

**INTERNAL REVENUE SERVICE  
ADVISORY COUNCIL**

**GENERAL REPORT**

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**NOVEMBER 19, 2008**

**GENERAL REPORT  
OF THE  
INTERNAL REVENUE SERVICE ADVISORY COUNCIL**

The primary purpose of the Internal Revenue Service Advisory Council (hereafter “IRSAC or “the Council”) is to provide an organized public forum for discussion of relevant tax administration issues between Internal Revenue Service (hereafter “IRS”) officials and representatives of the public. The Council is a successor to the Commissioner’s Advisory Group established in 1953.

IRSAC was originally organized into three subgroups corresponding to three of the four IRS operating divisions: the Large & Mid-Size Business Subgroup (hereafter “LMSB Subgroup”), the Small Business/Self-Employed Subgroup (hereafter “SB/SE Subgroup”), and the Wage & Investment Subgroup (hereafter “W&I Subgroup”). The Tax Exempt and Government Entities division works with a separate advisory committee.

The Tax Gap Analysis Subgroup (hereafter “Tax Gap Subgroup”) was requested by the Director of IRS Research, Analysis, and Statistics in response to a 2006 recommendation by the Treasury Inspector General for Tax Administration. This fourth subgroup, composed primarily of academicians, was created to consult with IRS Research regarding measurement of the tax gap.

A distinct characteristic of IRSAC is the fact that it brings together dedicated individuals from diverse backgrounds in one unified body. Our members are accountants, lawyers, enrolled agents, payroll professionals, and members of academia. They represent large and small firms from a wide range of urban and rural settings in all regions of the United States. This diversity ensures that issues are considered from varying viewpoints and perspectives. We believe this collective body of experts can

assist the IRS in fulfilling their mission to “Provide America’s taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.”

We acknowledge the many challenges that the IRS has experienced in the past year such as the administration of processing stimulus checks to an estimated 130 million Americans, as well as providing assistance to victims of hurricanes Gustav and Ike. Knowing the demands of the IRS executives and operating division representatives, we sincerely appreciate the time and effort extended to the Council during the year.

Issues selected for inclusion in the annual report represent those to which IRSAC members have devoted particular attention during four working sessions and numerous conference calls throughout the year. Many are the result of specific requests for assistance by IRS personnel. Others are the result of Council member concerns. Nearly all involve extensive research efforts.

The recent economic situation has also been a focus of concern for the IRS, Congress, Council members, as well as all Americans. Commissioner Shulman has asked for our input on how the IRS can be proactive in assisting taxpayers during the current economic downturn with consideration to the IRS’ legal and regulatory authority.

The Council recommends that the IRS focus their efforts in three areas; communication, relief, and assistance. First, IRS should establish avenues of communication that will allow for a quick response to issues faced by American taxpayers as a result of the downturn. Second, IRS should explore and communicate all avenues of relief that may be available to taxpayers who may be negatively affected by

the downtown. Finally, the IRS should emphasize assistance that is available to taxpayers in need.

Specific areas for consideration relating to communication are:

1. Use the IRS Web site as a tool for timely communication on current economic issues affecting taxpayers. Historically, the IRS has responded to current events in a surprisingly short timeframe, but we think the IRS should consider establishing a dedicated URL, such as [www.irs.gov/whatif](http://www.irs.gov/whatif), to address current issues with timely and pertinent information. Based on the fact that the IRS has received almost 2 billion “hits” on their Web site in the first three quarters of 2008 (compared to 1.3 billion in all of 2007), and continues to break records on the number of visits each year, this seems to be a optimum venue for getting information to the taxpayer. Marketing efforts by the IRS and federal agencies could promote this Web site as a source for information regarding current topics such as: “What if I file bankruptcy?”, “What if I lose my job?”, “What if my home is destroyed by a hurricane?”, “What if my home is foreclosed?”, or “What is cancellation of debt income?” This section of [www.irs.gov](http://www.irs.gov) could also address other questions, such as “What if I go back to college?” or “What if I take money out of my retirement account before age 59 1/2?”
2. We recommend that this section of the Web site also serve as a portal to answer common and important taxation questions, as well as provide links to other government agencies that may be able to provide assistance. The IRS Web site currently offers valuable assistance for business owners that could be

used as a guideline for taxpayers (who do not file as self-employed) who are experiencing economic difficulties.

3. Educate taxpayers generally on all relief provisions in the Code without necessarily advocating their use. Examples of such relief provisions include the bankruptcy tax provisions, rules regarding cancellation of debt and foreclosure relief, net operating loss carry backs, amended returns, and losses on worthless stock.

