July 17, 2017

The Honorable Orrin G. Hatch, Chairman
Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

RE: AICPA Tax Reform Proposals on Individuals, Families and Tax Administration

Dear Chairman Hatch:

The American Institute of CPAs (AICPA) applauds the leadership taken by the Senate Committee on Finance on comprehensive tax reform. We recognize the tremendous effort required to analyze the current complexities in the tax law, examine policy trade-offs, and consider the various reform options. This letter on the taxation of individuals, families and tax administration is submitted in response to your request of June 16, 2017, for comments and recommendations from stakeholders regarding comprehensive tax reform. In addition to this letter, we are submitting separate letters on the following areas of tax:

- International Tax System
- Taxation on Savings and Investments
- Business Income Tax

The AICPA is a long-time advocate for an efficient and effective tax system based on principles of good tax policy.[1] We need a tax system that is administrable, stimulates economic growth, has minimal compliance costs, and allows taxpayers to understand their tax obligations. These features of a tax system are achievable if principles of good tax policy are considered in the design of the system.

In the interest of good tax policy and effective tax administration, we respectfully submit comments on the following key issues related to individuals, families and tax administration:

1. Simplified Income Tax Rate Structure
2. Education Incentives
3. "Kiddie Tax" Rules
4. Identity Theft and Tax Fraud
5. Permanent Disaster Relief
6. Tax Administration

[1] AICPA, "Guiding Principles for Good Tax Policy: A Framework for Evaluating Tax Proposals," January 2017.

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1. Simplified Income Tax Rate Structure

One Set of Rules

As part of the comprehensive tax reform efforts, we support a new, simplified income tax rate structure. We suggest Congress avoid, as well as eliminate, all surtaxes which are complicated, confusing, and lack transparency, including the alternative minimum tax (AMT).

The current system's requirement for taxpayers to compute their income for purposes of both the regular income tax and the AMT is a significant area of complexity in the Internal Revenue Code ("Code" or IRC). AMT requires extra calculations and recordkeeping. It also violates the transparency principle by masking what a taxpayer can deduct or exclude, as well as the taxpayer's marginal tax rate.

Congress should apply a simplified rate structure with only one set of rules, as opposed to the current system, which arguably includes three different taxation systems (regular tax, AMT, and net investment income tax).

Consistent Definitions; Avoid Phase-Outs

We urge Congress to use a consistent definition of taxable income without the use of any phase-outs. The use of phase-outs – to increase the effective tax rate – has contributed to the complexity of the present tax law. Phase-outs also create marginal rates greater than the statutory rate. We are concerned that provisions to limit or eliminate the use of certain deductions and exclusions for the top tax bracket will continue the flaws of the current system.

Unnecessary complexity is added to our tax system when legislation that addresses legitimate tax policy issues is enacted without full consideration of alternatives that are less burdensome and still responsive to the purposes of the legislation. While there are many examples, perhaps no situation illustrates unneeded complexity better than the proliferation of terms that have similar meanings but contain vastly different tax consequences. We recognize that there are legitimate anti-abuse justifications for differences in the application of, for example, small business status, family relationships, entity ownership, and entity attribution operating rules. However, many of these overlapping and inconsistent applications, with corresponding definitional distinctions, have existed in the Code for decades. It would reduce complexity and increase compliance if these types of provisions were identified and reduced.

2. Education Incentives

We encourage Congress to modify existing education provisions to simplify the tax incentives for higher education and help taxpayers meet current higher education expenses. Specifically, we recommend the following changes regarding the education provisions:[2]

Simplify Tax Incentives Related to Education

Replace tax incentives (*i.e.*, Hope Credit, American Opportunity Tax Credit, and Lifetime Learning Credit) intended to help taxpayers meet current higher education expenses with one new or revised credit.

- Allow the credit on a "per student" rather than a "per taxpayer" basis, offering a potentially larger tax benefit per family.

- Allow the credit for any six years of post-secondary education, including graduate-level and professional degree courses. A credit for four years (that includes graduate-level and professional degree programs) is beneficial to many taxpayers, but we suggest increasing the limit to six years.[3]

- Allow the credit only for students meeting the definition of "student" under section 25A(b)(3).

