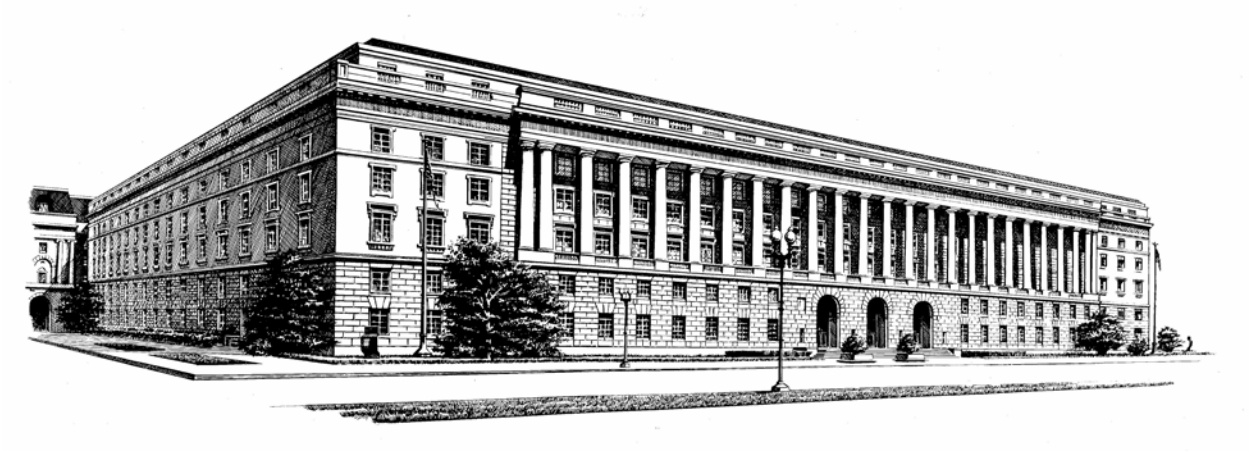

INFORMATION REPORTING PROGRAM ADVISORY COMMITTEE PUBLIC MEETING

OCTOBER 28, 2004
1111 CONSTITUTION AVENUE NW
WASHINGTON, DC

2004 Advisory Group
WORKING SESSION & PUBLIC MEETING
OCTOBER 27-28, 2004
1111 CONSTITUTION AVENUE – RM. 3313
INFORMATION REPORTING PROGRAM ADVISORY COMMITTEE (IRPAC)
AGENDA
THURSDAY, OCTOBER 28, 2004

Time	Topic	Presenters
8:30 - 9:00	Coffee/Refreshments	
9:00 - 9:15	General Remarks	Frank Keith, Chief Communications & Liaison Paul Mamo, Acting Director National Public Liaison Jeffrey Adelstone, Chairman IRPAC
9:15 - 10:15	Opening Remarks Certificates to Departing Members	Mark W. Everson Commissioner of Internal Revenue
10:15 - 10:45	IRPAC Overview Report	Jeffrey Adelstone, Chair, IRPAC
10:45 - 11:00	BREAK	
11:00 - 12:00	Large & Midsize Business Subgroup Report	Bruce Ungar, Deputy Commissioner LMSB Keith Jones, Director, Field Specialists Curt Wilson, Assistant Chief Counsel Ernie Molinari, Chair, LMSB Subgroup
12:00 - 1:15	Lunch	To Be Provided (Members Only)
1:15 - 2:15	Wage & Investment	Henry Lamar, Commissioner W&I Curt Wilson, Assistant Chief Counsel Carolyn Tavenner, Director, Media & Pubs Dorothy Atchison, Chair, W&I Subgroup
2:15 - 3:00	Small Business & Self Employed Subgroup Report	Tom Dobbins, Director, Partnership Outreach SBSE Curt Wilson, Assistant Chief Council Ronald Moonin, Chair, SBSE Subgroup
3:00 - 3:15	BREAK	
3:15 - 4:00	Tax Exempt & Government Entities Subgroup Report	Tom Terry, Senior Advisor, TEGE Barbara Seymon-Hirsch, Chair, TEGE Subgroup
4:00	Adjourn	

INFORMATION REPORTING PROGRAM ADVISORY COMMITTEE

PUBLIC MEETING BRIEFING BOOK

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V. INFORMATION REPORTING PROGRAM ADVISORY COMMITTEE - SMALL BUSINESS/SELF-EMPLOYED SUBGROUP REPORT

VI. INFORMATION REPORTING PROGRAM ADVISORY COMMITTEE - TAX EXEMPT & GOVERNMENT ENTITIES SUBGROUP REPORT

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VIII. EXHIBIT A – IRPAC COMMENTS TO THE IRS OVERSIGHT BOARD

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INFORMATION REPORTING PROGRAM ADVISORY COMMITTEE

GENERAL REPORT

JEFFREY A. ADELSTONE
DOROTHY T. ATCHISON
MARTHA BELL
CAROLE R. CONKLIN
DAVE CORTHELL
PAMELA D. EVERHART
DEBRA HEIKKINEN
CAROL A. KASSEM
LINDA M. LAMPKIN
PATRICIA MCCAULEY
ERNEST V. MOLINARI
RONALD C. MOONIN
STEVE NEISS
RACHEL PALIOTTI
PATRICIA A. RHODES
BARBARA SEYMON-HIRSCH

OCTOBER 28, 2004

GENERAL REPORT
OF THE
INFORMATION
REPORTING PROGRAM ADVISORY COMMITTEE

The Information Reporting Program Advisory Committee (IRPAC) was established in 1991 in response to an administrative recommendation in the final Conference Report of the Omnibus Budget Reconciliation Act of 1989. At that time, Congress recommended that the Internal Revenue Service (IRS) consider "the creation of an advisory group of representatives from the payer community and practitioners interested in the information reporting program to discuss improvements to the system."

Congress believed that such an advisory group would be helpful for purposes of discussing "problems and the feasibility of complying with, or the economic impact of, rules and regulations affecting the reporting industry." Since its inception, IRPAC has worked closely with the IRS to provide recommendations on a broad range of diverse issues intended to improve the Information Reporting Program and achieve fair and equitable treatment of taxpayers.

In preparation for it's public meeting on October 28, 2004, the IRPAC met four times at the IRS headquarters building in Washington DC. IRPAC issues addressed encompassed areas of interest submitted for consideration by all four primary IRS groups—Tax Exempt/Government Entities, Wage & Investment, Large & Medium Sized Businesses, and Small Business/Self Employed. The issues themselves covered a wide array of topics and improvements. Details on any specific issue can be obtained by the reader by reviewing the individual write-up on the issue of interest which is contained as part of this report.

In January, 2004, the IRPAC Chairman participated in the public meeting of the IRS Oversight Board, and presented comments prepared by the Committee on the future direction of Electronic Tax Administration. The Committee will continue to coordinate with both the Oversight Board and IRSAC in advancing payee, payer, and practitioner

issues that promise to improve the IRS Information Reporting Program and increase voluntary compliance with the law.

As the current calendar year comes to a close, the IRPAC has completed its fourth year under the direction of the Office of the National Public Liaison—which has responsibility within the IRS for providing administrative support and direction for the Committee. Coordination provided by NPL is vital in arranging contacts between Committee members and appropriate levels of IRS management. The IRPAC wishes to acknowledge the excellent service it has received from the NPL staff in supporting the work of the Committee.

Further, I would like to acknowledge the outstanding contributions made by the members of the IRPAC during the year. Without their commitment, the program will simply fail to work!

Executive Summary

TITLE OF PAPER: Expansion of the *e-Services* Program Transcript Delivery System

ISSUE STATEMENT: Many payers and withholding agents electronically file tax and information returns and utilize the TIN Matching program. Due to the existing eligibility requirements, these tax practitioners can not participate in the *e-Services* program and, therefore, are not allowed access to the on-line Transcript Delivery System.

REMEDY SOUGHT: Change in participation requirements for the Transcript Delivery System within the *e-Services* program.

IRPAC TEAM: Ernest Molinari, Carol Kassem, Dave Corthell, Steve Neiss, Debra Heikkinen

IRS PARTICIPANT: JoAnn Bass, Keith Jones

BACKGROUND: Internal Revenue Service *e-Services* allows tax practitioners who file at least 100 tax returns electronically to access the Transcript Delivery System to request client account information. Payers who are not tax practitioners are denied access to this service.

SUMMARY OF RECOMMENDATIONS: IRPAC recommends that the Internal Revenue Service grant access to the Transcript Delivery System to payers and withholding agents who are not eligible to participate in the *e-Services* program but file information returns electronically and utilize the TIN Matching Program.

BENEFIT TO PAYERS: On-line access to the transcript database would save payers significant time in obtaining the requested information. More timely receipt of account information would allow payers to reconcile accounts before penalties and interest are assessed or account funds are levied. Payers who have the opportunity to review account information on a timely basis would avoid issues associated with the IRS moving monies between accounts to cover deficiencies.

BENEFIT TO THE IRS: Allowing payers to access account information electronically would minimize time spent by IRS personnel to copy and mail the transcripts, or to fax the information to the payer. IRS personnel would also spend less time assisting payers in reconciling accounts.

DISCUSSION

Thousands of taxpayers who are not individuals or tax practitioners file tax returns and remit taxes annually. These corporate payers or withholding agents may be required to file numerous tax returns including Forms 1120, 940, 941, 945, and 1042. They also file millions of information returns every year, including Forms 1098, 1099 series, and W-2.

In an effort to encourage more taxpayers to utilize electronic tax services, the IRS introduced *e-Services*, a suite of programs that allow certain taxpayers to file tax and information returns electronically, verify name/TIN combinations using TIN Matching, and access transcript information via the Transcript Delivery Program.

In line with the IRS initiative to persuade payers to file tax and information returns electronically, an increasing number of corporate payers are adopting the new "FIRE" procedures, i.e. "File Information Returns Electronically". When the FIRE system was first introduced, information could be transmitted over a dedicated phone line via a modem. This same process is still available for filers. Given that only a limited amount of information can be transmitted over phone lines with no encryption protection for the filer's records, most large filers have not chosen to utilize the program. The transmission of information can take days to accomplish successfully. However, in April 2004, a web-based filing option within the FIRE system was introduced that provides a significantly faster transmission speed coupled with appropriate encryption for security. This new and improved product should dramatically increase the number of corporate payers who will now choose to file electronically.

Corporate payers are also signing up to use the TIN Matching Program. By using this program to confirm valid name/TIN combinations, the payer eliminates or minimizes the number of mismatched records that are filed with the IRS at year-end on information returns. Utilization of this program also helps to reduce the number of accounts that may eventually be reported on a B Notice (CP-2100) or a Penalty Notice (972CG).

