DESCRIPTION OF THE CHAIRMAN'S MARK OF THE "TAXPAYER PROTECTION ACT OF 2016"

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by the
SENATE COMMITTEE ON FINANCE
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Prepared by the Staff
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CONTENTS

Page

INTRODUCTION 1

1. GAO to study IRS exercise of its authority to compromise tax matters 2
2. GAO study concerning opportunity for hearing by the IRS Office of Appeals 3
3. GAO study/TIGTA investigation concerning whistleblower awards 5
4. Extend time limit for contesting IRS levy 10
5. Individuals held harmless on improper levy on retirement plans 11
6. Electronic record retention 14
7. Return preparation programs for low-income taxpayers 16
8. Limit redisclosures and uses of consent-based disclosures of tax return information 17
9. Equitable relief from joint liability clarified 19
10. Mandatory e-filing by exempt organizations 21
11. Sense of the Senate to revise Hatch Act to designate all IRS, Treasury, and Chief Counsel employees who handle exempt organization matters as "further restricted" 22

INTRODUCTION

The Senate Committee on Finance has scheduled a committee markup on April 20, 2016 of the "Taxpayer Protection Act of 2016." This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a description of the Chairman's mark.

[1] This document may be cited as follows: Joint Committee on Taxation, *Description of the Chairman's Mark of the* "*Taxpayer Protection Act of 2016,*" April 18, 2016, (JCX-30-16). This document can also be found on the Joint Committee on Taxation website at www.jct.gov.

1. GAO to study IRS exercise of its authority to compromise tax matters

Present Law

Unless a tax matter has been referred to the Department of Justice for prosecution or defense, the IRS has the authority to compromise tax debts.[2] Treasury regulations provide that such offers to compromise tax matters can be accepted: (1) if there is doubt as to the validity of the actual tax liability, (2) if it is doubtful that the tax, interest, and penalties can be collected, or (3) to promote effective tax administration in a case where collection in full would cause the taxpayer economic hardship.[3]

A taxpayer making an offer to compromise a tax case must make certain nonrefundable payments at the time he or she submits the initial offer-in-compromise of a tax case. Taxpayers making a lump sum offer-in-compromise must include a nonrefundable payment of 20 percent of the lump-sum with the initial offer.[4] In the case of an offer-in-compromise involving periodic payments, the initial offer must be accompanied by a nonrefundable payment of the first installment that would be due if the offer were accepted.[5] Taxpayers may instruct the IRS in application of the payment to tax, interest or penalties that are the subject of the offer. In certain cases, the IRS may waive the requirement.

The Internal Revenue Code of 1986, as amended (the "Code") requires that the IRS prescribe guidelines for employees to follow in evaluating the adequacy of offers, including guidelines for determining whether an offer is complete and can be processed, estimating basic living expenses, as well as special rules for handling offers from low-income taxpayers or those that are based solely on doubt as to liability. With the exception of cases in which the proposed offer is based on a frivolous submission,[6] taxpayers whose offers are rejected may appeal the rejection to the IRS Office of Appeals. Non-frivolous offers are deemed accepted if not rejected or returned to the taxpayer within 24 months of submission of the offer.

Compromises with respect to unpaid tax liabilities of $50,000 or more can be accepted only if a public report is filed detailing the terms of the offer (tax in dispute and amount of offer) and the reasons for acceptance, and accompanied by a written opinion from the IRS Chief Counsel.[7] The $50,000 threshold was raised from $500 in 1996.[8]

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[2] Sec. 7122.

[3] Treas. Reg. sec. 1.7122-1(b). For this purpose, economic hardship is defined under Treas. Reg. sec. 301.6343-1.

[4] Sec. 7122(c)(1)(A).

[5] Sec. 7122(c)(1)(B).

[6] Frivolous submissions may be treated as if never submitted, and are not subject to further administrative or judicial review. Secs. 6702(b)(2) and 7122(g).

[7] Treas. Reg. sec. 1.7122-1(e)(6).

Description of Proposal

The Government Accountability Office ("GAO") shall conduct a study on how the IRS presently exercises its authority to compromise tax matters and report to the Senate Committee on Finance and House Committee on Ways and Means within one year of the date of enactment. In particular, the study shall consider the role of the Office of Chief Counsel in consideration of offers, including whether the current requirement of a written opinion for accepted offers that compromise tax in excess of $50,000 remains appropriate, in whole or in part, and what changes, if any, may be desirable.

Effective Date

The proposal would be effective upon date of enactment.

2. GAO study concerning opportunity for hearing by the IRS Office of Appeals

Present Law

The IRS Office of Appeals ("Appeals") is the settlement arm of the IRS. It operates through regional Appeals offices organized by the IRS but operating independently of the local offices of the operating divisions of the IRS responsible for examining returns and collecting taxes. Its operating rules generally are not codified, but rather are found in procedural regulations promulgated by Treasury and in revenue procedures.[9] In general, Appeals has jurisdiction over both pre-assessment and post-assessment cases. The taxpayer generally has an opportunity to seek Appeals jurisdiction after failing to reach agreement with the Examination function and before filing a petition in Tax Court, after filing a petition in Tax Court (but before litigation), after assessment of certain penalties, after a claim for refund has been rejected by an operating division, and after a proposed rejection of an offer-in-compromise in a collection case.

In 1998, the Internal Revenue Service Restructuring and Reform Act of 1998 ("RRA 1998")" directed that the IRS reorganize in a manner to address the needs of taxpayers and to ensure that the reorganization included an independent Appeals function,[10] and mandated that administrative appeals is an independent appeals function.[11] It also codified certain requirements for Appeals, including procedures by which any taxpayer may request early referral to Appeals

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[8] Sec. 503 of the Taxpayer Bill of Rights 2, Pub. L. No. 104-168.

[9] Treas. Reg. sec. 601.106; Rev. Proc. 2016-22, 2016-15 IRB 1, March 23, 2016.

[10] Pub. L. No. 105-206, sec. 1001, July 22, 1998. A report by the Treasury Inspector General for Tax Administration ("TIGTA") found that Appeals' level of independence is consistent with what was intended in the Act. *The Overall Independence of the Office of Appeals Appears to Be Sufficient* (TIGTA 2005-10-141), September 9, 2005.

