



**WRITTEN TESTIMONY OF JEFFREY A. PORTER
ON BEHALF OF THE
AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS**

**UNITED STATES SENATE
COMMITTEE ON FINANCE**

**PUBLIC HEARING ON
TAX FRAUD, TAX ID THEFT AND TAX REFORM: MOVING FORWARD WITH SOLUTIONS**

APRIL 16, 2013

Good morning Chairman Baucus, Ranking Member Hatch and Members of the Committee. My name is Jeffrey A. Porter, Chair of the American Institute of Certified Public Accountants (AICPA) Tax Executive Committee. I am a sole practitioner at Porter & Associates, CPAs, a local firm in Huntington, West Virginia, which concentrates in providing tax planning and business advisory services for local businesses and high net worth individuals. On behalf of the AICPA, I am pleased to have the opportunity to testify today at your hearing on tax fraud, tax identity theft and tax reform.

The AICPA is the world's largest member association representing the accounting profession with nearly 386,000 members in 128 countries and a 125-year heritage of serving the public interest. Our members advise clients on federal, state and international tax matters and prepare income and other tax returns for millions of Americans. Our members provide services to individuals, not-for-profit organizations, small and medium-sized businesses, as well as America's largest businesses.

Identity Theft

One of the most important topics for our members this year and a primary focus for today's hearing is identity theft. With the dramatic upturn in identity theft cases, there are a number of actions CPAs and other tax professionals can take up-front to inform clients regarding the threat posed by tax identity theft. For example, as a trusted advisor, tax return preparers can inform their clients that if they receive an e-mail or other communication that looks unusual that: (1) the Internal Revenue Service (IRS or "Service") *never* uses e-mail or social media to contact taxpayers directly; and (2) the IRS provides numerous ways for taxpayers to identify possible identity theft and telephone numbers to report it. However, some actions that tax professionals believe would reduce the threat of identity theft would require legislative or regulatory changes.

The AICPA applauds the IRS's issuance of [REG-148873-09, IRS Truncated Taxpayer Identification Numbers \(TTINs\)](#). The proposed regulations implement the pilot program announced in Notices 2009-93 and 2011-38, which authorize filers of certain information returns to voluntarily truncate an individual payee's nine digit identifying number on specified paper payee statements furnished for calendar years 2009-2012.

We believe the proposed regulations are a positive step towards protecting the privacy and security of personal information. Over the last few years, we urged the IRS to make the taxpayer identification number truncation initiative permanent, as opposed to remaining a pilot program.¹ We appreciate that the proposed regulations: (1) make the truncation program permanent; and (2) extend the scope of the IRS truncation program to permit filers to furnish payee statements electronically. However, we support an extension of the truncation program to permit the use of truncated social security numbers (SSN) on all types of tax forms and returns provided to a taxpayer, employee or other recipient. Unfortunately, as described in more detail below, there may be current statutory or other limits placed upon the IRS's ability to expand the truncation initiative.

¹ The AICPA most recently submitted [comments on truncated taxpayer identification numbers to the Internal Revenue Service](#) on February 20, 2013.

Under section 301.6109-4 of the proposed regulations, an IRS TTIN is defined as an “individual’s SSN, IRS individual taxpayer identification number (ITIN), or IRS adoption taxpayer identification number (ATIN) that is truncated by replacing the first five digits of the nine-digit number with Xs or asterisks.” However, the preamble of REG-144873-09 expressly states that the IRS’s ability to extend the truncation program to a greater number of payee statements by regulation is limited by statute. Thus, the proposed regulations do not extend truncation of taxpayer identification numbers beyond certain types of information returns already permitted under the pilot program.

We understand that limitations exist currently with regards to truncation on a Form W-2, *Wage and Tax Statement*. Under Internal Revenue Code (IRC or “Code”) section 6051(a)(2),² employers are required to provide employees a written statement (i.e., Form W-2) with certain information including the employee’s SSN. We urge Congress to consider a legislative proposal to change the section 6051 reporting requirement to permit truncation of employee SSNs on all copies other than the copy filed with the U.S. Social Security Administration (SSA).

