



February 28, 2018

The Honorable Orrin G. Hatch
Chairman
U.S. Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Ron Wyden
Ranking Member
U.S. Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

RE: February 14, 2018 Hearing on “The President’s Fiscal Year 2019 Budget”

Dear Chairman Hatch and Ranking Member Wyden:

The American Institute of CPAs (AICPA) respectfully submits the enclosed statement for the record of the hearing on February 14, 2018 on “The President’s Fiscal Year 2019 Budget.” We appreciate the leadership taken by the Committee for your commitment to ensuring the success of the new tax reform laws and for considering various approaches to enable the Internal Revenue Service to implement those changes while providing quality service to individuals and businesses, as well as their advisers.

The AICPA is the world’s largest member association representing the accounting profession with more than 418,000 members in 143 countries and a history of serving the public interest since 1887. Our members advise clients on federal, state, local and international tax matters and prepare income and other tax returns for millions of Americans. Our members provide services to individuals, not-for-profit organizations, small and medium-sized businesses, as well as America’s largest businesses.

If you have any questions, please feel free to contact me at (408) 924-3508, or annette.nellen@sjsu.edu; or Melanie Lauridsen, AICPA Senior Manager – Tax Policy & Advocacy, at (202) 434-9235, or Melanie.Lauridsen@aicpa-cima.com; or Lakecia Foster, AICPA Director – Congressional & Political Affairs, at (202) 434-9208, or Lakecia.Foster@aicpa-cima.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Annette Nellen".

Annette Nellen, CPA, CGMA, Esq.
Chair, AICPA Tax Executive Committee



WRITTEN STATEMENT

OF

THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

SUBMITTED FOR THE RECORD OF THE

FEBRUARY 14, 2018

HEARING OF

THE UNITED STATES SENATE
COMMITTEE ON FINANCE

ON

THE PRESIDENT'S FISCAL YEAR 2019 BUDGET

INTRODUCTION

The American Institute of CPAs (AICPA) appreciates the leadership taken by the Senate Finance Committee for your commitment to ensuring the success of the new tax reform laws and for considering various approaches to enable the Internal Revenue Service (IRS or "Service") to implement those changes while providing quality service to individuals and businesses, as well as their advisers.

As taxpayers face a period of uncertainty regarding the sweeping tax law changes of Pub. L. No. 115-97, it is critical that the IRS has the appropriate resources to proceed as a modern-functioning agency that will issue immediate guidance on priority issues,¹ focus on the needs of taxpayers and tax preparers,² and implement the legislation in an effective and efficient manner.

In this statement, we provide a series of recommendations that will strengthen tax administration and improve compliance programs while protecting the public. An effective tax administration system should include proper governance and oversight, proficient taxpayer services and a practitioner-focused services unit, which can collectively improve the taxpayer experience while streamlining the tax administration system. Furthermore, the regulation of tax return preparers and the limited use of contingency fees are necessary to promote voluntary compliance and protect taxpayer rights.

RECOMMENDATIONS

1. IRS Governance & Oversight

As practitioners with vast experience working with the IRS, we have incorporated the lessons learned and built upon the foundation established by the Report of the National Commission on Restructuring the IRS ("Restructuring Commission" or "commission") and outline below governance and oversight recommendations to shape the agency of the future that everyone desires.

Governance Objectives. Successful governance of the IRS will include strong leadership, accountability, and transparent policies working collectively towards needed change. In order to hold the IRS accountable, the agency's governance, management and oversight structure must:³

- Develop and maintain a shared vision among all personnel and stakeholders with continuity;

¹ See AICPA letter, "[Request for Immediate Guidance Regarding Pub. L. No. 115-97](#)," January 29, 2018.

² See AICPA statement, "[What the Taxpayers Want or Need from the IRS to Comply with the Tax Laws](#)," May 17, 2016.

³ The National Commission of Restructuring the Internal Revenue Service, [A Vision for a New IRS, Report of the National Commission on Restructuring the Internal Revenue Service](#), June 25, 1997, page 8.

- Set and maintain consistent priorities and strategic direction;
- Impose accountability on senior management;
- Develop appropriate measures of success;
- Ensure that the budget and technology support priorities and strategic direction;
and
- Coordinate oversight and identify problems at an early stage.