[11] The operating divisions that resulted from the restructuring are Large Business & International (LB&I), Small Business and Self-Employed (SB/SE), Wage and Investment (W&I) and Tax-Exempt and Governmental Entities (TE/GE).

of unresolved issues from the examination or collection division[12] and use of alternative dispute resolution procedures of mediation or binding arbitration.[13] In addition, the IRS is required to make Appeals officers available on a regular basis in each State and to consider videoconferencing of Appeals conferences for taxpayers seeking appeals in rural or remote areas.[14]

RRA 1998 further required that the Secretary or the Secretary's delegate include with any first letter of proposed deficiency, which allows the taxpayer an opportunity for administrative review in Appeals, an explanation of the entire process from examination through collection with respect to such proposed deficiency, including the assistance available to the taxpayer from the National Taxpayer Advocate at various points in the process.[15]

There is no section of the Code that specifically provides rules requiring Appeals consideration of cases. The rules for Appeals consideration of cases are contained primarily in the Statement of Procedural Rules, which informs the public of the procedures to be followed by the IRS and the public.[16] The regulations provide in part, "[a] taxpayer may request an appeal in any case in which a District Director…has issued a letter proposing adjustments (commonly referred to as the 30-day letter) concerning an item described in paragraph (a)(3) of this section. The taxpayer will be informed of the right to an administrative appeal in this letter."[17] Case law holds that these regulations are "directory and not mandatory in legal effect."[18]

However, the IRS is required to follow certain due process procedures, including the right to allow the taxpayer to request an Appeals hearing, when the IRS seeks to levy against the property of a taxpayer in collection of a Federal tax liability or when the IRS files a notice of lien.[19] The taxpayer also has the right to obtain judicial review of the Appeals officer's determination.[20]

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[12] Sec. 7123(a); Pub. L. No. 105-206, sec. 3465(a)(1), July 22, 1998.

[13] Sec. 7123(b); Pub. L. No. 105-206, sec. 3465(a)(1), July 22, 1998.

[14] Pub. L. No. 105-206, sec. 3465(b), (c), July 22, 1998.

[15] Pub. L. No. 105-206, sec. 3504, July 22, 1998.

[16] Treas. Reg. sec. 601.106.

[17] Treas. Reg. sec. 601.106(b).

[18] *Luhring v. Glotzbach*, 304 F.2d 560, 565 (4th Cir. 1962); see also *Rosenberg v. Comm'r*, 450 F.2d 529, 533 (10th Cir. 1971).

[19] Sec. 6320(b)(1) (right to appeals hearing included in due process notice to a taxpayer whenever the IRS files a notice of lien); sec. 6330(b)(1) (right to appeals hearing before levy)

[20] Sec. 6330(d).

In certain cases affecting large numbers of taxpayers, the IRS may designate a case or an issue for litigation, which means it will not be referred to Appeals.[21] If a case or an issue in a case is designated, the taxpayer generally will not receive a 30-day letter and will be issued a statutory notice of deficiency.

Description of Proposal

The proposal requires the GAO to identify and report on all of the IRS's reasons for not allowing taxpayers an opportunity for administrative review in Appeals. The proposal further requires the GAO to study the IRS's process for designating a case for litigation, including understanding how the IRS makes its determination concerning what constitutes sound tax administration and whether there is a critical need for enforcement activity with respect to certain issues presented. The GAO also is to review the outcomes with respect to cases designated for litigation in the past ten years, including whether some of the cases were ultimately settled with the taxpayer and the IRS Office of Chief Counsel.

The report and recommendations with regard to any issues identified is to be submitted to the Senate Committee on Finance and the House Committee on Ways and Means within one year of the date of enactment.

Effective Date

The proposal is effective on the date of enactment.

3. GAO study/TIGTA investigation concerning whistleblower awards

Present Law

Awards to whistleblowers

The Code authorizes the IRS to pay such sums as deemed necessary for: "(1) detecting underpayments of tax; or (2) detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws or conniving at the same."[22] Generally, amounts are paid based on a percentage of proceeds collected based on the information provided.

The Tax Relief and Health Care Act of 2006 (the "Act")[23] established an enhanced reward program for actions in which the tax, penalties, interest, additions to tax, and additional amounts in dispute exceed $2,000,000 and, if the taxpayer is an individual, the individual's gross income exceeds $200,000 for any taxable year in issue. In such cases, the award is calculated to

[21] Rev. Proc. 2016-22, 2016-15 IRB 1, March 23, 2016 (provides administrative appeals process for cases filed with the Tax Court); Internal Revenue Manual sec. 33.3.6.2, available at https://www.irs.gov/irm/part33/irm_33-003-006.html (procedures for designating a case for litigation).

[22] Sec. 7623.

[23] Pub. L. No. 109-432.

be at least 15 percent but not more than 30 percent of collected proceeds (including penalties, interest, additions to tax, and additional amounts).

Under the Act, the Secretary is required to issue guidance within one year of the date of enactment of the Act for the establishment of the Whistleblower Office within the IRS to administer the reward program. The Whistleblower Office may seek assistance from the individual providing information or from his or her legal representative, and may reimburse the costs incurred by any legal representative out of the amount of the reward. To the extent the disclosure of returns or return information is required to render such assistance, the disclosure must be pursuant to an IRS tax administration contract.

The Act permits an individual to appeal the amount or a denial of an award determination to the United States Tax Court (the "Tax Court") within 30 days of such determination. Tax Court review of an award determination may be assigned to a special trial judge.

The Act also requires the Secretary to conduct a study and report to Congress on the effectiveness of the whistleblower reward program and any legislative or administrative recommendations regarding the administration of the program.

Rules relating to taxpayers with foreign assets

U.S. persons who transfer assets to, and hold interests in, foreign bank accounts or foreign entities may be subject to self-reporting requirements under both the Foreign Account Tax Compliance Act ("FATCA") provisions in the Code and the provisions in the Bank Secrecy Act and its underlying regulations (which provide for FinCEN Form 114, Report of Foreign Bank and Financial Accounts, the "FBAR"), as discussed below. Amounts recovered for violations of FATCA provisions in the Code may be considered for purposes of computing a whistleblower award under the Code. However, the IRS has found that amounts recovered for violations of non-tax laws, including the provisions of the Bank Secrecy Act (and FBAR) for which the IRS has delegated authority, may not be considered for purposes of computing an award under the Code.[24]

FATCA

The Code imposes a withholding and reporting regime for U.S. persons engaged in foreign activities, directly or indirectly, through a foreign business entity.[25] This regime for outbound payments,[26] commonly referred to as the Foreign Account Tax Compliance Act

[24] Chief Counsel Memorandum, "Scope of Awards Payable Under I.R.C. section 7623," April 23, 2012, available at http://www.tax-whistleblower.com/resources/PMTA-2012-10.pdf. Under Title 31, "[t]he Secretary may pay a reward to an individual who provides original information which leads to a recovery of a criminal fine, civil penalty, or forfeiture, which exceeds $50,000, for a violation of [chapter 53 of Title 31]. The Secretary shall determine the amount of a reward...[and]… may not award more than 25 per centum of the net amount of the fine, penalty, or forfeiture collected or $150,000, whichever is less." 31 U.S.C. § 5323.

