INTERNAL REVENUE SERVICE

ADVISORY COUNCIL

2020 IRSAC PUBLIC MEETING

Wednesday, November 18, 2020

9:00 a.m.

Via Conference Call
PARTICIPANTS

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19 MEL HARDY, Director, National Public Liaison
20 JOHN LIPOLD, IRSAC Designated Federal Official and
21   Branch Chief, National Public Liaison
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MS. ERBSEN: Good morning. Good morning, IRSAC members, IRS representatives, and other guests. My name is Diana Erbsen. I’m a partner at DLA Piper, NY, and Chair of the IRS Advisory Council, IRSAC. It’s my pleasure to welcome you to the IRSAC’s very first virtual public meeting.

To say this year has been challenging would be an understatement. I’m proud of the fact that despite the challenges of 2020, we as a group were able to provide real-time feedback and guidance to the IRS, and that the IRS was receptive to such feedback and guidance. Some of that feedback is memorialized in the annual report being issued today.

Collectively, the IRSAC members represent the agency’s major stakeholders. Particularly with the
consolidation of the IRSAC with two previously independent Federal advisory committees, the Information Program Reporting Advisory Committee and the Advisory Committee on Tax-Exempt and Government Entities, our members offer diverse perspectives and insight. As a consequence, the whole is greater than the sum of the parts.

I commend all of the members of the IRSAC for your ongoing commitment to improving tax administration. Your efforts and your flexibility this year were extraordinary. Ben Deneka has been an outstanding Vice Chair and will be an outstanding Chair next year.

Much of the work of the IRSAC is done by the subgroups, which are organized to correspond to operating divisions, and next year will be expanded to include an information reporting subgroup.

This year’s subgroup chairs -- Mike Engle, Phyllis Jo Kubey, Sandy Macfarlane, and Patricia Thompson -- all did yeoman’s work in ensuring that we could both be responsive to IRS requests for assistance and also proactive in offering suggestions.
It was also a privilege and a pleasure to work with, and we very much appreciate the support provided by, all the IRS representatives with whom we interacted during the course of this year and, for myself, over the course of the last three years. As a group, we’re particularly grateful to Terry Lemons, Mel Hardy, John Lipold, Anna Brown, and Stephanie Burch. Any credit for this technology working I think goes to all of those people, and any failures you can attribute to me.

The IRS, led by Commissioner Rettig and Deputy Commissioners Sunita Lough and Jeff Tribiano, demonstrated extraordinary grace under pressure this year and exemplified how best to find opportunity in adversity. Operating with limited resources, the IRS continued to collect the taxes needed to sustain necessary government operations, continued to enforce the tax laws, and continued to provide many taxpayer services.

Significantly, the IRS also made extraordinary adjustments, with many in its workforce working remotely and securely, and also provided relief to
taxpayers and tax professionals by, among other things, extending filing of payment deadlines, increasing access to secure digital communications, which is a major theme of our report, and distributing more than 160 million Economic Impact Payments, including to persons not required to file tax returns who had to be found.

The tone at the top, especially by Commissioner Rettig, along with the nothing short of heroic efforts of the IRS staff, made all of this possible. Thank you. The performance of the IRS bodes well for effective implementation of the Taxpayer First Act and for the continued success of the voluntary compliance system.

It’s my pleasure to introduce Ben Deneka, my esteemed Vice Chair.

MR. DENEKA: Thank you, Diana, and good morning, everyone. I’m Ben Deneka. I am a Program Manager for H&R Block Agency and Industry Relations Team, and I have had the distinct honor of serving as Vice Chair this year under Diana, and I would say it was a master
class in navigating novel situations. We had virtual
meetings, we were offering real-time feedback, and this
was the first time of the consolidated IRSAC with only
a single chair. And she did it all without having the
opportunity to serve as a Vice Chair herself. Last
year we operated with three co-chairs, one from each of
the consolidated advisory councils.

I will say it was inspirational and instructive,
Diana, that you embraced the challenge.

Just a quick story. Early this year, before
COVID, Diana and I were talking on the phone, game
planning for the year, and the topic of meeting
virtually in-between our working sessions came up, and
she said I don’t want to do video, I’m not comfortable
with the technology. I said that’s fine, you’re the
boss. I thought it was kind of out of left field,
though. I hadn’t said anything about video, and I was
just thinking maybe she thought I was about to say we
should use the new technology because I’m a millennial,
and she was right. That was going to be the next thing
coming out of my mouth.
But fast-forward to our April meeting, the IRSAC’s first virtual working session, and there she is on video, embracing the challenge, getting out of her comfort zone and leading by example. So, Diana, thank you for your leadership during this extraordinary year. It was invaluable, and I am very grateful for the opportunity to have learned how to lead beneath you.

I’ll take a moment to reiterate Diana’s comments and say welcome and good morning to everyone and echo her gratitude to our friends at the IRS, particularly NPL. Mel and John, thank you for your exceptional partnership in helping us continue our work throughout the year to arrive here today with our report and recommendations.

I’d also like to thank my fellow IRSAC members and subgroup chairs for committing their time, energy, and knowledge to provide thoughtful and actionable recommendations. We hope that all of you here today find value in the report and look forward to overviewing it with you.

With that, I will turn the floor over to John
Lipold at the IRS.

MR. LIPOLD: Thank you, Ben; and thank you, Diana and Ben, for the nice words.

My name is John Lipold. I am the Designated Federal Official for the Advisory Council, and I just wanted to let everybody know that we have about 84 people on this conference line this morning. So everybody is, by default, in mute mode. Speakers, it’s very important that you hit star-6 to be heard. And when you’re done you can star-6 yourself again to go back into mute.

That’s it for me. That’s housekeeping in a virtual meeting. I’d like to turn it over right now to Terry Lemons, who is the Director of Communications and Liaison at IRS.

Terry?

MR. LEMONS: Yes. Thanks, John. And welcome, everybody, to a very unusual annual meeting for the IRSAC.

This organization, this advisory group goes back to the 1950s, and this is the first time we ever had a
virtual event like this. So we really appreciate everybody on IRSAC going the extra mile, whether they were comfortable with video technology or not. This has been a huge accomplishment to pull this off.

I mean, honestly, if you look at the report this year, 194 pages reflecting all of the hard work that’s gone into the group, and we really do appreciate the members taking time to do this.

As Diana and Ben mentioned, this is still another transition year, essentially, for IRSAC, from when we merged three different advisory groups into this flagship advisory group. And one of the things, when the NPL team and myself took a look at the consolidation effort, we really wanted to make sure we were able to make this marriage work between the groups, and we also pledged to continue to monitor and make adjustments as needed. I think we’re all very happy with the ability to set up the Information Reporting group as a new subgroup for the upcoming year, and I think that will help improve IRSAC even more going forward and meet the needs of the
information reporting community, which are vital to running our tax system and our nation.

So with that, I believe it is time for Mel Hardy, the lead of our National Public Liaison group, to go next.

MR. HARDY: Thank you, Terry.

Good morning, everyone. It’s all been said, so I won’t reiterate it, but this has truly been an unusual year, and I want to not only thank Diana and Ben for their exceptional leadership, but also the NPL Team, all of C&L. It’s a group effort. It’s not just NPL.

It’s the other parts of C&L that make this type of event work, as well.

You know, it’s important to note that even under these strenuous times, this IRSAC, this new -- I like what you said, Terry -- flagship IRSAC, was able to put together a report that reflects not only a lot of input and advice but really a commitment, and we truly, truly appreciate everyone stepping up, even under these difficult times, and doing this.

So without going on and on, because I’m a little
verklempt that we are not all there together and in
person -- I like to go around and shake hands and
definitely say goodbye to the members who are rolling
off. I had a chance to do that yesterday, and the
Commissioner will recognize you all publicly today.

So we’ve got a busy day, a full schedule. Let me
do what they used to call back in the ‘80s a mic check.
Commissioner, are you able to hear me, sir?
(No response.)

MR. HARDY: Commissioner, if you hit star-6 on
your phone --

COMMISSIONER RETTIG: I’m on the speakerphone.
Should I be on the headset or is this okay?

MR. HARDY: That sounds good, sir. You’ve got
that booming baritone, so you come through either way.

COMMISSIONER RETTIG: You know, compliments will
make you Commissioner, so watch it.

(Laughter.)

MR. HARDY: Ladies and gentlemen, it is my
distinct honor and privilege to introduce to all of you
no stranger to this group, definitely no stranger to
the advisory groups -- under these very difficult circumstances I think we’re all very fortunate and blessed to have a Commissioner who has a deep appreciation for what these groups do, what they bring, and what you add, because he was a fellow IRSAC member and Chair. So I’m very honored to introduce to all of you Commissioner of the Internal Revenue Service, the Honorable Chuck Rettig.

Commissioner, take it away, sir.

OPENING REMARKS

COMMISSIONER RETTIG: Thank you very much, Mel.

As Mel said -- and I’m really going to echo Mel’s comments and Terry’s comments and Diana and Ben, and certainly thank Diana and Ben for their leadership role with respect to IRSAC this year. At some point pre-COVID, some of these roles tend to be -- they just build on themselves and they move forward. But when your throw COVID and the IRS shutdown, and you add in IRS shifting to really a virtual tele-work type of an environment and all the rest, you add a unique year, and the best of the best comes out of the most
So, I want to thank each of the IRSAC members. I think most of you received the email that I sent out last evening. I am very appreciative of the efforts.

When I was on the IRSAC I used to say, you know, it’s planes, trains, and automobiles. It’s people who go to the airport, park at the airport, get on a plane, check into a hotel and spend days with us here at the IRS, and in reverse. And they give lots of translations of the actual personal sacrifices that people give to assist, your health, your assistance. Obviously, this year’s report is spectacular, a great job across the board. We do read it, and it does help us focus where we’re headed in the future.

I’m a huge believer in the public/private partnership, if you will, for tax administration in this country. I’ve always said to people I came on board, 36 years in private practice. I came on board and came on this journey together. I didn’t come by myself or the concept of myself and just folks who happened to be privileged to work for the Internal
Revenue Service, but I came on in my head as part of the entire practitioner community. I use that term really loosely. Anyone who has anything to do with the IRS -- vendors as well. If you have anything to do with the IRS, we’re on this journey to try to improve the IRS, improve tax administration for what I believe to be the most important people in the world, which is everyone on this planet.

We can go on and on about some of the amazing things that the agency has been able to do during this past year, but you’ll hear me talk going forward about we’re beyond a tax administration agency. We have been able to bring about social change in the streets of our country, of other countries. We recently, something I’m hugely proud about, we recently put a facility in Puerto Rico and opened up for Federal jobs with the Internal Revenue Service in Puerto Rico, which is an island that was devastated by a hurricane, as well as by an earthquake, and folks in Puerto Rico could easily leave Puerto Rico and come back in 10 or 15 years while those who stayed behind rebuilt it.
We’re part of the rebuilding effort. Within seven months of the concept, we (inaudible) in Puerto Rico to open a facility for people we need, but also we can help.

So you’re part of this, everything you might see us say, hey, look what just happened here, look what happened there.

The other point I’m going to touch on, and you guys have it in your report, I’m very proud that in September of this year we announced sort of where we’re going in terms of languages, and the 1040 for the first time in history is going to be in English and Spanish. People can check a box on the language that they want us to interact with them. They can call into our customer service lines and get translation services in more than 350 different languages.

If you want to convey to people that they’re important and you want to, as an agency but also as people inside the agency, earn the trust and respect of people who interact with us, you need to be in their community, in their language. You need to be in person...
with people who don’t have (inaudible), and we need to respect everybody. 

So a lot of what’s in your report is right where – if I had the ability to write a 200-page report, which I do not, I’d be right where you are. I looked at it and went through it, very proud of your efforts and your assistance. Sometimes when you participate on advisory boards, it’s like being a radio disk jockey at 2:00 in the morning. Is anybody ever going to read this? But I had to stay up all night to polish it up and get it out the door. Not only are people going to read it, but you’re instrumental in the task forward for the Internal Revenue Service, so for that I thank you.

For those who are rotating off, the encouragement that I gave last night is to stay engaged, stay involved with us. You’re always part of the family. You’re part of the family if you interact with us in any manner, and we need to hear from you.

So those who are staying on, thank you. And those who roll off later, I really appreciate the personal
effort that people give, and I know that you have day jobs, families, personal affairs and whatnot, and particularly this year everything was somewhat more complex and difficult. But it’s in those environments, like I said, where we get the best of the best, and I think sometimes we get the best work products as well.

So now, as I turn it back to you, I really like to be in person. I wish we were in person, and I look forward to the opportunity to do so at the appropriate time in the future. But I want you to know that personally I really appreciate the effort, and certainly in this year.

Ben and Diana, what can I say? You guys are the best.

So, thank you very much, and I’ll kick it back to Mel.

MR. HARDY: Thank you, Commissioner. I really and truly appreciate your remarks. I’m sure everyone does. So now I’ll turn it over to Diana, our IRSAC Chair. I would be remiss in saying, Diana, that I wish that I was there to be with you and to wish you well.
Your leadership has been exemplary this year.

So, Diana, turn it over to you.

MS. ERBSEN: Thank you, Mel. Thank you, Commissioner. I really appreciate those words, and I think everybody on IRSAC appreciates your support.

REPORT OVERVIEW

MS. ERBSEN: The report of the IRSAC, including the appendices, summarize the IRSAC’s work during 2020 by presenting some of our real-time feedback and offering our recommendations to you, Commissioner, and to the rest of the IRS leadership. Each year the IRSAC builds on the prior years’ efforts, which we acknowledge and appreciate. Indeed, this year’s report begins with a summary of some of the 2019 recommendations and notably two 2018 recommendations made by the IRSAC that have been implemented or are currently being actively considered by the IRS.

This year, as I mentioned, subgroups and the full IRSAC provided substantial real-time guidance to the IRS both at the request of the IRS and on our own initiative, sometimes in written form. Some of the
real-time feedback the IRSAC provided is reflected in
the appendices to our report.

During the course of the year, the IRSAC wrote two
letters related to COVID-19 relief, wrote comments
regarding capital reporting, and wrote to OPR Director
Fisk encouraging updates to Circular 230.

We also identified three issues as general report
issues. Our three general report issues are
thematically interconnected to each other and to issues
addressed in recent reports of the IRSAC. In the next
few minutes Ben will discuss the need for adequate
funding for the IRS over a sustained period, which is
clearly not something within the control of the IRS but
something we will recommend be a continuing request of
this Congress, the full funding necessary for all the
operations of the IRS. Sandy Macfarlane will discuss
opportunities to expand the e-File and online
application process, and I will briefly discuss the
expectation that the Taxpayer First Act inform IRS
operations.

Each subgroup will present one topic now and
additional topics after the short break.

The Taxpayer First Act is, in the view of the IRSAC, a welcome recognition by Congress of the value of the IRS as a bedrock institution, and of IRS employees as stewards of the IRS mission to provide American taxpayers top-quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.

As we note in our report, the Taxpayer First Act office, a separate, dedicated office the IRS under this Commissioner created to achieve the objectives of the TFA, is a tangible commitment by the IRS to provide focus and support as the entire organization works to achieve the goals of the TFA.

Along with many other stakeholders, the IRSAC provided feedback, both general and specific, during the year, much of which the Taxpayer First Act office has already considered, and some of which, as I mentioned before, during the coronavirus pandemic the IRS demonstrated can be implemented far more quickly, efficiently, and securely than anticipated.
Throughout the 2020 IRSAC report, the IRSAC reiterates some of its prior feedback and also provides recommendations which we believe will improve customer service, improve IRS employee morale, increase IRS efficiency, increase voluntary compliance, and improve overall tax administration.

The IRSAC recognizes that implementing the objectives of the Taxpayer First Act will require additional, consistent, multi-year funding from Congress.

I will turn the microphone over to Ben to discuss that issue.

MR. DENEKA: Thank you, Diana.

Again, I’m Ben Deneka, Vice Chair of IRSAC, and I will be addressing the issue number 1 in our general report titled “Inadequate Funding of the IRS is a Fundamental Risk to Tax Administration in the United States.”

We refer to it as fundamental because the risk of an inadequate budget underpins each of the IRS’ enterprise risks, and any of those risks in turn impact
the IRS’ ability to fulfill its mission to help America’s taxpayers understand and meet their tax responsibilities.

Those tax responsibilities are the collections that fund over 80 percent of Federal Government spending, and thus the IRSAC believes that adequate funding over a sustained period is critical to effectively staff the agency, to successfully modernize the IRS’ information technology systems, and to provide top-quality service and adequate enforcement of Federal tax laws and regulations.

Despite the fundamental risk inadequate funding poses, appropriations for the IRS have decreased roughly 20 percent on an inflation-adjusted basis over the last decade, from $12.1 billion in 2010, which would roughly equal $13.3 billion today, to $11.5 billion in 2020.