However, despite the growing popularity of the TIN Matching Program, current regulations only allow payers to request verification of name/TIN information specific to form types that report payments subject to backup withholding. This restriction precludes payers (or borrowers) from using TIN Matching to verify account information for transactions reported on other form types, such as mortgage interest, cancellation of debt, IRA and pension distributions, or wages.

The *e-Services* program also includes a Transcript Delivery Program. However, access to transcript information using this system is only available to tax practitioners who file 100 or more returns electronically. The System may be used by tax practitioners to request tax return transcripts, account transcripts, and a record of account information for their clients.

This System gives the tax practitioner the ability to resolve client issues quickly using a secure, electronic connection to IRS records.

Tax practitioners are not the only taxpayers that need access to electronic account information at the IRS. Corporate payers and withholding agents deposit millions of dollars annually for various types of tax. A significant number of payers are subject to more than a single type of tax, meaning that they have multiple accounts established at the IRS for the different types of taxes that they remit. Payers may be required to deposit payroll taxes, income taxes, and backup withholding. For the payer to be assured that taxes have been deposited to the appropriate tax type, and remitted timely, he must request a copy of a transcript from the IRS. This written or verbal request must be made to an IRS agent who, in turn, must either mail or fax copies of the account information to the payer. This process may take several days or several weeks depending on how quickly IRS personnel react to the request.

Without electronic access to transcript information, a payer may be unaware that a deposit was not remitted timely, or that a deposit was credited to the wrong tax type or tax year. Moreover, the IRS may have transferred monies from one account to another to offset a deficiency. Penalties and interest may have been assessed before the payer has an opportunity to address any issues. The payer may be required to deposit withholding on a frequent basis (daily, bi-weekly, etc.). However, tax returns that report withholding liabilities may only be required to be filed quarterly, or annually. Thus, the payer may not realize for months that an error has even occurred until the withholding return is filed and the payer is then notified by the IRS that a problem exists with the account.

RECOMMENDATION

IRPAC is recommending that payers or withholding agents who are not currently eligible to participate in the *e-Services* program but file tax or information returns electronically via the FIRE system and utilize the TIN Matching Program (if applicable), be allowed to access the Transcript Delivery System. Access to transcript information should also be given to payers and withholding agents who file returns electronically, but who are currently not allowed access to TIN Matching by law. The Payroll services industry is an example of payers who rely heavily on the availability of transcripts to reconcile millions of dollars in tax deposits. However, they typically only file forms (W-2) that are currently not included in the TIN Matching Program.

TAXPAYERS/INDUSTRIES AFFECTED

Payers and withholding agents who are not currently eligible to participate in *e-Services* will be affected. This change would impact virtually any industry that is required to file tax and information returns and withhold taxes.

BENEFIT TO TAXPAYERS

Payers and withholding agents would be able to review deposit transactions and account activity by accessing on-line information as frequently as desired. Interaction with IRS personnel would not be required. Reconcilements could be performed more timely with fewer adjustments. Posting errors could be addressed and resolved before penalties and interest are assessed.

BENEFIT TO THE INTERNAL REVENUE SERVICE

There are multiple benefits to the IRS in allowing access to on-line transcript information assuming other requirements are met. IRS personnel would save a significant amount of time in not having to process requests for transcript information. In addition, payers who have the ability to access account information on-line on a routine basis would have fewer issues that would require the assistance of an IRS agent to resolve.

Moreover, requiring the use of the TIN Matching Program for the payer to gain access to the Transcript Delivery Program increases utilization of the TIN Matching Program that would, in turn, reduce or ultimately eliminate the processes relative to B Notices and Penalty Notices.

Lastly, as IRS continues to move closer to their goal for having taxpayers filing electronically, they have an opportunity to entice payers not currently using the FIRE system to begin filing returns electronically if there is an added benefit allowing them access to on-line transcript information.

EXECUTIVE SUMMARY

TITLE OF PAPER: Clarification of an Employer's and an Employee's Federal Income Tax Withholding, FICA and FUTA Obligations When an Employee Makes a Section 83(b) Election and the Applicable Tax Deposit Date

ISSUE STATEMENT:

1. Employers and employees require clarification from the Service as to when their federal income tax withholding, FICA and FUTA tax liabilities arise when an employee makes a Section 83(b) Election.

2. Employers also require clarification as to the date when their tax deposits are due when an employee makes a Section 83(b) Election.

REMEDY SOUGHT: IRPAC asks that the Service issue guidance:

1. Clarifying when an employer's and an employee's federal income tax withholding, FICA and FUTA obligations arise when an employee makes a Section 83(b) Election, and

2. Permitting an employer to determine that its tax deposit obligations arise upon receipt from an employee of a Section 83(b) Election Statement rather than at the time of the property transfer.

IRPAC TEAM: Ernest Molinari, Carol Kassem, Debra Heikkinen, David Corthell, and Steven Neiss

IRS PARTICIPANTS: Keith Jones

BACKGROUND: This issue arises for employers that grant restricted shares to employees as compensation for their services.

SUMMARY OF RECOMMENDATIONS: As part of the Section 83 issues addressed on the Department of Treasury's 2004-2005 Priority Guidance Plan, the Service should:

1. Provide updated guidance as to when an employer's and an employee's liabilities for federal income tax withholding and FICA taxes and an employer's FUTA tax liability arise in the context of a Section 83(b) Election.

2. Clarify that an employer's payroll tax deposit liability, if any, arises from the date the employer receives a Section 83(b) Election statement from an employee.

TAXPAYERS/INDUSTRY AFFECTED: Employers and Employees

BENEFIT TO TAXPAYERS (PAYORS & PAYEES): The requested guidance would provide employers and employees with a clear understanding of their federal income tax withholding, FICA and FUTA obligations when an employee makes a Section 83(b) Election. Employers would make tax deposits on a timely basis and accurately complete Form 941 Schedule B, *Employer's Record of Federal Tax Liability*.

BENEFIT TO THE IRS: The requested guidance would ease the administrative burden of compliance.

EXECUTIVE SUMMARY	
TITLE OF PAPER:	Procedures for Correcting Errors on a Previously Filed Form 941 or Form 945
ISSUE STATEMENT:	Should the Service permit the filing of "stand-alone" amendments of Form 941 and Form 945? Should the Service permit the use of a special "Amended Return" designations on Forms 941 and 945 to cover such stand-alone filings of amended payroll tax returns.
REMEDY SOUGHT:	The development of procedures (e.g., a regulation, revenue ruling, revenue procedure, notice and/or instructions to the forms) recognizing "stand-alone" amended returns of Forms 941 and 945 as an alternative available to all employers and their payroll service providers.
IRPAC TEAM:	Ernest Molinari, Carol Kassem, Debra Heikkinen, David Corthell, and Steven Neiss
IRS PARTICIPANT:	Keith Jones
BACKGROUND:	This issue arises for over one million business taxpayers (20 percent of employers) who use reporting/paying agents to prepare and to file their tax returns and for all employers in general.
SUMMARY OF RECOMMENDATIONS:	The Service should develop procedures (e.g., a regulation, revenue ruling, revenue procedure, notice and/or instructions to the forms) recognizing the use of "stand-alone" amended Forms 941 and 945 as an alternative available to all employers and their payroll service providers. The use of stand-alone amended returns is an acceptable and administratively expedient method for correcting the filing periods in which the errors actually occurred, provided the stand-alone amended returns adequately explain the reasons for the correction.
TAXPAYERS/INDUSTRY AFFECTED:	Employers, Reporting Agents, Paying Agents, CPAs, Enrolled Agents, and other tax return prepare
BENEFIT TO TAXPAYERS (PAYORS & PAYEES):	1. The use of stand-alone amended returns to make corrections to prior periods would be more practical for employers, reporting agents, and paying agents and would reduce their administrative burden. 2. A significant portion of an employer's problems with resolving penalties and collection activity would be eliminated.
BENEFIT TO INTERNAL REVENUE SERVICE:	1. The use of stand-alone amended returns to make corrections to prior periods would be more practical for the Service and would reduce its administrative burden.

EXECUTIVE SUMMARY	
	2. A significant portion of the Service's problems with reconciling Forms 941 and W-2 pursuant to the Combined Annual Wage Reporting ("CAWR") program would be eliminated. 3. Payroll taxes would be deposited on a more timely basis, because the deposits would be made in conjunction with the amended returns rather than be delayed until the end of the period (i.e., calendar quarter in the case of Forms 941 or year in the case of Form 945) when the error is discovered which instructions currently require. 4. The stand-alone amended returns would facilitate the Service's development of an effective electronic filing program for Forms 941 and 945.

INFORMATION REPORTING PROGRAM ADVISORY COMMITTEE (IRPAC)

1111 Constitution Avenue, NW, Room 7563, Washington, D.C. 20224

Chair

Large & Mid-Size Business Sub-Committee:
Ernest Molinari, Chair
David Corthell
Debra Heikkinen
Carol Kassem
Steven Neiss

Tax Exempt/ Government Entities Sub-Committee:
Barbara Seymon-Hirsch, Chair
Pamela Everhart
Linda Lampkin
Patricia McCauley

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Ronald Moonin, Chair
Martha Bell
Carole Conklin
Rachel Paliotti

Wage & Investment Sub-Committee:
Dorothy Atchison, Chair
Patricia Rhodes

October 1, 2004

Mr. Keith Jones
Internal Revenue Service
Director Field Specialists
Mint Building M-3-44
9th & H Street NW
Washington, DC 20005

Re: Procedures for Correcting Errors on a Previously Filed Form 941 or Form 945

Dear Mr. Jones:

On behalf of the Information Reporting Program Advisory Committee (IRPAC), I want to thank you for the opportunity to provide the Internal Revenue Service (IRS) with comments concerning the amendment of Forms 941, *Employer's Quarterly Federal Tax Return*, and Forms 945, *Annual Return Of Withheld Federal Income Tax,* for the period in which the error actually occurred.

IRPAC was established in 1991 in response to an administrative recommendation in the final Conference Report of the Omnibus Budget Reconciliation Act of 1989. Since its inception, IRPAC has worked closely with the IRS to provide recommendations on a wide range of issues intended to improve the information reporting program and achieve fairness to taxpayers. IRPAC members are drawn from and represent a broad sample of the payer community, including major professional and trade associations, colleges and universities, and state taxing agencies.

Issue

IRS instructions and other guidance describe the procedures that employers and reporting/paying agents must follow in order to pay and/or report wage and tax adjustments for prior tax periods and previously filed Forms 941 or Forms 945. Generally such adjustments must be made in conjunction with the current period's return as explained with an attached Form 941c, *Supporting Statement To Correct Information*. This procedure has proven to be impractical for employers and payroll service providers for a number of reasons as summarized below. Over one million employers, who collectively employ one-third of the private sector work force, use payroll service providers to pay and file all employment taxes and related returns electronically. Payroll service providers generally amend Forms 941 and 945 upon request of clients.

