MINUTES
Internal Revenue Service Advisory Council Public Meeting

July 15, 2026
Virtual – Microsoft Teams
12:15 p.m. ET

Meeting Called to Order: John Lipold, Designated Federal Officer

Purpose: To provide insight to the public on where the IRSAC is headed for the remainder of the year

Turned Meeting over to: Lucinda Weigel, IRSAC Chair

- Overview of IRSAC
- Listing of five subgroups
- Developments and wins with some issues announced at May 2026 meeting
- Today's public meeting will announce issues for inclusion in this year's public report

Eleven General Issues: presented by Kris Thiessen, IRSAC Vice Chair

1. IRS Resources Enabling Increased Collections
2. Digital First Agenda: Expanding Online Services
3. Ghost Preparers
4. Processing of Penalty and Interest Abatement Requests
5. Elective Withholding by Partnerships for Partners
6. IRS Digitalization
7. Use of Artificial Intelligence by Tax Return Preparers
8. Form W-4 Simplification
9. Bringing Non-Filers Back into Compliance
10. Reducing Compliance Friction
11. Eliminating Duplicative and Redundant Filings

Subgroup Report-Outs: Issues presented by Subgroup Chairs

Information Reporting Subgroup: presented by Nick Yannaci

1. W-2G Regime Rationalization & Modernization
2. Tax Treatment of Prediction Markets Business Activities and Gains & Losses
3. Reviewing Potential Expansion of Allowable Usages of TIN Matching
4. Federal Obligation Interest Field on Form 1099-DIV
5. Transcript Delivery Mechanism
6. Digital Modernization of Certificate of Residency Process

Large Business and International Subgroup: presented by Thomas Wheadon

1. Substitute K-1 reporting
2. Establishing a Business Identity Protection Framework

Tax-Exempt and Government Entities Subgroup: presented by Joe Bender (for Brian Yacker)

1. Use of AI to Increase TE/GE Efficiency
2. Clarify the Definition of an Essential Government Function for Tribal Governments
3. Promoting the Use of IRS Digital Communications and Services
4. Provide Clarity Around the IRC Section 410(b) Coverage Testing Transition Period
5. Address the Section 7701 Check the Box Regulations for Lack of Reference to Tribal Governments

Small Business and Self-Employed Subgroup: presented by Annette Nellen

1. Tax literacy for new small businesses and sole proprietors
2. Reducing the need for collection activities

Taxpayer Services Subgroup: presented by Brayan Rosa-Rodriguez

1. EITC Returns with Schedule C losses
2. OBBBA Refundable Adoption Tax Credit Education and Outreach Strategy
3. Suspension of Beard Returns
4. Unapplied Payments – Secondary SSN
5. Engaging and Encouraging Saver's Match Participation
6. VITA Metrics
7. Entity-Level CAF Limitations and Integration with TDS

Acknowledgements: The Chair acknowledged receipt of written comments from Brendan Sullivan.

These written comments are included with the meeting minutes in the public record for this meeting via facadatabase.gov.

Meeting Closed: Lucinda Weigel closed the meeting.

IRSAC Public Meeting Attendees – July 15, 2026

IRSAC
Lucinda Weigel, IRSAC Chair
Kristofer Thiessen, IRSAC Vice Chair
Grace Allison
Robert Barr
Joseph Bender
Andrew Bloom
Elizabeth Boonin
Caroline Bruckner
Beatriz Castaneda
Sam Cohen
Kendra Cooks
Omeed Firouzi
Christine Freeland
David Gannaway
Jared Goldberger
Steven Grieb
David Heywood
Manuela Markarian
Charles Markham
Anthony Massoud
Mark Matkovich
Sarah Narkiewicz
Annette Nellen
Adam Robbins
Brayan Rosa-Rodriguez
Lawrence Sannicandro
Peter Smith
Cory Steinmetz
Hussein Tarraf
Rolanda Watson
Thomas Wheadon
Nicholas Yannaci

IRS
John Lipold, IRSAC DFO
Paul Ferrell
Christine Kingston
Anna Millikan
Maritza Rabinowitz
Kendra Sermon-Whack
Brian Ward
Stanley Wiatros

Members of the Public
Rayna Alexander
Diana Erbsen
Daniel Welytok
Jason Crispin
Nina Lantz
Christina West
Danny Nguyen
Phyllis Jo Kubey
Makayla Boxell

[redacted]

From: Brendan Sullivan <bsullivan@capitolcounsel.com>
Sent: Thursday, July 2, 2026 12:18 PM
To: *Public_Liaison
Subject: [EXT] IRSAC July Public Meeting Written Comment Submission
Attachments: Capitol Counsel_Graegin Loans and IRS Policy (IRSAC Submission)_FINAL.pdf

To whom it may concern:

Please find attached written comments for consideration by the Internal Revenue Service Advisory Council (IRSAC) at its public meeting on Wednesday, July 15, 2026.