Over the same period of time, the IRS’ scope of work has increased. The IRS’ core responsibility to administer the nation’s tax system continues to grow as the tax base grows. Gross collections have increased
from $1.9 trillion in 2010 to over $3.1 trillion in
2019, and the IRS has also processed over 250 million
returns in 2019, 9 percent more than they processed in
2010.

The IRS is also currently executing the largest
tax reform in 30 years with the Tax Cuts and Jobs Act
and Taxpayer First Act, all while implementing a six-
year IT modernization plan.

In addition to its core responsibilities, the IRS
has been mandated additional duties such as
administration of significant portions of the ACA,
FATCA, the ABLE Act, and the Health Coverage Tax
Credit; and, more recently, coronavirus economic-
related relief, including the delivery of over 160
million Economic Impact Payments to American citizens.

I’d like to echo Diana’s sentiments for the
commendable and selfless effort from the IRS workforce
to administer relief to our nation’s citizens. Thank
you, Commissioner, to you and to your leadership team
and the boots on the ground, and everyone in-between,
for the countless hours you’ve worked and put in during
an immensely stressful time. Your service is greatly appreciated.

It should be noted that the IRS is executing an increased scope of work with fewer personnel compared to 10 years ago. Seventy percent of the IRS’ budget is attributed to labor costs. So as appropriations decline, the IRS had no choice but to absorb much of the decline through a reduction in its workforce, including a hiring freeze instituted in 2011, limited attrition replacement, and seasonal workforce adjustments.

With regard to the hiring freeze, Commissioner Rettig himself has commented that the IRS essentially lost an entire generation of employees. Their inability to hire during this eight years resulted in less than 3 percent of the IRS workforce being under age 30, and the imbalance in capital resources is compounded by the fact that 29 percent of full-time permanent staff will be retirement eligible by 2022.

To summarize, IRSAC believes adequate and consistent funding is critical to protecting the
integrity of the tax system by balancing modern taxpayer services with appropriate enforcement of Federal tax laws and regulations. We believe Congress recognized the importance of appropriate levels of service and enforcement when it enacted the Taxpayer First Act. Adequate funding is paramount to enabling the IRS to implement the largest changes to Federal tax administration in decades, as well as the directives set forth by the administration and Congress.

The IRSAC has addressed the critical need to provide the IRS with adequate and reliable funds as its number-one issue for the prior four reports, and the 2020 IRSAC believes that current funding levels are $1 billion to $2 billion below the level adequate to achieve the goals necessary to protect the integrity of the tax system.

With that in mind, the IRSAC made five recommendations, primary of which the IRS should advocate for funding at a level no lower than the Fiscal Year 2010 aggregate budget benchmark adjusted for inflation, or $14.3 billion, or at a minimum level
that will provide for a net increase in staffing on a sustained yearly basis.

In the interest of time, I will refer you to the report for the full gamut of recommendations and yield the floor to Sandy Macfarlane for the next general report issue.

DIGITAL SERVICES SUBGROUP REPORT OVERVIEW

MR. MACFARLANE: Good morning. This is Sandy Macfarlane. I am the Vice President and General Tax Counsel at Chevron Corporation, and I am the Chair of the subgroup, the Large Business and International section of the IRS.

I wanted to talk a little bit about our recommendation on opportunities to expand the e-filing and online application process. We have all been through a lot this year with the pandemic, and I think we’ve all had to learn some new tricks. I think one of the things that we’ve all learned is that digital is an important lifeline to be able to continue to operate and to carry on the important work that we do.

So in that vein, the IRS has been expanding
greatly its digital filing offerings, most recently with the 1040X, the individual amended returns, but there still remain many, many forms which cannot be filed digitally.

And what our committee is recommending is that the process of allowing digital filing and communication with the IRS through digital means should be accelerated and expanded beyond the pace that we have been having. There are several advantages to this. One is that it improves the taxpayer’s experience. It also makes tax administration more efficient, and finally it provides usable data to guide IRS efforts.

In the taxpayer experience category, there are several pieces which are very important. One is that it provides an electronic record of your filing and a receipt. So the issue of whether things have been received is much clearer than things sent through the mail. It eliminates the need for phone chasing down inquiries and the status of returns and other filings. It reduces the time to process requests, inquiries, selections. And it also allows a taxpayer to file from
anywhere they have an Internet connection, so you’re not limited to being in one location.

Electronic filing also has significant benefits for tax administration. Data which comes in on paper forms have to be keyed in. This creates the possibility for errors. If things come in digitally, then the errors don’t happen because there’s no transmission from one mode to another.

It allows for automated handling of the data. It allows data to be handled 24/7. You’re not limited to the time that people are actually sitting in the office. You can save money on processing.

It also frees up people from handling paper, opening envelopes, keying in data, to be deployed to other activities to help taxpayers and to help tax administration, which could be more productive. It avoids the need for paper storage, and it avoids some of the issues that we faced this year about concerns about people handling physical mail with COVID-19 or other risks that there may be.

Finally, digital filing is an aid to the IRS and
their mission in that it can help guide their efforts. With digital information, you’re much more able to see what the trends are in tax administration, to identify areas where there is a problem with compliance, and to address that. One of the ways you can do that is to identify the individuals or businesses that should be examined in a more strategic fashion. It also provides an opportunity to find out whether there are areas of non-compliance which may require more guidance or other clarity for the taxpayers.

So for all those reasons, we ask you to expand and accelerate the digital filing as soon as possible. I will say that I went out to the IRSAC committee and asked which forms we should prioritize, and you’ll see in the report that we have a huge long list of forms, and that’s because everybody wants digital, whether you’re an estate tax practitioner, whether you’re an individual tax preparer, whether you’re a corporation. Everybody would prefer to file digitally because of all the advantages we talked about here. So there’s a long list there, and we also found, in
talking to our IRS counterparts, they were also anxious
to have the information available digitally as well.

So there’s a lot of demand for this, and I think
when the IRS sets priorities, you can’t obviously do
all of this on day 1, snap your fingers and make it
happen, but you should keep in mind that it’s not just
a matter of how many returns are filed but there are
other reasons why you may prioritize some forms.

Information may be important. You may have a few
taxpayers, but there may be a lot of money involved in
something. So take a holistic look at what the
priorities should be and accelerate everything.

I realize this is not a new concept. The IRS has
been working on this for years. It’s part of the IRS
modernization plan. The Taxpayer Advocate has been an
advocate for increased digitalization. We know we’re
not providing a new insight, but we want to add our
voice to the chorus of the others that feel that this
is really an important thing and that the pandemic has
really brought that home.

So that is our recommendation.
With that, let me take you into our LB&I report.

LARGE BUSINESS AND INTERNATIONAL SUBGROUP REPORT

OVERVIEW

MR. MACFARLANE: Let me just acknowledge the folks that have been part of the LB&I group who are a terrific bunch with a lot of talent and a lot of experience in the tax area.

We’ve had Martin Bentsen, who is with FIS Wall Street Concepts in New York; Alexandra Cruz, who is with Ernst & Young, also in New York; Diana Erbsen, who was on earlier, a partner at DLA Piper; Robert Howren, head of tax for BlueLinx Corporation in Atlanta; Sanford Kelsey, who works for Norfolk Southern in Atlanta; myself; Joe Novak, who is the Vice President for Taxes for Abbott in the Chicago area; and Katie Sunderland, who is an Assistant General Tax Counsel for Tax Law at the Investment Company Institute.

This group has focused on issues relating to LB&I. We have made a number of recommendations. One of them includes providing an online guide to the tax dispute resolution programs. There are many of them available
to taxpayers in the IRS. We also have recommendations on information reporting, and we have recommendations where we think that more guidance is needed in the information reporting area. Those will all be covered in the second part of this meeting.

Right now, I’d like to turn it over to Joe Novak. Joe is going to talk about a recommendation that we’re making to institute an early exam program.

So, Joe, why don’t you take over?

MR. NOVAK: Sure. Can you hear me okay, Sandy?

MR. MACFARLANE: Yes.

MR. NOVAK: Great. So, the IRSAC has recommended that LB&I consider adopting a new program based on the current compliance assurance process, the CAP program. to allow more complex for multinational taxpayers to qualify under the CAP-like rules so we’re proposing here to build off the success of the CAP program while recognizing that CAP can be challenging for some taxpayers.

We’re calling this new program the Early Exam Program, or EEP. The EEP proposal focuses on two areas
of improvement, the first being the timeline for
disclosures. Many multinational taxpayers and their
IRS teams, despite earnest attempts to collaborate,
struggle with the disclosure process. Currently, this
disclosure process is a quarterly process where
materials are submitted throughout the quarter to
support tax events in the quarter.

The EEP would propose to eliminate the interim
reporting feature of the current CAP program and
instead require that a taxpayer provide disclosures
based on actual information after the relevant tax year
has closed. This deferral of the taxpayer information
would naturally shift the timeline for resolving a
case, as well.

We think this proposal is helpful for a few
reasons. One, the interworkings of the TCJA provisions
for a given company -- I’m talking here about the
GILTI, BEAT, FDII, 163j rules -- those are all annual
calcs. A quarterly view of complex international
taxpayers can raise many issues on a quarterly basis
that might be totally moot by the end of the year.
Secondly, we think it’s much more efficient for the taxpayer and IRS to deal with complexity with actual numbers versus estimates. And third, we think it’s a mistake to cull good but admittedly complex taxpayers simply because they are not well suited for the narrow timing rules of the CAP program. As these taxpayers are likely the best source of emerging issues, we all know that harvesting emerging issues is one of the most important stated goals of the CAP program.

So the EEP is different from CAP in that it does not aim to agree on all issues before the return is filed, but it would borrow from the legacy CAP processes to preserve the deal here, that the taxpayers get currency via an expedited exam timeline, but the IRS gets more efficient resource utilization via robust taxpayer collaboration.

The second area of focus is on the acceptance process into the program. Candidly, IRSAC believes that the IRS has the most leverage over taxpayers’ collaboration before a taxpayer is accepted into the
program. Accordingly, the EEP proposes to require a
sort of beauty pageant of the issues that the taxpayer
is willing to share and the timing that a taxpayer is
willing to adhere to before being admitted into the
program. The EEP lays out potential options for how
this could be calendarized in an effective but
practical way.

Finally, the proposal notes that there are
different viable flavors of the EEP, and IRSAC stands
ready to assist with the various implementation issues
that might arise. I will note that the EEP, while it
was inspired by the experiences of a few CAP taxpayers,
IRSAC was assisted by a panel of large taxpayers in
formulating this proposal. So we have good experience
to draw from, as needed.

That’s a summary. I hope this and the overall
LB&I report will be helpful.

So with that, I think I’m turning it over to
Phyllis Jo Kubey, the Chair of the W&I Subgroup.

WAGE & INVESTMENT SUBGROUP REPORT OVERVIEW

MS. KUBEY: Thank you, Joe.
Good morning, everyone. I am Phyllis Jo Kubey, a New York City-based Enrolled Agent offering tax preparation, planning, and representation services, and Chair of the Wage & Investment Subgroup. We appreciate our IRSAC and IRS colleagues’ flexibility, generosity, and creativity as we developed our issues of Digital Communications, Paperwork Reduction Act, Business Identity Theft, Taxpayer Mailing Addresses, and Employer Tax Forms and Information Reporting in a virtual world.

The work of our Chair and Vice Chair, along with our IRS liaisons, was nothing short of heroic. I’m honored to introduce my W&I Subgroup colleagues: Martin Armstrong, Vice President of Payroll Shared Services for Charter Communications; Ben Deneka, who you met before; Antonio Gonzalez, CPA and Co-Founder of Sydel Corporation, an accounting and IT consulting firm specializing in the financial services industry; Denise Jackson, Vice President of Tax Preparer Development for the State Employees’ Credit Union in Raleigh, North Carolina; Martin Rule, a CPA specializing in tax
management and payroll processing, with a focus on
electronic systems and information reporting; and Kevin
Valuet, Director of Payroll for ITS Enterprises.

Commissioner Rettig, our report issue number one, taxa-
payer digital communications next steps and taxpayer
digital communications outbound notification, resonates
more strongly than ever in a world changed radically by
the novel coronavirus.

As we began our working sessions last January, no
one could have imagined what the coming months would
bring. With IRS service centers shut down and limits
on paper-based operations both in-bound and out-bound,
the need for more and better digital channels became
painfully apparent. Wage & Investment, heavily
involved with service center tax return and document
processing, as well as account management functions
spread among multiple physical locations, performed
laudably as they incorporated the security and
technology for transitioning their employees to a tele-
work environment.

The mail, however, continued to pile up. Even as
the service centers opened, there were restrictions for social distancing and other employee safety measures. IRS phone lines were inaccessible for a time while the IRS provided hardware and software and trained its workforce to work from home. What was once a strong wish for digital solutions is now an urgent need.

Taxpayer digital communication, or TDC, will enable taxpayers, the taxpayer professionals who assist them, and the IRS to resolve issues more quickly and efficiently. It will allow taxpayers and the IRS timely verification that their communications are received. Taxpayer digital communication out-bound notification will allow the IRS to send taxpayer letters and notices that do not by statute require mailing.

Originally, the IRS asked us for assistance with these as separate issues. TDC operates out of the customer account services area, or CAS. TDC-ON involved CARE, the customer assistance relationships and education media and publications distribution area.

We decided to present them as one to emphasize the
importance of looking at both the taxpayer experience and tax administration holistically. Both TDC and TDC-ON increase access to service, improve customer experience, and integrate IRS operations. TDC should decrease the time needed to close taxpayer cases, significantly lower communications costs, reduce operational inefficiencies, and increase taxpayer satisfaction.

TDC-ON will establish a framework where taxpayers can view notices through their IRS online accounts, reducing the utilization of U.S. Mail and increasing the use of IRS online services. TDC could also be used effectively as part of the Practitioner Priority Service operation.

Both TDC and TDC-ON support the IRS modernization business plan, the IRS customer service experience delivery plan, the IRS Future State, and the IRS strategic plan.

For TDC, the IRSAC recommends prioritizing increased capability for document exchange; looking at how the New York State Tax Department and other state
agencies use digital correspondence to support their examinations; enhancing the capability for online chat and secure messaging, particularly authenticated chat; marketing to the tax professional community, including volunteers; and incorporating TDC into the Practitioner Priority Service.

For TDC-ON, the IRSAC recommends accelerating efforts for plain language messaging; moving forward to allow taxpayers the option to cease paper notices and request push notifications via text or email; and finally, developing applications to further engage third-party designees and representatives to more quickly resolve taxpayer issues.

And that concludes our W&I issues, and I hand this over to my colleague, Pat Thompson.

SB/SE SUBGROUP REPORT OVERVIEW

MS. THOMPSON: Good morning, Commissioner Rettig, IRS representatives, IRSAC members, members of the media, and the general public. I’m Pat Thompson with Piccerelli Gilstein Company, LLC.

The SB/SE subgroup of IRSAC had great
conversations with the IRS representatives of the SB/SE division to develop topics of interest to promote their strategic focus of addressing the tax gap, improving customer service, improving business processes and systems, reducing burden, and enhancing stakeholder relations.

The subgroup members have diverse backgrounds, which allowed us to provide feedback from many angles. Our members are Ted Afield with Georgia State University College of Law; Deborah Fox is with Complyright, Inc.; Mas Kuwana with Uber; Kathleen Lach with Saul Ewing Arnstein and Lehr; Emily Lindsay with American University; Kelly Myers with Myers Consulting Group, LLC; Robert Panoff, who is a tax attorney specializing in tax litigation and compliance; Charles Read with Get Payroll; Jeffrey Schneider with SFS Tax and Accounting Services; and Mary Jo Werner with Wipfli.

We’d like to present the topic of improving telephone response time for the practitioner service line. I’d like to introduce Mary Jo Werner, who will
MS. WERNER: Good morning, Commissioner, IRS members, IRSAC members, and other distinguished guests. Thank you for giving me this opportunity to present to you part of the IRSAC public report on behalf of the SB/SE. The issue I am reporting on is the telephone call response time for the Practitioner Priority Service line.

Allow me to introduce myself. My name is Mary Jo Werner, and I represent the great State of Wisconsin. Although you cannot see me, I am wearing attire that is representing some notable parts of Wisconsin, a red Wisconsin Badgers jersey, and Green Bay Packer earrings. They are good luck charms as I wear them during the games for good luck. Wisconsin is also famous for making the most cheese in the country. Last year we made over 2.5 billion pounds of cheese. I would be wearing a cheesehead, but I only do that when I attend a Green Bay Packers game. Right now, due to COVID, I am preserving the cheese for next year’s games.
The Practitioner Priority Service line is a telephone line dedicated to tax practitioners who prepare tax returns and represent taxpayers before the Internal Revenue Service. Due to the increased complexity of tax return preparation, recent passage of tax legislation, and questions regarding IRS collection issues, the volume of calls to the Practitioner Priority Service line, also called PPS, has increased dramatically. This has resulted in very long wait times, sometimes lasting over two hours.