[25] See, *e.g.*, secs. 6038, 6038B, and 6046.

[26] Hiring Incentives to Restore Employment Act of 2010, Pub. L. No. 111-147.

("FATCA"),[27] imposes a withholding tax of 30 percent of the gross amount of certain payments to foreign financial institutions ("FFIs") unless the FFI establishes that it is compliant with the information reporting requirements of FATCA which include identifying certain U.S. accounts held in the FFI. An FFI must report with respect to a U.S. account (1) the name, address, and taxpayer identification number of each U.S. person holding an account or a foreign entity with one or more substantial U.S. owners holding an account; (2) the account number; (3) the account balance or value; and (4) except as provided by the Secretary, the gross receipts, including from dividends and interest, and gross withdrawals or payments from the account.[28]

Individuals are required to disclose with their annual Federal income tax return any interest in foreign accounts and certain foreign securities if the aggregate value of such assets is in excess of the greater of $50,000 or an amount determined by the Secretary in regulations. Failure to do so is punishable by a penalty of $10,000, which may increase for each 30-day period during which the failure continues after notification by the IRS, up to a maximum penalty of $50,000.[29]

FBAR

In addition to the reporting requirements under the Code, U.S. persons who transfer assets to, and hold interests in, foreign bank accounts or foreign entities may be subject to self-reporting requirements under the Bank Secrecy Act.[30]

The Bank Secrecy Act imposes reporting obligations on both financial institutions and account holders. With respect to account holders, a U.S. citizen, resident, or person doing business in the United States is required to keep records and file reports, as specified by the Secretary, when that person enters into a transaction or maintains an account with a foreign financial agency.[31] Regulations promulgated pursuant to broad regulatory authority granted to the Secretary in the Bank Secrecy Act[32] provide additional guidance regarding the disclosure obligation with respect to foreign accounts.

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[27] Foreign Account Tax Compliance Act of 2009 is the name of the House and Senate bills in which the provisions first appeared. See H.R. 3933 and S. 1934 (October 27, 2009).

[28] Sec. 1471(c).

[29] Sec. 6038D. Guidance on the scope of reporting required, the threshold values triggering reporting requirements for various fact patterns and how the value of assets is to be determined is found in Treas. Reg. secs. 1.6038D-1 to 1.6038D-8.

[30] Bank Secrecy Act, 31 U.S.C. secs. 5311-5332.

[31] 31 U.S.C. sec. 5314. The term "agency" in the Bank Secrecy Act includes financial institutions.

[32] 31 U.S.C. sec. 5314(a) provides: "Considering the need to avoid impeding or controlling the export or import of monetary instruments and the need to avoid burdening unreasonably a person making a transaction with a foreign financial agency, the Secretary of the Treasury shall require a resident or citizen of the United States or a person in, and doing business in, the United States, to keep records, file reports, or keep records and file reports, when the resident, citizen, or person makes a transaction or maintains a relation for any person with a foreign financial agency."

The FBAR must be filed by June 30[33] of the year following the year in which the $10,000 filing threshold is met.[34] The FBAR is required to be filed electronically with the Treasury Department through the FinCEN BSA E-filing System.[35] Failure to file the FBAR is subject to both criminal[36] and civil penalties.[37] Willful failure to file an FBAR may be subject to penalties in amounts not to exceed the greater of $100,000 or 50 percent of the amount in the account at the time of the violation.[38] A non-willful, but negligent, failure to file is subject to a penalty of $10,000 for each negligent violation.[39] The penalty may be waived if (1) there is reasonable cause for the failure to report and (2) the amount of the transaction or balance in the account was properly reported. In addition, serious violations are subject to criminal prosecution, potentially resulting in both monetary penalties and imprisonment. Civil and criminal sanctions are not mutually exclusive.

FBAR enforcement responsibility

Until 2003, the Financial Crimes Enforcement Network ("FinCEN"), an agency of the Department of the Treasury, had exclusive responsibility for civil penalty enforcement of FBAR, although administration of the FBAR reporting regime was delegated to the IRS.[40] As a result, persons who were more than 180 days delinquent in paying any FBAR penalties were referred for collection action to the Financial Management Service of the Treasury Department, which is responsible for such non-tax collections.[41] Continued nonpayment resulted in a referral to the Department of Justice for institution of court proceedings against the delinquent person. In 2003, the Secretary delegated FBAR civil enforcement authority to the IRS.[42] The authority delegated

[33] The Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, Pub. L. No. 114-41, changed the filing date for FinCEN Form 114 from June 30 to April 15 (with a maximum extension for a 6-month period ending on October 15 and with provision for an extension under rules similar to the rules in Treas. Reg. section 1.6081–5) for tax returns for taxable years beginning after December 31, 2015.

[34] 31 C.F.R. sec. 103.27(c). The $10,000 threshold is the aggregate value of all foreign financial accounts in which a U.S. person has a financial interest or over which the U.S. person has signature or other authority.

[35] See http://bsaefiling.fincen.treas.gov/main.html. The predecessor form, Treasury Form TD F 90-22.1, was filed with the IRS Detroit Computing Center.

[36] 31 U.S.C. sec. 5322 (failure to file is punishable by a fine up to $250,000 and imprisonment for five years, which may double if the violation occurs in conjunction with certain other violations).

[37] 31 U.S.C. sec. 5321(a)(5).

[38] 31 U.S.C. sec. 5321(a)(5)(C).

[39] 31 U.S.C. sec. 5321(a)(5)(B)(i), (ii).

[40] Treas. Directive 15-14 (December 1, 1992), in which the Secretary delegated to the IRS authority to investigate violations of the Bank Secrecy Act. If the IRS Criminal Investigation Division declines to pursue a possible criminal case, it is to refer the matter to FinCEN for civil enforcement.

[41] 31 U.S.C. sec. 3711(g).

