

**INFORMATION REPORTING PROGRAM  
ADVISORY COMMITTEE**

**EMPLOYER INFORMATION REPORTING  
AND BURDEN REDUCTION  
SUBGROUP REPORT**

**ROBERT J. BIRCH  
LAURA LYNN BURKE  
ALAN M. ELLENBY  
ERNESTO S. CASTRO  
MARCIA L. MILLER  
EMILY Z. ROOK, SUBGROUP CHAIR**



## Employer Information Reporting and Burden Reduction

### A. Reporting by Insurance Companies and Applicable Large Employers under IRC §6055 and §6056

IRPAC would like to thank the IRS for adopting several of our prior year recommendations dealing with IRC §§ 6055 and 6056 during 2016 which include:

- The cross reference of electronic instructions for line 61 of Form 1040 to another document on the IRS website entitled Questions and Answers about Reporting Social Security Numbers to Your Health Insurance Company was completed in January 2016. (See pages 65 and 48 of the 2014 and 2015 Public Reports.)
- Proposed Treasury Regulations were published Aug. 2, 2016, for Information Reporting of Catastrophic Health Coverage and Other Issued Under IRC § 6055. Footnote 2 in the preamble to Proposed Regulations explains that “A filer of the information required under §1.6055-1 may receive an error message from the IRS indicating that a TIN and name provided on the return do not match IRS records. An error message is neither a 972CG, Notice of Proposed Penalty, nor a requirement that the filer must solicit a TIN in response to the error message.” (See page 50 of the 2015 IRPAC Public Report.)
- These same Proposed Regulations refined the solicitation requirements for proving that reasonable cause exists for missing TINs under Treas. Reg. § 301.6724-1. (See page 65 of the 2014 IRPAC Public Report.)
- A new webinar focused on correction of Forms 1095-B and Forms 1095-C was made available in May 2016. (See page 51 of the 2015 IRPAC Public Report.)

With a full year of reporting under these new requirements, IRPAC recommends the following:

#### Recommendations

1. Education about first year problems with the new ACA Information Returns (AIR) system should continue with active filer involvement designed to improve future years processing by identification of exact errors found by IRS on Forms 1095-B and Forms 1095-C. IRPAC recommends that IRS develop new webinars which share new and detailed information focused on the most common errors so that actions can be taken by filers to reduce errors in advance of filings for the 2016 tax year.
2. Taxpayers experienced high levels of confusion about aspects of the new Form 1095-B and Forms 1095-C when forms were distributed and often requested corrections when no correction was needed. Taxpayers were particularly confused about Social Security Numbers (SSNs) which had been truncated and date of birth reporting. IRPAC recommends that IRS add a Tax

## Employer Information Reporting and Burden Reduction

Tip to instructions advising taxpayers to not request correction of Form 1095-B and Form 1095-C with properly truncated SSNs or date of birth reporting properly missing.

3. IRPAC recommends that “good faith efforts” penalty relief for reporting of incorrect or incomplete information reported on returns be extended at least to 2016 Forms 1095-B and Forms 1095-C filed in 2017.
4. IRPAC recommends that an Applicable Large Employer (ALE) group member that undergoes a corporate transaction in a calendar year should be permitted to provide separate reporting to employees based on a change in group membership during the year. Alternatively, if the IRS will not provide a special exception to the current reporting rules requiring a single Form 1095-C be provided in this circumstance, it should provide clear guidance to large employers that such reporting is unacceptable via specific guidance in the instructions to Forms 1094-C and 1095-C as there is currently confusion among filers about this requirement.
5. IRPAC recommends that the IRS consider guidance specific to what constitutes “inconsequential” errors with respect to reporting under IRC §§ 6055 and 6056.

### Discussion

#### 1. More Education Needed About the New AIR System:

First year AIR reports with AIRTN500 errors only reported that a form contained an error. The error report did not identify the exact error which made it difficult for filers to locate and fix the exact problem. IRPAC commends the IRS for development of a new system designed to identify problems early in processing. Development of reports for the next processing year could be improved by active coordination with large filers who use the AIR reports to improve processing. IRPAC should also be actively involved in the review of error reports prior to actual use.

