Arguably, the current need for IRS funding and modernization may be greater than it has ever been as the IRS's challenges have become more acute during and coming out of the Covid crisis. The National Taxpayer Advocate and others have pointed out the impact of: (i) reduced funding and increased responsibilities impacting the IRS's ability to effectively execute its traditional core tasks, (ii) the pandemic on the IRS workforce and its preexisting vulnerabilities (e.g., paper processing), and (iii) the IRS's challenges in working through its backlog of correspondence and returns.[2]

Congress has responded in two important ways

[1] The dollar amount of family related tax credits varies by taxpayer status, AGI and qualifying children as well as annual changes in tax laws. But, as a rough benchmark, a single parent with $20,000 annual income and two qualifying children could be eligible for $5,000+ in EITC and $4,000 in Child Tax Credits, which is in excess of 30% of her/his total annual income.

[2] See, for example, Statement of National Taxpayer Advocate, Senate Finance Committee, Feb 17, 2022 (https://www.finance.senate.gov/imo/media/doc/National%20Taxpayer%20Advocate%20Testimony%20-%20Senate%20Finance%20Hearing%20on%20Cust%20Serv%20Challenges%20-%202-17-2022%20-%20updated%20chart.pdf)

First, the IRS's annual appropriations have incrementally improved over the past two to three years. Unfortunately, the positive effect of increased annual appropriations has been offset at least in part by the adverse effect of the IRS operating under continuing resolutions (CRs), which prevent long-term planning and activity, and which trigger "stop and restart" events that result in costly rescoping and delay the delivery of new services and functionality.[3] Moreover, significant IT modernization efforts are almost always multi-year efforts that require stable, consistent, multiyear funding.

Second, Congress has appropriated substantial additional multi-year modernization funding in the American Rescue Plan and, most recently, the Inflation Reduction Act.[4]

IRS's modernization is essential, but faces implementation barriers

The IRS clearly recognizes the need for modernization. In 2019, the IRS released its initial Integrated Modernization Business Plan (Mod Plan 1.0), which provided a six-year roadmap for modernizing agency systems and taxpayer services.[5] Beyond the new capabilities included in its modernization plan, the IRS has other projects focused on improving existing capabilities that are funded from the Operations Support appropriations account as opposed to the Business Systems Modernization (BSM) account.

However, besides fluctuations in the timing or amount of funding, the implementation of the IRS modernization plan and projects can be affected by other factors.

For example, existing modernization projects may be delayed when the IRS must shift resources to implement new programs or legislation.[6] In some cases,

[3] The IRSAC's 2021 Report addressed this point, as do those of other key stakeholders.

[4] The IRSAC notes that the Inflation Reduction Act was largely partisan legislation, which may foreshadow a lack of broader long term bipartisan support necessary to sustain the IRS's objectives. See, for example, public letter of Senator Rick Scott dated August 16, 2022 (https://www.rickscott.senate.gov/services/files/FE938C2F-152C-47FA-A200-16BFE5573837).

[5] See https://www.irs.gov/pub/irs-pdf/p5336.pdf

[6] These new programs could relate to any number of areas, e.g., new IT systems or services (e.g., 1099 filing portal), economic stimulus payments or social benefit programs. For a specific illustration, see IRS efforts for

these actions require entirely new systems that, even if fully funded, divert IRS management attention from more foundational modernization efforts. Congress also needs to be aware of the adverse effects on constituents relating to tax matters when making these types of decisions.[7] The National Taxpayer Advocate addressed some of these adverse consequences in testimony earlier this year.[8]

Moreover, the IRS loses credibility with taxpayers and other stakeholders when the delivery of even basic features is significantly delayed or add only incremental functionality over long periods of time due to funding limitations or interruptions.

The IRS has had success engaging with Congress on its fundings needs and modernization plans; however, opportunity exists to further increase Congressional awareness of on-going efforts

The Taxpayer First Act (TFA) of 2019 intended the reimagination and enhancement of the way the IRS serves taxpayers, enforces the tax laws and trains its employees. Our Code is incredibly complex, even (maybe especially) for low and moderate income taxpayers. As a result, high-quality, personalized service is key to helping those taxpayers understand and comply with their filing and reporting obligations. Building a resilient, flexible IT infrastructure is critical to delivering on this requirement and is a key focus of the IRS's modernization plans.

The IRS has already taken several steps to engage with Congressional Members, Committee staff and other key stakeholders to build awareness of and confidence in the IRS's modernization plans. These steps include obtaining independent validation and verification (IV&V) of its plans, regular engagement with oversight bodies (such as the GAO), regular reporting to Congressional

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the Advance Child Tax Credit Payments at https://irs.gov/credits-deductions/advance-child-tax-credit-payments-in-2021.

[7] Although they often have a positive impact on taxpayers individually, new programs can also trigger systemic-wide issues that adversely impact a broader set of taxpayers, e.g., as where an influx of amended returns overwhelms IRS from accomplishing its most basic services (processing returns, issuing refunds and answering the phone). The IRSAC recognizes the continuing efforts of the IRS to communicate this issue to Congress.

[8] See Written Statement of the National Taxpayer Advocate, Senate Finance Hearings on "Spotlighting IRS Customer Service Challenges," February 17, 2022.

Committees, and periodic Congressional staff briefings and site visits. Additionally, the IRS has employees who engage with Congressional staff in the districts and states, providing IRS news updates and communications about modernization efforts that assist Member offices with their constituent service needs.

Nevertheless, Congressional understanding of and confidence in IRS modernization plans seems spotty. In several 2022 Congressional hearings that the IRSAC reviewed, elected officials did not seem to be familiar with the IRS's current modernization plan and its progress.[9] Alternatively, even if they were aware of the modernization efforts, some elected officials expressed a lack of confidence in IRS's ability to complete the modernization effort – in some cases because of perceived failures many years ago.[10] The IRS needs to continue its efforts to work with Congressional stakeholders in a transparent manner to build trust and confidence based on current IRS performance.

There are opportunities for the IRS to enhance Congressional engagement

Recognizing the IRS's recent achievements in this area, the IRSAC believes there are opportunities for the IRS to continue to effectively engage with Congress around its funding and modernization needs.

Communicate from the Taxpayer's Perspective. The adverse effect of antiquated IRS systems on taxpayers should not be underestimated. The pandemic highlighted this situation with unprecedented constituent complaints to Congressional members about IRS processing bottlenecks and refund delays. Accordingly, the IRS should continue its efforts in messaging about modernization that is less functional and more personal. Recognizing the complexity of

[9] See, for example, Senate Finance Committee Hearing on "Spotlighting IRS Customer Service Challenges," February 17, 2022 where various officials mentioned the need for the IRS to "have a plan." (https://www.finance.senate.gov/hearings/spotlighting-irs-customer-service-challenges).

[10] See, for example, House Ways & Means Oversight Subcommittee Hearing on "The 2022 Filing Season," March 17, 2022 where a key Representative mentioned that Congress has "thrown money at this problem before" and said that IRS needs to "convince" Congress that they can actually modernize. https://waysandmeans.house.gov/legislation/hearings/oversight-subcommittee-hearing-irs-commissioner-rettig-2022-filing-season).

messaging technical informational technology issues, the IRS should continue its efforts to clearly and simply focus on the taxpayer. For example, the wording "deliver a fully digital experience" might be rephrased in taxpayer-centric messaging "Taxpayer 24/7 on-demand access to IRS services."

Continue to Make the Taxpayer Experience Personal. The IRS should continue to find additional ways to provide Congressional stakeholders with first-hand insights into the difficulty the IRS faces in supporting taxpayers. Site visits to IRS IT centers are helpful to demonstrate that IRS has modernized facilities; however, from a taxpayer perspective, it may be more compelling if more elected officials could actually see or hear tangible examples of taxpayer (and IRS employee) challenges – whether through firsthand visits or video/audio media. The IRSAC recognizes that there are numerous hurdles from making this happen, including restrictions limiting access to IRS centers and facilities due to taxpayer-confidentiality concerns under section 6103 of the Code, relating to taxpayer confidentiality. For example, if the Ways and Means or Senate Finance Committees could waive the 6103 disclosure requirements, Congressional staff would see firsthand (i) the difficulties and inefficiencies that IRS employees experience in navigating the multiple internal IRS systems required to respond to relatively simple taxpayer inquiries,[11] and (ii) the huge volume of paper filings arriving at IRS Submission Processing Centers that might be eliminated or mitigated by carefully targeted mandates or increasing the number of forms that can be accepted by IRS for electronic filing.[12]

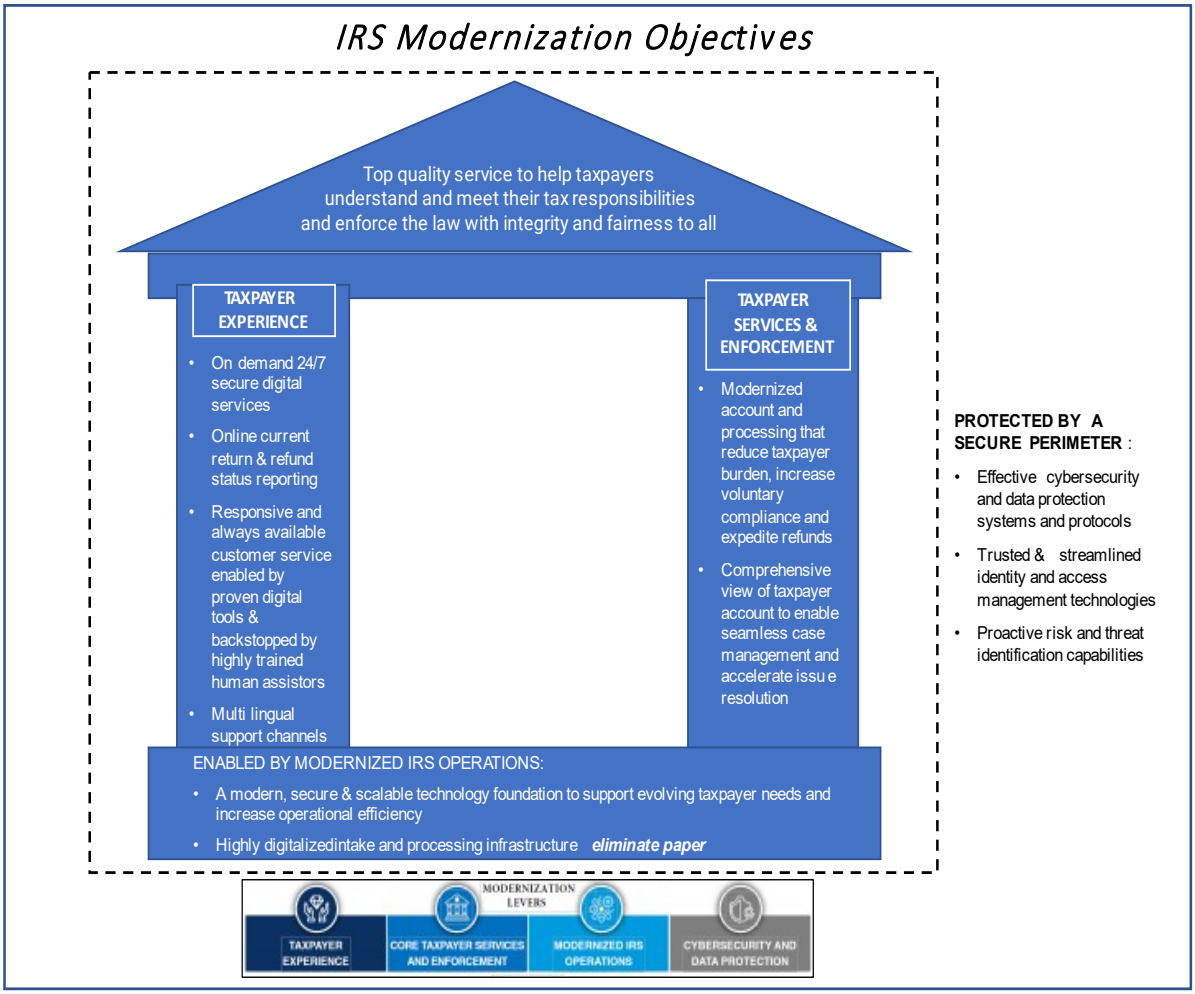
Continue to Keep it simple. IT modernization efforts, especially infrastructure improvements, are inherently complicated. It's very easy to lose people in the discussion especially when technical terms or jargon are used. For that reason, the IRS needs to continue to keep its high-level modernization

[11] These inefficiencies can have significant impacts on IRS operations. For example, if improvements in assistor IT support systems enable an IRS employee to handle a taxpayer question in "half the time," then that set of system improvements effectively delivered a 100% staffing increase in that area because twice as many taxpayer issues can be resolved now by one IRS assistor in the same amount of time.

[12] See, for example, https://www.washingtonpost.com/opinions/interactive/2022/irs-pipeline-tax-return-delays/. While IRSAC is not necessarily recommending a waiver of 6103 disclosure requirements, continuing clear methods to demonstrate the need for modernization are beneficial.

messaging as simple as possible while providing more underlying technical detail in associated documentation. Certainly, the IRS has tried to adopt a "plain language" standard whenever possible.

Additionally, the continued use of graphics or other framing methods to enable policy stakeholders to more quickly understand its focus is beneficial. As a rudimentary example, the IRS might communicate the high level objectives of its modernization plans in a simple one page graphic.



Continue the Efforts to Build Congressional Trust and Confidence Building on Successes. The IRS must continue its efforts to reassure Congress, principally through its performance. Some specific opportunities include:

- Nail the Basics: Deliver core services with high effectiveness – enable return electronic filing, answer the phone timely, resolve problems quickly.
- Build Credibility: Continue to leverage independent third parties to verify and validate IRS modernization plans and progress.[13]
- Provide Transparency: Continue to provide timely reporting of progress to Congressional staff and other stakeholders. The IRS should also continue to communicate to Congress significant adverse effects of new legislation or mandates on its current modernization efforts so that Congress can consider the tradeoffs.
- Continue to Demonstrate Accountability: Persist in identifying clear measures of success to show the "return on investment" of Congressional appropriations. Accountability might be achieved by continued "linking" of funding with measurable outcomes, such as: (i) continued use of cost-benefit analyses to get Congressional buy in for a given project or direction[14] ("front-end management"), (ii) accountability of the achievement of key milestones of an ongoing project before additional funding is approved ("mid-process management"), and (iii) reporting and accountability of actual project results including responding to plan setbacks ("back-end management").[15]

The IRSAC notes that Treasury Secretary Yellen recognized the need for IRS transparency and accountability in her August 17, 2022 memo to Commissioner Rettig concerning IRS's development of an operational plan to use Inflation Reduction Act funding. She stated: *"This operational plan should include details on how resources will be spent over the ten-year horizon on technology, service improvement, and personnel. This operational plan is key*

[13] Sometimes referred to as "Independent Verification and Validation" or IV&V.

[14] For example, on Sept 13, 2021, Senator Crapo introduced the Tax Gap Reform and IRS Enforcement Act (See https://www.congress.gov/bill/117th-congress/senate-bill/2721). The bill proposed that the IRS validate its tax gap calculations with the JCT. This type of third party validation could be very helpful in building IRS credibility and accountability and is similar to the IRS obtaining an independent third party review and validation of its Business Modernization Plan 1.0.

[15] This type of back end management could involve developing agreed upon service delivery levels, and clear metrics to determine progress to achieving outcomes and assess process performance. Communication and accountability regarding the efficient and effective use of the resources provided to the IRS in the newly enacted Inflation Reduction Act may well be a key talking point in future funding discussions.

to ensuring the public and Congress are able to hold the agency accountable as it pursues needed improvements. To that end, as you develop an operational plan, it must include metrics for areas of focus and targets over the course of the coming years that the agency will strive to achieve."[16]

Statements of Support and Recommendations

1. The IRSAC supports the IRS modernization plans enabled by timely, adequate, consistent and multi-year funding.
2. Continue to develop simplified taxpayer-centric high-level messaging, when possible, to support its advocacy for funding and modernization and to increase an understanding of the focus and benefits of its initiatives.
3. Continue to increase successful IRS efforts to engage and collaborate with Congress, including strengthening trust in the IRS's efforts through continued transparency and accountability.
4. Eliminate paper by increasing electronic filing and communications capabilities and, where appropriate, implementing electronic filing mandates.

[16] See https://www.taxcontroversy360.com/wp-content/uploads/2022/08/2022-27034_TNT_Docs_treasury.pdf.

ISSUE TWO: Reduction in Electronic Filing Threshold for Information Return Filers

Executive Summary

All businesses and employers, including small business and self-employed (SB/SE) filers, are required to issue and file information returns for certain types of payments they make in the ordinary course of their trade or business. Section 2301 of the Taxpayer First Act (TFA) authorized the IRS to reduce the threshold for required electronic filing of information returns, among other changes. Specifically, the TFA indicated that the existing 250-form filing threshold could be reduced to 100 returns for 2019 and 10 returns for 2020 calendar year.[17] However, the IRS did not issue proposed regulations (Proposed Filing Regulations) until July 23, 2021, [18] and instead proposed to reduce the filing threshold for the 2021 and 2022 calendar years. The Proposed Filing Regulations were never finalized and for 2021 business taxpayers continued to adhere to the original 250-return filing threshold limit.

The IRSAC met with members of the IRS Office of Chief Counsel to discuss the status of the timing of the release of the final regulations, and to gain insights with respect to recommendations made in the 2021 IRSAC report. To ease the burden on SB/SE filers, the IRSAC had previously recommended in the 2021 report that the IRS include a safe harbor from penalties for 2021 and 2022 information returns for businesses that made good faith efforts to comply with the new requirements (among other recommendations).[19] The IRS members could not comment on the timing of the release of the final regulations.

There are a variety of IRS processes on which a business is dependent when considering how to file electronic information returns with the IRS. Each of those processes have specific timelines that need to be completed in order to be able to utilize the various IRS systems to make the critical return filing due dates for the 2022 tax season. The combination of delays in issuing final regulations,

[17] Taxpayer First Act of 2019: https://www.congress.gov/116/plaws/publ25/PLAW-116publ25.pdf.
[18] Proposed Regulations: https://www.federalregister.gov/documents/2021/07/23/2021-15615/electronic-filing-requirements-for-specified-returns-and-other-documents.
[19] Publication 5316 – IRSAC Public Report 2021: https://www.irs.gov/pub/irs-pdf/p5316.pdf.

along with the delays and issues associated with these dependent IRS processes introduce significant risks to SB/SE filers for the upcoming 2022 return filing season.

In light of the unprecedented (and ongoing) backlogs from the 2020 and 2021 tax seasons at the IRS due to the COVID-19 pandemic,[20] the IRSAC is concerned that the IRS may initiate unnecessary administrative burden by rushing the implementation of this filing change for the 2022 calendar year returns.

The IRSAC recommends that the IRS ease this burden for both filers and the IRS by providing safe harbor relief for 2022 returns for businesses that demonstrate a good faith effort to comply with the electronic filing requirements. Further, the IRSAC encourages the IRS to consider a proactive approach to granting approval to filers that request a waiver from electronic filing via *Form 8508, Request for Waiver from Filing Information Returns Electronically* for 2022 to avoid a bottleneck and resulting backlogs in processing these paper form requests.

Background

To electronically file information returns including the Form 1099 series, businesses utilize the Filing Information Returns Electronically (FIRE) system. Section 2102 of the TFA directed the IRS to build a new Form 1099 return portal similar to the Social Security Administration (SSA) Business Services Online (BSO) platform.[21] To achieve this directive, the IRS's new Information Returns Intake System (IRIS) is set to go live in January 2023 and at launch will support the electronic submission of Forms 1099.

On July 23, 2021, the IRS issued the Proposed Filing Regulations to officially propose rules to implement the provisions of TFA section 2301. In addition to proposing to reduce the electronic filing threshold as described previously, the IRS also included a variety of other proposed changes, including a modification to

[20] Special edition of e-News for Small Business – Information for FIRE Users https://content.govdelivery.com/accounts/USIRS/bulletins/2ea3a50?reqfrom=share (Jul. 27, 2021).
[21] Taxpayer First Act of 2019: https://www.congress.gov/116/plaws/publ25/PLAW-116publ25.pdf.

the aggregation method by which a business determines whether it is required to file electronically. Specifically, a business would need to consider all of its information returns – i.e., Forms W-2, 1095, 1099, etc. – when determining whether it is required to file electronically. Previously, the business made that determination based on the aggregate of a single form type. This substantial change in the aggregation method implies that a filer may now need to gain access to the SSA's BSO portal to file Forms W-2, access to the IRS's AIR system to file Forms 1095, and access to the new IRIS portal to file Forms 1099 electronically – where this information used to be submitted to those agencies separately on paper versions of the forms. If the business also has other information return filing obligations such as Form 1042-S for payments of U.S. source income paid to non-U.S. individuals, the business will need to gain access to file that information in FIRE as that form will not be available in the new IRIS system.

In the 2021 IRSAC report, we described the various dependent IRS processes that a business is required to follow in order to obtain access to file information returns electronically including verifying identity of the users through the new Secure Access Digital Identity (SADI) platform and applying for and receiving Transmitter Control Codes (TCCs) in the IRS's IR Application for TCC system.[22] Most businesses are required to file certain Forms 1099 and Form W-2 with the IRS and the SSA by the end of January 2023 (for the 2022 filing season) which means that they need to start applying for those credentials immediately.

