

# Internal Revenue Service **memorandum**

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subject: Telephone numbers on correspondence to taxpayers

**Issue:** Whether educational letters sent by RAAS to taxpayers require a contact telephone number pursuant to RRA98, section 3705.

**Conclusion:** Such letters are “any other correspondence” within the meaning of section 3705(a)(2), and require a telephone number where taxpayers can ask questions about the letter.

**Discussion:** The requirement to include a telephone number in taxpayer correspondence is contained in section 3705 of the Restructuring and Reform Act of 1998 (RRA 98). The Joint Committee on Taxation explained that section 3705 was enacted to address taxpayer frustration regarding their inability to know who to contact with regard to tax-related questions arising from IRS correspondence. J. Comm. on Taxation, General Explanation of Tax Legislation Enacted in 1998, 128 (Nov. 24, 1998). We have been asked whether educational letters mailed by RAAS to taxpayers are subject to the provisions of RRA.

In relevant part, section 3705 provides:

## SEC. 3705. INTERNAL REVENUE SERVICE EMPLOYEE CONTACTS

(a) NOTICE.—The Secretary of the Treasury or the Secretary’s delegate shall provide that—

(1) any manually generated correspondence received by a taxpayer from the Internal Revenue Service shall include in a prominent manner the name, telephone number, and unique identifying number of an Internal Revenue Service employee the taxpayer may contact with respect to the correspondence;

(2) any other correspondence or notice received by a taxpayer from the Internal Revenue Service shall include in a prominent manner a telephone number that the taxpayer may contact.

While section 3705 does not define correspondence, the IRS defines manually

generated correspondence for purposes of section 3705(a)(1) in IRM 21.3.3.4.17.1, Preparing Outgoing Manually Generated Correspondence, as follows:

The term manually generated correspondence is defined as any correspondence issued that is non-systemically generated and must contain certain elements listed in [Section 3705(a)](1) above. The IRS employee issuing the correspondence is:

- a. Exercising judgment in working or resolving a specific taxpayer identified issue.
- b. Requesting the taxpayer [to] provide additional case-related information to resolve the issue and the corresponding employee is in the best position to respond to all issues raised in the taxpayer's correspondence. The Service must use sound business judgment to determine the provision's [Section 3705(a)(1)'s] applicability.

The way the IRS defines correspondence for purposes of section 3705(a)(1) is consistent with the general, ordinary usage, meaning of correspondence. For example, Merriam-Webster defines correspondence as: "Communication by means of letters or e-mail." The Cambridge English Dictionary defines correspondence as: "Letters, especially official or business letters; the action of writing, receiving, and reading letters, especially between two people." Black's Law Dictionary defines correspondence as: "Interchange of written communications. The letters written by a person and the answers written by the one to whom they are addressed." Correspondence that does not meet the criteria for manually generated correspondence falls into the "any other correspondence" provision of section 3705(a)(2).

RAAS has suggested that the legislative history supports excluding educational letters from the requirements of section 3705, noting that the legislative history of this provision is focused on correspondence to taxpayers regarding their specific tax accounts.<sup>1</sup> RAAS raises the question whether section 3705 applies to correspondence that does not arise in the context of specific compliance activity. We perceive that it does. It is fundamental statutory construction that the words of a statute must be read within the total context and that all words in a statute must be given meaning, unless doing so creates an absurd result. National Assoc of Home Builders v. Defenders of Wildlife, 551 U.S. 644, 666 (2007) ("It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme." (internal quotes omitted)); Duncan v. Walker, 533 U.S. 167, 174 (2001) ("It is our duty to give effect, if possible, to every clause and word of a statute." (internal quotes omitted)). Furthermore, silence in the legislative history regarding other types of correspondence does not negate the statutory text. Where the terms of a

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<sup>1</sup> RAAS also noted that IRM provisions addressing the requirements of section 3705 only address such account-based correspondence and the resulting section 3705(a)(1) requirements. Silence in the IRM regarding "other" correspondence may merely reflect that the compliance functions which have published these provisions perceive that (within the meaning of section 3705) they only send manually generated correspondence. Additionally, the IRM is an operational instruction manual and does not direct legal interpretation of any statute.

statute are clear, and the construction according to its terms does not lead to absurd consequences, “the words employed are to be taken as the final expression of the meaning intended.” U.S. v. Missouri Pac. R. Co., 278 U.S. 269, 278 (1929) (“legislative history may not be used to support a construct that adds to or takes from the significance of the words employed.”). The Supreme Court has restated this position regarding the use of legislative history several times since, recently in Milner v. Navy, 562 U.S. 562, 572 (2011) (“When presented, on the one hand, with clear statutory language and, on the other, with dueling committee reports, we must choose the language.”). Here, the statutory language specially addresses “manually generated” correspondence and separately addresses “any other” correspondence, without distinguishing the content or purpose of the correspondence. Thus, “any other” correspondence in section 3705(a)(2) includes any, and all, correspondence other than “manually generated” correspondence.

The concern expressed in the legislative history regarding taxpayer account-based correspondence was addressed by the language of section 3705(a)(1) pertaining to manually generated correspondence. Any correspondence other than manually generated correspondence falls within section 3705(a)(2). This statutory construction provides a very broad catch-all category of “any other correspondence” within which educational letters fall. Furthermore, since RAAS selects the taxpayers to receive each educational letter based on characteristics of the taxpayers’ accounts, we perceive that it is inaccurate to assert that these letters are unrelated to taxpayer accounts. These educational letters may have no connection to any active compliance effort, but they are based on the taxpayer accounts.

RAAS has asked whether education letters and pamphlets<sup>2</sup> mailed to taxpayers constitute manually generated correspondence or fall within the catchall “any other correspondence” category of section 3705(a)(2). We perceive no basis for considering a mailed pamphlet to be excluded from the definition of “correspondence.” Correspondence is generally defined as written communication sent to a specific person; a pamphlet mailed to a taxpayer meets this definition. We also considered whether some of these letters, particularly those that say “our records show that you ...” or similar, should include the name, phone number, and unique identifying number of an employee in accordance with section 3705(a)(1). Taxpayers to whom educational letters are directed have been selected based on characteristics of their tax situation as reflected in their tax accounts. Thus, all educational letters effectively reflect the selection criteria regardless of whether the letter explicitly states that criteria. Given that these educational letters are systemically generated, are sent to taxpayers without respect to any active compliance effort, and do not seek specific information to be used to resolve any account-related compliance issue, we perceive that such letters do not meet the criteria for section 3705(a)(1) and need only include a phone number pursuant to section 3705(a)(2).

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<sup>2</sup> Pamphlets commonly do not include a contact phone number. Thus, mailing pamphlets to taxpayers would require including the phone number in some way. Pamphlets made available through “take one” boxes are not correspondence within the meaning of section 3705, and do not need a contact phone number.

In summary, given the broad scope of the language set forth in section 3705(a) regarding manually generated and any other correspondence, we perceive that section 3705 is properly interpreted to include educational correspondence. We further perceive that educational letters and pamphlets need include only a phone number in accordance with section 3705(a)(2).

**Hazards and Other Considerations:**

[REDACTED]

[REDACTED]

[REDACTED]