Recently, PPS has an automated response that says it is unable to respond to the call due to call volume, and the phone call is disconnected altogether. To expedite calls, the IRS has offered a menu of six items when calling PPS. The IRSAC subcommittee asked to review the number of calls for each menu option and to look for ways to improve phone service. We looked at phone call volumes during the 2019 year, and also 2020. It was noted that call volumes increased 27 percent during the first ten-and-a-half months of 2020 compared to the same timeframe in 2019. The IRS fielded almost
3.2 million calls in the first ten-and-a-half months of 2019 with the PPS line. In the year 2020, they fielded over 4 million calls in the first ten-and-a-half months.

After analyzing information, we have 10 recommendations for the PPS line.

Number one, reallocate resources according to the options that are most used, particularly option 2. Consider removing option 1 as it currently is unused.

Number two, expand the menu options available to directly connect practitioners with IRS customer service representatives with experience in that menu topic. Some menu items to consider: identity theft verification and international tax matters.

Number three, increase the authority of IRS customer service representatives to place accounts on hold for a sufficient time while the IRS reviews and responds to the issues raised. During the first months of the pandemic the IRS was not opening mail, and this delay is causing issues regarding collection activities and notices to taxpayers. Additional hold times would
1 alleviate wrongful collection activity and reduce the
2 number of additional calls being made to the PPS.
3 Currently, customer service representatives are only
4 able to place accounts on hold for 30 days.
5
6 Number four, invest in enhancements to offer text
7 chat to tax practitioners. Expand options to securely
8 transmit documents to the IRS during these online text
9 chat sessions. Text chat is currently being piloted by
10 the IRS in other areas and experiencing success.
11
12 Number five, publish on the IRS website the best
13 dates and times to call PPS to avoid these long wait
14 times.
15
16 Number six, add an option for tax practitioners to
17 request a call back.
18
19 Number seven, allow IRS employees to call back a
20 tax practitioner who is disconnected and eliminate the
21 necessity for a tax practitioner to call and restart
22 the process from the beginning.
23
24 Number eight, work with outside stakeholders to
25 see what options are being used effectively to improve
26 communications in the tele-work environment, with the
goal of reducing call wait times and length of call. Consider contacting companies which have demonstrated exceptional expertise in customer service.

Number nine, review the telephone system capability to handle increases in call volume. Why is the PPS phone line hanging up on tax practitioners due to call volume?

And number ten, enhance training for IRS customer service representatives to improve the taxpayer experience. A supervisor of the customer service representative could provide feedback on possible additional training for them.

Thank you for allowing me to provide this information on behalf of IRSAC. I now transfer to April Goff of TE/GE.

TE/GE SUBGROUP REPORT OVERVIEW

MS. GOFF: Thank you very much. Good morning, Commissioner Rettig, IRS officials and liaisons, fellow IRSAC members and representatives from the press, and interested members of the public. The distinguished and hardworking Tax Exempt and Government Entities
members for the 2019/2020 IRSAC year were as follows: Michael Engle, the subgroup Chair, and he’s a partner at BKD, LLP in Kansas City. Unfortunately, Mr. Engle is unwell today and unable to join us, which is really very unfortunate because he did a phenomenal job leading our group and deserves to be recognized because he will be rolling off at the conclusion of this meeting. We all want to thank him from the group for his tireless leadership and service.

The other members of the TE/GE subgroup are as follows: Sharon Brown, a partner at Barclay Damon, LLP; Carol Lew, a shareholder of Stradling Yocca in Newport Beach, California; Nancy Ruoff, Manager of statewide payroll and collections for the State of Kansas; Jean Swift, Tribal Leader in Connecticut; Daniel Welytok, a shareholder in Von Briesen & Roper in Milwaukee, Wisconsin; Charles Yovino, President of Global HR GRC in Atlanta, Georgia; and I am April Goff, a partner with the law firm of Perkins Coie in Dallas, Texas.

I’m going to be presenting today our
recommendation that the IRS update Section 8 of Revenue Procedure 2018-58 in order to provide necessary relief to employee plan sponsors that are impacted by emergencies such as this year’s COVID-19 pandemic.

Throughout the country, we have all been forced to rapidly adapt to a new reality this year, the transition to dealing with COVID-19. Currently, over 11 million residents have tested positive to the novel coronavirus, over 1 million in the last week alone, and it has impacted every single aspect of our personal and business lives.

I want to take a brief moment to specifically commend the Herculean efforts of the TE/GE staff, internally the Internal Revenue Service, and the Office of Chief Counsel, in issuing a significant number of notices to address a variety of issues in the employer plan community. We specifically reference eight issue notices in our annual report, and while that number is significant in and of itself, it really doesn’t convey the tremendous effort of the IRS staff in dealing with those compliance concerns while many of them were
dealing with significant technology restraints and often subject to government shelter-in-place orders themselves. The effort has been truly phenomenal.

Revenue Procedure 2018-58 provides that the IRS may trigger automatic specified action via the issuance of a notice in the event of a presidentially-declared disaster zone. We request that the IRS clarify that the revenue procedure would also apply in the event of a declaration of a national emergency, as President Trump did this year with respect to COVID-19, and update the revenue procedure to include eight specific pieces of relief, as follows.

First, to provide relief from the physical presence requirement for participant elections related to witnesses for plan participants or notaries, including spousal consent, in order to facilitate the timely payment of emergency-related distributions and plan loans to qualified individuals or for any other participant election that requires the signature of an individual to be witnessed in the physical presence of a plan participant or a notary; and implement an
alternative to a notarized form such as a video
attestation by the plan participant in situations where
a notary is not physically accessible to a plan
participant. Because of COVID, quite simply, a lot of
people are unable to get to a notary, or they’re afraid
to do so if they think it may jeopardize their health,
and they need to be able to access the funds, if
necessary, in their retirement plan.

Second, we recommend that the revenue procedure be
updated to permit employee plan sponsors to utilize
electronic rather than written signatures for any plan
filing required during the extension period that is
permitted by any issued IRS notice.

Third, we would request to pause or to delay
automatically the commencement of any new employee plan
audit or examination during the pendency of an
extension period and allow employee plans that are
currently under audit to request either telephonic or
video hearings and meetings of IRS officials, or to
request a delay of said hearing if the telephonic or
video capabilities are limited by either the IRS or the
employee plan sponsor due to the emergency.

I will note that the IRS did a tremendous job of
doing that during the pendency of the COVID-19
pandemic, during the national emergency for this, but
we would like to make this an automatic portion of this
notice going forward.

Fourth, we would recommend that the IRS
automatically extend all deadlines applicable to
employee plan filings, including initial remedial
amendment period, determination letters and other
filings for the duration of the extension period.

Fifth, we take a compliance assistance approach to
enforcement during the pendency of a national
emergency, which may include extension of additional
break periods and other relief, where appropriate, for
the plan sponsors that are hardest hit by an emergency.

Sixth, increase permissibility and availability of
electronic communications with the practitioner
community in particular, in a manner that protects the
security of those transmissions, such as utilizing
secured file uploading, and we were providing flash
drives to agents. That would protect the information for all parties.

Seventh, provide for electronic or alternative methods for distributing necessary disclosures in the event the mail systems are disrupted or experiencing unreasonable delays, as we saw this year.

Eighth, develop a contingency plan to address additional relief that may be necessary due to infrastructure, Internet, or mail disruptions, or situations that would cause taxpayers or, honestly, IRS officials to be unable to leave their homes or, alternatively, be forced to evacuate. Most importantly, we would suggest that the IRS seek the input from the employee benefits community on these points.

There is a tremendous wealth of guidance and advice from those of us who deal with these clients who genuinely want to comply but are working through the most difficult business year in recorded history. We want to partner with the IRS, and the community wants to partner. Together, I think we can make a better
case moving forward. Thank you.

At this time, I’m honored to turn it back over directly to you, Commissioner Rettig.

RECOGNITION OF DEPARTING IRSAC MEMBERS

COMMISSIONER RETTIG: Thank you. With any luck, you can hear me.

As I said and I’ll reiterate and cover some territory -- by the way, this is the quickest IRSAC meeting so far that I’ve participated in, and this is probably somewhere between being a member, being Chair, and being Commissioner. I think this is about my 10th meeting. So I’m very, very appreciative of the difficulty of doing a presentation on such important topics across the board and doing it quickly and succinctly. So certainly for each of the presenters, a tremendous job, great job.

Very brief insight into a couple of things, and then we’re going to make some comments about the folks who are rotating off.

As far as digitalization of the agency, I think we’ve come more in about eight months than we have I’ll
say in more than 10 years. Like you on the outside, I probably knocked on this door to get some type of digitalization going in some part of the agency for more than 20 years, really without much success, but also without a degree of understanding of the real risk-averseness of the agency itself.

There are always huge concerns from cyber threats, from identity theft and related items. I think most of you are aware that in the last statistic we released for Fiscal Year 2019, we had about 1.6 billion sophisticated cyber attacks on our systems. We average more than 2.5 million a day.

COVID actually brought us to the point where service-wide counsel is involved, IT is involved, the (inaudible) is involved, to reevaluate the risks and see if there are certain areas that we might not be able to look at differently and open up certain lanes. It may not feel like it on the outside, but I can tell you on the inside the feeling is that we did a tremendous job opening up when we could, where we could, as quickly as we could.
Our IT folks are actually off the charts. The ability for them to program and do work-arounds and to have us poke at them and say that’s not really what we were talking about, can you go here, and in 48 hours or 24 hours they come back with some type of solution, that might not be the solution I would have asked for if I was on the outside.

There’s a difference sometimes between wants and needs. The agency sometimes has to look at it from a needs perspective, and that delves into when we’re talking about priority. Our list of IT priorities will outlive my great-grandchildren unless something else happens. So typing in the concept where you open up with respect to the funding, this is an agency that, long before I was here and hopefully not much longer after I’m gone -- by the way, I’m on a two-year term. So for those of you staying around until November 12th, 2022 -- and when I say together, I mean together on this journey trying to enhance the agency and all interactions.

But when you look at where we are and where we’re
headed and the ability of people here to shift, and sort of getting to the wants and the needs, we do balance ideas and priorities such as the cost involved, can we do one big project or can we quickly deliver eight or ten or more little projects, how can we streamline them, can we merge them, and all of that kind of thing.

We also look at the taxpayer base, and I think nowhere more evident than in our distribution of Economic Impact Payments where we looked at the base of people we were trying to get payments out to. We can do our position on that because essentially we have electronic data. But if we deliver programs to Bureau of Fiscal Services, and they’re the ones who pull the levers when there’s going to be a direct deposit or if there’s going to be a paper check, they make the decision with respect to debit cards, in the paper check arena they can deliver between 5 and 7 million paper checks per week because that’s their excess capacity, on top of other Federal benefits.

We were pretty much willing and able to go to a
much bigger number when we came out of the gate on April 10, but we were limited to what we could do electronically plus 5 to 7 million per week. So we almost instantly, from March 27th and the CARES Act to April 10th, delivered 81 million payments totaling well over $147 billion.

Using what we’ve learned in CARES Act and particularly the EIP distribution and creating that system and then running that system side-by-side with our filing season, between refunds for filing season and EIP payments that we have made we’re just shy of about $600 billion, the IRS being responsible for distributions to Americans truly throughout the world, in record time. And importantly -- and this ties into where I’m going with the electronic and digital part of the IRS. Importantly, when we had issued 157 million payments, TIGTA did a report saying that our accuracy was about 98 percent.

We had to balance creating systems for people who were already under water, if you will -- and I don’t mean that negatively. I mean buried under filing fees
and program, our IT and W&I folks. We had to create and develop systems, develop work-arounds as quickly as we could out into the economy. And if you look at the panic that people had, people were losing their jobs. They were afraid of a personal physical health issue, and a lot of other things. And the ability to deliver some type of benefit immediately, which the CARES Act dictated for, to make delivery as rapid as possible, I couldn’t be more proud of the people at the Internal Revenue Service and the folks that we work with on the outside to help us deliver.

It’s easy to say, yes, a person in Des Moines did not get a payment. What you may not know is that person in Des Moines, their income tax return, they have fraud filter. It may be that they’re the subject of identity theft. There’s a whole host of reasons why certain things didn’t happen. What might appear to be smooth on the outside, I was raised to look at the half-full glass, and in this case 98 percent full.

My ask of each of you, why I’m going into the EIP scenario, is November 21 is the last day for folks who
don’t otherwise have a filing obligation to come into our non-filer portal. Talk it up in your community. Try to assist wherever you can. We’re more or less down to what I refer to as the unsheltered individual. We’ve interacted with more than 4,000 homeless shelters around the country. But we’re into the people that we really have a difficult time identifying through our normal channels.

We’ve contacted essentially every other Federal agency and literally thousands and thousands of organizations. We want to get these payments out. And I think from the tax professional point of view, the pride factor is helping us help others for game-changer numbers, up to $1,200 per person, $500 for a qualifying child.

So it does tie into -- and I get the tone and the sense of digitizing the IRS. A lot of what we’ve been able to pull together during this timeframe might have had a label that said pilot project, right? That’s because of the work-arounds that we pulled together. That should not imply that our electronic interactions
with folks are going to disappear if and when the COVID scare disappears. They’re not. If we’ve gotten to a better place, I look at where we are now as a platform and foundation for tax administration to move forward.

It will move forward in the virtual environment. It will move forward in the electronic environment, digitalization. There was a comment about chat box and callbacks. Those have been pilot projects with us, and you should look to those to greatly expand. You should look for the development and expansion of a tax pro online camp. A lot of these might come under the Taxpayer First Act provisions. Certain things that we can do sooner you will see us do sooner. I think everybody here is driven now and they feel a degree of momentum internally. You might not see any momentum externally, but I can tell you that being on the inside, I think most people feel that we have momentum, and we’re looking to capitalize on that.

Know that what we came through is exactly what every other American came through. For those of you who had difficulty interacting with and contacting the
Internal Revenue Service, that’s all (inaudible) who made decisions to shut down 511 facilities, send our people home for health and safety reasons, a people-first kind of concept. If I was in a firm on the outside, I think I would have done exactly the same thing.

Being with a Federal agency, we needed to balance health and safety and the unknowns associated with COVID with our responsibilities to each of you, to every American, and to the country itself. We are hugely proud, and if you look at the agenda today and you see the top of it, those of you who were here two years ago, you didn’t see that top banner on anything that came out of the Internal Revenue Service. We started that about 18 months or so ago, to add the flag and red, white and blue to all of our materials. We’re one of the few Federal agencies that was not in that space.

What we’re trying to do is to convey a message about the importance of the IRS to the success of the United States. That is to say, people want education,
they want infrastructure; what you’re saying is you want the IRS to be successful. All of you get it from the personal time and effort you’re putting into IRSAC and outside of IRSAC, but when you come back and you say that 96 percent of the gross revenue of the country goes through the Internal Revenue Service, we make a difference. Our people make a difference.

So when you see the flag -- and it’s on everything we have now. When you see the flag, we’ve given it to our employees as you are part of the success of this country; appreciate that and be proud of that fact, and we hope other people recognize the importance of that and want to come on board.

For many of you who know me personally, and I saw a lot of very familiar faces, my view of the flag -- of course, I was born and raised in this country. But my view of the flag was enhanced, certainly, when I met my wife and (inaudible) people who have had extreme hardship in foreign countries and do all they can to leave those countries. And then similarly, or at least equally, I’m very proud to have a son who is active
duty United States Army. When I see him in his uniform
with the flag on his shoulder, you can’t be a parent
and not get emotional when you see that, particularly
when you have a child who has deployed, and maybe he’s
deploying early next year again, deployed twice before.

People used to say to me, how do you feel with
your son deploying? Well, you hope and pray nothing
happens to them, but you’re hugely proud because you
have a child who gets it, who gets the importance of
carrying the flag into potential harm’s way, with the
benefit oftentimes of people who don’t know that he
even exists (inaudible).

At the IRS, we have a different version of that.
We’re not the military, but we’re supporting the
country, and our people work hard. Our IT folks work
seven days a week, 15 or 17 hours a day from March
through at least July, and we keep layering in
projects.

So I think we’ve got good momentum. I think we
have a good head start. Your projects are phenomenal.
Your topics are phenomenal. You’ve seen in the past,
those of you who have been around, how we use the IRSAC reports as a foundation and a platform, whether we’re going up to the Hill or otherwise. So the language in there and the tone in there becomes very important.

I think, obviously, I’ve only been here two years, but I can certainly say that I feel we have very strong bipartisan support for the importance of the Internal Revenue Service, stepping into the challenge of the CARES Act and maybe being called upon to do that again either later this year or next year as legislation is being talked about. And people say to me, will the IRS be able to do another round of Economic Impact Payments, and I don’t even look away. I said yes. We will handle every challenge that we are presented with, and we will do so with extreme pride and double back to the banner on the agenda because we’re part of the country, you’re part of the country, and we really support helping people who have difficulty, for whatever reason, sometimes self-inflicted, sometimes not. But they’re all people, and they’re people that a great country like ours has the ability to help.
So getting us into certain zones, digitalization and prioritizing things, we take that to heart and we want to do more, and we want to do the best. Every Commissioner before me has talked about funding, and many have said we’re going to do more with less, and we’re going to do less with less, and you’ve never heard me say that this IRS is going to do less with less.