In the [General Explanations of the Administration’s Fiscal Year 2014 Revenue Proposals](#), a revision to section 6051 is proposed to require employers to include an “identifying number” for each employee, rather than an employee’s SSN, on a Form W-2. We generally support this concept, but strongly believe there is a need for more extensive legislation to extend the use of truncated SSNs to all types of tax forms and returns provided to a taxpayer, employee or other recipient. For example, tax preparers are required to obtain a Form 8879, *IRS E-file Signature Authorization*, from their clients in order to e-file their tax returns. This form is not submitted to the IRS, but merely retained in the tax preparer’s records. However, the tax preparer must list a client’s full social security number on the form and send the document to the client for signature. Then, the client will sign the form and return it to their tax preparer often through the U.S. mail or by scanning the document and submitting it via e-mail. Either process makes the client’s SSN susceptible to theft. Because the form is not submitted to the IRS, or any agency for that matter, we do not believe a SSN should be required on the form.

Clearly, the need for this expansive legislation is supported by the growing concern over identity theft in general and the growth in the number of such cases being handled by the IRS. This important change to the current law will not solve all of our country’s growing problems with identity theft; however, it will likely help tax practitioners from inadvertently providing criminals access to clients’ identification numbers merely by sending their clients completed IRS forms.

Finally, the AICPA supports civil penalties for tax-related identity theft, including penalties on fraudulent tax preparers.³ In the 112th Congress, Representative Erik Paulsen introduced [H.R. 5630, Fighting Tax Fraud Act of 2012](#), which would have amended section 6694 subsections (c), (d), (e) and (f) to provide an increased penalty in certain cases of a fraudulent understatement of a taxpayer’s liability by a tax return preparer. This bill was in response to the [National Taxpayer Advocate’s 2011 Annual Report to Congress](#) (pages 558-561), which noted a small number of tax return preparers defraud taxpayers and the IRS by altering the taxpayers’ returns without their knowledge. In many cases, preparers claimed increased refunds – that the taxpayers

² All references in this letter to the Internal Revenue Code are to the Internal Revenue Code of 1986, as amended.

³ The AICPA submitted [comments to the House Committee on Ways and Means Chairman and Ranking Member](#) on July 16, 2012.

were not entitled to receive – in order to pocket the extra money themselves. The AICPA fully supports efforts, such as H.R. 5630, to deter such outrageously unethical behavior. More recently, the Administration has proposed a similar provision which would assess a civil penalty in the amount of \$5,000 on an individual who files a fraudulent tax return in tax identity theft cases.⁴

Tax Filing Season

Before addressing the other issues identified for this hearing, I would like to share our feedback on this year's tax filing season, as I know that the Committee generally seeks feedback immediately after the April 15th filing deadline. Overall, it was an extremely challenging and compressed tax season for both the IRS and tax practitioners.

We appreciate the tremendous challenges the IRS faces in administering the tax filing season each year, which includes the timely release of forms, the testing of systems, and responding to taxpayer inquiries. However, when the IRS experiences a significantly challenging filing season like this one, the challenge is not limited to the government. The adverse impact extends to taxpayers and tax return preparers who face additional burdens attributable to the disruption to normal and efficient work streams and planning. In this context, our members and their clients faced a very compressed and difficult filing season this year due to the late (January 2) enactment of tax legislation and the resulting delay in the release of 31 tax forms.

Since the IRS could not accept tax returns that included certain forms until February or early March, our members essentially lost the first half of filing season. The release of forms at such a late date also necessitated the filing of more extensions of time for filing tax returns on behalf of their clients; however, extensions do not completely solve the problem. Tax preparers still needed to perform the necessary preliminary work to calculate the amount of the tax payment due with the extension. The late enactment of the law that caused these forms delays was disruptive to accounting firms' internal procedures, causing many firms to first conduct this initial review process involving the extension now, and then a second preparation and review process later to ensure proper completion of the tax return.

