National Taxpayer Advocate Public Hearing on Taxpayer and Stakeholder Needs and Preferences IRPAC Testimony

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Remarks by
Michael Gangwer, Chair
Information Reporting Program Advisory Committee

I am Michael W. Gangwer, the current Chair of the Information Reporting Program Advisory Committee, which is known as IRPAC. Thank you for inviting me to share IRPAC's perspectives on the administration of our tax laws.

First, I want to provide a bit of context about IRPAC. In 1989, Congress authorized IRPAC to provide a public forum to discuss information reporting issues. We serve as an advisory body to the Commissioner of the Internal Revenue Service. We identify, research, analyze, and make recommendations on current and proposed information reporting policies and operations. When necessary, we suggest improvements. We also publish an annual briefing book that summarizes our activities and our recommendations, which you can find at https://www.irs.gov/Tax-Professionals/Information-Reporting-Program-Advisory-Committee--(IRPAC)-Past-Briefing-Books.

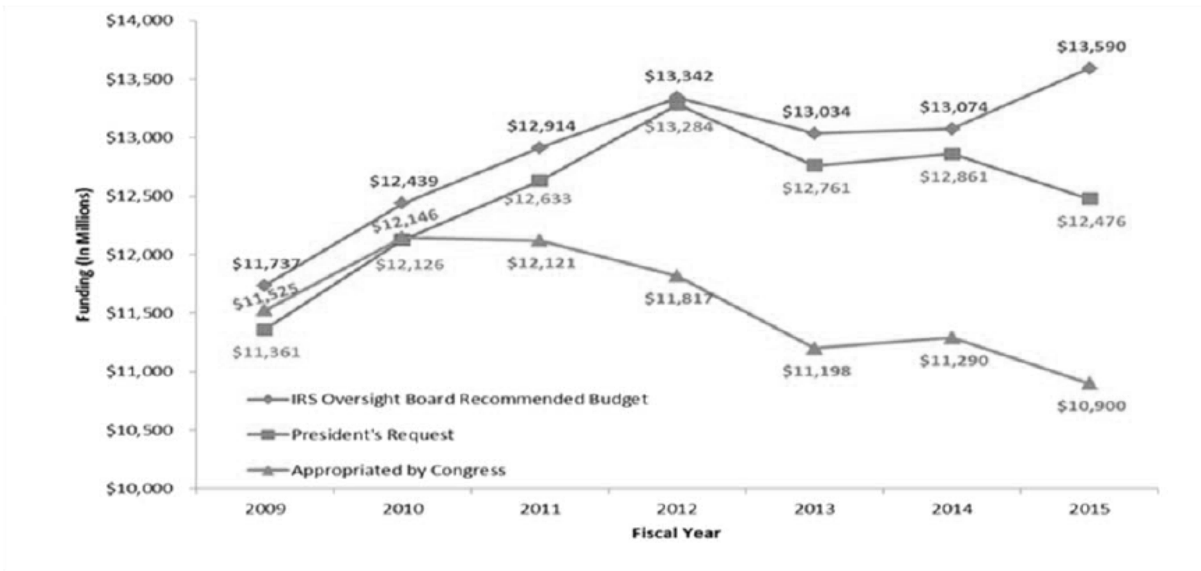
Our committee currently has 19 members, including individuals from various segments of the tax community, from major national professional and trade associations to colleges and universities—as well as large and small businesses. We meet about five times a year in Washington, D.C.—typically over two days. We are not paid for our efforts, but some of our travel expenses are reimbursed within prescribed federal limitations.

Today, I want to highlight what IRPAC believes are the three largest challenges for information reporting: (I) IRS funding levels; (II) risks and opportunities from expanding taxpayers' information reporting obligations; and (III) preventing identity theft, especially for small businesses.

I. IRS funding levels

From FY 2010 to FY 2015, the entire operating budget for the IRS dropped from $12.1 billion to $10.9 billion, without adjusting for inflation. At the same time, IRS responsibilities, infrastructure demands, and taxpayer needs, increased considerably.

