



April 6, 2018

The Honorable Lynn Jenkins
Chairwoman
Subcommittee on Oversight
House Committee on Ways and Means
United States House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

The Honorable John Lewis
Ranking Member
Subcommittee on Oversight
House Committee on Ways and Means
United States House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

RE: "Taxpayer First Act" Discussion Draft

Dear Chairwoman Jenkins and Ranking Member Lewis:

The American Institute of CPAs (AICPA) applauds the leadership taken by the House Ways and Means Oversight Subcommittee to release the "Taxpayer First Act" discussion draft (hereinafter referred to as "the Proposal") to redesign the Internal Revenue Service (IRS or "Service"). We are committed to supporting Congress in its efforts to ensure a service-oriented, modernized tax administration and appreciate the opportunity to provide comments.

Practitioner Services Division

It is critical to enhance the relationship between the IRS and practitioners, through a Practitioner Services (PS) division, which can collectively improve the taxpayer experience while streamlining the tax administration system.

Congress should establish, within the IRS, a new dedicated "executive-level" PS division (equivalent to the Wage & Investment, Large Business & International, and Small Business/Self-Employed divisions) that would centralize and modernize its approach to all practitioners. The PS division would lead the IRS's integrated support of practitioners, thereby, facilitating economies of scale, providing systemic issue resolution and better business practices. The PS division also would leverage the work of the Return Preparer Office and the National Public Liaison and would complement the work of the National Taxpayer Advocate and the Stakeholder Liaison Local Contacts.

The PS division would fulfill the following responsibilities:

- *Engage with the Tax Professional Community* – Practitioners need the ability to communicate process/system problems and failures that materially impede practitioner

service to taxpayers. Practitioner feedback will help ensure that the IRS meets the needs of taxpayers and tax professionals, as well as the government.

- *Liaise with All Major IRS Operating Divisions* – A liaison with all major IRS operating divisions will ensure the consideration of regular input from the practitioners in the development of IRS enforcement and customer service strategies.
- *Offer Robust Practitioner Hotlines* – Telephone service assistants on practitioner hotlines should have the training and authority to resolve more complex taxpayer issues.
- *Create an Online Tax Professional Account* – A secure tax professional account should provide practitioners access to their clients’ information (both individual and business accounts) and the ability to correspond with the IRS in a timely and efficient manner.
- *Establish a Learning Consortium* – IRS employees with the PS division need a higher level of training that enables them to maintain a level of technical competence that is equivalent to their counterparts in the private sector.

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.¹ In the report, the IRS proposed requiring:

... all signing and nonsigning² 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 the

¹ *Internal Revenue Service Return Preparer Review*; December 2009; page 37.

² See AICPA comment letter, position on *Limitation on IRS’s Authority to Require a PTIN*, “[Chairman’s Mark of a Bill to Prevent Identity Theft and Tax Refund Fraud](#),” page 6, September 15, 2016.

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.

Government Accountability Office (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.

Improved Service

As a comprehensive customer service strategy for the IRS is developed, 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.³

Cyber Security and Identity Protection

The AICPA supports⁴ a single point of contact at the IRS for taxpayers affected by identity theft and the expansion of the current identity protection personal identification number system to any individual requesting protection. These measures will respectively provide consistent support to victims and proactively protect taxpayers from becoming victims of identity theft.

Development of Information Technology

To enable the IRS to achieve the improvements required for a 21st century tax administration system, the Service needs a modern technological infrastructure. The AICPA supports the development of online accounts and portals to provide services to taxpayers and their designated return preparers.⁵ It is essential for tax professionals to have an online account and portal as a key component of the PS division as described above.

The AICPA also supports⁶ the provision to develop an internet portal that would facilitate taxpayers filing Form 1099 with the IRS. The online portal would reduce the cost of compliance, accelerate the receipt of information and enable the IRS to more efficiently and effectively match reported amounts against individual tax returns.

³ 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](#), page 23, June 25, 1997.

⁴ See AICPA letter, "[AICPA Tax Reform Proposals on Individuals, Families and Tax Administration](#)," July 17, 2017.

⁵ *Id.*

⁶ *Id.*

Expanded Use of Electronic Systems

The AICPA supports the expanded use of electronic systems. Many states already require tax return preparers to e-file taxpayer returns; therefore, it is not overly burdensome to require e-filing of all individual tax returns prepared by a tax return preparer. However, the taxpayer should retain the ability to opt out of e-filing a return without subjecting the tax return preparer to a penalty.

The AICPA also supports the provision for the IRS to develop standards allowing for electronic signatures (e-signatures) on Form 8879. Currently, the e-signature standards do not adequately address the need for confidentiality of taxpayer information nor do they appropriately accommodate the needs of different taxpayer groups.

Organizational Modernization

The AICPA supports the Proposal's provision to allow the IRS to thoughtfully consider what a modern structure for the Service might look like, to develop a plan for its implementation, and to submit such a plan to Congress. It is crucial that any reorganization of the IRS should take into consideration the needs of both taxpayers and tax practitioners, and include the PS division in the development of the plan.

We also recommend that Congress require a 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.

Conclusion

As the Subcommittee moves forward in restructuring the IRS, we urge the Subcommittee to seek active engagement of taxpayers and their practitioners in the development of the IRS strategies and comprehensive plans. The AICPA firmly thinks that creating a PS division and the regulation of tax return preparers will make a substantial difference in taxpayer awareness, confidence and compliance, thereby instilling trust in the tax administration system as a modern functioning IRS of the 21st century.

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 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.

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We appreciate your consideration of these comments and welcome the opportunity to discuss these issues further. If you have any questions, please contact me at (408) 924-3508 or annette.nellen@sjsu.edu; 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". The signature is fluid and cursive, with the first name being more prominent.

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

cc: Members of the House Committee on Ways and Means
The Honorable David J. Kautter, Acting Commissioner, Internal Revenue Service
Mr. William M. Paul, Acting Chief Counsel, Internal Revenue Service
Mr. Thomas A. Barthold, Chief of Staff, the Joint Committee on Taxation
Ms. Nina E. Olson, National Taxpayer Advocate, Internal Revenue Service