If a business cannot comply with the requirement to file some information returns electronically, it can submit *Form 8508, Request for Waiver from Filing Information Returns Electronically.* This request must be submitted at least 45 days prior to the date that the information returns are due to be electronically filed with the IRS (some forms 1099 and Form W-2 are due to be filed by the end of January 2023). The IRS must physically review and approve or deny each Form 8508 request.

The IRSAC is concerned that by the time the final regulations are published and filers receive formal IRS communication about the changes, it may be too late

[22] Publication 5316 – IRSAC Public Report 2021: https://www.irs.gov/pub/irs-pdf/p5316.pdf.

for them to comply with the IRS administrative processes to submit the data electronically or to receive an approved waiver before the filing due date.

The IRS has not begun widespread communications to SB/SE filers of the change and while many might have heard it was coming, the continued delays are bound to create confusion for the upcoming 2022 reporting season.

The IRSAC is also concerned that SB/SE filers that have never filed electronic information returns with the IRS will reach out to the IRS to request status of Form 8508 requests for example, or the status of their TCC applications, or just to get help with how to use the new IRIS system, and that these queries will only contribute to the unprecedented IRS backlogs in correspondence processing and telephone delays.[23]

Recommendations

1. Minimize risks to the IRS and filers for the 2022 filing season by including safe harbor language in the final regulations to provide section 6721 penalty relief for filers who make good faith efforts to comply with the new requirements during the transition period.
    a. Safe harbor language should incentivize filers to attempt "best-efforts" at meeting the new filing requirements to ensure that filers that act in good faith do not need to be concerned that penalties will be imposed as a result of mistakes or failures during the transition period. For example, a filer that does not receive a TCC in time to file their Forms 1099-NEC by the end of January due date should be given relief from the Section 6721 late filing penalties.
    b. Filers that file on paper for the 2022 season could be sent a "soft letter" waiving the penalty for filing paper information returns for 2022 - but also reminding them of the electronic filing requirements for 2023 and beyond.

[23] National Taxpayer Advocate Annual Report: https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/01/ARC21_Full-Report.pdf

2. Consider a proactive approach to granting approval to filers submitting *Form 8508, Request for Waiver from Filing Information Returns Electronically* for the 2022 season. Since it is a manual process for the IRS to review and approve every single Form 8508, it would be more prudent to establish an automatic approval process to minimize the phone calls and correspondence from filers looking for status of their waiver request.

INTERNAL REVENUE SERVICE ADVISORY COUNCIL

Information Reporting Subgroup Report

Wendy Walker, Subgroup Chair
Seth Poloner
Jon Schausten
Paul Sterbenz
Kevin Valuet
Sean Wang

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:

- Alignment of Electronic Signature Requirements on Withholding Certificates,
- Section 1446(f): Withholding on Transfers of Interests in Publicly Traded Partnerships,
- Enabling Business Accounts and Electronic Communications and Transactions, and
- Guidance on Wage Reporting for Incarcerated Individuals.

ISSUE ONE: Alignment of Electronic Signature Requirements on Withholding Certificates

Executive Summary

In a growing paperless and remote working environment, U.S. payors, withholding agents and taxpayers have encountered increased challenges with the current limitations of accepting electronic signatures on a number of withholding certificates including Form W-9, *Request for Taxpayer Identification Number and Certification*, Form W-4, *Employee's Withholding Certificate*, Form W-4P, *Withholding Certificate for Periodic Pension or Annuity Payments*, and Form W-4R, *Withholding Certificate for Nonperiodic Payments and Eligible Rollover Distributions (hereafter referred to as "withholding forms").* The current guidance provides that electronic signatures are acceptable on withholding forms received through an electronic submission system established by the payor.[24] However, the guidance is unclear as to whether it also permits payors to accept electronic signatures on these withholding forms received electronically but not submitted through an electronic submission system established by the payor.

The IRSAC assessed the IRS's current guidance permitting electronic signatures on Forms W-8 withholding certificates[25] received electronically but not by an electronic submission system and recommends the IRS align the electronic signature guidance between these withholding forms and Form W-8 withholding certificates so that a payor may accept a withholding form with an electronic signature regardless of whether the payor has established an electronic system.

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[24] Announcement 98-27 (on page 30 of Internal Revenue Bulletin 1998-15 at IRS.gov/pub.irs-irbs/irb98-15.pdf.); Announcement 2001-91 (on page 221 of Internal Revenue Bulletin 2001-36 at IRS.gov/pub.irs-irbs/irb01-36.pdf.); Announcement 99-6 (on page 24 of Internal Revenue Bulletin 1999-4 at IRS.gov/pub/irs-irbs/irb99-04.pdf.)

[25] Form W-8 withholding certificates include Form W-8BEN, *Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals)*, Form W-8BEN-E, *Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Entities),* Form W-8ECI, *Certificate of Foreign Person's Claim That Income is Effectively Connected With the Conduct of a Trade or Business in the United States*, Form W-8EXP, *Certificate of Foreign Government or Other Foreign Organization for United States Tax Withholding and Reporting*, Form W-8IMY, *Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding and Reporting.*

Background

Prior to the pandemic many payors and withholding agents had begun moving to a paperless environment by developing processes to accept documents electronically when allowable, and the pandemic further accelerated the use of electronic signatures on business, tax, and legal documents. Additionally, taxpayers have become accustomed to signing account opening, retirement distribution forms and other account related documents (which may contain substitute Forms W-9, W-4, or W-4P/4R) with electronic signatures. It has not only become a burden for taxpayers to print and sign these forms, but also results in delays in payroll processing, customer account opening, and retirement distribution processing.

Currently, relevant IRS publications and form instructions allow payors to receive these withholding forms that taxpayers electronically signed and submitted by an electronic submission system established by the payor. However, if a payor has not developed an "electronic system", it is unclear whether it is also permitted for the payor to accept the withholding forms that taxpayers electronically signed but that were not submitted through an electronic submission system established by the payor. For example, the IRS has not stated explicitly that it is permitted for a payor to receive in an email a PDF attachment of a Form W-9 electronically signed by a taxpayer using a third-party electronic signature software or tool such as Adobe or DocuSign, and various practices have been developed among payors and withholding agents. This has led to inconsistent market practice and confusion and inconvenience for taxpayers. In addition, as discussed in the 2018 Information Reporting Advisory Committee Public Report,[26] withholding agents worldwide apply rigorous Anti-Money Laundering/Know Your Customer (AML/KYC) standards to U.S. persons to determine identity, and we believe that allowing the use of electronic signature on withholding forms would not risk a U.S. person attempting to circumvent such standards. In addition, many withholding agents use the IRS Taxpayer Identification Number (TIN) Matching System, which adds

[26] Information Reporting Advisory Committee Public Report (October 2018), available at https://www.irs.gov/pub/irs-pdf/p5315.pdf.

another level of security and helps ensure that the industry is obtaining valid names and taxpayer identification numbers for information reporting purposes.

In comparison, electronic signatures are permitted for Form W-8 withholding certificates regardless of whether the withholding agent has established an electronic system pursuant to the regulations, if the form reasonably demonstrates to the withholding agent that it has been electronically signed by the recipient identified on the form (or an authorized person), for example, if the electronic signature "has in the signature block the name of the person authorized to sign, a time and date stamp, and a statement that the certificate has been electronically signed".[27] Therefore, a withholding agent is permitted to receive in an email a PDF attachment of a Form W-8 electronically signed by a taxpayer using Adobe or DocuSign (or other third-party e-sign software) that has in the signature block the name of the taxpayer, a time and date stamp, and a statement that the certificate has been electronically signed. The IRSAC is not aware of a policy reason to distinguish between the withholding forms and Forms W-8, which serve similar purposes.

Considering this disparate treatment between these withholding forms and Form W-8 withholding certificates, IRSAC recommends the IRS issue some form of guidance (e.g., notice, announcement, update to instructions, etc.) clarifying that a payor may accept (if certain conditions are met, as described below) Forms W-9, W-4, W-4R and W-4P with an electronic signature regardless of whether it has developed an "electronic system". IRSAC further recommends such guidance may provide rules substantially similar to those provided in the instructions to the Forms W-8, including that the withholding form must reasonably demonstrate that the form has been electronically signed by the recipient identified on the form (or a person authorized to sign for the recipient). For example, the withholding form would be valid if it has in the signature block the name of the person authorized to sign, a time and date stamp and statement that the form has been electronically signed. A payor should also be permitted to rely on an electronically signed

[27] Treas. Reg. § 1.1441-1(e)(4)(i)(B). See also Instructions for the Requester of Forms W-8BEN, W-8BEN-E, W-8ECI, W-8EXP, and W-8IMY (Rev. June 2022), page 5.

withholding form based on additional information or documentation that the payor has no actual knowledge to be incorrect, as is the currently the case with respect to Forms W-8. Alignment of the electronic signature requirements for these withholding forms with the rules under the Treasury Regulations and the form instructions for Forms W-8 withholding certificates would increase efficiency, ease the compliance burden for payees as well as payors required to collect most or all these forms in various areas of their business, and eliminate inconsistent market practices and taxpayer confusion.

The IRSAC IR subgroup met with the Chief Counsel Procedure and Administration Office regarding this issue and were informed by Chief Counsel that while Chief Counsel may need to be involved with respect to electronic signatures on Forms W-4P and W-4R, electronic signatures on Form W-9 is an issue for the Service.

Recommendations

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).
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).

ISSUE TWO: Section 1446(f): Withholding on Transfers of Interests in Publicly Traded Partnerships

Executive Summary

Final Regulations published in November 2020 (the final 1446(f) regulations)[28] regarding broker withholding on transfers of interests in publicly traded partnerships (PTPs) are scheduled to go into effect with respect to transfers on or after January 1, 2023.[29] It is crucial for withholding tax rules to be clear and administrable so that brokers have certainty with respect to withholding tax requirements. There are many items related to section 1446(f) withholding that remain unclear and that present implementation challenges, and there is therefore a risk that brokers will withhold inconsistently and will under- or over-withhold on clients.

Background

Section 1446(f), which was added to the Code by the Tax Cuts and Jobs Act, Public Law 115-97 (2017) (TCJA), provides rules for withholding on the transfer of a partnership interest described in section 864(c)(8). On November 30, 2020, the Treasury Department and the IRS published in the Federal Register final regulations under Section 1446(f) relating to the withholding of tax and information reporting. While the final 1446(f) regulations provide guidance with respect to many important issues, there are several cases with respect to which further written guidance is required to properly implement withholding tax under section 1446(f).

2021 IRSAC Public Report Items

Several items were raised in the November 2021 IRSAC Public Report[30] but have not yet been addressed by Treasury Department or IRS guidance. These items include loans of PTP interests, short sales of PTP interests and retroactive application of Forms W-8 and withholding statements. The IRSAC strongly

[28] Withholding of Tax and Information Reporting With Respect to Interests in Partnerships Engaged in a U.S. Trade or Business, 85 Fed. Reg. 76910 (Nov. 30, 2020).
[29] *See* Notice 2021-51.
[30] Publication 5316 (Rev. 1-2022).

encourages the IRS to publish guidance addressing these items taking into account the IRSAC's prior recommendations.

Scope of Section 1446(f): Non-U.S. PTPs

The IRSAC believes that further guidance regarding several additional issues is crucial. As the final 1446(f) regulations are currently drafted, section 1446(f) withholding would apply to sales of securities issued by non-U.S. issuers. It is difficult, however, for withholding agents to reliably identify whether such non-U.S. issuers are PTPs because the U.S. tax classification of entities organized outside the United States is not readily and consistently available to withholding agents or their information vendors. Entities organized outside the United States (other than per se corporations identified in Treas. Reg. § 301.7701-2(b)(8)) may elect a particular tax status that is not known to a withholding agent. The default tax status of a non-U.S. entity generally depends on the law and particular entity type in each jurisdiction. As noted by one industry organization, requiring section 1446(f) withholding on sales of all non-U.S. entities with an unknown U.S. tax classification would place undue burdens on brokers trying to identify non-U.S. PTPs, and would likely lead to overwithholding given that the majority of non-U.S. entities are likely not PTPs, and a majority of non-U.S. entities that are PTPs likely do not generate effectively connected income (ECI).[31] Therefore, the IRSAC believes that the IRS should publish guidance exempting non-U.S. securities from section 1446(f) withholding. If the IRS does not exempt non-U.S. securities from section 1446(f) withholding, it should establish a presumption rule providing that, absent actual knowledge to the contrary, withholding agents can assume a non-

[31] *See* Securities Industry and Financial Markets Association (SIFMA) letter Re: Final Regulations Under Section 1446(f) (Feb. 24, 2021), https://www.sifma.org/wp-content/uploads/2021/02/SIFMA-1446f-Final-Regs-Letter_02.24.21.pdf. See also Securities Industry and Financial Markets Association (SIFMA) letter Re: Final Regulations Under Section 1446(f) - Request for Delay (Aug. 5, 2021), https://www.sifma.org/wp-content/uploads/2022/04/SIFMA-Letter-1446f-Effective-Date-Delay-8.5.21.pdf (noting that "Focusing on just established securities markets, there are around 85 foreign securities markets today, and the number of issuers in these markets exceeds 43,000. Consequently, on an ongoing basis, brokers would need to determine if over 43,000 issuers qualify as partnerships for U.S. tax purposes subject to 10 percent withholding. This would impose an undue burden on withholding agents that would exceed any potential loss to the fisc.").

U.S. issuer is not a PTP and does not have ECI unless the non-U.S. issuer has issued a qualified notice indicating that it is a PTP with ECI.

Qualified Intermediary Collection of U.S. Taxpayer Identification Numbers

In May 2022 the IRS released Notice 2022-23 which proposed changes to the Qualified Intermediary (QI) withholding agreement (QI Agreement) to address section 1446(f). The proposed updates include new requirements with respect to QIs collecting U.S. taxpayer identification numbers (TINs) from account holders that own PTPs. Pursuant to Notice 2022-23, Sections 5.01 and 5.02 of the updated QI Agreement would require a QI to use its "best efforts" to obtain a U.S. TIN from an account holder subject to section 1446(a) or 1446(f). However, (i) the consequences to a QI of not obtaining U.S. TINs from such account holders, and (ii) the "best efforts" required by a QI to obtain U.S. TINs from account holders, are not entirely clear. The IRSAC believes that the IRS should publish guidance providing explicitly that (i) if a QI does not obtain a U.S. TIN from an account holder, it does not have a "material failure" under Section 10 of the QI Agreement or an "event of default" under Section 11 of the QI Agreement as long as the QI used "best efforts" to obtain the account holder's U.S. TIN, and (ii) "best efforts" to obtain a U.S. TIN include making an initial solicitation for the U.S. TIN and two further annual solicitations as per Treas. Reg. § 301.6724-1(e). This standard is already well-known and established as the standard required for a filer to establish reasonable cause for a payee failure to provide a correct TIN.

The IRS has stated publicly at conferences that pursuant to Notice 2022-23's proposed changes to the QI Agreement, a QI that is acting as a Disclosing QI (i.e., a QI that does not assume primary withholding responsibility under section 1446(a) or (f) and that provides with its withholding statement specific payee documentation instead of withholding rate pool information)[32] must obtain and provide to the upstream withholding agent the U.S. TIN of *every* account holder that sells or receives a distribution from a PTP, and that if a single such account

[32] See Treas. Reg. §§ 1.1446(f)-4(a)(7)(iii); 1.1446-4(e); Notice 2022-23 proposed update to QI Agreement section 2.92(E).

holder does not provide a U.S. TIN, then the QI may not act as a Disclosing QI for any accounts. It is highly likely that certain account holders will not have U.S. TINs, and an "all or nothing" rule requiring a U.S. TIN from every account holder in order to act as a Disclosing QI essentially makes the Disclosing QI status in the regulations moot. The IRSAC believes that the IRS should clarify that not obtaining a U.S. TIN for any particular account holder does not prevent a QI from being able to act as a Disclosing QI with respect to other account holders that provide their U.S. TINs.

Section 8.07(B) of the proposed updated QI Agreement in Notice 2022-23 provides two methods for a QI that is not a Disclosing QI to address Section 6031 nominee reporting. It may (i) "provide the statement with respect to the account holder specified in § 1.6031(c)-1T(a) to the PTP in which the interest is held (or PTP's agent)" (Option 1) , or (ii) "issue to each account holder receiving the distribution or amount realized the statement that is described in § 1.6031(c)-1T(h) for the calendar year with respect to the PTP interest for which the distribution or amount realized was paid. In such a case, QI is also required to request from the PTP the PTP's deemed sale information for purposes of §1.864(c)(8)-2(b)(2) with respect to an account holder requesting (directly or through another intermediary) this information from QI (which, in turn, QI must provide to the account holder)" (Option 2). It is not clear whether a QI may use Option 1 with respect to an account holder if it has not obtained a U.S. TIN from that account holder. Option 1, however, is the method most commonly used by withholding agents to fulfill nominee reporting requirements, the IRS receives more information under Option 1 than under Option 2, and Option 2 is generally more burdensome than Option 1. The IRSAC believes, then, that the IRS should publish guidance clarifying that a QI can provide Treas. Reg. § 1.6031(c)-1T(a) (Option 1) nominee reporting with respect to an account holder even if it has not obtained the U.S. TIN of the account holder.

Finally, the IRSAC believes that, given that the new U.S. TIN requirement is scheduled to go into effect within a short time frame from publication of Notice 2022-23, that there are operational challenges with soliciting and obtaining U.S.TINs in such a short time period, that many non-U.S. persons do not currently

have U.S.TINs, and that that it is challenging and takes significant time for non-U.S. individuals to obtain U.S. TINs, the IRS should provide a transition and/or good faith period with respect to a QI's requirement to collect U.S. TINS from account holders that hold PTPs.

Recommendations

1. Publish guidance regarding the issues raised in the 2021 IRSAC Public Report, taking into account the IRSAC's prior recommendations.
2. Publish guidance exempting non-U.S. securities from Section 1446(f), or establish a presumption rule that, absent actual knowledge to the contrary, withholding agents can assume a non-U.S. issuer is not a PTP and does not have ECI unless the issuer has issued a qualified notice indicating that it is a PTP with ECI.
3. Publish guidance providing that (i) if a QI does not obtain a U.S. TIN from an account holder, it does not have a material failure or event of default as long as QI used "best efforts" to obtain the U.S. TIN, (ii) "best efforts" to obtain a U.S. TIN include making an initial solicitation and two further annual solicitations as per Treas. Reg. § 301.6724-1(e), (iii) not obtaining a U.S. TIN for any particular account holder does not prevent a QI from being able to act as a Disclosing QI with respect to other account holders, and (iv) a QI can provide Treas. Reg. § 1.6031(c)-1T(a) nominee reporting with respect to an account holder even if it has not obtained the U.S. TIN of the account holder.
4. Publish guidance providing a transition and/or good faith period with respect to a QI's requirement to collect U.S. TINs.

ISSUE THREE: Enabling Business Online Accounts and Electronic Communications and Transactions

Executive Summary

The multi-year *IRS Modernization Plan* includes dozens of initiatives to improve how the agency interacts with taxpayers and the tax community.[33] Throughout 2021, the IRS released a number of online tools for individual taxpayers to expand digital accessibility and resources for the public. According to the IRS's *2021 Annual Insights Report*[34] many of these solutions have enabled more streamlined interactions between the IRS and individual taxpayers, and between tax professionals and the IRS, and have reduced the volumes and associated costs of IRS processing of many taxpayer issues.

But these digital solutions do not yet extend to business taxpayers who are often required to interact with the IRS throughout the calendar year to make payments, file returns, and respond to IRS penalty or inquiry notices.[35] In fact, many of the basic functions of business tax return processing that the IRS administers are paper-based processes and/or require manual intervention by IRS employees to facilitate resolution.

Due to historical backlogs and delays in processing of correspondence and telephone requests,[36] businesses often receive incorrect penalty notices which trigger these same businesses to contact the IRS yet again through another phone call or other correspondence. Time-sensitive correspondence that contains private taxpayer information is sent to business taxpayers via the United States Postal Service (USPS), often getting lost and requiring the business to contact the IRS (via telephone) to request that the IRS recreate the notices and resend sensitive information. Requests for abatements of penalties and all supporting

[33] Publication 5336 - IRS Modernization Plan: https://www.irs.gov/pub/irs-pdf/p5336.pdf.
[34] Information Technology (IT) – FY2021 Annual Key Insights Report: https://www.irs.gov/pub/irs-pdf/5453.pdf.
[35] IRSAC understands that in fiscal year 2023 Exam will begin offering business taxpayers the option to upload documents requested during an audit using the Document Upload Tool for Taxpayer Facing Employees (DUT-TPFE).
[36] National Taxpayer Advocate Annual Report: https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/01/ARC21_Full-Report.pdf.

documentation for a variety of business penalty and audit issues are sent on paper and must be submitted via USPS in many cases.

The IRSAC met with IRS employees from Information Technology (IT) and Wage & Investment (W&I) to discuss IRS modernization plans for some of the systems and processes causing the most critical business taxpayer issues. The IRS confirmed that while both W&I and IT teams have repeatedly prioritized the development of a business online portal to improve taxpayer communications and interactions with the agency, the IRS has not received approved funding for that project.

