



MINUTES

Internal Revenue Service Advisory Council Public Meeting

July 19, 2023, 3 p.m. ET

Meeting Called to Order: John Lipold, Designated Federal Officer

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

Turned Meeting Over to Chair: Martin Armstrong

- Extended overview of IRSAC
- Listing of five subgroups
- Today's public meeting will discuss issues proposed for inclusion in this year's public report

Subgroup Report-Outs – Issues presented:

Information Reporting, presented by Wendy Walker

1. Corrections of State Information on Information Returns Should be Included in the Combined Federal / State Filing (CF/SF)
- *IRSAC Voting – no objections to inclusion in this year's public report*

LB&I, presented by Subgroup Chair, Katrina Welch

1. Increase Use of Pre-Filing Agreements and Other Tax Certainty Programs (IRS Submitted Topic)
 2. Accelerate Issuance of Section 174 Guidance
 3. Timely Obtain EINs to Comply with the Corporate Transparency Act Requirements
 4. Accelerate Issuance of IRS Form 6166, Certificate of Residency
- *IRSAC Voting – no objections to inclusion in this year's public report*

SB/SE, presented by Subgroup Chair, Steve Klitzner

- No issues to report at this time

TEGE, presented by Subgroup Chair, Nancy Ruoff

1. Recommendations for Increasing the Tax Reporting Threshold for Slot Machine Jackpot Winnings
- *IRSAC Voting – no objections to inclusion in this year's public report*

W&I, presented by Alison Flores for Subgroup Chair, Phil Poirier

1. Modernizing the ITIN Process

- *IRSAC Voting – no objections to inclusion in this year’s public report*

Acknowledgements:

Written statements received of:

- Angela Divaris, dated April 26, 2023
- National Taxpayers Union, dated July 17, 2023
- Statements will be included as a part of the meeting minutes and public record for this meeting and will be uploaded in [facadatabase.gov](https://www.facadatabase.gov)

Meeting adjourned

IRSAC Public Meeting Attendees – July 19, 2023

IRSAC

Martin Armstrong, IRSAC Chair
Annette Nellen, IRSAC Vice Chair
Amanda Aguillard
Joseph Bender
Sharon Brown
Jeremiah Coder
Sam Cohen
Alison Flores
Christine Freeland
Aidan Hunt
John Kelshaw
Jodi Kessler
Mason Klinck
Steve Klitzner
Anthony Massoud
Susan Nakano
Charles Parr
Luis Parra
Seth Poloner
Jeffrey Porter
Dawn Rhea
Brayan Rosa-Rodriguez
Nancy Ruoff
Jon Schausten
Tara Sciscoe
Paul Sterbenz
Kathryn Tracy
Wendy Walker
Sean Wang
Katrina Welch
Brian Yacker

IRS

John Lipold, IRSAC DFO
Tanya Barbosa
Anna Brown
Stephanie Burch
Justin Curtis
Mary Erskine
Tekila Gray
Aphillia Hughes
Kayamma Lewis
Steven McIntyre
Shemeshua Roberts
Maria Salazar
Tanya Taylor
Brian Ward

Members of the Public

Melissa Adams
Rayna Alexander
Damian Brady
Jonathan Curry

Mary Kallewaard
Atticus Vernacchio

**Written Statements submitted to the IRS Advisory Council
for its July 19, 2023, Public Meeting**

Statement #1 – from Angela Divaris, dated April 26, 2023

Statement #2 – from the National Taxpayers Union, dated July 17, 2023

From: [Divaris, Angela](#)
To: [*Public Liaison](#)
Subject: [EXT] Comment for Advisory Committee
Date: Wednesday, April 26, 2023 2:27:10 PM
Attachments: [Comment IRS Advisory Committee \(1\).docx](#)

I would like to submit the attached letter for today's advisory committee meeting. Thanks you!