This IRS wants to do more, and in my mind when I say that is a call to Congress to provide us with consistent, multi-year, adequate funding to do the projects that every American deserves. These projects are all in line with what you’ve laid out today. Can we be better? Absolutely we can be better. But it’s a team project. It’s not only on the shoulders, if you will, of the Internal Revenue Service. It is in part because we want to coordinate the effort. But it’s on the shoulders of literally every person and every American.

The comment about the hiring freeze that the IRS had between 2011 and 2018 has created obviously a huge
gap for the agency in terms of going forward, and then you layer into that the fact that somewhere on the order of about 35 percent of our employees are eligible to retire within the next three to five years, that’s a staggering number when you’re looking at a workforce of 80,000 employees spread throughout the world.

So I like to sort of help people understand, not as an excuse for the challenges that we have, but to understand the challenges that we have and the importance of where we are.

One comment that came through yesterday, yesterday was our high water mark for tele-working for the agency, 59,000 employees tele-working at the same time. We have capability for 85 percent of our folks to tele-work. We did not have that capability in February. We expanded that significantly, and particularly in concepts like customer service representatives, the folks on the phone. We didn’t have the ability for somebody to call in on the phone in January and February, get translation services in more than 350 languages.
Excuse me. I have a little bit of a dry throat. That’s probably a hint from Terry telling me I’m over-speaking, but I apologize for that.

We will get the chat bot. We will get the tax pro lines. We will get to everything that you want, but we need your assistance and the drum beat. Keep it going and help us get to where we need to go.

Two points to close. The Taxpayer First Act, embrace that, comment on it, critique it if you will. That’s the future path of the Internal Revenue Service. That is the vehicle for us to get that.

The last comment I want to make, because it’s something that I didn’t fully understand when I was on the outside but I certainly do now, and I certainly do under the guise of a pandemic. While everything was going on, while we shut down our facilities, while I was sending our people home, calling back our attaches from foreign countries, we called back our attaches with the concept of if our people are going to get COVID, we’d rather them get COVID at home than in another country.
While all that was going on, our country got hit by a hurricane, wildfires and such. So very proudly, our people in the IRS volunteered in terms of helping FEMA with respect to the hurricanes and the wildfires, and it should never go unnoticed that the IRS is much more than a tax administration agency. We are a significant part of this country.

In the last six years, the IRS has received more than 1.3 million calls on behalf of FEMA from more than 9,000 IRS employees doing intake for people who lost their homes or whatnot with respect to a natural disaster. We take those people off the call lines. So even as we were in the pandemic trying to bring people back, we had to get ready to deploy as many as 3,000 of our customer service representatives with the concept of training them with the ability to move in to provide assistance to FEMA in hurricanes. That was not a guns or butter decision of what should we do here. That was a we’re people, we’re people in this country, we’re a Federal agency, we can step into this challenge and help others with the knowledge that each of you and
everyone on the outside would appreciate the efforts that we’re doing in that space with patience and understanding.

So there’s a lot behind the scenes, a lot that people are not aware of, and since I’ve come on board I’ve tried to make everybody aware of literally everything. We’re helping the best that we can to continue to operate in a transparent space where we can, and look for us to do that.

I’m hugely proud. And I think, if I am right, we’re going to go to recognizing the folks who are rotating off. If I’ve over-spoken, I’ve never really used the term “commissioner” unless I’ve gone over my allotted time, and then I remind people that I’m Commissioner to give myself an extra few minutes.

So, like you, I’m very proud to be on this journey of tax administration for the country. I’m hugely proud for your efforts, thankful for your efforts. The IRS cannot do this alone, nor should it do it alone. The IRS needs the viewpoint from all people that we interact with, and we need the respect, the effort that
it takes in this situation for each of you to help coordinate a 200-page report. And for that, I can’t say enough.

So unless I get a heads up, and I have no idea how Mel or Terry would be giving me a heads up, so I’m just going to roll with it. I’m just going to move into recognizing, thanking, and appreciating the 13 folks who are rotating off of IRSAC with an ask that if we get back to a position where we get back into a travel status, I’ve done a lot of outside conferences and have visited many of our posts of duty, and if I get to your town, shoot me a note. I would like to, in person, get together with you and thank you for your efforts. I know this is not an easy undertaking, and it got more difficult in a virtual environment. So for that, feel free, and it’s my ask of you to reach out.

So, from the LB&I subgroup, rotating off is Martin Bentsen, Sanford Kelsey. I was actually on IRSAC with Sanford at an earlier point in time. He is certainly one of my heroes. We had a lot of conversations on a lot of different points. Sanford, when I saw your name
come up a couple of years ago, I was hugely proud.

Some people give more than others. That’s maybe a bit of a tease for those of you who are rotating off, and if you want to know you can talk to Sanford.

Fred Murray, rotating off of LB&I. Fred is quite a bit older than I am, but I have a lot of respect for Fred. I’ve known Fred for a long time and consider each of you a close friend. I only pick on the ones I love, if you will.

Sandy Macfarlane rotating off as Chair. Sandy, your comments and your thoughts in terms of priorities and whatnot, greatly appreciated. It’s clear to me that you get it and that you understand the difficulty of priorities and competing priorities. We have competing priorities among our business operating divisions, among folks on the outside. You see a lot of requests come in from organizations on the outside, and in isolation we want to look at it and say of course the IRS should do this. It seems like a no-brainer, and I have said things like that to folks on the inside, and then they explain the difficulties
involved sometimes in some of these priorities. But I very much can tell and appreciate the fact that you really appreciated the difficulties but nevertheless called for action, which I totally agree with. We need to get there and, by the way, we want to get there.

From the SB/SE subgroup, Mas Kuwana, Emily Lindsay, Charles Read, Jeffrey Schneider, and Chair Pat Thompson. SB/SE is a sometimes compliance-challenged taxpayer group. On the outside I represented a tremendous amount of folks, taxpayers that might fall in the SB/SE umbrella, looked at them the same way that I look at them today, which is our responsibility to get folks in compliance. But the other side of that is our responsibility is to provide clear and timely language and guidance. I read a comment the other day that said only tax practitioners (inaudible) for regulations, particularly when there are 700 agents. And I thought, you know, you’re exactly right, and that’s what we’re trying to move from and into, that type of guidance.

By the way, when I talk in terms of
digitalization, and you know we have a digitalization
office now for the first time, never ever let that be
interpreted to mean we’re moving away from in-person
paper contacts with taxpayers. There are tens of
millions of people in this country who do not have
broadband and do not have a cellphone or a smart phone
or a laptop. They live in rural parts of the country.
And similarly, there are millions and millions of
people who are not comfortable in the English language.

It’s our responsibility and truly our privilege to
serve and give the best service that we can to the
folks who might not be English speaking, who might not
have broadband, might be sight impaired, might be
hearing impaired, through to the most sophisticated
individual and corporate taxpayers on the planet. It’s
our privilege to hopefully get into a position where we
can provide the type and level and degree of service
that they deserve. So I get your comments and I take
them to heart.

The TE/GE subgroup, rotating off is Jean Swift and
Mike Engle, the Chair. Sometimes the underserved part
of the (inaudible) from the IRS, but I’m sure you’re aware that Deputy Commissioner of Service and Enforcement, Sunita Lough, was Commissioner of TE/GE, and certainly under her term you are not underserved. She’s very understanding and protective, not just for the TE/GE IRS organization, but the TE/GE taxpayer, if you will, based on the outside.

I think I heard a comment about somebody from one of the Indian Nations. We recently did a multi-lingual summit on October 21. The first one was in June. And I was thrilled to see that we had either three or four participants from Indian Nations in that summit. All I can tell you is I was thrilled. I am aware of an Assistant U.S. Attorney who has devoted her life to prosecuting criminal actions that occur on the reservation, many with respect to disappearances and whatnot of young women on the reservations. We can’t lose track and lose sight of the importance of every person who is somehow affiliated with our country. So I’m very thankful to have the Indian Nations stepping in and calling out. For those of you who have
contacts, if they need me in any way, shape or form, please reach out. I do not have a lot of interaction on the outside, but I want to assist personally where we can.

W&I subgroup, the Chair is rotating off, Phyllis Jo Kubey. You have some of the most entertaining commissioners in W&I that we have here. I’m sure you learned a lot about certain places and eating habits and certain types of places and whatnot. Again, we probably see every personality trait in the book in our 80,000 employees, and I say that proudly that we do so. And W&I interacts with more taxpayers than any other single unit that we have. So the importance of us really getting it right and providing proper service can never be overstated.

Finally, and if not the best for last, I will mention that your Chair, Diana Erbsen, I was not the person who selected Diana as chair, but I am the person who would select Diana to lead any organization on the planet. She has, as those of you who have been in IRSAC know, a pleasant and polite way of helping people
see the way that maybe they wouldn’t have seen it
before. I respect Diana tremendously. I did respect
Diana a little more before the call because I thought I
would hear something that she would say that she was
impressed that I was participating in IRSAC on my
birthday. The fact that Diana forgot my birthday, I’ll
just remember a little while.

To Diana and to each of you -- and I say this
personally -- I love you guys, right? I love each of
you. I get what we’re asking you to do, and I also get
that you don’t just jump into the wind and accept what
we think or what we say how something should be
modified. You give it your independent look and, more
often than not, that will be different or slightly
different than what we might have done on our own.
That’s the journey I’m talking about being on together
to help tax administration.

So I really care about you. I’m very appreciative
of your efforts. Those of you who are rotating off, I
come back with the same thing, you’re never off this
journey. You’ve already shown us that you care.
Continue to care. Continue to reach out as you see us do things. Constructive criticism, provide that. When you interact with our employees, I used to say a smile or a nod, a letter or hopefully we’ll get to where you can all provide an email to our employees. It means a lot to the people in Federal service, and they don’t accept much, and when they get anything, it gets printed out and put up on the wall as sort of a pride factor for them.

That’s the level where you just say thank you, I really appreciate what you did, or whatever. It’s not the result. It’s the effort that our people give. We can all agree to disagree on the result. So my last call would be when you have the opportunity and if you feel so inclined, let them know that you understand what it is that they’re doing on behalf of the rest of us.

So with that, I’ll close. I think I’m only two minutes over. That’s somewhat of a record, and I appreciate it. Ben and Diana, I guess I’m talking about you, and I see that we have a break. Normally
they don’t show me a break after my presentation. We can just use up that break and then go into the next one.

I miss each of you. I miss the personal interaction and sort of the hanging out. I’d give you the invite to the virtual thing this afternoon or this evening with you all. We left that up to Tom Culligan to figure out and whatnot.

So for myself, on this journey, I’ve always told all of you my wife is on this journey with me. After we heard from her elderly parents in Los Angeles, she’s here in D.C., she’s an important part for me and she critiques me every time I come home on whatever we did. But we’re looking for you to do that for us, as well. So, thank you very much. Those of you who are coming on and staying on, I look forward to interacting with you going forward. So I certainly thank all of you for your assistance.

Back to Ben, I guess, Diana.

MS. ERBSEN: I’m going to say thank you and happy birthday.
(Laughter.)

COMMISSIONER RETTIG: It’s horrible when somebody calls that out, isn’t it? I mean, I normally tell you what a cool guy I am, but it’s so uncool when you tell people you’re cool. Please don’t let her know, but when I go home and tell her, oh, I told everybody it was my birthday, she’ll say you did not.

(Laughter.)

MS. ERBSEN: There is actually a red, white, and blue IRSAC mask holder on its way to you made by Ellis’ granddaughter, 7-year-old granddaughter.

COMMISSIONER RETTIG: Wow.

MS. ERBSEN: I don’t know if you were on the phone when I mentioned that you had really set an extraordinary tone at the top, and it was reflected in everything the IRS did this year in addressing adversity and showing how to create opportunity from adversity. So, thank you so much.

COMMISSIONER RETTIG: Diana, in my mind people will say, how would you describe your leadership style? I say, well, really I don’t have a leadership style. I
care about people. And in terms of some of the
activities that have happened, and certainly in the
world of diversity and inclusion and in the
underrepresented and historically underrepresented
communities, what I’ve really done there I think is
open the door. And our employees, when they recognize
he is giving us the reins to go and do what we always
wanted to do -- so I don’t take credit for any of the
projects. The only thing is opening the door and
encouraging people to understand what we have the
ability to do far beyond tax administration.

The conflict I laid out in terms of the leasehold
we have now in Puerto Rico, that happened in my office,
in a discussion in my office when we were trying to
hire in a different city and we came up short, and I
said what about Puerto Rico? If you look at those
types of things for a Federal agency, we’re building
real benefits to real people, and importantly
oftentimes to people who are struggling and don’t see a
future.

Most of us don’t have that in our background.
Most of us saw a future from kindergarten forward. We somehow knew more or less what our forward plan was going to be.

I also have the privilege of being married to somebody who had her forward plan until age 11, and then it just blew up around her, and she had to try to survive, and it gave me insight, not that I would ever be fully understanding of what she went through because you can’t if you didn’t go through it, but it gave me insight on how each of us can make a difference for other people.

I have to admit to having the privilege of doing that with the wrapper of tax administration and the Internal Revenue Service because I would guess that I have probably opened up more than most commissioners on these kinds of requests, maybe gone out of the strict (inaudible), if you will, with it. But I see where we can make a difference, and I will tell you the number of times that I’ve gone around the country and interacted with people, it’s unusual for us to do a stop in a city where we don’t receive an emotional
reaction. This is pre-COVID. We show up as people and
give them the understanding that we care about them as
people, so not taxpayer (inaudible) but into their eyes
and into their heart, and they feel the same for us.

When I talk about being privileged, I am
privileged for that. How many people have the ability
to walk into a room and see that you have just opened
somebody’s eyes up to so much more than what they ever
had the opportunity before.

I could go on and on. What happens with me on
these trips happens with our leadership when they go
out. Our people care. All I’ve done is help open the
doors for them to let people know it’s okay, you know?

I will say that, with respect to another agency
head not long ago who was in my office, I made the
comment that I love our employees. The person stopped,
turned around, and he said -- and he’s interacted with
IRS commissioners going back, I’ll say forever -- he
said that’s the first time I’ve ever heard a
commissioner say they love the employees. I said, no,
I do. And he holds his hand up and says, I understand
that. And he says, you’re different, you know?

I’m proud. We’re all different. It’s okay to care about people. It’s okay to love people. Put it in a tax wrapper and make it better. If you make the tax part better, we’re a little bit enhancing the rest of their world too. Tax isn’t in isolation.

So now I’ve way over-spoken. Terry and Mel want to have (inaudible) remote to my office. We keep the door locked from the detail on the outside. But thank you, and I do appreciate the kind comments, and it’s good to see you.

MS. ERBSEN: You too. Thank you so much.

We’ll resume at 10:45 after a short break.

COMMISSIONER RETTIG: Be well.

MS. ERBSEN: Be well.

(RECESS.)

MS. ERBSEN: Before I welcome LB&I Chair Sandy Macfarlane, I want to just say thank you to everyone at LB&I, particularly Commissioner Doug O’Donnell and Deputy Commissioner Nikole Flax. That has been my IRSAC home since I started. I was chair of the
subgroup last year, and it’s been a pleasure working
with you and a pleasure working with Sandy and all the
subgroup members, and I’m very grateful for that
opportunity.

Now I will turn it over to Sandy Macfarlane to
introduce the subgroup and the recommendations. Thank
you.

LB&I SUBGROUP REPORT

MR. MACFARLANE: This is Sandy Macfarlane, Chair
of the subgroup for the LB&I group. We’ve had, I
think, a really great experience this year despite all
the tribulations of COVID. We’ve had a really good
ongoing dialogue with our counterparts at the IRS, and
I hope we’ve been able to create some suggestions, some
recommendations that will help in tax administration
and make the whole system work better for taxpayers and
for the IRS.

I want to particularly thank Doug O’Donnell,
Nikole Flax, and their other colleagues in LB&I --
Holly Paz, Robin Greenhouse, Elizabeth Askey, John
Hooks, Stephanie Burch, Kathy Patterson, and I probably
left out some others. We had a really good
conversation that’s gone on, and we appreciate the time
and engagement that they have brought to the process.
I offer my thanks for that personally and also on
behalf of the group.

The group, which you’re familiar with because
we’ve been meeting together throughout the year, let me
just quickly say is Martin Bentsen from FIS Wall Street
Concepts; Alexandra Cruz from Ernst & Young; Diana from
DLA Piper; Robert Howren from BlueLinx; Sanford Kelsey
with Norfolk Southern; myself; Joe Novak with Abbott;
and Katie Sunderland with ICI.