- Continue to require the reporting of the Social Security Number (SSN) or other Taxpayer Identification Number (TIN) of the student associated with the expenses claimed with respect to the credit taken for the tax year. Accordingly, amounts claimed over time are tracked by the student's identification number. These changes may result in improved compliance and enforcement.

- Allow a 100% refundable credit.

- Allow parents to claim the credit on their return provided the child is a qualifying dependent of the parent.

[2] Additional suggestions on education incentive simplification: AICPA testimony to the House Committee on Ways and Means hearing dated April 13, 2011, How the Tax Code's Burdens on Individuals and Families Demonstrate the Need for Comprehensive Tax Reform. Also, AICPA letter dated July 26, 2013, S.1090 and H.R. 2253, Higher Education and Skills Obtainment Act: AICPA Recommendations for Further Simplification of Higher Education Tax Incentives.

[3] U.S. Department of Education, National Center for Education Statistics (2017). The Condition of Education 2017 (NCES 2013-144), Institutional Retention and Graduation Rates for Undergraduate Students. A report from the U.S. Department of Education stated, "about 59% of full-time, first-time students who began seeking a bachelor's degree at a 4-year institution in fall 2005 completed that degree within 6 years." The statistics used in this report were released in 2012 and it is a growing standard that more recent metrics for graduation rates and performance metrics analyze higher education in six-year completion intervals rather than four.

Repeal Section 221 and Section 222

Repeal the student loan interest deduction (section 221) and the tuition and fees deduction (section 222) to relieve taxpayer confusion by reducing the number of provisions.

Consolidate Education Savings Provisions

Repeal the interest exclusion for educational savings bonds (section 135), and merge Coverdell Education Savings Accounts (section 530) into qualified tuition programs (section 529) by allowing the transfer of savings from Coverdell accounts into section 529 accounts.

Create a Uniform Definition of "Qualified Higher Education Expenses" (QHEE)

Create a uniform definition for all education-related tax provisions. Specifically, QHEE should include tuition, books, fees, supplies and equipment. Also, if it is determined that phase-outs are necessary, all education-related tax provisions should have the same adjusted gross income (AGI) limitations.

3. "Kiddie Tax" Rules

The AICPA recommends repealing the provisions linking a child's taxable income to his/her parents' and siblings' taxable income. Income (other than capital gains) subject to this tax should use the income tax rates for estates and trusts. Income from capital gains should use the capital gains rates with one change; the 0% rate for capital gains should not apply to children's unearned income. Removing the linkage to parental and sibling returns would allow a child's return to stand on its own, removing complications due to missing information on one return, matrimonial issues, and unintended AMT problems.

We also recommend eliminating the election to include a child's income on the parent's return to facilitate the complete de-coupling of the link between the computation of the child's tax liability and the parent's tax liability.

Section 1(g) of the Code taxes a portion of the unearned income of a child[4] at the parent's marginal tax rate ("Kiddie Tax").[5] Specifically, the provision applies in cases where (1) the child's unearned income was more than $2,000 (indexed); (2) the child is required to file a tax return; (3) either

[4] A child is defined as any child who is (1) under the age of 18; (2) age 18 at the end of the year and who did not have earned income that was more than half of the child's support; or, (3) a full-time student under the age of 24 who did not have earned income that was more than half of the child's support.
[5] The marginal tax rate of the individual with the greater taxable income is used in the case of parents filing separately. When parents who are not married, the marginal tax rate of the custodial parent is used to determine the tax liability on net unearned income. Net unearned income is the amount of unearned income above $1,000 plus the greater of $1,000 or itemized deductions directly connected to producing unearned income. When the provisions of section 1(g) apply to more than one child in the family, each child's share of the parental tax is apportioned ratably based on the ratio of the child's net unearned income to the total net unearned income of all children.

parent of the child is alive at the close of the year; and, (4) the child does not file a joint return for the taxable year.