Angela Divaris, Esq.
Greater Boston Legal Services
Low Income Taxpayer Clinic
(617) 953-0645

April 26, 2023

Comment to IRS Advisory Committee: Please help restore immigrant filers' access to 2021 ARPA relief for children by recommending 2021 filing extension for households with delayed tax id numbers

There have been a number of requests made by [community groups](#) around the country, as well as [senators](#), [representatives](#), and [mayors](#) asking Treasury to authorize an extension of the 2021-filing deadline for immigrant households who were unable to secure Social Security numbers or apply for ITINs before the 2022 filing date, thereby allowing them to claim pandemic relief for their children who hold social security numbers. The [Commissioner has the authority](#) to extend filing dates in the event of an emergency and it would be appropriate to exercise on behalf of otherwise qualifying children in mixed status households who can no longer access relief under the American Rescue Plan Act (ARPA). We respectfully request that Treasury address the plight of these families especially in light of the imminent expiration of the COVID emergency declaration.

As practitioners in the Low Income Taxpayer Clinic of Greater Boston Legal Services, we are aware of too many otherwise eligible U.S. citizen children who can no longer access life-changing ARPA funds because of the timing of their parents' taxpayer identification numbers. Some were experiencing Social Security Administration delays wholly beyond their control in issuing SSNs, others were unable to obtain the necessary specialized assistance to apply for ITINs. The 2015 PATH Act currently preventing only these families from retroactively filing for refunds frustrates the ameliorative intent of ARPA and impedes the equitable administration of COVID relief to our poorest families.

The IRS engaged in innovative outreach and accelerated delivery tools to reach the neediest families during the 2021 tax year. The immigrant households who were left behind, however, were not eligible for any online filing tools or advance payments and, tragically, they were largely unaware that the 2022 tax filing date was in effect a looming deadline for ARPA relief for their kids. It was a monumental task to reach non-filers during a pandemic, and the IRS as well as the community groups working with immigrants did the best they could in one tax season. Our best, though, was not enough for these kids. Treasury had zip code level analysis of numbers of children who were likely to be left out, and we believe that those numbers include many children in mixed status households who never received the help we promised them.

The children in these families still need our aid and need it now before it is too late. Their parents, often the hardest hit during the pandemic and dubbed "essential workers," deserve a meaningful opportunity to claim pandemic relief for their children. This can only be accomplished with appropriate action from those charged to administer ARPA relief. Please consider recommending a one-time extension based on the COVID emergency for a historic one-time benefit to kids.

Thank you for reading this letter.

Respectfully,

Angela Divaris, Esq.
Greater Boston Legal Services
Low Income Taxpayer Clinic
Adivaris@gbls.org
617-953-0645

From: [Pete Sepp](#)
To: [*Public Liaison](#)
Subject: [EXT] Written Statement - July 19 IRSAC Public Meeting
Date: Monday, July 17, 2023 7:01:23 PM
Attachments: [L23 07-17 NTU Recommendations to the IRS Advisory Council \(IRSAC\).pdf](#)

Greetings Ms. Brown:

Attached please find comments from the National Taxpayers Union in advance of the IRSAC public meeting (noticed in FR Doc. 2023-13507) to be held on Wednesday, July 19, at 3:00 PM. I am hoping that one of my staff may be able to listen in on the virtual meeting as well, so we would be most grateful for a link or conference call number in order to do so.

Thank you, and I am at your service if you have any questions.

Appreciatively,

Pete

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122 C Street N.W., Suite 700, Washington, DC 20001

July 17, 2023

Ms. Anna Brown
Office of National Public Liaison
Internal Revenue Service
PublicLiaison@irs.gov

RE: Request for comments in advance of a public meeting of the Internal Revenue Service Advisory Council (IRSAC) to be held on Wednesday, July 19, 2023, FR Doc. 2023-13507

On behalf of National Taxpayers Union (NTU), the nation's oldest taxpayer advocacy organization, we write with comments on the Internal Revenue Service (IRS) notice of a public hearing of the IRSAC to discuss topics that may be recommended for inclusion in a future report of the Council.

I. Introduction

NTU is the nation's oldest taxpayer advocacy organization, founded in 1969 to achieve favorable policy outcomes for taxpayers with Congress and the executive branch. Our experts and advocates engage federal policymakers on important questions surrounding tax administration, taxpayer rights, and IRS services.