The delay in the release of forms also caused significant anxiety for taxpayers. In my own practice, I had over 50 tax returns substantially completed and waiting for the IRS to release one or more forms. Many of these taxpayers were anxious to file their tax returns, calling me on a weekly and sometimes daily basis to obtain an update on their returns. The delay created an aura of confusion, particularly for my elderly clients, and sometimes required additional efforts by them. Many of my clients needed to come back to my office to pick up a completed copy of their tax return; other clients needed to make an additional trip to sign the Form 8879, *IRS E-file Signature Authorization*.

Nevertheless, we believe the IRS did an outstanding job under the difficult circumstances. The IRS maintained an open dialogue with stakeholders during the entire filing season and we applaud their responsiveness to our concerns. On February 15, 2013, the AICPA submitted a [letter to Acting Commissioner Steve Miller](#) regarding the delayed release in forms. Within days, the IRS issued [Notice](#)

⁴ Department of the Treasury, [General Explanations of the Administration's Fiscal Year 2014 Revenue Proposals](#), page 212.

[2013-24](#) in response to our concerns, which provided the appropriate relief requested from late-payment penalties assessed under IRC section 6651(a)(2).

Unfortunately, in addition to the late release of IRS forms, the filing season was a tremendous challenge to practitioners due to the late issuance of corrected Forms 1099-B, *Proceeds from Broker and Barter Exchange Transactions*, and amended Forms 1099-DIV, *Dividends and Distributions*, by an increasing number of brokerage firms. A copy of Forms 1099-B and 1099-DIV (hereinafter referred to as "Form 1099") must be furnished to taxpayers by February 15, 2013.⁵ However, brokerage firms can amend a Form 1099 at any time. In fact, one of the largest brokerage firms issued corrected Forms 1099 on April 2nd of this year. I was first notified about this brokerage firm's late corrected Form 1099 on April 4th when I began receiving calls from clients – merely eleven days prior to the initial filing due date – asking me to amend their individual income tax returns that had already been prepared and filed. Although an amended Form 1040 can be filed after April 15th, clients wanted to either make certain they did not owe any late payment penalties or obtain their refund as soon as possible. Taxpayers were also anxious to get this year's tax return "behind them" without extensions, if possible.

Over the last few years, we have noticed more and more brokerage firms issuing corrected Forms 1099, sometimes issuing multiple corrected forms on the same account. While we understand that the brokerage firms face many challenges to meet reporting requirements in a timely fashion after close of the calendar year, corrected forms create anxiety, confusion and for some taxpayers, an increase in tax preparation fees. Taxpayers are willing to file an amended return if necessary, but strongly prefer to file only once. As a result, many taxpayers (including a lot of my clients) now have a tendency to wait until they have received their annually-anticipated corrected Forms 1099 before bringing their tax records to their CPA. For example, last year I prepared an individual income tax return for one of my elderly clients on February 12th, and had to amend the return in April due to an amended Form 1099. This year, he did not want to send me his tax information in February because he was concerned about possibly receiving a corrected Form 1099. The client's prediction, or educated guess, was correct, and he received several corrected Forms 1099. He eventually brought me his tax information, and I prepared his individual income tax return this year on April 3rd – nearly two months after the date when I had prepared it in the past. Such compression in the tax filing season is becoming a reality more and more for tax practitioners each year. According to IRS statistics, returns prepared by tax professionals through March 15, 2013 had decreased by 8.1 percent from the 2012 filing season.⁶

We believe there is a solution to the growing problem of corrected Forms 1099. We suggest you consider legislation that would permit taxpayers to report *de minimis* changes in their income from a corrected Form 1099 or amended Schedule K-1 (from a partnership, trust, or S Corporation) in the year of receipt of the amended form. For example, if ordinary dividends of \$200 are reported on my client's tax return for 2012, the client should not need to file an amended tax return if the client receives a corrected Form 1099 showing \$210 of dividends. Such a process is inefficient for taxpayers, tax preparers and the government.

⁵ IRC section 6045(b).