So, we came up with a number of recommendations as
a result of our work. The first was the exam program
which Joe went over in the earlier part of the meeting,
so we won’t cover that again. But we do have some
others that we’ll be covering now.

One is a cooperative project that we’ve done with
the LB&I folks, coming up with a recommendation for an
online guide to the various programs that are available
for dispute resolution, both pre- and post-filing, and
there are a number of them. We’re going to have Robert
Howren present from that.

We’re going to have Alexandra Cruz present on some
recommendations in the information reporting area. She
has three different recommendations there.

And then finally Martin Bentsen, who is going to
talk about information reporting where we need
additional guidance.

So with that, I will turn it over to Robert.

MR. HOWREN: Thanks, Sandy.

It’s my pleasure to present today, talking about
different methodologies for IRS dispute resolution
programs.

Whether you’re working for a private company or
you’re a practitioner who deals with public companies,
there’s a lot of different options available whether
you have yet to file your return or whether you filed
your return and now you’re under audit. There are so
many programs that a lot of taxpayers are not fully
aware of every opportunity or every option there is out
there that’s available to them to manage the
preparation of the tax return and/or the audit process.

Among the potential resolutions there’s private letter rulings, determination letters, pre-filing agreement, advance pricing agreement, compliance assurance process, issue resolution, accelerated issue resolution, traditional appeal, fast-track mediation, early referral to appeal, and the rapid appeal. So there are a lot of different programs, some of which are available prior to filing and some available after filing.

In cooperation with LB&I, IRSAC worked together to prepare a matrix that could be put out to the IRS website that anybody can go out to and review and try to figure out which is the best method for their current situation. The matrix columns can provide the resolution type program, which I just read out. The next column talks about when to consider each of those options. The next column talks about whether there are user fees associated with that option or not. And the final column provides more information and detail about those particular programs or those particular options.
It’s a very detailed, very organized matrix. So it’s our hope that this gets pushed out to the website so that it would be available to be able to utilize and evaluate, and I just want to thank everybody at LB&I who worked on this and helped put this together. It’s been a pleasure working with you all, and I’ll turn it over to Alexandra Cruz to go over the next portion.

MS. CRUZ: Hi. Thank you, Robert.

Good morning, everyone. As Sandy mentioned before, I’m going to be speaking with respect to three separate information reporting recommendations, with the first asking the IRS to consider incorporating the representation language required under the regulations for the alternative withholding statement into the Form W8-IMY.

The second recommendation is that the IRS consider broadening the scope of its update to the QI and WT agreements.

And lastly, a recommendation that the IRS consider revising the proposed regulations for the modified lag
method.

Under the regulations, a withholding agent may accept a non-qualified intermediary, or an NQI, an alternative withholding statement to accompany the Form W8-IMY to document the status of the entity, along with its underlying (inaudible). The alternative withholding statement is much easier to complete as it does not require all the data elements a traditional withholding statement requires. However, in order to use the alternative withholding statement, it requires that a representation be included, and without it makes the alternative withholding statement invalid.

Practically, this can be operationally burdensome for both the withholding agent and the NQI as it necessitates additional follow-up for correcting withholding statements to include this language and can potentially result in over-withholding.

In order to alleviate this, the IRSAC recommends that the IRS modify the regulation so that the representation language may be integrated into the Form W8-IMY as perhaps an additional checkbox that the NQI
can check off, as applicable.

Next, as updates are anticipated to be made by the IRS with respect to the qualified intermediary and withholding foreign partnership, withholding foreign trust agreements to reflect recent updates made to Code Section 1446 under the Tax Cuts and Jobs Act, we respectfully ask that the IRS broaden the scope of its anticipated updates to incorporate the previously published FAQs, as well as the post-cure error projection. Over 50 FAQs have been published on the IRS website with respect to the QI and WP agreements, and the IRSAC would like to thank the IRS for publishing these FAQs, as it has been beneficial in providing guidance beyond the agreements.

As these FAQs are published separately from the agreements, it requires QIs and WPs to bridge the gap between the agreement and the FAQs and could leave those who are unaware of the FAQs without the most recent guidance.

Additionally, the LB&I process unit published guidance earlier this year with respect to projections
of under-withholding that can be performed on a post-
cure basis. However, the current QI and WP/WT
agreements do not reflect this standard. For avoiding
this doubt about which standard to apply, the IRSAC
recommends that the agreements reflect this updated
standard as set forth by the process unit.

Again, we would like to thank the IRS for
publishing this additional guidance and publicizing it
at various conferences. But in order to promote a
consistent approach, a consistent application of the
guidance, we urge that it be incorporated by the IRS
into the respective agreements.

And lastly, we have made recommendations with
respect to updates that the proposed lag method -- and
while it is an issue that does not lend itself to an
overview just because of the technical uniqueness of
it, the IRSAC asks that the IRS consider the
recommendations as set forth in the report.

Again, many thanks to the IRS for the guidance it
has provided, as well as its engagement on these
various issues.
And now I’d like to hand it over to Martin Bentsen, who will close out the recommendations being made by the subgroup.

MR. BENTSEN: Thank you, Alexandra.

I’ll be speaking now on the need for some clarifying guidance related to regulations that impact tax information reporting.

The IRSAC is requesting the IRS to issue further guidance on forms it deems most appropriate to aid brokers and other financial institutions in fulfilling their tax reporting obligations. We believe four situations, three of which result from tracking cost basis under Code 6045, and the fourth related to nominee reporting of limited partnerships under Section 6031, require addressing.

As a result of the requirements under Section 6045, tracking basis and reporting it to account holders on the Form 1099-B, paying agents in essence do the work of a taxpayer in adjusting and calculating the basis for the purpose of determining (inaudible). To do so as accurately as possible, the IRSAC is
requesting additional guidance for the issue of the market discount rules under Sections 1276 through 1278, the treatment and disclosure of bond premiums in coal situations under IRC Section 171, and the reporting of final liquidating distributions as required by IRS publications. Our report details these requests and highlights some challenges that clarifying guidance could mitigate.

As an example, in the case of final liquidating distributions, we know the Code Section 6042 and 6043 delegates to the Treasury and IRS the manner of reporting dividends in liquidating transactions. Regulations specify the use of a Form 1099, but they do not specifically require a 1099-DIV. However, the IRS forms and publications do specify the use of the 1099-DIV.

The IRS Publication 550 alerts taxpayers that they will receive liquidating distributions on the 1099-DIV and that they should not pay tax on such distributions until they have recovered their basis in the security. However, the 1099-DIV does not disclose basic
information. Since the final distribution is also made on the 1099-DIV and not on the 1099-B, the taxpayer is not provided the basis related to the distribution, and this may lead to inaccurate tax return filings and an adverse taxpayer experience.

To avoid this possible outcome, the IRSAC is requesting guidance on whether a broker can use a Form 1099-B for final liquidating distributions without risk of penalty. It is IRSAC’s understanding that some firms may already be reporting on a Form 1099-B to provide their account holders with the best possible information. IRSAC is requesting definitive guidance as to full use of reporting final liquidating distributions in a basis tracking reporting environment.

Our non-basis-related request for guidance regards the reporting of publicly traded MLP interests delivered to third parties to satisfy a short sale. We note that when the code section was introduced, the IRS stated it was actively studying issues related to tax treatment of short sales and partnership interests.
The IRSAC is seeking guidance on two specific issues related to short sales.

Code Section 1058 establishes the treatment of securities pursuant to stock loan arrangements. This section is applicable to securities as defined in Section 1236(c), which specifically defines security types but does not include an MLP interest as a security. So it’s questionable whether IRC Code Section 1058 is applicable. Without the application of 1058, the delivery of the shares from a marginal or other third-party account would seem to constitute a disposition subject to gain or loss recognition.

Additionally, the return of the MLP interest back to the lender’s account could be viewed as a new acquisition. If so, then the nominee should be reporting two partnerships of such changes in ownership. This does not appear to be happening in practice. In part, this may be a result of the brokerage community’s application of Regulation 1.6045-2, which establishes a means of allocating shares that have been loaned out for dividend payments and is
applicable to MLP interests. The regulation seems to contemplate the ability to freely borrow and lend MLP securities pursuant to Section 1058 despite the definition of securities in that section. Clarifying the treatment of an MLP interest and aligning these two sections for such clarification will enhance the taxpayer experience and provide reporting certainty for nominees.

Finally, an additional complication in the short-selling scenario arises for partnerships when issuing K1s for their partners. Without treating the lender as having disposed of the MLP position, an outstanding number of standing MLP participation interests reported by nominees will be inflated by the amount that have been sold short, thereby potentially impacting K1 preparation. Providing guidance for these two related issues will give nominee brokers much needed direction in fulfilling their reporting obligations under Section 6031(c) and provide partnerships with clarity of K1 issuance when the MLP interests are sold short.

I thank you for this opportunity to speak.
MS. ERBSEN: Thank you very much.

I’m going to turn it over to Commissioner O’Donnell and Deputy Commissioner Nikole Flax to make some comments.

MR. O’DONNELL: Thank you, Diana. I do prefer being called Doug. I suspect Nikole likes being called Nikole as well, but I appreciate the respect of the title. But I do like the informality of the first name going forward.

Look, first off, I want to say thank you to Sandy. Your leadership during this period has been exemplary. You mentioned in your opening comments to the subgroup report that the way this year played out with the pandemic and the challenges that we’ve had, just remaining on focus and being able to make the progress that we have has been quite surprising, quite amazing, and is a testament to your leadership, so thank you very much for that.

Turning to the ideas and the suggestions that came in, Joe talked earlier about the new proposal for an exam, an early exam program kind of modeled on CAP but

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a bit different. There are some really good concepts in there we need to consider to see what we can do. As we discussed in the run-up to the report, there are some limitations on what we can do, but there’s some really good ideas in there, and we need to figure out how to incorporate parts of them, so we have more work to do in that space.

Regarding the dispute resolution programs, we heard from Robert regarding the work that’s being done on the matrix. We expect that to be up potentially later today, so a lot of good work has been done there. I think it would be very helpful in making sure that anyone, regardless of level of sophistication, who has to deal with tax challenges that come about, whether it’s LB&I or anywhere else in the Service, they can go and look at one spot that can help them understand what the options are so that they’re better able to respond to what it is that we’re doing.

I’ll say now that Alexandra and Martin both introduced us to topics this year and last year that came about more frequently in the old Reporting
Advisory Committee. So our eyes were opened by a lot of the challenges in that space. Some of them are peripheral to what we do in LB&I, but some of them are just in the middle of what we do.

For example, Alexandra was talking a good deal about the W8s, the QI agreements, and the work we’re doing with the 1042-S. That’s all in that sort of foreign payment space where we have a lot of challenges, Chapters 3 and 4 for withholding, and it’s been very helpful to get that input. Martin has opened our eyes to a number of challenges that impact the financial institutions we’re responsible for dealing with on the enforcement/compliance side but have less insight into some of the challenges that he described.

So it’s been very helpful for us to learn that, and what I’d say to both of you is we appreciate your input. Obviously, we’ll be working with counsel to see what is possible on some of these topics. So thank you all very much for the work you’ve done.

Sandy, I want to say thank you for your leadership. We did ask you to stay on an extra year.
I was really happy when you agreed. Of course, we had no idea what this year would bring, but I think having had you in the mix has been extremely helpful, really do appreciate all that you and the team have done. I feel like it’s been a mutually supportive environment, and for that I’d say thank you to you and to the entire team. I really do appreciate all of the input, all of the work, the great thinking, the great ideas, and look forward to the ongoing work going forward, Diana. So thank you all very much.

MR. MACFARLANE: Thank you, Doug.

MS. ERBSEN: Nikole? I’m taking advantage of the first name. Nikole, are you there and did you want to speak?

MS. FLAX: I’m here. I don’t have anything to add. I think Doug did a nice job. You guys know I’m appreciative of all your help, so thank you.

MS. ERBSEN: Thank you so much. Thank you, Doug and Nikole, very much, appreciate this.

I’ll turn it over to W&I subgroup chair, Phyllis Jo Kubey.
MS. KUBEY: Thank you, Diana.

Good morning, I’ll say formally, Commissioner Corbin and Deputy Commissioner Alito. But I will revert to the informal Ken and David and all attending today.

The Wage and Investment subgroup enjoyed our collaboration during a very unusual year. Our issues embraced the themes of improving the taxpayer experience with more efficient use of IRS resources; reducing taxpayer burden in more ways than one; moving taxpayers, tax professionals, and the IRS away from paper and toward easier and more efficient digital services while maintaining and increasing data security and accessibility. We extend special thanks to our NPL Liaison, Maria Jaramillo; our Wage and Investment Liaisons, Johnny Beale and Cindy Jones; and all of our IRS collaborators and subject-matter experts who are too numerous to name.

We had a lot of calls outside of our regular working sessions that advanced and enhanced our work on
this report, as well as giving a lot of real-time feedback. One of our calls, initiated and ably led by Martin Rule, is written up in the IRSAC report Appendix F. And in that call we offered important feedback on the Family First Coronavirus Response Act and the CARES Act employer tax credits.

So I’m very pleased to introduce my W&I subgroup colleagues: Martin Armstrong; Ben Deneka; Antonio Gonzalez; Denise Jackson; Martin Rule; and Kevin Valuet. And to thank our IRSAC colleagues Mary Jo Werner and Sanford Kelsey for their invaluable assistance with our business I.D. theft issue.

We presented Issue 1, Taxpayer Digital Communications Next Steps and Taxpayer Digital Communications Outbound Notification, earlier this morning. Coming up, we have Antonio Gonzalez, who will present Issue 2, Paperwork Reduction. Kevin Valuet will present Issue 3, Reporting and Outreach on Business Identity Theft. Denise Jackson will present Issue 4, Promotion of the Taxpayers’ Responsibility to Update Their Current Mailing Address. And Martin
Armstrong will present Issue 5, Employer Tax Forms and Information Reporting.

So, Antonio, I turn the mic over to you.

MR. GONZALEZ: Thank you, Phyllis.

I, too, would like to thank Commissioner Corbin and Deputy Commissioner Alito for your leadership and encouragement this year.

Let's start with the Paperwork Reduction Act, or PRA, and the taxpayer burden associated with it. When we received our initial list of topics, I must admit the PRA topic was a bit of a head-scratcher for all of us. We started our analysis by asking if we as tax return filers ever thought of our return as information collection requests, or ICRs, that are valuable to the government. The answer was a resounding no. And we also never considered the burden that might exist in a world where we might not have tax forms and publications.

The PRA was enacted in 1980 and designed to simplify interactions between private business and citizens and Federal agencies. With the IRS, the
objective was and still continues to be today to reduce
the burden on taxpayers by creating intuitive forms,
instructions, schedules, and other documents that can
easily be followed and completed. Traditionally, the
IRS calculated the burden imposed using factors like
number of lines on a form, number of respondents, but
technology and advanced metrics have made it possible
to enhance the formula to produce a more precise and
accurate measurement of both time and cost factors.

W&I Tax Forms and Publications, or TFP, requested
IRSAC assistance with the PRA, as suggested in a recent
GAO report, in particular to analyze the actual burden
in complying with the Internal Revenue Code and other
tax laws if there were no forms or associated
instructions, and also to study whether the IRS should
publicize the burden that could exist without forms and
instructions, a burden that essentially is imposed by
law.

In reality, the complexity and ever-changing
nature of the Code makes it nearly impossible for a
private business or citizen to comply with their tax
obligations. As it is, many taxpayers probably could not complete their filing accurately without the assistance of tax professionals and/or tax software. IRSAC knows firsthand of the incredible efforts that TFP goes through to create user-friendly forms that provide all the necessary information to fulfill the ICRs while ensuring the taxpayer burden is minimized. As an Advisory Council member, over the last few years that I’ve participated at least, we have frequently had a chance to meet before the release or update of a document, and we’ve provided feedback that we’ve seen incorporated into the final product just a few months later. We have provided in our report a few recommendations based on conversations with TFP, some of which are already in the works.

Number one, reconsider the concept of administrative burden. The PRA applies only to actions by agencies, not actions by Congress. In our view, it is not necessarily the agency but rather the statutory requirement that creates that administrative burden, and in this context the IRS actually reduces the
administrative burden through the creation and release
of intuitive forms, instructions, publications, and
other guidance.

Number two, continuously improve the communication
of changes, additions, and deletions to forms and
publications, and highlight the mechanisms for feedback
to produce the very best product. This means
encouraging participation by making sure stakeholders
have both an easy way to access the documents and the
time to review and comment on them. To this end, IRSAC
recommends enhancing the draft forms page on the
IRS.gov site, as detailed in our report, for more
centralized feedback that is useful to the TFP group.

Number three, anticipate future business and
individual burden and the impact of technology to
reduce that burden. Currently, efforts to reduce
administrative burden rely on the use of static forms.
The IRSAC recommends considering the use of interactive
forms and instructions, including links to other
relevant guidance, that could assist in defining and
describing an item of income or deduction, and thereby
reducing burden drastically by having information at your fingertips.