Sincerely,
Brendan Sullivan

Brendan Sullivan
Capitol Counsel, LLC
700 13th Street NW | Floor 2
Washington, DC 20005
bsullivan@capitolcounsel.com

CAPITOL COUNSEL, LLC

700 13TH STREET NW | 2ND FLOOR
WASHINGTON, DC 20005
202.861.3200

July 2, 2026

SUBMITTED VIA EMAIL TO publicliaison@irs.gov

Internal Revenue Service Advisory Council (IRSAC)
c/o Internal Revenue Service
1111 Constitution Ave. NW Washington, DC 20224

RE: Submission by Capitol Counsel LLC on Behalf of Client regarding IRS Treatment of Taxable Estates and Trusts with Closely-Held Business Interests

Overview

Despite the change in Administration, the IRS clings to Biden-era activism in its examination of estates that have a measure of overall liquidity, but also illiquid trusts, and make use of Graegin loans. The IRS applies an overly narrow and technical application of rules that is prejudiced against provisions of federal estate tax law meant to protect illiquid estates and trusts from fire sales of assets – *particularly during the COVID-19 pandemic, a period of enormous economic uncertainty for closely-held commercial real estate businesses*. IRS enforcement priorities should align with a Treasury policy under the current Administration that no longer elevates Graegin loans, based on the Department's 2025-26 Priority Guidance Plan.

Our Client

Our client is the estate of a decedent who passed away in 2019. Estate taxes on the assets in the client's Trust came due in 2020. The vast majority of the Trust was comprised of illiquid assets, consisting of fractional or minority interests in closely-held real estate, including shopping centers, retail buildings, apartment complexes, office buildings, warehouses, and vacant land.

The value of these illiquid assets was also greatly depressed during the COVID-19 pandemic that brought in-person commerce to a virtual standstill, shuttering most commercial shopping centers and pausing most real estate transactions. The COVID-19 pandemic's severe adverse effects on the global economy exacerbated the Trust's illiquidity issues.

Impact of the Pandemic on Commercial and Residential Real Estate Holdings

Globally, commercial property investment plummeted 57 percent in the second quarter of 2020 according to the World Property Journal. Sales of commercial properties including retail and office spaces declined a substantial 79 percent by May 2020, compared to a year earlier, according to the National Association of Realtors. Lockdowns and social distancing led to greatly decreased foot traffic and occupancy across retail and office spaces. The shift to remote or hybrid work models created significant uncertainty around the future demand for office space, with many companies downsizing their office occupancy. The retail sector also faced significant financial challenges,

with many brick-and-mortar stores struggling to compete and even facing closures due to the pandemic as e-commerce activity surged.

In June 2020, while shoppers turned instead to online commerce, there was no way to know how long the pandemic would last and what would be the long-term financial impact on retail and office real estate. Under these deeply disruptive, once-in-a-century pandemic conditions, commercial real estate had an extremely limited market, if any. Sales of real estate assets under these market conditions may not have generated buyers, even at fire sale prices.

Additional Facts

Therefore, based on the estate trustees' analysis of risk and future market conditions made over the second quarter of 2020, the Trust first elected to defer its federal estate tax liability under IRC Sec. 6166 to be paid in 10 equal annual installments commencing in 2025. The Trust then secured two loans from a trust for the benefit of another family member to pay federal and state estate tax liability, respectively.

Because all the reasonably anticipated cash flow from the Trust was expected to be needed to make the 10 scheduled installment payments under Sec. 6166, the loans were structured as a balloon payment of principal and accrued interest (compounded annually) due by 2035. A third party financial advisory firm determined the fair market interest rate used on the promissory note. The note provided fixed and ascertainable payments through the maturity date. Importantly, the creditor trust has different beneficiaries than the client's Trust, so full repayment is required. Also important, the lending trust has been recognizing and paying annual income tax attributable to interest accruing on the loan under the imputed interest rules. Thus, the fisc is not affected.