The IRSAC also asked the IRS whether it had considered ways to minimize the receipt of paper employment tax returns including *Form 941-X Adjusted Employer's Quarterly Federal Tax Return or Claim for Refund* and *Form 945-X Adjusted Annual Return of Withheld Federal Income Tax or Claim for Refund.* The IRS confirmed that it was considering adding Form 941-X to the Modernized eFile (MeF) system but did not have plans for Form 945-X. Additionally, there were no plans to pursue an electronic filing mandate for either the original or amended versions of these forms.

With the appropriation of additional funding through the Inflation Reduction Act of 2022 (IRA),[37] the IRSAC recommends that the IRS enhance systems to increase electronic filing capabilities with business taxpayers. In addition to enhancements to the Transcript Delivery System (TDS) discussed in the Wage & Investment section of the IRSAC report, the IRS should consider enhancements to the MeF to allow businesses to submit amended employment tax returns including both Forms 941-X and 945-X. Further, to improve communications with business taxpayers, the IRS should consider developing a secure e-mail process for businesses to receive and send time-sensitive penalty correspondence or correspondence that contains private taxpayer information.

[37] See Inflation Reduction Act of 2022 - https://www.congress.gov/bill/117th-congress/house-bill/5376/text

Background

Prior to the COVID-19 pandemic, businesses experienced delays and unnecessary penalty issues as a result of antiquated IRS systems and manual processes. The role of the IRS shifted drastically in 2020 when Congress granted pandemic relief to U.S. taxpayers. Despite its core mission to collect income taxes and enforce the Code, the IRS was suddenly tasked with distributing millions of stimulus payments to U.S. taxpayers. And, regardless of the backlogs that were happening before the pandemic, the IRS had to quickly update systems and processes to administer tax credits to U.S. taxpayers as part of the relief packages. Without additional funding to achieve these monumental tasks, the IRS had to pivot valuable taxpayer resources away from normal processing which contributed significantly to unprecedented backlogs in basic return and refund processing for businesses. With additional funding through the IRA, the IRSAC seeks to highlight some of the more pressing business tax process issues for which the IRS should consider immediate enhancement.

Withholding Tax Payments & Returns

Businesses withhold taxes on a variety of transactions during the year. Whether it's employers withholding payroll taxes or businesses withholding on retirement plan distribution payments, the IRS requires some form of withholding on many payment transactions. Businesses must remit withholding taxes to the IRS throughout the year using the Electronic Federal Tax Payments System (EFTPS)[38] which requires business taxpayers to manually initiate tax payments, select the appropriate types of tax and periods to apply payments against, and select the date on which payments should be paid. As with any manual process, mistakes are often made in applying payments to correct periods or tax types. Business taxpayers do not have the ability to see how their payments are being applied by the IRS and often are unaware an issue has occurred until a penalty notice has been issued. In order for adjustments to be made to incorrect payments and ultimately to resolve erroneous penalties, a business must telephone the IRS and request the payments to be moved from one period to another.

[38] Electronic Federal Tax Payments System (EFTPS): https://www.eftps.gov/eftps/.

Businesses file withholding tax returns to report taxes withheld and remitted to the IRS during the year (i.e., *Forms 941 Employer's Federal Tax Return, and Form 945 Annual Return of Withheld Federal Income Tax).* There is no mandate for businesses to file this information electronically and therefore, many businesses submit the original versions of these forms on paper. Additionally, the manual nature of preparing and submitting these forms and details leads to mistakes by both taxpayers and the IRS. Businesses are required to correct these issues by submitting amended versions of withholding tax returns which can only be submitted on paper.

The Coronavirus Aid, Relief, and Economic Security (CARES) Act introduced the Employee Retention Credit that businesses could claim through the *Form 941-X process.* Millions of businesses have submitted these forms, but they have not been processed due to significant IRS backlogs in processing paper returns. According to the Taxpayer Advocate, the IRS was backlogged almost three million *Forms 941 Employer's Federal Tax Return, and Forms 941-X.*[39]

Form 945 is used by businesses to report withholding taxes on retirement account distributions, among other types of withholding. The CARES Act waived required minimum distributions, allowed for withdrawals penalty free for COVID-19 related expenses, and provided for special rollover rules. These reliefs all directly impact businesses that administer retirement payments and have contributed to increases in the requirement to file Form 945-X to correct withholding taxes related to these new legislative requirements.

To quickly alleviate ongoing paper submissions of both Forms 941-X and 945-X, the IRSAC recommends that the IRS add functionality to the MeF to enable the ability to receive electronic versions of those returns. Electronic receipt of the information would allow the IRS to transfer the data to the IRS business unit responsible for processing the return much more quickly than waiting for mail to be opened and processed.

[39] National Taxpayer Advocate Annual Report: https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/01/ARC21_Full-Report.pdf.

As discussed in the Wage & Investment section of the IRSAC report, the IRS should consider how to leverage artificial intelligence capabilities to automate manual transfers of data into the Business Master File (BMF). In this example, even if the amended Form 941-X and 945-X return information could be submitted via MeF, the IRS still relies on employees to manually key those details into the BMF for processing. The IRS should consider how it can leverage bots to automate the process of reading and transferring information in order to minimize incorrect penalty notices being issued to taxpayers because the amended returns have not yet been processed.

Time-Sensitive Notices related to Information Reporting

Businesses that are required to issue and file information returns such as Forms 1099 and W-2 are required to follow specific regulatory requirements to ensure accurate and timely information. When information is late or contains missing or incorrect information, the business is subject to penalties under Code section 6721 and 6722.[40] The IRS administers the section 6721 penalties through the Notice *972CG, Notice of Proposed Penalty* process.[41] Additionally, when a business files a Form 1099 reporting a payment subject to backup withholding with a missing or incorrect taxpayer identification number (TIN), the IRS typically notifies the business of the failure through the *CP2100 Backup Withholding Notice.*[42]

Notices 972CG and CP2100 are sent to business taxpayers via paper or magnetic media and through the USPS. These notices contain sensitive taxpayer information including names, TINs, financial account numbers, and other private information. These notices also require business taxpayers to take action to secure new TIN information from the payees within specific regulatory timeframes. Failure to comply with the requirements associated with these processes can result in significant penalties to businesses. Failure to comply with backup withholding

[40] IRC Code Sections 6721 & 6722: https://www.govinfo.gov/content/pkg/USCODE-2011-title26/pdf/USCODE-2011-title26-subtitleF-chap68-subchapB-partII-sec6721.pdf.
[41] Publication 1586 - Reasonable Cause Regulations & Requirements for Missing and Incorrect Name/TINs: https://www.irs.gov/pub/irs-pdf/p1586.pdf.
[42] Publication 1281 – Backup Withholding for Missing and Incorrect Names/TINs: https://www.irs.gov/pub/irs-pdf/p1281.pdf.

requirements imposes liability for the withholding on the payer under Treas.Reg.§31.3403-1.[43]

Businesses often do not receive these notices from the IRS due to incorrect addresses or delays with the USPS[44] or even issues with mail being routed properly within their own organizations. Since business taxpayers do not know whether a notice has been issued by the IRS for these filing issues, they must contact the IRS via telephone if they do not receive a notice within the expected timeframe. If the IRS confirms a notice was issued, the business can request the IRS to recreate the notice and send it out via USPS again. If a business doesn't know about these notice processes and doesn't contact the IRS, it could be months (if at all) before the IRS contacts the business for failing to respond.

When businesses receive Notice CP2100 or 972CG, it includes a listing of each return that was filed with incorrect information. If there are more than 250 error documents filed, the IRS sends that information encrypted on magnetic media. The business must contact the IRS via telephone to receive the credentials necessary for accessing the information on the CD. Magnetic media is outdated technology and as such, many businesses do not have computers that have CD players to even access the information.

Finally, businesses are required to respond to Notice 972CG with written responses demonstrating their compliance with the section 6721 – 6724 requirements and request abatement from the proposed penalty. Most times, the IRS responds with written correspondence and requests follow-up documents to substantiate claims the business made in the initial written correspondence including copies of solicitation documents sent to payees to request corrected TIN information. In addition to lengthy responses, these supporting documents contain sensitive taxpayer information including names, addresses and TINs. This process from start to finish can sometimes take up to eighteen months or more to complete

[43] Treasury Reg. 31.3403-1 – Liability for Tax.
[44] GAO reported delivery rates slowed by 40% for First Class Mail during the pandemic: https://www.gao.gov/products/gao-21-261.

for a single notice because all of the correspondence is occurring on paper and through the USPS.

As discussed in the IRS Business and IT Modernization section of the IRSAC report, it is important that the IRS take steps to eliminate paper correspondence by increasing communications capabilities. In this case, the IRSAC recommends that the IRS consider how to improve the Notice 972CG and CP2100 processes to create efficiencies in the overall exchange of notices, responses and supporting documentation. The IRS could consider developing a secure e-mail process for businesses to *receive and send* time-sensitive penalty correspondence or correspondence that contains private taxpayer information. Recognizing that the IRS needs safeguards in place to address security and identity concerns, responsible officials associated with the business could be notified to log into a secure location to retrieve time-sensitive penalty notices and to respond to the IRS with corresponding documentation. These improvements could create enormous efficiencies for the IRS and business taxpayers because information would be exchanged in real-time which would minimize additional paper notices from being generated to businesses and speed up the time to resolution on information return penalty issues.

Recommendations

1. *Explore ways to tackle paper processing of employment tax returns.* Consider adding the amended Forms 941-X and 945-X to the MeF system so that businesses can submit the information electronically. Leverage bots to automate the transfer of data from the MeF to the BMF to eliminate the reliance on IRS employees to manually key those details from one system to the other (and to speed up the overall process).
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*. Enabling automation in these processes can speed up the time to resolution and minimize the generation of erroneous penalties due to information between the business taxpayer and the IRS being out of sync.

ISSUE FOUR: Wage Reporting for Payments to Incarcerated Individuals

Executive Summary

Technological advances change the way we conduct business. These advancements have expanded talent pools, minimizing geographical location as an obstacle for conducting business and finding new workers. Work opportunities are now more readily available to many individuals in the U.S., including individuals who are incarcerated.

Compensating inmates through inmate work programs requires correctional facilities and businesses to remain compliant with federal, state, and local employment tax guidelines. These inmate work programs offer opportunities in many different industries and role types. Individuals who are incarcerated represent a unique subset of workers in that their eligibility to be considered an employee comes into question due to their incarcerated status.

Organizations rely on guidance from IRS publications to establish whether the employee/employer relationship exists to ensure compliance with employment tax regulations. Some states have addressed this issue through legislation, but there has been no publication provided by the IRS to guide payers on how to classify payments to individuals who are incarcerated.

Background

Work programs have existed for many years providing different types of work to individuals who are incarcerated. Internal correctional facility roles include work in areas such as food service, plumbing, painting, and groundskeeping. Additional opportunities include work in supply chain industries and assisting with the manufacturing of various products. These opportunities are available on-site within the prison system or through work release.

Technology allows work opportunities and programs in industries beyond those previously mentioned. In general, technological advances have minimized geographical issues related to conducting business, allowing individuals to access jobs that were previously unavailable. As such, individuals who are incarcerated

can conduct business through digital methods in the same manner as individuals outside the prison system.

Individuals who are incarcerated present a unique issue as their incarceration status may conflict with their ability to be considered an employee. It is the employment status that determines whether employment related taxes must be considered on payments for services rendered. Making a proper determination more challenging for organizations is that many roles do not meet the legal standard for independent contractor status, but there is some limited guidance regarding whether or not an employer/employee relationship has been established. Failure to properly classify an individual as an employee and accurately process employment related taxes can lead to penalties and interest for the organization. Without comprehensive guidance, organizations are at risk of these taxation issues as it relates to individuals who are incarcerated.

Organizations establish compliance with federal, state, and local guidelines through guidance provided from taxing authorities, such as the IRS. Payers of wage and nonwage income rely on IRS publications and web pages to help them ascertain their withholding and information reporting obligations. Some states have established and published guidelines on the worker status of individuals who are incarcerated. There is currently no comprehensive version of guidelines related to this topic that can be found from the IRS.

Revenue Ruling 75-325, 1975-2 C.B. 415, provides guidance when an individual is incarcerated in a federal facility and performs services for Federal Prison Industries, Inc. In 2005, the Office of Chief Counsel issued advice[45] on the employment tax treatment of individuals who are incarcerated. The Office of Chief Counsel has also issued Information Letters and Private Letter Rulings addressing this issue. [46] However, this information is not readily available to organizations through IRS publications, including Publication 15, (Circular E), Employer's Tax Guide and instructions to Forms W-2, Wage and Tax Statement or 1099-NEC,

[45] Office of Chief Counsel Memorandum, https://www.irs.gov/pub/irs-wd/0526018.pdf
[46] Information Letter, https://www.irs.gov/pub/irs-wd/12-0016.pdf

Nonemployee Compensation or on IRS.gov. Having access to this information is critical to organizations looking to ensure overall compliance with employment practices. As such, digestible versions of this advice are necessary to provide support to organizations in establishing correct employment status of individuals who are incarcerated.

Recommendations

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.
2. Add information to the Federal, State, and Local Government (FSLG) area on the IRS website related to providing compliance guidance on this topic.
3. Conduct training and outreach sessions with the FSLG community to assist in establishing compliant practices before there is a potential compliance concern.
4. Include this information in Volunteer Income Tax Assistance (VITA) training to make volunteers aware of this nuance as they prepare income tax returns for individuals who are incarcerated to ensure tax compliance.

INTERNAL REVENUE SERVICE ADVISORY COUNCIL

Large Business & International Subgroup Report

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INTRODUCTION

The LB&I subgroup appreciated the opportunity to work collaboratively with LB&I Commissioner Nikole Flax, Deputy Commissioner Holly Paz, Special Assistant to the Commissioner Mireille Khoury, and the other BOD representatives. We are also particularly appreciative of the assistance of Stephanie Burch LB&I Subgroup Liaison.

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

- Accelerate the issuance of IRS Form 6166, Certification of U.S. Tax Residency,
- Retaining Different Corporate Addresses for Different Types of Tax,
- Develop Procedures for Partners that Receive Late Schedule K-1 filings, and
- Improve the Bridge Phase of the CAP program.

ISSUE ONE: Accelerate Issuance of IRS Form 6166, Certification of U.S. Residency

Executive Summary

Taxpayers continue to experience significant delays in receiving IRS Form 6166, Certification of U.S. Tax Residency (CoR). These delays are harming the ability of U.S. investors to obtain treaty benefits to which they are entitled. The COVID pandemic significantly exacerbated the problem because the application process is entirely paper-based. The U.S. Treasury bears the cost for foreign taxes that cannot be recovered to the extent that U.S. investors claim foreign tax credits.

The IRSAC recommends accelerating the issuance of CoRs so taxpayers may receive them in a timely manner. This can best be accomplished by adopting electronic processing of Form 8802, the application for a CoR. In the immediate term, the IRS should allow taxpayers to file Form 8802 prior to December 1 and begin processing the applications earlier so that CoRs are issued as soon as possible after (or before) January 1. At a minimum, the IRS should commit to extending the temporary change in policy allowing taxpayers to submit their most recently filed base tax return (i.e., without any accompanying forms, schedules, or attachments) as an attachment to the application rather than a copy of the entire return until the application process is modernized.

Background

Many U.S. 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 taxpayers 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 Form 8802s 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 is applying for certification for a year for which a return was recently due but has not yet posted. Delays in posting filed tax returns are common for certain large

taxpayers, such as regulated investment companies (RICs), whose tax returns can be many 100s of pages and are required to be paper filed. Earlier this year, the IRS announced a temporary change that allows taxpayers to submit only a signed copy of the base return with its application for such year, instead of the full return with all attachments, schedules, etc. This measure provides some relief to applicants.

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, that require correction before treaty relief can be claimed. These errors often arise from the manual processing of Forms 8802. The delays are exacerbated because it is difficult for taxpayers to access a method to request a correction or check the status of Form 8802.[47]

Delays in receiving CoRs can cause a permanent loss of treaty benefits for income received prior to the date on which the CoR can be furnished to the withholding agent. This permanent loss arises in those countries that require valid CoRs to be furnished 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 claims for treaty relief can be made after an income event, the time period can be very short. In certain markets, for example, interest payments are received on January 15th, and CoRs must be provided 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 first-quarter dividends are paid, which typically occurs around March 15.

At the beginning of the pandemic, the IRS engaged other competent tax authorities to seek grace periods for accepting expired CoRs through the OECD's Forum on Tax Administration. The IRSAC understands that any grace periods granted by other countries have since expired and recommends that the IRS continue to advocate for grace periods for expired CoRs.

[47] The IRSAC notes there is a phone line that may be called to request a correction or check status, although it is frequently difficult to get through.

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

Recommendations

1. Prioritize electronic filing of Form 8802.
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 (or before) January 1.
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.
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.

ISSUE TWO: Retaining Different Corporate Addresses for Different Types of Tax

Executive Summary

When a taxpayer files Form 8822-B to update its corporate address, the IRS changes the addresses for all types of taxes. A corporation (especially a large corporation) will very likely have different tax functions housed at different locations. The change in address can be initiated by various people including external services providers (like payroll companies) or individuals handing payroll or excise tax functions in-house. When the IRS processes the address change under its current procedures, all future communication for all types of taxes goes to this new address and may never get forwarded to the correct location and/or person for the corporate taxpayer.

Background

The current Form 8822-B does not provide a taxpayer the option to have different addresses for different types of taxes (income, payroll, excise, etc.). Currently, there is only the ability to have two addresses linked to an account: a mailing address and a location address. Only the mailing address is used to issue notices. The IRS's legacy computer systems are not set up to handle multiple addresses per taxpayer. In order to allow multiple addresses, the current systems would need to be reprogrammed not only at the top level but the underlying logic of the systems would need to be changed so that notices would go to the correct address based on the type of taxes involved so, for example, payroll notices would not go to the address assigned to excise tax and vice versa. Currently, the IRS is undergoing a project to increase the number of responsible parties associated with a given taxpayer either through Form 8822-B or a new form. The IRSAC understands that the programming needed for expanding the field of responsible parties[48] might enable an expanded field of taxpayer addresses.

[48] IRSAC recognizes that the current definition of responsible parties used by the IRS does not disclose direct ownership of disregarded single member limited liability corporations, complicating matters.

In addition, the IRS is currently developing a Taxpayer Experience Strategy, as required by the Taxpayer First Act, that includes expanding Digital Notices and Letters. This includes the Outbound Strategy Tactical Roadmap that should rapidly expand access to a business online account, digital notices via the IRS OLA Message Center and will likely include additional channels such as text message and a mobile application. A business online account is an ideal tool to interface with taxpayers to maintain multiple addresses.

Recommendations

1. Update the IRS legacy systems and subsystems to accept different addresses for different taxes to enable automatic delivery of the appropriate notices, etc., to the correct addresses based on the type of tax and/or form number.
2. Redesign Form 8822-B to include addresses for multiple type of taxes with options to identify and change addresses for multiple types of taxes.
3. Enable taxpayers to manage multiple addresses for different taxes in a business online account that is currently being developed.

ISSUE THREE: Procedures For Partners that Receive Late Schedule K-1 Filings

Executive Summary

It is frequently the case that large domestic corporate taxpayers that are also partners in multiple partnerships will, by no fault of their own, fail to receive a significant number of Schedules K-1 (Partner's Share of Income, Deductions, Credits, etc.) in a timely manner from these partnerships to incorporate into and file not only correct federal corporate income tax returns (Forms 1120) but also their associated state corporate income tax returns by the return due dates.

Currently, these large domestic corporate taxpayers that are partners have no administrative relief from the receipt of late Schedules K-1 beyond the filing of numerous amended federal income tax returns which creates a material burden on the taxpayer and the IRS. The IRSAC recommends that the IRS further consider and adopt procedures for large corporate taxpayers to use practical approaches to enable the faithful filing of corporate returns but also reduce the material burden of processing amended returns by both the IRS and the taxpayer. Such procedures could include the use of good faith estimates[49] with respect to late received Schedules K-1 and subsequent year true-up procedures.[50]

Background

Domestic partnerships and foreign partnerships that have either gross income that is derived from U.S. sources or that is effectively connected with a U.S. trade or business must file Forms 1065 (U.S. Return of Partnership Income).[51] In addition to partnerships filing Forms 1065, they must furnish Schedules K-1 (Partner's Share of Income, Deductions, Credits, etc.) to all partners, that provide the partner's distributive share of income, gain, loss, deduction and/or credit with any additional required information, so that those partners have the necessary information to incorporate into their tax filings.[52]

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[49] The IRSAC recognizes that taxpayers can file Form 8082 and take an inconsistent position.
[50] The IRSAC recognizes that Bipartisan Budget Act partner returns must be consistent with Schedule K-1 in the year it is filed.
[51] Code § 6031(a), (e); Treas. Reg. §1.6031(a)-1(a)(1), 1.6031(a)-1(b).
[52] Code § 6031(b); Treas. Reg. §1.6031(b)-1T; Treas. Reg. §1.6031(b)-1T(a)(3)(i) and (ii).

Numerous large corporate taxpayers that are partners in multiple partnerships many times fail, through no fault of their own, to receive a significant number of Schedules K-1 in time to incorporate into and file correct corporate income tax returns by the return due dates.

These large corporate taxpayers currently have cumbersome procedures with respect to the late receipt of Schedules K-1 that might include filing numerous amended federal income tax returns. Large corporate taxpayers may resort to various self-help methodologies given the burden of filing amended federal and state income tax returns; these self-help procedures are likely not uniform across affected taxpayers and may be inconsistently applied from year to year.

