



National Association  
of Tax Professionals

## **IRS OVERSIGHT BOARD 2013 PUBLIC FORUM**

*Panel 1: Focus Forward: The Next Five Years in Tax Administration*

NATP's Commentary Regarding:

Advancing the Efficiency of the Tax Administration System  
Through Expanded Information and Online Services –  
The Practicalities of a “Real-Time Tax System”

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## **BACKGROUND**

The National Association of Tax Professionals (NATP) is honored to submit this paper to the IRS Oversight Board. NATP appreciates the opportunity to comment on the practical future of the tax administration system and how it may dramatically improve its efficiency for the sake of government and taxpayers alike.

NATP lends tremendous influence to 12 million taxpayers' decisions about compliance through its educated membership of over 25,000 tax professionals. NATP's membership is an eclectic group comprised of attorneys, CPAs, EAs, CFPs, BBAs, MBAs, PhDs, as well as Associate degrees, accountants, franchisees, part-time professionals, and those who have entered the profession as a second career. NATP is an "industry-specific" association as opposed to a "credential-specific" association. We therefore have no bias for any one group of tax professionals over another. Approximately half of our members are "credentialed," which is a term used by the IRS to primarily designate attorneys, CPAs and EAs. Approximately 87% of these non-credentialed professionals have post-high school degrees.

NATP is a nonprofit professional association that is committed to the integrity of the tax administration system and the application of tax laws and regulations by providing education, research and information to tax professionals. For over 30 years, we have existed to serve professionals who work in all areas of tax practice. We provide our members with over 300 live tax education offerings in more than 100 locations throughout the United States, as well as webinars and self-study programs, a service unmatched by any other national tax association. In total, this equates to approximately 164,000 CPE credits awarded annually. In addition, our 39 Chapters and National headquarters serve the public through regular news releases, client brochures and newsletters, and a designated taxpayer website. Our Chapters provide significant member involvement in local and state communities. Our headquarters, with 60 employees, is located in Appleton, Wisconsin. We believe we are uniquely qualified to speak to the practical evolution of a "Real-Time Tax System" (RTTS) because of the wide cross-section of tax professionals in the industry that comprises our membership.

## **OVERVIEW: WHAT A REAL-TIME TAX SYSTEM WOULD LOOK LIKE**

The National Taxpayer Advocate, Nina Olson, raised the possibility of a RTTS in her 2009 Annual Report to Congress when she suggested therein that Congress direct the Treasury to rethink its approach to processing tax returns.<sup>1</sup> She recommended that a system be developed

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<sup>1</sup> National Taxpayer Advocate 2009 Annual Report to Congress 338-345 (Legislative Recommendation: Direct the Treasury Department to Develop a Plan to Reverse the "Pay Refunds First, Verify Eligibility Later" Approach to Tax Return Processing).

that matched third-party reporting to items reflected on income tax returns before refunds are issued or tax amounts are disputed. She re-emphasized the need for such a system in her 2011<sup>2</sup> and 2012<sup>3</sup> Annual Reports to Congress, stating that a “Real-Time Tax System” would:

1. Allow taxpayers to answer questions and address issues closer to the time of the transactions;
2. Prevent taxpayers from facing IRS collection actions long after refunds have been spent; and
3. Help taxpayers save money by avoiding the long-term accrual of penalties and interest.

Commissioner Shulman responded with his own vision for how such a system might be possible, holding a public meeting<sup>4</sup> to solicit ideas and concerns from external stakeholders regarding a potential RTTS. NATP participated in this meeting, giving testimony and presenting a paper speaking to the possibility and realities of such a system.<sup>5</sup>

The Senate Finance Committee, in its deliberations over tax reform options, has recently received recommendations<sup>6</sup> from its staff, based upon input from the Committee’s hearings on tax reform, that include enabling the IRS to verify information on taxpayer returns against third-party information as returns are processed. Senator Bill Nelson (D-FL) introduced Senate Bill 676<sup>7</sup> on April 9 that would require the IRS to develop a plan of action for a Real-Time Tax System that accelerates information matching.

Is a RTTS really possible within the next five years? We believe the unequivocal answer to that question is “yes,” albeit with some qualifications which we will discuss later. What would such a system have to look like in order for it to be functional and efficient? The “prime

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<sup>2</sup> National Taxpayer Advocate 2011 Annual Report to Congress 284-295 (Most Serious Problem: Accelerated Third-Party Information Reporting and Pre-Populated Returns Would Reduce Taxpayer Burden and Benefit Tax Administration But Taxpayer Protections Must Be Addressed).

<sup>3</sup> National Taxpayer Advocate 2012 Annual Report to Congress 180-191 (Most Serious Problem: The Preservation of Fundamental Taxpayer Rights is Critical as the IRS Develops a Real-Time Tax System).

<sup>4</sup> IRS, IR-2011-114, IRS to Host Public Meeting Dec. 8 on Real-Time Tax System (Nov. 30, 2011), available at <http://www.irs.gov/uac/News-Releases-for-November-2011>.

<sup>5</sup> National Association of Tax Professionals Commentary on the Real-Time Tax System Initiative, submitted and presented on December 8, 2011 at the IRS Headquarters Building Auditorium, 1111 Constitution Ave., NW, Washington, D.C., available at <http://www.natptax.com/TaxKnowledgeCenter/GovernmentNews/Documents/20111208realtime.pdf>

<sup>6</sup> “Simplifying the Tax System for Families and Businesses” - Senate Finance Committee Staff Tax Reform Options for Discussion, March 21, 2013, available at <http://www.finance.senate.gov/issue/?id=b1ae1ce3-c25c-43c3-82da-6d33378e62bf>

<sup>7</sup> “Nelson-Backed Pilot Program to Crack Down on ID Crooks Stealing Tax Refunds Goes Nationwide,” Press Release, March 28, 2013, available at <http://billnelson.senate.gov/news/details.cfm?id=341219&>

directive” will be the realization that “one size does not and cannot fit all.” An effective RTTS would have to embrace three vital areas:

1. **Pre-filing considerations:** What information must be gathered and ready for verification prior to a return being filed? What paradigm shifts will be necessary in order to make this information available and reliable? What compromises might be needed in order to obtain the result and meet the goal? Will the government be able to make decisions based upon cost/benefit?
2. **Filing the return in real-time:** Will this become just a perfunctory exercise? What are the technical considerations? How will this process, as well as the pre-filing stage, be made secure? What about those who don’t have access to computers? Or those without bank accounts? Or those without permanent addresses?
3. **Post-filing issues:** Will “matching” be the primary issue? What time frames will be acceptable for the parties in terms of responses and dispute resolution? Will returns be accepted on a “pending” basis? What kind of re-training issues will the IRS face? Real-time contemplates acceptance confirmation, billing/payment or refund/deposits.

It should be apparent, on the face of this undertaking, that it will have to occur in stages, and that it should be “piloted” to work out the kinks before roll out and implementation on a wide scale. It should also be apparent that subsequent audits will not become a “thing of the past.” The kind of data warehouse and computing power that this system will require will also enable more sophisticated data-mining to identify schemes, aberrations and fraud. What should become a thing of the past is a no-change audit. A properly functioning RTTS should enhance targeted audits for highly likely adjustment-rich environments.

The attainment of an effective and more comprehensive RTTS will likely evolve out of preliminary efforts. We need to look at what could be done in the short-term such as immediately piloting a real-time processing attempt for those taxpayers who receive only W-2s and 1099-Gs. According to 2009 statistical data made available by the IRS, those taxpayers whose returns comprise only W-2s and/or 1099-Gs constitute 19% of all 1040 returns filed (See Figure 1). Further, the government has only to “influence” 155 issuers of information returns to affect the timely and accurate filing of 60 percent of all information returns (See Figure 2). A pilot process at this base level would likely reveal how the challenges that represent the more complex body of returns could be effectively addressed, and what problems will have to be solved to gain a more wide-ranging system. Better strategies will be developed from this learning process. The sooner a pilot is undertaken, the sooner the goal will be attained.

Figure 1

Although there are dozens of information returns, 91% of taxpayers receive at least one of the W-2, 1099-G, and/or 1098; 21% of taxpayers *only* get W-2s, 1099-Gs, and/or 1098s.

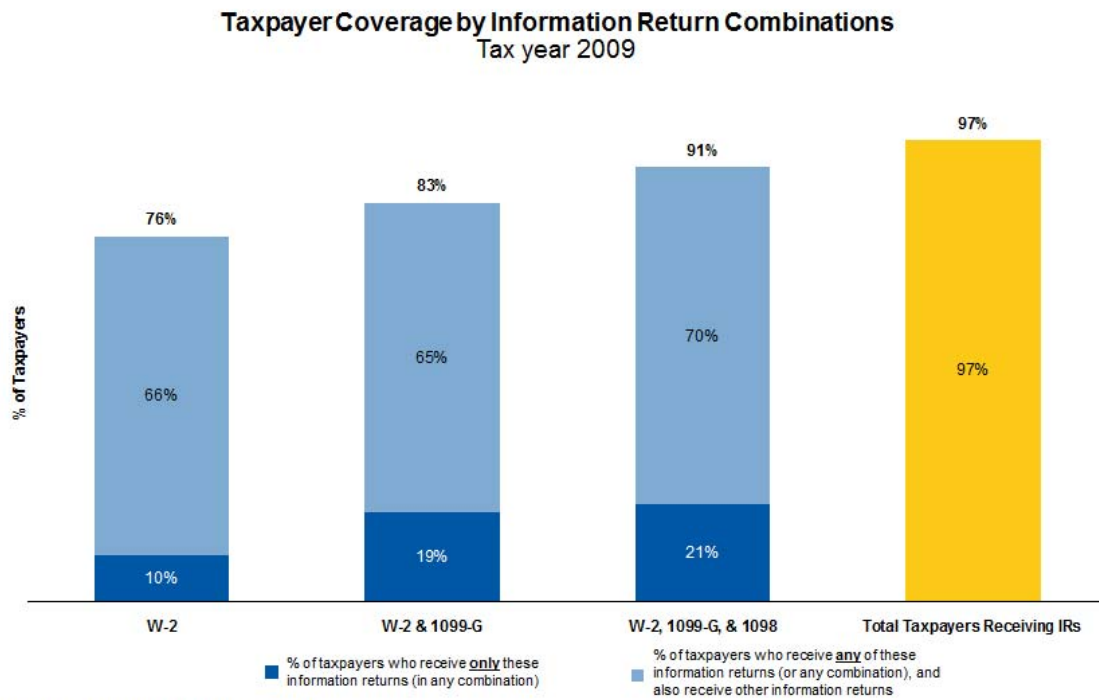
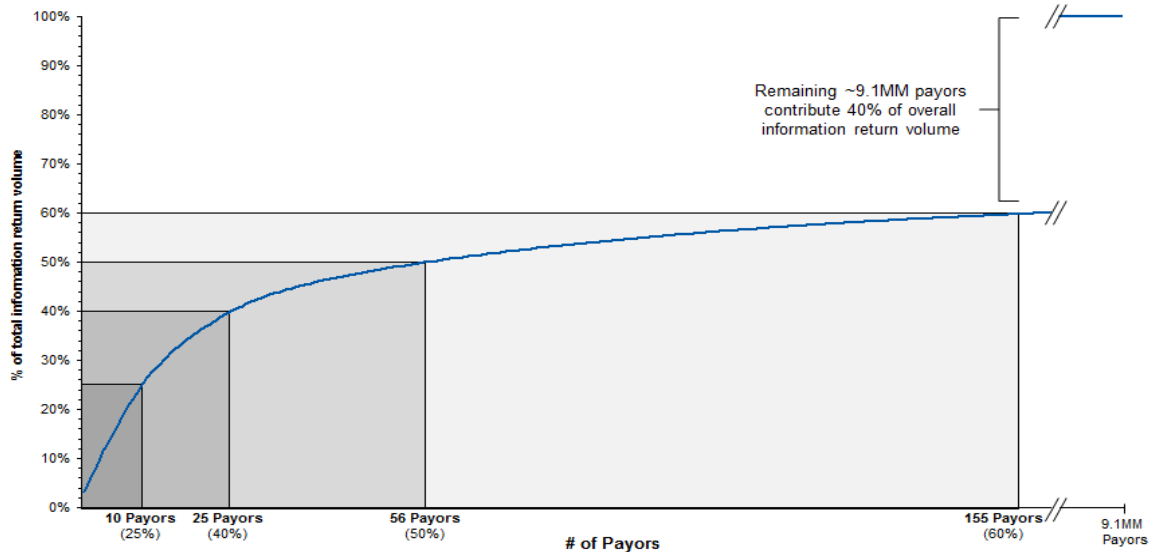