Recommendations

IRPAC recommends that the IRS develop procedures recognizing "stand-alone" amended returns as an alternative available to all employers and their payroll service providers, for the following reasons:

1. Lack of recognition of the "stand-alone" amendment procedure represents a potentially burdensome administrative issue that may adversely affect over one million business taxpayers (20 percent of employers) who rely on Reporting Agents.

2. The issue requires an understanding of payroll service provider practices and views to determine the proper tax treatment. The attached paper provides a recommendation as to how the issue may be resolved, including a legal analysis supporting the authority of the IRS to resolve the issue through guidance.

3. The issue can be resolved through published administrative guidance (e.g., a regulation, revenue ruling, revenue procedure, notice and/or instructions to the forms).

This guidance would benefit the IRS and Treasury through more effective, efficient input of the adjustments; would not affect the application of the interest provisions, and would benefit over one million business taxpayers who rely on payroll service providers them to comply with the withholding, deposit and reporting rules and the payroll service providers themselves.

Rationale

The current-period adjustment procedures are impractical for employers and payroll service providers:

1. Payroll service providers generally only amend the returns they originally prepared, and only apply adjustments from prior tax periods for which they were responsible, because of accuracy concerns. Without direct first-hand knowledge of the returns filed and deposits made for prior tax periods, a payroll service provider is unlikely to have any knowledge of--

    - Whether or when the original return was filed,

    - Whether the reported liability amounts and dates were correct,

    - Whether the deposits were actually made, and,

    - Whether there were any intervening adjustments between the original filing and the requested correction.

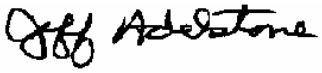
Without direct knowledge of the accuracy of previously reported information, many subsequent corrections could be incorrect. The source of any resulting errors would also be ambiguous, resulting in the taxpayer and possibly multiple service providers each believing the other to be responsible for any reporting errors and each independently working with the IRS to trace the errors.

2. With no ability to determine the accuracy of such adjustments, many payroll service providers would refuse to apply credits or pay additional amounts due based on returns and Forms 941c that were prepared by taxpayers or third parties. Employers could be faced with the prospect of having to discontinue using a payroll service, possibly reverting from EFTPS and electronic filing to paper filings and paper FTD coupons, in order to report adjustments.

Even though the various form instructions and Circular E do not contemplate a method of correction using stand-along amendments, IRPAC believes that it is not precluded by the Treasury regulations. Moreover, this procedure may be the better administrative approach for the IRS, minimizing a significant volume of problems and correspondence that can otherwise result when the adjustment must be related back to an earlier period.

IRPAC asks that the IRS consider the recommendations in the attached position paper and develop appropriate guidance recognizing stand-alone amended returns as an additional alternative available to all employers. If you have any questions or need additional information regarding IRPAC's comments regarding a standalone Form 941c, please contact Debra Heikkinen at (860) 280-3092.

Sincerely,



Jeffrey Adelstone
Chair, IRPAC

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Patricia Rhodes

October 1, 2004

Mr. Keith Jones
Internal Revenue Service
Director Field Specialists
Mint Building M-3-44
9th & H Street NW
Washington, DC 20005

Re: Promulgation of Rules of Administrative Convenience

Dear Mr. Jones:

On behalf of the Information Reporting Program Advisory Committee (IRPAC), I want to thank you for the opportunity to provide the Internal Revenue Service (IRS) with comments concerning the promulgation of rules of administrative convenience for the application of FICA, FUTA, and income tax withholding to wages resulting from the exercise, sale or arm's length disposition of nonstatutory stock options.

IRPAC was established in 1991 in response to an administrative recommendation in the final Conference Report of the Omnibus Budget Reconciliation Act of 1989. Since its inception, IRPAC has worked closely with the IRS to provide recommendations on a wide range of issues intended to improve the information reporting program and achieve fairness to taxpayers. IRPAC members are drawn from and represent a broad sample of the payer community, including major professional and trade associations, colleges and universities, and state taxing agencies.

Issue

Employers must collect from an employee, who exercises, sells or disposes of a nonstatutory stock option in an arm's length transaction, the income tax withholding and the employee's share of FICA on the wages, if any, resulting from such transaction. On March 14, 2003, the IRS issued a Field Directive on the Assertion of the Penalty for Failure to Deposit Employment Taxes that establishes guidelines for examiners on assertion of the penalty for failure to deposit employment taxes owing as a result of exercise of nonqualified stock options. The Directive provides that, until such time as guidance is issued or the directive is modified or revoked, the IRS will not challenge the timeliness of deposits, if such deposits are made within one day of the settlement date, as long as such settlement date does not fall more than three days from date of exercise. The IRS recognizes that employers often require additional time beyond the date when the

applicable tax deposit is due to collect such taxes from the employee on these non-cash payments.

Recommendation

IRPAC recommends that the Service issue proposed and temporary regulations granting the Commissioner authority to issue rules of administrative convenience. Pursuant to this authority, IRPAC recommends that the Service issue a notice allowing an employer to:

a. Deem the payment of wages to occur by a date(s) the later of 10 business days after the sale, transfer or disposition in an arm's length transaction of the nonstatutory option or the last day of the quarter in which the nonstatutory option is exercised, sold or disposed of in an arm's length transaction; and,

b. Treat an employer's associated FICA and FUTA liabilities and an employee's associated FICA and income tax withholding liabilities as arising on the deemed payment date(s).

c. If payment is deemed to occur by the later of 10 business days after the sale, transfer or disposition in an arm's length transaction of the nonstatutory option or the last day of the quarter in which the nonstatutory option is exercised, sold or disposed of in an arm's length transaction, no payment for interest will be required.

   If payment is deemed to occur after the later of 10 business days after the sale, transfer or disposition in an arm's length transaction of the nonstatutory option, or the last day of the quarter in which the nonstatutory option is exercised, sold or disposed of in an arm's length transaction, interest at the section 6621(b) rate will be paid.

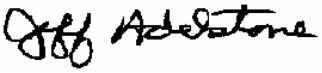
d. The rules of administrative convenience would be effective upon date of publication, with the ability of taxpayers to rely upon the notice for prior periods.

Rationale

The rules of administrative convenience would provide employers with sufficient time to collect the employee's share of FICA and federal income tax withholding on noncash payments and to make employment tax deposits on a timely basis. Yet the interest charge would also encourage early payment. Such rules would also ease the Service's administrative burden of compliance with the employment tax payment rules for nonstatutory options and should not cause a loss or revenue due to the additional interest charges (determined on a net present value basis).

IRPAC asks that the IRS consider these recommendations and the suggested temporary and proposed regulations in the attached paper and develop appropriate guidance. If you have any questions or need additional information regarding IRPAC's comments regarding a the promulgation of the suggested rules of administrative convenience, please contact Debra Heikkinen at (860) 280-3092.

Sincerely,



Jeffrey Adelstone
Chair, IRPAC

ATTACHMENT

FEDERAL INSURANCE CONTRIBUTIONS ACT

Nonstatutory Stock Options: FICA: FUTA: Income Tax Withholding – Amendments to Reg. § 31.3121(a)-1, providing guidance concerning the application of FICA, FUTA and the collection of income tax at the source to nonstatutory stock options, are proposed and temporary (published in the Federal Register on [Date]) (REG-XXXXXX-XX).

□ In § 31.3121(a)-1, subparagraph (e) is redesignated as subparagraph (e)(i) and subparagraphs (e)(ii) and (iii) are added to read as follows:

§ 31.3121(a)-1. Wages.

* * * * *

(e)(i) *Paid in a medium other than cash.* Generally, the medium in which remuneration is paid is also immaterial…

(ii) *Rules of administrative convenience.* The Commissioner may prescribe rules of administrative convenience for employers and employees to satisfy the obligations under sections 3101 and 3111 that arise with respect to wages received pursuant to the exercise, sale or arm's length disposition of a nonstatutory stock option. Such rules may include, but are not limited to, permitting employers to deem the payment of wages due to the exercise, sale or other arm's length disposition of the nonstatutory stock option as occurring at a specific date or dates, including over a period of dates.

(iii) *Effective date.* This paragraph 1(e) is effective on or after the date of publication in the Federal Register.

FEDERAL UNEMPLOYMENT TAX ACT

Nonstatutory Stock Options: FICA: FUTA: Income Tax Withholding – Amendments to Reg. § 31.3306(b)-1, providing guidance concerning the application of FICA, FUTA and the collection of income tax at the source to nonstatutory stock options, are proposed and temporary (published in the Federal Register on [Date]) (REG-XXXXXX-XX).

□ In § 31.3306(b)-1, subparagraph (e) is redesignated as subparagraph (e)(i) and subparagraphs (e)(ii) and (iii) are added to read as follows:

§ 31.3306(b)-1. Wages.

* * * * *

(e)(i) *Paid in a medium other than cash.* Except in the case of remuneration paid for services not in the course of the employer's trade or business (see § 31.3306(b)(7)-1), the medium in which the remuneration is paid is also immaterial…

(ii) *Rules of administrative convenience.* The Commissioner may prescribe rules of administrative convenience for employers to satisfy the obligations under sections 3301 that arise with respect to wages received pursuant to the exercise, sale or arm's length disposition of a nonstatutory stock option. Such rules may include, but are not limited to, permitting employers to deem the payment of wages due to the exercise, sale or arm's length disposition of the nonstatutory stock option as occurring at a specific date or dates, including over a period of dates.

(iii) *Effective date.* This paragraph 1(e) is effective on or after the date of publication in the Federal Register.

WITHHOLDING FROM WAGES

Nonstatutory Stock Options: FICA: FUTA: Income Tax Withholding – Amendments to Reg. § 31.3401(a)-1(a), providing guidance concerning the application of FICA, FUTA and the collection of income tax at the source to nonstatutory stock options, are proposed and temporary (published in the Federal Register on [Date]) (REG-XXXXXX-XX).

□ In § 31.3401(a)-1(a), subparagraph (4) is redesignated as subparagraph (4)(i) and subparagraphs (4)(ii) and (iii) are added to read as follows:

§ 31.3401(a)-1. Wages.

* * * * *

(a) * * *

(4)(i) *Paid in a medium other than cash.* Generally, the medium in which remuneration is paid is also immaterial…

(ii) *Rules of administrative convenience.* The Commissioner may prescribe rules of administrative convenience for employers and employees to satisfy the obligations under section 3401 that arise with respect to wages received pursuant to the exercise, sale or arm's length disposition of a nonstatutory stock option. Such rules may include, but are not limited to, permitting employers to deem the payment of wages due to the exercise of the nonstatutory stock option as occurring at a specific date or dates, including over a period of dates.

