

2012 IRPAC Public Report Letter from the Chair

Dear Commissioner Shulman,

The Information Reporting Program Advisory Committee¹ (“IRPAC”) over the past 20 plus years, by working side-by-side with the IRS, has been a vital aid in advancing the cause of effective tax administration. I believe that this working relationship has been a benefit to both the IRS and the reporting community.

Within the past few years, legislative action has increased the focus on the role of information reporting in closing the tax gap and has enhanced the effort to bring all taxpayers into compliance with both existing requirements and new complex tax laws. In such an environment the roles of the Service and IRPAC become even more critical. Given this new legislative action, the IRPAC Committee has worked ever closer with IRS representatives during the writing process of these new regulations along with its traditional advisory role. To effectively work through this legislative action and other issues, we continue to organize IRPAC into four subgroups- Emerging Compliance Issues, Burden Reduction, Employee Benefits & Payroll, and International Reporting & Withholding. The key focus areas of the subgroups for 2012 are described below, and we thank the Service for its continuing efforts to address our concerns in these areas:

1. Employee Benefit & Payroll (Rebecca Harshberger, Chair): This group focused on the reporting implications of health care reform (with immediate consideration of Shared Employer Responsibility under ACA). The group has also worked closely with TEGE regarding reporting concerns raised by the employee benefit community. Additionally, a recommendation has been made by the group regarding Third Party Sick Pay reporting that is now being reported to the Social Security Administration.

¹ IRPAC was established in 1991 in response to an administrative recommendation in the final Conference Report of the Omnibus Budget Reconciliation Act of 1989. Since its inception, IRPAC has worked closely with the IRS to provide recommendations on a wide range of issues intended to improve the information reporting program and achieve fairness to taxpayers. IRPAC members are drawn from and represent a broad sample of the payer community, including major professional and trade associations, colleges, and universities and state taxing agencies.

2. Burden Reduction (Kathryn Tracy, Chair): This group focused on the proposed Regulations regarding the cost basis reporting for debt instruments that are consistent with existing requirements, practices and capabilities of providing information to taxpayers. The group also made recommendations regarding the use of a *de minimis* threshold for corrections to Forms 1099. A letter from the group regarding this issue is included in the report. The group has also made recommendations regarding the clarification and use of Forms 1097-BTC, Bond Tax Credit and Form 2678, Employer/Payer Appointment of Agent.
3. Emerging Compliance Issues (Susan Boltacz, Chair): This group has focused on the Form 1099-K credit card and third party network reporting requirements. As was stated in last year's report IRPAC recommends that the IRS provide clear guidance to further address many open questions regarding IRC §6050W. The group continued to work with the IRS regarding the correct reporting and withholding for U.S. source payments for freight, shipping and other transportation expenses under IRC §§1441 and §1442. We appreciate your taking our concerns into consideration and issuing much needed guidance in these two areas.
4. International Reporting & Withholding (Donald Morris, Chair): The group has continued to work closely with the IRS and Treasury representatives regarding the implementation of the Foreign Account Tax Compliance Act ("FATCA") and on Chapter 3 withholding. After much discussion throughout the year with all the participants, the group has made a series of nine recommendations relating to the Act.

Although a great deal has been accomplished throughout the past year, much work remains. The Committee urges you to continue to focus on our 2012-2013 Guidance Plan comment letter (see Appendix A), where we emphasized that (1) IRPAC plays a critical role in implementing information reporting and should be consulted early in the regulation process, (2) any changes to information reporting systems and returns takes considerable time and resources, this is especially true given the recent legislative action, and (3) the addition of a *de minimis* dollar threshold with respect to the correction of information returns would significantly reduce taxpayer and Service burden alike and have potentially no effect upon the tax due by the taxpayer.

IRPAC also supports the efforts of the Office of Service Wide Penalties ("OPS") in its review of the Service's administration of civil penalties. The assessment of

civil penalties and the administrative adjudication of civil penalty disputes by the IRS are of significant concern to IRPAC. Two particular areas of concern to IRPA are (1) the breakdown of communication between the IRS and taxpayer following the issuance of notices and (2) the belief among IRPAC members that reasonable cause assistant (“RCA”) program used by the IRS to analyze penalty abatement requests too frequently results in the erroneous denial of meritorious claims for reasonable cause relief. IRPAC recommends that the IRS consider creative approaches that allow for better monitoring of communications between IRS and taxpayers during this process and additionally IRPAC encourages the IRS to consider modifications to the RCA program to better ensure that meritorious claims for reasonable cause relief are granted.

Lastly, IRPAC will continue to offer our support to the “real-time” project and we look forward to continuing our communication with the IRS and the SSA concerning this vision. During our discussion with the IRS concerning this subject our Committee made various suggestions, one specifically, we believe would improve the effectiveness of the “real-time” reporting and reduce burden for everyone is the inclusion of a *de minimis* threshold dollar value for Form 1099 corrections. This suggestion was, likewise, made in our comments regarding the Guidance Plan above. We believe this has significant merit. We look forward to working with you to overcome the challenges to create a more efficient reporting process for all concerned.

As my term on the IRPAC comes to an end, I believe that the Committee has been engaged in many significant issues to the IRS and the reporting community. The Committee has offered recommendations that will benefit all concerned. On behalf of IRPAC I wish to thank you and the Service and a special thank you to the Office of National Public Liaison for your continued recognition of the importance of IRPAC. Together our goal has been and will continue to be the fulfillment of IRPAC’s mission to reduce taxpayer burden and improve the administration of information reporting.

Respectfully Submitted,

Leonard Jacobs
2012 IRPAC Chair