[42] 31 C.F.R. sec. 103.56(g). Memorandum of Agreement and Delegation of Authority for Enforcement of FBAR Requirements (April 2, 2003); News Release, Internal Revenue Service, IR-2003-48 (April 10, 2003). Secretary of the Treasury, "A Report to Congress in Accordance with sec. 361(b) of the Uniting and Strengthening

to the IRS in 2003 included the authority to determine and enforce civil penalties,[43] as well as to revise the form and instructions. However, the Bank Secrecy Act does not include collection powers similar to those available for enforcement of the tax laws under the Code. As a consequence, FBAR civil penalties remain collectible only in accord with the procedures for non-tax collection described above.

The FBAR is not filed as part of the income tax return nor filed in the same office as that return and, as a result, is not considered "return information" for purposes of the Code and its distribution to other law enforcement agencies is not limited by the nondisclosure rules of the Code.[44] In contrast, the nondisclosure constraints on IRS personnel who examine income tax liability (*i.e.*, Form 1040 reporting) generally preclude the sharing of tax return information with any other IRS personnel or Treasury officials, absent a tax administration purpose.[45] Tax administration is defined as "the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes" and does not necessarily include administration of Title 31.[46] Because Title 31 includes enforcement of non-tax provisions of the Bank Secrecy Act, Title 31 is not, per se, a "related statute," for purposes of finding that a disclosure of such information would be for tax administration purposes. As a result, IRS personnel charged with investigating and enforcing the civil penalties under Title 31 are permitted access to Form 1040 information that would support or shed light on the existence of an FBAR violation only if there is a determination, in writing, that the FBAR violation was in furtherance of a Code violation and the statutes are "related statutes" for purposes of authorizing the disclosure.[47]

Description of Proposal

The proposal requires the GAO to report on whether and to what extent the Treasury Department has paid whistleblower awards for information relating to violations of internal revenue laws under the Code and for FBAR violations under the Bank Secrecy Act.

America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA Patriot Act)" (April 24, 2003).

[43] A penalty may be assessed before the end of the six-year period beginning on the date of the transaction with respect to which the penalty is assessed. 31 U.S.C. sec. 5321(b)(1). A civil action for collection may be commenced within two years of the later of the date of assessment and the date a judgment becomes final in any a related criminal action. 31 U.S.C. sec. 5321(b)(2).

[44] Section 6103 bars disclosure of return information, unless permitted by an exception.

[45] Sec. 6103(h)(1). In essence, section 6103(h)(1) authorizes officers and employees of both the Treasury Department and IRS to have access to return information on the basis of a "need to know" in order to perform a tax administration function.

[46] Sec. 6103(b)(4).

[47] Internal Revenue Manual, secs. 4.26.14.2 and 4.26.14.2.1.

The proposal further requires the Treasury Inspector General for Tax Administration ("TIGTA") to investigate whether and to what extent the IRS is asserting FBAR penalties in lieu of title 26 penalties.

The GAO study and the TIGTA report are to be submitted to the Senate Committee on Finance and the House Committee on Ways and Means within one year of the date of enactment.

Effective Date

The proposal is effective on the date of enactment.

4. Extend time limit for contesting IRS levy

Present Law

The IRS is authorized to return property that has been wrongfully levied upon.[48] In general, monetary proceeds from the sale of levied property may be returned within nine months of the date of the levy.

Generally, any person (other than the person against whom is assessed the tax out of which such levy arose) who claims an interest in levied property and that such property was wrongfully levied upon may bring a civil action for wrongful levy in a district court of the United States.[49] Generally, an action for wrongful levy must be brought within nine months from the date of levy.[50]

Description of Proposal

The proposal extends from nine months to two years the period for returning the monetary proceeds from the sale of property that has been wrongfully levied upon.

The proposal also extends from nine months to two years the period for bringing a civil action for wrongful levy.

Effective Date

The proposal is effective with respect to: (1) levies made after the date of enactment; and (2) levies made on or before the date of enactment provided that the nine-month periods have not expired as of the date of enactment.

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[48] Sec. 6343.

[49] Sec. 7426.

[50] Sec. 6532.

5. Individuals held harmless on improper levy on retirement plans

Present Law

Tax-favored retirement savings

Under the Code, tax-favored treatment applies to traditional and Roth individual retirement arrangements ("IRAs") and certain employer-sponsored retirement plans and ("employer-sponsored plans").[51] The rules for tax-favored treatment include annual limits on the amount that may be contributed to an IRA or employer-sponsored plan.

In general, a distribution from a traditional IRA or employer-sponsored plan (other than from a designated Roth account under an employer-sponsored plan) is includible in income, except to the extent attributable to any contributions that were made to the IRA or plan on an after-tax basis.[52] Contributions made to a Roth IRA or a designated Roth account are made on an after-tax basis.[53] Certain distributions from a Roth IRA or a designated Roth account are excluded from income; otherwise, a distribution is includible in income, except to the extent attributable to contributions.[54] Amounts that are withdrawn from an IRA or employer-sponsored plan before age 59½ and are includible in income are subject to a 10-percent early withdrawal tax unless an exception applies.[55]

A distribution from a traditional IRA or employer-sponsored plan (other than from a designated Roth account) generally may be rolled over to another traditional IRA or employer-sponsored plan (other than to a designated Roth account).[56] The rollover generally can be achieved by a direct payment from the distributing IRA or plan to the recipient IRA or plan direct rollover ("direct rollover") or by contributing the distribution to the recipient IRA or plan within 60 days of receiving the distribution ("60-day rollover"). Amounts that are rolled over generally are not includible in gross income. A distribution from a Roth IRA generally may be rolled over to another Roth IRA by direct rollover or a 60-day rollover, and a distribution from a designated Roth account generally may be rolled over to a Roth IRA or another designated Roth

[51] Secs. 219, 408, and 408A provide rules for IRAs. Tax-favored employer-sponsored retirement plans consist of qualified retirement plans and annuities under sections 401(a) and 403(a), tax-deferred annuity plans under section 403(b), and State and local government eligible deferred compensation plans under section 457(b). Under section 7701(j), the Thrift Savings Fund is treated as a qualified retirement plan.

[52] Secs. 408(d) and 402.

[53] Secs. 408A(c) and 402A(a)(2).

[54] Secs. 408A(d) and 402A(d).

[55] Sec. 72(t).

[56] A rollover is not permitted with respect to an IRA that an individual has inherited from another individual ("inherited IRA"). In addition, the beneficiary of a deceased employee under an employer-sponsored plan, other than a surviving spouse, may roll a distribution from the plan only to an IRA that is designated as an inherited IRA.

account by direct rollover or a 60-day rollover. In general, an individual is permitted to make only one 60-day rollover from an IRA to another IRA within a one-year period.