Some consideration could be made for relief in the areas of:

1. Establishing a program through EFTPS to refund penalties paid for the underpayment of estimated tax payments from prior years, but only if the taxpayer uses EFTPS for the current year's estimated tax payments. This is similar to the program that existed for paying Form 941 tax payments through EFTPS.
2. Allowing the waiver of prior-assessed penalty paid if a taxpayer fully pays off a current installment agreement.
3. Promoting the Advance Earned Income Tax Credit as a way to increase take home pay for eligible low income workers. This advance payment of the Earned Income Credit can mean as much as \$1,750 to a qualified family experiencing hardship.
4. Allowing refunds to be deposited into health savings accounts.
5. Educating employers on various ways to give an employee a raise through employee benefits, such as health savings accounts, telecommuting, or flexible work weeks.

6. Promoting savings by allowing taxpayers to allocate their income tax refund to U.S. Savings Bonds. The IRS can assist both individual taxpayers, particularly lower-income taxpayers, and the economy in general by allowing direct purchase of savings bonds. The IRS should include an option on Form 1040, *U.S. Individual Tax Return*, using the relatively new Form 8888, *Direct Deposit of Refund to More than One Account*, to allow taxpayers to use the split refund process to purchase savings bonds. The IRS should work with Treasury to develop an automated transfer data process to facilitate Treasury's portion of the purchase effort.

The IRS could provide assistance by:

1. Raising or eliminating the maximum income level on the Free File Program, allowing more taxpayers to take advantage of this program.
2. Allowing Volunteer Income Tax Assistance (VITA) sites to prepare Schedules C & E returns for low income taxpayers, conditioned on appropriate training and certification. Many elderly taxpayers with limited income may be working as independent contractors or leasing rooms for additional income, which creates a more complicated tax return, making them ineligible to use a VITA site for assistance.
3. Fully implementing the refund process through Customer Account Data Engine (CADE). Not all refunds are currently processed through CADE, which significantly expedites the refund process.
4. Directing the IRS to position itself (institutionally) as a tool to promote economic development and establish programs to educate taxpayers on the impact of taxes

on a new business. The IRS should establish itself as the best source for information for individuals and businesses through resources that will support taxpayers and tax preparers. The IRS should include this as a goal in the 2010-2015 strategic plan.

The IRSAC subgroups worked throughout the year on specific issues associated with each operating division, but the Council also worked on an issue that we felt was common to the group as a whole: the identification of paid preparers.

Paid preparers annually assist over 80 million taxpayers to meet their federal income tax obligation. The IRS does not have a single database or other information source to identify the paid preparer community. The IRS should develop such a system and conduct research on how to use it effectively. It is expected that these measures should lead to more accurately prepared tax returns and would enable the IRS to provide focused resources for outreach and education efforts.

Paid preparers include both licensed and unlicensed persons. Licensed persons prepare tax returns and also are authorized to practice before the IRS. These include state licensed professionals such as lawyers and certified public accountants, and federally licensed enrolled agents. Unlicensed persons can only prepare tax returns and do not represent taxpayers before the IRS.

There have been recent government and private industry studies that have concluded that part of the “tax gap” is the result of paid preparer error. For example, a current Treasury Inspector General for Tax Administration report issued on September 3, 2008 [2008-40-171] found 61 percent of a limited sample of tax returns prepared by unlicensed persons contained errors resulting in a significant net understatement of tax.

Television stations and reporters across the nation often note similar experiences and report them in news stories each tax season.

Only licensed preparers are regulated by Circular 230, *Regulations Governing the Practice of Attorneys, Certified Public Accountants, Enrolled Agents, Enrolled Actuaries, Enrolled Retirement Plan Agents, and Appraisers before the Internal Revenue Service.*

Some commentators have proposed licensing, training and testing for all paid preparers.

There are also various proposals that have been introduced in Congress to license and register the paid preparer community. Licensing is beyond the scope of this recommendation.

**Recommendations:**

1. The IRS should develop a system to identify all paid preparers through the use of a unique identification number.
2. The IRS should conduct research to effectuate a better process to monitor and control paid preparers utilizing these unique identification numbers.

The members of IRSAC wish to express their appreciation to the IRS personnel for their time and commitment to the work of the Council over the course of the year. I speak for all members of the Council in saying that it has been an honor and privilege to serve in our capacity on the Council and respectfully submit our report for 2008.