Figure 2

**56 payors account for 50% of information return volume**

**Payor Concentration of Information Return Volume**  
Number of payors, all information returns



Internal Revenue Service

## PRE-FILING CONSIDERATIONS IN MORE DEPTH

The experience of the 2013 tax season has resulted in a call from some in the tax professional community to push back the due date for filing 1040 returns until at least April 30.<sup>8</sup> The reason for that is because of the late start to the season and the inability of taxpayers and tax professionals to file many returns because many forms were not available until March. An RTTS will exert pressure to do exactly the opposite. The entire filing system will have to be pushed up, not back, if returns are to be filed on a real-time basis in January.

The pre-file timeframe is when everyone brings in their receipts and other data for preparers to use in calculating any tax payments that may be due for the last quarter. Taxpayers ask their questions for end of year tax planning and get their directions for the documentation they'll need for claiming deductions, credits, etc. Presently, taxpayers wait after

<sup>8</sup> "How Are You Handling the Compressed Tax Season?" Daniel Hood, Editor-in-Chief at Source Media, on Accounting Today Linked-In Site, available at [http://www.linkedin.com/groups/How-Are-You-Handling-Compressed-3825720.S.220208566?goback=.gde\\_3825720\\_member\\_151673459](http://www.linkedin.com/groups/How-Are-You-Handling-Compressed-3825720.S.220208566?goback=.gde_3825720_member_151673459)

year end to get their W-2s and other information returns before they can file returns. If Congress doesn't pass late tax legislation and everything goes smoothly, the IRS opens the season by the second week of January. Some returns are ready to file in January and by February the season is in full swing.

A RTTS would require that the January to April timeframe activities take place rather between October and year end. In order that information returns be truly ready by the end of the calendar year, in order for the IRS to be able to pre-approve critical information online, in order for taxpayers to be able to actually file accurate returns in January, a significant change in the processing of information would need to take place. We envision the following activities taking place from October through December 31:

- Congress completes any changes to affect taxes in the year no later than September 30.
- Software vendors have their updates made by the end of November.
- Eligibility for claiming the EITC could be determined, for example.
- Information returns (1099s) are due from partnerships, mutual funds, Sub S and C corporations as well as from brokerages. Forms 1099 and related reporting have heretofore respected the January 31 deadline for timely filing, but they haven't respected it for accuracy. The taxpayer is responsible to file timely and accurately. Taxpayers are sabotaged in their efforts if 1099 information is not accurate. The following options could be entertained to accomplish this within the timeframe:
  - These entities could have a different reporting year for calculating information to be filed on a K-1 or a 1099. Calendar year entities could still utilize that timeframe for their normal business, but utilize a different cutoff for information returns such as September 30. There would be a 3-month adjustment period in the first year of implementation, but thereafter income and other tax attributes would be reporting on a rolling 12-month basis.
  - An alternative to the above that would at least offer an improvement would be to require large and publically traded partnerships to have a third quarter year end rather than a calendar year end. That requirement would at least alleviate the mutual fund 1099 inaccuracy.<sup>9</sup>
- The IRS could pre-approve information online.
  - Moving toward real-time should mean that the information necessary to prepare an accurate income tax return is made available the moment the information return is filed with the government. As Commissioner Shulman noted<sup>10</sup> this can

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<sup>9</sup> See Attachment C.

<sup>10</sup> IR 2011-108 Prepared Remarks of IRS Commissioner Doug Shulman at the AICPA Fall Meeting in Washington, D.C., on Nov. 8, 2011, available at <http://www.irs.gov/uac/Prepared-Remarks-of-IRS-Commissioner-Doug-Shulman-at-the-AICPA-Fall-Meeting-in-Washington,-D.C.,-on-Nov.-8,-2011>

enable the taxpayer and/or tax preparer to log into the IRS website and immediately view a transcript of the information and documents the IRS has on file. This will not only help eliminate errors or omissions, but reduce or eliminate the need to issue a notice to the taxpayer.

- This matching process will give taxpayers and/or their preparers the opportunity to correct discrepancies on returns before they're filed.
- A restructuring of current processing of information will be required here. The government and the taxpayer/tax professional will need more complete data in one "warehouse" as opposed to many. Currently, for example, W-2s are filed with the Social Security Administration (SSA) at a later date than they are issued to taxpayers. The IRS doesn't get a copy of them until later and matching of the W-2 information occurs even later yet. A short-term solution to this would be to require the W-2s be filed with the IRS and the SSA so matching could occur in real-time.
- Large or high-risk deductions could be reviewed and approved through return attachments (discussed in more detail below in Post-Filing Issues: Stage One.
- Tax professionals and taxpayers could check their transcripts to ascertain the information that the government has and compare it to the information they plan to enter on their returns.
- The IRS could and should provide taxpayer assistance.
  - Taxpayers and tax preparers will have questions that will require real-time answers from the IRS.
  - What of the many instances where third-party information does not match and the taxpayer disagrees with the information the IRS has on the transcript? That will readily happen where, for example, a taxpayer inherits a portfolio of stock. Brokerage firms may not record new basis as of the date of death in a transfer of stock to an heir. The IRS would not have the accurate information. Such instances should not impede or prevent the filing of the return by the taxpayer. The IRS will need some process for provisionally accepting the return under these circumstances and for resolving the objections to a mismatch.
- The taxpayers Social Security Number should be tagged and recorded to prevent fraudulent filing and identity theft.
  - The technicalities of the need for more and better secure practices on the part of the IRS are well documented in TIGTA and GAO studies<sup>11</sup>.

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<sup>11</sup> "Significant Delays Hindered Efforts to Provide Continuous Monitoring of Security Settings on Computer Workstations" TIGTA Reference Number: 2013-20-016, January 24, 2013, available at <http://www.treasury.gov/tigta/auditreports/2013reports/201320016fr.pdf>; "INTERNAL REVENUE SERVICE



- The IRS has successfully utilized a technique in its “Where’s My Refund?” program that has inhibited identity theft as taxpayers and/or their tax professionals have accessed this online tool. The technique required that, subsequent to the sign-on through use of a taxpayer’s Social Security Number (SSN), the filing status and exact (current) refund amount was also required. We believe that a similar technique could also be used to thwart the false use of taxpayers’ SSNs by identity thieves. As official tax returns are filed, the previous year’s taxable income could subsequently also be required in order to authenticate the true filing of a return. The IRS would reject any attempt to file a return without the previous year’s taxable income also being included. This simple technique may, at a minimum, eliminate the incarcerated as identity thieves<sup>12</sup>. They would be unable to file for tax refunds utilizing identification information from either living or deceased persons without knowing their previous year’s taxable income.
- All information would have to be provided within a very tight timeframe if the government and the taxpayer expect to benefit from a “true” RTTS right after the end of the year.
  - All information that could be pre-approved will have to be so approved by December 31.
  - All information needed to be input must be provided to tax professionals, volunteers and EROs by January 7 so that it can be entered and submitted by January 15.
  - The IRS would thereafter have to immediately and electronically issue refunds to taxpayers’ bank accounts or deposit funds due and paid to the government.
  - This timeframe could be compressed or extended depending upon a reasonable interpretation of what constitutes “real-time.”

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CONTRACT SECURITY GUARD WORKFORCE INSPECTION” TIGTA Reference Number: 2012-IE-R002, January 10, 2012, available at <http://www.treasury.gov/tigta/iereports/2012reports/2012ier002fr.html>; “Audit Trails Did Not Comply With Standards or Fully Support Investigations of Unauthorized Disclosure of Taxpayer Data” TIGTA Reference Number: 2012-20-099, September 20, 2012, available at <http://www.treasury.gov/tigta/auditreports/2012reports/201220099fr.pdf>; “IRS Has Improved Controls but Needs to Resolve Weaknesses” GAO-13-350, Mar 15, 2013, available at <http://www.gao.gov/products/GAO-13-350>; “IRS’s Fiscal Years 2012 and 2011 Financial Statements” GAO-13-120, Nov 9, 2012, available at <http://www.gao.gov/products/GAO-13-120>, for examples.

<sup>12</sup> “Prisoners rake in millions from tax fraud” CNNMoney, January 30, 2013, available at <http://money.cnn.com/2013/01/17/pf/taxes/prisoner-tax-fraud/index.html>

## FILING THE RETURN – A PERFUNCTORY DUTY?

The ideal scenario in January would be that all necessary and accurate information has been gathered, verified and entered by year end. All that remains at this point is to transmit the return to the IRS. Certainly, that is the ultimate goal. Press the button! It begs the issue of the actual value of this process. What real difference, at this point, would it make whether the taxpayer files the return or the IRS does? All the preliminary and “back and forth” negotiations would ideally be completed. What remains is for the taxpayer to ante up any remaining taxes due or for the government to issue a refund. We noted earlier that such a “one size fits all” approach to this process would be doomed to failure without radical reform to simplify taxes.