(iii) *Effective date.* This paragraph 4 is effective on or after the date of publication in the Federal Register.

INFORMATION REPORTING PROGRAM ADVISORY COMMITTEE (IRPAC)

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Wage & Investment Sub-Committee:
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Patricia Rhodes

October 1, 2004

Ms. Carole A. Barnette
Review Chief
Specialty Business Forms and Publications
Internal Revenue Service
1111 Constitution Avenue
Room 6411
Washington, DC 20224

Mr. Robert A. Erickson
Senior Technical Advisor
Tax Forms & Publications
Internal Revenue Service
Room 6406
Washington, DC 20224

Re: Changes to Form 1099-R Instructions for tax year 2004

Dear Ms. Barnette and Mr. Erickson:

On behalf of the Information Reporting Program Advisory Committee (IRPAC) I want to thank you for your cooperation and timely responses in addressing concerns raised by IRPAC earlier this year relating to changes made to the Internal Revenue Service's (IRS's) Form 1099-R Instructions for tax year 2004.

IRPAC was established in 1991 in response to an administrative recommendation in the final Conference Report of the Omnibus Budget Reconciliation Act of 1989. Since its inception, IRPAC has worked closely with the IRS to provide recommendations on a wide range of issues intended to improve the information reporting program and achieve fairness to taxpayers. IRPAC members are drawn from and represent a broad sample of the payer community, including major professional and trade associations, colleges and universities, and state taxing agencies.

Earlier this year, the IRS responded to a request from IRPAC to simplify the distribution codes used to report the different types of distributions that could be reported in Form 1099-R. As a result of this request, certain distribution codes were no longer eligible to be used for certain types of distributions. Specifically, the IRS changed the instructions to the 2004 Form 1099-R, box 7, for Distribution Codes 1 and 2.

The instructions changed the use of Code 2 (Early Distribution, exception applies) in such as manner as to exclude distributions that are part of a series of substantially equal periodic payments as described in section 72 (q), (t) and (v) from being eligible for Code 2 usage. Payers were instructed to report these types of distributions now as Code 1 distributions, (Early Distribution, no known exception).

This change was intended to simplify reporting for these types of distributions and to aid payers who did not have a system currently in place to monitor or verify whether a distribution met an exception to the early distribution rules.

However, unknown to the IRS, many financial institutions had invested heavily over the years in developing systems and implementing procedures necessary to calculate the different distribution methods allowed in order to meet the penalty tax exceptions and report payments accordingly. They also produced sales and advertising materials correctly identifying the operation of these sections of the Internal Revenue Code. Taxpayers relied upon these representations and/or contractual promises in making their investment decisions.

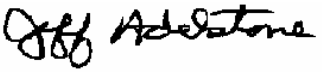
The change to the instructions in May 2004, issued without adequate warning or advance notice to payers and taxpayers, would have caused confusion among taxpayer/recipients of the Forms 1099-R who had received Forms 1099-R in prior years reporting their payments as not subject to the penalty tax. Many of them would not have realized that the code reported on the Form 1099-R for tax year 2004 had been changed and possibly would have incorrectly reported and paid the penalty tax on early distributions, not realizing that it could have been be avoided by filing an additional tax form, Form 5329.

From an administrative and computer systems standpoint, making this change for 2004 in 2004 may have been impossible, as many financial institutions entered these type of distributions into their administrative systems using a Code 2 when the series of payments were originally established. Making system modifications to undoing this in mid-year would have been costly and time consuming. Also, there would have been substantial time and expense required to change the administrative systems to re-code earlier 2004 payments and to "block" new series of SEPPs from being identified as Code 2.

The IRS reviewed IRPAC's recommendations and acted quickly by posting a revision to the Form 1099-R instructions on July 29th, 2004, allowing reporting entities and individual taxpayers to continue the status quo.

IRPAC would like to commend the Tax Forms and Publications Division for their cooperation and quick response in resolving this important information reporting issue. If you have any questions or need additional information regarding this issue, please contact Ernie Molinari at (973) 802-4810.

Sincerely,



Jeffrey Adelstone
Chair, IRPAC

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Wage & Investment Sub-Committee:
Dorothy Atchison, Chair
Patricia Rhodes

October 1, 2004

Ms. Dawn Davis
Internal Revenue Service
Compliance, Compliance Policy,
Reporting Enforcement, Penalties & Interest
5000 Ellin Rd
Lanham, MD 20706

Re: 972CG Notices

Dear Ms. Davis:

On behalf of the Information Reporting Program Advisory Committee (IRPAC), I am writing to request that the Internal Revenue Service (IRS) review its current process of handling taxpayer responses to 972CG Notices (information return penalty notices).

IRPAC was established in 1991 in response to an administrative recommendation in the final Conference Report of the Omnibus Budget Reconciliation Act of 1989. Since its inception, IRPAC has worked closely with the IRS to provide recommendations on a wide range of issues intended to improve the information reporting program and achieve fairness to taxpayers. IRPAC members are drawn from and represent a broad sample of the payer community, including major professional and trade associations, colleges and universities, and state taxing agencies.

These comments are provided as a follow-up to a productive dialogue held at a meeting on Tuesday afternoon, April 27th, 2004 in Washington, DC. Present at the meeting were yourself, Ms. Oneida Stephens, your colleague in the Office of Penalty and Interest, and the members of IRPAC's Large & Mid-size Business (LMSB) subgroup. The purpose of this meeting was to discuss issues relevant to IRS processes currently in place for reviewing Penalty Notices 972CG.

During the meeting, you explained to the LMSB subgroup that the information return penalty notice process was recently centralized into five SB/SE Campuses. In addition, there have also been noticeable changes in procedures used by the IRS to review requests received from the taxpayer community requesting penalty relief. You explained that the taxpayer's prior history of noncompliance/abatements was going to

be a factor in determining if a taxpayer meets "reasonable cause", and that "standard letters" received from taxpayers would be more closely scrutinized.

It is evident from the information provided to IRPAC members by the taxpayer community that the SB/SE Campuses are responding to taxpayer abatement requests in an inconsistent manner, and at times, the responses appear to be drafted by individuals that do not fully understand what is required to meet the reasonable cause standards, as set forth in Treasury Regulation (Treas. Reg.) § 301.6724-1.

Moreover, documentation presented to IRPAC has shown a clear lack of consistency among the different SB/SE Campuses. For example, we have been presented with, and reviewed various versions of an IRS form letter, LTR 1948C, that in some instances provides justification for, or an explanation as to why a request for abatement has been denied and others do not. Also, some versions of the letter provide the name of an IRS contact and some do not provide any specific contact information. Others request additional information, but are not requesting information specific enough to allow the taxpayer to respond in a satisfactory manner.

To address the lack of consistency and conformity, IRPAC respectfully requests that the IRS take steps to ensure that individuals responsible for reviewing taxpayer abatement request letters be properly trained to handle the abatement process, and that a work standard be developed in the SB/SE Campuses to promote uniformity and equitable treatment for all taxpayers.

It is IRPAC's understanding that abatement requests from large and mid-size businesses are being handled by individuals who ordinarily deal with small businesses and self-employed individuals. We believe that large and mid-size businesses have developed complex infrastructures and systematic processes to comply with the information return filing requirements (including TIN solicitation and B-notice requirements) as set forth in Chapter 61, Subchapter A, Part III, Subpart B of the Internal Revenue Code of 1986. These processes, which have been implemented by large and mid-size taxpayers, are subject to additional scrutiny by the IRS as a part of routine corporate audits. IRS personnel need to be trained to understand and appreciate these processes when they are reviewing a request for penalty abatement.

IRPAC also requests that the IRS reconsider their approach toward a taxpayer's "prior history of noncompliance/abatements" and a taxpayer's use of "standard letters".

It is IRPAC's understanding that the SB/SE Campuses will use prior year 972CG Notice mailings as a gauge for whether a taxpayer has met reasonable cause, based on their established history of compliance. It is important to note that an established

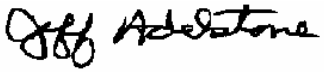
history of filing is not a requirement, but only one of the mitigating factors to be used to abate taxpayer penalties, and this factor is usually a catch-all to be used once the taxpayer cannot establish any of the other mitigating factors.

Moreover, the fact that a taxpayer, who may annually file several million information returns, is not considered by the IRS to have an "established history of compliance" if there has not been a decrease in the error rate from year to year even though the taxpayer has established that he has met the reasonable cause requirements resulting in a complete wavier or abatement of all penalties. Treas. Reg. 301.6724-1(b) allows the IRS to give significant consideration to whether a taxpayer has lessened its error rate from year to year, but this is not the **sole** fact to consider. A large taxpayer that files millions of information returns will always have some rate of error, based on the fact that individual customers may simply not provide accurate information at the time an account is opened. As long as a taxpayer continues to establish new accounts, he may realistically never reduce the error rate for mismatched name/TIN combinations.

Further, if a taxpayer spends millions of dollars to comply with the information reporting rules, and does in fact comply with all the requirements, the fact that the taxpayer uses a "standard letter" to reply to the IRS's 972CG Penalty Notice (which is also a "standard letter") does not mean that the information provided in that letter is not true, accurate, and appropriate. The "standard letter" sent by many taxpayers has been drafted by their Legal Departments to lay out the taxpayer's processes and procedures, explain why (sometimes in great detail) the taxpayer does in fact meet the reasonable cause requirements of Treas. Reg. § 301.6724-1, and to certify that the taxpayer has reviewed the information set forth in the 972CG Notice and has provided specific details as to why certain information returns are not subject to the proposed or assessed penalty.

IRPAC appreciates the opportunity to work with you and your staff in the future to make the 972CG Notice process operate as smoothly as possible, while at the same time not penalizing taxpayers that act in a responsible manner in administering their information reporting duties. If you have any questions, or would like to discuss further, please feel free to contact Ernie Molinari at (973) 802-4810.

