



August 30, 2022

The Honorable Lily Batchelder
Assistant Secretary for Tax Policy
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable Charles P. Rettig
Commissioner of the Internal Revenue Service
Internal Revenue Service
1111 Constitution Ave, NW
Washington, DC 20224

Mr. William M. Paul
Principal Deputy Chief Counsel
Internal Revenue Service
1111 Constitution Ave, NW
Washington, DC 20044

RE: Notice 2022-36 Penalty Relief for Certain Taxpayers Filing Returns for Taxable Years 2019 and 2020 and Request for Extended Deadline

Dear Ms. Batchelder, Mr. Rettig, and Mr. Paul:

On behalf of the American Institute of CPAs (AICPA), we are writing to express our appreciation that the Department of the Treasury (Treasury) and the Internal Revenue Service (IRS) issued [Notice 2022-36](#) "Penalty Relief for Certain Taxpayers Filing Returns for Taxable Years 2019 and 2020," (dated August 24, 2022) and the related Internal Revenue Manual (IRM) Procedural Update ([sbse-20-0822-0912](#), dated August 25, 2022). This letter expresses our appreciation for the relief provided, and our concern regarding the filing deadline provided in Notice 2022-36.

We are pleased that IRS has provided some measure of COVID-19 related penalty relief for taxpayers. We applaud the unprecedented waiver of the failure to file penalty under section 6651(a)(1).¹ And we praise the IRS for waiving the various international information reporting penalties under sections 6038, 6038A, 6038C, 6039F and 6677 in certain cases. Under the Notice, these penalties will be waived if the returns are filed on or before September 30, 2022. As the AICPA has requested and pointed out in various letters to IRS and Congress and through our multi-year dialogue with IRS on Form 3520 penalties, the penalty relief provided will save the Treasury and the IRS resources by prompting voluntary compliance.² Additionally, significant taxpayer

¹ Unless otherwise indicated, references to a "section" are to a section of the Internal Revenue Code of 1986, as amended (the "Code"), and references to a "Treas. Reg. §" are to the Treasury regulations promulgated under the Code.

² See AICPA letters, "[Additional Measures to Address Backlog](#)," July 11, 2022, "[Written Statement](#) for Hearing before U.S. Senate Committee on Finance on Spotlighting IRS Customer Service Challenges," February 17, 2022, "[AICPA Statement](#) on Recent IRS Announcement," January 27, 2022, "[AICPA Statement](#) on AICPA Calls on IRS to Do More," January 10, 2022, "[H.R. 5155, Taxpayer Penalty Protection Act of 2021](#)," September 3, 2021, "[Additional Penalty Relief Measures](#)," May 17, 2021, "[Certainty and Relief Needed for the 2020 Tax Year](#)," February 23, 2021, "[Underpayment and Late Payment Penalty Relief for 2020 Tax Year](#)," February 16, 2021, "[Relief from Coronavirus Related Penalties](#)," December 7, 2020, "Written [Statement](#) for November 20, 2020 Hearing of U.S. House Ways and

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burden will be reduced by automatically waiving the penalties covered by Notice 2022-36 and automatically providing refunds where penalties have already been paid.

We request that the deadline of September 30, 2022 be extended to December 31, 2022. The business cycle of the tax profession is filled with upcoming deadlines (September 15 deadline for pass-throughs, September 30 for trusts, and October 15 for individuals and corporations), and inserting a September 30 deadline into this mix creates an insurmountable burden for most practitioners and taxpayers. Additionally, given the complex facts often associated with international information reporting and that many affected taxpayers live abroad, the September 30 deadline is unrealistic and will fail to prompt a critical mass of impacted taxpayers to avail themselves of the benefits of the Notice. Extending the deadline will assist the practitioner community in maximizing the relief provided and will bring more taxpayers into voluntary compliance. In turn, such voluntary compliance will save the IRS resources.

We also note that the Notice provides relief for “specified tax returns for taxable years 2019 and 2020 that are filed on or before September 30, 2022.” We urge clarification to make explicit that the rules under section 7502 apply to determine whether returns are filed timely under this Notice.

We plan to submit soon another letter on additional issues related to Notice 2022-36 for IRS consideration and clarification.

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The AICPA is the world’s largest member association representing the CPA profession, with more than 421,000 members in the United States and worldwide, 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.

If you have any questions, please contact Rochelle Hodes, Chair, AICPA IRS Advocacy and Relations Committee, at (202) 552-8033 or Rochelle.Hodes@crowe.com; Irene Estrada, Chair, AICPA Trust, Estate, and Gift Tax Technical Resource Panel, at (703) 628-5243 or Irene.C.Estrada@pwc.com; Eileen Sherr, AICPA Senior Manager – Tax Policy & Advocacy, at (202) 434-9256 or Eileen.Sherr@aicpa-cima.com; or me at (601) 326-7119 or JanLewis@HaddoxReid.com.

Means Committee Oversight Subcommittee with the Commissioner of the Internal Revenue Service,” December 2, 2020, “[Penalty Relief for 2019 Tax Year Filing Season](#),” November 5, 2020, and “[Recommendations for Phase Four Federal Legislation Addressing COVID-19 \(Coronavirus\) Pandemic](#),” July 20, 2020.

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Sincerely,

A handwritten signature in black ink, appearing to read "Jan Lewis". The signature is fluid and cursive, with the first name "Jan" being more prominent than the last name "Lewis".

Jan Lewis, CPA
Chair, AICPA Tax Executive Committee

cc: Mr. Peter Blessing, Associate Chief Counsel, International, Office of Chief Counsel, IRS
Ms. Kathryn A. Zuba, Associate Chief Counsel (Procedure & Administration), Office of Chief Counsel, IRS
Mr. Ashton "Hap" P. Trice, Deputy Associate Chief Counsel (Procedure & Administration), Office of Chief Counsel, IRS
Ms. Adrienne E. Griffin, Branch Chief, Branch 2, Office of the Associate Chief Counsel (Procedure and Administration), IRS
Ms. Pamela W. Fuller, Senior Technician Reviewer, Branch 2, Office of the Associate Chief Counsel (Procedure and Administration), IRS
Ms. Han Huang, Attorney, Branch 2 Office of the Associate Chief Counsel (Procedure and Administration), IRS