

AMERICAN PAYROLL ASSOCIATION

April 6, 2018

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Re: Discussion Draft - The Taxpayer First Act (March 26, 2018)

Dear Mr. Guaglianone and Ms. Kaldahl:

Thank you for including the American Payroll Association (APA) in the March 26 conference call regarding the discussion draft of the Taxpayer First Act. In the following comments, APA focuses on Title IV - Cyber Security and Identity Theft, and Title V - Modernization, because these are the most relevant to payroll management.

The APA is a professional organization serving the interests of more than 20,000 payroll professionals nationwide. Our primary mission is to educate members about the laws and regulations that impact payroll operations, including tax administration. APA's advocacy goals center on reduced administrative burden for government, employers, and individual workers. With 70.1 percent of tax collections coming from wage withholding and employer taxes (*2017 IRS Data Book*), the IRS's implementation of U.S. tax policy is extremely important to APA.

Title IV - Cyber Security and Identity Theft, Recommendations

Section 404. Single Point of Contact for Identity Theft Victims

APA appreciates having one point of contact for identity theft victims. In addition to creating an efficient process, this will help to alleviate victims' anxiety and frustration in restoring their good names.

The discussion draft focuses on individual taxpayers whose returns have been delayed. In recent years, APA has noted a growing recognition of business identity theft and would appreciate the same level of attention and customer service applied toward victims of this crime as is being directed toward individual taxpayers. To that end, employers also would like one point of contact at the IRS when someone creates, uses or attempts to use the identifying information of a business, without authority, to obtain tax benefits.

Section 405. Identity Protection Personal Identification Numbers

The concept of an identity protection personal identification number (IP PIN) makes sense, but also raises a number of other considerations not included in the discussion draft. APA believes the IP PIN could be usable in other applications besides identity theft refund fraud. For example, financial institutions verifying the taxpayer for purposes of a mortgage or other loan. How will the IRS allow release of relevant information without further complicating the taxpayer's situation? Will the taxpayer be required to divulge the IP PIN to the third party in these instances?

Section 406. Compliance By Contractors with Confidentiality Safeguards

The discussion draft does not contemplate an identity theft authentication system for third parties and agents in the same manner as a taxpayer. The discussion draft states that a third party must have safeguards in place to protect the confidentiality of returns or return information. APA also recommends that some appropriate method of a two-step or multi-factor authentication process be implemented for third parties, agents, and businesses, essentially an authentication process that parallels the process for the individual taxpayer. Without this additional layer of security, a taxpayer's identity theft situation can be further compounded. Participants in the IRS's Security Summit discussed the security requirements established by the National Institutes of Standards and Technology (NIST), which are used by federal agencies. If a contractor uses standards established by the private sector that are the equivalent or more advanced than NIST, how will these standards be evaluated?

This section also describes an on-site review every three years, but does not provide any detail. Is the onsite review to be performed as a self-audit by the contractor or by an independent reviewer? What specifically is the review measuring or is the contractor completely vulnerable to the whim of the Treasury Secretary or the IRS? APA recommends that Congress include some criteria for the agencies and contractors to rely upon.

Title V - Modernization, Recommendations**Section 501. Management of Internal Revenue Service Information Technology**

APA is encouraged that the technology component of the IRS will be centralized under one lead and be managed through a multiyear strategic plan that includes measurements and annual review. An independent reviewer can be useful to the IRS. However, APA is concerned about the power of this reviewer and would like to see specific criteria applied to the nature of this review provided by Congress.

Section 502. Development of Online Accounts and Portals

The deadline for developing online accounts requires better definition. If the IRS will create a strategic plan with specific measures and implementation tasks, then a single end date (December 31, 2023) for developing online accounts is not sufficient. APA recommends that the legislation include language that requires the strategic plan to include a timeline for incremental accomplishments toward the goal of individualized online accounts.

Section 503. Internet Platform for Form 1099 Filings

Creating an internet platform for Form 1099 filings is long overdue. However, if the system is created within the existing antiquated programs at the IRS, the electronic form may not be as easy to use as employers would prefer.

Section 511. Disclosure of Taxpayer Information for Third-Party Income Verification

APA is concerned about security for third-party access. As discussed above, the NIST requirements were developed for federal government agencies. To the extent that the private sector has access to more advanced and adaptable systems, how will the agencies evaluate these security measures?

Section 521. Electronic Filing of Returns

APA is encouraged by the phased approach to lowering the threshold for electronic filing of information returns to 10 by 2024, but would like to see it implemented earlier, with a final threshold of five returns.

Section 523. Uniform Standards for the Use of Electronic Signatures for Disclosure Authorizations to, Other Authorizations of, Practitioners

APA supports expanding the use of electronic signatures.

Section 531. Modification of Title of Commissioner of Internal Revenue and Related Officials

At the IRS, the title “commissioner” is confusing for stakeholders because the term also is used for managers of divisions within the agency. This same confusion exists at other agencies. APA recommends that the Ways and Means Committee study these titles further to ensure consistency.

Funding

Some of the provisions within the discussion draft may require little or no additional funding, such as changing the title of the Commissioner to Administrator, or where the agency already has some employees and tasks operating. However, other provisions will require funding. To generate a meaningful strategic plan for technology and to effectively develop functional modernized systems with knowledgeable staff requires significant financial resources. APA encourages Congress to consider these funding needs.

Again, thank you for the opportunity to offer recommendations on the discussion draft of the Taxpayer First Act.

Sincerely,

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