The state of California has a filing program called “Ready Return” that builds from the idea that the government already has all the necessary information for calculating your state tax. It prepares a return for qualifying taxpayers that they may review and accept or decline. The program was piloted in 2005. About 11,000 out of 50,000 qualifying California taxpayers took advantage of the program that first year. Approximately 2 million people qualified for the program by 2010. About 60,000 people took advantage of it for the 2009 tax year<sup>13</sup>. That’s a “take rate” of only three percent. The Federal Government is aware of this program and has likely examined it in light of its study into an RTTS. The National Taxpayer Advocate commented on making a preliminary return pre-populated with information submitted to the IRS through third party reports in her 2012 Annual Report to Congress.<sup>14</sup>

The “filing window” for submitting the return is an issue to address. The idea of a real-time system contemplates the notion that acceptance, rejection, payment, and/or receipt of refund takes place immediately or within “minutes.” Therefore, the deadline for filing the return is more a function of the time needed to get ready and/or the time needed or required to respond to rejection or dispute. A return may be rejected, for example, because the filing was incomplete or didn’t contain the taxable income from the previous year as an identifier of return viability. It may be rejected because of a matching error or a dispute. Those occurrences may be deemed “post-filing” issues at some point, but the initial filing should somehow allow for the perceived error or dispute to be rectified in reasonably short order. The government is also going to have to find a way to accept returns in dispute as filed and have a subsequent post-filing resolution system or process at least for “good” reasons. There will be circumstances for which returns are held up, and clear circumstances for when returns are rejected as unfilled. Such systems and procedures will have to be developed based upon past experience and,

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<sup>13</sup> “In California, the state does your taxes” Marketplace Money, April 9, 2010 available at <http://www.marketplace.org/topics/business/last-minute-tax-tips/california-state-does-your-taxes>

<sup>14</sup> National Taxpayer Advocate 2012 Annual Report to Congress 189 (Most Serious Problem: The Preservation of Fundamental Taxpayer Rights is Critical as the IRS Develops a Real-Time Tax System).

perhaps, a short-term appeal process. This gets into post-filing issues. The questions to be answered at filing are:

- What circumstances warrant an outright rejection? How may they be cured, if at all?
- How long should the “filing window” remain open in order to rectify an error or a dispute that causes an initial rejection at filing? How do you make sure that both parties are held accountable to such deadlines?
- When, and under what circumstances, should returns be accepted as filed and flagged for ultimate resolution? What procedures need to be undertaken to care for the item(s) at issue and how do you ensure the accountability of both parties in the process?

A word about expectations: Will there be an expectation on the part of the taxpayer that, because their return is filed, accepted and payment/refund made, that is the end of the matter forever and ever? Probably yes. Will it be the “end of the matter?” Not likely. The reason for that is because there is yet too much information that cannot be verified through the utilization of third parties. We will discuss that later as we consider some of the challenges that lie ahead to improve the RTTS.

## **POST-FILING ISSUES IN STAGES**

Post-filing issues will likely arise in two stages. First, issues will have to be resolved as a result of rejected items at the time of filing. The second stage for post-filing issues will arise after returns are filed. There will be two phases to this stage: 1) Immediate follow up of matching issues and disputes that couldn't be handled within a reasonable time for the return to be filed; and 2) the selection of filed returns for audit as a result of specifically targeted taxpayer database studies.

### **Stage One**

The mechanics of accepting a return on the part of the IRS will require an immediate matching or verification of taxpayer identification data, dependents, W-2 and 1099 information to begin with. It may be possible to create checklists that can be verified with minimal submission of attachments, .pdf documents and even pictures for increased comfort level acceptance by the IRS. Such check lists might include, but not be limited to:

- Charitable gift receipts, particularly cash donations. A taxpayer could attach an Excel spreadsheet showing the charity name, address, federal ID number, dates and amounts. Then, at processing time, the IRS could check the fed ID number in real-time, allowing the return to be processed and not subject to exam.
- Invoices
- Mileage logs

- Travel logs
- Other records

The large questions here branch off the submission of the return: under what circumstances should the return be rejected? What is a good timeframe for responding to mismatches? The IRS will need to set an expectation of, say, 5-10 business days for rectifying perceived errors or obtaining an agreement to revisit discrepancies immediately after filing. Our survey data from the field give indication that the current rate of accuracy for relying on third-party data is not acceptable for rejecting return processing just because of mismatches.<sup>15</sup> While it is true that identifying and attempting to rectify mismatches on the front end will likely improve compliance dramatically, the IRS will have to experiment with moving forward to process returns with mismatches and develop an effective follow-up system. That will mean the development of new forms/notices for use at the time of filing and a shift in timing and content for CP notices. It also implies the electronic nature of these forms and raises the issue of emailing taxpayers or their professionals/representatives; a practice heretofore not undertaken by the IRS. That raises further privacy/security implications.

Staffing issues to support a RTTS at the point of filing/rejection of the return will have to be addressed in terms of sufficiency and training. Whereas the milieu of appropriate IRS Service Centers will still contain that orientation of processing during the filing season, it will also have to take on a more robust customer service orientation. Staff will have to be trained to recognize and accept out of the ordinary return discrepancy issues and readily accept alternative information with file follow ups. Examples of these kinds of circumstances will likely include:

- 1099-B for securities sales that report basis that is different from what the taxpayer shows on Schedule D of the return. This could easily occur because the taxpayer has an inherited basis in the stock as opposed to the value shown on the date it was transferred into the brokerage account.
- 1099-C for cancellation of debt that show different amounts to be recognized as income compared to that reflected on the return. Lenders are notorious for filling these forms incorrectly and they have too long (up to 36 months in some cases) to cancel the debt. Lenders often report the full amount of the original principal as the cancelled debt amount when in fact it is a lesser amount because some of the debt was satisfied through foreclosure.
- 1099-T to properly claim credits available for payment of educational expenses allowed under IRS §25A will list an amount different than what the taxpayer claims because educational institutions incorrectly indicate amounts “billed” instead of amounts

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<sup>15</sup> See Attachment C.

actually paid in the tax year. Credits are allowed only for amounts actually paid in the taxable year.

An effective RTTS will require a short-cycle response from IRS personnel in this rectification process. That means that taxpayers and tax professionals will need easy, effective access to the IRS through online services such as through a “Chat” function in order to resolve return rejections in the short term. The “back and forth” necessary to get acceptance of the return within the 5 to 10-day stage one resolution period will require previously unequalled response times and accountability by IRS call center personnel.

### **Stage Two**

The second stage for handling post-filing issues should begin as soon after filing as possible. In the first place, the goal should be to resolve all matching and dispute issues in the current filing year while they are fresh. These issues should be able to be initiated by the IRS, the taxpayer or the taxpayer’s representative. The process could easily follow the current practice for initial inquiries with notices, response deadlines, requests for face-to-face meetings at local IRS offices, appeals, and court remedies if necessary.

The second phase of post-filing should involve desk and field audits that are initiated based upon studied data with parameters requiring further examination. This data should be the result of carefully crafted research from a database warehouse of all returns, including third-party information which points to very targeted problem returns. In five years, the IRS should be able to end the examination of returns that result in no change. This phase of post-filing issues should move toward the RTTS model by shortening the cycle in the exam phase. The goal should be to complete the exam within the filing year. In some processes a shorter time line is a more real-time experience. Shortening the exam selection to within months of a return filing will, in and of itself, shorten the exam period because the taxpayer should have a better knowledge and recall of circumstances as well as more accurate records because they haven’t become lost. More timely completion of the exam will result in less taxpayer burden, less IRS staff hours and a better experience for all concerned.

### **COST/BENEFIT**

The benefits of an RTTS have been widely discussed and are documented in very general terms. Again, the National Taxpayer Advocate gave an excellent summary<sup>16</sup> in her 2012 Annual Report to Congress. The costs of such a system have not yet been estimated. Any thorough investigation of costs would have to weigh the fact that there already is a cost to taxpayers and

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<sup>16</sup> National Taxpayer Advocate 2012 Annual Report to Congress 182-183 (Most Serious Problem: The Preservation of Fundamental Taxpayer Rights is Critical as the IRS Develops a Real-Time Tax System).

the government for not having such a system in place. Though we expect the analysis of such an undertaking to be difficult, we feel this to be a very valid consideration in mitigating the net cost of pursuing this necessary project.

Despite the already adequate benefits mentioned by others, we would like to mention a few that we consider important and worthy. There isn't a study into topics such as this that do not get by without a mention of the contribution that our complex tax code makes to the burdens of all concerned with taxation, namely every United States taxpayer. The complexity of the code also affects the complexity of administering such a code. An effective RTTS would at least simplify and, therefore, improve the administration of the tax code. The significant matching capabilities and up-front attempt at resolution would, we believe, also likely reduce tax evasion, reduce mistakes on returns and reduce or eliminate no-change audits. It would also make strides towards reducing the number of CP200 notices and correspondence audits. Obviously, but especially with the necessary training that will be required, taxpayers should benefit from improved, more efficient service on the part of the IRS. As mentioned regarding the filing process where individuals have to also provide more detailed and unknown personal information such as their taxable income for the previous year in order to file, we believe that identity theft and exposure of private information will be reduced. We also believe this system would contribute to the reduction in the "Tax Gap," which is at least one factor that should be netted against the cost of developing and implementing a RTTS.

There will be many cost considerations to the onboarding of a RTTS, such as the purchase of software, the revamping of existing systems, the re-design of processes, the subsequent training necessary for IRS staff and the education of the public. One main cost of pursuing this system that we think bears serious consideration concerns the increased cost to third-parties for information reporting. The need to obtain 1099 information before December 31, as mentioned above, will impact third-party payers. Smaller businesses, in particular, will object to the additional reporting requirements. The IRS will have to work with smaller businesses to figure out reasonable compromises for the sake of an effective RTTS.

## **CHALLENGES**

We believe that a viable RTTS is an attainable goal within the next five-year period. We think that a very basic pilot project, on a limited scale as suggested above, is already achievable. We already have modified e-file processing of returns, CADE (II) and data mining in place. It's all there ready to be brought up to real-time. It's time that processes reflect the capability of modern technology in use at the IRS. We know that we won't be able to think through every piece and parameter that will result in the "perfect build" on the first try. That's why we also believe that it's important to start on this project with due haste. Much will be learned along the way. There will be no panacea, just continuous improvement. That's reality. Having stated

that, we believe we can also make a valuable contribution to this effort by listing some of the challenges that we can see will need to be met and considered as the system is developed and honed.