Procedures could be adopted for large corporate taxpayers to use good faith estimates with respect to late received Schedules K-1 and subsequent year true-up procedures. The IRS could also require large corporate taxpayers to preserve evidence substantiating the date on which Schedules K-1 were received (with no attributable fault on the part of the large corporate partner) and provide such substantiation to the IRS upon request. This procedure, to the extent consistently followed, could eliminate the need to file Notices of Inconsistent Treatment or Administrative Adjustment Request (Form 8082) to report inconsistent items, and would be treated similar to a method of accounting elected by these large corporate taxpayers.[53]

The IRSAC believes that this procedure will alleviate considerable administrative burden on the IRS by reducing the number of amended corporate income tax returns filed solely because of late received Schedules K-1, particularly in such situations when there is often a negligible income tax difference from the estimates utilized and the amounts of the late Schedules K-1. Similarly, this process would eliminate the significant administrative burden on large corporate

[53] While an original corporate income tax return, including Form 8082, could be filed, followed by one or more amended returns based on information provided in late Schedule K-1, the IRSAC is proposing a more streamlined and less administratively burdensome procedure than currently exists. The IRSAC recognizes that a reconciliation with section 6222 of the Code, which requires reporting of inconsistent treatment of items, would need to be made for full implementation of this proposal. However, IRSAC is proposing a streamlined procedure to ease administrative burden on the IRS and taxpayers and increase efficiency.

taxpayers to file not only an amended federal Form 1120, but also potentially amended corresponding state corporate income tax returns for, in many cases, relatively small associated tax changes compared to the administrative burden of these amended filings.

The IRSAC recognizes that significant guardrails, in addition to the those elaborated above, would need to be incorporated into this procedure as this is solely recommended to alleviate administrative burdens on the part of the IRS with respect to amended returns from these large corporate taxpayers with respect to late received Schedules K-1 and large corporate taxpayers amending both federal and state tax returns, and not to encourage the perpetual late provision of Schedules K-1 to large corporate domestic partners by partnerships.

The IRSAC has further considered whether the scope of the administrative relief recommended herein should be expanded beyond large domestic corporate taxpayers that are partners in partnerships because of the voluminous nature of their filings. After such consideration, the IRSAC recommends limiting such relief to the defined group of large corporate taxpayers. The IRSAC is cognizant of the IRS's concern that any such administrative relief should not allow for abuses nor diminish the force and effect of tax return due dates. In considering the limitation to large corporate taxpayers, the IRSAC has considered that special, particular harms may accrue to many of the large corporate taxpayer group in the aforementioned situation, including the requirement to have independently audited financial statements, be registered with the Securities and Exchange Commission (SEC), having to meet the related requirements of such securities registration, and the significance of filing amended federal and state income tax returns.

In contrast, taxpayers that are not large corporate taxpayers may not have audited financial statements so their financials would not be subject to scrutiny of external auditing resulting in concern of abuse with utilization of Schedule K-1 estimates. Furthermore, many of these taxpayers may only file in a single or a limited number of states such that the stated burden of filing an amended return in many states does not exist. Based on the need to balance any administrative relief against the potential added burdens the IRS may face if such relief is extended to

all taxpayers, the IRSAC believes there is a compelling reason to limit the proposed relief to large corporate taxpayers given the specialized harms at issue.

Recommendations

To eliminate the resulting administrative burden to the IRS from processing amended returns and to these large corporate taxpayers arising from receiving late Schedules K-1, IRSAC recommends that LB&I adopt a procedure by which large corporate taxpayers are permitted to:

1. Use good faith estimates with respect to late received Schedules K-1 to timely file their Form 1120,
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),
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, and
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.

ISSUE FOUR: Improvements to the Bridge Phase of the CAP Program

Executive Summary

LB&I should consider adapting the current Compliance Assurance Process (CAP) program to provide assurance to taxpayers in the so-called "Bridge" phase of the CAP program. Bridge taxpayers are considered "low risk" and the IRSAC believes a Bridge taxpayer should be able to continue to receive assurance provided it can represent that its business and tax profile has not materially changed since the last CAP exam. The IRSAC believes this CAP enhancement will incentivize and foster taxpayer behaviors that are conducive to good tax administration, better strengthen the CAP program, and further improve the efficiency of IRS exam resources.

Background

The Compliance Assurance Process was created to help in identifying and resolving tax issues for accepted taxpayers utilizing open, cooperative and transparent interaction between LB&I and the taxpayers prior to the filing of a return. Through the CAP (or Program), the taxpayer should achieve tax certainty sooner and with less administrative burden than conventional examinations. It relies on the transparent and cooperative interaction of the parties and the contemporaneous exchange of information.[54] The goals of the Program include:

1. Improve tax compliance by enhancing the efficiency and effectiveness of the issue identification, development, and resolution processes and procedures;
2. Increase transparency and cooperation between the IRS and taxpayers; and
3. Reduce burden of tax administration and compliance.[55]

The Program consists of three phases: CAP, Compliance Maintenance and Bridge. In the CAP phase, a taxpayer is expected to make open, comprehensive and contemporaneous disclosures of its material issues in writing. The taxpayer is

[54] IRM 4.51.8.1.
[55] IRM 4.51.8.1.3.

also expected to provide a full description of its material issues to include the relevant facts and circumstances and the proposed tax positions. If, after the receipt and review of the Post-Filing Representation,[56] the IRS determines that all material issues have been disclosed and resolved the taxpayer will receive a Full Acceptance Letter. This letter constitutes written confirmation that, subject to the completion of the post-filing review of the return, the IRS will accept the return as filed.

A taxpayer with a limited number of material issues, that continues to satisfy the CAP eligibility and suitability requirements, and has completed at least one complete CAP phase, may progress, if approved, to the Compliance Maintenance phase. In the Compliance Maintenance phase, the IRS reduces the level of review based on the complexity and number of issues, and the taxpayer's history of cooperation and transparency in the CAP. As with the CAP phase, a taxpayer is expected to make open, comprehensive, and contemporaneous disclosures of its material issues in writing. If, after the receipt and review of the Post-Filing Representation, the IRS determines that all material issues have been disclosed and resolved the taxpayer will receive a Full Acceptance Letter.

A taxpayer with few, if any, material issues, that continues to satisfy the CAP eligibility and suitability requirements, and has completed at least one complete Compliance Maintenance phase (or at least one complete CAP phase when in the best interest of sound tax administration), may progress, if approved, to the Bridge phase. In the Bridge phase, the IRS will not accept any disclosures, conduct any reviews or provide any assurances regarding the bridged return.[57] A taxpayer in the Bridge phase is still considered to be a participant in the CAP Program and will be treated as a returning CAP taxpayer in the subsequent year CAP application process. Selection for this phase is recognition that the compliance risk for the taxpayer's return is very low and that the expenditure of

[56] A Post-Filing Representation is filed by an officer of the taxpayer within 30 days of the date the return is filed that represents under penalties of perjury that all material issues were disclosed and resolved and all resolved issues were reported as agreed. IRM 4.51.8.3.6.
[57] IRM 4.51.8.2.

resources by the IRS and taxpayer to examine this return is not in the best interest of tax administration.[58]

If a CAP taxpayer receives a Full Acceptance Letter for a filing period, it will likely be able to conclude that further examination by the IRS is remote, conclude that all tax matters are effectively settled for the period, and communicate that the year is closed to shareholders in its annual filings. The ability to execute and communicate the accelerated closure of a tax year are the main benefits to a taxpayer afforded by the CAP program.

While the Bridge phase was borne out of the effort to maintain the CAP program by introducing efficiencies to address some of the trends observed, the IRSAC believes that "progression" to the Bridge phase may actually represent a "regression" for both the taxpayer and the IRS. During the Bridge phase, the taxpayer remains in a sort of CAP purgatory- where its organization is willing and capable of administering the CAP process but it receives no assurance from the IRS and accordingly cannot claim that its Bridge year is closed. Stated differently, a Bridge taxpayer retains many of the costs of the CAP program but receives none of the benefits. Further, the IRS generally stops collaborating with a taxpayer when it is advanced to the Bridge phase. The IRSAC believes that the IRS is potentially missing an opportunity to retain low-effort/high-value interactions with a Bridge taxpayer.

The IRSAC believes that one of those continued low-effort/ high-value interactions could be the issuance of a Full Acceptance Letter in exchange for a representation from the Bridge taxpayer that certain aspects of the taxpayer have not changed. This no-change representation (or NCR) could include statements that there are:

- No material changes to the taxpayer's supply chains,
- No material changes to the methods, periods, or tax positions of the taxpayer,
- No material changes to the underlying business, and/or
- No one-time events that materially change the tax profile of the company.

[58] IRM 4.51.8.5.

The IRS would not review the NCR or any other taxpayer information before issuing a Full Acceptance Letter. If the IRS found that the NCR was fraudulent or misleading, the IRS could invalidate the Full Acceptance Letter and exclude the taxpayer from the CAP program for a defined period of years.

The IRSAC believes that there are several benefits to this option. First, a Bridge taxpayer will likely strictly self-police its own tax policies to ensure that a Full Acceptance Letter can be requested and relied upon to represent that a tax year is closed. It may continue to operate in a conservative way so that it can have internal comfort (and assert to external auditors) that the NCR has been issued in an accurate and truthful manner. Stated differently, a Bridge taxpayer who receives assurance based on an NCR will behave more like a taxpayer that is in the normal CAP process.[59]

Secondly, the IRSAC believes that this option will strengthen the desirability of the CAP program to those taxpayers that are currently debating the cost and benefits of applying for the Program. Additional taxpayers may decide to apply for the Program if continued assurance is offered at the Bridge phase of the Program.

Thirdly, the IRSAC believes that this option would create efficiencies for the IRS workforce. For example, the IRS may determine that it may rely more heavily upon the self-policing aspect of the NCR and thus accelerate the timing for when a taxpayer is placed into Bridge or defer the timing for when a Bridge taxpayer returns to the normal CAP program. Further, if a larger pool of taxpayers applies for CAP, the IRS will have the benefit of evaluating whether the IRS could improve the efficiency of its exam teams by accepting additional applications.

Recommendations

The IRSAC recommends the IRS consider adapting the CAP program to provide a Full Acceptance Letter to Bridge taxpayers based upon representations provided in an annual NCR.

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[59] It is possible that a Bridge taxpayer may not be able to make a NCR every year due to material changes to the company's tax or business profile. However, if the taxpayer has a specific issue on the bridged return that it wants the IRS to consider, the taxpayer may submit a request for a pre-filing agreement. IRM 4.51.8.5.

INTERNAL REVENUE SERVICE ADVISORY COUNCIL

Small Business/Self-Employed Subgroup Report

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INTRODUCTION

The 2022 IRSAC Small Business/Self-Employed (SB/SE) subgroup is a collaborative group of seven members including CPAs, enrolled agents, attorneys, and academics. The collective tax experience of the members includes representation of individual and entity taxpayers from many segments of the taxpayer community in tax return preparation, tax planning and advice; and tax litigation and procedure at all levels of the IRS and in Court. The SB/SE Business Operating Division (BOD) is responsible for a large and diverse population of taxpayers with a wide range of income and tax return complexity. The SB/SE subgroup members consider service on the IRSAC an honor and a privilege and are pleased to present this report. We thank all the IRS personnel we communicated with during the year for their cooperation and assistance. We especially thank our liaisons for their guidance and their facilitation of our advisory activities by providing information, advice and access to IRS personnel.

The BOD and the Independent Office of Appeals (Appeals) requested our assistance for the issues discussed in this report:

- Examination Customer Coordination and Innovation Office, and
- Improving the Taxpayer Experience in Docketed Cases within the Jurisdiction of the Independent Office of Appeals that Arise from Compliance Actions by the IRS's Correspondence Examination or Automated Underreporter Functions as well as feedback regarding Examination's efforts to improve Taxpayer Experience with Respect to those functions.

ISSUE ONE: Examination Customer Coordination and Innovation Office

Executive Summary

The Small Business/Self-Employed Division of the IRS (SB/SE) requested the IRSAC's feedback relating to the establishment of the Examination Customer Coordination and Innovation Office (ECCIO). Specifically, the SB/SE has asked that the IRSAC

- Identify examination SB/SE processes that could benefit from automation modernization.
- Provide insight as to digitalization efforts that would enhance the examination experience for taxpayers.
- Identify the digitalization needs of taxpayers and practitioners.
- Provide recommendations on a marketing approach to increase the use of the ECCIO.

Background

In 2019, the IRS announced an Integrated Modernization Business Plan designed to improve the IRS's utilization of technological resources. A few months later, Congress enacted the Taxpayer First Act, a portion of which required the IRS to engage in a multi-year strategic plan for information technology. The National Taxpayer Advocate (NTA), in her 2019 Objectives Report to Congress and her Annual Report to Congress, also emphasized the importance of updating the IRS technological infrastructure to improve taxpayer service. The NTA also cautioned the IRS not to become over reliant on utilizing technology to interface with taxpayers because of the risk that vulnerable taxpayer populations may not have access to, or expertise with, technology to allow such taxpayers to interface with the IRS successfully. As recently as August 2022, Secretary Yellen has directed the IRS to develop within six months a plan as to how it will overhaul its technology, customer service, and hiring processes.

In January, 2022, the SB/SE began to implement these directives by establishing the Examination Customer Coordination and Innovation Office (ECCIO). The ECCIO's purpose is to centralize all digitalization efforts within the

business operation, including the promotion of existing digital projects, providing clear lines of communication, influencing existing technology, mitigating assistance with "home grown" systems and leveraging legislation changes correlated to technology. The ECCIO will also serve as the liaison between internal (within SB/SE Exam) and external (internal IRS offices that are external (outside of) SB/SE Exam) stakeholders to facilitate and monitor the development and maintenance of new and existing automations.

During the correspondence examination process, SB/SE currently offers two options for taxpayers who wish to utilize technology to interface with the IRS. These options include Taxpayer Digital Communications (TDC)/Secure Messaging (SM) and the Document Upload Tool (DUT). SM enables two-way communication (including the ability to upload documents and correspondence) between a taxpayer and/or the taxpayer's authorized representatives with the assigned Tax Examiner. The DUT is a one-way communications platform that enables taxpayers and their representatives to submit documentation to the IRS electronically instead of mailing or faxing it. A unique irs.gov URL is established for each DUT use case and is provided to taxpayers/representatives. This URL is accessed through a smartphone or computer to upload pictures of documents as well as scanned documents. The business unit accesses the uploaded documents from the DUT platform and processes them per its internal procedures. Taxpayers who do not have access to the technology required to use DUT still have the option to submit "paper" responses to comply with their examination obligations. At the point a document is received by the IRS, existing technology such as scanning can be utilized to convert and include the document in an otherwise electronic case. These steps serve to expedite the examination process. Currently, this technology is primarily utilized in correspondence examinations conducted by the campus exam function, rather than by the revenue agents and/or tax compliance officers.

Because TDC and SM have been available since 2017, SB/SE invites most taxpayers under examination to participate in TDC/SM. SB/SE sends these taxpayers Exam's Initial Contact Letter 566-T, which includes information about SM and includes the link to sign up. SB/SE recently revised this letter using a

behavioral modification approach based on a recommendation from the 2019 IRSAC report by moving the SM option to a more prominent location, and by adding two Quick Response (QR) codes to the letter, linking to the URL for SM and to an explanatory landing page. These taxpayers receive the TDC Letter 566-T, which contains the SM URL. A sample of Letter 566-T is attached as Exhibit A. Taxpayers not invited to participate in TDC (for various reasons) receive Letter 566-S. A sample of Letter 566-S is attached as Exhibit B.

SB/SE Correspondence Examination deployed the use of the DUT on September 3, 2021 to inform taxpayers about DUT. Until Examination letters are updated to include the DUT URL, Exam phone assistors will provide the DUT URL to taxpayers and their representatives who call in on the Exam toll-free phone line. This will be the case until SB/SE completes the revision of its exam letters to include the DUT URL (which SB/SE has begun to do by adding a DUT QR code to the Form 14817, Reply Coversheet). A sample of Form 14817 is attached as Exhibit C. SB/SE has thus far decided not to post the DUT URL to irs.gov in order to better ensure that only Correspondence Exam taxpayers will use the DUT URL.

As of the writing of this report, due to budgetary constraints, the ECCIO's mission is being carried out with current IRS technological capabilities. These constraints limit the potential for short-term implementation of certain types of initiatives including: (1) the use of chat-bots to provide guidance to taxpayers during an examination; and, (2) the use of robotics or artificial intelligence (AI) to generate queries to taxpayers for additional information related to an examination item based on information received during the course of an examination, to review returns to detect issues, and/or to review and analyze documents received from taxpayers. These types of initiatives, however, would offer numerous benefits, such as:

- Allowing the IRS's Online Account (Taxpayer Account) to serve as a "one-stop-shop" for most taxpayers to obtain tailored online service for their tax issue, improve online information delivery, improve the ability of taxpayers to satisfy their obligations online, streamline taxpayers' ability to assemble relevant documents related to their tax return and to interface with the IRS,

and resolve disputes more quickly using a technological interface. Realizing this benefit, however, would have to be balanced against the risk of such a "one-stop-shop" being utilized in identity theft, which would require such precautions as collecting and extracting personally identifying information and verifying it against issuing and other authoritative databases such as the department of motor vehicles, phone carriers verification records, and device IP address verification records to ensure authenticity.

- Allowing artificially intelligent/robotic interfaces to provide tailored responses to direct taxpayer inquiries. Automated systems could use information in the Taxpayer Account to provide links to pieces of information that the taxpayer's tax history suggests are relevant to keeping the taxpayer in compliance. For example, in creating Taxpayer Accounts, taxpayers could answer a few questions about the nature of their work, and the IRS could then populate their tax account with links to the most likely tasks that they will need to perform (payment of estimated taxes, payment of trust fund taxes, return filing for business and individual returns, etc.). In addition, if a taxpayer has received a notice from the IRS, that Taxpayer's Account could include a copy of the notice as well as an explanation about the notice's function and what it is requesting, along with easily viewable deadlines.
- Allowing (although not requiring) taxpayers to keep critical documentation for an exam linked to their Taxpayer Account on the IRS site, available if a return is selected for exam.
- Using an automated system to determine whether the taxpayer has submitted all the requested documentation in an exam and to request any missing items. Once the submission is complete, the system could notify the IRS examining agent that the file was complete and ready to be reviewed. This would allow limited personnel hours to be better utilized to resolve more complex, qualitative tasks while more mechanical document collection tasks are automated, allowing for quicker exam resolutions and making it possible for one exam agent to handle an exam from start to finish.

These initiatives, however, remain long-term possibilities that are predicated on IRS funding levels. In addition, such initiatives have to be undertaken with considerable care to guard against potential bias on account of the risk that, within any technological system, unintended biases can be reflected in the decisions that the automated systems make (whether that involves who is selected for examination, what suggestions chat- bots make to taxpayers regarding how best to remain in tax compliance, and the types of information that would cause automated systems to determine that a document request had been appropriately satisfied, etc.).

Recommendations:

The IRSAC recommends that the IRS:

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.
2. Improve online information delivery with interactive systems designed to adapt to specific taxpayer questions.
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.
4. Utilize adaptive forms that indicate to taxpayers in real time if information is missing or if there appears to be something on the form that requires clarification or additional information, with links to relevant forms that the taxpayer might need on the Taxpayer's Account webpage.
5. Give taxpayers the option of being able to upload and link documentation to their IRS tax account throughout the tax year (business records, mileage logs, income receipts, etc.) in a secure folder linked to their Taxpayer Account.
6. Consider developing a pilot online dispute resolution platform that utilizes adaptive automated responses to communicate with the

taxpayer and to request that the taxpayer submit documentation online, if necessary.

7. As the ECCIO increases its utilization of AI and robotics, employ AI design theorists and ethicists to protect against the risk that increasingly automated systems might inadvertently reflect the biases of their designers.

Exhibit A

Department of the Treasury
Internal Revenue Service
[Operating Division / Program Name]
[Street address]
[City, State ZIP]

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

Date:
07/13/2022
Contact options:
Visit: www.irs.gov/connect
Scan: IRS Secure Messaging QR code below.

Taxpayer ID number:

Form:

Tax period ended:

Project code:

Person to contact:
Name:
ID number:
Telephone:
Fax:
Hours:

We're auditing your [year] Form [1040], and need a response from you

Dear [Taxpayer Name]:

We're auditing your [tax period] federal income tax return and need you to send additional information to support the following items claimed on your return:

What to send? Refer to the enclosed forms that explain what documents you need to provide.

- Organize your documents (including copies of receipts, canceled checks, tax records and other supporting documents) according to the items listed above.
- Make sure scanned documents, pictures and photocopies are complete and clearly readable.
- If questionnaires are attached to this letter, please complete them and submit copies.
- Send **all** your documents at the same time to avoid confusion and processing delays.

How to send it? You have three options for sending your documents:

1. **IRS Secure Messaging** is the best option if you qualify. Through this online service you can securely and instantly send your documents, and you can also exchange messages with your assigned examiner. Visit irs.gov/connect or scan the QR code to the right to see if you qualify.
2. **Send a traditional or virtual fax** to the fax number provided at the top of this letter using a mobile phone app, tablet, computer, or fax machine. Include your name and taxpayer identification number (social security number or individual taxpayer identification number) on each page. For more information on ways to fax without a machine, visit irs.gov/566ta.
3. If you can't send documents via Secure Messaging or fax, make copies of all your documents (do not send

us original documents) and mail them to the address provided at the top of this letter.