Sincerely,



Jeffrey Adelstone
Chair, IRPAC

cc: Michael Chesman, Director, Taxpayer Burden Reduction

INFORMATION REPORTING PROGRAM ADVISORY COMMITTEE

LARGE & MIDSIZE BUSINESS SUBGROUP REPORT

DAVID A. CORTHELL
DEBRA L. HEIKKINEN, ESQ.
CAROL A. KASSEM
STEVEN A. NEISS
ERNEST V. MOLINARI, SUBGROUP CHAIR

OCTOBER 28, 2004

INFORMATION REPORTING PROGRAM ADVISORY COMMITTEE

LARGE & MIDSIZE BUSINESS SUBGROUP REPORT

During the 2004 calendar year, the LMSB Subgroup worked with the IRS representatives from various offices within the IRS on a number of significant information reporting issues affecting the financial service and payroll industries, including:

- **Letter** – ***(Molinari)*** 972CG Penalty Notice Abatement Letter Processing

  Request the IRS to take steps to ensure that individuals responsible for reviewing taxpayer abatement request letters be properly trained to handle the abatement process, and that a work standard be developed in the SB/SE Campuses to promote uniformity and equitable treatment for all taxpayers.

- **Letter** – ***(Molinari)*** Tax Year 2004 Form 1099-R Instruction Changes

  Express appreciation to the IRS for moving quickly and taking steps necessary to avoid a tax reporting issue relative to Form 1099-R for tax year 2004. Also request the IRS to continue to work closely with IRPAC when making revisions to information returns and corresponding instructions.

- **Letter** – ***(Heikkinen)*** Promulgation of Rules of Administrative Convenience

  Request that the IRS issue proposed and temporary regulations granting the Commissioner authority to issue rules of administrative convenience for the application of FICA, FUTA, and income tax withholding to wages resulting from the exercise, sale or arm's length disposition of nonstatutory stock options.

- **Letter** – ***(Heikkinen)*** Procedures for Correcting Errors on a Previously Filed Form 941 or Form 945

  Request the IRS develop procedures recognizing "stand-alone" amended returns as an alternative available to all employers and their payroll service providers

- **Executive Summary** – ***(Heikkinen)*** Clarification of an Employer's and an Employee's Federal Income Tax Withholding, FICA and FUTA Obligations When an Employee Makes a Section 83(b) Election and the Applicable Tax Deposit Date

Request IRS issue guidance clarifying when an employer and an employee's federal income tax withholding, FICA and FUTA obligations arise when an employee makes a Section 83(b) election, and permitting an employer to determine that its tax deposit obligations arise upon receipt from an employee of a Section 83(b) Election Statement, rather than at the time of the property transfer.

- **Paper – *(Kassem)*** Expansion of the *e-Services* Program Transcript Delivery System

  Request the IRS to allow payers who do not participate in the *e-Services* Program, but file information returns electronically and utilize the TIN Matching Program, be allowed to access the Transcript Delivery System.

- **Letter – *(Neiss)*** Foreign Issuer Qualified Dividend Certification

  Request the IRS to direct foreign issuers to use a standard certification form that would properly identify qualifying dividends and require that the IRS publish the information provided.

During 2004, the LMSB Subgroup provided their comments and recommendations to the full IRPAC Committee on the issue of questionable Forms W-4. The Subgroup also met with the Taxpayer Advocate to discuss her recommendations to develop a process to withhold from payments made to independent contractors.

In response to an IRPAC paper drafted by LMSB Subgroup in 2000, the IRS issued proposed regulations (REG-108637-03) in August 2004 relating to the accrual of original issue discount (OID) on certain real estate mortgage investment conduits (REMIC) regular interest. When finalized, these regulations will improve the accuracy of OID REMIC reporting.

Lastly, the LMSB Subgroup continued to address the following carryover issues from prior years:

- Revisions to section 1441 regulations including:
  - Extension of the "X plus three" year shelf life of Forms W-8BEN/ECI/EXP.
  - Ability to accept a facsimile of Forms W-8.
  - Ability to share Forms W-8 among related affiliates.
- Clarifications to the Attorney Reporting Regulations.
- Electronic transmission of tax documents.

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Patricia Rhodes

October 1, 2004

Mr. Robert A. Erickson
Senior Technical Advisor
Tax Forms & Publications
Internal Revenue Service
1111 Constitution Avenue
Room 6406
Washington, DC 20224

Ms. Carolyn Tavenner
Director, Media and Publications
Internal Revenue Service
1111 Constitution Avenue
Washington, DC 20224

Re: Foreign Issuer Qualified Dividend Certification

Dear Mr. Erickson and Ms. Tavenner:

On behalf of the Information Reporting Program Advisory Committee (IRPAC), I want to thank you for the opportunity to provide the Internal Revenue Service (IRS) with comments concerning IRS Notice 2003-79, guidance for persons required to make returns and provide statements under section 6042 of the Internal Revenue Code (e.g., Form 1099-DIV) regarding distributions with respect to securities issued by a foreign corporation and the IRS' tax year 2004 plans for foreign corporations to certify that their dividends qualify for the lower tax rate.

IRPAC was established in 1991 in response to an administrative recommendation in the final Conference Report of the Omnibus Budget Reconciliation Act of 1989. Since its inception, IRPAC has worked closely with the IRS to provide recommendations on a wide range of issues intended to improve the information reporting program and achieve fairness to taxpayers. IRPAC members are drawn from and represent a broad sample of the payer community, including major professional and trade associations, colleges and universities, and state taxing agencies.

In order to properly and timely prepare Form 1099-DIV information returns to holders of foreign securities, IRPAC recommends that the IRS direct foreign issuers to use a standard certification form and that the IRS publish the information made available from the certifications.

I. IRPAC recommends a standardized certification form

Notice 2003-79 indicates that foreign issuers will be permitted to use a certification procedure for corporations to identify that U. S. taxpayers' dividends qualify at the lower tax rate. IRPAC recommends that the IRS direct issuers to forward their data in a standardized format to the IRS, and to persons requesting the information, including third party vendors.

A standardized form has been developed by the financial community (attachment 1). IRPAC recommends that the IRS review the form to ensure all necessary data elements have been included and review the "under penalties of perjury" certification for accuracy and completeness. If the IRS concurs, this form could function as an official IRS form. However, if the IRS intends to develop their own foreign corporation certification form, IRPAC recommends that the industry-developed form be permitted to be used as a substitute form for tax year 2004. This will permit the financial community to immediately commence obtaining the certified forms from foreign issuers and corporations. It is anticipated that due to language barriers and the need to identify the proper corporate signatory, the certification effort will be very time consuming. It will therefore be necessary to immediately commence this effort.

II. IRPAC recommends that the IRS consider providing published and on-line repositories of foreign corporations with qualified dividends

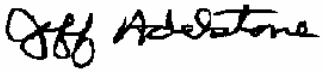
Middlemen will need to know which foreign securities meet the IRS criteria for qualified dividends. How will middlemen know which foreign corporation dividends qualify? From whom will they seek to obtain the necessary information? Who will work to develop and/or revise a standardized data distribution process? To assist in answering some of these questions, we recommend that the IRS publish a directory or list of affected corporations. Such a listing would serve a function similar to that of IRS Publication 1212, List of Original Issue Discount Obligations. This publication helps brokers and other middlemen identify publicly offered original issue discount (OID) debt instruments that they may hold as nominee for the true owners, so that they can file Forms 1099 as required. Information is reported to the IRS by issuers and the IRS provides the necessary information in the publication by CUSIP (Committee on

Uniform Securities Identification Procedures) number. A similar system of providing certifications of foreign corporations by CUSIP number, or other widely utilized standardized identification system such as SEDOL (Stock Exchange Daily Official List) and ISIN (International Securities Identification Numbers) is necessary. The issuance name and other specific data information are necessary for middlemen to identify the affected foreign corporations. The IRS should require as part of the certification process that foreign corporations permit the IRS to publish the essential information. In addition, the IRS publication should include foreign corporations that are required to file with the U.S. Securities and Exchange Commission. Foreign corporations may provide their dividend information in their annual SEC filings typically in the Taxation Section (e.g. Form Type 20-F). Although it is hoped that such corporations will file a certification form with the IRS, procedures may have to be established to accept such information electronically as an alternative to foreign corporations filing a paper form.

An alternative to an IRS publication would be for the IRS to post the information to an IRS website. It is important to taxpayers that whichever method the IRS decides to utilize that the necessary information is available to the reporting community so that the correct foreign dividends are reported to taxpayers. Failure to have this information will result in middlemen reporting such dividends as not qualified.

If you have any questions or need additional information regarding IRPAC's comments regarding foreign issuer certifications, please contact Steve Neiss at (212) 778-8779.

Sincerely,



Jeffrey Adelstone
Chair, IRPAC

cc: Ms. Denise Fayne
Director, Tax Forms and Publications

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October 1, 2004

Mr. Robert Erickson
Senior Technical Advisor
Tax Forms and Publications
Internal Revenue Service
1111 Constitution Avenue
Washington, DC 20224

Ms. Denise Fayne
Director, Tax Forms and Publications
Internal Revenue Service
1111 Constitution Avenue
Washington, DC 20224

Re: Redesign and Simplification of Forms 1065 K1 and 1120S K1

Dear Mr. Erickson and Ms. Fayne:

On behalf of the Information Reporting Program Advisory Committee (IRPAC), I want to thank you for the opportunity to provide the Internal Revenue Service with comments regarding the proposed changes in Forms 1065 K1 and 1120S K1.

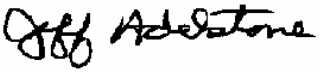
IRPAC was established in 1991 in response to an administrative recommendation in the final Conference Report of the Omnibus Budget Reconciliation Act of 1989. Since its inception, IRPAC has worked closely with the IRS to provide recommendations on a wide range of issues intended to improve the information reporting program and achieve fairness to taxpayers. IRPAC members are drawn from and represent a broad sample of the payer community, including major professional and trade associations, colleges and universities, and state taxing agencies.

Vision drafts of Forms 1065 K1 and 1120S K1 were created with the help of practitioners in the summer of 2003. Media & Publications has done technical adjustments to the draft that is presently available on the IRS website (www.irs.gov). Instructions are also available —one for partners and one for shareholders. These forms are scanable in black and white and are available for use in the 2004 tax year.

The IRPAC appreciates the opportunity to comment and to make recommendations in response to enhancements proposed by the IRS in its current publications, forms, or procedures.

If you wish to discuss these comments further, please call Dorothy T. Atchison, EA, Chair, W&I Subgroup at 251-246-9383, or contact by email at abctax@earthlink.net.

Sincerely,



Jeffrey Adelstone
Chair, IRPAC

cc: Ms. Carolyn Tavenner, Director, Media and Publications

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October 1, 2004

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Senior Technical Advisor
Tax Forms and Publications
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1111 Constitution Avenue
Washington, DC 20224

Ms. Denise Fayne
Director, Tax Forms and Publications
Internal Revenue Service
1111 Constitution Avenue
Washington, DC 20224

Re: Redesign and Simplification of Form 941

Dear Mr. Erickson and Ms. Fayne:

On behalf of the Information Reporting Program Advisory Committee (IRPAC), I want to thank you for the opportunity to provide the Internal Revenue Service with comments regarding the redesign and simplification of Form 941.