Congressional Oversight. Congressional oversight is a critical process in ensuring executive branch compliance with laws, evaluating performance, and providing the transparency necessary to maintain the public's trust. We recommend re-establishing the annual joint hearing review⁴ to focus on the following priorities: (1) strategic and business plans; (2) taxpayer service and compliance; (3) technology and modernization; and (4) filing season.

As once required by statute,⁵ the Joint Committee on Taxation should provide a bi-annual report on the overall state of the Federal tax system.⁶ However, the statute stipulates that the report is *only required if the necessary resources are appropriated* to carry out the requirement. Such a report would contribute to stability at the IRS and assist it in achieving its mission. Therefore, we urge Congress to appropriate the necessary funds for the report.

IRS Oversight Board. The IRS Oversight Board was intended to provide experience, independence and stability to assist the IRS in moving forward in a focused direction. However, the board received criticism for being "ineffective" and "missing in action" in achieving its stated mission,⁷ and suspended operations due to an insufficient number of members to constitute a quorum.

We recommend that Congress require a Government Accountability Office (GAO) review of the private sector board and determine if it is an essential component to providing the trust and continuity that will allow the IRS to become a respected, service-oriented organization. The GAO could provide recommendations to ensure the board has sufficient authority to (1) hold the IRS accountable for successfully fulfilling its mission; (2) oversee the implementation of key recommendations from advisory groups; and (3) ensure the IRS remains independent and non-partisan.

Human Resources. Congress should enable and encourage the IRS to utilize the full range of available authorities to hire and compensate qualified and experienced professionals from the private sector, as needed, to improve the Service's ability to meet its mission. It is also crucial for the IRS to designate a senior-level executive dedicated to overseeing and collaborating with the practitioner community in creating a practitioner services unit (see discussion below).

⁴ P.L. 105-206, sec. 4002, expanded IRC section 8022(c) regarding reporting by the Joint Committee on Taxation. P.L. 108-311 (10/4/04) modified this provision by removing the specifics required for the annual report and eliminating the joint review after 2004 (also see IRC section 8021(f)). A statutory change is needed to reinstate the required joint review.

⁵ *Id.*

⁶ IRC section 8022(3).

⁷ Morningstar, Inc., [The IRS Has No Independent Oversight This Tax Season](#), April 18, 2016.

2. IRS Taxpayer Service

Congress should determine the appropriate level of service it desires and that is needed by the IRS, and dedicate the appropriate resources for them to meet these goals. Agreed upon measures of success are necessary to improve both customer service and voluntary compliance.

To instill trust in the tax administration system, we recommend taxpayer service goals based on the following two guiding principles:

- The IRS should only initiate contact with a taxpayer if the IRS is prepared to devote the resources necessary for a proper and timely resolution of the matter.
- Customer satisfaction must be a goal in every interaction the IRS has with taxpayers, including enforcement actions. Taxpayers expect quality service in all interactions with the IRS, including taxpayer assistance, filing tax returns, paying taxes, and examination and collection actions.⁸

Resources necessary. Appropriate hiring, adequate training, skillful management, and the necessary technological tools are essential for the IRS to meet its responsibilities. The leaders of the IRS must have the experience and skills to motivate their workforce and lead them to the realization of the desired vision. Organizational alignment from Congress, the President, the Commissioner, and through the ranks of the IRS, is necessary to delivering the promised goals.

Furthermore, to enable the IRS to achieve the improvements required for a 21st century tax administration system, the IRS needs a modern technological infrastructure. Currently, the IRS has two of the oldest information systems in the federal government making the information technology function one of the biggest constraints overall for the IRS.⁹ Without modern infrastructure, the IRS is unable to timely and efficiently meet the needs of taxpayers and practitioners.

Customer satisfaction. Measurement tools are required to achieve customer satisfaction goals, including fairness in enforcement. The IRS made significant progress in measuring taxpayers' opinions in the years following the issuance of the Restructuring Commission. However, in recent years, the Service has stopped reporting on customer satisfaction surveys and analysis. We recommend that customer satisfaction surveys, gauging performance at all levels within the IRS, continue as an appropriate success measure. Congress should utilize the survey results during the oversight and appropriations processes to ensure the Service is continually meeting the needs of taxpayers.

⁸ Verbatim quote of the two guiding principles, The National Commission of Restructuring the Internal Revenue Service, [A Vision for a New IRS, Report of the National Commission on Restructuring the Internal Revenue Service](#), June 25, 1997, page 23.