### **Tax Simplification**

This subject has been so redundant in Washington dialogue that we feel painfully self-conscious in mentioning it. That discomfiture notwithstanding, we are amazed that nothing has been done about it despite decades of railing upon this issue from every sector of the public. It has a significant bearing on the effective operation of a RTTS and threatens the success of such an undertaking. Tax law and its attendant regulations have become so arcane and ambiguous that Chief Counsel within the IRS is confounded by normal occurrences in today's economy and how to treat items such as cancellation of debt income. We offer the following synopsis provided by one of our tax specialists as she attempted to obtain resolution of tax treatment of this item for our membership.

*"As some of you may already know, I participated in a conference call with the IRS this morning to discuss COD income under the qualified principal residence exclusion (§108(h)) and qualified real property business debt (§108(c)). Here is their take, which as you might have guessed; they will not put in writing. I will explain why later.*

*My basic question had to do with **when** the determination of qualified principal residence debt was made – was it at the time when the debt was obtained or cancelled? Clearly they said the debt must qualify as acquisition debt under Sec. 163 meaning at the time the debt was obtained. They agreed that that might pose some questions and not be applicable in all cases. Then we discussed qualification when the debt was actually cancelled – which as we know could be several months or years later. They agreed that that also posed issues. At least we were all in agreement that the law was and is ambiguous. This is what their interpretation is – as long as the residence was the taxpayer's principal residence at the time the taxpayer "ran into financial trouble" (WHAT??) the IRS would "most likely" allow the exclusion. Well that's a new one. Then they threw in the facts and circumstances lingo.*

*They were very clear on the fact that the 2 out of 5 year ownership and use test (5-year look-back) does not apply. They said it was not the intention of Congress to require a person to meet that test in order to qualify for the exclusion. Then we discussed the temporary rental issue. Again, the 2 out of 5 year test is not applicable here either. What is applicable is the taxpayer's intent. If they rented it because the bank was in the process of foreclosure and the taxpayer did not want the home sitting empty so they rented it, the IRS would allow the exclusion. But, if instead the taxpayer walked away because he made a bad investment and (I quote) the "taxpayer found another lender stupid enough to lend him money to buy another*

*home” and that home was now his main home or he moved into another home he owned, the IRS would probably not allow the exclusion. I found that comment rather fascinating. They more or less implied that in this case the debt was not necessarily cancelled because the taxpayer could not afford to make the payments, rather because he didn’t want to. I wonder who plays judge and jury and makes that call.*

*We then went on to the business debt issue. The guys I was talking to were totally unaware of the change to Pub 4681 until I told them. They got so excited they decided to look into that further. They were emphatic that the change did not, nor should it imply that a landlord who merely owned rental property at the active participation level qualified under this exclusion. The activity would have to rise to the level of a real trade or business under Sec. 162. (BTW – they were not amused when I pointed out that Sec. 162 did not actually define trade or business). They said most real estate rentals are not a trade or business. So, my take away is that when dealing with a person who qualifies as a real estate professional, that does not automatically mean they are in the trade or business of renting property. One must look to the level of services provided, term of rental, etc. Again the facts and circumstances comment came up.*

*So, why won’t they put this in writing? Because they are flying by the seat of their pants and are not 100% sure they have interpreted all this accurately. And – each case is different and...it all depends. They feel each case is “highly factual” and independent of every other case. My interpretation – they are leaving it to auditor discretion – based on the facts of course. Not at all comforting.”*

This kind of dialogue is not uncommon when trying to ascertain the appropriate and accurate treatment of tax items as common as the Earned Income Tax Credit. Clearly, the effort that it takes to provide rational and precise application of our complex tax laws stands in the way of rapid responses to tax issues faced by taxpayers. A staff report by the Senate Finance Committee<sup>17</sup> states: “In 2010, individuals and businesses paid \$168 billion to comply with the tax code, which equals 15% of total income tax receipts. Critics argue this complexity obscures understanding of the tax code and undercuts voluntary compliance.” The Senate Finance Committee staff report contains laudatory and innovative suggestions for tax reform that we will not reiterate here.

The recent sequester has put a burden upon all government agencies to cut back expenditures, not the least of which is the Internal Revenue Service. One of the areas that the

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<sup>17</sup> “Simplifying the Tax System for Families and Businesses” - Senate Finance Committee Staff Tax Reform Options for Discussion, Pg. 2, March 21, 2013, available at <http://www.finance.senate.gov/issue/?id=b1ae1ce3-c25c-43c3-82da-6d33378e62bf>



IRS has cut back dramatically is the training of its personnel.<sup>18</sup> A recently issued Fact Sheet stated that the IRS has limited employee travel and training to mission-critical projects and has reduced training costs over the past two fiscal years by 83 percent. In place of in-person meetings, training and conferences, the IRS has substituted the use of video. The complexity of the current tax code requires more training, not less. If a successful RTTS is in the offing, realistic and reliable funding for this agency is a necessity. That may seem like a very obvious statement, but the current course of events require that the point be emphasized. If Congress and the agency itself truly want an operative RTTS, the challenge of reliably funding it must be met. A simpler tax code would likely reduce the dollars necessary to fund and maintain this system.

Even with the current complicated tax code and its attendant regulations, balanced compromises can be made at the regulatory level if Treasury has the will to make it happen. A good example of this is Rev. Proc. 2013-13 wherein the IRS announced a simplified option that many owners of home-based businesses and some home-based workers could use to figure their deductions for the business use of their homes. This was one of those “fault-line moves” that simplified and provided a safe haven deduction capped at \$1,500 per year based upon \$5/ square foot for up to 300 square feet for an office-in-the-home deduction. That kind of innovation and thinking is available today and should be used toward the pilot for an RTTS. The challenge is to get the IRS to act more in these terms with the current tax code complexity.

## **Resources**

Funding is surely an obvious challenge to the development and maintenance of a RTTS and the significant database that it will need to manipulate in order to provide truly real-time service. We’ve already mentioned funding in the context of the burden that complex tax laws put on the tax administration system. “Resources,” as mentioned here, are rather focused on personnel and the need to make smart decisions about the utilization of existing resources.

The fact is that funding is always a factor when increasing service, so it underlies most personnel issues from the increase in number of personnel needed to their training, equipping and housing. In this regard we feel constrained to offer the inevitable increase in personnel resources that will be needed to take on the myriad and complex issues brought about by the *Patient Protection and Affordable Care Act (ACA)*. The involvement of the IRS at an increasing level in the details of compliance with this legislation will present an ongoing challenge to the focus and resources available to the IRS for productive work on an RTTS. It appears that the intent of the current Congress is to keep a close eye on the resources available for the implementation of the provisions of the ACA as evidenced by the well-publicized letter to

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<sup>18</sup> “IRS Achieves \$1 Billion in Cost Savings and Efficiencies.” FS-2013-5 issued April 5, 2013.

Acting Commissioner Steve Miller from Chairman Boustany on the House Ways and Means Subcommittee on Oversight.<sup>19</sup>

Another personnel resource challenge will be either the funding of staff again at IRS offices throughout the country for the purpose of problem resolution, audit and face-to-face meetings with field personnel, or an adequate replacement for these services. Technological advances may offer the answer to these challenges through the use of Skype, FaceTime, or other web-based meeting alternatives such as WebEx and GoToMeeting software. There is a solution to this challenge in those technological tools that only requires training and support. That does bring up a related challenge by way of the effective redeployment of personnel from manual to online work. This will also require support and training dollars as well as the re-shuffling of staff for “fit.” Compounding this shift in paradigm will be the challenge of negotiating these necessary moves with the NTEU.

The term “working smarter” is a familiar and well-used phrase. It is a concept that needs to be reinforced throughout Treasury, particularly at the levels of appeals at the IRS. We know that the government has to deal with all kinds of personalities, cultures and characters in its contact with the taxpaying public. It would appear that the appeals officer level could benefit from having oversight by individuals trained in business and cost-benefit analysis for purposes of deciding or compromising on disputes over the treatment of tax issues. Our experience and observation is that legal minds can often get in the way of practical problem resolution for a variety of reasons. We offer the following case as an example.

In *McKenzie v. U.S.*<sup>20</sup> a taxpayer finally obtained a carryback loss from his 2007 taxes to his tax liabilities for 2005. He had to go to court and it took him until 2013 to get the resolution to his circumstances that he sought in 2008. The facts in this case indicate that it should not have taken five years to resolve this dispute. The taxpayer eventually got the desired result, but it was largely due to the IRS’s lack of communication and accountability. Further, the taxes involved were much less than the cost of delaying and ultimately litigating this issue. It was a poor use of resources. A summary of this case may be review in Attachment A. The taxpayer tried to meet his filing responsibilities and obtain proper treatment of NOLs that he experienced. He talked to IRS personnel at every level, including asking assistance from the Commissioner. While being shunted back and forth to a variety of people in the IRS, collections activities ensued. The taxpayer had to file a suit seeking an order to require the IRS to apply his carryback losses. The IRS countered with a request for dismissal on a number of grounds

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<sup>19</sup> “Boustany Calls on IRS to Detail Role in ObamaCare Implementation - IRS Will Administer Over \$1 Trillion in Taxes,” Press Release, Thursday, March 21, 2013, letter available here: [http://waysandmeans.house.gov/uploadedfiles/irs\\_aca\\_resources.pdf](http://waysandmeans.house.gov/uploadedfiles/irs_aca_resources.pdf)  
<sup>20</sup> *McKenzie v. U.S.*, (DC PA 3/20/2013) 111 AFTR 2d ¶ 2013-546

including that he failed to timely file an amended return. The district court dismissed the IRS's motion and found that the evidence in the case supported the taxpayer. The court also noted that the IRS failed to address any of the evidence submitted. This case demonstrates the need for training, particularly customer service training, as well as the need for objective and smart oversight of caseload and more efficient dispute resolution. It indicates a culture challenge within the IRS that will have a bearing on the success of a true RTTS.

### **Verification**

Continuous improvement will be required in order to get more utility out of a RTTS. There are many items that are claimed on tax returns that are not currently reported independently to the IRS for purposes of verification. In many instances, the items occur because of special legislation that is geared to encourage specific behavior on the part of taxpayers in order to further other government goals. An example of this is residential energy credits. A taxpayer may claim a \$150 credit for a newly installed natural gas furnace or \$2,000 for the installation of qualified new windows in his home. The taxpayer will have to file Form 5695 to claim the tax credit, but the IRS currently does not receive third-party reporting so that verification of the claim for the credit can be made in real-time. There are a host of these credits that fall under these circumstances.

Many deductions claimed on returns are not readily verifiable either. Cash donations to qualified charities may be claimed, but the IRS doesn't receive third-party reporting for these either. Quite a list of such deductions could be made. The fact is, such information is accepted as filed by the IRS with the understanding that proof of their validity may be requested at any time from the taxpayer subsequent to filing. An RTTS will have to proceed under the same circumstances. The challenge is finding that comfort level and cost/benefit level where independent verification is not deemed necessary or practical.