Overall, the IRSAC believes the IRS is innovating the approach to measurement of both time and cost factors so it more accurately reflects the burden or reduction of burden. We look forward to seeing those improvements over time. Thank you.

Now Kevin Valuet will discuss issue number three on business identity theft reporting and outreach.

MR. VALUET: Thank you, Antonio, and good morning, everyone.

Business Identity Theft is like Individual Identity Theft but has fewer cases, much higher dollar amounts involved, and affects a different variety of tax forms. Both the 2014 IRSAC and 2015 TIGTA report addressed business identity theft and provided recommendations, including the truncating of EINs, surrendering of EINs for out-of-service businesses, and better information outreach and assistance surrounding Business Identity Theft.

The 2018 TIGTA report indicated the IRS’s efforts
showed an increase in identification and possible business identity theft for theft-related tax returns from 350 to 20,764 from 2015 to 2017. However, it was recommended that further extension of processes for the detection and prevention of business identity theft were still needed.

A business themselves may recognize identity theft before the IRS. They may receive notices from the IRS indicating a tax return was already filed for that EIN, thus indicating a possible identity theft situation.

It was interesting to find out while researching the topic that perpetrators will even use false demographic information to obtain business accounts in the name of a business in a state for which that business does not have an active account at that time. This is one additional way businesses may recognize identity theft before the IRS.

The IRS worked with the IRSAC to receive feedback on Form 14039-B, Business Identity Theft Affidavit, so that businesses can proactively notify the IRS of possible business identity theft. Additional notices
may be sent by the IRS to the business to notify of suspicious activity and/or business identity theft investigation and resolution. However, these letters are all sent to businesses through regular mail channels.

Businesses, the tax practitioner community, and the IRS would benefit from a secure digital exchange of information to prevent, detect, and report more business identity theft issues. The W&I subgroup discussed with the IRS the importance of coordinating information to state agencies to assist in identifying possible business identity theft at the Federal level. Currently, the State of Alabama shows information about possible business identity theft cases at the state level, allowing the IRS to respond with the appropriate security measures.

We recommend the research, development, and implementation of secure digital channels for business identity theft-related correspondence between the IRS, businesses, and tax practitioners. Explore additional outreach opportunities with tax professional
organizations, IRS communications and liaisons, 
business owners, and business-related associations, 
including the SBA and Chambers of Commerce. 
Partner with the payroll industry to identify 
solutions and best practices as it relates to business 
identity theft through information deterrence such as 
Form W-2. This would include creating processes for 
real-time comparison of Social Security Administration 
and Form 941 data. Coordinate with other Federal and 
state agencies to share information to identify and 
respond to business identity theft cases more 
efficiently. 
I will now turn this over to Denise Jackson, who 
will present issue number four, promotion of taxpayers’ 
responsibility to update their current mailing address. 
MS. JACKSON: Thank you, Kevin. 
So, we wanted to talk about the taxpayers updating 
their current mailing address with the IRS, and as a 
result of a recent TIGTA report for Fiscal Year 2018, 
we found that 14.5 million pieces of mail were returned 
to the IRS, and that cost somewhere around $43 million.
It is unlikely that undeliverable mail is ever going to be completely eliminated, and we also recognize that any potential improvement is often met with budgetary, staffing, and IT resourcing constraints.

The vast majority of taxpayers have only limited interaction with the IRS during the year, and that’s when they file their tax returns. Although the IRS does provide a variety of ways for taxpayers to update their addresses with the onset of online billing and electronic communications, physical address changes are often unnecessary nowadays. And let’s face it, when you’re moving, updating your address with the IRS just is probably not going to make it to your to-do list.

The IRS does have a handful of automated methods by which they are notified of address changes, but those channels are often wrought with their own errors, and that makes an appropriate and accurate update very challenging for the IRS.

Until we are able to introduce an online portal for taxpayers through the IRS website that can be used to provide that address change information, we do have
a few ideas for the IRS to use to communicate that need for taxpayers to update their mailing addresses.

First, we would recommend advertising, for lack of a better word, on the IRS website. Use appropriate signage or wording or any other form of attention-getting announcement that’s directed to a taxpayer who has recently moved, and then provide information and instructions from there.

We also recommend attempting to attain some address change information from the Post Office in a more timely manner. Currently, the Post Office will forward your mail for up to a year after you have provided the Post Office with information about your address change, so it could be a year or longer before the IRS receives notification of that change. If we could be brought into the loop on who mail is being forwarded for ahead of time, that could be helpful.

Additionally, if an address change notification is provided to either a tax professional or a tax software company by a client outside of filing season, that entity could provide instructions to the taxpayer on
 updating their address directly with the IRS. And we
could also consider allowing those entities to provide
that information directly to the IRS if that is not a
violation of Section 7216. And then if it is, we would
recommend seeking an exception to that for the stated
purpose.

We also would recommend requiring software
companies to use an address validation feature. So
rather than accepting whatever a taxpayer keys into the
software, they would be required to pick a known good
address from a list based on their entry, and do that
at the time of return preparation in the hopes that
that would reduce the number of incidences of
undeliverable mail in the first place.

Finally, if the IRS ever finds itself in the
position to have to do some sort of mass mailing again
in the future, such as with the Economic Impact
Payments from earlier this year, we would recommend
using that mailing to communicate to taxpayers the need
to update their address by simply inserting a mailer
into that that says did you receive this with a
forwarding sticker on the envelope, or have you moved
since the last time you filed your return, and then
providing instructions from there on updating the
address.

Again, ultimately we recommend advancing that
digital solution for taxpayers to be able to update
their address through the IRS website. But in the
meantime we feel like these targeted efforts could help
reduce the IRS exposure to returns and undeliverable
mail.

So now I’ll turn it over to Martin Armstrong, who
is going to talk about our issue number five, which is
employer tax form and information reporting. Thank
you.

MR. ARMSTRONG: Thanks, Denise.

Our Wage & Investment issue number five,
employment tax forms, affect significant amount of
employers who pay wages under multiple legal entities
and at the same time seek to streamline and improve
their payroll withholding, reporting and payment of
employment taxes. These employers implement either an
Employer Payer Appointment of Agent Arrangement, also
referred to as a Common Pay Agent, or a Certified
Professional Employer Organization/Customer Employer
Agreement, also referred to as a CPEO.

Now, a Common Pay Agent or a CPEO arrangement
allows employers to appoint an agent to file employment
tax returns, initiate back-up withholding, and deposit
employment taxes on a consolidated basis for multiple
employer payer entities using the appointed agent’s
Federal Identification Number. Employers who pay wages
under multiple legal entities often transfer and pay
employees between legal entities, and therefore must
issue employees a separate Form W-2 for each employer
entity for which wages were paid during the same
calendar year. Each entity must separately track an
employee’s wages against a Social Security wage base
without regard to wages paid by other entities.

This required application of a shared Federal
Identification Number on multiple W-2s from separate
employer entities make it appear as though a single
employer has over-withheld Social Security tax within
the same calendar year. If an employee is paid in excess of the annual Social Security wage base limit by more than one employer, including employers who use the same pay agent in the same calendar year, the employee must apply for a refund via Form 1040 to recover the over-withheld Social Security tax on their Form W-2.

With regard to granting a credit for excess Social Security tax withheld, please note that the Internal Revenue Manual provides guidance for auditing and processing this credit, but this procedure is not consistently applied. As a result, the IRS may deny the credit for excess Social Security tax withheld because it appears that the employee has a single employer and must therefore seek a refund from the employer.

These impacted employees often receive an incorrect notification from the IRS or tax preparer, or an alert from their tax filing software that their W-2s have an over-withholding of Social Security tax that must be refunded by the employer.

Ultimately, this burdens the employee to resolve
the issue, the employer to provide documentation clarifying the issue, and the IRS to send notices and expend human capital resources to review and eventually process the taxpayer credit for excess Social Security tax withheld.

To this end, we recommend that the IRS and the SSA partner to create a checkbox on Form W-2 that could be checked by employers who use an employer payer appointment of agent or a CPEO reporting arrangement. This W-2 checkbox would be recognized by the IRS, tax preparers, and tax filing software as a W-2 with the same Federal Identification Number as other W-2s issued in the same calendar year and therefore eligible for a taxpayer to receive their excess Social Security tax withheld, as applicable. This W-2 checkbox would also be recognized by state revenue and unemployment agencies that would acknowledge that the W-2 recipient may have a different employer and Federal Identification Number that is not the Federal Identification Number that is correctly reflected on the agent Form W-2.
Lastly, we also recommend that an additional field or box be created on Form W-2 to report and reflect the actual common law employer’s Federal Identification Number that would serve to clarify both the employer and the third-party agent. Being an employment tax practitioner for over 35 years, I can personally attest that these recommended changes will be fully embraced by the payroll and employment tax community.

Thank you for your time. Now I’ll turn it over to our W&I Chair, Phyllis Jo Kubey.

MS. KUBEY: Thank you, Martin; and thank you to all of our presenters and the entire subgroup. What a great team.

Thank you, Commissioner Corbin and Deputy Commissioner Alito, for your consideration of our subgroup issues. We welcome your comments and feedback.

MR. CORBIN: All right. Thank you, Phyllis, and good morning, everyone.

I’m one of those individuals who is always challenged by technology. So this is an interesting
mix for me of the video on the computer, but I’m actually talking to my phone, which is over here, so a little bit entertaining for me. Hopefully nothing will fly by or distract me while I talk.

So again, good morning to everyone. For those of you I have not met in person or virtually, I am Ken Corbin, otherwise known as Ken, the Commissioner of the Wage & Investment Division. It is indeed a pleasure for me to speak with you this morning. I do wish we were able to meet in person, but due to circumstances, we all understand.

I do want to take a moment to thank Diana and Ben and the entire IRSAC team for your report and for your supportive words of IRS employees during this pandemic. I can tell you that David and I take your words and make sure that from our mail and file clerks and our service centers that spend hours and hours at a desk opening and extracting mail, to our analysts who are sitting at home that work in our refund and identity theft organization, going through mounds and mounds and mounds of data to try and protect taxpayers, that we
take the words that you all share of encouragement and make sure that they are aware and that they see these words of encouragement.

Just the kindest words, them being able to see themselves not only in the work that we do but also to recognize that such an esteemed and important group as the IRSAC recognizes and identifies those efforts just means so much to them, and certainly means a lot to David and I. And so we appreciate it.

I’m glad to have this opportunity to speak with you all about all the great work you’ve accomplished this past year under extraordinary circumstances in support of the IRS, specifically the work we do in the Wage & Investment Division, which of course is supportive of everything the taxpayers experience.

I’d like to especially recognize the IRSAC W&I Chair, Phyllis, and the great leadership you’ve provided throughout this and last year as the subgroup chair. Phyllis, thank you so much for the years of service to the IRS, and particularly to W&I. Under your leadership, this subgroup has been of tremendous
assistance to us, and you have assisted millions and
millions of taxpayers by advocating for issues and
giving that thoughtful, reflective pause to go through
the different topics, and to take time out of your very
busy schedule to make recommendations to the IRS and to
W&I. So, Phyllis, thank you, we appreciate you.

For 2020, the IRSAC worked on the following
issues, and we’ve talked about quite a few of them:
the taxpayer digital communications next steps and
outbound notifications; paperwork reduction, a very
interesting topic for you all to take a look at;
reporting and outreach of business identity theft; and
promotion of taxpayer responsibility to update their
current mailing address, just to name a few of the
things that you all had an opportunity to look at.

In addition to the work you did in those areas, we
also appreciate the additional work and related
recommendations provided in the area of telephone call
response times for Practitioner Priority Service line.
We think and take a great deal of time in Wage &
Investment as one of the leading service providers for
the IRS to think through what that experience is for our customers, and that certainly includes the tax practitioner community.

Between all of your efforts dedicated to these issues, we have over 40 recommendations to evaluate for possible implementation. We certainly appreciate the extensive professional discussion, your perspectives, and the open exchange of ideas as you evaluated these issues. Your feedback has been invaluable, and we know that these conversations will continue to help us improve.

As always, you’ve given us some very thoughtful recommendations in each of these areas to consider as we continue to work together to improve both overall taxpayer experience and taxpayer service we provide.

With that as background, let me talk about a few of the recommendations and just provide some comments.

For the taxpayer digital communications, we appreciate your recommendation to consider prioritizing the capability for taxpayers to upload documents to facilitate examinations and other IRS inquiries to
provide those valuable documents.

Also, as you recommended, we’ll be looking into increasing our marketing with the tax professional community and expanding our communication efforts throughout the volunteer communities because we know that actually thinking about providing those outreach opportunities to our volunteer communities that help taxpayers not only work through things such as earned income tax credit audits but also in tax preparation, it’s such a huge area that we need to focus on, so we appreciate that recommendation.

With the reference to digital notices, TDC-ON, we agree with the importance of incorporating enhancements such as emphasizing time-sensitive dates on notices that require taxpayer action to help preclude any interest or penalty charges and further assessment actions. So again, another excellent recommendation.

For the paperwork reduction issue, your recommendation to reconsider the concept of administrative burden will be pursued in our discussions with Treasury and OMB. That was very
insightful. Again, I know that was one of the more interesting topics this year, but just to have you all dive into that and come back with that “a-ha!” moment will really help energize us to talk with OMB and Treasury about that, as well.

Your additional recommendations related to encouraging participation by ensuring stakeholders have an easy way to access the documents and to review and comment on some of the good ones, and partnering with online services to explore further enhancements with the forms and pubs, again that is so true, and we found that out in our many interactions with the different things we’ve done, from the Tax Cuts and Jobs Act to also some of the work we’ve done this year that’s related to the pandemic. This just reinforces the importance of early and often, as we like to say, and engagement with the community around how we can best enact and implement new legislation.

For reporting and outreach of business identity theft, we will continue to partner with tax professionals to get the benefit and value of your
feedback and share initiatives such as the security summit, outreach presentations, and news releases on how to prevent the tax and report identity theft with their clients.

We are also actively working with the Small Business Administration, sharing best practices in this area, and will look into the feasibility of adding other business associations that you all recommended, which was another great recommendation.

With regard to the recommendation to partner with the payroll industry to develop best practices, IRS and the payroll industry have partnered together to establish the payroll industry security summit team charged with exploring solutions and coordinating efforts in the prevention, detection, and reporting of business identity theft and fraudulent W-2 filings.

Also with the promotion of taxpayer responsibility for updating their current mailing address, I mean, this really became such a critical issue, particularly during this year as we learned with the pandemic. In this area we’ll be working with our C&L partners, many
of whom are in our NPL organizations, looking at IRS
mass mailing situations for opportunities to include
language pertaining to address changes.

We are also working with the United States Postal
Service to implement the Taxpayer Correspondence
Delivery Tracking Project. It’s always tough to say
all these things, the Taxpayer Correspondence Delivery
Tracking Project, which will provide the IRS more
current information regarding the status of notice
mail-outs, whether it’s delivered, undelivered or
forwarded, and working with our Postal Service partners
for us to get better information when it comes to
mailing addresses.

And as you recommended, we are looking at
leveraging opportunities for tax preparers and tax
preparation software companies to determine what
actions they can take to encourage taxpayers to update
their addresses and look for those opportunities for
the exchange of information between those partners and
IRS so that we can be sure that we are providing the
simplest and most accurate way to be able to contact
For the telephone call response times, particularly for our Practitioner Priority Service line, or PPS, we are pursuing the use of chat capabilities. We expect this will take some of the pressure off our telephone operations. But certainly we know that the pilots for text and chat capability, which has been piloted within the IRS, has been successful in other areas, and we definitely can see and appreciate that opportunity for that to work in PPS.

With reference to the option of tax practitioners to have that option for callback, what a tremendous piece of technology that we are piloting currently within the IRS, and the Taxpayer First Act also asks us to take a look at that specifically. So we will continue to expand those efforts for customer callback capability this fiscal year. You’ll see new product lines added for that customer callback opportunity. And we, of course, will look at the Practitioner Priority Service for that opportunity. It will be a
better use of the tax professional’s time and also will cut down on that experience with that product line.

Again, I just want to commend IRSAC for the great work you all have completed in 2020, the most unusual year I think we’ve ever experienced, I’ve ever experienced in the 30 years, 30-plus years -- showing my age -- of tax administration. We look forward to that continued partnership in 2021.

In addition to working the issues throughout the year and preparing your recommendations for the annual report, we especially appreciate your interest and efforts in providing real-time assistance during this year. Again, just that dialogue, when you all see an issue, you say it. You see it, you say it. I can’t tell you how important that is for us to get it right. We certainly don’t want to continue to do something that’s harming taxpayers or practitioners, and when you all have this open door to be able to come in and connect with the right people in the agency so we can make a real difference, you all have made such a tremendous difference for us here at the IRS,
particularly in 2020.

