

August 23, 2018

The Honorable David Kautter
Acting Commissioner
Internal Revenue Service
1111 Constitution Ave, NW
Washington, DC 20224

Dear Acting Commissioner Kautter:

On behalf of the National Association of Enrolled Agents, which represents the interests of over 55,000 enrolled agents (EAs), I write to provide our thoughts on the Service's announcement yesterday related to transcript delivery program changes. IRS is proposing substantial modificationsⁱ to a program crucial to Circular 230 practitioners, who serve as taxpayer representatives. Enrolled agents are on the front lines of tax administration and frequently assist individual and small business taxpayers with return filing—whether timely filing or filing for non-filers—and serve as advocates for taxpayers ensnared in an IRS compliance program. We are well-placed to provide practical, common sense observations.

Before I provide details, allow me to make clear our members share IRS' data security concerns. We are well aware each of us is responsible for protecting our clients' most sensitive financial and personal information, and that it grows each year, particularly with the addition of further data (*e.g.*, driver's license information). We fail to protect this information at our own peril.

This association informs its members regularly of the need to protect this information. For instance, IRS Criminal Investigation Special Agent Brian Thomas presented two sessions earlier this month at our National Conference.

That said, managing risk is always a balancing act. With that thought in mind, we express our deep concerns about the agency's proposed transcript and transcript delivery changes. In IR-2018-171, the Service proposes three significant changes. More specifically, IRS plans to:

- redact, starting September 23, 2018, certain information from taxpayer transcripts, including parts of personal and business names, Social Security numbers, EINs, and telephone and addresses;
- cease, starting as soon as late December 2018, faxing copies of client transcripts to representatives making such requests via phone call; and

- eliminate, starting after April 15, 2019, mailing taxpayer transcripts to any third parties.

Our understanding is IRS executives expect tax professionals who require transcripts to assist taxpayers to access those transcripts exclusively through the Transcript Delivery System (TDS).

Enrolled agents represent taxpayers who are attempting to resolve their tax account problems and to come into filing compliance, sometimes after many years of non-filing. Many taxpayers are intimidated by the agency's power, by its sometimes opaque communications, and are ill-prepared to negotiate for themselves. Others are unable to navigate the byzantine process of producing years of unfiled tax returns and navigating its customer service offerings, particularly given levels of service in recent years.

At the risk of stating the obvious, the Taxpayer Bill of Rights provisions includes among its provisions the right to representation. A non-trivial percentage of taxpayers hire a Circular 230 practitioner—enrolled agent, certified public accountant, or attorney—to help. And we cannot overstate a large number of non-filers are trapped outside the system simply because they do not know where to begin in filing past returns. These non-filers frequently have little to no income or withholding information. We rely on transcript information to reconstruct prior year returns. Redacted Form W-2 and Form 1099 information will increase burden and expense for these non-filers—and will make e-filing impossible.

Whether a taxpayer is responding to an IRS notice or attempting to come into filing compliance, transcripts are critical. At the end of the day, the basis of the agency's inquiry, whether a substitute for return, a correspondence audit, or a collection action, is the transcript. If a taxpayer's representative cannot secure timely receipt of his or her transcript, the entire process, either of filing delinquent returns or responding to an IRS notice, is delayed, occasionally with catastrophic results for taxpayers. What should be a one-call issue becomes a drawn-out and needlessly expensive ordeal.

While online solutions could considerably shorten wait times and reduce calls necessary to resolve problems, IRS has deferred investments in modernizing practitioner accounts. Consequently, e-Services, specifically TDS, is notoriously inefficient, prone to glitches, and far too frequently unusable. As a result, many enrolled agents bypass e-Services completely, opting instead to spend long amounts of time on the phone seeking assistance from Practitioner Priority Services (PPS) staff. This inefficient and time-consuming system only works because PPS staff faxes transcripts in a (relatively) timely fashion. We are concerned a complete moratorium on faxed transcripts to legally authorized representatives will increase phone volume (and wait times) to the point the entire dispute resolution system slows to a crawl.

In conclusion, no group better recognizes the importance of a timely, complete transcript. And no group better understands the difficult decisions that are part and parcel of a risk assessment. NAEA urges the IRS to delay implementation of the transcript moratorium until after the agency has provided modernized online practitioner accounts. Otherwise, we do not see how the IRS will be able to administer taxpayer dispute resolution effectively.

Additionally, NAEA believes IRS must revisit its decision to redact certain data on transcripts. While the agency consulted with mortgage lenders—an important stakeholder, no doubt—many tax professionals also require a transcript to fill in gaps in taxpayer knowledge, such as balance due, interest and penalties, and EINs. When working non-filer cases, Circular 230 practitioners often rely on wage and income transcript data to reconstruct crucial information documents (such as Forms W-2 and 1099) needed to complete years of unfiled tax returns. Without this data, taxpayers cannot e-file returns.

Thank you for considering the National Association of Enrolled Agents' concerns regarding the content and delivery of taxpayer transcripts. We urge the Service to consult with its partners in advance of making such important decisions and, as always, look forward to resolution that respects taxpayer rights and serves the needs of taxpayers.

Sincerely,

A handwritten signature in blue ink that reads "Jean C. Nelsen" with a stylized flourish at the end.

Jean C. Nelsen, EA
President

cc: The Honorable Kevin Brady, Chairman, House Ways & Means Committee
The Honorable Orrin Hatch, Chairman, Senate Finance Committee
The Honorable Richard Neal, Ranking Member, House Ways & Means Committee
The Honorable Ron Wyden, Ranking Member, Senate Finance Committee
Ms. Nina Olson, National Taxpayer Advocate
Ms. Kirsten Wielobob, Deputy Commissioner for Services and Enforcement

ⁱ IR-2018-171, <https://www.irs.gov/newsroom/irs-to-introduce-new-tax-transcript-to-better-protect-taxpayer-data>, posted August 22, 2018