Section 1(g)(6) requires the parent to provide his/her TIN to the child for inclusion on the child's tax return. Parents can elect to include their children's interest and dividend income (including capital gain distributions) on their tax return. However, the election is not available for parents of a child if the child has any earned income, unearned income of $10,500 or more (for 2016), unearned income other than interest, dividends and capital gain distributions, withholding, or estimated tax payments.

The Kiddie Tax adds significant complexity to the computation of a child's tax liability[6] and several challenges arise in complying with the rules of the statute:

- Parents may either refuse to provide the tax rate or, if divorced, one parent may refuse to cooperate with the other in providing the information. Without this information, the tax preparer is forced to calculate the child's tax at the highest rate.

- The Internal Revenue Service (IRS) requires qualified dividends and capital gain distributions to allocate between the first $2,100 (in 2016) of unearned income and the portion of the child's unearned income over $2,100, thus making the computation burdensome.

- If either the parents or siblings file amended returns, the child must file an amended return. Whether amended returns are filed is not readily known information.

- The Kiddie Tax provisions only consider regular tax and not AMT. If a parent pays AMT, the child's income is still taxed at the parent's regular marginal tax rate. Therefore, the parent is taxed at the AMT rate without taking into account the child's income or regular tax liability. The result is that the child's income is taxed at a higher rate than applies to the parent.

The additional tax revenue generated by the Kiddie Tax is insignificant when compared to the complexity of the calculations. Taxing the net unearned income of a child at the tax rates for estates and trusts rather than at a rate linked to that of family members would eliminate a significant amount of complexity and several compliance challenges, while still accomplishing the original intent behind the Kiddie Tax.[7]

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[6] Due to complexity, IRS issued Publication 929, a 27-page booklet, to assist with calculating child's taxable income and tax liability.

[7] The Tax Reform Act of 1986 lowered tax rates and broadened the income tax base by eliminating various tax shelters used by high income individuals. In recommending the Kiddie Tax, the Joint Committee on Taxation's General Explanation of the Tax Reform Act of 1986 wrote, "The present-law rules governing the taxation of minor children provide inappropriate tax incentives to shift income-producing assets among family members."

4. Identity Theft and Tax Fraud

We support efforts to combat identity theft and tax fraud.[8] The growing amount of fraudulent tax refunds paid and the economic and emotional impact to individual victims of identity theft is unacceptable.

Single Point of Contact for Identity Theft Victims

We suggest a single point of contact at the IRS for taxpayers affected by identity theft. Efficiencies will result as the single point of contact will identify areas of duplication and areas causing delays.

Criminal Penalty for Misappropriating Taxpayer Identity in Connection with Tax Fraud

We propose to make it a felony under the Code for a person to use a stolen identity to file a return. This proposal appropriately penalizes those individuals that commit the tax fraud regardless of whether a culprit is a tax preparer or someone else.

Study of Expansion of PIN System for Prevention of Identity Theft Tax Fraud

Congress should require the IRS to provide a report to the Senate Finance Committee on its operation and the results of the current identity protection personal identification number (IP PIN) system. This report would encourage and support the expansion of the IP PIN system, which is currently used on a limited basis, to help prevent identity theft.

Internet Platform for Forms 1099 Filings

We recommend that Congress instruct the Secretary of the U.S. Department of the Treasury ("Treasury") to make available a website or other electronic medium to allow taxpayers to securely prepare, file and distribute Forms 1099. The website will reduce the cost of compliance, accelerate the receipt of information and enable the IRS to more efficiently and effectively match reported amounts against individual tax returns.

5. Permanent Disaster Relief

Permanent Disaster Relief Tax Provisions

The AICPA urges Congress to enact permanent tax legislation that would take effect immediately when a declaration of a federal disaster occurs, rather than providing delayed tax relief through separate individual bills following each disaster. We have previously submitted comments[9] on the need for permanent tax provisions that are triggered when a taxpayer resides, or has a principal

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[8] AICPA letter, "Chairman's Mark of a Bill to Prevent Identity Theft and Tax Refund Fraud," September 15, 2015.