And finally, again, I just want to thank Phyllis. Phyllis, this won’t be the last time we’ll talk or see each other virtually here on the screen. I look forward to us being able to do this the right way and really just expand our appreciation to you and everyone on the team. I mean, this is just, to me, a great way for not only taxpayers but for us all to partner together in this ecosystem of tax administration.

So thank you to everyone on the team. I appreciate you. We look forward to talking with you all or seeing you all in person very soon. Thank you for this opportunity.

MS. KUBEY: Thank you so much.

David, did you have anything that you wanted to add?

MR. ALITO: Yes, I’ll just add a couple of brief comments. Ken and I, as well as all the people you get to work with, we absolutely welcome your involvement and your ideas. Maybe the best way I can think to say it is that it’s so clear that you care. It’s the care
for the taxpayer, the care for us just comes across in all the interactions that we do. All of you have extremely busy lives, but you’re taking time to help us make a difference, and in turn make that difference for the taxpayer.

When I look at our agency or all Federal agencies, I can’t think of one that gets all the resources that they request or all the funding that they request, but it doesn’t stop us, and it doesn’t stop you. What we always appreciate is you look at longer-term solutions as these are things we really want to build to, but at the same time you look at here are some things that are actionable that we can do right now. We would all love that power to sometimes make big changes in the world as fast as we can, but at the end of the day it’s so important that we make a difference.

Your recommendations to us, our working with you, we have a lot of discussions internally, working through this with you, as well as discussions with your team, and it always goes down to how can we make that difference. You know our runway, you know some of the
challenges we have for things that may take a longer
time, but you look at what can we do, what is some of
the outreach, what are some of the smaller tweaks we
can make that continue to make that difference, and
that’s what our taxpayers see, just that constant
effort to better their interaction with us and make tax
compliance, filing taxes, working with the IRS a little
bit smoother in their world and make it a better
experience.

On behalf of Ken and I, we absolutely appreciate
all the efforts that you’ve done and working with you,
and we continue to look for more interactions with you
as we go forward.

MS. KUBEY: Well, thank you so much, David, and
thanks to everyone. It’s been a pleasure to work with
you and so many of our W&I colleagues.

That concludes our Wage and Investment subgroup
report, and I’m pleased to introduce our SB/SE subgroup
chair, Pat Thompson.

SMALL BUSINESS/SELF-EMPLOYED SUBGROUP REPORT

MS. THOMPSON: Good morning, IRS representatives,
Commissioner Eric Hylton, Deputy Commissioner De Lon Harris, and Deputy Commissioner Darren Guillot. The IRSAC SB/SE subgroup appreciates the time the SB/SE Division devoted to our subgroup to allow us to provide feedback and recommendations to further the mission and strategic focus of the SB/SE Division.

I want to thank the members of the SB/SE subgroup and all IRSAC members for their time and commitment to providing valuable feedback to the IRS on important issues to promote the mission of the SB/SE Division. It’s been my pleasure working with all of you.

The subgroup members are Ted Afield, Deborah Fox, Mas Kuwana, Kathleen Lach, Emily Lindsay, Kelly Myers, Robert Panoff, Charles Read, Jeffrey Schneider, and Mary Jo Werner.

The reports in the appendix reflect the real-time feedback on the topics of excess withholding on Forms 1099 and tax capital reporting. TIGTA examined the tax withholding on Forms 1099 and identified instances where withholding exceeded the statutory withholding rates. We provided IRS with ad hoc observations to
explain when a payer might report an amount of withholding that exceeds the statutory rate.

First, the taxpayer can request the payer apply an excess amount of withholding, as much as 100 percent, as a vehicle to maximize withholding to avoid making estimated tax payments.

Second, many payers’ annual withholding processes are subject to the risk of error and don’t allow for those errors to be corrected. The incorrect amounts are then reported on a Form 1099.

And third, payers pursuing a voluntary disclosure to report a withholding liability or self-disclosing a withholding liability on Form 945 report the withholding on Form 1099.

The conclusion was that we do not believe widespread instances of fraud contributed to the reporting of excess amounts of withholding on Form 1099.

IRSAC provided feedback on Notice 2020-43 regarding tax capital reporting and the impact of the proposed elimination of the transactional approach in
meeting the proposed capital account reporting requirement for partnerships and the impact of establishing two new methods of calculating the tax capital account. In its basic form, tax capital measures the partners’ investment in the partnership. We focused on the impact of the proposed reporting requirement of small partnerships and provided insights on how administratively burdensome and costly it would be for a partnership to switch from using the transactional approach to either of the two proposed methods.

If the transactional approach was to be eliminated, we were requesting additional time to implement the new reporting methodology. We identified administrative reporting issues and complexities that need to be addressed to transition to the proposed reporting requirement. We suggested that the transactional approach be an acceptable method in calculating the tax capital account since many small partnerships already use that method.

In October of 2020, IRS issued draft instructions
to the partnership tax return and Schedule K1, providing the partners’ tax capital account is using the transactional approach, which was our recommendation.

In addition, instructions appear to allow the partnership additional time to convert the beginning balance tax capital account by allowing that balance to be reported on a different method for 2020 only. We appreciate the IRS taking our concerns into consideration for reporting tax capital using the transactional approach and allowing additional time beyond 2020 to comply with this new reporting requirement.

Earlier this morning we reported to Commissioner Rettig the topic of telephone call response times for the Practitioner Priority Service line. I would like to introduce Ted Afield, who will discuss engaging the practitioner community to help improve tax compliance.

MR. AFIELD: Thank you, Pat, and good morning.

As Pat said, I will be reporting on the issue of engaging the Practitioner community to help improve tax
compliance. As you can imagine, this is a potentially large topic that could be addressed in a variety of ways. The IRSAC elected to focus on this issue in two primary areas, those being the gig economy and improved taxpayer compliance for the taxpayers who speak English as a second language.

The IRSAC chose these areas of focus because the self-employed status of gig economy workers creates tax compliance challenges which are made more acute for ESL taxpayers, as evidenced by the fact that the self-employment portion of the tax gap is now at roughly $69 billion. The IRSAC makes the following recommendations.

The first recommendation is that the IRS promote the educational materials on its gig economy tax center to businesses and community organizations to provide a consistent message for those organizations to use in their outreach programs.

The second recommendation is that the IRS expand the use of the concept of pro bono settlement days to utilize technology to hold these events virtually on a
regular basis throughout the year. The IRSAC also recommends that the IRS expand these settlement days to include days focused solely on IRS collections issues in addition to the days that the IRS currently holds a focus on cases pending in tax court.

The third recommendation is that the IRS expands nationwide tax forums in two possible ways. The first potential expansion could be the IRS could hold at least one nationwide tax forum specifically designed to include an agenda set by practitioners with the goal that the agenda would be designed to provide feedback to the IRS on issues that practitioners are seeing as a current source of non-compliance. The second potential expansion would involve the IRS conducting a virtual nationwide tax forum specifically designed for practitioners and taxpayers who speak English as a second language and focusing on issues that are particularly salient to those taxpayers.

The fourth recommendation is that the IRS consider incentivizing more practitioners to engage in taxpayer educational outreach and in representation for
underserved communities, such as through creating a voluntary practitioner speakers bureau that would include practitioners engaging in a prerequisite amount of education to the public and/or pro bono representation. Such a speakers bureau would serve as a public recognition for practitioners who engage in educational outreach to the public and take on a certain amount of pro bono representation.

Finally, the IRSAC recommends that the IRS promote the Hearing All Voices IRS panel discussions and webinars with all external stakeholders. These can be expanded to cover common mistakes made on tax returns, including unreported income. In addition, this would provide an opportunity to enhance relations between the IRS and stakeholders by seeking stakeholder feedback during the development process.

Thank you very much for your attention. Our next speaker, Deborah Fox, is Director of Tax Solutions for ComplyRight, a software provider for informational returns, and Deborah will cover the 1099 portal.

MS. FOX: Thank you, Ted. Hopefully everybody can
Good afternoon, IRSAC members, Division Commissioners, Deputy Commissioners, and other guests.

In January, the SB/SE Division of the IRS asked IRSAC for their input on the 1099 portal, and IRSAC appreciated the invitation.

Section 2102 of the Taxpayer First Act requires the IRS to set up a website or other electronic means whereby taxpayers are able to prepare and file informational returns, such as the new 1099-NEC.

Section 2301 seeks to increase the electronic filing by authorizing the IRS to reduce the ceiling of the number of forms which can be paper filed before being mandated to electronic filing from 250 forms, as it stands today, to 100 forms, and then 10 forms over several years.

In our meeting in January, our subgroup provided input and recommendations which we are glad to see that the IRS has followed through on already. Our recommendations include that the IRS collaborate with external stakeholders outside of the IRS; that they
request additional feedback from taxpayers and practitioners; that they look at the state and Social Security Administration that have already implemented electronic portals; and that they delay Section 2301 implementation until after the portal is available to reduce the burden on small and medium businesses.

In addition, we recommended that the IRS incorporate modern best practices into the development of the portal to allow for easier expansion of the portal’s functionality. We also provided a prioritized list of forms and features from both a small business and practitioner perspective to assist the IRS in their prioritization of functionality.

And now I’d like to hand it off to Mas Kuwana, who will cover the next issue, identity theft.

MR. KUWANA: Thank you, Debbie.

Increasingly, identity theft is a concern for taxpayers. The IRS has responded in making it a priority. The IRS has rolled out a website with resources and valuable information, and the IRS has also provided taxpayers with a special PIN to safeguard
their identities and returns.

Unfortunately, identity theft is not limited to the filing of fraudulent returns. Taxpayers can also experience harm when their identity is used to establish business accounts, such as those through certain businesses to sell goods and services where their identity is used to establish an account.

Income associated with those accounts may be reported to a taxpayer on a 1099, and for that reason the IRSAC recommends that the IRS continue its positive momentum in this space and focus resources in aiding these particular taxpayers. We have a few key recommendations.

One, expand the online resources to address this specific fact pattern as it relates to 1099s that may be issued to these accounts and to these taxpayers.

Two, we want to include instructions in the 1099 to provide guidance to taxpayers who may be a victim of identity theft.

Three, include additional identity theft-related language in tax notices that are issued under the IRS’
automated underreporting program.

Four, we want to add a checkbox to the 1099 for payers to indicate that the account may be associated with a compromised or stolen identity.

Five, request legislation to provide for back-up withholding from payments made to known bad actors or to accounts that are known to be potentially associated with a stolen identity.

Our report provides additional detail that might be at the IRS, including proposed language and additional context around this particular fact pattern. And again, we hope that that will aid the IRS in taking care of this issue.

We’re now going to turn it over to Emily Lindsay, who is going to talk about the Federal/state data sharing program. And again, thank you. This is my last IRSAC meeting, and I’ve appreciated the opportunity to participate. Thank you. I’ll pass it over to Emily.

MS. LINDSAY: Thank you, Mas. Can I be heard?

MR. KUWANA: We can hear you, Emily.
MS. LINDSAY: Thank you, Mas. I appreciate it.

I have the pleasure today of reporting out on IRSAC’s recommendations regarding the IRS’ Federal/state data sharing program. The IRSAC met with subject-matter experts on the Fed/state data sharing program to identify areas where the IRS might strengthen this compliance program’s effectiveness.

The Fed/state program is focused on data sharing and agency collaboration in supporting IRS business units. The IRSAC commends the IRS for its efforts in developing a robust and successful data sharing program aimed at increasing tax compliance.

The Fed/state program provides an effective and efficient vehicle for obtaining and sharing data with a wide variety of Federal, state, and local agencies, all to improve compliance efforts.

At the Federal level, the IRS shares data and collaborates with organizations such as the Social Security Administration, Departments of Labor, State, Justice, Homeland Security, the Federal Trade Commission, and many others.
At the state and local level, the IRS has worked with a wide variety of organizations such as Departments of Revenue, Attorneys General, Departments of Motor Vehicles, Labor, Child Support Enforcement, et cetera.

The IRS provides data exchanges and disclosures under statutory authority, under strict need and use criteria, and under written agreement. The level and breadth of data sharing is very significant, and IRS manages a repository of over 1,600 data exchange agreements, with over 10 billion records shared in 2019.

A relatively new effort with the IRS data sharing program is a Security Summit initiative that focuses on reducing identity theft. This is a unique public/private partnership between the IRS, state taxing authorities, and private tax industry.

IRSAC has three recommendations, all of which focus on ways to further enhance the IRS’ Federal/state data sharing program. Here we go.

IRSAC recommends that IRS, one, expand efforts in
this area and seek ways to increase resources devoted to developing this program further.

Second, IRSAC recommends that IRS use technology and modernization efforts to develop real-time data exchanges to improve the usefulness of the Fed/state data sharing program. The number of exchanges would likely increase if data exchanges were real time.

And three, IRSAC recommends that the IRS increase promotion of the program within IRS operating divisions. Obtaining data from state and local agencies will provide IRS with valuable information to increase taxpayer compliance, including reduction of unreported income. It will also help reduce IRS compliance costs.

As you can see, IRSAC was very impressed with the IRS’ work in the Fed/state program, and our recommendations focus on strengthening this important compliance program.

Now I would like to turn the floor over to Pat Thompson, our SB/SE subgroup chair. Pat?

MS. THOMPSON: Thank you, Emily; and thank you,
everybody, for reporting out.

Before I turn it over to Eric, Darren, and De Lon for the SB/SE Division for comments, we really appreciate, and we wanted to thank all the SB/SE IRS representatives who helped us with the topic. They did meet with us several times during the year, with many conversations, and it all was just very helpful for us to make comments.

Eric, would you like to start out?

(No response.)

MS. THOMPSON: Eric, are you on mute?

SPEAKER: Press star-6 to unmute yourself.

MS. THOMPSON: Hello?

MR. HYLTON: Can you hear me now?

MS. THOMPSON: Yes. Thank you.

MR. HYLTON: All right. These technical difficulties here. Sorry about that. I had it on double mute, mute on my phone as well as the other.

But thank you very much, Pat. I do have a couple of comments, and for the sake of time I’ll keep them short.
First and foremost, I’m here along with Deputy Commissioner Darren Guillot for Collection and Operational Support, as well as De Lon Harris, Deputy Commissioner for Examinations.

Truly, it’s a pleasure to be here with you this morning, or now it’s afternoon I should say. But we wish, obviously, as my colleagues and the Commissioner have mentioned, we wish that we could be there with you personally.

I’ll start off by just saying, Pat, thank you for your tremendous leadership over this last year in regards to leading the SB/SE subgroup.

I have expressed to some of you before, me coming over from CI just didn’t have that level of interaction with the IRSAC in the past, and just seeing the report and seeing the different things that you guys have recommended, it is truly a pleasure, and especially this being a “collateral assignment” for you. So I truly appreciate your leadership, Pat, and all the subcommittee members; we appreciate your support as well.
This past year or so, as many of my colleagues have expressed before, has been somewhat of a challenge for us, but I think we stood up to the challenge and pretty much we expressed overall that we’re trying to take this COVID crisis and turn it into opportunity. Last year we had a theme that “now is the time,” and so I think this year is still the time. It’s still the time to focus on some of those areas and incorporating some of the recommendations that you have thus far in regards to our focus areas of strengthening compliance, improving operational efficiency, maintaining a taxpayer focus, leveraging technology and data analytics, as well as developing our workforce.

So when I look at your recommendations as it relates to the 1099 and the Fed/state program, we welcome that, as well as the recommendation as far as the practitioner dedicated line. When I go around and have my speaking engagements, that is consistently a hot topic that we hear about quite a bit. So we truly appreciate your analysis and your recommendations associated with that.
With that, I’m going to cut it short because I know we’re probably 15 or 20 minutes over. I’m going to see if Darren or De Lon have any comments that they want to provide for the IRSAC members.

MR. HARRIS: Hey, everybody, this is De Lon Harris, Deputy Commissioner for SB/SE. I just want to echo Eric’s thanks to IRSAC as a whole, but also to Pat and the SB/SE subcommittee. For those of you who are rotating off, we really want to thank you for the time you have given us in providing the feedback and recommendations that you have had.

I’m not going to, as Eric said, for the sake of time, get into each of the recommendations, but I will say that I’ve been closely in tune with the Internet platform for the Form 1099 filing, and I have total support for the recommendations that you have set forward, especially around coming back and looping the externals in, not only up front like we did here but as we get to the testing phases and before we roll that program out, so thanks so much for that.

I’m not diminishing any of the other issues and
recommendations that the folks have made. I have read them and do agree with those recommendations, and we will take them to heart as we move forward. But I do want to, for the sake of time, try to get you back on track here, and I’ll turn it over to Darren and see if he has any comments as well. Thank you.

MR. GUILLOT: Thanks, De Lon. And thanks to IRSAC for inviting us to speak with you again. I’ll be sad to see some of you leave, but I know we’ll still be in touch.