⁶ IRS Filing Season Statistics for Week Ending March 15, 2013, available at <http://www.irs.gov/uac/Newsroom/Filing-Season-Statistics-for-Week-Ending-March-15-2013>.

The IRS could provide a simple one-page form allowing taxpayers to report the amount shown on the taxpayer's original return and the amount reported on a corrected or amended form. The differential would be included on the taxpayer's current year return (i.e., if a taxpayer receives a corrected Form 1099 in April 2013 for the 2012 or prior tax year, the taxpayer would report the difference on the taxpayer's 2013 income tax return). Because the change in income would be attributable to a corrected or amended form (as opposed to taxpayer error), good faith would automatically be presumed and late-payment penalties should not be assessed. Taxpayers would also have the option of filing an amended return.

The AICPA proposes this flexibility to streamline the tax return reporting process for both the government and taxpayers. The preparation, filing, processing and examining of amended returns is costly to everyone. This recommendation would make the entire process more efficient.

Preparer Registration

Another important item included in the topics for today's hearing is tax reform – which includes an issue of particular interest to our members – the regulation of tax return preparers. Obviously, clarity in this environment is necessary due to the pending judicial situation. The AICPA has always been a steadfast supporter of the IRS's overall goals of enhancing compliance and elevating ethical conduct. Ensuring that tax preparers are competent and ethical is critical to maintaining taxpayer confidence in our tax system. Indeed, these goals are consistent with AICPA's own Code of Conduct and enforceable tax ethical standards.

We believe the IRS should be commended for its efforts in the implementation of their return preparer program. Specifically, the IRS devoted an unprecedented amount of time to listening to stakeholder concerns and suggestions regarding the program, and made numerous changes and adjustments. We believe some of those changes confirm the Service's recognition of the inherent regulatory regime within which CPAs and other Circular 230 legacy practitioners already practice, as well as the fact that CPA firms must stand, as a matter of licensure, behind the work performed by the members and employees of the firm. We believe these changes appropriately focused the program on the "unenrolled" preparer community that was implicated in the U.S. Government Accountability Office (GAO) and U.S. Treasury Inspector General for Tax Administration (TIGTA) compliance studies cited in the IRS's preparer regulation report.

The AICPA generally supports the IRS tax return preparer program. Specifically, we support:

- Registering paid tax return preparers and the issuance of unique preparer tax identification numbers. Registration will allow the accumulation of important data on specific preparers, as well as classes of preparers in a way that will allow the IRS to tailor compliance and education programs in the most efficient manner.
- Expanding the ethical umbrella of Circular 230 over all paid income tax preparers. "Unenrolled" preparers had previously not been subjected to the ethical guidance of Circular 230 nor its sanctions for improper conduct.
- Creating a continuing education and competence construct geared towards the "unenrolled" preparer community who prepare Form 1040 series returns. Including a focus on the basics is the correct remedial approach for the "unenrolled" preparer community that was, again, implicated in the GAO and TIGTA compliance studies.

- Recognizing the potential for taxpayer confusion regarding the relative qualifications of different paid preparers through the issuance of Notice 2011-45, which constrains “registered tax return preparers” from misleading advertising and solicitation and will require these preparers to use the following statement in ads: “The IRS does not endorse any particular individual tax return preparer. For more information on tax return preparers go to IRS.gov.” We also believe that any public-facing IRS sources concerning preparers should contain sufficient information that taxpayers will need to make appropriate choices concerning the selection of a tax adviser. IRS mitigation of any taxpayer confusion regarding relative qualifications should be a critical and ongoing component of any program.

We will continue to provide feedback on the work the IRS undertakes with regard to its tax preparer program as we share the Service's interest in improving tax administration and protecting the taxpaying public.