In addition to these rollovers, an individual generally may convert an amount in a traditional IRA or a non-Roth account under an employer-sponsored defined contribution plan into a Roth IRA or a designated Roth account, referred to as a "Roth conversion." The amount converted is generally includible in the individual's income to the same extent as if a distribution had been made. The conversion may be accomplished by a direct transfer of the amount from the traditional IRA or non-Roth account to the Roth IRA or designated Roth account or by a distribution from the traditional IRA or non-Roth account and contribution to the Roth IRA or designated Roth account within 60 days.

An amount withdrawn from an IRA or employer-sponsored plan made on account of an IRS levy is includible in income in the same manner as other distributions. However, the 10-percent early withdrawal tax does not apply.[57]

Incorrect levies on IRAs and employer-sponsored plans

Present law provides rules under which the IRS returns amounts subject to an incorrect levy.[58] For example, amounts withdrawn from an IRA pursuant to a levy are returned to the individual owning the IRA in the case of a wrongful levy or if the levy was not in accordance with IRS administrative procedures.[59] In the case of a wrongful levy, the IRS is required to pay interest on the amount returned to the individual at the overpayment rate.[60] The IRS is not required to pay interest if the levy was not in accordance with IRS administrative procedures.[61]

Present law does not provide special rules to allow an individual to recontribute to an IRA or employer-sponsored plan an amount withdrawn pursuant to a levy and later returned to the individual by the IRS, or interest thereon. Thus, if an individual wishes to contribute such returned amounts to an IRA or employer-sponsored plan, the contribution is subject to the normally applicable rules, including limits on contributions and the time for making a rollover.

Description of Proposal

Under the proposal, if an amount withdrawn from an IRA ("original IRA") or employer-sponsored plan pursuant to a levy is returned to an individual by the IRS, the individual may contribute the amount returned, and any interest thereon, either to the original IRA or to the

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[57] Sec. 72(t)(2)(vii).

[58] Sec. 6343(b)-(d).

[59] Secs. 6343(b)(2), 6343(d)(2)(A).

[60] Sec. 6343(c)(1).

[61] Sec. 6343(d)(2).

employer-sponsored plan, if permissible,[62] or to a different IRA to which a rollover from the original IRA or employer-sponsored plan would be permitted.[63] The contribution is allowed without regard to the normally applicable limits on IRA contributions and rollovers. The proposal applies to a levied amount that is returned to the individual because the levy on the original IRA or employer-sponsored plan (1) was wrongful or (2) is determined to be premature or otherwise not in accordance with administrative procedures.

A contribution under the proposal must be made by the due date (not including extensions) for the individual's income tax return for the year in which the IRS returns the amount previously levied on. A contribution under the proposal is treated as a rollover ("rollover contribution") made for the taxable year in which the distribution on account of the levy occurred, but is not taken into account for purposes of the limit on one IRA rollover within a one-year period. In addition, except in the case of a rollover contribution that is treated as a Roth conversion, any tax attributable to the amount distributed from the original IRA or employer-sponsored plan by reason of a levy (1) is not to be assessed, (2) if assessed, is to be abated, and (3) if collected, is to be credited or refunded as an overpayment made on the due date for the return for the taxable year in which the amount was levied on.

Under the proposal, the IRS is required to pay interest on an amount returned to the individual at the overpayment rate in the case of a levy that is determined to be premature or otherwise not in accordance with administrative procedures (as well as in the case of a wrongful levy under present law). Interest paid by the IRS on the amount returned to the individual and contributed to an IRA or employer-sponsored plan is treated as earnings within the IRA or employer-sponsored plan after the rollover contribution was made and is not includible in gross income when received from the IRS.

When the IRS returns to an individual an amount that was levied on, the IRS must notify the individual that a contribution to the original IRA, the employer-sponsored plan, or a new IRA may be made of the amount returned, and the interest paid, by the due date (not including extensions) for the individual's income tax return for the year in which the amount is returned.

Effective Date

The proposal is effective for levied amounts, and interest thereon, returned to individuals after December 31, 2016.

[62] The terms of an employer-sponsored plan may not permit the amount returned by the IRS to be contributed to the plan. In addition, in the case of an amount withdrawn from a designated Roth account pursuant to the levy, the returned amount could be contributed only to the original designated Roth account (or to a Roth IRA).

[63] The proposal allows a rollover with respect to an inherited IRA to an inherited IRA of the same type (traditional or Roth) as the original IRA.

6. Electronic record retention

Present Law

Federal executive agencies are required to maintain and preserve Federal records,[64] whether in paper or electronic form, and protect against unauthorized removal of such records. Policies for the retention and disposal of records must conform to the requirements of the record-management procedures, as implemented by the Archivist of the United States.[65] Email accounts are specifically included within the scope of records subject to the record-retention policies.[66] Each agency is required to provide instruction and guidance to persons conducting business on behalf of the agency, including employees, officers and contractors.[67]

The government-wide record-management requirements are in addition to the obligations to protect the sensitive information for which the IRS is responsible. Tax information is sensitive and confidential.[68] The Code imposes civil and criminal penalties to protect it from unauthorized use, inspection or disclosure.[69] As a condition of receiving tax data, outside agencies must establish to the satisfaction of the IRS that they have adequate programs and security protocols in place to protect the data received.[70]

There are no Code provisions governing IRS record retention, management, or transfer of paper or electronic records. The Internal Revenue Manual ("IRM") provides IRS employees

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[64] The Federal Records Act requirements for federal agencies are found in 44 U.S.C. chapter 31 (Records Management by Federal Agencies). See 44 U.S.C. sec. 3301 for a definition of Federal records that generally includes all documentary materials that agencies receive or create in the conduct of official business and that may have evidentiary value with respect to official business, regardless of the physical form of the materials.

[65] See generally Title 44, at chapter 21 (national archives and records administration), chapter 29 (records management by the Archivist of the United States and the General Services Administration), chapter 31 (records management by Federal agencies) and chapter 33 (disposal of records).

[66] The regulations implementing the Federal Records Act are found in 36 CFR chapter XII, subchapter B—Records Management; 36 CFR sec. 1236.22(a). These regulations implement the provisions of 44 U.S.C. chapters 21, 29, 31 and 33 and specify policies for federal agencies' records management programs relating to proper records creation and maintenance, adequate documentation, and records disposition.

[67] A quarterly bulletin published by the National Archives and Records Administration ("NARA") provides guidance to executive agencies. See generally NARA Bulletin 2013-03, available at http://www.archives.gov/records-mgmt/bulletins/2013/2013-03.html.