Note: If you respond by mail or fax, please include the enclosed Form 14817, Reply Cover Sheet. Don't send us original documents unless we specifically ask for them.

When to send it? Send your documents **within 30 days** from the date of this letter. If you need more time:

- send a request via IRS Secure Messaging;
- fax a written extension request to the fax number provided at the top of this letter; or
- make a request by calling the phone number provided at the top of this letter.

What if I have questions? Find answers to commonly asked questions about your audit rights and responsibilities in the enclosed copies of Publication 1 ("Your Rights as a Taxpayer") and Publication 3498-A ("The Examination Process: Audits by Mail"). You can find more detailed information by visiting **irs.gov/566ta** or scanning the QR code to the right. If you still have questions, call the phone number provided at the top of this letter.

How do I authorize a third party? Complete Form 2848 ("Power of Attorney and Declaration of Representative") if you want someone to represent you or complete Form 8821 ("Tax Information Authorization") to authorize someone to inspect or receive your confidential tax information. Download both forms from **irs.gov/forms** or call 800-TAX-FORM (800-829-3676).

What happens next? Once we receive your supporting documents, we'll send an acknowledgement. Then we'll review your documents to see if they fully address our questions.

- If so, we'll send confirmation we accept your return as filed, and you won't need to take further action.
- If not, we'll send an examination report explaining proposed tax changes and actions you need to take.

What if I don't respond? If you don't respond, we'll disallow the items in question and send you an examination report showing proposed tax changes.

Sincerely,

[Name]
[Operations Manager, Examination]

Enclosures:
Form 14817
Publication 1
Publication 3498-A
Envelope
[ ]

Exhibit B

Department of the Treasury
Internal Revenue Service
[Operating Division / Program Name]
[Street address]
[City, State ZIP]

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

Date:
07/13/2022
Contact options:
Visit: www.irs.gov/connect
Scan: IRS Secure Messaging QR code below.

Taxpayer ID number:

Form:

Tax period ended:

Project code:

Person to contact:
Name:
ID number:
Telephone:
Fax:
Hours:

We're auditing your [year] Form [1040], and need a response from you

Dear [Taxpayer Name]:

We're auditing your [tax period] federal income tax return and need you to send additional information to support the following items claimed on your return:

What to send? Refer to the enclosed forms that explain what documents you need to provide.

- Organize your documents (including copies of receipts, canceled checks, tax records and other supporting documents) according to the items listed above.
- Make sure scanned documents, pictures and photocopies are complete and clearly readable.
- If questionnaires are attached to this letter, please complete them and submit copies.
- Send **all** your documents at the same time to avoid confusion and processing delays.

How to send it? You have three options for sending your documents:

1. **IRS Secure Messaging** is the best option if you qualify. Through this online service you can securely and instantly send your documents, and you can also exchange messages with your assigned examiner. Visit irs.gov/connect or scan the QR code to the right to see if you qualify.
2. **Send a traditional or virtual fax** to the fax number provided at the top of this letter using a mobile phone app, tablet, computer, or fax machine. Include your name and taxpayer identification number (social security number or individual taxpayer identification number) on each page. For more information on ways to fax without a machine, visit irs.gov/566ta.
3. If you can't send documents via Secure Messaging or fax, make copies of all your documents (do not send

us original documents) and mail them to the address provided at the top of this letter.

Note: If you respond by mail or fax, please include the enclosed Form 14817, Reply Cover Sheet. Don't send us original documents unless we specifically ask for them.

When to send it? Send your documents **within 30 days** from the date of this letter. If you need more time:

- send a request via IRS Secure Messaging;
- fax a written extension request to the fax number provided at the top of this letter; or
- make a request by calling the phone number provided at the top of this letter.

What if I have questions? Find answers to commonly asked questions about your audit rights and responsibilities in the enclosed copies of Publication 1 ("Your Rights as a Taxpayer") and Publication 3498-A ("The Examination Process: Audits by Mail"). You can find more detailed information by visiting **irs.gov/566ta** or scanning the QR code to the right. If you still have questions, call the phone number provided at the top of this letter.

How do I authorize a third party? Complete Form 2848 ("Power of Attorney and Declaration of Representative") if you want someone to represent you or complete Form 8821 ("Tax Information Authorization") to authorize someone to inspect or receive your confidential tax information. Download both forms from **irs.gov/forms** or call 800-TAX-FORM (800-829-3676).

What happens next? Once we receive your supporting documents, we'll send an acknowledgement. Then we'll review your documents to see if they fully address our questions.

- If so, we'll send confirmation we accept your return as filed, and you won't need to take further action.
- If not, we'll send an examination report explaining proposed tax changes and actions you need to take.

What if I don't respond? If you don't respond, we'll disallow the items in question and send you an examination report showing proposed tax changes.

Sincerely,

[Name]
[Operations Manager, Examination]

Enclosures:
Form 14817
Publication 1
Publication 3498-A
Envelope
[ ]

Exhibit C

Form **14817**
(September 2021)

Department of the Treasury - Internal Revenue Service

Reply Cover Sheet

Attach this Cover Sheet to the Top of Your Reply

Date

To

Internal Revenue Service, Correspondence Examination

From

Provide a telephone number, including area code and best time for a tax examiner to call

Telephone number	Best time to call *(hours)*

If you have a new address, complete Form 8822, Change Of Address, and include it with your reply. You can download this form at www.irs.gov or request a copy by calling 1-800-TAX-FORM (1-800-829-3676).

You can upload your reply using your computer or mobile device at www.irs.gov/examreply or by scanning the IRS Secure Upload QR Code

Use this form as the first page of any uploaded documents.

Comments

This communication is intended for the sole use of the individual to whom it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this communication is not the intended recipient or agent for delivering the communication to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication may be strictly prohibited. If you have received this communication in error, notify the sender immediately by telephone.

ISSUE TWO: Improving the Taxpayer Experience in Docketed Cases within the Jurisdiction of the Independent Office of Appeals that Arise from Compliance Actions by the IRS's Correspondence Examination or Automated Underreporter Functions as well as Feedback Regarding Examination's efforts to Improve Taxpayer Experience with Respect to those Functions

Executive Summary

The IRS's correspondence examination (CORR) and automated underreporter (AUR) functions conduct compliance activity that can result in taxpayers receiving a Statutory Notice of Deficiency (SNOD) pursuant to Code section 6212. For taxpayers who petition the United States Tax Court (USTC) in response to a SNOD, the IRS Office of Chief Counsel (Counsel), after filing a responsive pleading, generally assigns the case (referred to as a "docketed case") to the Independent Office of Appeals (Appeals) for possible settlement without the need for further litigation.

Since the role of Appeals is dispute resolution and it is not part of the Examination function, fact finding is normally not part of its mission. Appeals considers cases once they are ripe after they have been fully developed in the compliance function and a dispute over the facts or law exists between the taxpayer and the compliance function. Appeals attempts to resolve disputes by proposing a settlement that reflects the hazards of litigation faced by each side if the matter was to proceed to litigation.

Appeals' experience with CORR and AUR, however, is atypical in that this type of docketed case generally does not follow the prescribed process. Instead, the SNOD is issued because the IRS may not have received a timely response. After a petition is made in the USTC (often *pro se*), and Counsel files an Answer, Counsel remands the docketed case to Appeals, which has not previously dealt with the matter. In this situation, the taxpayer then comes to Appeals and presents evidence and arguments that may not have been considered by the IRS compliance function. There is not always a "dispute" between the taxpayer and the IRS compliance function in these docketed cases – it is simply that no one has

had the opportunity to consider the taxpayer's evidence and arguments. Appeals is now put in the position as the first finder of fact.

As of April 2022, Appeals had an inventory (approximately 7,500) of these types of docketed CORR and AUR cases. Appeals is concerned that resources spent fact-finding on these cases cannot be utilized on its core mission of dispute resolution on fully developed cases.

Appeals and Examination both requested that the IRSAC look into this issue and make recommendations to improve the experience in Examination and Appeals with respect to these two types of matters.

Background

Appeals has already implemented a streamlined process to address CORR and AUR docketed cases that: (1) temporarily prioritizes docketed cases over nondocketed cases; (2) applies additional Appeals resources to these cases; and (3) emphasizes to Appeals Officers that they should attempt to contact the taxpayer by telephone, rather than letter, in an effort to discuss the issue and perhaps settle the matter during the telephone call by taking oral testimony and/or requesting relevant documentation from the taxpayer.

In April 2022, SB/SE formed a project team consisting of representatives from SB/SE Examination, Wage & Investment (W&I), Appeals, the Taxpayer Advocate Service (TAS), and Counsel to analyze ways to identify opportunities to mitigate what appears to be a growing number of cases of this type going to Appeals and to determine contributing factors. The team has been and continues to be in the process of collectively evaluating taxpayer response rates and identifying underlying causes that, when addressed, will promote earlier case resolution.

SB/SE Examination has undertaken several efforts to improve the taxpayer experience in CORR and AUR functions. These efforts include the implementation of Taxpayer Digital Communications; integration of quick response (QR) codes on certain letters; as well as a redesign of the AUR Notice CP 2000 and SNOD (IRS letter CP 3219A, revised 2016).

At the April 26, 2022 meeting of IRSAC, at which Chief Keyso of Appeals presented the SNOD/Appeals issue, the SB/SE subgroup of the IRSAC agreed to study the issue and the issue was subsequently approved by the IRSAC.

After a considerable exchange of additional information obtained through a written question and answer process, the IRSAC issue team of seven people consisting of all SB/SE subgroup members and a member of the LB&I subgroup carefully reviewed and studied the data provided.

It at first seemed to be a curious phenomenon that taxpayers were timely filing petitions in response to SNODs but frequently not responding to other correspondence from the IRS. But we believe this may be attributable to three principal factors – illiteracy, mail processing issues (Covid-19 pandemic caused or otherwise), and, in some cases, lack of human contact by IRS personnel.

In July 2019, the U.S. Department of Education issued a Data Point titled "Adult Literacy in the United States", NCES 2019 – 179.[60] The report states that 43 million U.S. adults possess low literacy skills and millions of this group are illiterate or functionally illiterate. Thus, while we applaud the efforts of Examination with respect to its redesign of the Notice CP2000, and all IRS notices are reviewed by the Office of Taxpayer Correspondence (OTC) for consistency, quality, and plain language standards, we doubt that the Notice and its attachments can ever be written in such a manner as to be "readable" and "understandable" by a significant segment of the taxpayers falling within this group.

Based on this Data Point, the question arises why members of this group would be responding to a SNOD and not other correspondence in those cases where no prior response had been sent to the IRS. A possible answer appears to be that the SNOD is the first correspondence sent by Certified Return Receipt Requested. This method of mailing is required by Code subsection 6212(a). We believe that the use of this formal and provable delivery method is frequently a "wake up call" and drives taxpayers to seek help from third parties and to file a petition with the USTC. And, although many petitions filed with the USTC are filed

[60] See https://nces.ed.gov/pubs2019/2019179.pdf

pro se, these taxpayers may seek help from third parties (e.g., professionals, non-licensed preparers, more literate friends or coworkers who also may have helped them prepare their returns, etc.) not qualified to appear before the USTC to help them understand in some fashion what they need to file and when. We believe that use of the certified return receipt procedure should be used earlier in the process to drive taxpayers toward someone who can help them understand and respond to what was sent to them prior to the issuance of a SNOD. For instance, the Notice CP2000 in AUR cases would likely benefit from being sent by certified mail to increase taxpayer attention and response. In CORR cases, if the IRS does not hear or read from the taxpayer within "X" number of days, a second letter should be sent out by certified mail.

With respect to mail processing issues, a number of our members have had clients where data was sent to the IRS but not acknowledged by the agency and consequently SNODs were issued. It is well known that there were enormous mail delivery and processing issues caused by the Covid-19 pandemic that started from approximately April 2020, and while now significantly reduced they are still not completely resolved. We applaud the efforts of the IRS in dealing with this issue particularly considering the tight budget and reduced personnel roster that it has as of the writing of his report.

The need for more human involvement is very important. Particularly in AUR matters and, in general with the literacy impaired taxpayer population, the disabled elderly (who also may not be technically sophisticated so that doing something like reading a QR code is beyond their ability) and the incarcerated. We recognize the difficulties inherent in calling taxpayers given all of the warnings about "scam" calls issued by the government including the IRS. But, human contact is needed and might result in more positive outcomes, particularly if someone cannot read well or read at all. We have considered the various factors, including the frequent relocation of some taxpayers today, and believe that it would be beneficial if all individual tax returns (Forms 1040 and 1040-SR) required (currently supplying this data is optional) the taxpayer to include a contact telephone number on the return assuming same are available together with a box showing the preferred language

of the taxpayer to enhance communication efforts. Furthermore, we suggest that this data be entered into the system so that it would be readily available to the personnel handling the AUR and CORR matters. While not all taxpayers might be able to comply with this, many could and would. This information could then be used for outreach purposes so that an IRS employee could call to remind the taxpayer of what was sent; when it was sent; and that if they do not understand it to seek help.

As to the role of Appeals, we believe that it is not consistent with the statutory role of Appeals to, in essence, expend scarce resources on a file that has not been fully developed by Examination and that instead of these matters being remanded to Appeals, they should all be remanded directly to special Examination units that could engage in expedited fact finding. Then, those cases that are left unresolved would be, where it is most efficient, sent to Appeals for settlement where possible and, if not efficient, settled or tried directly by Counsel. Of course, Counsel would be drafting and filing all of the USTC required documents to close out the cases. This might require Counsel to approach the USTC to try to work out a more blanket approach to obtaining continuances for these types of cases by working out a new category for the litigants and the Court to put them into. This proposed process would carry significant benefits for all involved – taxpayers, IRS, Appeals, Counsel and the USTC.

We also considered the possible more liberal use of the process of recission of a SNOD by Examination. We suggest that the current procedures set forth in the IRM be reviewed to determine, where the statute of limitations on assessment is not an issue, whether the procedure can be more efficiently and effectively used in these types of matters to reduce the number of SNODs that might result in the filing of a petition with the USTC.

Recommendations

The following recommendations are made to the AUR & SB/SE/W&I Correspondence Exam Taxpayer Experience Project Team and Appeals:

1. Use certified mail return receipt requested to send out the CP2000 in AUR cases and the second letter, if no response is received to the first letter, in CORR cases.
2. Make the box on the Forms 1040 and 1040-SR asking for the taxpayer's telephone number mandatory for those who have same; and, consider adding a box on the forms showing the preferred language of the taxpayer.
3. Call the taxpayer if there is no response within "X" days to the items sent out by certified mail in item one above.
4. Add simple, non-threatening words to the envelopes enclosing communication from the IRS.
5. Explore the increased use of recissions of SNODs where the statute of limitations on assessment is not an issue.
6. Alter the process in docketed matters involving CORR or AUR SNODs so that Counsel remands such cases where the finding of facts has either not occurred or minimally occurred directly back to the compliance function rather than remanding to Appeals.
7. Have Counsel explore with the USTC whether a new category of cases can be created for calendar purposes that allows for a group postponement of all docket numbers deemed to be in the group.

INTERNAL REVENUE SERVICE ADVISORY COUNCIL

Tax Exempt and Government Entities Subgroup Report

Nancy Ruoff, Subgroup Chair
Sharon Brown
Sam Cohen
Jodi Kessler
Carol Lew
Tara Sciscoe

INTRODUCTION

The IRSAC Tax Exempt & Government Entities (TE/GE) subgroup is a diverse group of six 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 we 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:

- Series 8038 Form Redesign and Updates,
- Employee Plans Examination Compliance Approaches,
- Recommendations for Changes to the Group Trust Rules,
- Recommendations for TEOS Improvements, and
- Recommendations for Effective State Engagement to Promote Employment Tax Compliance.

ISSUE ONE: Series 8038 Form Redesign and Updates

Executive Summary

Tax-exempt bonds issued by local, state and Indian tribal governments (Issuers) are generally subject to certain requirements under the Code in connection with use and expenditure of proceeds, restrictions on the investment thereof and information return filing. Compliance with such requirements and restrictions is crucial in maintaining the tax-exempt status with respect to such bonds. Issuers are required to file information returns to provide the IRS with the information required by section 149 of the Code[61] and to monitor the requirements of sections 141 through 150 of the Code. An Issuer (or a person acting on behalf of an Issuer) has to make a good faith effort to complete the information return (taking into account the instructions to the form).[62] The information return must be completed on the basis of available information and reasonable expectations as of the date of issuance of the tax-exempt bonds.[63] The failure to file an information return would result in the interest on the tax-exempt bonds not being excluded from gross income of the holders thereof.[64] The IRS has published several forms for this purpose. The principal forms required to be filed in connection with the issuance of tax-exempt bonds are the 8038 Series Forms, more specifically described below.

[61] Although Code §149(e) generally applies to tax-exempt bonds issued after August 15, 1986, the regulations apply to tax-exempt bonds issued after December 31, 1986. Provisions parallel to Code §149(e) were contained in § 103(l) of the Internal Revenue Code of 1954 and Treas. Reg. §5f.103-3.
[62] See Treas. Reg. §1.149(e)-1(d)(1)(i).
[63] See Treas. Reg. § 1.149(e)-1(d)(1)(ii). However, information returns that are filed on a consolidated basis may be completed on the basis of information readily available to the issuer at the close of the calendar year to which the form relates, supplemented by estimates made in good faith.
[64] See Treas. Reg. § 1.149(e)-1.

8038 Series Forms	Purpose
Form 8038	Information Return for Tax-Exempt Private Activity Bond Issues
Form 8038-G	Information Return for Tax-Exempt Governmental Bonds with an issue price of $100,000 and over
Form 8038-GC	Information Return for Small Tax-Exempt Governmental Bond Issues, Leases and Installment Sales with an issue price under $100,000

To ensure consistency in information return reporting for Issuers of governmental bonds and private activity bonds and to improve the usefulness of the information that is reported, the IRSAC is recommending the consolidation of the Form 8038 return and the Form 8038-G return into one information return. Acknowledging that the Form 8038-GC return is a less complicated information return, is usually not completed by a paid preparer and facilitates the easy access of the information return for reporting lease transactions, the IRSAC is not recommending the consolidation of the Form 8038-GC return with the Form 8038 return and the Form 8038-G return, but is recommending that the threshold amount for the Form 8038-GC return be increased.

Background

Form 8038 and Form 8038-G

In 2012, the Advisory Committee on Tax-Exempt and Government Entities (ACT) published its 11th report, [65] which included recommended changes to forms, including the Form 8038 return and the Form 8038-G return. The IRS has, since 2012, made modifications to the forms and instructions, but has not yet implemented most of the changes recommended in the ACT report. In 2018, the forms and instructions were revised to conform to 2017 statutory changes,

[65] Advisory Committee on Tax-Exempt and Governmental Entities (ACT), Report on Recommendations, Publication 4344 (Rev. 06-2012), Report of Recommendations - IRS tax forms

particularly to address the elimination of tax-exempt advance refunding bonds. Some of those changes raised new or additional questions about how the forms should be completed. In 2020, the National Association of Bond Lawyers submitted a comment paper[66] to the IRS with recommended changes to the instructions related to the Form 8038 return and the Form 8038-G return that would include removing ambiguity, reducing the need or perceived need of return preparers to provide supplemental information that may not be useful, and ensuring consistency between the Form 8038 return and the Form 8038-G return.

Issuers (and paid preparers) increasingly find themselves interpreting certain of the Form 8038 return instructions and the Form 8038-G return instructions in an effort to accurately report information in connection with the issuance of private activity bonds and governmental bonds, respectively. To ensure accurate returns and clarification in areas where varying interpretations can result in differing responses on the information returns, the IRSAC, after consultation with representatives from the IRS, recommends the consolidation of the Form 8038 return and the Form 8038-G return into one information return. The IRSAC suggests that as the IRS works through the redesign process in order to eliminate ambiguities, duplication of information, and ameliorate confusion as to when attachments are applicable, the IRS also take the following suggestions into consideration:

- The design of the consolidated information return should follow the style of the Form 990, *Return of Organization Exempt from Income Tax* in that the return has core questions that simply gather information. These questions should be addressed by all Issuers filing the consolidated information return. Similar to the design of the Form 990, the return should include accompanying schedules. The accompanying schedules should have a number of questions specifically related to the type of bond issued and ancillary matters that may not generally be applicable to type of bond issued. In

[66] National Association of Bond Lawyers (NABL) letter to Treasury and the IRS with respect to Instructions for Form 8038 and Form 8038-G, www.nabl.org.

addition, the instructions should direct Issuer (or paid preparers) to the portion of the form to be completed and use expandable menus (if electronic) to drive which sections are opened for reporting based on the response to previous questions.