The IRS and Congress are more concerned, at present, in being able to verify income from currently unreported sources than it is in being able to verify credits and deductions. A significant challenge to tax administration, whether supported by a RTTS or not, is the reporting of income from cash businesses. Any business activity that generates income and for which there is no third-party reporting is a challenge for tax administration. As a way to address this issue, Congress passed the *Housing Assistance Tax Act of 2008* requiring credit card companies to report all electronic receipts by merchants to the IRS for verification purposes. The hope was that this process would reduce the Tax Gap by increasing more "accurate" reporting of income from small businesses. The undertaking is huge and overly burdensome to merchants because of the erroneous mismatching problems that they will be saddled with resolving. We offer the manner in which many convenience stores do business as an example. When you go to a gas station that has a convenience store and you buy a newspaper, a quart of oil, a gallon of

windshield wash and a candy bar along with 15 gallons of gas, you charge it all on your credit card. The merchant card processor reports the entire sale to the IRS as income to the convenience store owner. The store owner works with what are called “jobbers” to stock the convenience store with supplies and candy. The owner merely receives a commission on the sale of those goods. The actual sale proceeds belong to the jobber, not the convenience store owner. So when the time for verification comes, there is an automatic mismatch that will require significant reconciliation on the part of the convenience store owner. That’s going to be a challenge to a RTTS. There will be numerous and significant return rejections because of the way 1099-K income is reported. This is a significant burden for small businesses.

We cannot leave this area without mentioning the challenges of relying on the accuracy of third-party reporting. We will not repeat the concern over the use of Math Error Authority as reported by the National Taxpayer Advocate in her 2012 Annual Report to Congress<sup>21</sup> other than to state that we share it. What we will mention is the challenge represented by too great a reliance on the accuracy of what third-parties report because they either have little regard for what is reflected on a 1099 or they are confused and misunderstand what should be reported, often because of insufficient form instructions. We discussed this from a little different perspective above as it would affect Stage One of the Post-Filing issues in a RTTS. The accuracy experience of our members<sup>22</sup> in receiving erroneous and amended Forms 1099-B was discussed above in the very same paragraph. We offer more detailed observations by 1099 form in Attachment B. These observations are from experiences shared with our research department during the past few tax seasons. They also share potential solutions to some of the issues raised in order to enhance and enable the more effective use of forms 1099 with a RTTS.

### **The Limited Budget Environment**

Numerous vendors have worked with the IRS and other government agencies to design new and more efficient systems as well as to serve as outsourced services. We believe that the IRS can conserve resources and begin experimenting with a very basic RTTS by collaborating with vendors that have products and services that already address major components of such a system. That tack may jump-start this project and save on the considerable cost of re-inventing the wheel. Vendors like Accenture are already familiar with the government’s databases. Net Worth Services, Inc. has already worked with the IRS to test and validate its securities-related cost-basis calculator which might serve as an alternative verification check on gains/losses reported on Schedule D. Other large vendors like ADP and Amazon may help with verification models and real-time processing. Virus detection and elimination software companies such as

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<sup>21</sup> National Taxpayer Advocate 2012 Annual Report to Congress 188-189 (Most Serious Problem: The Preservation of Fundamental Taxpayer Rights is Critical as the IRS Develops a Real-Time Tax System).

<sup>22</sup> See Attachment C.

Symantec, McAfee, and others may offer ideas on how the IRS can detect and eliminate scams and tax schemes through scanning its database. A survey of component parts should be completed and appropriate vendors should be approached to form a “dream team” to help the IRS complete a prototype RTTS that could serve as the basis to seek additional funding from the Congress to build a more robust system. Dream Teams are a relatively new approach to difficult problem solving utilized in a particularly unique way in medicine.<sup>23</sup> We believe the idea could pay dividends to the IRS in the pursuit of this project.

Others have already commented<sup>24</sup> on the benefits to the government via the revenue protection aspect of upfront matching. The IRS would devote fewer resources to compliance and collection activities because of reduced basic omission and understatement cases. These, and other analyses, would offer a value proposition that would pave the way for funding. Having stated that, however, Congressional funding is and will continue to be a challenge for the development and implementation of an RTTS.

### **Low Income Populations**

In our view, the greatest challenge to serving this population occurs for those taxpayers who do not have computers or access to information processing; do not have bank accounts and do not have permanent addresses. Many in this population rely on the Earned Income Tax Credit as a contributor to their sustenance. A pre-populated return would be an ideal solution for these taxpayers but they would have to be served at local IRS offices or other volunteer tax preparation sites.

### **Congress**

One of the more difficult challenges to the development and implementation of an effective RTTS may be the Congress itself. The inefficiencies that arise from the delay, uncertainty and in-fighting characteristic of the political process today aside, Congress has lately been the main contributor to the distresses of the tax season. Despite the warnings, speeches and appeals of the last two Commissioners of the IRS, Congress continues to pass tax legislation very near or after year end. There will be no effective RTTS if Congress continues that practice. It will be critical to get the Congress to cooperate and be held accountable to this system in order to ensure its success. That means no late legislation, and no further complication of the tax code. These comments are not meant to be political, distasteful or “cheap shots” at our government. They are candid and objective observations intended to

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<sup>23</sup> “Cancer Dream Teams: Road to a Cure” Cover Article, Time Magazine, April 1, 2013, available at <http://healthland.time.com/2013/03/21/cancer-dream-teams-road-to-a-cure/>

<sup>24</sup> National Taxpayer Advocate 2012 Annual Report to Congress 182 (Most Serious Problem: The Preservation of Fundamental Taxpayer Rights is Critical as the IRS Develops a Real-Time Tax System).

inject a sharp dose of reality into the challenges that the IRS will have to face and plan for if it is to build a worthy RTTS.

### **Trust**

As long as we're being so candid about challenges, some perspective should be offered on the consumer-side of the equation as well. We offer this more in reference to public acceptance of a government-prepared return pre-populated with information submitted to the IRS through third party reports. According to a recently completed Pew Research Center poll,<sup>25</sup> trust in the federal government remains mired near a historic low, while frustration with government remains high. The survey finds continued widespread distrust in government. About a quarter of Americans (26%) trust the government in Washington to do the right thing just about always or most of the time; 73% say they can trust the government only some of the time or volunteer that they can never trust the government. This attitude on the part of the public poses a challenge to the use of a government-prepared, pre-populated return.

We commented, above, about the state of California's Ready Return program and the poor rate of utilization of this return by the taxpayers in that state (3%). A professor of taxes at Villanova University in Pennsylvania offers his opinion<sup>26</sup> for why Californians snub Ready Return:

**James Maule:** They got the thing and then they never turned it back in, because it was a mess. They just realized "This is not really my return. This is the first five minutes of my return."

Maule teaches tax law at Villanova University in Pennsylvania. He says the government can't know all the complicated details of a person's life that change tax liabilities. So people will do one of two things -- either check the government's math, in which case, why not just file your own tax return? Or they'll take the government's word for it and maybe pass up credits or deductions they could have qualified for.

**Maule:** So it's not really saving very many people much work. Except, that it will take advantage of what I call "inertia on the other side" and that is people (who) say, "Well, the government did this, so it must be OK."

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<sup>25</sup> "Majority Says the Government Threatens Their Personal Rights" The Pew Research Center for the People and the Press, Released January, 31, 2013, available at <http://www.people-press.org/files/legacy-pdf/01-31-13%20Views%20of%20Government.pdf>

<sup>26</sup> "In California, the state does your taxes" Marketplace Money, April 9, 2010 available at <http://www.marketplace.org/topics/business/last-minute-tax-tips/california-state-does-your-taxes>

On the other hand, a “take rate” of even 3% of federal individual returns (as in California) would mean that over four million taxpayers would take advantage of such a program. That may be worth pursuing in terms of the savings in taxpayer burden as well as effort and involvement by IRS employees. It may also encourage filing on the part of some taxpayers.

## **CONCLUSION**

We are pleased that the IRS is moving forward with the development of a Real-Time Tax System. We believe that the technology is already available to make a viable start on this initiative. At the same time, we have no illusions about the significant challenges that must be planned for and overcome as the Service progresses on this project. We are gratified to note that, in its commentary on the National Taxpayer Advocates 2012 Annual Report to Congress, the IRS realistically stated that: “This is a long-term vision that will take years to fully realize.” Whereas we note the word “fully” as a qualifier in this statement, we believe that the vision may be realized to some degree in the short term. This will take patience and work on the part of the IRS and all of its stakeholders. It won’t happen overnight, it will come in stages: first the “easy” returns and then continuous improvement. Laws will change along the way, that’s our history and it will no doubt be our future. Modifications will become necessary, but everyone in the industry is accustomed to that.

NATP wishes to thank the IRS Oversight Board for inviting us to participate in this important dialogue suggesting and creating ideas that would result in dramatic improvements to the US Tax System in terms of efficiency, accuracy and reduced taxpayer burden. We are always available to share our unbiased knowledge on issues of tax administration from the perspective of all tax professionals. Should the IRS take our suggestion for selecting a “dream team” to provide accelerated research, knowledge and development of a Real-Time Tax System, we would be pleased to participate.

