



May 3, 2023

The Honorable Marsha Blackburn
United States Senate
357 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Catherine Cortez Masto
United States Senate
520 Hart Senate Office Building
Washington, DC 20510

RE: S. 1338, Legislation to Treat Electronically Submitted Tax Payments and Documents as Timely If Submitted on or Before the Applicable Deadline

Dear Senator Blackburn and Senator Cortez Masto:

The AICPA greatly appreciates your efforts to improve tax administration, including your introduction of legislation that we support to amend section¹ 7502(c) to adopt the Internal Revenue Service National Taxpayer Advocate's (IRS NTA) recommendation to treat electronically submitted tax payments and documents as timely, if submitted on or before the applicable deadline. The IRS NTA has identified this issue as part of its Annual Report to Congress (the "Purple Book") and highlighted it as the first of its recommendations to improve the filing process.² The Purple Book explains the current problem in greater detail (emphasis added):

If a taxpayer mails a payment or tax return to the IRS that is postmarked by midnight on the date due, the payment or tax return will be considered timely even if it is received a week later. *If a payment or tax return is transmitted to the IRS electronically by the date due, however, it will be considered late if the IRS receives and processes it the next day.*

The Purple Book also contains a more extensive Summary, articulation of the Present Law, Reasons for Change, and Recommendation on this issue. The AICPA appreciates the IRS NTA's identification of this issue and highlighting the particular attention needed to resolve problems encountered by taxpayers. The AICPA supports the Purple Book's solution to the issue:

Provide that a payment or document [electronically] submitted by midnight on the date due will be considered timely even if the IRS does not receive and process it that day.

The Purple Book further explains that while Treasury has the authority under section 7502(c)(2) to apply the mailbox rule to electronic *filings*, Treasury does not currently have the authority to apply the mailbox rule to electronic *payments*. Thus, legislation is necessary to address this issue.

Your bill would provide welcome relief and solve a problem that taxpayers have been faced with, i.e., incurring penalties through no fault of their own because they believed their filings or

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

² See [National Taxpayer Advocate 2023 Purple Book: Compilation of Legislative Recommendations To Strengthen Taxpayer Rights and Improve Tax Administration](#), Dec. 31, 2022, page 3.

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payments were timely submitted through an electronic platform. This legislation would provide equity by treating similarly situated taxpayers similarly. It would also improve tax administration by eliminating IRS notices assessing unnecessary penalties when the taxpayer or practitioner electronically submits a tax return by the deadline regardless of when the IRS processes it. We appreciate your leadership on this issue and look forward to helping you advance this legislation.

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We appreciate your consideration of our recommendations and welcome the opportunity to further discuss our comments. 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; Lauren Pfingstag, Director – AICPA Congressional and Political Affairs, at (407) 257-0607, or lauren.pfingstag@aicpa-cima.com; Peter Mills, Senior Manager — AICPA Tax Policy & Advocacy, at (202) 434-9272, or Peter.Mills@aicpa-cima.com; or me at (601) 326-7119 or JanLewis@HaddoxReid.com.

Sincerely,



Jan F. Lewis, CPA
Chair, AICPA Tax Executive Committee

cc: Senator Ron Wyden, Chair, Senate Finance Committee
Senator Mike Crapo, Ranking Member, Senate Finance Committee
The Honorable Daniel I. Werfel, Commissioner, Internal Revenue Service
Mr. William M. Paul, Principal Deputy Chief Counsel, Internal Revenue Service
Ms. Erin Collins, National Taxpayer Advocate
Mr. Thomas Barthold, Chief of Staff, Joint Committee on Taxation