



March 22, 2017

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

The Honorable Kevin Brady, Chairman
House Committee on Ways & Means
1102 Longworth House Office Building
Washington, DC 20515

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

The Honorable Richard E. Neal, Ranking Member
House Committee on Ways & Means
1102 Longworth House Office Building
Washington, DC 20515

RE: Tax Technical Corrections Act of 2016

Dear Chairmen and Ranking Members:

On December 6, 2016, the Tax Technical Corrections Act of 2016 (the “Act”) was introduced in the 114th Congress as H.R. 6439¹ and S. 3506² on a bipartisan, bicameral basis. The American Institute of CPAs (AICPA) urges you to re-introduce this legislation in the 115th Congress and, as expeditiously as possible, enact it into law.

Technical correction legislation is used to adjust drafting errors which may have inadvertently cropped into a previously enacted law, as well as clarify provisions which have generated confusion or uncertainty within the Internal Revenue Service (IRS) and the tax professional community in general.

Several of the provisions included in the “Act” are of unusually high importance since failure to enact them has an immediate negative impact on both the IRS and taxpayers. In particular, two provisions warrant immediate action.

SEC. 101. AMENDMENTS RELATING TO PROTECTING AMERICANS FROM TAX HIKES ACT OF 2015

Paragraph (f) of this section contains *Amendments Relating To Section 203* and makes changes to the procedures used by overseas taxpayers to obtain or renew an Individual Taxpayer Identification Number (ITIN). As originally enacted, section 203 removed the ability of taxpayers residing overseas to avail themselves of the services of a community-based Certifying Acceptance Agent (CAA) to process their application. This change has imposed an unduly harsh burden on taxpayers residing overseas who are attempting to fulfill their United States (U.S.) tax filing obligations. Further exacerbating this situation is the new requirement to renew all ITINs issued prior to January 1, 2013, which is resulting in a surge of ITIN holders located overseas requiring assistance.

¹ [H.R. 6439 - Tax Technical Corrections Act of 2016.](#)

² [S. 3506 - Tax Technical Corrections Act of 2016.](#)

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The proposed technical correction “clarifies that community-based CAAs are among the entities that are available to individuals living abroad who wish to obtain ITINs for purposes of meeting their U.S. tax filing obligations.”³

TITLE II—TECHNICAL CORRECTIONS RELATED TO PARTNERSHIP AUDIT RULES

The sections in Title II modify section 1101 of the Bipartisan Budget Act of 2015, relating to the new partnership audit regime generally effective for tax years beginning January 1, 2018.

On January 18, 2017, the United States Department of the Treasury (“Treasury”) and the IRS issued a Notice of Proposed Rulemaking (REG-136118-15) for this new “Centralized Partnership Audit Regime.” Those proposed regulations were not submitted to the Federal Register prior to a regulatory freeze imposed by the new administration and have since been withdrawn. However, a review of the proposal reveals a number of areas which would be directly impacted and significantly changed by enactment of the provisions in the “Act” to correct the original statutory language. These changes provide improvements to the IRS’s ability to fairly and equitably administer the new regime, while reducing the administrative burdens on both the IRS and taxpayers. They also provide additional certainty to taxpayers regarding their obligations following an examination, while better assuring that the proper amount of tax is imposed on the appropriate taxpayer.

The proposed regulations reference the possibility of the technical correction provisions in the “Act” being enacted and the likely need to modify and re-issue portions of the regulations after the technical corrections are enacted. Since Treasury and the IRS are expected to re-issue the proposed regulations at their earliest opportunity, passage of the “Act” prior to that occurrence would allow them to make any necessary modifications first and provide a heightened degree of certainty to taxpayers on the rules governing partnership audits starting next year, thereby making the guidance process a more efficient one. Also, while the partnership audit rules generally are not effective until after 2017, there are significant actions partnerships and partners must deal with now; thus, the need for final regulatory guidance is crucial.

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³ [Joint Committee on Taxation, Technical Explanation of The Tax Technical Corrections Act of 2016 \(JCX-91-16\), Dec. 5, 2016.](#)

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We appreciate your consideration of these comments and welcome the opportunity to discuss these issues further. Please feel free to contact me at (408) 924-3508 or Annette.Nellen@sjsu.edu or Jonathan Horn, Senior Manager – AICPA Tax Policy & Advocacy, at (202) 434-9204 or Jonathan.Horn@aicpa-cima.com.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Annette Nellen". The signature is fluid and cursive, written in a professional style.

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