- Form 8038-G
    - *Part II, Lines 11 through 18*. It would be helpful to have the breakdown based on a portion of net proceeds (less investment proceeds, costs of issuance and credit enhancement). Adding a separate category for working capital would be helpful.
    - *Part II, attachment of users, description and EIN*. This provision is very burdensome and broad, including the request of a summary of use and identification of other governmental units or nongovernmental units. A more tailored approach regarding satisfying the private business use test would be more helpful. For example, if the private business use is de minimis, the provision would not be triggered.
    - *Part VI*. 1. Add a new line regarding whether the private business use test of section 141(a)(1)(A) is expected to be satisfied so that the IRS might be more aware of transactions utilizing the private payment test. 2. Add a new line regarding whether the bond proceeds of the new money portion of the issue are expected to qualify for the three year temporary period of Treas. Reg. §1.148-2(e)(2) to understand which issues are utilizing alternative expectation schedules.
    - Definition of Issue. The instructions should conform to the definition of issue for commercial paper and not require annual filings. It is confusing to determine date and amount for filings. The maturity date should reflect the date the

commercial paper program ends. The maximum principal amount should be based on the aggregate amount to be issued under the program and the weighted average maturity should be based on the program maturity date. Consider including separate boxes for commercial paper.

- Form 8038
    - *Part V. Description of Property Financed*.
        - Consider requesting the same information regarding refundings to gain an understanding of refunded bond compliance.
        - Consider including a question regarding whether existing property is being acquired, the amount of proceeds so used, and the amount of rehabilitation expenditures. Care should be taken to only have the questions apply to categories of bonds subject to the existing property limit of Section 147.
        - Line 32 only has two lines but the instructions provide that an explanation needs to be attached for four or more entries.
    - *Part VII. Miscellaneous*. Line 44. Consider asking if the borrower has post issuance compliance written procedures.
    - *Part VIII. Volume Caps*. If an Issuer has carryforward, the Issuer still must fill out line 47 and 48. This is confusing and duplicative.

- General Information
    - It would be helpful to have a box for request for relief on not timely filed returns instead of writing on top of the form the relief procedure. A box to check to automate the reasons for the delay in filing might be more efficient.

- Amended returns must attach an explanation. The IRS may be able to automate by putting in boxes to check.
- Draw down loans are difficult to deal with on the forms as they have a maximum principal amount and an indeterminate weighted average life. It would be helpful to have separate boxes for draw down loans.
- For reimbursement, it would be helpful to have a separate question for preliminary costs to alleviate confusion regarding reimbursement resolution dates.

Form 8038-GC

The Form 8038-GC return is a less complicated information return to complete, not commonly completed by a paid preparer and does not require as much disclosure information as required by the Form 8038-G return. For example, the following disclosure information is required on the Form 8038-G return but omitted from the Form 8038-GC return: (i) types of issue, (ii) description of combined issues and refunded bonds, (iii) proceeds used for loans to other governmental agencies, and (iv) proceeds used to reimburse expenditures. As stated in the instructions for the Form 8038-GC return under the section Paperwork Reduction Act Notice, the IRS welcomes "suggestions for making this form simpler…" The relative ease and efficiency of completing the Form 8038-GC return encourages compliance and timely reporting and allows the IRS to collect sufficient information for the administration of the tax laws.

Issuers have two options for filing the Form 8038-GC return. An Issuer can either file a separate Form 8038-GC return for each issue of tax-exempt bonds of less than $100,000 or file a consolidated Form 8038-GC return which includes all issues of tax-exempt bonds of less than $100,000 each within the calendar year. The IRSAC requested data from the IRS for the last five years regarding information with respect to the Form 8038-GC return. The data provided to the IRSAC is set forth in Tables One, Two and Three, below. As reflected in Table One below, only 0.7% of returns over a 5-year span from 2017 to 2021 have been

filed as consolidated returns (the highest was 75 in 2019 and the lowest was 20 in 2021).

Lease transactions, on average, were the majority of the transactions reported on the Form 8038-GC return. Over a 5-year span from 2017 to 2021, as reflected on Table One, 60.4% of the Form 8038-GC returns were for lease transactions. As reflected in Table Two, for the same period, only 33.8% of the Form 8038-G returns between $100,000 – $249,999.99 were for lease transactions. Moreover, as reflected in Table Three, for the same period, only 26.2% of the Form 8038-G returns between $250,000 - $499,999 were for lease transactions.

Table One: 8038-GC Returns

8038-GC Returns	2017	2018	2019	2020	2021	5-Year Total	% of Total
All Returns	7,795	7,734	7,190	5,560	4,342	32,805	
Leases (lines 9a-d)	4,812	4,671	4,544	3,181	2,534	19,806	60.4%
Bank Loans (lines 9e-h)	769	935	474	569	175	2,930	8.9%
Single Issue	7,731	7,681	7,115	5,538	4,322	32,571	99.3%
Consolidated Return	64	53	75	22	20	234	0.7%
Paid Prep Info[67]	2,555	2,535	2,307	2,060	1,440	10,938	33.3%

Table Two: 8038-G Returns with Issue Price between $100,00 to $249,999.99

8038-G Returns w/Issue Price $100,00 to $249,999.99	2017	2018	2019	2020	2021	5-Year Total	% of Total
All Returns	3,639	3,497	3,439	3,192	2,345	16,198	
Lease/Installment	1,305	1,261	1,146	1,021	719	5,469	33.8%
Paid Prep Info[60]	1,719	1,684	1,642	1,622	1,194	7,905	48.8%

Table Three: 8038-G Returns with Issue Price between $250,000 to $499,999,99

8038-G Returns w/Issue Price $250,000 to $499,999.99	2017	2018	2019	2020	2021	5-Year Total	% of Total
All Returns	2,781	2,694	2,610	2,572	1,986	12,721	
Lease/Installment	745	763	689	643	475	3,330	26.2%
Paid Prep Info[60]	1,526	1,485	1,474	1,552	1,236	7,311	57.5%

Based on Table 1, 33.3% (or approximately 1/3) of existing Form 8038-GC returns contain paid preparer information. Based on Table 2, for those Form 8038-G returns filed for issue prices between $100,000 - $249,999.99, 48.8% contain paid preparer information likely reflecting the greater complexity of the issuances in this

[67] Filed Return included information in one or more of the four "Paid Preparer Use Only" areas of the form.

range that are not lease transactions. Based on Table 3, for Form 8038-G returns that are greater than $250,000, the paid preparer percentage increases to 57.5% with a continued corresponding decrease in the lease transaction returns to 26.2%.

The current reporting threshold for the 8038-GC return is $100,000. This threshold has been in place since the debut of the Form 8083-GC return in 1987 with no increases over time. Based on the Consumer Price Index (CPI) calculator, if the threshold is adjusted for CPI since inception, the projected threshold would be approximately $257,000.[68] The IRSAC believes that there is no downside to increasing the threshold amount to at least $300,000 (to account for rounding) with modest adjustments tied to the CPI going forward. The IRSAC believes that the threshold increase may reduce the Issuer (and paid preparer) burden of completing the more complicated Form 8038-G for lease transactions that could be reported on Form 8038-GC with a threshold amount increase.

Recommendation

Forms 8038 and 8038-G

1. Consolidate the Form 8038 return and the Form 8038-G return and the instructions thereto into one information return (consolidated information return).
2. Update the consolidated information return to ensure that the consolidated information return collects information related to new issues of tax-exempt bonds that can be used to evaluate the use and tax expenditure of different types of bonds, provide meaningful statistical conclusions and to assist in enforcement.
3. Design the consolidated information return to accommodate electronic filing. Consider using a PIN structure where the PIN is obtained from the IRS and given to a particular client and the software matches the client to the PIN.

Form 8038-GC

[68] See CPI Inflation Calculator (bls.gov)

1. Retain the Form 8038-GC return as a stand-alone form.
2. Increase the reporting threshold for the Form 8038-GC return from the current $100,000 to an approximate CPI adjusted threshold of $300,000 and authorize future threshold limit adjustments at the discretion of the IRS Commissioner.
3. Include the Form 8038-GC return in the IRS initiative for electronic filing.

ISSUE TWO: Recommendations for Employee Plan Examination Compliance Approaches

Executive Summary

Employee Plans (EP) Examinations, a department of the Employee Plans Office of the Tax Exempt and Government Entities Division of the IRS, is responsible for overseeing compliance with the retirement plan provisions of the Code in order to protect plan assets and plan participants. EP Examinations conducts retirement plan audits to analyze operational features of retirement plans. EP Examinations publishes an EP Examination Process Guide to aid the examination process and provide plan sponsors resources for retirement plan compliance.

On June 3, 2022,[69] EP Examinations announced a new 90-day pre-examination compliance pilot program, referred to as a Preaudit Contact, which gives plan sponsors 90 days to review their retirement plan documents and operation to determine if they meet current tax law requirements and to correct any mistakes under the IRS voluntary compliance program, the Employee Plans Compliance Resolution System (EPCRS), prior to opening an audit. Depending on the plan sponsor's response (or lack of response), the IRS may issue a closing letter without any further audit investigation, conduct a limited scope audit, or conduct a full scope audit.

EP has asked the IRSAC for feedback on the Preaudit Contact program. EP has also asked for assistance in identifying additional ways to better focus limited EP resources on the plans and plan sponsors that most need it, and recommendations on additional ways to encourage voluntary compliance and the use of EPCRS.

Background

Historically, EP Examinations has primarily used full-scope audits to enforce retirement plan sponsor compliance with the Code. However, audits are very

[69] See https://content.govdelivery.com/accounts/USIRS/bulletins/31a9da3

resource intensive, which limits the number of audits that can be conducted at a given time, reducing their effectiveness as a tool to incentivize employer compliance and to protect plan participants. In light of these limitations, the IRS uses other methods to encourage voluntary compliance, including:

- The EP Compliance Unit (EPCU) issues compliance check letters to plan sponsors to focus on areas of potential non-compliance without performing an audit. The letters are used to help educate plan sponsors about plan reporting and filing requirements and to increase voluntary compliance.
- EP publishes EPCRS, a voluntary compliance program which sets forth extensive guidance on how to correct the most common operational and document failures for retirement plans, many of which can be self-corrected without IRS approval or payment of a fee. EP regularly updates EPCRS, generally to expand its scope and make it easier for employers to voluntarily self-correct plan errors.
- EP publishes guidance on the IRS website on how to fix common plan errors, including "Fix-It Guides" for 401(a), 403(b), SARSEP, SEP, and SIMPLE IRA plans.

Most recently, EP Examinations launched a new pilot program referred to as a "Preaudit Contact." Under this program, EP sent letters to plan sponsors notifying them that they had been identified for a retirement plan audit and identifying Code section 415 as the compliance area of focus. Plan sponsors were given 90 days to determine if they had any 415 or other compliance failures, and to correct those failures, prior to commencement of the audit. If a plan sponsor did not identify any failures, it could send information to the IRS to demonstrate compliance. If the plan sponsor identified a failure, then it was permitted to self-correct the failure through EPCRS or, if not eligible for self-correction, to correct the failure under EPCRS' voluntary correction program (VCP) and fee schedule. If the plan sponsor provided an adequate response (*e.g.* documentation of no failures or failures that were satisfactorily corrected), EP could choose not to open an audit. If the plan sponsor did not respond, failed to adequately respond, identified a failure that could not be

self-corrected, or responded in way that demonstrated compliance concerns, or if EP Examinations identified potential compliance concerns through other avenues available to EP, then EP could expand the original inquiry or open a limited or full scope audit. The goal of the Preaudit Contact program is to promote voluntary compliance while reducing audit costs.

The IRSAC commends EP's efforts in encouraging voluntary employer compliance, including through the Preaudit Contact program. The IRSAC believes that the Preaudit Contact program will be most successful if the program is broadly used as a tool prior to audit, EP makes clear what it is looking for from plan sponsors in order to demonstrate compliance and/or correction, and EP rewards employers who meet these parameters by closing the exam without further audit or by limiting the scope of the audit. If EP is clear, transparent, and consistent, the IRSAC believes that plan sponsors will be incentivized to more consistently perform compliance checks in order to put themselves in the best position to avoid a full scope audit. The IRSAC believes that due to lack of internal resources, small employers will most likely face the most significant obstacles in timely and adequately responding to the IRS during a Preaudit Contact, but that the recordkeepers for small employers could be similarly incented to perform self-audits and/or compliance checks to help their plan sponsor clients avoid full scope exams.

Recommendation

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 identified and continue to refine the program over time as EP receives stakeholder feedback and evaluates plan sponsor questions and responses.
2. Modify the Preaudit Contact program in the following ways:
    - Clarify in the Preaudit Contact letter to what extent EP expects the plan sponsor to review areas apart from the compliance area specifically identified in the letter so that it is clear what scope of review is expected to limit the scope of the audit.

- Include more specificity in the Preaudit Contact letter as to what should be included in the response to satisfy the IRS of general retirement plan compliance in addition to the documentation required to demonstrate compliance/resolution with respect to the specific compliance area of focus.
- Provide more guidance on the factors that EP will consider in whether to conduct a limited or full scope audit.[70]
- Where plan sponsors timely and adequately respond to the Preaudit Contact letter, permit correction under VCP (and the VCP fee schedule) without automatically proceeding to a limited or full scope audit in recognition that many failures that require a VCP are not necessarily significant or indicative of general non-compliance.
- So long as a failure is identified and the correction is initiated in the ninety day preaudit period, do not require full correction before the end of 90 day preaudit period in cases where the delay is due to a third party vendor's failure to timely provide requested information or implement the correction. Rather, if the circumstances otherwise warrant, consider issuing a closing letter conditioned on proof of correction within 60 days.
- To the extent that the Preaudit Contact program is not made a broad-based tool, but rather is limited to a specified pool of plan sponsors, or is broad-based but the specific compliance focus of the letter will vary based on a specified pool of plan sponsors, provide additional guidance on how plan sponsors will be identified for inclusion in the pool.

3. Use data from the Preaudit Contact program to determine the most common types of errors corrected through self-correction and VCP and publicize that information with specific steps on how to identify and correct the errors.

[70] The IRSAC acknowledges that Chief Counsel may need to provide this in published guidance.

4. Consider expanding EP's compliance programs to provide tools that incentivize recordkeepers and third-party administrators to use EPCRS and other programs to identify and correct errors on behalf of a group of employer clients with similar compliance issues.
5. If the Preaudit Contact program proves to be an effective tool in focusing IRS resources and incenting plan sponsor compliance, consider expanding this type of program to other areas of TE/GE, such as tax-exempt bonds, that have self-correction programs similar to EPCRS.
6. Continue to expand EPCRS to give employers additional guidance and assurance as to appropriate plan corrections.
    - Consider expanding EPCRS to correct some of the most common failures under tax-exempt 457(b) plans, such as contributions that exceed the 457(b) limits, compensation errors, and late distributions, in order to alleviate the significant uncertainty and resulting employee hardship in this area, particularly for sponsors of church 457(b) plans that are frequently made available to a broad group of employees (since they are not limited to a select group of highly compensated or management employees under ERISA).
    - Consider expanding EPCRS to permit 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. For example, 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. However, without specific guidance under EPCRS or in the Code or regulations, it is not clear that a plan sponsor could implement this correction.

ISSUE THREE: Recommendations for Changes to Group Trust Rules

Executive Summary

The Office of Chief Counsel for the IRS prepares legislative proposals, regulations, revenue rulings, and other items of public guidance and legal advice. It coordinates the matters on which it issues guidance with other components of the IRS, including with TE/GE through Division Counsel (TE/GE). The Office of Chief Counsel has issued guidance relating to the commingling of retirement plan and other assets in a group trust, which it has updated from time to time. The IRSAC recommends that TE/GE coordinate with Division Counsel to facilitate the issuance of updated group trust guidance that addresses changes to the law not reflected in current guidance and permits the commingling of rabbi trust assets.

Background

Section 336(e) of the Protecting Americans from Tax Hikes Act of 2015 (PATH Act) clarifies that assets of a church plan or an organization described in Code section 414(e)(3)(A) that has as its principal purpose or function the administration of a church plan may be commingled and invested in a group trust described in Revenue Ruling 81-100, (as modified by Revenue Rulings 2004-67, 2011-1, and 2014-24, and Notice 2012-6). Section 336(e) further provides that assets that are otherwise permitted to be commingled for investment purposes with the assets of church plans or church organization assets can also be invested in an 81-100 group trust (*e.g.* assets that are exclusively devoted to church purposes). Revenue Ruling 2011-1 has not been updated to reflect the changes made by the PATH Act and to make clear that assets that can be permissibly commingled with church plan assets (such as assets exclusively devoted to church purposes) are not subject to the exclusive benefit requirement that is applicable to group trusts under Revenue Ruling 2011-1. Some churches that have wanted to make an investment in a group trust that is specifically permitted under the PATH Act have faced challenges in doing so due solely to the fact that Revenue Ruling 2011-1 has not been updated.

Additionally, it is not clear whether the assets of 457(b) plans sponsored by tax-exempt (non-governmental) employers can be commingled and invested in an 81-100 group trust due to the exclusive benefit requirement articulated in Revenue Ruling 2011-1, which requires that the group trust instrument must prohibit any part of its corpus or income that equitably belongs to any adopting entity from being used for or diverted to any purposes other than for "the exclusive benefit of the employees (and the individual from whom an individual retirement account is maintained) and their beneficiaries who are entitled to benefits under such adopting entity" under a rule that is similar to the exclusive benefit rule under Code section 401(a). This is because while 457(b) plan assets can be held in trust for the exclusive benefit of participants, the trust assets must be subject to creditors in the event of the employer's bankruptcy (referred to as a "rabbi trust"). This is a particular concern for 457(b) plans sponsored by non-qualified church-controlled organizations (non-QCCOs) because these plans are frequently made broadly available to employees (and are not limited to a "top hat" group) due to the non-application of ERISA, and participants would significantly benefit from the commingling of assets for investment purposes on the same basis as other broad-based retirement plans.

Recommendation

1. Update Revenue Ruling 2011-1 to reflect the changes under Section 336(e) of the PATH Act.
2. Modify Revenue Ruling 2011-1 to clarify that the assets of a 457(b) plan sponsored by a non-QCCO that are held in a rabbi trust can be commingled in a group trust.

ISSUE FOUR: Recommendations for TEOS Improvements

Executive Summary

The IRS Tax Exempt & Government Entities (TE/GE) division has requested that the IRSAC provide input on how it can fulfill Code section 6104 obligations through the Tax Exempt Organization Search (TEOS) on irs.gov. TEOS offers both a Tax Exempt Organization Search Tool[71] as well as Tax Exempt Organization Search Bulk Data Downloads[72]. In particular, input is requested regarding issues practitioners face in submitting information requests and obtaining data through TEOS, and areas for improvement on TEOS in general, accessibility, and what data is available on TEOS through both the search tool as well as raw data through bulk data downloads.

Background

Code section 6104 requires the IRS to furnish documents to the public, including the application of certain tax-exempt entities and the annual returns of such entities. TE/GE currently posts information about exempt organizations, including annual returns (Form 990-Series) and determination letters on the TEOS website.

The IRSAC commends the TE/GE division for the information available through the TEOS search tool and the efforts to provide the information under Code section 6104 in a clear and concise manner.

IRSAC reviewed the information available on TEOS and obtained feedback from tax-exempt tax practitioners on the functionality of TEOS. The main item of note from feedback was that many tax-exempt practitioners were unaware of TEOS and the availability of the information directly from the IRS.

Additionally, in reviewing the information and items available on TEOS and comparing to third-party websites with similar information, it was noted that not all the annual returns filed were posted to TEOS even though they were available

[71] https://www.irs.gov/charities-non-profits/search-for-tax-exempt-organizations
[72] https://www.irs.gov/charities-non-profits/tax-exempt-organization-search-bulk-data-downloads

through third-party websites. This information on third-party websites would have been obtained from the IRS, so it should also be available for posting to TEOS.

Recommendations

1. Update documents on TEOS with a full and complete posting of all documents on a timely basis to the extent practicable.
2. Send out communications to TE/GE community to (1) bring more awareness to the community of TEOS, and (2) to let the community know that TEOS has been updated.
3. Investigate and identify operational improvements to ensure all available data is uploaded and available on the website in a timely and consistent manner and information posted is a complete representation of filed documents.

ISSUE FIVE: Recommendations for Effective State Engagement to Promote Employment Tax Compliance

Executive Summary

The IRS Federal, State, and Local Government Employment Tax (FSLG/ET) group is responsible for ensuring federal employment tax compliance for various governmental units. State governments encompass a broad range of unique employment sectors and must understand and effectively implement IRS guidelines to ensure accurate employment tax withholding and reporting. The FSLG/ET group has requested that the IRSAC provide recommendations to increase effective engagement with states to increase employment tax compliance thereby reducing risk and enforcement findings for governmental units. Increased engagement and education of state government employers may also result in developing resources and educational opportunities that will benefit other TE/GE areas such as local and Indian tribal governments.

Background

The IRSAC commends the FSLG/ET group for the variety of existing communication channels used by the IRS to promote employment tax compliance for Federal, State and Local Government (FSLG) entities including the following:

- E-News periodic newsletter by subscription – "Federal, State, & Local Governments (FSLG) News"[73]
- Videos and webinars for top compliance issues created/posted quarterly to the IRS videos website[74]
- Webpages for specific topical areas on the redesigned Federal, State & Local Governments area of the IRS website[75]
- Direct mail postcard outreach to 28,000 smaller governmental employers highlighting information available on the FSLG webpage

[73] https://www.irs.gov/government-entities/federal-state-local-governments/news
[74] https://www.irsvideos.gov/Governments/Employers
[75] https://www.irs.gov/government-entities/federal-state-local-governments

- In-person/virtual presentations in response to invitations from FSLG entities and organizations

Information provided by the FSLG/ET group to the IRSAC TE/GE subgroup highlights alignment between the most frequent employment tax audit findings for FSLG entities and the top inquiries for compliance guidance from the IRS (both proactive and reactive requests) with the following topics near to the top of the list for both categories:

- Backup Withholding
- Worker Classification
- Taxable Fringe Benefits

Additional areas noted for frequent audit findings include civil penalties and additional compensation while information return reporting and other employment tax issues round out the list of top inquiries for compliance guidance.