NTU has a history of advocacy for taxpayer rights legislation, starting with the organization of a coalition for the 1988 Technical and Miscellaneous Revenue Act. We also played a role in the National Commission on Restructuring the IRS in 1996 and 1997, helping to shape IRS policies and the creation of 26 U.S.C. § 6751. Our efforts contributed to the 1998 IRS Restructuring and Reform Act. In more recent times, NTU provided technical assistance to Congress for the Taxpayer First Act of 2019 and collaborated with various government stakeholders to ensure its implementation. Earlier this year, NTU also testified before the U.S. Senate Finance Committee on the Service's Strategic Operating Plan, discussing the Inflation Reduction Act's allocation of resources.

NTU values the role and contributions that have been made by IRSAC to improve IRS operations and to recommend administrative and policy changes to improve taxpayer service, compliance, and tax administration. To that end, we write to suggest some recommendations for your forthcoming meeting and report. We also encourage the IRS to do more to adopt IRSAC's recommendations.

II. Recommendations

The Internal Revenue Service (IRS) needs oversight and guidance to fully comply with the Paperwork Reduction Act.

The IRS, along with every other government entity that issues forms for the public, is required under the Paperwork Reduction Act to estimate how long each respondent will take to fill it out, as well as any potential out-of-pocket expenses incurred as a result. Forms pertaining to various sections of law are gathered together in "information collections" and are available for review on a website run by the Office of Information and Regulatory Affairs (OIRA).¹

A review of this database by NTU's sister organization, National Taxpayers Union Foundation (NTUF), earlier this year found that there were 10,180 different information collections across all the various federal departments, agencies, and commissions. While the IRS's various forms comprise less than five percent of this total, they imposed 6.6 billion hours in time spent laboring over forms. This represents nearly two-thirds of the 10.5-billion-hour paperwork burden imposed across all government agencies. IRS's forms also imposed \$104.3 billion in out-of-pocket expenses on software, professional preparation services, or other filing expenses. This was also nearly two-thirds of the government-wide total of \$158.3 billion.²

However, the IRS has not been able to complete cost burden calculations for all its forms. In our review, NTUF found that out of the 465 information collections in the IRS's inventory, just 18 include an associated out-of-pocket cost estimate. For some of the 447 information collections showing no expenses, the cost is undoubtedly minimal, especially in cases where there is extraordinarily little time involved with filling out the form. For example, W-2 forms are quick to fill out.

But there are many cases where the IRS has been unable to complete an out-of-pocket cost estimate. For example, tax preparers have labeled Form 1099-B the worst tax form because of filing delays it causes. The form requires brokerage firms to report taxpayers' gains or losses for stocks, bonds, and other securities. The IRS estimates that the form imposes 674 million in burden hours -- the third highest time burden across the Internal Revenue Code. OIRA's information review reports zero dollars in associated expenses, even though the form requires information such as a description of the item sold and the date and value of the item when it was acquired and sold. We understand that brokers also must frequently revise the information on the form. A review of the Supporting Statement explains how a 674-million-hour burden can cost zero dollars as follows:

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this

¹ <https://www.reginfo.gov/public/do/PRAMain>

² <https://www.ntu.org/foundation/detail/65-billion-hours-260-billion-what-tax-complexity-costs-for-americans>

methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.³

There are numerous Supporting Statements that use the same stock language noted above. The IRS conducts surveys of taxpayers to gather data on time burdens and expenses. Collections are also posted for public comment in the Federal Register. The IRS should also explore ways to raise awareness of these surveys and to improve its compliance with the Paperwork Reduction Act. IRS officials and researchers participate in many symposiums with scholars and think tanks that focus on ways to improve tax compliance. The missing out-of-pocket expenses should be included in those discussions. This information is also important for lawmakers to identify particularly problematic areas of the tax code where the associated financial and time burdens are excessive.

A simple transparency fix could help distinguish between IRS forms that do not impose an out-of-pocket expense versus forms where the IRS has not completed a calculation.

As noted above, there are many IRS information collections showing no associated out-of-pocket expense and many of these include language in their Supporting Statements that the IRS is currently revising its methodology for calculating these costs.

