

## IRPAC Public Report Letter from the Chair

Dear Commissioner Koskinen:

Today my Information Reporting Program Advisory Committee (IRPAC) colleagues and I are very excited to present you and your leadership team our 2017 annual report.

At its core, IRPAC was established as a forum that brings diverse information reporting professionals and other industry stakeholders together with the Internal Revenue Service. This partnership and its ongoing dialogue plays a significant role in helping to simplify and clarify rules and regulations, which improves and creates policies that promote effective tax administration, leads to wider acceptance by the industry and may reduce the implementation cost and other burdens caused when rules are too complex.

Before I get to the details of the report, I would like to acknowledge and recognize some of the folks whose leadership and contributions to the report were invaluable. First, I would like to thank my IRPAC colleagues, for the long hours, hard work and their unwavering commitment to enhancing the information reporting and withholding process. I want to especially thank the subcommittee chairs, Emily, Kelli and Darrell and of course, Vice Chair Dana. Next, I wish to thank you Commissioner. Three years ago, when you spoke at our orientation, you said that you were going to be engaged, and I honestly thought then that all Commissioners must say that. But, I am here to tell you that by your actions, I know that you have kept your word. You can probably personally provide an update for several of the issues listed in this report. So, Commissioner, thank you for not only acknowledging IRPAC's contributions, but for always asking how you can help. Finally, I would like to publicly express how impressive the level of service provided by our new National Public Liaison (NPL) team has been. The transition was seamless and their institutional knowledge and IRS contacts were priceless.

This year, the three IRPAC subcommittees:

- Emerging Compliance Issues,
- Employer Information Reporting and Burden Reduction, and
- International Reporting and Withholding,

addressed many issues within their sub-teams and as you will see documented later in the report, many of our recommendations were accepted by the Service and are already benefiting the industry. There are also others, which unfortunately, are still awaiting final signoffs and therefore, we are unable to publicly identify them at this time. In addition, there were some other, currently very news worthy, however we believed they were not developed or flushed out for this committee to fully address, such as Executive Order 13789, which required the Treasury Department to identify in an interim report to the President, significant tax regulations issued after January 1, 2016 that met the following criteria:

- Imposed an undue financial burden on U.S. taxpayers;
- Added undue complexity to Federal Laws; or
- Exceeded statutory authority of the IRS.

Now I will like to briefly address three issues that we thought were important enough to be considered all IRPAC issues.

The first issue I would like to cover is 972CG Penalties. As you know, payers are basically deputized as tax collectors. In this role, there are certain data and documents that payers must capture from the payees. If they don't obtain the documents, there are procedures they are required to undertake. However, there are many occasions where the payers have fully complied with all instructions, but may still be assessed a penalty for the payees' failure. In those situations, payers are generally able to rely on the reasonable cause guidance in Section 6724, or so we thought. It appears that with the increase in the penalty cap to well over \$3.1 million, revenue officers may be reluctant to abate or waive these penalties even given reasonable cause. It is not uncommon for payers actively working these penalties to wait more than a year for resolution. This causes undue financial burdens on these entities and in some cases, leads to levies and garnishments. We believe this issue can be easily resolved, if the IRS takes a reasonable person approach and follows their own well-established rules.

The second issue is very important, because it can directly lead to fraud and customer privacy issues. It generally starts innocently enough, let say a customer of a financial institution, mistakenly using the institution's taxpayer identification number (TIN) on the individual's tax return or deposit. The IRS then updates the financial institution's address of record to the customer's address as listed on the return or deposit. This results in future IRS mailings, including B Notices, penalties and/or levy notices being sent to the customer's home address.

The customer did not have to hack into IRS systems or commit fraud to obtain other taxpayers' personally identifiable information; rather the IRS freely mailed it to them. We believe that the solution is simple; the IRS should not change an established business address until a Form 8822-B (Change of Address or Responsible Party – Business) is received from that financial institution.

The third and final all IRPAC issue, is related to probably the most widely used form in our industry. Yes, I am referring to Form W-9. The industry receives more Forms W-9 than all of the series of Forms W-8 combined and by all accounts, Forms W-8 carry greater risk. Yet the IRS is comfortable with allowing the withholding agents to accept Forms W-8 with electronic signatures provided certain controls are in place, yet the same is not allowed for Forms W-9. The IRS also allows for Forms W-8 to be relied upon when acquired via a third-party repository, while the same is not generally allowed with Forms W-9. IRPAC believes that these enhancements would significantly improve the efficiency and effectiveness of tax administration and recommends that these policies be extended to the Forms W-9.

Finally, I wish to again thank the NPL Team for their extraordinary support. Director of NPL Mel Hardy, Program Manager Tonjua Menefee and Designated Federal Official Brianne Wilner, I am truly indebted to you. Kim Lawson, De Chandra Whitley and Terri Sincox at crunch time, you were life savers. Special thanks to our subgroup liaisons, Carolyn Sanders-Walsh, Martha Tobias and Michael Bess. I also want to recognize and express appreciation to our IRS partners in all division and levels of the IRS, who worked so hard on following up with the various subcommittees and doing all they could to help implement our recommendations.

On behalf of the 2017 IRPAC committee, Commissioner I wish to thank you for your calm collaborative leadership style and your unwavering support to the IRPAC committee. I truly enjoyed the opportunity to serve this committee.

Respectfully,

/signed/

Keith King

2017 IRPAC Chairman