[68] Sec. 6103(a).

[69] See secs. 7213 (criminal unauthorized disclosure), 7213A (criminal unauthorized inspection) and 7431 (civil remedy for unauthorized inspection or disclosure).

[70] Sec. 6103(p)(4).

processes, procedures, and guidelines regarding records and information management, including the creation, maintenance, retrieval, preservation, and disposition of all records.[71]

Description of Proposal

The proposal codifies the joint directive regarding the management of government records issued by the Office of Management and Budget and the National Archives and Records Administration.[72] Accordingly, the proposal requires that permanent and temporary e-mail records be retained in an appropriate electronic system that supports records management and litigation requirements by December 31, 2016. In addition, the proposal requires that by December 31, 2016, the Commissioner of Internal Revenue ("Commissioner") and the Chief Counsel for the IRS ("Chief Counsel") maintain e-mail records of all principal officers and specified employees for no less than 15 years beginning on the date the record was generated. At the end of the 15-year period, the IRS is required to transfer all the email records for principal officers and specified employees to the National Archives for permanent storage.

Principal officer means any employee whose position is listed under the IRS in the most recent version of the United States Government Manual published by the Office of the Federal Register, any employee who is a senior staff member reporting directly to the Commissioner, and any associate counsel, deputy counsel or division head in the Office of Chief Counsel, and any employee who is a senior staff member who reports directly to Chief Counsel. Specified employee means any employee who holds a Senior Executive Service position (as defined in title 5 of the United States Code) in the IRS or the Office of Chief Counsel, and is not a principal officer of the IRS.

Until the Treasury Inspector General for Tax Administration ("TIGTA") certifies to the Senate Committee on Finance and the House Committee on Ways and Means that the IRS is in compliance with the requirements to maintain and transfer e-mail records, the Commissioner and the Chief Counsel must retain the email records of all personnel. The proposal requires TIGTA to prepare an interim report on the steps being taken to comply with the proposal by September 30, 2016, and a final report on whether the IRS is in compliance with the proposal by April 1, 2017, for the Senate Committee on Finance and the House Committee on Ways and Means.

Effective Date

The proposal is effective on the date of enactment.

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[71] IRM sections 1.15.1-1.15.36, *Records and Information Management*, available at https://www.irs.gov/irm/part1/irm_01-015-001.html. According to NARA, the IRM's coverage of records and information management policies, routines, procedures, and requirements indicates compliance with 36 CFR 1220.34(c) and 36 CFR 1222 through 1238. National Archives and Records Administration, *Department of Treasury, Internal Revenue Service, Records Management Inspection Report*, June 2015, available at http://www.archives.gov/records-mgmt/pdf/irs-inspection.pdf.

[72] Office of Management and Budget and National Archives and Records Administration, *Memorandum for the Heads of Executive Departments and Agencies and Independent Agencies: Managing Government Records Directive* (M-12-18), August 24, 2012, available at https://www.whitehouse.gov/sites/default/files/omb/memoranda/2012/m-12-18.pdf.

7. Return preparation programs for low-income taxpayers

Present Law

The Code provides that the Secretary may allocate up to $6 million per year for matching grants to certain qualified low-income taxpayer clinics.[73] Eligible clinics are those that charge no more than a nominal fee to either represent low-income taxpayers in controversies with the IRS or provide tax information to individuals for whom English is a second language. No clinic can receive more than $100,000 per year.

A qualified low-income taxpayer clinic includes (1) a clinical program at an accredited law, business, or accounting school, in which students represent low-income taxpayers, or (2) an organization exempt from tax under Code section 501(c) which either represents low-income taxpayers or provides referral to qualified representatives. A clinic is treated as representing low-income taxpayers if (i) at least 90 percent of the taxpayers represented by the clinic have income which does not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget, and (ii) the amount in controversy for any taxable year is generally $50,000 or less.[74]

There is no provision in the Code allowing for the allocation of funds for matching grants for return preparation for low-income taxpayers.

In the Consolidated Appropriations Act, 2016,[75] Congress appropriated approximately $2.157 billion to the IRS for taxpayer services, of which not less than $15 million is to be made available for a Community Volunteer Income Tax Assistance ('VITA") matching grants program for tax return preparation assistance. VITA is a program created by the IRS in 1969 which utilizes volunteers to provide tax return preparation and filing service assistance to certain low-income taxpayers and members of underserved populations.

Description of Proposal

The proposal codifies the VITA program and provides that the Secretary may allocate up to $15 million per year in matching grants to qualified entities for the development, expansion, or continuation of certain return preparation programs. The grant funds may be used for ordinary and necessary operation costs, outreach and educational activities relating to the eligibility and availability of income supports available through the Code, and services related to financial education and the establishment of savings accounts, but not for certain overhead expenses. In awarding grants, priority is given to applications that (i) demonstrate assistance to certain low-income taxpayers with an emphasis on outreach; (ii) demonstrate taxpayer outreach and education around available income supports; and (iii) demonstrate specific outreach and focus on

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[73] Sec. 7526.

[74] Sec. 7463.

[75] Pub. L. No. 114-113.

one or more underserved populations. The proposal requires that the programs be administered by a qualified entity, which includes certain institutions of higher education, tax-exempt organizations, coalitions, and State or local government agencies. While the grants awarded under the program would be for a period of one year, the proposal also provides for multi-year grants (not to exceed three years) in certain circumstances. The proposal allows the IRS to use mass communications, referrals, and other means to promote the benefits and encourage the use of the program.

Effective Date

The proposal is effective on the date of enactment.

8. Limit redisclosures and uses of consent-based disclosures of tax return information

Present Law

In general

As a general rule, returns and return information are confidential and cannot be disclosed unless authorized by Title 26.[76] Under section 6103(c), a taxpayer may designate in a request or consent to the disclosure by the IRS of his or her return or return information to a third party. Treasury regulations set forth the requirements for such consent.[77] The request or consent may be in written or non-written form. The Treasury regulations require that the taxpayer sign and date a written consent. At the time the consent is signed and dated by the taxpayer, the written document must indicate (1) the taxpayer's identity information; (2) the identity of the person to whom disclosure is to be made; (3) the type of return (or specified portion of the return) or return information (and the particular data) that is to be disclosed; and (4) the taxable year covered by the return or return information. The regulations also require that the consent be submitted within 120 days of the date signed and dated by the taxpayer. Present law does not require that a recipient receiving returns or return information by consent maintain the confidentiality of the information received. Under present law, the recipient is also free to use the information for purposes other than for which the information was solicited from the taxpayer.