IRS developed new publications and over 20 webinars which discuss issues associated with this first year processing. Practitioners found the information and webinars very helpful but commented on the need to focus on new and timely concerns rather than repeating information covered numerous times before. For example, there were many references to the Application for TCC and other very basic and repetitive topics. Practitioners reported to IRPAC members that there was often little time available for IRS personnel to answer questions which were submitted during webinars.

The 2015 IRPAC Public Report recommended that webinars be developed “focused on the correction process and common errors noted in 2015 statements filed.” Discussions during 2016 stressed the need to share information about common errors

## Employer Information Reporting and Burden Reduction

so that filers and software companies would have sufficient lead time to make 2016 information filed in 2017 more reliable to IRS. Notice 2016-4 delayed the time for providing recipients until March 31, 2016 and delayed filing electronic information on Forms 1095-B and Forms 1095-C with the IRS until June 30, 2016. This delay was much needed and appreciated by software developers and filers. The delayed filing date had the impact of also delaying the time frame available to IRS for gathering statistics and sharing information with the public common errors in advance of the 2016 filing season. IRPAC continues to encourage added webinars on common errors be developed as soon as possible so that filers have sufficient lead time to take advantage of lessons learned with 2015 filings. Advance vetting of these future webinars on common errors with IRPAC is highly encouraged to make the webinars most productive.

### **2. Add a Tax Tip to instructions regarding Truncated TINs and Incomplete Date of Birth:**

Filers were allowed to truncate the SSNs of responsible individuals and covered individuals reported on Forms 1095-B and Forms 1095-C. First year experience of filers found letters and calls often asking that the full SSN be printed or the date of birth added. Filers reported these requests despite the fact that form instructions state that SSNs could be truncated and date of birth reporting was only required where SSN information is missing. Filers who provided a cover letter with Form 1095-B and Form 1095-C discussing anticipated frequently asked questions about the new forms or made anticipated frequently asked question information available on websites also reported high call volumes around these two issues.

### **3. Extend “good faith efforts” penalty relief for 2016 Forms 1095-B and Forms 1095-C filed in 2017:**

IRS announced in Treasury Decision 9660 that penalties for the 2015 year filings which contained incorrect or incomplete information would be evaluated under a “good faith efforts” standard. Penalties for future years are to be evaluated under a more rigorous “reasonable cause” standard which is explained in Treas. Reg. §301.6724-1. New proposed regulations were published on Aug. 2, 2016, which explain a newly designed process by which solicitations must be done in order to allow filers to demonstrate reasonable cause for missing or incorrect TINs. Comments on these proposed regulations are due 60 days after publication in the Federal Register. The time frame for these regulations to move from the proposed to final stage makes it unlikely that final regulations will be issued in 2016.

This IRPAC Public Report identified problems with AIR reports from processing year 2015 which make it very difficult for filers to identify and correct additional errors in time to take full advantage of the strengths of the AIR reports. Problems with the 2015 AIR reports support the need for expansion of the good faith standard to 2016 reporting on Forms 1095-B and Forms 1095-C. In light of the numerous TIN mismatch errors received by most filers in 2016 with respect to the 2015 Forms, the need for this

## Employer Information Reporting and Burden Reduction

additional good faith year will be highly mitigated if the IRS adopts the suggestion elsewhere in this report regarding the suspension of the penalties related to Notice 972CG for TIN mismatches.

### **4. Clarify the rules for ALE group members who undergo certain corporate transactions:**

Draft instructions to Forms 1094-C and 1095-C were published in late July of 2016 with final instructions due in September. Given the changes introduced into some of the areas of reporting, in particular the ever changing guidance and specificity relating to COBRA and post-employment reporting on Forms 1095-C, the IRS should recognize that the timing will not permit many programmers to adjust the logic in their software to accurately incorporate this new reporting guidance in time for furnishing forms to employees by the January 31, 2017, deadline.