Penalty Reform

Another important item for inclusion in today's tax reform discussions is the reform of penalties. The success of our tax system depends on voluntary compliance with the tax laws. “Civil tax penalties should exist for the purpose of encouraging voluntary compliance and not for other purposes, such as the raising of revenue.”⁷ Twenty-four years ago, Congress enacted the Improved Penalty and Compliance Tax Act of 1989 (IMPACT),⁸ which overhauled the then-existing civil tax penalty regime and reiterated that the core goal of penalties is to encourage voluntary compliance. Unfortunately, in the 24 years since IMPACT, numerous penalty provisions have been enacted that are not directed toward, and do not achieve, the core goal of encouraging voluntary compliance. In part, this occurrence likely is due to the government's understandable interest in combating tax shelters. However, this loss of direction also has resulted from ad hoc efforts to craft penalties and an increase in the use of penalties, rather than altering the actual tax laws, to drive taxpayer behavior. The use of penalties to “raise revenue” contributes to this loss of direction.

Civil tax penalties should be fair, above all else. Penalty provisions should be carefully crafted by Congress and sensibly administered by the IRS to ensure that penalties deter bad conduct without deterring good conduct or punishing the innocent (i.e., unintentional errors). Targeted, proportionate penalties that clearly articulate standards of behavior and that are administered in an even-handed and reasonable manner encourage voluntary compliance with the tax laws. On the other hand, overbroad, vaguely-defined, and disproportionate penalties, particularly those administered as part of a system that automatically imposes penalties or that otherwise fails to provide basic due process safeguards, create an atmosphere of arbitrariness and unfairness that are likely to discourage voluntary compliance.

Earlier this year, the AICPA developed legislative suggestions and updated a [Report on Civil Tax Penalties: The Need for Reform](#) (AICPA Report) to express our concerns about the current state of civil tax penalties and to offer suggestions for improvement. Specifically, the AICPA Report addresses the following issues:

- The trend away from voluntary compliance as the primary purpose of civil tax penalties;

⁷ Commissioner's Executive Task Force on Civil Penalties, Internal Revenue Service, *Report on Civil Tax Penalties*, p.1 (February 21, 1989), available at 89 TNT 45-36, Doc 89-1586.

⁸ P.L. 101-239, 101st Cong., 1st Sess. (1989).

- The lack of clear standards in some penalties;
- The fact that some penalties are disproportionate both in amount and severity;
- The fact that some penalties are overbroad, deter remedial and other good conduct, and punish innocent conduct;
- The trend toward strict liability;
- An erosion of basic procedural due process;
- Inconsistencies between penalty standards and the role of tax professionals;
- The increase in the automated assessment of penalties that can lead to unwarranted assessments;
- The need for better coordination and oversight of penalty administration;
- The bias in favor of asserting penalties;
- The need to improve IRS guidance and training; and
- The need for the IRS to increase its efforts to educate taxpayers and tax professionals.

The AICPA provides its thoughts in this area with an eye toward improving overall tax policy and administration. To that end, we strongly encourage an inclusive and transparent framework for approaching this difficult task, similar to the collaborative efforts that culminated in IMPACT. We urge Congress to work with taxpayers, practitioners, professional organizations and other stakeholders in developing a systematic and thoughtful approach to civil tax penalty reform and penalty administration.⁹

Information Reporting

Another important area to discuss in addressing the administration of the tax laws is information reporting. The Code includes several requirements for payors to issue information reports to taxpayers who have received some form of taxable income. For example, section 6041, *Information at Source*, requires persons engaged in business to issue a Form 1099 to others who they have paid at least \$600 of “rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income” during the year (unless some other reporting rule applies). Some provisions, such as section 6050W, *Returns Relating to Payments made in Settlement of Payment Card and Third Party Network Transactions*, require certain third parties to issue information reports. For example, under section 6050W, processors of debit and credit card transactions are required to issue information reports (Form 1099-K, *Payment Card and Third Party Network Transactions*) to merchants.

As noted by the GAO, “taxpayers are much more likely to report their income accurately when the income is also reported to the IRS by a third party. By matching information received from third-party payors to amounts payees report on their tax returns, the IRS can detect income underreporting, including the failure to file a tax return.”¹⁰

In considering any potential modifications to Form 1099 or similar reporting, we think the Committee may want to review the following factors in deciding how to address the effectiveness of information reporting:

⁹ See the [AICPA tax penalties legislative proposals](#), submitted to Congress in April 2013, included in the submission with the [April 2013 updated AICPA Report on Civil Tax Penalties](#).