The role of state governments in the administration of Section 218 agreements which are voluntary agreements between the State and the Social Security Administration to provide both Social Security and Medicare coverage, or Medicare-only coverage, for State and Local government employees must also be acknowledged when working with State and Local entities due to the impacts Section 218 agreements have on the calculation of employment taxes for compliance and reporting.

Recommendations

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.

2. Develop and make available a sitemap for the updated Federal, State and Local Governments website on IRS.gov to assist individuals in easily locating information required to ensure compliance.
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.
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.
5. Complete outreach to existing state government contacts to identify opportunities for the IRS to partner with states that have county/municipal service areas and may be willing to include information regarding IRS resources in presentations/communications to county/local governments.
6. Continue proactive outreach through direct mailers to identified, underserved communities, presentations at conferences and other speaking engagements to inform/connect entities with FSLG resources.
7. Evaluate both the FSLG and Indian Tribal Government (ITG) websites to identify opportunities for improvement in the layout, consistency, and types of information made available to various governmental entities.

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:

- Business Master File (BMF) Transcript Delivery Service (TDS)
- Artificial Intelligence BOTS for Customer Service
- Tax Pro Account Online Features
- IRS Form SS-4 EIN Application – Daily Limit

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: Business Master File (BMF) Transcript Delivery Service (TDS)

Executive Summary

IRS asked that the IRSAC provide (i) feedback on the targeted expansion of Business Master File (BMF) transcript availability through the Transcript Delivery System (TDS), and (ii) suggestions relating to elements contained in BMF Transcripts.

Background

BMF Transcripts Are Critical to Tax Compliance

BMF transcript information is used by businesses, Reporting Agents, Low Income Taxpayer Clinics, state and local governmental agencies and internal IRS users in various ways to help run day-to-day operations. Many new and even existing businesses need verification of their entity type, Employer Identification Number (EIN), original business name, address and tax-exempt status.

Transcript information is also used to help businesses stay compliant with the filing of tax returns and to pay the correct amount of tax. In case of natural disasters, the loss of business records, or major business interruptions such as personnel changes, the information is helpful to recreate files and give a history of an organization.

BMF Transcripts Delivery: TDS or IDRS

The IRS Transcript Delivery System is the generator of all IRS transcripts. Transcript delivery through TDS enables only authorized professionals to request and receive transcripts electronically and securely through e-Services and an associated secure object repository (SOR). An e-Services account is specific to tax professionals with an e-file Application on file either as a Circular 230 participant or e-File Provider who has successfully e-filed five or more tax returns.

Therefore, at the current time, a business or authorized interested party cannot obtain a BMF Transcript electronically and securely deposited into an SOR. They must work through a registered tax professional to get a transcript. Further, the tax professional must have a Power of Attorney (POA) Form 2848 set up on

the Centralized Authorization File (CAF) for the business to be able to order a transcript. The process to set up a POA can take weeks. The only other alternative for a business who is not working through a tax professional, is to request information via the phone or mail.[76]

Further, only a limited number of BMF transcript types are available through TDS. The current TDS system only offers return transcripts and records of account transcripts for Forms 1065, 1120, 1120-H, 1120-L and 1120-S.[77] This is a very limited amount of BMF information, which imposes a burden on business taxpayers to obtain the information they need to properly operate their businesses and satisfy their tax filing and paying obligations.

The following Information is not currently on BMF transcripts available through the TDS:

- Entity information, EIN, Name/Address Verification
- Wage and Income Information under the EIN
- Business Master File On-Line Retention (BMFLOR) – Employment Tax Current Account Transcript (CAT)
- Form 1041 – US Income Tax Return for Estates and Trusts – Return Transcripts
- Form 94X Series – Forms 940, 941, 943, 944, 945 - Employment Tax Return Transcripts
- Form 2290 – Heavy Road Use Tax Form Transcript
- Form 990 – Return of Organization Exempt from Income Tax Transcript

Due to the lack of information currently available through the existing TDS system, business taxpayers and representatives must pursue an alternative

[76] See https://www.irs.gov/individuals/get-transcript.

[77] See https://www.irs.gov/irm/part21/irm_21-002-003r#idm140411598649152

process to get BMF transcript information using a manual “work around” method that relies on the Integrated Data Retrieval System (IDRS).

The IDRS Transcript Delivery Process Is Inefficient and Limited

The alternative IDRS process involves the requestor calling an IRS Customer Service Representative (CSR) to get the needed information. The CSR must use IDRS to manually pull up the requested information and convert it to a .pdf document. Then the CSR must manually mask or sanitize the Personally Identifiable Information (PII) on the IDRS document to reduce the risk for unintended tax data disclosure and potential identity theft before transmitting the information. Finally, the CSR must e-fax, manually fax or mail the document to the requestor.

The current alternative process is time consuming, inefficient, and subject to inadvertent disclosure errors. Due to the high inventories resulting from the pandemic and other problems, IRS Customer Account Services (CAS) has an inventory of approximately 2 million cases (correspondence, amended returns, claims, etc.) to resolve. IRS time and resources are being used to receive, process and deliver the IDRS transcripts when that staff could be used to resolve other, more pressing issues. Businesses, tax professionals and other key stakeholders are burdened by the time and inconvenience in using the current “manual” IDRS alternative transcript delivery model.

CSRs get calls for entity and wage and income information. In addition, requests are made for BMFOLR – Employment Tax CAT, Form 1041 return transcripts, Form 94X series return transcripts, Form 2290 transcripts and Form 990 transcripts.

Due to high volumes of requests for information, especially for business information for tax-exempt organization filing Forms 990, businesses are hiring special companies to “ROBO” call in on the IRS information lines as soon as the phone lines open at 7AM. These calls are negatively affecting the phone lines and preventing some business owners and others from getting the information they need.

Benefits of Expanding & Improving BMF TDS Delivery System

Supplying more information through the BMF TDS system would help all stakeholders. A business would be able to access the information it needs quickly, securely and electronically. The taxpayer would benefit because the information needing verification, such as an EIN or entity type, would be available without the burden of a phone call to the IRS. This IRS would benefit because CSRs would be freed up to work on more important matters.

Barriers to TDS Delivery Expansion

Implementing an expanded BMF transcript delivery system through TDS requires new formatting, data mapping and maintenance on the IRS IT systems. It also involves setting up a secure way for businesses to apply for and receive the transcripts.

The IRSAC understands that the IRS FY23 budget has not been formally allocated yet, as it is currently being reviewed. A new TDS "Entity Transcript" is being considered that will have the business entity information, such as filing requirements, name control, EIN, name and address of the business, tax-exempt status, and other items found on the entity portion of IDRS information. It will also add a business wage and income transcript for the information documents reported under the EIN such as Forms W-2 and 1099.

Not surprisingly, the key barrier to any expansion seems to be the lack of stable, multi-year funding. It appears that this project must compete with other IRS non-legislative needs. Projects that are not legislatively required must compete with all other IT requests including enhancements and new programming, applications, etc. that are funded out of the Operations Support appropriation account.

Given the modernization aspect of this project and the absolute need for IRS to reduce and cut paper processing, the IRSAC believes the expansion of TDS's ability to delivery BMF transcripts should be considered part of the IRS modernization plans and funded accordingly.

BMF Transcript Delivery Expansion through TDS Should be Targeted

Of course, the IRS should continue to analyze the history of the types of information being requested on the customer service phone lines. The IRS should also continue to ask for input from internal and external stakeholders as to the most needed transcript information. Based on the information gathered, proper priorities can be assigned.

The IRSAC believes that the IRS should give two items the highest priority for availability through TDS: entity information and employment tax Form 94X series.

Elements Contained in BMF Transcripts Delivered through TDS

Currently there is no transcript on the BMF that is delivered through TDS that supplies basic entity information such as entity type, EIN, name or address. Information such as entity type is especially helpful to businesses who need to file a correct business return that matches what the IRS has on record. Further, many businesses are formed as Limited Liability Companies (LLCs) with their state governing authorities. The IRS treats a sole member LLC as a sole proprietorship, tying the return to the owner's social security number and Form 1040. However, not all sole owner LLCs are Schedule C filing businesses. Some are Schedule E rental property filers, or Schedule F farm tax return filers. It would be helpful to know what form or schedule type is associated with the LLCs EIN. Some LLCs are owned by a parent company which has an EIN. It would be helpful to know the parent company EIN that is linked to the LLC's EIN.

If there are two or more members of an LLC, the LLC can choose how to be treated for tax purposes. The choice is made either when requesting an EIN or later by election. It would be very helpful to include on the transcript the business entity type that the IRS has in its system such as corporation, S-corporation, partnership, etc. Often businesses, new or existing, do not have Notice CP575 that assigned the EIN. A business can request a replacement IRS Letter 147C, but it is a time-consuming process.

For tax-exempt entities, many have lost or misplaced their official IRS tax-exempt status confirmation letter. Companies need this letter, or equivalent information that verifies their status to do business every day. Tax-exempt information should be included on BMF transcripts delivered through TDS.

Recommendations

1. IRS should expand BMF Transcript availability through TDS – to be made available to other authorized persons besides tax professionals with an e-services account.
2. There needs to be a procedure in place that a business can authenticate on-line to receive BMF TDS transcripts.
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.
4. IRS should add the following data elements to BMF transcripts:
    - Entity information including type of entity, EIN and name/address verification.
    - Proof of filing of returns, including dates filed, etc. (as shown in individual return transcripts from the Individual Master File).
    - For LLC entities, an indicator as to business 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.
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.

ISSUE TWO: Artificial Intelligence BOTS for Customer Service

Executive Summary

The IRS requested that the IRSAC provide its perspective on the implementation and usefulness of artificial intelligence (AI)-powered informational voice and chat bots to enable IRS customer service including: (i) Identifying additional topics where AI Bots may provide better self-service; (ii) Identifying ways to monitor effectiveness of bot capabilities; and, (iii) Developing strategies to better use bot technology.

Background

IRS Customer Service Challenges

The United States has a very complex tax system. As a result, millions of taxpayers, and those who serve them, contact the IRS every year to get their questions answered using in-person, online and telephone support channels. Telephone support, in particular, is a critical channel for taxpayers.

Unfortunately, IRS telephone customer service has faced serious challenges, which have been exacerbated by the combined adverse impact of Covid on staffing and operations as well as the demands of associated legislation.[78]

IRS Live Assistance & AI Bot Initiatives

In response to its customer service challenges, the IRS has undertaken technology modernization efforts focused on enhancing digital services, providing a seamless customer experience, modernizing filing and intake services, and improving taxpayer accessibility.

One of these initiatives is the Live Assistance Program, which implements multi-channel digital customer services to provide real-time support to taxpayers and IRS employees. For example, the IRS has implemented phone callback features for taxpayers, and has begun developing new web-based software for

[78] See, for example, the review of the 2022 Filing Season in the National Taxpayer Advocate Objectives Report to Congress FY2023, June 2022, pps. 1 – 11 (https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/06/JRC23_SAO_ReviewFiling.pdf)

some IRS customer service representatives to assist with taxpayer inquiries.[79] These efforts are guided, in part, by the IRS's Taxpayer Experience Plan, which includes several key capabilities designed to deliver a "Seamless Experience."[80]

One of the IRS's new capabilities is AI-powered informational bots to provide virtual assistance in both chat and voice service channels. Generally, AI bot technology attempts to answer questions, direct the taxpayer to helpful information on IRS.gov or their online account, or enable them to set up or modify a payment plan. The operation of these bots can be improved over time as the knowledge base expands and more taxpayer experience feedback becomes available. If the bot cannot resolve a taxpayer's issue, the taxpayer may be directed to live support when available.

AI bots can provide either unauthenticated services, which includes answering general questions that do not require taxpayer identity proofing or authentication, or authenticated services, by providing taxpayer-specific guidance relating to balance due accounts, refund status/amounts or other personalized services.

One illustration of an IRS-deployed unauthenticated AI-powered chat bot is associated with refund inquiries, which answers general questions about refund status and the Advance Child Tax Credit.[81] On the other hand, the IRS has deployed authenticated services an Automated Collection System (ACS) Conversational IVR (ACI), Voice Balance Due.[82] The IRS has also launched other authenticated services including location and transcript,[83] and will be deploying additional services including payoff, view credit and view debit.

The IRSAC believes that the IRS has taken a thoughtful approach in

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[79] IRS's new web-based Finesse software is being deployed to all IRS CSRs. With future modernization, this software will be able to provide integration between voicebot, chatbot, live chat and live agent escalation. Any integration will be determined by business use case after careful assessment of efficiencies, resources and security.

[80] See Taxpayer First Act Report to Congress, January 2021, p. 47 (https://www.irs.gov/pub/irs-pdf/p5426.pdf#page=47)

[81] See "Start a conversation," where taxpayers can interact with a chat bot (https://www.irs.gov/refunds).).

[82] Also see IRS bot implementations in connection with payment and collections matters (see https://www.irs.gov/newsroom/irs-unveils-voice-and-chat-bots-to-assist-taxpayers-with-simple-collection-questions-and-tasks-provides-faster-service-reduced-wait-times

[83] See https://www.irs.gov/newsroom/irs-expands-voice-bot-options-for-faster-service-less-wait-time.

focusing most of its initial AI bot implementation on unauthenticated applications. However, given their relative value, the IRSAC encourages the IRS to continue its efforts to develop authenticated AI bot applications that can deliver more personalized digital services that taxpayers seem to value most. Implementation of such a process should prioritize a process to ensure authentication of an individual prior to disclosing any information about an account. Limitations as to what information can be obtain through such as service should be implemented to ensure that if it is improperly accessed, that information cannot be used to bring harm to an individual. Additionally, such a program should not allow for changes or updates to a taxpayer's account. For example, it should not be permissible to update an address or make other changes using the automated system.

Funding

The IRSAC understands that the IRS's Live Assistance Program (responsible for voice bots and chat bots) is currently funded through FY23 as part of the IRS's overall business modernization effort. Funding sources include funding through the American Rescue Plan, ongoing Business System Modernization efforts, the CARES Act and the recently enacted Inflation Reduction Act. The IRS's Contact Center Support Division (CCSD) manages the Live Assistance Program and is responsible to obtain operation and maintenance funding for voicebots and chatbots that have been implemented.

IRSAC Observations

The IRSAC supports the W&I Division's implementation of AI-powered voicebots and chat bots. Based on our discussions with W&I and a review of related materials, we have the below observations.

Taxpayer Experience. It is essential that the IRS actively monitor the end-to-end taxpayer experience to ensure that any bot technology is working effectively and not unnecessarily creating bottlenecks or abandonment points. Additionally, it is very important that it is relatively easy for a taxpayer to exit the bot experience and reach live assistance during normal hours of operation. The IRS reports that all IRS voicebots and chatbots are capable of this option.

Continuous Learning Mindset. These types of technology deployments are

not point-in-time offerings. Instead, these types of offerings must be continuously monitored and adjusted based on new learnings and insights.

Given our discussions, we believe that the IRS is taking a continuous learning mindset to the deployment of AI bots and has identified some key insights. For voice bots, the IRS identified the need for early business unit involvement to provide detailed business requirements and detailed reporting to analyze the effectiveness of deployments, etc. For chat bots, the IRS identified the need for all stakeholders to be engaged early in the implementation process.

System Measurement & Improvement. Continuous improvement of any implementation requires effective metrics and mechanisms to capture those metrics at the right point in time. Metric identification presumes an understanding of the end-to-end system (inputs, process and outputs), an understanding of the significance of any specific metric (quantitative or qualitative), and the identification of key measurement points in the system. The right metrics and measurement points in the AI bot experience will enable the IRS to identify bottlenecks or confusion points in the experience.

The IRS has identified "containment" as a current key metric for AI bots.[84] It is a sound metric but could be misleading under certain circumstances. On the one hand, the AI bot may have successfully answered the taxpayer's question. For example, in the case of its Automated Collection System (ACS) Conversational IVR (ACI), Voice Balance Due bot, the IRS was evaluating the number of completed Installment Agreements as compared to the number created using IRS's legacy phone system when such data was available. However, the AI bot may have confused or frustrated the taxpayer, who decided to just abandon the experience. For example, when the AI bot only provides information and does not provide a path for the taxpayer to complete a task, it may be difficult to know whether the taxpayer exits without speaking to a live agent because the interaction was a success or failure.

The IRS is looking at additional granular level metrics that could provide

[84] Containment refers to the percentage of users that complete a transaction within the bot, e.g., do not exit out to live assistance.

additional information about the service provided to the taxpayer and will continue to determine how to validate the significance and risks of any of its metrics and explore additional metrics if the metric contains potential ambiguities.

In the area of qualitative measures, the IRS has to date employed simple surveys in some implementations such as a question asking, "Was this information helpful?" The current survey is provided by the current version of the eGain chatbot software. IRS understands that the current simple survey is insufficient to gather customer experience detail and intends to acquire/create a robust survey mechanism for future AI tools. For example, other questions may be more relevant or focused such as "Did we answer your question" which goes to contact resolution. The IRS might also consider using a "net promoter" question, i.e., "How likely is it that you would recommend this service to a friend?"[85]

Cross-Business Operating Division (BOD) Coordination & Insights. IRS W&I and SB/SE are implementing AI bots. Given the opportunity to learn from each other, the IRSAC was pleased to hear about the IRS's regular operating mechanisms to connect the W&I and SB/SE to consider shared learning and best practices.

Product Management and Product Development. Understanding the customer and developing the right products to serve them are critical activities. The product management role typically deals with the product life cycle with a focus on delivering products that meet customer needs. Specifically, product managers perform market and customer research, translate customer needs into requirements, and ensure those requirements are present in the final product. On the other hand, the product development role is focused on getting an idea from concept to market, and typically consists of software developers, designers, engineers and quality assurance testers. The product development organization takes the requirements specified by the product manager and shapes them into a working product that meets the customer's needs. In effect, product management deals with the "what" and product development focuses on the "how."

[85] See https://www.netpromoter.com/know/

Stable Funding. Stable funding is critical to the development, launch and ongoing operation and improvement of the IRS's AI bot implementations, which will require both initial modernization funding as well as sustained operation and maintenance funding. It would be counter-productive to taxpayers for the IRS to implement valuable AI bot technologies only to discover that it has insufficient funding to sustain their operation.

Recommendations

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. [86]
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.
3. Improve the effectiveness of its bots by implementing metrics and measurement points that enable continuous feedback and correction processes.
4. Continue the ongoing engagement of cross-BOD product teams with regular check-ins to capture and apply learnings and best practices.
5. Determine the benefits of creating a "product management" role to work with its IT partner's product development teams, if such a role does not already exist.

[86] The IRS has an intake process for voicebot/chatbot use cases that collects input from the business. These use cases are among those that IRS has in its queue for prioritization, along with others from the Accounts Management and Examination – Automated Under Reporter (AUR) functions. Additionally, the IRS is considering "Request for Abatement" as a potential topic for an AI bot, although we recognize that this would be complex and no programming currently supports this type of request through an AI bot. Unauthenticated AI bot support providing rebate-related educational content and explaining types of penalty relief, including reasonable cause, would help taxpayers understand their options. However, the IRSAC is concerned that automating penalty relief through an authenticated AI bot experience could actually harm taxpayers if implemented before other systemic changes to the penalty system. See NTA Blog updated April 15, 2022 (https://www.taxpayeradvocate.irs.gov/news/ntablog-the-systemic-first-time-abatement-policy-currently-under-consideration-by-the-irs-would-override-reasonable-cause-relief-and-jeopardize-fundamental-taxpayer-rights/).

6. Continue to work closely with appropriators to gain sufficient business systems modernization and operation and maintenance funding to develop, launch and maintain AI bot implementations.

ISSUE THREE: Tax Pro Account Online Features

Executive Summary

The IRS launched the Tax Pro Account (Account) in July, 2021. The Account is intended to enable all-digital interaction between tax professionals and taxpayers on authorizations and creates a platform for several future advancements in secure information retrieval and communications between taxpayers, tax professionals and the IRS.

At this time, the IRS is focused on implementing those Account features that will deliver the "minimum viable product" (MVP) for the Account, which is targeted for the end of 2024.[87] As a part of that effort, the IRS requested that the IRSAC provide its recommendations for the next "Top 5" features for the Account from a list provided by the IRS. Additionally, the IRSAC determined to provide the IRS with suggestions to drive increased adoption of the Account.

Background

Overview of Current Tax Pro Account

The United States has very complex tax laws. Although some taxpayers choose to prepare their own tax returns through a variety of means (do-it-yourself software, IRS online forms, etc.), many other taxpayers engage a tax professional to interpret the tax laws, prepare and file their taxes, and deal with any tax issues that may arise with the IRS. Based roughly on the number of issued PTINs, an estimated 680,000 tax professionals serve approximately 80 million individual taxpayers as well as business taxpayers with return preparation.

The IRS wants to increase the efficiency and effectiveness of how it and taxpayers work with tax professionals. At a high level, the Account is intended to enable tax professionals to establish and manage their taxpayer relationships, gain authorized access to tax-related information, and enable them to represent their clients before the IRS. The IRS also wants to enable other key capabilities such as secure messaging, chat, document upload, and payments.