## **ATTACHMENT – A**

**Summary of McKenzie v. U.S., (DC PA 3/20/2013) 111 AFTR 2d ¶ 2013-546**



*Trevor McKenzie (referred to throughout as "McKenzie") and his wife, Althea McKenzie, owed tax liabilities for 2004 and 2005. IRS applied a 2007 carryback loss of \$21,254.00 to their joint 2005 liability. However, this carryback loss did not pay the 2004 or 2005 liabilities in full. When Mr. and Mrs. McKenzie overpaid their income tax for 2006, 2007, 2008, 2009, 2010 and 2011, IRS applied those overpayments to the outstanding 2004 and 2005 liabilities, which paid the 2004 and 2005 liabilities in full.*

*McKenzie indicated that he suffered losses of \$150,000 in 2007. In 2008, after reviewing his 2007 financial reports, it became evident that his financial difficulties were more severe than he had imagined. He filed his 2007 tax returns, and also filed an amendment to apply 2007 losses to offset his 2005 tax liability. He began communicating with IRS seeking guidance in filing the amendment.*

*McKenzie stated that, after several years of communicating with IRS by telephone calls—during which representatives would promise to get back to him within four weeks but then would fail to do so—he was advised in 2010 to contact a tax advocate agent. The agent told him that allotted times did not expire while an individual was engaged in the dispute/resolution process. McKenzie submitted the documents the tax advocate requested, but the long intermittent periods continued.*

*On May 16, 2011, McKenzie sent a letter to the IRS Commissioner requesting a review of the history of the matter and asking for assistance. He stated that although he corrected his 2005 and 2007 returns according to the tax advocate's direction, IRS continued to tell him something was wrong, but wouldn't explain what that was.*

*McKenzie stated that the Commissioner assigned the case to Charles Mangene in the tax advocate office. McKenzie met with Mangene at least twice in his office with all his documents and showed proof of his good-faith efforts to voluntarily resolve this matter. In addition, he sent faxes to Mangene on numerous occasions. By this time, he had lost and exhausted all of his financial resources and had filed for bankruptcy. McKenzie states that Mangene at first expressed confidence that he could resolve the matter, but later grew frustrated and admitted that he wasn't an expert in net operating loss carryback calculations.*

*Mangene reported that each time he waited for IRS' response, he was told he needed something else or something was not matching. No one seemed to know what IRS was looking for. For example, on Sept. 16, 2008, McKenzie submitted a Form 1045, Application for Tentative Refund, to apply a carryback loss from 2007 to his 2005 liability, but on Oct. 2, 2008, the Form was returned to him for additional information required for processing.*

*In the meantime, an IRS collection agent continued collection activities. When McKenzie contacted her, she suggested he should take his case to IRS Appeals. McKenzie received another*

*collection notice from another appeals agent asking for proof that McKenzie had submitted Form 1040X NOL filing for 2007 and ignoring or omitting any reference to communicating with any of the previous IRS employees.*

*On Sept. 18, 2012, McKenzie filed a suit seeking an order requiring IRS to apply his alleged 2007 carryback loss to offset his 2005 income tax liability and requiring IRS to recalculate his tax liabilities for years 2006 to 2011 (which would result in tax refunds for these years). IRS countered McKenzie's suit with a request for dismissal on a number of grounds, including that he failed to file an amended return by Apr. 15, 2011, three years from the date the tax liability for 2007 became due, and that he failed to allege that he filed administrative claims for 2006 to 2011.*

*The district court, dismissing IRS's motion to dismiss based on the taxpayer's failure to file a refund claim, concluded that McKenzie had submitted a refund claim, albeit an informal one, before Apr. 15, 2011.*

*The district court reasoned that while an application for tentative refund doesn't constitute an informal claim for purposes of satisfying Code Sec. 7422's administrative exhaustion requirement, letters to IRS may constitute an informal claim.*

*In this case, McKenzie submitted evidence that he wrote to various individuals on numerous occasions to request the carryback loss and to respond to requests to provide additional information regarding his claim. He sent numerous faxes to Mangene. The district court also noted that IRS failed to address any of this evidence.*

## **ATTACHMENT – B**

### **IMPROVING THE ACCURACY AND UTILIZATION OF FORMS 1099**

#### **Field Observations Regarding Problems with Relying on 1099 Information** **And Potential Solutions to Some of the Issues**

**1099-B, Proceeds from Broker and Barter Exchange Transactions** – the most prevalent issue with this form is neither the form itself nor the instructions. The issue, and consequently the burden to taxpayers and tax preparers, is the permission granted by the IRS to brokers and clearing houses to delay the filing of this form. This is a real issue for taxpayers and practitioners alike.

For example, Pershing, LLC is a clearing house used by many investment firms and financial institutions. Over the years, Pershing has consistently asked for and received an extension of the Form 1099 filing deadline. First, when the due date was January 31, they asked for an extended deadline to February 15. When the deadline for 1099-B filers was extended to February 15 under the *Emergency Economic Stabilization Act of 2008* [HR 1424], many clearing houses, including Pershing continued to request and were granted extensions to file forms. Messages to investors (as shown below\*) explained that the delay was necessary to ensure correct forms and fewer revisions.

*“Please note the following information for Pershing’s 2012 mailing of Internal Revenue Service (IRS) Forms 1099 (B, DIV, INT, OID and MISC). Your Form 1099(s) will be mailed by February 28, 2012. Pershing has decided to delay this mailing to reduce the need for 1099 revisions due to late information received from issuers regarding income reclassifications and cost basis-related adjustments.”*

\* <http://www.palmettoinvestmentconsultants.com/NEW-Mail-Dates-For-Your-2012-IRS-Forms-1099---Pershing-Account-Notification.20.htm>

Similar statements have been sent to investors from other brokers for years. One example from Blackstone Group LP indicated that investors could expect to receive the necessary documents for completing their 2010 returns in mid-summer 2011. Delays of that length create a cost and burden to government and taxpayer alike.

The instructions are abundantly clear regarding when these forms are required to be filed with the IRS and the payee. The IRS also has the authority to penalize payors for late filing. NATP suggests that the consequences be enforced as a means to continue the goal of effective tax administration and compliance as well as to accommodate real-time reporting.

**1099-C, Cancellation of Debt** – Lenders are notorious for filling these forms out incorrectly. Part of the problem stems from the fact that the lending industry has far too long (up to 36 months in some cases) to actually cancel the debt. The biggest problem we have encountered is lenders who report the full amount of the original principal as the cancelled debt amount when in fact it is a lesser amount because some of the debt was satisfied through foreclosure.

The lack of consistency is also a major problem. There should be uniform rules regarding the determination of fair market value. Too often lenders use an arbitrary number that has no real meaning. This causes the debtor to request a corrected 1099-C, which is rarely granted.

Another situation that consistently causes reporting problems is cancelled debt of joint obligors. The 1099-C instructions are clear, that in the case of debtors who are jointly and severally liable for the debt, the lender must issue a 1099-C reporting the full amount of the debt to each person. There should be a place on the form indicating the name(s) and TINs of additional debtors. Each debtor should only be responsible for including or excluding their share of the debt.

**1099-K, Payment Card and Third Party Network Transactions** – NATP understands the IRS’s desire to capture the impact of underreporting and implement procedures to assist in closing the tax gap. What’s unclear is whether this form will help or hurt that effort.

For example, there is no requirement to report the information from Form 1099-K on the tax return. Its only purpose is to provide information to the IRS on the total credit card sales a merchant made or credit card payments received. While this, on its face, seems like a useful tool for determining whether the proper amount of income was reported, it does not take into account that this income may already be reported on the return. This can create the presumption that income was not reported.

**1099-MISC, Miscellaneous Income** – Too often the payers report the income paid in the wrong box. The most frequently misused box is Box 7, Nonemployee Compensation. From our experience, that’s the default box when the payor is unsure of where else to report the payment. The IRS’s matching system will automatically assume self-employment tax is due. Often this is not the case. NATP has two suggestions: (1) include a checkbox on Form 1099-MISC to indicate that the income is not subject to SE tax, or (2) clarify the instructions to assist payors in determining when that box is used. If it is impractical for the payor to make the determination of whether SE tax is due, include a checkbox on Form 1040 so the preparer or taxpayer can indicate that the income is not from a trade or business and SE tax is not due. This will go far in eliminating unnecessary correspondence audits, another goal of an RTTS.

**1099-Q, Payments from Qualified Education Programs** – There is no requirement to account for the information or to designate to the IRS that the amounts reported on this form are taxable. If they are not, nothing is done with the form. Too often taxpayers will get letters from the IRS requesting additional information relating to the information on Form 1099-Q. The payee instructions state in part, “the payer/trustee may, but is not required to report ...one of the following codes to identify the distribution you received.” This does not show that the

distribution is or is not taxable. A checkbox or some other indication on the taxpayer's return that acknowledges receipt and the non-taxability of the distribution will eliminate this problem.

**Form 1098-T, Tuition Statement** – The credits available for payment of educational expenses allowed under IRC §25A are based on the amount of qualified tuition and related expenses “paid by the taxpayer during the taxable year.” The actual instructions on Form 1098-T state, “You, or the person who can claim you as a dependent, may be able to claim an education credit on Form 1040 or 1040A, only for the qualified tuition and related expenses that were actually *paid* in 2012.” This begs the question as to why Box 2 on Form 1098-T exists. Amounts billed are not the same as amounts paid. Often the educational institution will only have an amount in Box 2 even though the student paid tuition. Institutions are reluctant (and refuse in many cases) to provide the information needed to properly claim the credit. We suggest removing that box and requiring the institutions to only report the amounts actually paid during the year and thus eligible for the credit.

**Form 8867, Paid Preparer's Earned Income Credit Checklist** - The IRS states on Line 13c, "if you checked NO, the taxpayer cannot take the EIC based on this child." This poses confusion in cases where both taxpayers are the child's parents and the child is the qualifying child of both parents. If the parents agree as to whom will claim the child, the tie-breaker rules do not apply even when one parent's AGI is higher. See Example #11 in 2012 IRS Pub. 17, page 236.

If the parent with the lower AGI is claiming the child, it would appear that the correct answer to Line 13c would be “no” because under the tiebreaker rules, the child would be the qualifying child of the parent with the higher AGI, not the taxpayer filing out the form. The IRS states on Line 13c, "if you checked NO, the taxpayer cannot take the EIC based on this child." The average taxpayer and many tax professionals are confused by the tiebreaker rules.

NATP brought this issue to the attention of the IRS in January 2012 and was told the correct response to that question in this case would be “yes” even though that seems wrong when taking a literal read of the question. The tiebreaker rules are confusing and worse than ambiguous. Requiring the preparer or taxpayer to go back and forth between the instructions and publications to look for applicable examples in order to accurately answer this question is unreasonable. Simply including a “NOTE” that says “Answer ‘yes’ to line 13c if the child is the qualifying child of both parents, and the parents agree as to who will claim the child” will solve the problem and simplify the filing of this form.