¹⁰ GAO, 2012 Annual Report: Opportunities to Reduce Duplication, Overlap and Fragmentation, Achieve Savings, and Enhance Revenue, GAO-12-342SP (Feb. 2012), pages 285-286; available at <http://gao.gov/assets/590/588818.pdf>.

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- Provide exceptions for the issuance of Form 1099 to publicly-traded corporations;
- Simplify the Form 1099 issuance process for small businesses and landlords, such as considering whether it is feasible for the IRS to create a website where the data can be entered and the Form 1099 generated and mailed by the IRS to the payee; and
- Maintain the \$600 threshold for filing information reports (Forms 1099). While there may be some interest in adjusting the dollar amount to account for the effects of inflation since section 6041 was enacted, given that the purpose of section 6041 is to improve compliance, the dollar amount should not be increased.

The AICPA also recommends further study and review of the efficacy of section 6050W, which pertains to returns relating to payments made in settlement of payment card and third party network transactions. It requires information reporting by payment settlement entities which process credit and debit cards for merchants. It also requires the reporting of transactions using third party networks (such as Paypal) unless they are *de minimis*.¹¹ Alternatives should be explored for finding businesses that might not be reporting sales, such as, those selling through third-party websites. Alternatives may also include information sharing with states and IRS examinations (correspondence and office) of individuals who sell goods or provide services via the web.

The AICPA recommends addressing sources of the tax gap through the consideration of information reporting options. As noted on the IRS Tax Gap map, the most significant way to reduce the tax gap would be to reduce its largest piece – underreporting of business income. The GAO has offered several suggestions, including ones dealing with expanded information reporting.

New information reporting requirements to help reduce this portion of the tax gap was also generated by the National Taxpayer Advocate in the 2012 annual report to Congress. This report includes the results of an independent survey to identify factors that influence voluntary compliance by small businesses. Taxpayers in the high compliance group had greater trust in the government and were likely to rely on preparers. Those taxpayers in the low compliance group tended to be suspicious of government, view the tax system as unfair, and were less likely to follow the advice of their preparer. Both compliance groups viewed the tax system as complex and cheating as wrong.¹² This additional information should be considered along with information from the IRS, GAO and others to develop administrative and legislative proposals to reduce the largest portion of the tax gap.

We believe information reporting can assist voluntary compliance by providing summary information to taxpayers for reporting on their tax returns. Accordingly, the AICPA recommends the following measures for the Committee's consideration in addressing the tax gap:

¹¹ Per section 6050W(e), a third party network transaction is *de minimis* if the potential amount to report is \$20,000 or less and the number of transactions does not exceed 200.

¹² National Taxpayer Advocate's 2012 Annual Report to Congress, Vol. 2, Factors Influencing Voluntary Compliance by Small Businesses: Preliminary Survey Results; available at <http://www.taxpayeradvocate.irs.gov/userfiles/file/Full-Report/Research-Studies-Factors-Influencing-Voluntary-Compliance-by-Small-Businesses-Preliminary-Survey-Results.pdf>

- *Simplification*: The AICPA agrees with GAO's observation that simplification of the tax system can reduce the tax gap. The complexity of the federal tax system often leads to unintentional errors and disrespect for the system.
- *Expanded math error authority*: The AICPA conceptually agrees with the GAO's suggestion that the IRS be granted greater "math error authority" to enable it to address more mistakes prior to issuance of a refund.¹³ The National Taxpayer Advocate has pointed out, though, that expanded math error authority might harm taxpayer rights in some instances.¹⁴ The IRS should be asked for specific proposals where math error authority could be broadened while still protecting taxpayer rights.
- *Regulating paid return preparers*: The 2013 GAO report notes that in generating "approximately 60 percent of all tax returns filed, paid preparers have an enormous impact on IRS's ability to administer tax laws effectively." They also note that the program has been limited by the District Court's decision in January 2013 (*Loving v. IRS* (D.D.C. 1/18/13)).¹⁵ Our specific recommendations are provided in this testimony under the heading "Preparer Registration."