The instructions to Forms 1094-C and 1095-C make it clear that the reporting obligation under IRC §6056 resides with ALE group member and not at the group level. IRPAC would like to thank the IRS for adding more clarity and specific examples to the [draft] 2016 instructions. Specifically, the instructions make it clear that each Group Member is responsible for filing the single authoritative 1094-C for the calendar year, that there is no filing at the Group level and that each employee is to receive only a single Form 1095-C from any ALE member.

However, this requirement is inconsistent with the typical way ALE groups currently administer their health benefit plans. Large employers often administer their plans at the group level. In particular, we believe that there is confusion over the proper reporting in the case of a corporate transaction involving the sale of stock from one controlled group to another group. To ease the administrative burden on the entities undergoing this type of transaction, we would recommend an exception to the filing rules quoted above to permit, although not require, the employing entity to provide two Forms 1095-C to each employee, one for each period in the calendar year in which the Member was in a different Group.

We understand that it might take the IRS time to update its forms, instructions and the AIR system to handle such a change. In the absence of an updated process incorporating the exception recommended in the prior paragraph, IRPAC recommends that the IRS put forth an example in the form instructions, a FAQ on IRS.gov or otherwise specify that, even in the event of a corporate transaction in which a member changes groups, that member must only provide a single Form 1095-C to each employee. Such guidance will help large employers who engage in such transactions to be on notice of the requirements for properly reporting under such circumstances.

We think it may be useful to provide a specific example to illustrate the problem:

*Example.* ALE Group Member, SubCo (FEIN XX-XXXX099) is a 100% owned subsidiary of Parent Corporation (FEIN XX-XXXX001) on January

## Employer Information Reporting and Burden Reduction

1, 2016 through April 30, 2016. On May 1, 2016, Parent Corporation sells all of the stock of SubCo (XX-XXXX099) to an unrelated corporation, Conglomerate (FEIN XX-XXXX002). Thus, SubCo was an ALE Group Member in the Parent Corporation group for the first four months of the year and a part of the Conglomerate group for the last eight months of the year.

For the sake of this example, assume the employees of SubCo are offered coverage and enrolled under the Parent Corporation Group Health Plan through April 30, 2016 and are offered coverage under the Conglomerate Group Welfare Plan starting May 1, 2016 through the end of 2016.

Under these facts, it is very likely that the data for completing the required reporting requirements for the January through April period will be contained in the information systems of Parent Corporation (and its third party vendors) and the data for the last eight months will reside with Conglomerate.

Today, without clear guidance, Parent and Conglomerate may be unaware that the impact of the rules in the instructions – one Form 1095-C per employing entity and one authoritative 1094-C per employing entity – may be that SubCo is responsible for consolidating all 12 months of data from its two parents. As the contracting with outside vendors for providing the forms is usually consolidated at the group level, Parent and Conglomerate might unwittingly agree to report on behalf of SubCo for the portion of the year that the SubCo employees participated in their respective plans.

We would recommend that ALE Group Members that experience such a transaction where it changes groups in the year be permitted to file on a bifurcated basis by indicating on the Forms 1094-C and 1095-C that such a transaction occurred and that more than a single form will be provided for the calendar year.

Absent that, we would strongly urge the IRS to issue guidance specific to this fact pattern to put employers on notice that the ALE Group Member that was the subject of the change in groups will be responsible for reporting the full year. That will at least put the acquiring group on notice that it will need to secure the appropriate data from the selling group to permit the ALE Group Member to comply with its reporting obligation for the calendar year.