[9] See AICPA letters on "Request for Permanent Tax Provisions Related to Disaster Relief," November 22, 2013, "AICPA Suggestions to Tax Reform Working Group on Community Development and Infrastructure," April 13, 2015, and brochure on "Natural Disaster: the Case for Permanent Tax Relief," published September, 2015.

place of business located, in a Federal Emergency Management Agency's (FEMA) "Disaster Declaration"[10] area for which individual "Disaster Assistance"[11] is available.

We recommend the following ten permanent tax provisions:

- *Waive Individual Casualty Loss Limitations*
  Waive the casualty loss floor of 10% of AGI (section 165(h)(i)) and the $100 per loss floor (section 165(h)(2)) for losses attributable to a disaster event. The purpose of this provision is to extend adequate relief to the affected taxpayers under section 165(h)(i).

- *Extend Net Operating Loss Carryback to Five Years*
  Allow a five-year carryback period for net operating losses (NOLs) attributable to a disaster event under section 172(b)(2). By allowing a five-year carryback period for NOLs attributable to a disaster event, impacted taxpayers will have the benefit of an extended carryback (increase of three years) from the normal NOL carryback period of two years.

- *Increase Section 179 Expense Limits*
  Increase section 179 expensing limits under section 179(b)(1) in either the year of the disaster event or the following year by the lesser of a specified amount ($100,000) or the cost of "qualified property," as described in section 179(e)(1). "Qualified property" replaces or rehabilitates property damaged by the "disaster event." This provision is intended to provide immediate tax relief to business owners for unanticipated capital expenditures caused by the disaster event.

- *Increase Property Replacement Period to Five Years*
  Allow a five-year replacement period (increased from two) under section 1033(a)(2)(B) for property damaged or destroyed by a disaster event. For certain disasters that have occurred, a five-year replacement period is already in place. This provision simply makes five years the standard replacement period. Also, allow this revision to the replacement period to cover trade/business property, real property, and/or principal residences that are involuntarily converted during a disaster event.

- *Waive the Penalty for Early Retirement Withdrawal*
  Impose no tax on qualified disaster victims who withdraw up to a specified amount ($100,000) from a qualified plan or individual retirement account (IRA) and repay that amount within five years. Any amount not repaid within five years of the date of withdrawal is taxable income during that fifth year unless a taxpayer chooses to report the amount as income and pay the tax in any earlier year. Any income recognized under this section is not subject to the 10% early withdrawal penalty under section 72(t) for distributions up to a specified amount ($100,000). Such favored distributions were

[10] Federal Emergency Management Agency's Disaster Declarations are available at: http://www.fema.gov/disasters.
[11] FEMA Disaster Assistance information is included in the Disaster Assistance and Emergency Relief Program for Individuals and Businesses information that is available at: http://www.disasterassistance.gov/.

previously allowed under section 1400Q(a) for hurricane disasters; however, this provision would include all federally declared disaster events, including but not limited to hurricanes. One purpose of this provision is to allow affected taxpayers to access their own funds immediately while waiting for government assistance and insurance reimbursements that are not immediately forthcoming.

- *Allow a Housing Exemption for Displaced Individuals*
  Allow a partial or full exemption (as defined under section 151(d)) to individuals who provide at least 60 days of temporary rent-free housing to a person dislocated by a disaster event. Taxpayers may claim this exemption only once for each such persons and shall claim the exemption for the tax year which contains the latter of the 60th day or the day that the temporary housing period ends. The exemption amount is calculated as the number of rent-free days (up to 365) provided divided by 365 and multiplied by the personal exemption allowed a single taxpayer during the applicable year. The maximum number of individuals for which a taxpayer may claim this exemption is four individuals per disaster event. Furthermore, no phase-out under section 151(d)(3) would apply to this exemption.

- *Allow Discharge of Indebtedness*
  Allow disaster victims to exclude from taxable income, under section 108, cancellation of debt income for non-business debts provided that the cancellation occurs within one year of the beginning date of the disaster event. The discharging entity must certify that the discharge is a direct result of loss, property damage, or other factors caused exclusively by the disaster event. Currently, the Code provides only limited exclusions for discharge of indebtedness income. This recommendation would allow for a necessary provision recognizing that if individuals affected by a disaster are unable to repay their outstanding loans, they are also likely unable to pay tax on the phantom income.