Due Dates of Tax Returns

In addressing tax reform and the administration of the Code, we also appreciate the Committee's consideration of tax return due dates. The AICPA supports [S. 420](#), *Tax Return Due Date Simplification and Modernization Act of 2013*, introduced by Senators Enzi and Tester on February 28, 2013. This tax return due date simplification proposal has bipartisan House support and is included in [H.R. 901](#) as well as Title II, Subtitle B, Part 2 of the House Ways and Means Committee Chairman Camp's [Small Business Tax Reform Discussion Draft](#).

Tax return due dates have been a concern for the AICPA for several years. Under the current system, the statutory due date for partnerships to file a tax return is the same day as for trusts, many estates, and individuals, and one month after the due date for corporations. As a result of these due dates, it is almost impossible for taxpayers and practitioners to file a timely, accurate return on the original due date if they have investments in partnerships.

Taxpayers and preparers have long struggled because Schedules K-1 often arrive months after the original due date of their or their clients' returns. Late Schedules K-1 make it difficult, if not impossible, to file a timely, accurate return. Many owners in a partnership are often forced to seek extensions; a matter further complicated by the fact that partnerships sometimes also seek extensions.

S. 420 would allow for a more logical and chronologically-correct flow of information regarding due dates of returns. Data from flow-through entities would be filed before the individuals and corporations that are invested in the flow-through entities. The bill also simplifies and better aligns other types of tax return and information return reporting due dates. These changes will increase the accuracy of tax returns and reduce the need for extended or amended corporate and individual income tax returns, resolving many of the current due date problems. The bill also helps reduce the compression of filing season for practitioners preparing

¹³ *Supra*, pages 231-232.

¹⁴ [National Taxpayer Advocate's 2011 Annual Report to Congress](#), Vol. 2, pages 74-92.

¹⁵ *Supra*, page 231.

individual income tax returns – a serious problem noted earlier in our testimony – while holding the amount of tax liability constant for all taxpayers.

Tax Reform

The AICPA strongly supports the leadership taken by the Committee in studying tax reform and potential solutions. The proliferation of new income tax provisions since the 1986 tax reform effort has led to complex compliance hurdles for taxpayers, administrative complexity, and enforcement challenges for the IRS. According to the National Taxpayer Advocate's 2012 Annual Report to Congress, "individuals and businesses spend about 6.1 billion hours a year complying with the filing requirements of the Internal Revenue Code."¹⁶ It also noted "the costs of complying with the individual and corporate income tax requirements for 2010 amounted to \$168 billion – or a staggering 15 percent of aggregate income tax receipts."¹⁷ We have consistently supported tax reform simplification efforts because we are convinced such actions will significantly reduce taxpayers' compliance costs, encourage voluntary compliance through an understanding of the rules, and facilitate enforcement actions.

On behalf of the profession, the AICPA is committed to assisting this Committee and Congress in the development and passage of tax reform proposals which focus on simplifying the tax system for families and businesses, including the following proposals to improve the administrability of the tax law:

- Repeal of the alternative minimum tax (AMT). AMT is one of the tax law's most complex components. AMT adjustments and preferences require taxpayers to make a second, separate computation of their income, expenses, allowable deductions and credits.
- Harmonization and simplification of education incentives. The Code contains at least 14 complex incentives to encourage saving for and spending on education. Requirements, eligibility rules, definitions, and income phase-outs vary from incentive to incentive.
- Enactment of consistent definitions. There are several terms that have multiple and inconsistent definitions in the Code (e.g., "Modified Adjusted Gross Income") which leads to confusion. Definitions should be consistent where the same term is used.
- Simplification of the "Kiddie Tax" rules. The Code taxes a portion of the unearned income of children under the age of 18 and full-time students under the age of 24 at the parents' marginal tax rate, rather than at the child's lower rate. The complexity of these provisions creates a number of challenges and the rules should be simplified.
- Simplification and harmonization of retirement plan options. The Code provides for more than a dozen tax-favored employer-sponsored retirement planning vehicles, each subject to different rules pertaining to plan documents, eligibility, contribution limits, tax treatment of contributions and distributions, the availability of loans, portability, nondiscrimination, reporting and disclosure. These provisions should be revised so they are simpler, more readily understood, easier to comply with and administer, and more effective in enabling taxpayers to accumulate significant retirement assets.
- Repeal of unused provisions ("Deadwood"). There are numerous tax provisions which are obsolete or unimportant and rarely used. Repeal of these provisions would simplify the Code.