## **ATTACHMENT – C**

**A Mid-Tax Season Survey of Membership Experience with  
Late and Amended 1099s and K-1s, Including Commentary**

## 2011 1099 & K1 Issues



### 1. Have your clients received any late 1099s this tax season?

		Response Percent	Response Count
Yes		87.4%	339
No		10.6%	41
Unsure		2.1%	8
<b>answered question</b>			<b>388</b>
<b>skipped question</b>			<b>0</b>


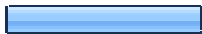

### 2. Approximately how many 1099s have been late?

#### Late 1099s




	1-10 forms	11-25 forms	26-50 forms	51-75 forms	76-100 forms	101+ forms	Response Count
Please select number:	43.4% (63)	34.5% (50)	13.1% (19)	4.1% (6)	3.4% (5)	1.4% (2)	145
<b>answered question</b>							<b>145</b>
<b>skipped question</b>							<b>243</b>



**3. Is this amount more than last year?**

		Response Percent	Response Count
Yes		76.2%	259
No		16.8%	57
Unsure		7.1%	24
<b>answered question</b>			<b>340</b>
<b>skipped question</b>			<b>48</b>

**4. Have your clients received any corrected 1099s this tax season?**

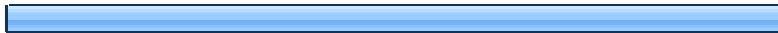


		Response Percent	Response Count
Yes		84.4%	324
No		14.3%	55
Unsure		1.3%	5
<b>answered question</b>			<b>384</b>
<b>skipped question</b>			<b>4</b>

5. Approximately how many 1099s have been corrected?

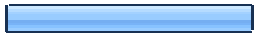







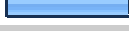
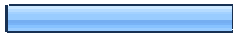

Corrected 1099s

	1-10 forms	11-25 forms	26-50 forms	51-75 forms	76-100 forms	101+ forms	Response Count	
Please select number:	51.4% (107)	32.2% (67)	12.0% (25)	1.9% (4)	1.9% (4)	0.5% (1)	208	
							answered question	208
							skipped question	180

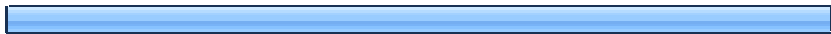


6. Is this amount more than last year?

		Response Percent	Response Count	
Yes		67.6%	215	
No		26.1%	83	
Unsure		6.3%	20	
			answered question	318
			skipped question	70

7. Are there any particular companies that you have seen late or corrected 1099s come from? (Please select all that apply.)

		Response Percent	Response Count
Ameriprise		21.2%	63
Ameritrade		13.5%	40
Baird		2.0%	6
Charles Schwab		31.0%	92
E*Trade		14.1%	42
Fidelity		22.2%	66
<b>Morgan Stanley</b>		<b>40.4%</b>	<b>120</b>
Raymond James		12.5%	37
Vanguard		10.4%	31
I have not had any issues with a particular company		19.5%	58
Other (please specify)		34.0%	101
		<b>answered question</b>	<b>297</b>
		<b>skipped question</b>	<b>91</b>

**8. Have your clients received any late K-1s this tax season?**

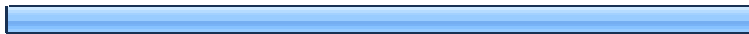

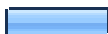
		Response Percent	Response Count
Yes		72.0%	268
No		25.0%	93
Unsure		3.0%	11
<b>answered question</b>			<b>372</b>
<b>skipped question</b>			<b>16</b>

**9. Approximately how many K-1s have been late?**




**Late K-1s**

	1-5 forms	6-10 forms	11-20 forms	20+ forms	Response Count
Please select number:	53.0% (96)	29.3% (53)	12.7% (23)	5.0% (9)	181
<b>answered question</b>					<b>181</b>
<b>skipped question</b>					<b>207</b>

**10. Is this amount more than last year?**

		Response Percent	Response Count
Yes		65.0%	173
No		26.3%	70
Unsure		8.6%	23
<b>answered question</b>			<b>266</b>
<b>skipped question</b>			<b>122</b>

**11. Have your clients received any corrected K-1s this tax season?**

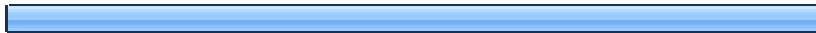


		Response Percent	Response Count
Yes		24.5%	90
No		69.6%	256
Unsure		6.0%	22
<b>answered question</b>			<b>368</b>
<b>skipped question</b>			<b>20</b>

**12. Approximately how many K-1s have been corrected?**

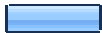



**Corrected K-1s**

	1-5 forms	6-10 forms	11-20 forms	20+ forms	Response Count	
Please select number:	<b>67.8% (40)</b>	20.3% (12)	10.2% (6)	1.7% (1)	59	
					<b>answered question</b>	<b>59</b>
					<b>skipped question</b>	<b>329</b>

**13. Is this amount more than last year?**

		Response Percent	Response Count	
Yes		<b>70.8%</b>	<b>63</b>	
No		24.7%	22	
Unsure		4.5%	4	
			<b>answered question</b>	<b>89</b>
			<b>skipped question</b>	<b>299</b>

**14. During this tax season, how many Form 1040 returns do you personally estimate preparing?**

		<b>Response Percent</b>	<b>Response Count</b>
1-50 returns		8.0%	29
51-150 returns		27.7%	101
151-300 returns		24.5%	89
<b>301+ returns</b>		<b>39.8%</b>	<b>145</b>
		<b>answered question</b>	<b>364</b>
		<b>skipped question</b>	<b>24</b>

**15. Do you have any general comments or anything else that you would like to share concerning late or corrected 1099s or K-1s?**

	<b>Response Count</b>
	150
<b>answered question</b>	<b>150</b>
<b>skipped question</b>	<b>238</b>

## **Do you have any general comments or anything else that you would like to share concerning late or corrected 1099s or K-1s?**

There needs to be enforcement action against partnerships (PTPs and non), in particular, that issue late and corrected K-1s. This is becoming a perennial issue. Taxpayers do not want wait and extend their returns.

IRS wants everyone to e-file early, but you don't dare for fear of the corrected 1099's arriving. Some brokers sent letters to clients that they "reserve the right to mail corrected 1099's until March 1!" IRS has to penalize those sending late/corrected 1099s and they will see many more returns e filed early.

The companies should pay the accounting fees for amending the returns. This is just unacceptable. These companies need to share in the consequences of sending in CORRECTED copies of K1s and 1099s.

Establish a date and set a large penalty for failure to keep it. Require the brokerage firms to pay the additional cost to amend investors' tax returns for any amended or corrected forms received after that date.

Where are the penalties for those companies?

From Morgan Stanley, my customers got notice late last week that corrected 1099's would be coming, but they aren't here yet, and we aren't sure what will be different, so there is no way for me to estimate what the \$\$ damage will be.

Just one thing, it has to stop. I am concerned that filing season may be extended to April 30th or May 15th. I have also found Investment Banks to be anything but helpful in providing information about their reporting of information such as cost basis and foreign dividends as well as the amount of muni bond interest state taxable.

More cap gains are on 1099 div but those missing are taking longer to get. A week or more instead of a couple days in the past.

There is no easy answer to the problem other than extending filing season. Not for that for sure! I file extensions when needed for clients with high end investments that have a history of 1099 corrections and K-1 problems.

This problem is not reserved for K-1s and 1099s it also applies to W-2s. I have never seen so many mistakes made in forty five years of this work.

1099s should be issued in final form. Any adjustments, which are generally minor, should be on the following year 1099.

I have a client that received 2 corrected 1099's for the same account from Schwab. One was received on April 12, 2011.

If K-1's had a 3/15 due date, it would help timely filing of 1040's.

Congress should not have allowed the hold on K-1s till 4/15/11.

The 1099's have been late or corrected for several years and the problem seems to be getting slightly worse each year. I have begun advising clients who have brokerage statements or investment K-1's to not file until March 1. However, we saw corrected 1099's as late as March 15th this year. It appears we may have to advise clients in these situations to do extensions. We expect the problem to be worse next year when firms have to start reporting cost basis also.

Just wondering when they are going to have information correct the first time.



On 1120's with due dates of 3/15 - just did extensions right away-as to not have to amend.

The latest date for 1099 should be March 15. After this date penalties assessed. Partnerships should have the same filing date as S Corps of March 15, after which late penalties should be assessed. This should hold true especially for large public partnerships.

Merrill Lynch has changed the way they show nonqualified tax options on their 1099.

The correction from Geneos was received 4/10/2011--very late and after the return was filed.

Most Schedule C people were late on getting out 1099's if even sent out at all.

How do you fix it? I hate them, but it is what it is. Just over complex reporting that none of us can really endure well.

Yes, if we keep seeing more late 1099s and K1s, then we should have a longer tax season.

Some trusts and investment firms are now late every year with the reason being foreign data is late coming in. The state the feds allow this late filing so why not us also? Some banks are also late. Phooey. This forces me to have too many later filings.

I like them I charge for amended returns!

This is the first year that I have received two corrected 1099B's with gross proceeds changed.

Technically K-1s are not late until after April 15

I have never seen corrected Form K-1s and all of the corrections have been in the financing section - I noticed zero in those fields, raised the issue and it turned out the zeros were incorrect

Didn't create a big problem.

Corrected 1099' do not refer to the original 1099 and it is sometimes very difficult to determine what items have change when you receive multiple 1099's from one source.

I may find out later. Clients sometimes think if something comes after they file, they can take care of it next tax season

Why is it taking so long to get them?

I schedule farmers to come in in February, most other early filers are W-2/EIC with few investments. Those scheduled for March are the ones who have the most 1099's with corrections.

I'd rather they send late 1099's than corrected/amended.

We do 3000+ returns and have not noticed more corrected or late brokerage statements than usual.

Enterprise Products Partners, LP didn't produce their K-1s until 4/1/11 & didn't mail them until 4/8/11. Also, all of the PTPs made it more difficult to download the K-1s. In prior years, you could enter the client's SS# & last name. This year, the client had to register first.

Both 2009 and 2008 were heavy duty years for corrected 1099s. This year has not been a problem.

More an inconvenience. My clients have waited until they got the final forms.

I thought last year (2009 returns) was a lot worse.

Are K-1s actually late? They have to be filed by 04/18/2011 aren't they?

Schwab is especially bad, and I consider them incompetent in general. On a global scale though, there is a bigger issue. The April 15th deadline is an artificial construct. In today's complicated world economy, it's impossible to generate a year's worth of data overnight. This is exacerbated by Congress's actions in passing late legislation. There should be a lobbying effort to extend tax season, or move to staggered filing.

Late tax law changes in 2010, tax software not ready until 2/15/11, 1099s corrected until 3/15/11. This has created an extremely compact filing season. More extensions and more 1040X returns.

IRS should follow up and penalize those that wait until the last minute so the clients might be late filing.

As long as Congress gives the brokerage house more time to get 1099s out, and because of the complexity of investments that brokerage firms report, there is no way to speed them up. If someone has hedge funds, you don't get a final 1099 until after Labor Day.

It is difficult to meet the April deadline with all the late and corrected data coming in so we have to extend a lot of returns. Maybe we need to go to year-long filing.

Some clients are coming in with 1099s corrected 3 and even 4 times. It has been frustrating to say the least.

I think there is a need for IRS regulation allowing the brokerage firms to forego a corrected 1099 if the change is not more than a de minimis amount.

There were several that were less than \$10, one less than a dollar.

This is totally ridiculous. The reporting requirements should be the same for everybody. If the IRS is going to give them additional time to issue the required forms, then we as preparers should be given extra time to prepare returns timely.

The consolidation of EPD (a Master Limited Partnership) did not issue K-1's until March 30, 2011. Charles Schwab has issued at least 2 iterations of CORRECTED 1099's this year, and Morgan Stanley continues its annual exercise of issuing CORRECTED 1099 OID around April 4.