IRPAC was established in 1991 in response to an administrative recommendation in the final Conference Report of the Omnibus Budget Reconciliation Act of 1989. Since its inception, IRPAC has worked closely with the IRS to provide recommendations on a wide range of issues intended to improve the information reporting program and achieve fairness to taxpayers. IRPAC members are drawn from and represent a broad sample of the payer community, including major professional and trade associations, colleges and universities, and state taxing agencies.

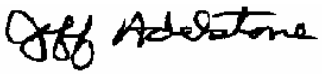
W&I Subgroup reviewed and critiqued the redesigned Form 941. The new two-page format has additional space and resulted in a form that is much easier to read. Focus group testing is currently underway. The 941 draft form is available on the IRS website (www.irs.gov) and after reviewing the test results and making necessary adjustments if any, it is planned to go into production for the first quarter of 2005.

The W&I Subgroup urges the consideration of an annual 941 for employers who may have seasonal employees, or hire employees on an occasional basis. We realize that quarterly reporting is often a deterrent to compliance with some of these employers. An annual 941 would relieve this burden on the small employer.

The IRPAC appreciates the opportunity to comment and to make recommendations in response to enhancements proposed by the IRS in its current publications, forms, or procedures.

If you wish to discuss these comments further, please call Dorothy T. Atchison, EA, Chair, W&I Subgroup at 251-246-9383, or contact by email at abctax@earthlink.net.

Sincerely,



Jeffrey Adelstone
Chair, IRPAC

cc: Ms. Carolyn Tavenner, Director, Media and Publications

INFORMATION REPORTING PROGRAM
ADVISORY COMMITTEE

WAGE & INVESTMENT SUBGROUP REPORT

During 2004, the W&I Subgroup worked with IRS representatives from the various units on several information reporting issues of interest to the payroll employment tax community and to taxpayers filing Forms 1040, 1040A, and 1040EZ

The following W&I Subgroup projects are included in this section:

- **Letter** – ***(Atchison)*** – Redesign and Simplification of Form 941
- **Letter** – ***(Atchison)*** – Redesign and Simplification of Forms 1065 K1 and 1120S K1
- **Letter** – ***(Rhodes)*** – Clarification of instructions to Form 6251 (Alternative Minimum Tax)

W&I Subgroup enjoys a strong relationship with the Tax Forms and Publications Division. In the coming year, the W&I Subgroup will continue to review the feasibility of creating a simplified Form 1040 and will remain receptive to suggestions and requests to clarity and/or enhance publications, instructions and forms. The group will communicate these to Tax Forms and Publications for review and consideration.

INFORMATION REPORTING PROGRAM ADVISORY COMMITTEE

WAGE AND INVESTMENT SUBGROUP REPORT

PATRICIA RHODES
DOROTHY ATCHISON, SUBGROUP CHAIR

OCTOBER 28, 2004

INFORMATION REPORTING PROGRAM ADVISORY COMMITTEE (IRPAC)

1111 Constitution Avenue, NW, Room 7563, Washington, D.C. 20224

Jeffrey Adelstone
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Debra Heikkinen
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Steven Neiss

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Ronald Moonin, Chair
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Rachel Paliotti

Wage & Investment Sub-Committee:
Dorothy Atchison, Chair
Patricia Rhodes

October 1, 2004

Mr. Robert Erickson
Senior Technical Advisor
Tax Forms and Publications
Internal Revenue Service
1111 Constitution Avenue
Washington, DC 20224

Ms. Denise Fayne
Director, Tax Forms and Publications
Internal Revenue Service
1111 Constitution Avenue
Washington, DC 20224

Re: Alternative Minimum Tax

Dear Mr. Erickson and Ms. Fayne:

On behalf of the Information Reporting Program Advisory Committee (IRPAC), I want to thank you for the opportunity to provide the Internal Revenue Service with comments regarding the Alternative Minimum Tax (AMT).

IRPAC was established in 1991 in response to an administrative recommendation in the final Conference Report of the Omnibus Budget Reconciliation Act of 1989. Since its inception, IRPAC has worked closely with the IRS to provide recommendations on a wide range of issues intended to improve the information reporting program and achieve fairness to taxpayers. IRPAC members are drawn from and represent a broad sample of the payer community, including major professional and trade associations, colleges and universities, and state taxing agencies.

The alternative minimum tax began in 1970 as an add-on tax to prevent taxpayers in the top tax brackets from using tax avoidance transactions to escape tax liability. By 2000, more than 1.3 million taxpayers were subject to the AMT. In 2004, over 3 million taxpayers may be affected by the AMT, and barring legislative intervention that number could reach 16 million by 2005. The reason for this escalation is inflation. The standard deduction, exemptions, and tax brackets are adjusted for inflation -- but the AMT exemption and tax brackets are not. In addition the tax cuts in the regular tax and growth of income has had an impact. The AMT is calculated by a different set of rules for

figuring income tax. It operates like the regular income tax, but with different definitions of income and deductions, and with different tax rates.

The Taxpayer Advocate Service expressed a concern about AMT because of the rising number of taxpayers affected by the AMT. Since legislative changes are required to reduce the number of taxpayers affected by AMT, our attention turned to the instructions for Form 6251 - Alternative Minimum Tax.

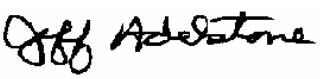
The W & I Subgroup initiated a discussion with Carolyn Tavenner, Director, Media & Publications and Robert Erickson, Senior Technical Advisor, Media & Publications. It was noted that some types of mortgage interest; namely mortgage interest not used to buy, build or improve either the taxpayer's main home or second home would be subject to AMT rules. Decreasing interest rates in the past few years have led many taxpayers to refinance their homes. In many cases, the taxpayers refinance their homes for more than the existing balance to obtain money to pay down debt or purchase personal goods such as cars, boats, etc. The trend is also to obtain home equity lines of credit for similar purchases. One of the main concerns of the W & I Subgroup is improving the clarity of the form instructions to increase accuracy in the preparation of Form 6251. A worksheet was discussed as a possible remedy.

Mr. Erickson acted on our discussion by developing a worksheet to be placed in the instructions for Form 6251. This worksheet is designed to separate the AMT mortgage interest from the mortgage interest on Schedule A. The Tax Forms and Publications Division is continuing to look for ways to assist the taxpayer with issues pertaining to the Alternate Minimum Tax.

The IRPAC appreciates the opportunity to comment and to make recommendations in response to enhancements proposed by the IRS in its current publications, forms, or procedures.

If you wish to discuss these comments further, please call Patricia Rhodes EA, W&I Subgroup at 904-781-1040, or contact by email at PRh1040@aol.com.

Sincerely,



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October 1, 2004

Mr. Curt Freeman
Chief, Business Branch
Tax Forms and Publications Division
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Re: Limited Liability Company – Publication 334

Dear Mr. Freeman:

On behalf of the Information Reporting Program Advisory Committee (IRPAC), I am writing to propose that the Internal Revenue Service (IRS) consider adding a chapter to Publication 334, *Tax Guide for Small Business*. IRPAC welcomes the opportunity to comment on this matter.

IRPAC was established in 1991 in response to an administrative recommendation in the final Conference Report of the Omnibus Budget Reconciliation Act of 1989. Since its inception, IRPAC has worked closely with the IRS to provide recommendations on a wide range of issues intended to improve the information reporting program and achieve fairness to taxpayers. IRPAC members are drawn from and represent a broad sample of the payer community, including major professional and trade associations, colleges and universities, and state taxing agencies.

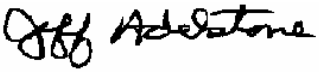
IRPAC is proposing the additional chapter to Publication 334 to assist taxpayers who have an Limited Liability Company (LLC) or who may be considering establishing one. As a disregarded entity at the federal level, LLCs pose special challenges to businesses and practitioners alike. An LLC may be a sole proprietorship utilizing Schedule C on the Form 1040.

It can also be a corporation which can file on Form 1120 or a subchapter S corporation, which uses Form 1120S to file a return. If there are two or more members, it could also choose a Form 1065 as a partnership. To further complicate matters, LLCs may change their choice of entity filing every five years by declaring their intent to do so.

To clarify this situation, IRPAC suggests a "cookbook" approach to the new chapter or addition to an existing chapter. This format should guide a taxpayer through the maze of LLC possibilities. Including it in Publication 334 could certainly make it understandable as well as accessible to the majority of taxpayers who might be considering the LLC as their first choice for a business enterprise. IRPAC is aware that, due to time constraints, a revision to Publication 334 is not possible for 2004. However, we do hope that these changes will be implemented in a future year.

If you have questions or comments concerning this matter, please feel free to contact Carole R. Conklin by telephone at (810)227-8364 or by e-mail at conklin@provide.net.

Sincerely,



Jeffrey Adelstone
Chair, IRPAC

- **ALL LLCs MUST FILE FORM 8832 TO DECLARE AN "ENTITY CLASSIFICATION ELECTION"**

- **LLCs ELECTING Subchapter S Corporation status must file FORM 2553**

Entity Type	Tax Forms/Schedules	SSN	EIN	Publications
	-SINGLE MEMBER LLC-			
Sole Proprietor	**Form 1040/Schedule C**	**X**		**334,3402**
With employee(s)	***File Form SS-4 to obtain an EIN***			
	Form 940/Form 941		**X**	
Regular Corporation	**Form 1120**	**X**		**3402**
With employee(s)	***File Form SS-4 to obtain an EIN***			
	Form 940/Form 941		**X**	
Subchapter S Corporation	**Form 1120S**	**X**		**3402**
With employee(s)	***File Form SS-4 to obtain an EIN***			
	Form 940/Form 941		**X**	
	-MORE THAN ONE MEMBER-			

ALL LLCs WITH MORE THAN ONE MEMBER MUST FILE Form SS-4 to obtain an EIN(employer identification number) whether or not they have employees

Partnership	**Form 1065,Sch K-1s**	**X**		**3402**
With employee(s)	***Form 940 and 941***	***Use your EIN on all Tax Forms***		
Regular Corporation	**Form 1120**	**X**		**3402**
With employee(s)	***File Form SS-4 to obtain an EIN***			
	Form 940/Form 941		**X**	
Subchapter S Corporation	**Form 1120S**	**X**		**3402**
With employee(s)	***File Form SS-4 to obtain an EIN***			
	Form 940/Form 941		**X**	

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Wage & Investment Sub-Committee:
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Norman Bouchard
Patricia Rhodes

October 1, 2004

Mr. John Buchanan
Program Manager For
Electronic Compliance
Internal Revenue Service
4050 Alpha Rd.
Dallas, TX 75244

Re: Internet sales, particularly auction sites

On behalf of the Information Reporting Program Advisory Committee (IRPAC). I want to thank you for the opportunity to provide the Internal Revenue Service (IRS) with comments regarding the reporting of information about internet sales, particularly auction sites.