### **5. Clarify and provide guidance regarding the definition of “inconsequential” errors under IRC §§ 6055 and 6056:**

IRC §§ 6721 and 6722 apply accuracy related penalties to the information reporting required under the ACA (IRC §§ 6055 and 6056.) The regulations promulgated under those sections provide, “An inconsequential error or omission is not considered a failure to include correct information.” See IRC §§ 301.6721-1(c)(1) and 301.6722-1(b)(1). As was recently acknowledged in the preamble to proposed

## Employer Information Reporting and Burden Reduction

regulations under IRC § 6055, these regulations were designed primarily for financial reporting; they are difficult to apply to IRC §§ 6055 and 6056 reporting.

In that regard it would be useful to provide specific guidance as to what constitutes an inconsequential error or omission in this context. This may be especially important with respect to the Form 1095-C which are used for purposes of assessing the employer shared responsibility payments under IRC § 4980H, the applicability of the individual shared responsibility payments under IRC § 5000A and an individual's eligibility for a premium tax credit under IRC § 36B. There could be errors on a Form 1095-C that has no bearing on the individual's eligibility for a premium tax credit or shared responsibility payment, but only relates to the employer's obligation for an employer shared responsibility payment. For purposes of the accuracy related penalties on the furnishing of a form to a "payee," an error related solely to a § 4980H Safe Harbor and Other Relief code (i.e., Line 16 of Form 1095-C) should be viewed as an inconsequential error as it relates to the employee-recipient. We believe that similar to the considerations given to specialized TIN solicitation rules which are included in the regulations under IRC § 6055 published on August 2, 2016, IRS could provide guidance under the provisions cited above that specifically recognizes and takes into account "the differences between information reporting under IRC § 6055 and information reporting under other provisions of the Code."

In that same regard, it would appear that the list of errors that require Form correction and reissuance to recipients in the instructions for Forms 1094-B and 1095-B and 1094-C and 1095-C are overly broad. The regulations cited above provide "the term 'inconsequential error or omission' means any failure that does not prevent or hinder the IRS from processing the return, from correlating the information required to be shown on the return with the information shown on the payee's tax return, or from otherwise putting the return to its intended use." We believe that a number of items on lists of "required" corrections in the Form instructions would be inconsequential when those standards are applied in the context of changes on these forms.

Given the nature of the information on these forms this is substantially different than that provided in financial reporting; we recommend additional guidance on what is inconsequential in this setting and a modification of the corrections process. This may mean that a revision to a furnished form need not be furnished to an employee if the correction is only relevant to the assessment of liability for an employer shared responsibility payment. Especially in light of the requirement that printing the forms on paper and mailing them to the recipients are required in lieu of an affirmative election to receive these forms electronically, there is a significant expense associated with supplying revisions especially where they add no value for the recipient and may merely serve as a source of confusion.

## Employer Information Reporting and Burden Reduction

### B. Electronic Furnishing of Forms W-2 and 1095-C

#### Recommendation

IRPAC recommends that Treasury Regulations § 31.6052-1(j) be amended to allow an employer to electronically deliver Forms W-2 to all employees, unless an employee “opts-out” of electronic delivery, in which case, the employer shall deliver the Form W-2 on paper to that employee. We also recommend similar amendments to Treasury Regulations § 301.6056.2 and 1.6055-2 with respect to employers furnishing of Forms 1095-C to employees.

#### Discussion

Currently, employers offering electronic delivery must have each employee affirmatively “opt-in” in order for the employer to be relieved of printing and delivering a paper W-2 to that employee. Treasury Regulations § 31.6051-1(j)(2)(i) states: “In general. The recipient must have affirmatively consented to receive the Form W-2 in an electronic manner.” See also, Treasury Regulations §§ 301.6056-2(a)(2)(i) and 1.6055-2(a)(2)(i). This has been taken to mean that a recipient must have affirmatively consented to receive Form W-2 in an electronic manner in place of paper delivery. Employers are free to post the Forms W-2 of all employees to a secure website, including the Forms W-2 of employees that never provided their consent. This is supported by a statement in the preamble to the final regulations: “Whether the furnisher stores (on a website) all statements or only those for which consents are received is a business decision for the furnisher.”