- *Allow a Wage Credit*
  Allow a credit under section 38 of 40% of qualified wages (up to $6,000 in qualified wages per employee) for specified disaster-damaged businesses. Qualified wages are wages paid to employees who are unable to work because their employer's business was rendered inoperable due to damage from the disaster event. The Code would provide that qualified wages for an employee are calculated based on their regular wages, not including overtime, for the lesser of the period the business is rendered inoperable or 16 weeks. Specified disaster-damaged businesses must have the affected place of business located within the declared disaster area, employ less than 200 full-time equivalent employees, and may only claim the credit for employees who were employed at the affected place of business for at least 30 days prior to the disaster event.

- *Permit the Use of Prior Year's Income to Calculate the Earned Income Tax Credit, Child Tax Credit, and Premium Tax Credit*
  Allow affected taxpayers in the disaster area to use either their current year or previous year's income amounts for purposes of calculating the Earned Income Tax Credit (section 32), the Child Tax Credit (section 24) and the Premium Tax Credit (section 36B). With

this suggested provision, the affected taxpayer would have the opportunity to use a more beneficial income year, thus allowing the affected taxpayer the opportunity to benefit from various credits that might not have been available to the taxpayer because of the fluctuation of income caused by the disaster.

- *Increase the Medical Expense Deduction*
  Eliminate the medical deduction floor percentage (as defined under section 213(a), generally 10% of AGI) for an individual who incurs deductible medical expenses directly related to an injury caused by the disaster event. This reduction is available only for the directly-related expenses incurred for up to two tax years (the year of the event and the subsequent year). The purpose of this provision is to provide relief from the deduction limitations for taxpayers incurring unexpected disaster related medical expenses.

We suggest adjusting annually for inflation, any dollar amount provided for in permanent disaster relief.

IRS Deadlines Related to Disasters

Similar to the authority of the IRS to postpone certain deadlines in the event of a presidentially-declared disaster, Congress should extend that limited authority to state-declared disasters and states of emergency. We recommend[12] that Congress allows the IRS to postpone certain deadlines in response to state-declared disasters or state of emergencies.

Currently, the IRS's authority to grant deadline extensions, outlined in section 7508A, is limited to taxpayers affected by federal-declared disasters. State governors will issue official disaster declarations promptly but often, presidential disaster declarations in those same regions are not declared for days, or sometimes weeks after the state declaration. This process delays the IRS's ability to provide federal tax relief to disaster victims. Individuals can request waivers of penalties on a case-by-case basis; however, this process causes the taxpayer, tax preparer, and the IRS to expend valuable time, effort, and resources which are already in shortage during times of a disaster. Granting the IRS specific authority to quickly postpone certain deadlines in response to state-declared disasters allows the IRS to offer victims the certainty they need as soon as possible.

6. Tax Administration

Modernize Internal Revenue Service

As we approach the 20th anniversary of the Report of the National Commission on Restructuring the IRS ("Restructuring Commission"), we recommend that Congress consider tax administration as an important component of ccomprehensive tax reform. Any effort to modernize the IRS and

[12] AICPA comments on IRS Deadlines Related Disasters are included in item #5 in our statement for the record of Senate Committee on Finance Hearing on: "The 2017 Filing Season: Internal Revenue Service Operations and the Taxpayer Experience," submitted April 6, 2017.

its technology infrastructure should build on the foundation established by the Restructuring Commission. The current degradation of the IRS taxpayer services is unacceptable. The percentage of calls from taxpayers the IRS answered between 2004 and 2016 has dropped from 87% to 53%, however, the need for taxpayer assistance increased (the number of calls the IRS received increased from 71 million to 104 million).[13]

As tax professionals, we represent one of the IRS's most significant stakeholder groups.[14] As such, we are both poised and committed to being part of the solution for improving IRS taxpayer services. We recently submitted a letter[15] to House Ways and Means Committee and Senate Finance Committee members in collaboration with other professional organizations. Our recommendations include modernizing IRS business practices and technology, re-establishing the annual joint hearing review, and enabling the IRS to utilize the full range of available authorities to hire and compensate qualified and experienced professionals from the private sector to meet its mission. The legislative and executive branches should work together to determine the appropriate level of service and compliance they want the IRS accountable for and then dedicate appropriate resources for the Service to meet those goals.