In the Supporting Statement for the W-2 information collection, the IRS writes, "There were no estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services provided to respondents."⁴

One straightforward way to improve transparency would be to separate information collections that have no actual cost from those where the cost is indeterminate. This way, users of the data would not have to wade through successive pages and attached Supporting Statements to find that out. The information on OIRA's paperwork burden database should specify that a cost is indeterminate instead of listing it as \$0.

In the event that Congress does not provide relief from the American Rescue Plan Act's (ARPA) 1099-K threshold, the Internal Revenue Service should be urged to consider a second pause.

The American Rescue Plan Act of 2021 (ARPA) requires third-party payment vendors report 1099-K forms for individuals with gross transactions of at least \$600, much lower than the previous threshold of 200 transactions and \$20,000. The previous threshold provided a predictable safe harbor for people who sell online or only make occasional and primarily non-taxable sales. The new level was to have gone in effect on January 1, 2023, but on December 23 the IRS announced that it would delay implementing the new requirements, citing the need to smooth the transition and ensure clarity for taxpayers, tax professionals, and businesses.⁵

³ https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202007-1545-008

⁴ https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202002-1545-002

⁵ <https://www.ntu.org/foundation/detail/taxpayers-arent-ready-for-the-coming-1099-k-deluge-and-the-irs-may-not-be-either>

All the concerns that led to this first pause remain unresolved. Taxpayers could easily exceed the new threshold by holding a garage sale, selling their used college textbooks online, or by using smartphone apps to transfer money to family and friends. The IRS has issued initial guidance, but it leaves a lot of questions unresolved. IRS Commissioner Daniel L. Werfel testified to Congress on April 19, 2023, that "a change in the threshold would be easier to administer."⁶

Moreover, the IRS could be vastly underestimating the number of 1099-K forms it expects to receive. There is no indication that the paperwork burden imposed by ARPA's revised thresholds on filers, as distinct from the burden on the third-party transaction vendors, are accounted for in Supporting Statements for either the 1099-K information collection nor the U.S. Individual Income Tax Return information collection.⁷

The Advisory Council should monitor this situation carefully and urge the IRS to delay implementation again to restore the safe harbor protections afforded under the previous third-party reporting threshold, unless there is a dramatic change in the administrative concerns that have been raised.

IRSAC's expertise on safe harbor and global settlement initiatives is vital now.

Given the outstanding talent of its members, IRSAC has historically proven itself up to the task of providing detailed guidance on technical areas of dispute between the government and taxpayers that will be to the benefit of everyone. Just one example was in IRSAC's general annual report more than 10 years ago. It discussed approaches to resolving what had become a massive burden for the public and private sectors due to the issuance of IRS Notice 2004-41 (pertaining to conservation easement tax deductions). This area of tax law, though amply supported by acts of Congress meant to encourage tax relief for historic preservation, became a high-profile target for IRS enforcement actions.

As IRSAC's report noted, numerous members of the practitioner community had expressed concern that the Service's strategy and tactics toward this part of the tax law were unproductive for both the government (added caseloads) and tax filers (uncertainty, legal costs). The Service had effectively imposed a "zero outcome" audit policy, asserting that mostly every deduction that fell under examination was denied. Tax agency officials also appeared to be harassing organizations accepting the donations. "The result," IRSAC reported, "is that donee organizations have discontinued accepting donations, for fear of promoter penalties; at the same time, donors are understandably reluctant to donate to an organization that is under active IRS investigation." At the time IRSAC wisely observed that "the current IRS audit effort strains the agency's resources and may fail to distinguish between a legitimate deduction authorized by statute and an abusive tax shelter."

But instead of merely repeating the community's concern, IRSAC developed a set of recommendations in this area that remain valid and relevant to Section 170(h) of the Tax Code today. As we summarized in 2018, those recommendations are:

⁶ <https://miller.house.gov/media/press-releases/irs-commissioner-admits-1099-k-threshold-should-change-back-20000>

⁷ <https://www.ntu.org/foundation/detail/taxpayers-arent-ready-for-the-coming-1099-k-deluge-and-the-irs-may-not-be-either>