The IRPAC recommendation would allow an employer to establish electronic delivery as the default, and an employee would have the option to “opt-out” and receive a paper Form W-2 and or 1095-C.

Many State entities, such as the Unemployment Insurance entities offer the e-Services for Form W-2 access, unless a paper copy is requested. All states allow employers to electronically deliver pay statements as long as certain conditions are met, most having to do with security in order to protect confidential information and offering employee access to view and print at the employer’s premises.

There are many advantages of electronic delivery:

a. Decreased taxpayer burden:

Businesses would save time, money, and staff resources that would be spent in printing and mailing the W-2s that require envelopes and postage, and replacing lost or misplaced forms that also adds cost to the employer. Instead, employees can access their forms on a secure website any time that is convenient for them.

## Employer Information Reporting and Burden Reduction

b. Increased accuracy and electronic filing of personal income tax returns:

Many employers and service providers post the W-2 on a website in two formats: (1) a printable document that looks like the W-2 that would have been sent in the mail, and (2) as an electronic file that can be imported into tax-preparation software which then automatically populates the fields on the personal income tax return with the correct data. Automatic population of the proper fields reduces taxpayer errors, and, with an importable file can encourage the taxpayer to electronically prepare and file their personal income tax return thus increasing the number of electronically filed tax returns.

c. Decreased identity theft, increased security of sensitive personal information:

Over 240 million Form W-2s are issued each year that contain sensitive personal information, such as name, address, social security number, as well as personal financial data on forms that are mailed to employees. Mail can easily be stolen during the W-2 mailing period leading to identity theft and tax fraud. W-2s for those employees that have not informed the employer of a change of address will be returned to the employer or delivered to the correct address but received by an incorrect individual. Paper W-2s that are returned to the employer must be kept for at least 4 years, adding to the employer burden of securely storing these returned forms.

d. Increased tax compliance:

Studies have shown that that when income is reported on an information return, it is much more likely that it will be reported on a tax return and that the associated taxes will be paid. Employees that have moved do not always keep their employer informed of changes to physical addresses. W-2s that are posted to an always accessible secure website will make it easier for the taxpayer to receive their W-2s regardless of whether their physical address has changed.

The advantages outlined in a., b., and c., above would equally apply to the Forms 1095-C.

IRPAC wants to stress that the digital landscape has significantly changed and the digital divide has narrowed but more importantly the issue of identity theft, both of individuals and corporations, has become significantly more prevalent and the IRS is currently proactively attempting to curb the identity and tax theft problem. Thus, by limiting the change in regulations to Forms W-2 and 1095-C the digital divide becomes

## **Employer Information Reporting and Burden Reduction**

a non-issue, as employers can offer a secure means by electronic access to their employees to retrieve a copy of their W-2 and 1095-C.

### **C. Theft of Business Taxpayer's Identity**

The IRS continues to heavily focus on combating and protecting taxpayers from ID theft however still leaving businesses vulnerable because certain items that IRPAC has recommended geared toward business have not yet been implemented. Today's hackers are sophisticated criminals who continually find more avenues to online ID theft and fraud. IRS's addition of a multi-factor authentication process is an efficient start to this process. As part of an effort to protect taxpayers' data and tax preparers, IRPAC recommends further discussion regarding previously suggested safeguards. Also, there are new recommendations included in this report to further and accelerate efforts to defend against unauthorized security access.

IRPAC recognizes the progress that the Commissioner's Security Summit has gained in the fight against identity theft against individuals and anticipates that the Commissioner will continue to consider the IRPAC comments expressed herein in anticipation of fighting business identity theft.