Additionally, we recommend that Congress direct the IRS to create a new dedicated practitioner services unit to rationalize, enhance, and centrally manage the many current, disparate practitioner-impacting programs, processes, and tools. Enhancing the relationship between the IRS and practitioners would benefit both the IRS and the millions of taxpayers served by the practitioner community. As part of this new unit, the IRS should provide practitioners with an online tax professional account with access to all of their clients' information. The IRS should offer robust practitioner priority hotlines with higher-skilled employees that have the experience and training to address complex issues. Furthermore, the IRS should assign customer service representatives (a single point of contact) to geographic areas in order to address challenging issues that practitioners could not resolve through a priority hotline.

Due Diligence Requirements

The Protecting Americans from Tax Hikes Act ("PATH Act,") (P.L. 114-113 (12/18/15)) added the Child Tax Credit (CTC) and the American Opportunity Tax Credit (AOTC) to the due diligence requirements of paid preparers for the preparation of tax returns that claim these refundable credits. This new requirement for paid preparers involves completing Form 8867, *Paid Preparer's Due Diligence Checklist*, a form that many tax preparers were already required to complete for returns where the Earned Income Credit was claimed.

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[13] National Taxpayer Advocate, *Annual Report to Congress 2016, Executive Summary: Preface, Special Focus and Highlights*, 2016, page 16.
[14] 60% of all e-filed returns in 2016 were prepared by a tax professional, according to the Filing Season Statistic for Week Ending Dec.2, 2016.
[15] AICPA letter, "Ensuring a Modern-Functioning IRS for the 21st Century," April 3, 2017.

However, this additional checklist (Form 8867) is an unnecessary burden to professional preparers who are already subject to multiple levels of due diligence requirements. These existing requirements include the section 6694 preparer penalty regulations, the Treasury's Circular 230 rules, professional association ethical standards, and state licensing board regulations.

The AICPA recommends[16] that Congress modify section 6695(g) by adding an additional sentence as follows:

> "The Secretary must consider simplified approaches that recognize that taxpayers are responsible for the accuracy of their return and that certain tax return preparers are already subject to additional due diligence requirements."

Information Reporting and Forms 1099

Taxpayers and the tax practitioner community, are burdened by the growing volume of corrected and delayed information returns. Taxpayers receiving corrected Forms 1099 are obligated to file amended tax returns in order to report the corrected amounts. This process compresses the tax filing season and causes time-consuming and expensive efforts for corrections that often result in insignificant differences.

- *De Minimis Error Safe Harbor for Taxpayers (Recipients of Information Returns)*
  Congress should not require taxpayers that receive corrected information returns to file amended tax returns for relatively minor dollar amounts. Under the current rules, there is a *de minimis* safe harbor established under sections 6721 and 6722 which only applies to the issuers of information returns. However, there is no safe harbor for recipient taxpayers. If the issuer decides to issue a corrected Form 1099 for an immaterial amount (even if not required), the taxpayer must file an amended tax return.

  In the interest of effective tax administration, the AICPA recommends adding a *de minimis* safe harbor for recipients of corrected information returns such that small changes do not require the filing of amended Forms 1040, 1041, 1065, 1120-S or 1120. Thus, if corrected amounts on any information return do not change by more than $100 or change tax withholding by more than $25, the recipient of the corrected information return would not incur penalties for failure to file an amended tax return (these are the same *de minimis* amounts used for issuers at sections 6721 and 6722). A *de minimis* safe harbor for recipients would reduce burdens on taxpayers and practitioners who repeatedly correct returns and reduce the expenditure of IRS resources in processing these returns.