⁹ National Taxpayer Advocate, [Annual Report to Congress 2016, Executive Summary: Preface, Special Focus and Highlights](#), 2016, page 31-32. The report references a 2016 GAO report (GAO-16-468) which found that some of technology the IRS still relies on was first placed in use 56 years ago.

A service-focused approach, with taxpayer education in mind, will require the IRS to take into consideration the needs of both tax practitioners and un-represented taxpayers, and the varying methods needed to interact with them.

3. IRS Practitioner Services Unit

The IRS should create a new dedicated "executive-level" practitioner services unit that would centralize and modernize its approach to all practitioners. Over time, the IRS has established a number of functional departments. These individuals are dispersed across the IRS and are not coordinated in a manner that enables practitioners to timely access critical information (such as their clients' account status or the availability of dispute resolution opportunities). Nor do the current teams or processes systematically solicit, gather or evaluate practitioner feedback. Enhancing the relationship between the IRS and practitioners would benefit both the IRS and the millions of taxpayers served by the practitioner community.

A dedicated practitioner services unit would allow the IRS to rationalize, enhance, and place under common management the many current, disparate practitioner-impacting programs, processes, and tools. Moreover, by centralizing these programs, IRS employees would have a consolidated approach to timely resolving issues. This coordination and improved access of information would prevent unnecessary delays and inefficiencies (such as requiring practitioners to submit the same information multiple times to multiple IRS employees). Finally, to ensure success of the practitioner services unit, it is essential for these services to approximate comparable private sector services and allow practitioners to resolve account issues for their clients in a timely and efficient manner.

Online tax professional account. The IRS should provide tax practitioners with a tax professional account as part of the IRS's online portal with account access to all of their clients' information (both individual and business accounts) where the practitioner has a valid power of attorney (POA) on file. Additionally, the secure tax professional account should allow the IRS to communicate directly to practitioners the information necessary to improve taxpayer awareness and allow practitioner correspondence with timely acknowledgement of receipt.

Furthermore, a centralized login system allowing for single sign-on authentication of the practitioner and immediate access to all client data, as opposed to practitioner authentication before accessing each client's account, is an indispensable efficiency for the IRS and practitioners alike.

Secure platform. The development of the online portal should include a comprehensive, agile platform that protects users' identities and their data, detects threats and immediately responds to potential security breaches. In order to enhance taxpayer protection, practitioners who want access to taxpayer accounts should consent to guidelines such as Circular 230 or other similarly approved requirements. Professional tax practitioners can become particularly active and safe users of online services if the IRS invests early in providing a digital mechanism for POA and disclosure authorization and creates practitioner accounts contemporaneously with individual online accounts.

To continue to improve efficiency, the IRS should also focus its attention on replacing the Centralized Authorization File with a consolidated online solution utilizing electronic signatures and an algorithmic-driven approval process that is as close to real time as possible.

Robust practitioner hotlines. IRS should provide practitioners with a robust practitioner priority hotline (or hotlines) with higher-skilled employees. These employees should have the experience and training to understand and address more complex technical and procedural issues. This expertise would allow the IRS to focus its training on a particular technical area allowing designated employees to resemble its counterparts in the private sector. The IRS should also consider hiring experienced people, such as, graduate students or retired practitioners seeking part-time or seasonal employment.

Designated customer service representatives. Under the practitioner services unit, the IRS should assign customer service representatives (also known as a single point of contact) to each geographic area to address unusual or complex issues that practitioners were unable to resolve through the priority hotlines. We recommend allocating the number of representatives based on the number of practitioners in a specific geographic area.

4. Regulation of Tax Return Preparers

The AICPA has always been a steadfast supporter of the goals of enhancing compliance and elevating ethical conduct. We support the use of a preparer tax identification number (PTIN) for all signing tax preparers, and subjecting all tax preparers to Circular 230. To help protect the interests of taxpayers, the AICPA thinks Congress should provide the IRS with a focused and well-defined approach to the regulation of tax return preparers with Congressional oversight.

Subjection of all tax preparers to Circular 230. Requiring tax return preparers to follow the Circular 230 standards of conduct as delineated in the *Internal Revenue Service Return Preparer Review* report is essential.¹⁰ In the report, the IRS proposed requiring:

. . . all signing and nonsigning¹¹ tax return preparers to comply with the standard of conduct in Part 10 of Title 31 of the Code of Federal Regulations and reprinted in Treasury Department Circular 230. The authority of attorneys, certified public accountants, enrolled agents, enrolled actuaries and enrolled retirement plan agents to practice before the IRS will not change from the authority they have under current Treasury Department Circular 230.