[87] Minimum Viable Product or MVP is a development technique in which a new product is introduced in the market with very basic features, but enough to get the attention of the potential users. The final product is fully released for use only after getting sufficient feedback from the product's initial users.

One important current feature of the Account is the ability for a tax professional to create, view, or cancel a Power of Attorney (POA) or Tax Information Authorization (TIA) for an individual taxpayer.[88] Other recently added enhancements include the ability to save session data and provide notifications to the taxpayer regarding action in their online Account and to tax professionals of their authorization status. As the IRS works towards MVP status for the Account, tax professionals will also have the ability to link their Central Authorization File (CAF) number to their Taxpayer Identification Number (TIN).

As noted above, the IRS has requested that the IRSAC provide its recommendations for the "Top 5" features to implement in the Account. As context, when it first envisioned the concept for the Account in 2016, the IRS engaged with tax professionals to identify some of the main pain points tax professionals have with their clients. Through questionnaires and interviews with several hundred tax professionals, the IRS identified several potential features that would be helpful to tax professionals, including:

- Secure messaging & chat integration[89]
- Notifications (expand notification beyond the taxpayer email notifications of pending or professional's email of approved authorizations, i.e., SMS, text, or email)
- Access to case status and contact history
- Automated issuance of CAF numbers
- Receipt of notices sent to client
- Ability to view client tax records/in-app transcript download
- Ability to update third-party information, e.g., client name, contact information
- Payment submissions on behalf of clients
- Retention of prior POAs

[88] See, for example, https://www.irs.gov/pub/irs-pdf/p5533a.pdf.

[89] The proposed secure messaging could pose a fraud concern if those messages are retained solely within the Tax Pro Account system. To ensure that there is full transparency on accounts, secure messages sent by tax professionals, and the responses to them, should be memorialized in a central repository with other notes on taxpayer accounts. Systems like AMS where many customer service notes and documentation are kept could be a feasible repository for that information.

- Support for additional authorization types

Then, as it developed its list of potential features, the IRS continued to engage with tax professionals to develop a multi-year roadmap identifying the features and associated release dates of the MVP version of the Account.

The IRSAC's "Top 5" proposed Online Account Features

As it reviewed the IRS's list of proposed features, the IRSAC considered the impact those features would have on both the IRS and the tax professional community. The IRSAC's first focus was the impact of potential features on IRS's operations, e.g., would the availability of the feature for tax professional use reduce demands on the IRS or improve its efficiency? The IRSAC's secondary focus was the attractiveness of this feature to the tax professional community. Specifically, was this a feature that a large share of tax professionals would use frequently, or would it be a feature that only a few professionals would use intermittently?

Based on the judgment and experience of its members, the IRSAC believes the following five features would deliver the most benefit to the IRS, taxpayers and tax professionals:

- 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

Increasing Tax Pro Account Adoption, Use and Improvement

The IRS should continue developing strategies to market and promote the Account to drive traffic to and encourage use of the Account. Potential promotional efforts include leveraging existing tax professional communications and feedback channels such as tax professional organizations, Practitioner Priority Lines, PTIN registration processes, Annual Filing Season registrations, e-Service account set-ups, IRS Tax Forums, and NPL mailing lists.[90]

[90] Specific illustrations include: hold messaging on the Practitioner Priority Line, scripting with customer service agents at the end of calls (i.e., "Did you know that what I helped you with today is a feature available on the Tax Pro Account – you could have saved yourself some time!"), website banner announcements, and the ability to tell a friend/send a link.

The IRS should also continue its current approach of carefully controlling its promotion of the Account based on its operational performance and limited feature set. If the IRS were to "over promote" the online Account, tax professionals could be disappointed, which would make it harder in the future to convince them to come back and try a more robust online account feature set.

As it develops the Account, the IRS must be able to drive its continuous improvement. The Account must have identified performance metrics, as well as the ability to measure those metrics to ensure that the online Account is delivering at the desired level of performance. The Account must also be constantly monitored to identify potential issues (flow bottlenecks, user drop offs, etc.), with associated strategies that enable the IRS to capture and apply learning quickly. Finally, there must be a closed-loop feedback system to capture and respond to recommendations from tax professionals concerning the most beneficial new Account features.[91]

Barriers to Delivering Robust Tax Pro Account

Funding. To date, one key barrier to the build-out of the Account has been the lack of stable, multi-year funding. It appears that this project must compete with other IRS needs. Given the modernization aspect to this project and the absolute need for the IRS to reduce and eliminate paper processing, the IRSAC believes development and expansion of the Account should be funded appropriately.

Long-Delays in Release of Key Functionality Harm User Confidence. The IRS loses credibility when the delivery of relatively basic features are significantly delayed or add only minimal incremental functionality. Unfortunately, very basic functionality for the online Account is not expected to be delivered for several years; specifically, Release #3 is currently targeted for FY24 Q3 – two years from now. Whether modernization projects are funded through Operations Support or Business System Modernization, long delays in delivering basic functionality harm the IRS's credibility with potential users and stakeholders. The absence of

[91] The IRSAC understands that IRS has plans in place for a survey system for the Tax Pro Account.

sufficient, stable, multi-year funding contributes to this problem, of which the IRS is aware.

Recommendations

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
2. Continue to drive increased adoption and usage of Tax Pro Account by proactively promoting, obtaining ongoing feedback, and continuously improving the account features.
3. Consider the development and expansion of the Tax Pro Account as part of the IRS business modernization plans.
4. Schedule regular engagement with industry members to understand the relative benefits and prioritization of potential new features in the Tax Pro Account.

ISSUE FOUR: Form SS-4, EIN Application, Daily Limit per Responsible Party

Executive Summary

Entities must complete IRS Form SS-4 application to be assigned an employer identification number (EIN). The applicant must designate an individual as a "responsible party" who exerts a specified level of control over the entity. The Form SS-4 instructions state that to ensure fair and equitable treatment for all taxpayers, EIN issuances are limited to one per responsible party, per day.

This limitation causes significant delays for various taxpayers, especially large businesses, who need to establish entities in a short period of time for legitimate business purposes. An unintended consequence of this policy is that taxpayers may be incentivized to designate an individual with less control over an applicant entity as a responsible party as a work around to the daily limitation. Increasing the daily limit to ten EINs per day per responsible party would provide significant administrative relief to taxpayers and advance the IRS's policy of having the most appropriate responsible party identified on Form SS-4.

Background

The IRS issues approximately four million EINs a year and 90 percent are processed online. In recent years, Form SS-4 was modified to enhance the security of the application system by requiring a "beating heart" contact for the EIN applicant. The daily issuance limitation, specifically, was implemented to mitigate situations where certain taxpayers were inundating the EIN application system by requesting 100s of EINs per day for questionable or frivolous purposes (e.g., in connection with state foreclosure lotteries).

The IRSAC believes that increasing the number of EINs issued per responsible party per day from one to 10 would significantly improve the ability of taxpayers to quickly obtain EINs needed for legitimate business purposes.[92] There are many situations where entities must be formed quickly in various states for

[92] We note that there is a provision to request bulk EINs for certain entities; however, it has limited applicability. See IRM 27.7.13.3.3

regulatory or business purposes. A new business may need to set up an entity in each state it operates in for various reasons (e.g., payroll taxes, liquor licenses, intellectual property, liability protection). The daily limitation delays business deals, especially for less sophisticated taxpayers who may not be aware how many entities they will need or the timeframes for obtaining EINs. An unintended consequence is that some taxpayers may identify individuals as responsible parties over a more appropriate designee simply to accelerate EIN issuances.

The IRS has capacity to issue more EINs per day. We understand from meetings with IRS officials that this is not a resource issue either from a personnel or technology perspective. Taxpayers seeking EINs for legitimate business purposes will obtain them eventually but there is no sound tax policy for the significant delays that taxpayers currently experience. Further, the IRSAC believes the limitation undermines the IRS's interest of ensuring taxpayers identify an appropriate responsible party.

Recommendation

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.

APPENDIX A: IRSAC Member Biographies

W. Edward "Ted" Afield – Professor Afield is the Mark and Evelyn Trammell Clinical Professor and Director of the Philip C. Cook Low-Income Taxpayer Clinic at Georgia State University College of Law, one of the largest academic low-income taxpayer clinics in the country. Professor Afield's research focuses on a range of tax procedure issues relating to tax compliance and professional regulation, state and federal tax issues that impact educational policy, as well as more practice focused doctrinal research into tax procedure for the practicing bar and, in particular, for the community of low-income taxpayer clinics. Professor Afield is a member of the American Bar Association, the Association of American Law Schools, and the National Tax Association. He is also a fellow in the American College of Tax Counsel. He holds a J.D. from Columbia Law School, an LL.M. (taxation) from the University of Florida Levin College of Law, and an A.B. in history, cum laude, from Harvard College. (**Small Business/Self-Employed Subgroup**)

Amanda Aguillard – Ms. Aguillard 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. Aguillard 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. Aguillard 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 currently the 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, the National Association of Tax Professionals, the American Society for Quality, and the Academy of Management. Armstrong is also an Advisory Board member for the Bloomberg Tax Payroll Administration Library and the Workforce Institute, 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 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, and Business Finance. (**IRSAC Vice Chair and Wage & Investment 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 15 years of technical tax expertise focused on domestic, international 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 and information reporting programs like the Common Reporting Standard/Foreign Account Tax Compliance Act, Country-by-Country Reporting, International Compliance Assurance Program, and other international initiatives dealing with the supply of information to tax authorities. 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. (**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**)

Robert Howren – Mr. Howren has 35 years of tax experience all in the Atlanta, Georgia area. He recently became VP of Tax for Aveanna Healthcare, a national leader in diversified homecare. Prior to that, he spent almost 17 years as Head of Tax for BlueLinx Corporation, one of the nation's largest building products distributors. At BlueLinx, Mr. Howren brought all areas of the tax function in house including income, financial provision, sales & use, property and fuel. In addition, he oversaw the tax due diligence for BlueLinx's acquisition of Cedar Creek in 2018. Mr. Howren has also created the in-house tax function at three other corporations during his corporate career. At the various companies, he has dealt with both inbound and outbound tax issues including transfer pricing issues. The first 10 years of his career was in public accounting. He started his career at Price Waterhouse before moving to a local CPA firm. Mr. Howren is a past international president of the Tax Executives Institute, where he has been a member for over 24 years. As President and a member of the Executive Committee of TEI, he has led and participated in numerous Internal Revenue Service and Treasury Liaison meetings. He is a long-time member of both the Georgia Society of CPAs and the AICPA. Mr. Howren holds a B.S. (Accounting) from Berry College and his MAcc (Tax and Auditing Systems) from the University of Georgia. He has served as President and a Member of the Board of Directors for many years for the Empty Stocking Fund. He is also an Eagle Scout. (**Large Business and International Subgroup**)

Denise Jackson – Ms. Jackson is Vice President of Tax Preparer Development for the North Carolina State Employees' Credit Union. She supervises and coordinates the training program for over 3,000 tax preparers for the credit union's 267 branches across North Carolina. She is an Enrolled Agent and CFP practitioner and holds a Bachelor of Science from Wingate University in Business and Mathematics. (**Wage & Investment 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, an 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. Mr. Klitzner 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 Freedom Institute, South Florida Tax Litigation Association, and Florida Lawyers Network. (**Small Business/Self-Employed Subgroup**)

Kathleen Lach – Ms. Lach is a Partner resident in Saul Ewing Arnstein & Lehr's Chicago office. She represents clients before a variety of different tax authorities, including the Internal Revenue Service, the Illinois Department of Revenue, and the Illinois Department of Employment Security. Ms. Lach represents both businesses and individuals in income tax, sales tax, and penalty controversies, and in IRS audits and liability settlement negotiations. She has represented a number of individuals before the IRS on innocent spouse claims and in offshore voluntary disclosure cases. Ms. Lach has had cases pending before the U.S. Tax Court, U.S. District Court, and before IRS and state administrative agencies. (**Small Business/Self-Employed Subgroup**)

Carol Lew – Carol Lew is a shareholder of Stradling, Yocca, Carlson & Rauth in Newport Beach, CA. She has over 32 years as a tax lawyer with substantial experience with TEB audits and TEB VCAP cases. She served as president of the National Association of Bond Lawyers from 2006-2007, and she served as chair of the ABA Tax-Exempt Financing Committee from 2001-2003. She has experience as bond counsel, underwriter's counsel, special tax counsel and borrower's counsel for various kinds of bond issues for state and local government and non-profits for the provision of public infrastructure, housing, charter schools, performing arts facilities, hospitals, museums and other types of facilities. She served as editor-in-chief of the Federal Taxation of Municipal Bonds from 2000-2001. (**IRSAC Chair and Tax Exempt & Government Entities Subgroup**)

Kelly Myers – Mr. Myers is a tax consultant with Myers Consulting Group, LLC, based in Huntsville, Alabama. Mr. Myers primarily provides seminars, tax planning, consulting, and controversy services to clients across the United States which include individuals and large to small accounting firms. He spent 30+ years with the Internal Revenue Service (retired 2017) with the last 20 years working for the Washington, DC, Headquarters as a Senior Technical Advisor. His IRS experience included official guidance projects, examiner and litigation technical support, and implementing new legislation. He leverages his decades of IRS and public accounting experience to strategically add value to a varied client base. He has developed efficient tax strategies in both preparation and controversy arenas. He has been a guest speaker for numerous CPA and EA continuing education events, IRS Nationwide Tax Forums, national tax associations, and others in both live settings and webinars. Mr. Myers serves on the Federal Tax Committee for the National Society of Accountants (NSA). He has an MBA from the University of Tampa with emphasis in Accounting and Taxation. His BA is from Western Colorado University (f/k/a Western State College) with a double major in Accounting and Business Administration and a minor in Economics. (**Small Business/Self-Employed Subgroup**)

Joseph Novak – Mr. Novak is Abbott's Vice President, Taxes. He was appointed to this role in June 2017. Previously, Mr. Novak had served in Abbott's corporate tax organization since 2004, in a variety of roles, including leadership positions in the income tax accounting, transfer pricing, M&A, planning and compliance groups. Prior to joining Abbott, he worked for Deloitte. Mr. Novak earned his B.S. in Accountancy from the University of Illinois, Champaign-Urbana. (**Chair, Large Business and International Subgroup**)

Robert "Bob" E. Panoff – Mr. Panoff is a certified tax attorney. He is a Fellow of the American College of Tax Counsel. He specializes in representing individual and entity taxpayers in civil and criminal tax litigation at all levels of the IRS and in court. He was an adjunct Professor at the University of Miami School of Law in this subject matter from 1981 through 2006. He is a past chair of both The Tax Section and the CLE Committee of the Florida Bar and is currently a

member of the Tax Section's Executive Council and Long Range Planning Committee. He is a member and past President of the Greater Miami Tax Institute, a member of the Miami International Tax Group, and a member of the South Florida Tax Litigation Association. In 2006, Mr. Panoff received the Tax Section's Gerald T. Hart Outstanding Tax Attorney of the Year Award. He was previously a member of IRSAC from 2005 through 2007 and he was Chair of the IRS South Florida District Compliance Plan Study Group under then District Director Bruce Thomas from 1996 through 2000. Mr. Panoff was an invitee to the Judicial Conference of the United States Tax Court in 1999, 2003, 2005, 2007, 2009, 2015 and 2018. He is one of a small number of tax litigators who have successfully invalidated a tax regulation. See Durbin Paper Stock Co. V. Commissioner, 80 T.C. 252 where two DISC regulations were invalidated. He is also the only tax litigator ever to obtain attorney's fees against the Florida Department of Revenue in a corporate income tax case. (**Chair, 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 20 years of experience in tax audit representation, accounting, taxes, budget planning for diverse individuals, and 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 the country through 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 a Vice Chair of the Securities Industry and Financial Markets Association (SIFMA) Tax Compliance Committee. He received an LL.M. in Taxation, and a J.D., from New York University School of Law, and a B.S. from the Yeshiva University Sy Syms School of Business. (**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 a consultant for companies, their owners and high net worth individuals providing tax and legal advice. Ms. Rhea's practice area focuses on complex legal and tax issues arising in the context of asset and equity acquisitions and mergers and tax controversies. She was previously a National Tax Director with Moss Adams LLP where her practice focused on tax controversy and the complex tax issues arising in the context of mergers and acquisitions. She worked with middle market taxpayers, largely comprised of West Coast-based C corporations, S Corporations, and partnerships, including many Silicon Valley-based high-tech companies, as well as the shareholders, partners, and individual owners of such entities in sales to private equity, assets/equity sales to strategic investors; privately owned foreign companies in venture capital financing. She was a leader in the firm's tax controversy and strategic planning, transaction cost and 280G practices. Ms. Rhea is a member of the California Bar, the New York Bar, the American Bar Association and the Society of Louisiana CPAs. (**Large Business & International Subgroup**)

Nancy Ruoff – Ms. Ruoff is the Deputy Director of the Office of Accounts and Reports which maintains responsibility for centralized statewide payroll and accounting systems, processing, and reporting for all state agencies, including the Executive, Legislative, and Judicial branches of government and seven higher education regent institutions. In addition, she manages the Internal Control and Compliance Team and the Kansas Setoff and Kansas Treasury Offset Programs. Ms. Ruoff has over 30 years of experience in all aspects of payroll including management of integrated payroll and accounting 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 27 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 co-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 was the moderator of the 2019 Tax Reporting & Withholding Conference held in Washington, D.C. Mr. Sterbenz is a member of the American Bankers Association. (**Information Reporting Subgroup**)

Katie Sunderland – Ms. Sunderland is Assistant General Counsel, Tax Law for the Investment Company Institute (ICI), the leading association representing regulated funds globally, including mutual funds, exchange-traded funds (ETFs), closed-end funds, and unit investment trusts (UITs) in the United States, and similar funds offered to investors in jurisdictions worldwide. She has experience with a broad range of tax issues that impact the investment fund community, including managers, investment funds, and investors. At ICI, she primarily works on global tax issues affecting both US and non-US regulated funds, such as treaty entitlement and EU matters (e.g., public country-by-country reporting). She is also involved in Business at OECD's Business Advisory Group to the Organisation for Economic Co-operation and Development's (OECD's) projects on the Common Reporting Standard (CRS), Tax Relief and Compliance Enhancement (TRACE), and the Digital Economy. Prior to joining the ICI, Ms. Sunderland worked extensively with private funds (i.e., hedge funds and

private equity) and sovereign wealth clients as an associate with large international law firms. (**Large Business and International Subgroup**)

Rebecca Thompson – Ms. Thompson is Vice President of Strategic Partnerships & Network Building with Prosperity Now. She has over 10 years of experience as a non-profit professional. Her work focuses on addressing systemic barriers to racial economic justice so that all individuals, families and communities can prosper without exception. She has oversight for the Taxpayer Opportunity Network (TON), the national convening body and liaison with the IRS for the VITA program and stakeholders. She has worked directly with low- and moderate-income taxpayers over the last 10 years as a VITA volunteer, program manager and TON Project Director. She has extensive knowledge of tax law application and tax preparation experience, particularly related to low-income returns and refundable credits. As a VITA site coordinator and quality reviewer, she educates clients on their tax returns and communicates how their household and financial situation translates to their tax returns. She participates in the IRS Refundable Credits Summit and Refundable Credits Working Group. Thompson holds a Bachelor of Science in Business Economics from Florida A&M University. Thompson represents VITA and low- and moderate-income taxpayers. (**Wage & Investment 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**)

Kevin Valuet – Mr. Valuet is a Director of Payroll Training for the American Payroll Association, responsible for educating professionals on payroll-related laws, rules, and best practices. He also is an educator for courses to assist individuals in obtaining payroll certification through the American Payroll Institute. He is a Certified Payroll Professional with 15 years of payroll experience in financial, education, and supply chain industries. Mr. Valuet is an active member of the payroll community and volunteers on the Government Relations Task Force, Strategic Payroll Leadership Task Force, Certification Item Development Task Force, and a member of the Board of Advisors with the American Payroll Association. 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 recipient of a 2020 Meritorious Service Award from the American Payroll Association for his active involvement in the payroll industry. He holds a Bachelor of Business Administration in Accounting from Baker College in Flint, Michigan. (**Information Reporting 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, cryptocurrency exchanges, gig platforms and more) remain compliant with their obligations. A respected industry voice, Ms. Walker appears regularly in business and industry publications such as Law360, CPA Practice Advisor and Cointelegraph. She previously worked at J.P. Morgan Chase, where she led the team responsible for the implementation of operational policies and processes for Forms W-8 collection and validation in corporate procurement, and where she was responsible for information reporting of mortgage servicing and default related transactions, as well as oversight of the production and filing of more than 12 million Forms 1098, 1099-INT, 1099¬A, 1099-C, 1042-S, and 1099-MISC annually. Ms. Walker is a member of the Chamber of Digital Commerce, Council for Electronic Revenue Communication Advancement

(CERCA), and National Association of Computerized Tax Processors (NACTP). (**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. Recently, she joined Gordon Food Service, the largest family-operated broadline food distribution company in North America; she leads a team of tax professionals with strategic and operational responsibility for planning, tax provision, compliance and controversy, as well as mergers and acquisitions. Previously, Ms. Welch was the leader of 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. (**Large Business and International Subgroup**)