[16] AICPA comments on Due Diligence Requirements are included in item #4 in our statement for the record of Senate Committee on Finance Hearing on: "The 2017 Filing Season: Internal Revenue Service Operations and the Taxpayer Experience," submitted April 6, 2017.

- *Simplification for Issuers of Information Returns*
  Under Notice 2017-09, issued in response to legislative changes to sections 6721 and 6722, if an error is made by the payor (or "issuer") in the preparation of information returns, such that the amount of the error does not exceed $100 or an error in reporting taxes withheld does not exceed $25, then the penalties authorized under sections 6721 and 6722 are waived. However, if the payee (recipient of the incorrect information return) elects to receive a corrected statement and if one is not issued, the penalty is not automatically waived.

  The election process outlined in the statute and notice creates compliance burdens for information return issuers[17] since they need to track if elections were made to waive the *de minimis* error safe harbor. In the interest of effective tax administration, the AICPA proposes a simplified approach for the *de minimis* error safe harbor rules under sections 6721 and 6722 applicable to issuers of information returns, as follows:

  - If a recipient of an information return notifies the issuer of an error, the issuer has thirty days in which to provide a corrected document to the recipient. If the issuer fails to provide a corrected document, it is subject to the penalties (unless the IRS determines there is other justification for a penalty waiver).[18]
  - Recipients of incorrect information returns have 18 months from the original issuance date to request corrected information returns from the issuer.[19] This timeline protects issuers from incurring penalties many years past their original year of error.
  - Allow reporting entities (including employers, partnerships, S corporations, estates and trusts) to have the ability to "rollover" small information return errors, contained on Forms 1099 and W-2 and Schedules K-1, in the following year, rather than filing amended or corrected forms. We propose that Congress provides an exception to file or furnish a corrected information return in the current year if a single error amount differs from the correct amount for a recipient by no more than $200 in income. The reporting entity would report the differential amount in the year following the error. The identified error and corrected information should also include the original date and transaction to which it relates.

- *Corrected and Late Forms 1099*
  An important concern to both taxpayers and tax preparers is also the growing problem of delayed information reporting. Tax filing seasons have become increasingly challenging for practitioners because brokerage firms issue "preliminary" Forms 1099. The "final" versions of these forms are generally provided after the February 15th information reporting deadline. Additionally, some brokerage firms have begun to routinely, each year, request extensions from the IRS to issue Forms 1099 after the reporting deadline. Congress should

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[17] Many information return issuers are large brokerage firms with thousands of individual recipients.
[18] Issuers could still file corrected information returns addressing *de minimis* errors.
[19] Section 6722(c)(2)(B) would need to include this time limit.

> require the IRS to publicly release, on the IRS.gov website, an updated list of the brokers and other information reporting agents that received an IRS extension beyond the information reporting due date.

<u>Relief for Missed Elections (9100 Relief)</u>

Section 9100 relief, which is currently available with regard to some elections, is extremely valuable for taxpayers who inadvertently miss the opportunity to make certain tax elections. Congress should make section 9100 relief available for all tax elections, whether prescribed by regulation or statute. The AICPA has compiled a list[20] of elections (not all-inclusive) for which section 9100 relief currently is not granted by the IRS as the deadline for claiming such elections is set by statute. Examples of these provisions include section 174(b)(2), the election to amortize certain research and experimental expenditures, and section 280C(c), the election to claim a reduced credit for research activities.

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The AICPA is the world's largest member association representing the accounting profession with more than 418,000 members in 143 countries and a history of serving the public interest since 1887. 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.

We appreciate the opportunity to provide comments on these tax reform issues related to individuals, families and tax administration. If you have any questions, please contact me at (408) 924-3508 or annette.nellen@sjsu.edu; or Amy Wang, Senior Manager – AICPA Tax Policy & Advocacy, at (202) 434-9264, or amy.wang@aicpa-cima.com.

Sincerely,

Annette Nellen, CPA, CGMA, Esq.
Chair, AICPA Tax Executive Committee

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[20] AICPA letter, "Tax Reform Administrative Relief for Various Statutory Elections," dated January 23, 2015.