The Trustees exercised prudent business judgment in incurring these two loans to pay the estate tax. Courts regularly grant fiduciaries deference in business judgment unless they acted other than in the best interests of the estate. Also, courts do not generally "second guess the judgments of a fiduciary not shown to have acted other than in the best interests of the estate" (*Estate of Sturgis*).

Key Arguments and Case Law

These key provisions of federal estate tax law – deferring estate tax under IRC Sec. 6166 and taking a third-party loan with interest deductible as an administrative expense of the estate (a so-called Graegin loan) under IRC Sec. 2053 – were intended to prevent forced sales of illiquid assets. This conclusion is backed by case law, such as:

- Section 2053 "do[es] not require that an estate totally deplete its liquid assets before an interest expense can be considered necessary." *Estate of Thompson.*

- "Expenses incurred to prevent financial loss to an estate resulting from forced sales of its assets in order to pay estate taxes are deductible administration expenses." *Estate of Graegin.*

- Additional case law supports the interest expense deduction:

- *Estate of Sturgis* (explaining that where there is a shortfall between estate tax liabilities and available liquid funds, the loan was necessary).

- *Keller* (preservation of liquidity to pay federal estate taxes and other debts and obligations was actual and necessary).

The two loans were structured in a way that best positions the Trust to timely repay the loans while also not requiring sudden and financially-forced sales of business assets.

The Position of IRS

However, the IRS asserts that our client's estate had sufficient liquidity to pay all estate tax, including the estate tax attributable to the Trust's illiquid assets, which the Estate disputes. The IRS ignores the fact that the Trust's assets were independently subject to estate tax, the Trust was required to provide the estate with the funds for the estate tax, and the Trust was required to borrow those funds because it did not have liquidity.

The IRS also asserts that the debtor Trust and the creditor trust both have the same trustees, and therefore, the loans are not bona fide debt. This assertion ignores the fundamental legal reality that the trustees owe separate and independent fiduciary obligations to each trust and the beneficiaries of those trusts (who are not the same individuals), and must act independently to place each trust in the best financial position. Therefore, the trustees cannot make the Trust whole by subjecting the creditor trust to losses from non-repayment without violating their fiduciary obligations.

The IRS denied the ability of the estate to deduct interest expense on the two loans *and* assessed significant accuracy-related penalties under IRC Sec. 6662 for failure to pay the full estate tax owed.

The IRS' prosecution of federal estate tax rules in this instance flies against fairness for investors in commercial property as well as plain common sense.

- The Trust clearly lacked the liquidity to pay its share of the estate tax and was not required to sell its illiquid assets at fire sale prices during the pandemic, even if it could, to raise funds to pay its share of the estate tax.

- Activist examiners at IRS under President Biden's Administration interpreted the rules in a narrow, technical way, to cordon off past precedents cited above that would otherwise allow estates similarly situated to the Trust to seek relief under Sec. 6166 and Sec. 2053 of the tax code. The result is to prevent taxpayers like our client from avoiding a fire sale during one of the most uncertain economic periods in the last 50 years.

- Lawyers for the Trust even offered to concede part of the interest deduction on the loans to the Trust – to address the IRS contention that the interest rate determined was too high – but IRS dismissed the offer.

The IRS approach seems especially at odds with the evolving tax regulatory priorities enumerated in the Treasury Department's Priority Guidance Plans (PGP). President Biden's 2022-23 PGP listed as one among nearly a dozen estate tax regulatory projects, the priority of finalizing "regulations under §2053 regarding the deductibility of certain interest expenses and amounts paid under a personal guarantee, certain substantiation requirements, and the applicability of present value concepts in determining the amount deductible," which spans Graegin loans. Those §2053 regulations were never finalized, however. And President Trump's 2025-26 PGP, by stark contrast, makes no mention of §2053 guidance, let alone guidance for any other section under the estate tax – other than regulations under §2010 reflecting OBBBA's extension and enhancement of estate and gift tax exemptions. This omission is not an accident.

Conclusion

In taxpayer examinations, the IRS' prosecutorial treatment of commercial real estate businesses is unfair, unwarranted, and could further discourage investment in real estate in the future. The IRS should re-examine all cases involving Graegin loans with fresh eyes and consider compromise offers when warranted. The argument for IRS to course-correct on its approach to examinations and litigation of taxpayers is further strengthened by President Trump's Treasury Department removing Graegin loans (and §2053 generally) from its most recent Priority Guidance Plan.