



November 27, 2023

The Honorable Janette L. Yellen
Secretary of the Treasury
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable Daniel I. Werfel
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

RE: The Impact on Taxpayers and Tax Practitioners of an Internal Revenue Service Shutdown during the 2024 Tax Filing Season

Dear Secretary Yellen and Commissioner Werfel:

We are appreciative that Congress came together in a bipartisan fashion to extend IRS funding through February 2, 2024, thereby averting a government shutdown. Nevertheless, our members are already looking ahead and expressing serious concerns regarding the impact of a potential Internal Revenue Service (IRS or "Service") shutdown in February on taxpayers and tax practitioners. We recognize and appreciate your public comments expressing similar concerns, and we also appreciate your efforts to address the most crucial operations of the Service in your [Fiscal Year 2024 Lapsed Appropriations Contingency Plan](#) ("Contingency Plan") (dated September 27, 2023). However, taxpayer need for unhindered access to the IRS is rising as we approach the opening of the 2024 tax filing season. As such, the American Institute of CPAs (AICPA) urges the IRS to update the current Contingency Plan to include filing season specific activities and to take an approach similar to the IRS Fiscal Year 2023 Lapse Appropriations Contingency Plan, in which the IRS excepted 100% of the IRS employees by using the provided supplemental appropriations available through Section 10301 of the Inflation Reduction Act (IRA), [Pub. L. 117-169](#). We also offer additional recommendations to mitigate the long-term effects of a shutdown where appropriate.

BACKGROUND

There are many inefficiencies and lost labor to shut down the IRS and then to restart as outlined in the Contingency Plan under Shutdown Preparation, Shutdown Implementation and Reactivation of Functions. Even the threat of a shutdown can have negative consequences on government operations. Time spent preparing for a shutdown that never occurs is time that could otherwise be used to address taxpayer inquiries, respond to correspondence, and resolve open cases.

As noted in the [National Taxpayer Advocates September 29 blog](#), the IRS's Contingency Plan takes a narrow interpretation of the Office of Management and Budget guidance to encompass only the government's safety of human life and protection of property and not the safety and property of U.S. citizens and taxpayers. This interpretation results in many important tax administration functions stopping in the event of a shutdown. Specifically:

- Taxpayer phone calls should be answered, but with two-thirds of the IRS furloughed access to information to resolve taxpayer issues will be limited.
- All Taxpayer Assistance Centers will close, which will result in a loss of face to face service to thousands of taxpayers per day.

- Refunds will not be processed except in cases where e-filed, error free refunds can be automatically direct deposited; thus, no refunds to approximately one-third of taxpayers that depend on their refunds for daily living.
- The IRS will not respond to paper correspondence, as well as certain paper filings, which will create a paper backlog.
- Automated notices will continue, which include notices of intent to levy and automatic transfers to collections.

According to our members, though there have been recent improvements to IRS services, processes are still not functioning at pre-pandemic levels. Adding an IRS shutdown will create more problematic issues, burdens, and backlogs, similar to those created by the pandemic.

Past experience has taught us that an IRS shutdown, especially between now and April 15, 2024, will have dire consequences to the IRS, taxpayers, and their practitioners. The longer the shutdown, the larger the backlog and other challenges become. When the IRS re-opens, the IRS will need to work through the backlog while at the same time processing incoming paper and electronic submissions and answering an increased number of taxpayer calls to resolve outstanding issues.

RECOMMENDATIONS

Given the inefficiencies created by an IRS servicewide shutdown, the AICPA offers the following recommendations for your consideration.

1. Update the Current Contingency Plan to Include the IRA Funding to Provide Full Assistance to Taxpayers and Tax Practitioners

Overview

Live telephone customer service assistance for taxpayers and the Practitioner Priority Services (PPS) telephone assistance is currently minimal. During the filing season, the increased service levels would be inadequate to resolve issues on a timely basis, and we expect long delays, especially with the backlog of correspondence that has not been addressed.

The Taxpayer Advocate Service (TAS) will not be permitted to assist taxpayers during a shutdown, and IRS walk-in taxpayer assistance centers (TACs) will be closed. With TACs closed, the IRS would be unable to handle large cash payments or assist identity theft victims who are required to visit an IRS office to establish their identity or offer assistance to taxpayers experiencing a hardship. Taxpayers and tax practitioners often turn to the TAS when they are not able to get a resolution of an issue with IRS directly. During filing season especially, a fully functioning TAS is key to resolving IRS issues effectively.

IRS has planned to suspend all audit, examination, and appeals activity during a shutdown. Unfortunately, this suspension means that tax practitioners are unable to communicate with IRS employees to timely resolve taxpayers' audit issues. Many taxpayers and tax practitioners want to quickly resolve disputes as opposed to extending this process, which sometimes results in additional interest and penalties as a result of the period of a shutdown.

In addition, shutdowns cause an increased backlog of correspondence cases. Even without a shutdown, taxpayers often make multiple contacts with the IRS to resolve a situation. With a

shutdown, we expect a substantial addition of time for both taxpayers and the IRS to resolve correspondence cases once the shutdown ends.