It seems that after the IRS extended the time for getting the 1099's to the clients they just extended the time that the corrected ones are being received.

For the issuer it's "ho hum" what's new. They are sending as late as April 1.

My latest corrected 1099 was issued 3/25, causing an unnecessary amended return. Inexcusable, costly and a waste of time for clients and tax preparers.

The 1099 providers have said they send amended 1099 to all customers regardless if there are any changes. This is very unsettling to clients. There is no accountability regarding corrections or getting the information from other outside sources to produce these documents.

Had several (4) K-1's that didn't arrive until after 4-11-11.

It's a significant problem and getting worse.

One of my clients received a corrected 1099 from Charles Schwab this year for 2009.

Most all brokerage houses issued corrected 1099s in early to mid-March. It's become the norm for my clients. Also saw more corrected 1098s and lots of incorrect tuition statements from colleges.

It is making it very difficult to know when to complete a tax return.

Brokers should have to have the 1099s out on time like everyone else.

Most all of the K-1 that I have, have been late. Most of them have just come out this week or last week.

The K-1's seem to be coming in later and later each year!

IRS should enforce compliance with all third party reports.

Yes, many TIFs are later than normal. However, the "over-all" correction rate (so far) is less. Regardless of this season's unusual circumstances, it leads me to believe it would be wiser to extend filing season for ALL TIFs to Feb 28 and all other return filing deadlines back 60 days from current dates. The overall final deadlines should remain 09/15 and 10/15 respectively.

They just create extra work during a time when we are crushed with last minute returns.

Government should not allow this

I don't really think it is the brokers fault. Companies restate their dividends from taxable to non-taxable distributions based on profits. Not sure what we can do but to advise clients who receive 1099 forms to file later in the season.

IRS needs to hold the brokerages accountable to send information on time or extend filing deadline appropriately.

There has been a lot of incorrect 1099C's. At least 5!

If there are more late 1099/K-1s than last year I have NOT experienced it yet!

If we, as professionals, must adhere to the law, why are they above it?

The service should fine these companies that are always late and cause extra work and extra cost to client.

It's a pain in the rear. Clients don't understand having to wait or filing an amended return if necessary.

Congress passes all types of changes except for due dates of tax return. It is a shame that our legislatures have no clue what they have created.

Extend the filing season to April 30th. Extend the season for 1st Qtr (941's, etc.) to May 15th.

Those who issue late K-1s usually attempt to provide income estimates by 4/1 so an extension can be estimated. Late 1099s provide no notice and are particularly frustrating when the return was just completed the week before.

I warned my clients about late and corrected 1099s so I made my appointments accordingly.

Extend the tax season.....

Amounts entered in wrong box income classification.

Being able to get info online.

If IRS gives everyone until January 31st to get 1099s out, wouldn't it make a lot of sense to extend income tax filing season to June 15 so everyone is not so stressed about late filed K-1s, 1099s, corrected 1099s and K-1s. It seems every year clients come in a little later than usual. We had to call quite a few clients just to get them to bring the rest of their info in and then just plug in the numbers from the missing K-1 once they got it. If we had to wait for everyone to bring in their tax information until they got their K-1s, there is no way we could get all the work done by April 15th.

IMHO the filing date of April 15th should be moved later.

If this situation is allowed to continue, the filing date and the late payment deadline should be moved out to May 15.

Like payroll reports, quarterly filing of 1099 info would eliminate or reduce late or corrected 1099 filing.

Just a way for companies to get around the late file penalty. File a bad 1099 or K-1 then submit a corrected one.

Companies should be fined significantly if corrected forms are sent out. They have no incentive to do it properly the first time. It is always the same companies as well.

Same companies are late every year. There's really no excuse for this. As W-2 and 1099 preparers, we have a Jan 31 deadline we have to reach or we are threatened to be penalized by the IRS.

Law should be changed that K-1's must be issued by 3/31.

There should be more than actually gets corrected.

Not an issue for me.

Too much regulation, too complicated, not enough time, the system is a joke.

How much space and patience do you have to hear me rant and rave? It has been appalling this tax season to experience the cavalier, unconcerned, and arrogant attitude of limited partnerships, in particular, but also some brokerage firms and even trust companies and trust departments of banks. With the exception of limited partnerships, who just do as they please, with NO conscience, the organizations all claim they are late or will be producing corrected information as result of other entities. (In other words, they all "pass the buck.") I have experienced (with several of my clients) the partnership which said its K-1s would be available online on April 1 (try to talk an 80 year-old through getting access to it) and would complete the mailing of the K-1s by April 8! I have experienced the bank who told a client, after two attempts to find out when the "preliminary" K-1s would be available, to "just use last year's numbers." And I have experienced the brokerage firm who

mailed corrected 1099s two days in a row - each for a change of some ridiculously small amount. (I believe one was for an amount under \$10!) I have been in this profession for 35 years, and this season was by far the worst. I have been experiencing late K-1s for many, many years, but never with such arrogance and devil-may-care attitude. I have been explaining to my clients for many years why some things are so late, and that I am at the "bottom of the food chain," but being there has never been so frustrating! Even venting here has not helped! But thank you for putting out the survey - and, if you've gotten this far, for listening!

For the past several years we just wait with clients who have brokerage information--we expect at least 2 versions--sometimes there are 3.

Late K-1s when dealing with Bio energy for farm returns. Farm returns are due March 1st and the K-1s are not rec'd until Feb 27 or 28th.

Some companies issued two corrected 1099 form late into April.

Change filing dates with large penalties for companies that are late.

They should have a definite deadline to have those forms out. It's very frustrating for clients to think they have everything, Have their taxes filed then receive a corrected 1099 or a K-1 that they didn't realize was going to be issued. It ends up costing them more in preparation fees because, in most cases, they have to amend their return. It's good business for me, but not for my clients. I would prefer that they get it right the first time! :-)

1099's and K-1's seem to be coming much later in the tax preparation period.

I expect things to improve as firms adjust to basis reporting.

All need to be done by the Feb 1 due date no ext. should be allowed.

I don't mind when clients get late 1099s or K-1s as long as the client is aware that they will be received late. It is a much worse situation when clients receive corrected statements.

Investment companies need to be fined for not executing timely release of tax information.

Widely Held Mortgage Trusts (WHMTs) law passed in 2007 and went into effect for TAX Year 2009. STINKS! It seems as though they may have decided that they could be later since we had the extra 3 days.

K-1s aren't late yet. They still have until the extended due date. Every year Southwest Securities is corrected and not very accurate.

Quite a few companies issue duplicate 1099 Misc. to employees as bonuses.

Every year 1099s are arriving later and later and then corrections are issued even later.

1099s are being filed up to 1 month late with no penalty.

I understand that some of these problems come from foreign transactions.

We received about 40% of our return information after March 15th, because of delayed and/or corrected 1099's.

How in the hell will one keep up with the 1099 1012 new requirements. Will have to hire 4 new staff which has no impact on increasing revenue. Only helps the president hire additional staff.

Wells Fargo corrected and initial 1099s did not come out until late March, after original returns had been filed resulting in numerous amended returns.

I think it's a chain reaction aggravated by complacency.

Need to repeal that financial institutions have until 2/15 to send out 1099's. They have abused this privilege by sending them out later than the 2/15 deadline.

Late 1099 are mostly incorrect and employer refused to correct, too much work on their end. K-1s investments, partnerships investments came in too late.

Companies are taking advantage of the extension of time to release 1099s that have no business doing so, and were not the intended targets of the new rule. For example, many companies released their information late on their own individual stocks.

Enforce deadlines for large companies.

Hopefully IRS is being careful not to match original & corrected 1099s. I have seen it happen.

Please offer an overview regarding how to approach billing our clients when revised 1099's or K-1's arrive.

The IRS need to seriously consider extending the tax filing deadline.

Helpful to put either and \* or BOLD PRINT the corrected 1099 information. Mark FINAL at top when final 1099 issues. Edward Jones does the best job in my opinion with understandable 1099's and letting us know what has been corrected and if 1099 is final.

It would be better for client to not get a 1099 so early and then have a corrected one. It would just be better for them to file late. Maybe a notice with an estimated amount but that does not look like the official form and that a final one will be coming.

K-1's - Why do we get one when it is for an IRA?

The 1099's and K-1's have been late due to different types of investments, which themselves distribute partnership K-1's to the account.

Get rid of "qualified dividends" and sec 1250 gains. Make all dividends long term capital gain. End this insanity once and for all.

I still have clients that have not given me their 1099-Misc information so that I can do their 1099s for them.

It appears the info that needs to be corrected was incorrectly reported to the broker-dealers from their sources.

The rules for issuing these forms should be more stringent and enforced. It causes taxpayer's to wait for their forms or amend right after we have just filed a return.

Companies need to communicate better with their shareholders about the investments they have and that the shareholders need to wait for all investment forms before filing. I see more and more K-1s from partnerships. It makes it hard to complete all the clients in such a short time frame from March 15th or so to April 15th.

Clients have been getting this info, after filing the taxes and get upset about it. The brokers must stop this practice. This also refers to 1099A, 1099INT, 1099DIV etc. They need to be penalized for not mailing on a time.

Ameritrade did not include dates and cost basis on their statements. We had the client get the info from their contact.

Late K-1's are a particular problem, especially for MLP's. The complication of getting them entered correctly when their sales causes a high probability of error when they arrive late. One alleged client received 7 K-1's from MLP's---2 of these arrived April 15.

Have noticed many IRS errors, especially concerning Schedule C pal and h/i insurance adjustments vs s/e tax.

The comment each year in our practice has been, "they get an extension and they still can't get the info right." We have to then explain to our clients why we can't get their taxes done right away, since the initial statement explicitly states "Important tax document" and then in the letter states, "these numbers will be changed so don't use them to prepare your tax return." Really?

Most of my clients with portfolio income or K-1's wait until mid or late march to file which generally precludes any problem.

What can we do to have all tax forms we need by the first week in February? With the power of today's computers everyone should have their accounting done by January 31st and their accurate tax forms submitted...that should include K-1's also. There should be strict reporting deadlines for all tax forms with severe penalties for late filings.

Congress and their tax law changes are not timely.

Fortunately, I did not have to amend any tax returns but for the last several years came close to re-doing and reprinting the tax returns because of late or corrected 1099's from stockbrokers on mutual funds. I know for one year the deadline was either Feb. 15th or Mar. 15th that the stockbrokers had to send the 1099's. I don't know if that still is the case. But my clients don't receive them almost till the end of March. My biggest problem is with Morgan Stanley.

They surely mess up a filing season. Clients are puzzled when they get them.