The remaining tax return preparers will be authorized to prepare returns and to represent a client before the IRS during an examination of any return that

¹⁰ *Internal Revenue Service Return Preparer Review*; December 2009; page 37.

¹¹ See AICPA comment letter, "[Chairman's Mark of a Bill to Prevent Identity Theft and Tax Refund Fraud](#)," September 15, 2016, position on "Limitation on IRS's Authority to Require a PTIN," page 6.

the tax return preparer prepared for the client as they are currently permitted under the limited practice provisions in section 10.7(viii) of Treasury Department Circular 230. The conduct of the tax return preparer in connection with the preparation of the return and any representation of the client during an examination will be subject to standard of conduct in Treasury Department Circular 230. Further, inquiries into possible misconduct and disciplinary proceedings relating to tax return preparer misconduct will be conducted under Treasury Department Circular 230.

Defined parameters for examination and continuing education. Congress should mandate that the IRS enact a testing and continuing education program similar to the registered tax return preparer program in effect prior to *Loving v. IRS* that would apply exclusively to "unenrolled preparers." The one-time basic 1040 "entrance" examination to ensure competency in individual income tax return preparation and the requirement for unenrolled preparers to satisfy 15 hours of annual continuing education were both appropriate and necessary to protect taxpayers from incompetence and misconduct, while not raising the bar so high that there are an insufficient number of preparers to assist taxpayers wanting and needing such assistance. Specific parameters and limitations regarding an examination and continuing education are also appropriate to ensure a tax return program does not expand beyond Congress's goals of protecting the public from incompetent and unscrupulous tax return preparers.

Limitation on IRS's Authority to Require a PTIN. Congress should limit the IRS's authority to require a PTIN. In order to protect the interests of the public, the IRS should track (through the use of the PTIN) all individuals that sign a tax return. However, in order to prevent potential overregulation and duplicative filing obligations, Congress should exclude non-signers from the requirement to obtain a PTIN if those non-signers are supervised by an attorney, CPA, or enrolled agent; and (ii) the supervising professional signs the tax returns or claims for refund prepared by the individual. Such an exclusion from the current PTIN system would recognize the inherent regulatory regime within which CPAs and other Circular 230 legacy practitioners already practice, as well as the fact that CPA firms must stand, as a matter of licensure, behind the work done by the members and employees of their firms.

Authorization to Revoke PTINs. The IRS could more effectively utilize their current PTIN system to protect the public from incompetent and fraudulent tax return preparers. We, therefore, recommend that Congress grant the IRS specific authority to revoke a PTIN to efficiently prevent unqualified and unscrupulous preparers from continuing to file inaccurate and fraudulent tax returns.

GAO Study on IRS's Exchange of Information with State Taxing Authorities. The AICPA supports directing a GAO study on the impact of increasing the exchange of information relating to return preparers between the IRS and state taxing authorities. Such exchange of information (for example, a list of revoked PTINs and the reasons for the revocations) would improve tax administration by reducing duplicate government resource expenditures and increasing taxpayer compliance.

Mitigation of Marketplace Confusion. Congress should also require the IRS to take steps to mitigate marketplace confusion. For example, prior to *Loving v. IRS*, the IRS recognized the potential for marketplace confusion when it required subjecting the currently-unenrolled community to the guidance in Notice 2011-45, 2011-25 IRB 886, with regard to advertising restrictions.

5. Contingent Fees

Finally, the AICPA opposes any expansion of the use of contingent fee arrangements which are not in the best interest of the public. The AICPA's Code of Professional Conduct and State Boards of Accountancy have rules addressing the appropriate use of contingent fees in tax practice and allow for contingency fees on a limited basis. Allowing tax preparers a financial interest in a tax return (in other words, a contingent fee arrangement), encourages tax preparers to take positions that increase their fee rather than positions supported by the law. The AICPA is available to work with Congress and the IRS in addressing adequate use of contingent fees.

CONCLUDING REMARKS

The AICPA appreciates the opportunity to submit a statement for the record. We look forward to working with the Committee to ensure that the IRS has the appropriate resources needed to implement the extensive tax law changes through a modernized and effective tax administration system.

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