I also had the chance to look at your recommendations, and in particular the Practitioner Priority line. We know how important it is when you get a scary notice from the IRS that says “call us,” that we answer that call. And along the way it’s frustrating, and we’ve done a lot to address that this year. We improved our level of service, answering those calls, by 16 percent. But if you’re a practitioner and someone has reached out to you because they just can’t figure it out, they’re trusting you to figure it out, and if you have to wait on hold for a
long time, two hours, that’s not acceptable either. So I promise, we’re going to be taking a deep look at that this year.

And you’ve probably seen in the press release that we’re doing a lot to help your clients out there with additional flexibilities on the collection side with regard to enforcement while we’re dealing with the effects of the pandemic.

So, thank you.

MS. THOMPSON: Thank you. Thank you again.

I’d like to turn it over to April Goff from the TE/GE subgroup.

TAX EXEMPT & GOVERNMENT ENTITIES SUBGROUP REPORT

MS. LEW: Actually, this is Carol Lew, and I’m going to introduce our TE/GE topics today. Before I do that, I want to express great appreciation for the subgroup chair, Mike Engle, who worked so tirelessly this year; and also to Jean Swift, who also has spent so much time working for this group on the detail.

The members of the group that worked on this, in addition to Mike, are Sharon Brown, April Goff, Nancy
We have two topics today. The first is going to be exempt organizations that is going to be presented by Dan Welytok; and then second, Jean is going to present issues relating to the Indian Tribal Government. So I’m going to turn this over to Dan.

MR. WELYTOK: We’ll be covering three issues today with respect to the TE/GE subgroup study that we worked on this year. The first relates to the private foundation area and education to encourage compliance. The second relates to guidance for cooperatives who are seeking to terminate their tax-exempt status. And the third relates to clarification of certain instructions on Form 990 with respect to cooperative organizations.

So with respect to private foundations, the IRS has requested that the IRSAC provide recommendations relating to ways to facilitate compliance by private foundations. Private foundations are typically funded by individuals, families, or corporations and generally make grants to charitable organizations. They’re highly regulated and subject to complex special
restrictions which, if violated, can give rise to taxes and penalties.

The IRS currently has helpful private foundation information on IRS.gov but desires to improve the guidance with the goal of improving compliance. To do this, we have two recommendations.

First, in order to heighten the awareness of the complex private foundation restrictions, we recommend that the IRS develop a page on the IRS.gov website which references information in equally understood formats of descriptions of common violations committed by private foundations and how to avoid them. The IRS might also consider supplementing its Web information to provide more comprehensive resources such as videos and podcasts on private foundation restrictions and common errors. To facilitate smaller entities’ awareness of the resources available, we suggest that reference to Web pages be included in the private foundation’s determination letter and in the instructions for Forms 1023 and 990-TF.

A second recommendation on public education is to
increase public outreach beyond the website by providing focused education on private foundation management at IRS-sponsored seminars or on the tax return portion of IRS.gov.

The second issue with respect to guidance for cooperatives seeking to terminate their tax-exempt status stems from the private letter ruling situation where the IRS used to issue private letter rulings to cooperatives seeking to terminate their tax-exempt qualifications, thereby giving them certainty as to their tax-exempt status. These PLRs are no longer issued, and so the IRS should consider adding procedures in which cooperatives can terminate their tax status with certainty.

This issue requires a brief explanation. Certain cooperatives can apply for tax-exempt status under Section 501(c)(12) to have some or all of their income exempt from Federal tax provided they generally derive at least 85 percent of their annual income from their members. If the 85 percent test is not met in any given year, cooperative income becomes taxable and the
coop must file an 1120 corporate tax return. Because of this 85 percent test, the coop can flip from tax exempt to taxable status on a year by year basis. This makes it difficult for both the coop and the IRS to ensure compliance because different Code sections apply to taxable versus tax-exempt cooperative. For example, the preferred compensation rule would vary depending upon tax status.

Now, the IRS has verbally advised that coops seeking to terminate their tax-exempt status should file a Form 990 return and check the box indicating that the entity has been terminated. However, that guidance is inconsistent with the 990 instructions because the coop is actually not terminating its operations but only its tax-exempt status. But because of the importance to cooperatives and the IRS tax status, the IRS should provide a mechanism for a tax-exempt coop to definitively terminate that status in a manner that is binding on both the coop and the IRS.

We have two recommendations to provide cooperatives certainty as to their tax status. First,
resume the private letter ruling issuance to coops to
give them certainty regarding their tax status; or
preferably, second, to update the instructions to Form
990 regarding the box that the entity has been
terminated so that if the coop is actually
discontinuing its operation, it can check the
terminated box and complete the Schedule N to Form 990
to indicate its termination. But if the coop is only
terminating its tax-favored status, then it would
simply check the final return terminated box without
more.

The final issue is with reference to improvements
to Form 990 instructions to minimize ambiguities that
exist with cooperative organizations. Tax
professionals who work with cooperatives often find
themselves interpreting Form 990 instructions in order
to prepare an accurate return, and varying
interpretations can result in different responses.

To avoid this, we recommend clarification of the
Form 990 instructions in six areas. Because these
explanations and areas are rather granular, I’m just
going to touch on the areas themselves and refer you to the entire report for specific details.

The first area is with respect to the definition of interested person with respect to directors. The definition varies depending on the schedule that’s being used, and in order to correctly report director independency, a definitive instruction is required.

The second refers to patronage capital retirement payments and the instructions currently provide no guidance on how to treat these members who retire their patronage capital or how to report them.

The third area relates to recovery of patronage forced losses, or specifically how a patronage forced loss from a prior year is recovered in the current year.

The fourth refers to acceptable methods for reporting the statement of functional expenses and what type of system is acceptable in order to complete that statement.

The fifth links to reporting of 457-F deferred compensation and clarity on how to avoid the double
counting of this item.

And the sixth relates to multi-employer plan calculation.

In sum, we recommend that the IRS review the foregoing issues and develop updates to the Form 990 instructions. Clarification would ameliorate confusion and assist taxpayers in the preparation of clear and accurate returns.

With that, I’m going to turn it over to Jean Swift. Thank you.

(No response.)

MS. ERBSEN: Jean, you’re on mute.

Hang in there, everyone, because what she has to say is really important.

(Pause.)

MS. SWIFT: I’m honored to make this presentation on behalf of the 2020 IRSAC TE/GE subgroup. My name is Jean Swift. I’m a tribal member and financial adviser to the Mashantucket Pequot Tribal Council, located in the beautiful woodlands of southeastern Connecticut.

A central theme of the ITG recommendations focuses
on the importance of tribal tax resources. Issue number one seeks to enhance a recently created resource, while issues two and three recommend the creation of new tax-related resources.

Issue number one: establish comprehensive resources for Native American taxpayers and Federally-recognized tribes. The Office of Indian Tribal Government launched the Volunteer Income Tax Assistance Resources for Indian Country webpage, hereafter referred to as the VITA Indian Country webpage, in January of this year. The IRSAC applauds the proactive creation of this important resource.

We would also like to acknowledge the positive strides that have been made over the last decade between the IRS and various tribal leaders. Both parties have worked collaboratively to resolve longstanding issues that preceded the passage of the Tribal General Welfare Exclusion Act of 2014. The legislation has had a profound impact, allowing tribes to better serve the needs of tribal citizens through empowered tribal and economic
sovereignty.

The IRSAC encourages continued efforts by the IRS to build upon the positive foundation that has been laid with tribal leaders throughout Indian Country and offers several recommendations as a way to continue the positive relationship building. In the interest of time, I’ll refer you to the report for the specific recommendations regarding the expansion of the webpage.

Issue number two: establish a compliance assurance process for Indian tribal governments to address ambiguous issues.

The IRSAC recommends that the IRS establish a compliance assurance process, or CAP program, for Indian tribal governments based on the program used by the LB&I for its customer base. An ITG CAP program would allow tribes to submit issues to the IRS in advance of or contemporaneous to the submission of its tax returns. The IRS and the ITG can then evaluate the law and work toward a result that is acceptable to both parties.

There are over 500 Federally-recognized tribes,
each with different histories, cultures, organizational and governmental structures, and unique goals and relationships to their tribes. Each tribe has a specific treaty or agreement with the United States. These treaties serve as a key source of law governing the relationship between the United States and the individual tribe. Based on the differences between the tribes and the existence of unique treaties for each tribe, it’s often difficult to extrapolate uniform rules that can apply to all tribes.

The IRSAC has identified five primary areas where uncertainty, ambiguity, or disputes may exist. These five areas are: the General Welfare Exclusion Act of 2014; essential government functions test; bond issuances; qualified retirement plan issues; and employee versus independent contractor status issues.

We therefore recommend that the IRS establish a CAP program for ITG that follows the structure used by the LB&I operating division. Initially we recommend that the process be limited to the five specific areas previously noted, with the possibility of including
additional areas in the future.

Issue number three: recommend to Treasury the establishment of a counterpart to the Office of Indian Tribal Government.

The IRSAC observes that the Office of Indian Tribal Government was established to serve as the primary point of contact in the IRS for Federally-recognized Indian tribes. The ITG office combines compliance and enforcement initiatives with outreach and educational activities to respectfully and cooperatively meet the needs of both the Federal and Indian tribal governments, and to simplify the tax administration process.

Given the very nature of how tribal governments are structured, there are tax regulations that don’t necessarily apply to all tribes. Hence, there is an ongoing need for tax guidance on new and pending legislation which could best be provided by a Treasury Office of Tribal Affairs. We recommend that the IRS work with Treasury to create an Office of Tribal Affairs for the purpose of conducting ongoing,
effective tribal consultation, reviewing the impacts of new and pending legislation on tribes, and establishing Treasury-related policies that honor the trust responsibility that the Federal Government has to tribes as set forth in the U.S. Constitution. Such an office would complement the roles of the ITG Office, and it’s crucial that such an office be appropriately empowered to fully discharge the duties stated herein.

Finally, I’d like to thank fellow IRSAC member Charles Yovino for his tireless efforts with these recommendations. Together with the assistance of IRS ITG personnel Angela Gartland, Telly Meier, Stanley Wiatros, and Carmen Zucker, we were able to address several matters in a spirit of collaboration and cooperation.

Thank you all. I will now turn it back to Carol Lew.

MS. LEW: Hi. At this point, I would once again like to thank and echo Jean in thanking our IRS personnel who have really supported us tremendously throughout this difficult year and introduce Edward
Killen, followed by Phil Lindenmuth, to give their remarks. Thank you so much.

MR. KILLEN: Thank you so much, and good afternoon, everyone. Hopefully everybody can hear me clearly. Hopefully I followed the right steps to come off mute. But let me start off by saying I sincerely appreciate the great work of IRSAC in general, and in particular the work that’s been done by the subgroup.

I’m Edward Killen. I had an opportunity to meet many of you earlier on in the calendar year. My normal position is as Deputy Commissioner of TEGE, but I stepped into the role as acting commissioner at this point. I think it’s just really important for me to acknowledge to you all how appreciative we are of the leadership that you all have provided.

I particularly want to thank Jean Swift and Mike Engle, who I understand is not able to make it today, but I certainly want to appreciate publicly the leadership that you have exhibited. I understand that both of you are ending your terms and both of you at certain points have served as chair, and we certainly
appreciate the contribution you’ve made as we consider these issues.

For Fiscal Year 2021 in TE/GE, we’ve outlined a set of priorities that would really guide our path going forward this year. I’ll speak of them in brief because I think it’s relevant in light of the recommendations that you all have made.

We have six priorities that we’ve identified: strengthening compliance activities; improving operational efficiencies; maintain a taxpayer-focused organization; ensure awareness and collective understanding; leverage technology and data analytics; and developing our workforce.

So these recommendations that you all have thoughtfully provided certainly do fit into those organizational priorities that we’ve identified, and we will certainly give them thoughtful consideration consistent with the work you put in.

I also want to say that maintaining, detecting, and supporting the integrity of the tax-exempt sector is really our guiding light. That’s foundational to
us. So all the authorities that we’ve identified and the recommendations that you all have put forward as well, all of those support that foundational goal that we have.

I’ve been in TE/GE for the past year and have had an opportunity to observe firsthand the breadth, depth, and scope of the tax-exempt sector and the importance of the work that we’ve all collectively contributed towards it.

So with that, I think you know that the spirit of collaboration that’s been exemplified through your work over the past year is something we are absolutely committed to as we continue to move forward in that regards. As has been noted, Phil Lindenmuth is our Acting Deputy Commissioner, and I certainly want to allow him to say a few words of his appreciation as well.

MR. LINDENMUTH: Given that I’m the caboose on this long train, I’m going to be very brief. It’s really nice to see some familiar faces and names from my time in the past with Council. But basically all I
wanted to do was to echo Edward’s words of appreciation and look forward to working with folks as we move forward for however long that I’m with TE/GE.

So thanks again for all of the work and for the insightful recommendations that you have made, and we look forward to a fruitful Fiscal Year 2022. That’s it.

MS. ERBSEN: Thank you so much. It’s very nice to see you here.

CLOSING REMARKS

In the interest of time, I just want to once again thank all the IRSAC members for their hard work, thank the IRS leadership for setting a tremendous tone at the top, and all IRS employees for their heroic efforts during this challenging year. I think this has been a terrific meeting. Everybody has once again showed flexibility and a willingness to persevere in order to contribute.

I will turn it over to Ben and look forward to seeing many of you this evening at a virtual Zoom, so thank you.
MR. DENEKA: Thanks, Diana. I too will try to keep my comments brief, but I am so excited about this report this year and looking forward to next year.

Before we close, I just want to say thank you again to Diana and the subgroup chairs. We heard over and over again what an exceptional year this was, and I think feedback from the Commissioner and the leaders regarding the quality of the recommendations and the Council’s ability to maintain focus and productivity in light of the disruptions to operations and to transitioning to a new virtual environment—those comments are really a testament to your exceptional leadership, so thank you and thank the IRS for your unwavering efforts to be more than just a tax agency.

And lastly, thank you to my fellow IRSAC members. I really appreciate all the time and effort and energy and thought that went into this year’s report. I look forward to continuing to work with those who are staying on for the next year. Hopefully I’ll see you all again next year in person, as well.

With that, I will pass it over to Mel to bring us
home.

MR. HARDY: Thanks so much, Ben, and thank you, everyone. Before I give my closing remarks, let me turn to the Chief of Communications and Liaison, Terry Lemons, to give his final remarks. Terry, take it away.

MR. LEMONS: Great. Thanks, Mel.

Just real quickly, because I know it’s getting late, I want to thank the IRSAC members again. If you look at this report, there’s a great deal of substance in it. This is the kind of feedback we really need to help run the tax system, and I know the Commissioner and others, as they were looking at this report today, they have really been impressed by the depth and the feedback on it. The importance of the report and IRSAC is reflected by -- and you had a large number of the IRS senior executive team on today, so I appreciate their time on this, as well.

One thing I would just like to note in closing, echoing what the Commissioner said earlier, I’d like to just put out a public service announcement for those on
the call, not just IRSAC but members of the public. We
do have a deadline coming up on Saturday for our non-
filers tool. Anyone who doesn’t normally file a tax
return, Saturday is their last chance to come in and
register for an Economic Impact Payment and get the
payment out this year. Anything you guys can do to
help spread the word, we’ve still got people coming in
on that, and we’re happy to share some information if
anybody needs it.

So with that, thank you all again, and let me hand
it over to Mel Hardy, our National Public Liaison
Director, for a few final thoughts.

MR. HARDY: Thank you so much, Terry, and thank
you, everyone, for joining today this wonderful
meeting.

I would be remiss again if I did not thank
everyone for all your hard work, and especially our two
leaders, Diana and Ben. Diana, you know I’m going to
truly miss you, but thank you for all that you did and
your leadership.

So, ladies and gentlemen, drum roll, please. Our
leadership team for 2021 consists of the following outstanding IRSAC members. We have as Chair Ben Deneka. Our Vice Chair will be Carol Lew. The LB&I subgroup Chair will be Joe Novak. The SB/SE subgroup Chair will be Bob Panoff. The TE/GE subgroup Chair will be April Goff. And the W&I subgroup Chair will be Martin Armstrong. And last but not least, a wonderful addition to our new IRSAC, the Information Reporting subgroup Chair will be Alexandra Cruz.

And with that, ladies and gentlemen, thank you so much for all your hard work. A round of applause to those who are leaving us. You’re only leaving us, I know, temporarily. A lot of you will probably still pop your head in from time to time. And welcome to all the new members, and welcome to the new leadership team of 2021.

I would not want to close this without thanking my team, John Lipold, the branch chief, and all the folks on the NPL team who worked tirelessly to make sure that all of you had what you need.

So with that, my name is Mel Hardy, I’m the
Director of the National Public Liaison, and this concludes our public meeting for the IRSAC. Thank you. Have a great day. Stay safe. Wash your hands. Keep your distance. Happy Thanksgiving, and happy holidays.

MS. ERBSEN: Thank you. Happy Thanksgiving.

[Whereupon, at 12:36 p.m., the meeting was concluded.]