Criminal penalties

Under section 7206, it is a felony to willfully make and subscribe any document that contains or is verified by a written declaration that it is made under penalties of perjury and which such person does not believe to be true and correct as to every material matter.[78] Upon conviction, such person may be fined up to $100,000 ($500,000 in the case of a corporation) or imprisoned up to three years, or both, together with the costs of prosecution.

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[76] Sec. 6103(a).

[77] Treas. Reg. sec. 301.6103(c)-1.

[78] Sec. 7206(1).

Under section 7213, criminal penalties apply to: (1) willful unauthorized disclosures of returns and return information by Federal and State employees and other persons; (2) the offering of any item of material value in exchange for a return or return information and the receipt of such information pursuant to such an offer; and (3) the unauthorized disclosure of return information received by certain shareholders under the material interest proposal of section 6103. Under section 7213, a court can impose a fine up to $5,000, up to five years imprisonment, or both, together with the costs of prosecution. If the offense is committed by a Federal employee or officer, the employee or officer will be discharged from office upon conviction.

The willful and unauthorized inspection of returns and return information can subject Federal and State employees and others to a maximum fine of $1,000, up to a year in prison, or both, in addition to the costs of prosecution. If the offense is committed by a Federal employee or officer, the employee or officer will be discharged from office upon conviction.

Civil damage remedies for unauthorized disclosure or inspection

If a Federal employee makes an unauthorized disclosure or inspection, a taxpayer can bring suit against the United States in Federal district court. If a person other than a Federal employee makes an unauthorized disclosure or inspection, suit may be brought directly against such person. No liability results from a disclosure based on a good faith, but erroneous, interpretation of section 6103. A disclosure or inspection made at the request of the taxpayer will also relieve liability.

Upon a finding of liability, a taxpayer can recover the greater of $1,000 per act of unauthorized disclosure (or inspection), or the sum of actual damages plus, in the case of an inspection or disclosure that was willful or the result of gross negligence, punitive damages. The taxpayer may also recover the costs of the action and, if found to be a prevailing party, reasonable attorney fees.

The taxpayer has two years from the date of the discovery of the unauthorized inspection or disclosure to bring suit. The IRS is required to notify a taxpayer of an unauthorized inspection or disclosure as soon as practicable after any person is criminally charged by indictment or information for unlawful inspection or disclosure.

Description of Proposal

The proposal provides that persons designated by the taxpayer to receive return and return information shall not use the information for any purpose other than the express purpose for which consent was granted and shall not disclose return information to any other person without the express permission of, or request by, the taxpayer.

Effective Date

The proposal is effective for disclosures made after the date of enactment.

9. Equitable relief from joint liability clarified

Present Law

If a married couple elects to file a tax return on which they report their income jointly, they are generally liable jointly and severally for the entire tax liability that should have been reported on the joint return.[79] A spouse may be entitled to relief from joint liability, in whole or in part, under the innocent spouse relief provisions of the Code.

Grounds for relief from joint liability

There are three types of relief: general innocent spouse relief, relief for spouses no longer married or legally separated (separation of liabilities), and equitable relief. The grounds for relief and its scope differ among these three types of relief. In addition, the first two types of relief must be sought no later than two years after the date the IRS began collection activities against the electing spouse. For equitable relief, there is no limitations period in the statute.

General relief from joint liability with respect to an understatement of tax is available to all joint filers who make a timely election for such relief and are able to establish the following.[80] First, the electing spouse must establish that the underpayment is attributable to the erroneous items of the other spouse. Second, the electing spouse must show that at the time of signing the return, he or she did not know or have reason to know there was an understatement of tax. Finally, relief is granted only if it is inequitable to hold the electing spouse liable for the deficiency in tax, based on all facts and circumstances.

Separation of liabilities relief from joint liability with respect to a deficiency is available to persons who are no longer married, are legally separated, or were no longer living together in the 12 months ending with the date innocent spouse relief is elected.[81] The individual electing relief on this basis must establish the portion of any deficiency that is appropriately allocable to him or her. Special rules are provided in the Code for determining allocation of items that benefit one spouse more than the other, property transfers, and children's liability. Relief otherwise available is not permitted with respect to items of which a spouse was aware at the time the return was signed and which contributed to a deficiency.

Equitable relief from joint liability may be available to those spouses who are ineligible under the provisions for general relief or separation of liabilities relief.[82] Such relief is granted only if, taking into account all facts and circumstances, it is inequitable to hold the individual liable for the unpaid portion of tax or for a deficiency with respect to the joint return.

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[79] Sec. 6103(d).

[80] Sec. 6015(b).

[81] Sec. 6015(c).

[82] Sec. 6015(f).

Availability and scope of judicial review

If an individual elects to have the general relief provisions or the separation of liabilities relief provisions apply with respect to a deficiency, the individual may petition the Tax Court to review unfavorable determinations by the IRS with respect to the claimed relief. The Tax Court has held that its authority to review such IRS determinations is under a *de novo* standard.[83]

The claim for relief from joint liability must be filed no later than 90 days after the notice of final determination on relief from joint liability and no earlier than the earlier of the mailing of such notice of final determination or the date which is six months after electing such relief. During the pendency of the Tax Court proceeding, or during the period in which a petition may be filed, collection action is restricted.

In contrast to the above, the extent to which a denial of a claim for equitable relief from joint liability is also subject to judicial review by the Tax Court, the scope of that review, and the standard for any review have been the subject of conflicting appellate decisions. An abuse of discretion standard based on court review of the administrative record was held to be the correct standard in some instances,[84] but other courts have permitted review of information beyond the administrative record while applying an abuse of discretion standard.[85] Still others have applied a *de novo* standard to both the scope of the review and the standard of review.[86]

Description of Proposal

Under the proposal, Tax Court review is not limited to the administrative record, but it may consider evidence that is newly discovered or was previously unavailable. The proposal also clarifies that the Tax Court has jurisdiction to redetermine equitable claims for relief from joint liability, and is not limited to a review for abuse of discretion by the IRS.

The proposal allows taxpayers to request equitable relief with respect to any unpaid liability before the expiration of the collection period or, if paid, before the expiration of the time for claiming a refund or credit.

Effective Date

The proposal applies to petitions or requests filed or pending on and after the date of enactment.

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[83] Sec. 6015(e)(1).