Recommendation

The IRS should update the current Contingency Plan to include the IRA funding, to except 100% of the IRS employees, to provide full assistance to taxpayers and tax practitioners. The IRS needs full staffing during the filing season. A smooth filing season is even more important this year as taxpayers deal with the existing backlog, the employee retention credit, and new reporting requirements, such as the Form 1099-K and the beneficial ownership information.

In particular, IRS taxpayer assistance, TAS, and PPS need full staffing during the filing season to meet the demands of all the questions and issues that taxpayers and practitioners will face this filing season.

2. Provide Automatic Extension of Notices and Collections Until 90 Days from the Shutdown Ending Date, Stop Assessing Penalties and Interest, and Cease Sending Automated Notices

Overview

As the current contingency plan provides, IRS will continue to mail *automated* IRS collection notices, automated warnings of asset seizures, and notices of intent to levy, as well as automatically transferring cases to collections, when there is no staff to respond to taxpayers' attempted replies to resolve the issue or prevent the IRS threatened action from occurring. If IRS staff are not available to assist taxpayers, taxpayers and tax practitioners would be unable to speak to a collections agent in order to obtain a continuance or have a hold placed on the notice. In addition, historically, faxes from taxpayers and tax practitioners have not been accepted during a shutdown.

Recommendation

IRS should provide an automatic extension of notices and collection action, as well as a suspension of the expiration of the statute of limitations during a shutdown, until 90 days after the shutdown ends. The IRS should immediately stop assessing penalties and interest and cease sending automated notices to taxpayers. If the IRS does not have the staff to respond to communications and critical inquiries and place holds on actions, the agency should not penalize or continue to threaten action when the taxpayer is attempting to address the issues.

Once the shutdown ends, it may take months for the IRS to work through and resolve its backlog of taxpayer situations. Therefore, 90 days is a reasonable amount of time for taxpayers to respond and resolve issues regarding notices and collections.

3. Maintain All Online Systems and Accounts to Ensure They Operate Effectively

Overview

Taxpayers and tax practitioners are currently experiencing difficulty accessing and using the Electronic Federal Tax Payment System (EFTPS) due to the new login requirements. Although the service is operated by third party providers, interaction with IRS personnel or other services is

sometimes needed, which causes challenges for users. When the electronic systems are not able to accept tax payments, the government is not able to efficiently and effectively collect its revenue, and the taxpayer is not able to meet its federal tax obligation – possibly accruing further interest and penalties.

Additionally, taxpayers and tax practitioners need, but are not always able, to timely access IRS transcripts for verifying financial information when preparing tax returns or for addressing time-sensitive correspondence. IRS transcripts are crucial to tax practitioners in assisting with tax compliance as taxpayers often do not have access to their own tax data – for example, in disaster situations – and the tax transcript is the only source of reliable information to prepare a tax return or respond to IRS notices.

Furthermore, the power of attorney (POA) is necessary for CPAs to request tax documents from the IRS. If there is no existing POA within the IRS's e-services system, tax practitioners cannot use e-services to obtain important tax documents. Even if the tax practitioner has an existing POA on file, if the e-services system does not properly reflect the Centralized Authorization File (CAF) authorization on file, there is limited to no e-services functionality for a tax practitioner.

Recommendation

It is crucial that the IRS continually have all of its online systems and accounts accessible to taxpayers and tax practitioners. All EFTPS, e-services, and CAF systems must operate effectively to ensure tax payments and filings are processed timely and taxpayers and tax practitioners have access to their needed tax information to file accurate and timely tax returns.

4. Retain More IRS Chief Counsel Attorneys for Guidance

Overview

Tax practitioners and taxpayers need guidance to comply with their tax obligations and make informed decisions with regards to cash-flow, entity structure, retirement, wealth transfer and other tax planning issues. IRS has more guidance to provide for the 2023 tax returns. For example, implementation of the energy credits and guidance on the corporate alternative minimum tax and excise tax on stock buy backs is needed. Many tax forms and instructions are also still in the “draft” stage and pending approval or remain in a non-submittable format, likely resulting in problems with filing season readiness of tax preparation software.

According to the Contingency Plan, Chief Counsel personnel are excepted on an as needed basis to provide legal advice to protect statute expiration and the government's interest in bankruptcy, lien and seizure cases. In other words, there will be limited, if any, guidance for taxpayers.

Recommendation

During a period of uncertainty, the IRS should retain Chief Counsel attorneys in order to provide detailed guidance to taxpayers to meet their reporting requirements.

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The AICPA is the world's largest member association representing the accounting profession, with more than 421,000 members in the United States and worldwide, 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.

The AICPA welcomes an opportunity to provide the IRS input in their further consideration and prioritization of issues, services, and functions that taxpayers and tax practitioners need during the filing season. If you have any questions, please contact Melanie Lauridsen, AICPA Vice President of Tax Policy & Advocacy at (202) 434-9235 or Melanie.Lauridsen@aicpa-cima.com; Lauren Pflugstag, AICPA Director of Congressional & Political Affairs, at (407) 257-0607, or Lauren.Pflugstag@aicpa-cima.com; or me at (830) 372-9692 or Bvickers@alamo-group.com.

Sincerely,



Blake Vickers, CPA, CGMA
Chair, AICPA Tax Executive Committee

cc: All Members of Congress
The Honorable Lily Batchelder, Assistant Secretary for Tax Policy, Department of the Treasury