IRPAC was established in 1991 in response to an administrative recommendation in the final Conference Report of the Omnibus Budget Reconciliation Act of 1989. Since its inception, IRPAC has worked closely with the Internal Revenue Service to provide recommendations on a wide range of issues intended to improve the information reporting program and achieve fairness to taxpayers. IRPAC members are drawn from and represent a broad sample of the payer community, including major professional and trade associations, colleges and universities, and state taxing agencies.

With the rapid growth of internet use for both personal and business needs, concern was expressed about the approach taken to report such transactions. A traditional approach to internet sales by formally organized business entities is expected; it is another order entry method.

The expansive growth of the on-line auction sites, however, offers another concern. The volume of transactions indicates there may be an opportunity to add tax revenues as a result of those transactions.

If the on-line auction (or any other auction) is a means of converting unneeded, unused personal property to cash, there would be no reason to list such sales on the tax return. Personal property sold at a loss is not deductible (§165(c)).

If the on-line auction (or any other auction) is a means of selling collectibles, those transactions should be listed on the tax return. Taxpayer volume and intent would determine whether the transactions were investments (reportable on Schedule D) or a trade or business (reportable on Schedule C).

If the on-line auction (or any other auction) notes a seller who has $1,000 - $1,500 worth of transactions a month, there is concern that there is a trade or business which may not be reported on the tax return.

Code §6045 states: *Every person doing business as a broker shall, when required by the Secretary, make a return, in accordance with such regulations as the Secretary may prescribe, showing the name and address of each customer, with such details regarding gross proceeds and such other information as the Secretary may by forms or regulations require with respect to such business.*

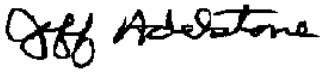
This language gives IRS the ability to require reporting by the auction houses. Auction houses may be given a higher threshold for reporting than the traditional $600 used on other Forms 1099 or perhaps the threshold could be tied to the gross proceeds and the number of transactions.

With a new method of earning income, some taxpayers would be unaware of the requirement to report these types of sales. Receipt of an unexpected year-end form could also result in taxpayer confusion. Therefore, taxpayer education is also suggested to alleviate these problems.

IRPAC realizes the difficulty in providing guidance to taxpayers regarding auction transactions. IRPAC welcomes the opportunity to comment and make recommendations in response to any enhancements proposed by the IRS to its current publications, forms or procedures.

If you wish to discuss these comments further, please call Martha Bell at (863) 647 3112.

Sincerely,



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Patricia Rhodes

October 1, 2004

Ms. Yvette Lawrence
Tax Law Specialist
Internal Revenue Service
1111 Constitution Ave., NW
Washington, DC 20224

Re: Form W-9 Reporting

Dear Ms. Lawrence:

On behalf of the Information Reporting Program Advisory Committee (IRPAC), I am writing to recommend changes to Form W-9, Request for Taxpayer Identification Number and Certification, and instructions to emphasize taxpayer name/identification number combination.

IRPAC was established in 1991 in response to an administrative recommendation in the final Conference Report of the Omnibus Budget Reconciliation Act of 1989. Since its inception, IRPAC has worked closely with the Internal Revenue Service (IRS) to provide recommendations on a wide range of issues intended to improve the information reporting program and achieve fairness to taxpayers. IRPAC members are drawn from and represent a broad sample of the payer community, including major professional and trade associations, colleges and universities, and state taxing agencies.

We are recommending changes to the Form W-9 and its instructions to more accurately obtain a taxpayer's correct name/identification number combination.

Background:

The IRS requires payers of various types of transactions to annually report payments made on information returns. Filers of information returns are subject to penalties if the taxpayer's identification number does not match the taxpayer's name. Form W-9 is available to filers of information returns for the request and certification of a taxpayer's correct taxpayer name and identification number combination. The instructions to Form W-9 continuously instruct the taxpayer to provide their correct taxpayer identification number. However for CP-2100 B-Notice and penalty notice purposes, the taxpayer identification number is only half of the combination. The form instructions and spaces where the payee is asked to provide their name is unclear as to the proper name that

should be used for matching the taxpayer's identification number. This has resulted in receiving incorrect information from the payee.

Recommendation:

The Form W-9 instructions should place more emphasis on taxpayers providing their correct name/identification number combination instead of only their "correct identification number". There are numerous instances within the instructions as well as the form itself that should refer to the taxpayer's name in addition to the identification number for obtaining the correct taxpayer data for information reporting purposes. For example, the line that request "Name" could be change to "Legal Name – As Reported on Your Income Tax Return" to emphasis the correct name to be reported. Many times a business reports the "doing business as" name rather than the legal name on this line. This should also be emphasis in the instructions to the Form W-9. It is also recommended to add the following language to the note in Part 1, "The TIN provided must match the name given on Line 1 to avoid backup withholding". In addition, it is recommended that a line be added to request the telephone number of the person signing the return. This will assist in obtaining answers for questionable Form W-9s and for requesting correct information if the W-9 does not match the IRS database using the new TIN matching program.

Advantages:

To Payers: A clearer Form W-9 and related instructions will enable payers to prepare and file more accurate information returns and lower the number of CP-2100 B-Notice problems. With fewer name/identification number combination mismatches to correct, payers will lower their overall cost of information reporting compliance. In addition, a clearer Form W-9 would result in a reduction of accounts appearing on Penalty Notice 972CG. This would also result in cost and time savings to payers who must research account appearing on this notice and respond to the IRS.

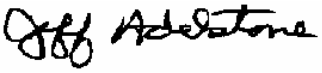
To Payees: A clearer Form W-9 and instructions will result in less confusion for taxpayer's when filling out the form and should result in fewer taxpayer name/identification number combination errors. Fewer name/number combination errors should reduce potential backup withholding situations that negatively impact payees.

To The IRS: The IRS will achieve enhanced information reporting as a clearer Form W-9 should result in a significant decrease in both the number of incorrect information returns filed each year and the number of B-Notices issued resulting from those previously incorrect information returns. The IRS will ultimately lower its cost of administering the information return compliance program.

As a result, a clear Form W-9 and instructions will result in less confusion for taxpayers when filling out the form and should result in fewer taxpayer name/identification number combination errors. This will achieve enhance information reporting to the IRS.

If you have any questions or commends concerning this matter, please feel free to contact Rachel Joann Paliotti by telephone at (401) 459-1971 or by e-mail at Paliotti.r@bcbsri.org.

Sincerely,



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October 1, 2004

Mr. John Caggiano
Internal Revenue Service
1111 Constitution Avenue N.W.
Washington, D.C. 20224

Re: Tax Basis in partnership and S Corporations

Dear Mr. Caggiano:

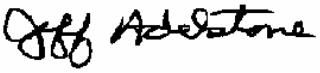
On behalf of the Information Reporting Program Advisory Committee (IRPAC). I am writing to recommend that the Internal Revenue Service (IRS) request that taxpayers show the tax basis of their interests in partnership and S Corporations.

IRPAC was established in 1991 in response to an administrative recommendation in the final Conference Report of the Omnibus Budget Reconciliation Act of 1989. Since its inception, IRPAC has worked closely with the IRS to provide recommendations on a wide range of issues intended to improve the information reporting program and achieve fairness to taxpayers. IRPAC members are drawn from and represent a broad sample of the payer community, including major professional and trade associations, colleges and universities, and state tax agencies.

It is a well established aspect of tax law that taxpayers may not claim a loss from a partnership or S Corporation unless the taxpayer has sufficient basis in the respective partnership or S Corporation. Basis is determined on an individual basis and the partnership or S corporation is not responsible for providing this information. IRPAC is proposing that the taxpayer provide the basis for their investment as of the end of the tax year (generally December 31). This would be noted on Schedule E or other applicable area of the tax return. This would provide additional information to the IRS so as to ascertain whether the taxpayer is properly claiming losses from aforementioned partnerships or S Corporations.

IRPAC welcomes the opportunity to comment on this matter and to lend any help which might be needed to reach the desired outcome. If you have any questions or comments about this matter, you may contact Ronald C. Moonin CPA at (609) 882-2727 or by email at rmoonin@gushenandmoonin.com.

Sincerely,



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October 1, 2004

Mr. John Caggiano
Internal Revenue Service
1111 Constitution Avenue N.W.
Washington, D.C. 20224

Re: Use of electronic submission of partnership and Subchapter S tax returns by tax preparers

Dear Mr. Caggiano:

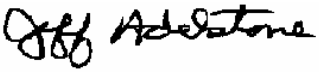
On behalf of the Information Reporting Program Advisory Committee (IRPAC). I am writing to recommend that the Internal Revenue Service (IRS) encourage the use of electronic submission of partnership and Subchapter S tax returns by tax preparers.

IRPAC was established in 1991 in response to an administrative recommendation in the final Conference Report of the Omnibus Budget Reconciliation Act of 1989. Since its inception, IRPAC has worked closely with the IRS to provide recommendations on a wide range of issues intended to improve the information reporting program and achieve fairness to taxpayers. IRPAC members are drawn from and represent a broad sample of the payer community, including major professional and trade associations, colleges and universities, and state tax agencies.

The IRS has done an admirable job of redesigning the forms K-1 for partnerships and small business corporations operating under Subchapter S of the Internal Revenue Code. The layout of the new K-1 lends itself to matching of information from the business return to the individual's tax return. To achieve personnel efficiency and avoid input errors I suggest that an effort be made to require the submission of these business returns electronically. Returns should be submitted electronically if the preparer firm exceeds a reasonable threshold number such as twenty-five (25) returns. Presently the regulations require that if a partnership has more than 100 partners, then the return must be submitted electronically to the IRS. The tax preparation community has accepted this regulation as being a reasonable request for tax administration. My suggestion regarding the electronic submission would not be considered an unnecessary burden on tax preparers since it is merely an extension of their existing procedures. Virtually all tax preparers today use a computer to calculate and prepare tax returns and this would merely be an extension of what they are presenting doing.

IRPAC welcomes the opportunity to comment on this matter and to lend any help which might be needed to reach the desired outcome. If you have any questions or comments about this matter, you may contact Ronald C. Moonin, CPA at (609) 882-2727 or by email at rmoonin@gushenandmoonin.com.