[84] *Jonson v. Commissioner*, 118 T.C. 106, 125 (2002), aff'd on other grounds, 353 F.3d 1181 (10th Cir. 2003); *Mitchell v. Commissioner*, 292 F.3d 800, 807 (D.C. Cir. 2002); *Cheshire v. Commissioner*, 282 F.3d 326, 337-38 (5th Cir. 2002).

[85] *Commissioner v. Neal*, 557 F.3d 1262 (11th Cir. 2009).

[86] *Wilson v. Commissioner*, 705 F.3d 980 (9th Cir. 2013); *Porter v. Commissioner*, 132 T.C. 203, 132 T.C. No. 11 (2009).

10. Mandatory e-filing by exempt organizations

Present Law

In general

The Internal Revenue Service Restructuring and Reform Act of 1998 ("RRA 1998")[87] states a Congressional policy to promote the paperless filing of Federal tax returns. Section 2001(a) of RRA 1998 set a goal for the IRS to have at least 80 percent of all Federal tax and information returns filed electronically by 2007.[88] Section 2001(b) of RRA 1998 requires the IRS to establish a 10-year strategic plan to eliminate barriers to electronic filing.

Present law requires the Secretary to issue regulations regarding electronic filing and specifies certain limitations on the rules that may be included in such regulations.[89] The statute requires that Federal income tax returns prepared by specified tax return preparers be filed electronically,[90] and that all partnerships with more than 100 partners be required to file electronically. For taxpayers other than partnerships, the statute prohibits any requirement that persons who file fewer than 250 returns during a calendar year file electronically. With respect to individuals, estates, and trusts, the Secretary may permit, but generally cannot require, electronic filing of income tax returns. In crafting any of these required regulations, the Secretary must take into account the ability of taxpayers to comply at reasonable cost.

The regulations require corporations that have assets of $10 million or more and file at least 250 returns during a calendar year to file electronically their Form 1120/1120S income tax returns and Form 990 information returns for tax years ending on or after December 31, 2006. In determining whether the 250 return threshold is met, income tax, information, excise tax, and employment tax returns filed within one calendar year are counted.

Tax-exempt organizations

Most tax-exempt organizations are required to file annual information returns in the Form 990 series. Since 2007, the smallest organizations − generally, those with gross receipts of less than $50,000 − may provide an abbreviated notice on Form 990-N, sometimes referred to as an "e-postcard." Which form to file depends on the annual receipts, value of assets, and types of activities of the exempt entity. The Forms 990, 990-EZ, and 990-PF are released to the public on DVDs.

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[87] Pub. L. No. 105-206.

[88] The Electronic Tax Administration Advisory Committee, the body charged with oversight of IRS progress in reaching that goal reported that e-filing by individuals exceeded 80 percent in the 2013 filing season, but projected an overall rate of 72.8 percent based on all Federal returns. See Electronic Tax Administration Advisory Committee, *Annual Report to Congress*, June 2013, IRS Pub. 3415, page 6.

[89] Sec. 6011(e).

[90] Section 6011(e)(3)(B) defines a "specified tax return preparer" as any return preparer who reasonably expects to file more than 10 individual income tax returns during a calendar year.

In general, only the largest and smallest tax-exempt organizations are required to electronically file their annual information returns. First, as indicated above, tax-exempt corporations that have assets of $10 million or more and that file at least 250 returns during a calendar year must electronically file their Form 990 information returns. Private foundations and charitable trusts, regardless of asset size, that file at least 250 returns during a calendar year are required to file electronically their Form 990-PF information returns.[91] Finally, organizations that file Form 990-N (the e-postcard) also must electronically file.[92]

Description of Proposal

The proposal extends the requirement to e-file to all tax-exempt organizations required to file statements or returns in the Form 990 series or Form 8872 ("Political Organization Report of Contributions and Expenditures"). The proposal also requires that the IRS make the information provided on the forms available to the public (consistent with the disclosure rules of section 6104 of the Code) in a machine-readable format as soon as practicable. It is intended that the information be provided to the public in a format that permits one to extract and perform computations on the data but not alter or manipulate the statements or returns from which the data is to be extracted.

Effective Date

The proposal generally is effective for taxable years beginning after date of enactment. Transition relief is provided for certain organizations. First, for certain small organizations or other organizations for which the Secretary determines that application of the e-filing requirement would constitute an undue hardship in the absence of additional transitional time, the requirement to file electronically must be implemented not later than taxable years beginning two years following the date of enactment. For this purpose, small organization means any organization: (1) the gross receipts of which for the taxable year are less than $200,000; and (2) the aggregate gross assets of which at the end of the taxable year are less than $500,000. In addition, the proposal grants IRS the discretion to delay the effective date not later than taxable years beginning two years after the date of enactment for the filing of Form 990-T (reports of unrelated business taxable income or the payment of proxy tax under section 6033(e)).

11. Sense of the Senate to revise Hatch Act to designate all IRS, Treasury, and Chief Counsel employees who handle exempt organization matters as "further restricted"

The Hatch Act ("Act") prohibits civilian executive branch employees of the Federal government, District of Columbia government, and some State and local employees who work in connection with federally funded programs from running for partisan political office and from

[91] Taxpayers can request waivers of the electronic filing requirement if they cannot meet that requirement due to technological constraints, or if compliance with the requirement would result in undue financial burden on the taxpayer.

[92] See Form 990-N, "Electronic Notice for Tax-exempt Organizations Not Required to File a Form 990 or 990-EZ."

engaging in certain other partisan political activities.[93] The Act was significantly amended in 1993, to allow most Federal employees to engage in voluntary, partisan political activities as long as those activities take place during their own free time, away from their federal jobs, and off of federal premises.[94] Employees covered by the Hatch Act may not use their official authority to influence or affect an election and may not knowingly help in political fundraising, run for partisan elective office, knowingly solicit or discourage political activity by persons with certain business before the agency, or engage in political activity on government time or using government resources. Employees at certain listed agencies are further restricted from taking any active part in political management or political campaigns, even while off-duty. Exceptions apply for the President and Vice President and for certain other top officials.

It is the Sense of the Senate that the Act be revised to designate all IRS, Treasury and Chief Counsel employees who handle exempt organization matters as "further restricted." By designating these employees as "further restricted," the public can be assured that any impermissible political activity by an IRS employee that is detected will result in serious penalties, including removal from Federal employment.

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[93] The Hatch Act is codified at 5 U.S.C. sections 1501–1508 (applicable to State and local employees) and 5 U.S.C. sections 7321–7326 (applicable to Federal employees).

[94] Hatch Act Reform Amendments of 1993, sec. 2, Pub. L. No. 103–94, October 6, 1993.