#### **1. Recommendation for Identity Theft Deterrence**

- a. IRPAC reiterates its recommendation to allow the truncation of the issuer's Employer Identification Number (EIN) on payee information return statements as a means of preventing business identity theft. IRPAC believes that limiting additional EINs from being circulated untruncated would reduce the opportunity for these numbers to be obtained by unknown and ill-intentioned third parties in the future.
- b. The IRS has implemented a pilot program that adds verification codes to the W-2s. IRPAC recommends that the IRS further expand and implement the pilot programs to protect all businesses. The verification code will be used by tax preparers to authenticate and verify the information provided at the time of filing. In our discussion with the IRS, IRPAC was informed that they have implemented this program for W-2s electronically filed and intend to expand the program that would deter business ID theft of numerous other information reporting forms issued by all businesses.

#### **Discussion for Identity Theft Deterrence**

Further truncating of EINs needs to be expanded to protect sensitive information from data mining thieves. IRPAC previously recommended truncating the issuer's EIN on recipient copies of information returns to allow companies that issue 1099s and other information returns to have less exposure to false information returns being filed using their EIN and legal name. It should be mandated that the FEIN should be truncated to eliminate criminals from phishing and obtaining business ID's. Numerous forms

## Employer Information Reporting and Burden Reduction

containing sensitive data are sent out every year. By truncating the FEIN, we could reduce a large percentage of fraudulent activity.

With the added ACA reporting forms, 1095-B and 1095-C, the legal name and EIN of both the issuer (the insurance company) and the business that employs the insured individual, is revealed, exposing all of these businesses to identity theft. Thus, IRPAC recommends truncation of the employer's EIN be permitted on Forms 1095-B and 1095-C.

### 2. Recommendation for Business Master File and Form 8822-B

- a. IRPAC recommends IRS revise Revenue Procedure 2010-16 to state that an address change related to an EIN will occur **ONLY** after receipt of IRS Form 8822-B (Change of Address – Business). In the current year, taxpayers continue to receive duplicate change of address notices which are mailed simultaneously to the current and former address of the business.
- b. IRPAC recommends revisiting the discussion of the process of issuing a change of address notification letter mailed to the last address when a mailing address on the Business Master File (BMF) is updated based on the requirements in Revenue Procedure 2010-16.

### Discussion of Business Master File and Form 8822-B

It has been reported that several large businesses have experienced business and customer privacy breaches because the large business address has been updated in the BMF in error. Tax returns not normally filed by the large business such as Form 1041 and 990-T are being filed by taxpayers unconnected with the large business. The tax return contains the TIN of the large business but the business name on the filing is often not the large business taxpayer name. The large business address is being updated during the tax return processing without the proper authority from the large business, specifically a properly completed and filed Form 8822-B, which to date, is still not a mandatory requirement.

#### Business Master File

As previously noted, pursuant to Reg. §301.6212-2(a) that states a “taxpayer’s last known address is the address that appears on the taxpayer’s most recently filed and properly processed Federal tax return,” the IRS has issued revenue procedures to determine which returns will result in the IRS changing the address based on the address included on the most recently filed return, as well as which notices must be mailed to that “last known address” (per guidance provided in Revenue Procedure 2010-16 (2010-19 IRB 664, dated 04/16/2010)).

We encourage our recommendations to be considered to prevent identity theft, and furthermore allow companies to be forewarned if their withholding agent is not

## **Employer Information Reporting and Burden Reduction**

making payroll deposits, permit businesses to have specific tax correspondence directed to the appropriate group or person, and increase efficiencies by having the IRS receive timely responses to its inquiries and notices without repeated mailings.

The IRS issues a notice of confirmation of an address change to both the former and new address of the business. It appears logical that the IRS send to both addresses to possibly alert the recipient that there has been an attempt to steal the business identity with an unauthorized change in address. A concern has been raised by IRPAC that numerous unnecessary notices are repeatedly being sent to taxpayers at the old address, thus providing confidential data to the wrong individual. Perhaps the IRS will consider removing the taxpayer identification numbers from these duplicated mailings.