We believe the significant and chronic mismatch between the generally declining funding level of the IRS and its growing mandate is the most important challenge to improving information reporting. In many instances, we have been told that the IRS cannot pursue our recommendations because the IRS lacks the resources to open additional projects. Both taxpayers and the IRS suffer from these shortcomings. Taxpayers may not receive the information they need to voluntarily comply with their tax obligations and the IRS may be unable to collect all of the revenue the government is entitled to receive.



Source: IRS Oversight Board's FY 2015 IRS Budget Recommendation Special Report.

II. Risks and opportunities from increased information reporting

Information reporting is an increasingly large component of tax administration. In just the last 6 years, Congress has added information reporting for cost basis on securities sales, reporting of financial payments under the Foreign Account Tax Compliance Act (FATCA), and health care coverage and enrollment under the Affordable Care Act.

Information reporting can help taxpayers comply with the tax law--and the IRS to enforce it. But the wave of new information reports shifts new and substantial burdens to payors and financial intermediaries. For example, the Financial Institute Forum (FIF) estimated the cost to brokers and other financial intermediaries to implement cost basis reporting would exceed $0.5 billion for the initial reporting period of 2011-2013.[1] Implementation costs associated with FATCA are likely to be even higher. SIFMA conducted an internal member survey and learned that the combined implementation costs of 17 respondents alone exceeded $1 billion in 2013-2014.[2]

We believe the IRS should try to minimize the burden of information reporting, especially when the information reported is unnecessary or could be accomplished more simply. For example, in 2014, more than 1.1 billion of the 2.25 billion information returns are attributable to Forms 1099-B, principally from the sale of securities. We believe some of these forms could be combined, without any loss of revenue to the tax system. For example, we suggest the IRS permit a broker to aggregate its reporting of the sales from a single trade order that is filled in multiple executions on the same day, rather than report multiple sales for the same order.

[1] FIF cost basis working group, "Cost Basis Survey III, Final Report," at 23 (May 25, 2011).
[2] SIFMA Calls for Targeted Relief on FATCA. (n.d.). Retrieved February 16, 2016, from http://www.sifma.org/newsroom/2014/sifma_calls_for_targeted_relief_on_fatca/

We also believe the IRS should develop more guidance on the type of information to be collected and reported when key terms are undefined and rules are not clear. We offer specific suggestions in our annual briefing books. A payor's burden to report information should not be increased by the vagueness or uncertainty of the rule.

Finally, we believe that recent advances in information technology offer new opportunities to improve tax administration. We believe the IRS can automate many more internal processes and establish external communication channels that are efficient, safe, trackable, and timely. For example, we recommend that the IRS create a web portal where small business owners could input 1099 forms and then print a copy and electronically submit a copy to the IRS.

III. Preventing identity theft for businesses

We acknowledge the great efforts by the IRS to track and reduce individual ID theft, but we want to highlight another problem: business ID theft. Large and small businesses face an onslaught of data attacks and attempted fraud. Businesses struggle to protect themselves and their customers—and often face financial hardship or ruin if they fail. We suggest a variety of steps the IRS could take to reduce the opportunities for business ID theft.

For example, we believe the IRS should permit employers to truncate their Employer Identification number (EIN) on their payee information return statements. Truncating EINs will help keep sensitive information from data mining thieves and will reduce the risk to businesses of identity theft.

In addition, we recommend the IRS close an EIN as soon as a business has notified the IRS of its closure. Today, a business can check a box on Line 15 of part 3 of the Form 941, Employer's Quarterly Federal Tax Return, which states that the business has "closed or stopped paying wages." We suggest the IRS add two alternative boxes to the form: one box that says "If your business has closed check here" and, two "If you have stopped paying wages, check here." By adding these boxes, the IRS can quickly close the EIN if the business has closed, which will prevent fraudulent future use of old EINs.

We offered several suggestions to prevent business ID theft in our 2015 briefing book, which we encourage you to read. We are happy to discuss any of our ideas further, at any other forum or venue that you see fit.

Thank you for the opportunity to present some of IRPAC's concerns. We look forward to elaborating on these and other concerns in our annual briefing book later this year.