¹⁶ [National Taxpayer Advocate's 2012 Annual Report to Congress](#), Volume 1, MSP #1 "The Complexity of the Tax Code."

¹⁷ *Id.*

We are available and happy to meet with you to discuss the above recommendations. We strongly support the Committee undertaking a comprehensive consideration of tax reform. In this process, we recommend you consider our [Compendium of Legislative Proposals](#) which is an aggregation of over twenty provisions in the Code that need attention and are technical in nature. We also urge this Committee to review the [AICPA's Tax Policy Concept Statement #1: Guiding Principles for Good Tax Policy](#) to assist you in identifying problems in the Code as well as to test any new proposals against the principles of good tax policy.

The IRS Budget

Finally, in the Committee's review of tax fraud, identity theft and tax reform, we urge you to address the important issue of the IRS budget. We have long advocated for funding levels for the IRS that would allow the Service to efficiently and effectively administer the tax laws and collect taxes. Giving the Service the resources necessary to properly process tax returns and enforce the tax laws is vital to maintaining our voluntary compliance tax system.

The AICPA continues to express our strong support for the adequate funding of the IRS's fiscal year 2014 budget. Unfortunately, the IRS's budget has been severely challenged in recent years. The IRS received an overall budget allocation of \$11.8 billion in fiscal 2012, down from \$12.1 billion for fiscal 2011. The challenge for the Service is even more dramatic as the \$5.3 billion enforcement budget that the Service received for fiscal 2012, was reduced by approximately \$200 million from the prior year.¹⁸ These statistics are further highlighted by the reduction in IRS employment levels to 98,000 for fiscal 2012 from 104,000 in the prior year.

The AICPA expects that the Service would identify responsible ways to allocate any additional resources it receives; and that Congress, through its oversight responsibilities, would ensure that those resources are properly utilized. Unfortunately, the budget process has become much more complicated for federal agencies in general and especially challenging for the IRS. In this context, National Taxpayer Advocate Nina Olson stated in 2011 that the most serious challenge facing American taxpayers is the combination of the IRS's expanding workload and the agency's limited resources to handle that workload.¹⁹ Ms. Olson points out that the Service's role has expanded from one concentrated on tax collection to one focused on distributing benefits to a variety of individuals and businesses. We agree with Ms. Olson and suggest that Congress also consider the IRS's need to administer an increasing number of aspects of health care reform when addressing the agency's budget for fiscal year 2014.

The AICPA believes that the Service should be provided with the proper resources to fund its mission, which will in turn empower the Service to fulfill its customer service and enforcement responsibilities. Any increase in enforcement funding must be balanced with positive responses to the taxpaying public as customers, a balancing act that has become even more challenging for the Service when faced with the current era of "mission creep" beyond its core tax administration functions. As we have stated in the past, all

¹⁸ Department of Treasury, FY 2013 Budget in Brief, at http://www.treasury.gov/about/budget-performance/budget-in-brief/Documents/11.%20IRS_508%20-%20passed.pdf.

¹⁹ [National Taxpayer Advocate's 2011 Annual Report to Congress](#), Volume 1, MSP #1 "The IRS is Not Adequately Funded to Serve Taxpayers and Collect Taxes."

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taxpayers must have access to resources that enable them to fulfill their tax responsibilities, and adequate IRS budgetary funding must be provided to ensure this access.

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The AICPA appreciates this opportunity to testify and we urge this Committee to consider our suggestions as Congress decides how to address the issues of tax fraud, tax identity theft and tax reform.