- Allow taxpayers to revise appraisals found to have technical deficiencies during an audit;
- Announce an end to the Service’s position of zero value for easements;
- Construct and publicize a safe harbor;
- Allow taxpayers to ask for reconsiderations of audits based on these three circumstances;
- Use certified outside appraisers (as opposed to IRS employees) in most cases challenging values of easements; and
- Constitute an advisory panel to create a body of nonbinding but formative expert guidance on how appraised value disputes can be avoided or resolved. This policy was successfully evaluated in another context: the IRS’s Art Advisory Panel, which thoughtfully informs the development of valuations for donations of artworks.⁸

Advice such as this could easily apply to several situations in which the IRS finds itself today, including not only the massive backlog of partnership conservation easement cases in process but the failure to provide adequate guidance on issues ranging from “captive” insurance products to Superfund excise tax increases.

IRSAC’s expertise could likewise be valuable in the context of Global Settlement Initiatives. As our testimony to the Senate Finance Committee from May 2023 mentioned:

Another problem resolution method the Service should embrace more fully, where facts and circumstances of many taxpayers are indeed in closer alignment, is the settlement initiative. Pioneered over 40 years ago under then-IRS Commissioner Roscoe Egger, this concept allows the IRS to offer limited-time legal settlements to taxpayers in cases with no litigation hazard and where there are no precedents to be set or compliance problems in the absence of a trial. Depending on the issue at hand, a taxpayer might be able to keep a fraction of their deduction or credit in question or could be limited only to their “cash outlays” in claiming a tax benefit. In the years that followed, settlement initiatives were successful in clearing numerous cases from crowded court dockets on matters such as the amortization of intangibles, a targeted jobs tax credit, and perhaps most successfully, in 2008, the lease-in/lease-out and sale-in/lease-out (LILO/SILO) controversy. Both the government and taxpayers benefited from reduced time and litigation costs, while the Treasury recovered tens of billions in revenues that might otherwise have entailed considerable effort and risk to recover.⁹

IRSAC’s always-commendable focus on the practical could be helpful in demonstrating to the Service how well-drafted settlement initiatives can be in the best interests of all stakeholders.

Compliance is the goal, not “enforcement.”

The IRS’s funding was increased by \$78.9 billion under the Inflation Reduction Act (IRA, P.L.-117-169), with \$45.6 billion provided for law enforcement, \$25.3 billion provided for operations support, \$4.8

⁸ For further detail, see: <https://www.ntu.org/publications/page/shortsighted-how-the-irss-campaign-against-conservation-easement-deductions-threatens-taxpayers-and-the-environment>.

⁹ For further detail, see: <https://www.ntu.org/publications/detail/ntu-testimony-to-senate-finance-hearing-on-irs-budget-and-oversight-compliance-not-enforcement-should-be-the-goal>.

billion provided for business systems modernization program, and \$3.2 billion provided for taxpayer services.¹⁰ The IRA’s funding heavily focuses on enforcement versus taxpayer services. The lower amount for “taxpayer services” includes “filing and account services, pre filing assistance, and education.”¹¹ The higher amount for “enforcement” includes “activities . . . to determine and collected owed taxes as well as legal and litigation support.”¹²

This division between “enforcement” and “taxpayer services” fails to account that both are interrelated when it comes to compliance. National Taxpayers Union’s statement to the Committee of Finance explained “pre-filing assistance and education can forestall numerous situations that could result in noncompliance.”¹³ Early action by the IRS to address taxpayers concerns at the prefiling stage decreases the need for future litigation due to improperly filed taxes.

The IRS’s focus should focus on encouraging initial compliance, not retroactively applying an enforcement-heavy approach. The latter approach is more expensive for the IRS and, ultimately, increases taxpayer demand for taxpayer services at the front-end. Moreover, the Advisory Council should monitor the IRS’s litigation measures and encourage a front-heavy approach that prioritizes taxpayer services.

We appreciate any opportunity to meet with you and answer any questions. Thank you for your consideration.

Yours Very Truly,

National Taxpayers Union

¹⁰ IF12394 (congress.gov).

¹¹ Ibid.

¹² https://www.ntu.org/publications/detail/compliance-should-be-irs-goal-not-enforcement#ftnt_ref10 (internal quotation marks omitted).

¹³ Ibid.