### **Form 8822 – B**

We reiterate our concerns relating to the required information for the old representative of the business. Many companies, especially the ones that have been in operation for a number of years, do not know which entity or individual's name was put on the original Form SS-4 upon applying for the EIN. Often, the lawyers or accountants engaged in helping owners set up companies put their names and their address on the form, thus it is not that of the actual owners of the entity. Or, perhaps, they cannot locate the form as it may not be one that any business refers to on a regular basis. There is no reason to either have the old information if the purpose is to gather current information or treat the form as incomplete because the business cannot provide the old representative's name.

### **D. Reactivation of the on-line Electronic Account Resolution Tool (EAR)**

#### **Recommendations**

IRPAC recommends that the Electronic Account Resolution, (EAR), on-line tool be reactivated, or a substitute tool or system be made available to employers, tax practitioners and service providers to provide an efficient and secure method of communicating and resolving tax issues with the IRS.

#### **Discussion**

The EAR tool, which was deactivated on 9/2/2013, provided authorized practitioners the ability to:

- Request holds on accounts, which prevented the mailing of subsequent notices and provided time to respond to notices before being escalated into Collections. Hold responses were sent via e-mail.
- Address Levies electronically.
- Move an erroneous payment from one tax module to the correct module.
- Transmit pertinent information for consideration in determining whether penalty relief was merited.

## **Employer Information Reporting and Burden Reduction**

EAR could be enhanced to provide transcripts on the Business Master File to verify all wages in addition to taxes to help in resolving civil penalty notices and responding to Combined Annual Wage Report mismatch notices and preparing Form 941Xs.

Call times during the time period that EAR was activated averaged between 30 to 60 minutes and most EAR responses were issued within 72 hours of the request and in writing so as to provide the authorized practitioners a written verification to send to their taxpayer clients. The wait time during the 2015 fiscal year was up to 1 ½ to 2 hours for the Practitioner Priority Service lines. The Commissioner's public remarks at several forums anticipated that the average person who tries to call the IRS will get through approximately 50% of the time as opposed to 64% of the time in fiscal year 2014, indeed the percentage of calls that are getting through was down to 40% for 2015.

This recommendation is being proposed with the intention of providing the IRS, employers, tax practitioners and service providers a short term solution to the burdens created by the IRS budget cuts. This recommendation would free up customer service resources at the IRS and provide practitioners a secure and streamlined method in meeting their customers' needs.

### **E. Information Reporting for IRA Assets Escheated to State Governments and 60-Day Rollover Relief**

#### **Recommendation**

IRPAC recommends that the IRS provide specific rollover relief by adding "The distribution was escheated to a state agency" to the list of self-certification reasons for missing the 60-day rollover in Revenue Procedure 2016-47. Our 2015 recommendation that the IRS add a new Distribution Code to Box 7 on Form 1099-R to clarify that Individual Retirement Account (IRA) assets escheated to state government agencies are IRA distributions includable in gross income and subject to information reporting still stands.

#### **Discussion**

In August of 2016, the IRS released Revenue Procedure 2016-47 which permits taxpayers to self-certify that events beyond their control prevented them from completing a timely 60 day rollover to their IRA. We believe that this is a great initial step in addressing the longstanding issues associated with correcting common and unintended IRA rollover errors. IRA assets escheated to state agencies represent yet another common example of why this revenue procedure is so important and we recommend that the IRS incorporate this into the procedure as soon as practicable. As further support for our recommendation, we point to PLR 201611028 that highlights the same information reporting and rollover related issues surrounding escheated IRA assets that concerns IRPAC and provides the specific taxpayer with an extra 60 days to complete their rollover after the IRA assets were recovered from the state. IRPAC

## **Employer Information Reporting and Burden Reduction**

believes that this same relief should be available for all IRA owners that recover their IRA assets that were escheated to states.

IRPAC previously shared a concern that IRA trustees do not have sufficient guidance to properly withhold taxes and/or report IRA assets escheated to state governments. Please see the 2015 IRPAC report for additional details and IRPAC's recommendation for additional guidance via Form 1099-R enhancements.

## Employer Information Reporting and Burden Reduction