Sincerely,



Jeffrey Adelstone
Chair, IRPAC

INFORMATION REPORTING PROGRAM
ADVISORY COMMITTEE

SMALL BUSINESS/SELF EMPLOYED
SUBGROUP REPORT

The SB/SE Subgroup addressed a number of information reporting issues during 2004. The committee was very productive and covered the following issues:

- **Letters** - (***Moonin***) Matching of K1 Program. Suggestion that the threshold be changed whereby partnership and Subchapter S corporations are required to be submitted electronically by tax practitioners. In addition, the tax preparer would be required to provide the individual basis for all items of income and loss from each partnership or Subchapter S return.
- **Letter** - (***Paliotti***) The W-9 form is being reviewed and comments from the business community are being solicited for more consistent compliance and taxpayer burden reduction.
- **Letter** - (***Bell)*** Internet auction sales are being studied for tax compliance purposes. This is an important reporting issue that needs to be carried over to the 2005 year.
- **Letter** - (***Conklin***) Several suggestions were made for enhancing the topics of Limited Liability Companies within IRS publications.
- The use of 2-D bar codes on Forms K-1 requires further development with software companies involved with such programs. This issue will be carried over to the 2005 year.
- The committee had interaction with IRS personnel relating to improving the Offer in Compromise program. This included a review of proposed forms and the administrative processing for this program. This issue needs to be carried over to the 2005 year.

- Comments and suggestions were made to IRS personnel involving the implementation of new W-4 forms.

The subgroup would like to thank all of the Internal Revenue Service personnel who gave up a fair amount of their regular staff responsibilities to work with our SB/SE subgroup. We found them to be highly professional and responsive to our requests for information.

INFORMATION REPORTING PROGRAM ADVISORY COMMITTEE

SMALL BUSINESS/SELF-EMPLOYED SUBGROUP REPORT

MARTHA BELL
CAROLE CONKLIN
RACHEL PALIOTTI
RONALD MOONIN, SUBGROUP CHAIRMAN

OCTOBER 28, 2004

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October 1, 2004

Mr. Curt Wilson, Esq.
Office of the Chief Counsel
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Mr. Wilson:

On behalf of the Information Reporting Program Advisory Committee (IRPAC), I am writing to reiterate support for the Limited Liability Companies revisions as stated in the April 17, 2003 comment letter prepared by Beanna J. Whitlock.

IRPAC understands that final approvals await pending Counsel resolution. If further analysis or information should be needed to expedite or facilitate the process, IRPAC will gladly provide any assistance required.

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IRPAC welcomes the opportunity to comment on this matter and to lend any help which might be needed to reach the desired outcome. If you should have questions or comments about this matter, you may contact Carole R Conklin at (810) 227-8364 or by e-mail at conklin@provide.net.

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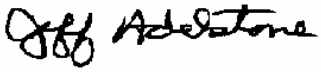

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Chair, IRPAC

cc: Chris Neighbor, Branch Chief, National Public Liaison

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Patricia Rhodes

October 1, 2004

Via Hand Delivery

Ms. Nancy J. Marks
Division Counsel/Associate Chief Counsel
Room 4300
1111 Constitution Avenue, NW
Washington, DC 20224

Re: Coverdell Education Savings Accounts

Dear Ms. Marks:

On behalf of the Information Reporting Program Advisory Committee (IRPAC), I am writing to request permanent guidance regarding certain reporting requirements applicable to Coverdell Education Savings Accounts (CESAs) described in Section 530 of the Internal Revenue Code. We appreciate the opportunity to work with the Internal Revenue Service (IRS) as it considers such guidance for 2005 and future years.

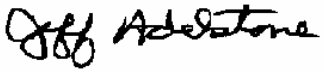
IRPAC was established in 1991 in response to an administrative recommendation in the final Conference Report of the Omnibus Budget Reconciliation Act of 1989. Since its inception, IRPAC has worked closely with the IRS to provide recommendations on a wide range of issues intended to improve the information reporting program and achieve fairness to taxpayers. IRPAC members are drawn from and represent a broad sample of the payer community, including major professional and trade associations, colleges and universities, and state taxing agencies.

As a follow-up to the attached letter dated October 1, 2003 presented at the 2003 IRPAC Public Meeting, and for the reasons discussed in such letter, IRPAC continues to encourage the IRS to finalize and make permanent the interim tax reporting rules set forth in IRS Notice 2003-53 (the "Notice") relating to CESAs. Pursuant to such rules, CESA trustees and custodians are not required to track basis and earnings for CESAs. Rather, basis and earnings calculations would remain the responsibility of each CESA account owner, who has access to all of the information required to report such information to the IRS completely and accurately.

IRPAC is happy to continue to dialogue around this matter to help identify and problem solve any issues that the Service might deem problematic with the current reporting regime and expedite finalization of the Notice for 2005 and thereafter.

Please feel free to contact Pamela Everhart at (508) 787-6939 with any questions or comments that you may have regarding this request.

Sincerely,



Jeffrey Adelstone
Chair, IRPAC

Attachment: October 1, 2003 Letter.

cc: Mr. Thomas D. Terry, Senior Technical Advisor, Tax Exempt Government Entities
Ms. Monice L. Rosenbaum, Associate Chief Counsel, Tax Exempt Government Entities
Mr. James Brokaw, Branch Chief EOI, Tax Exempt Government Entities
Ms. Susan Brown, Office of the Tax Legislative Counsel, U.S. Treasury Department

INFORMATION REPORTING PROGRAM ADVISORY COMMITTEE (IRPAC)

1111 Constitution Avenue, NW, Room 7563, Washington, D.C. 20224

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Patricia Rhodes

October 1, 2004

Mr. Steven T. Miller
Commissioner, TE/GE
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Re: Creation of Federal-State Retrieval System for Form 990 Information

Dear Mr. Miller:

On behalf of the Information Reporting Program Advisory Committee (IRPAC), I want to thank you for the opportunity to provide the Internal Revenue Service (IRS) with recommendations on the creation of a federal-state retrieval system that will encourage electronic filing of IRS Forms 990.

IRPAC was established in 1991 in response to an administrative recommendation in the final Conference Report of the Omnibus Budget Reconciliation Act of 1989. Since its inception, IRPAC has worked closely with the IRS to provide recommendations on a wide range of issues intended to improve the information reporting program and achieve fairness to taxpayers. IRPAC members are drawn from and represent a broad sample of the payer community, including major professional and trade associations, colleges and universities, and state taxing agencies.

IRPAC applauds and supports the IRS modernized e-file efforts and the IRS success in making electronic filing of the Forms 990 and 990-EZ available in February 2004. We look forward to the successful implementation of electronic filing for nonprofit organizations.

To help insure that success, IRPAC wishes to express its support for the current IRS plans to provide a combined state and federal filing system for Form 990 filers that would allow organizations filing a Form 990 or Form 990EZ to submit all the information they also need for charitable registration in individual states.

At this time, IRS is making initial decisions about this "Fed-state Retrieval" system, which is envisioned as serving a "post office" function, not creating new complexities, but allowing states to retrieve separately-filed information. Current plans call for state

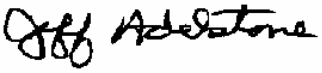
charity offices to receive data directly through the same simple web-based system that internet transmitters currently use for sending returns to the IRS.

IRPAC wishes to encourage efforts that simplify reporting requirements, provide needed information in a usable format to the states, and encourage electronic filing. We urge that the development of this system remain a priority and look forward to its launch in January 2006.

As more detailed information about the specifications for the single point retrieval system becomes available in the future, IRPAC would be happy to provide comments.

If you have any questions about this issue, please call Linda M. Lampkin at (202) 261-5806.

Sincerely,



Jeffrey Adelstone
Chair, IRPAC

cc: Thomas D. Terry, Senior Technical Advisory, TEGE
Midori Morgan-Gaide, Senior Manager, Electronic Initiatives Office, TEGE
Bert Dumars, Director, Electronic Tax Administration

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Rachel Paliotti

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Patricia Rhodes

October 1, 2004

Mr. Steven T. Miller
Commissioner, TE/GE
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Re: Mandatory Direct Rollovers (Code Section 401(a)(31)(B))

Dear Mr. Miller:

On behalf of the Information Reporting Program Advisory Committee (IRPAC), I want to thank you for the opportunity to provide the Internal Revenue Service (IRS) with recommendations on issues on which IRS guidance will be needed in connection with default direct rollover rules under section 401(a)(31)(B) of the Internal Revenue Code (Code).

IRPAC was established in 1991 in response to an administrative recommendation in the final Conference Report of the Omnibus Budget Reconciliation Act of 1989. Since its inception, IRPAC has worked closely with the IRS to provide recommendations on a wide range of issues intended to improve the information reporting program and achieve fairness to taxpayers. IRPAC members are drawn from and represent a broad sample of the payer community, including major professional and trade associations, colleges and universities and state taxing agencies.

Background

Code section 401(a)(31)(B) requires that a direct rollover to an Individual Retirement Account (IRA) be the default option for cash-out distributions of greater than $1,000 when a qualified retirement plan provides that vested accrued benefits that are not greater than $5,000 must be distributed. The plan administrator must give written notification to affected participants of this requirement and notify each such participant of the participant's right to affirmatively elect (1) a direct rollover to another eligible retirement plan or IRA or (2) to receive the distribution directly.

Issues

In order that these requirements may be implemented, we have identified the following issues as needing immediate guidance under the default rollover rules of Code section 401(a)(31)(B):

1. IRS Safe Harbor Notice Under Code Section 402(f) - This notice must be revised for Code section 401(a)(31)(B).

2. Plan Amendment Procedures – Clarification is needed regarding whether this issue will be included in the EGTRRA amendment process. If not, it is recommended that the IRS develop "safe harbor" language, which will be particularly important for prototype and volume submitter plans.

3. Written Notice of Choices – Clarification is needed regarding what must be included in the participant notice. Additionally, guidance is needed regarding any requirements about or limitations on the method of delivery of the notice (e.g., first class mail, electronic, hand delivery, etc.) and whether the default direct rollover must be effected within a certain period of time after delivery of the notice.

4. Procedures for "Missing" Participants – Many of the participant notices will not reach the intended recipients. It is recommended that the IRS clarify the procedures that apply in the case of notices to "missing" participants.

5. Enforceability of IRA Agreement – In the case of mandatory direct rollovers, participants will not have signed an application to open these automatic rollover IRAs. The IRA agreement and summary description will not be mailed to the participant until after the automatic rollover to the IRA has been completed. Missing participants will not receive the IRA agreement and summary description. These situations raise such issues as: application of IRA mandatory disclosure rules; date of the beginning of the seven-day revocation period (presumably the date funds are automatically rolled over to the IRA); enforceability of the provisions of the IRA agreement; determination of the IRA beneficiary when the participant died (unbeknownst to the plan administrator) before the automatic rollover and the participant's beneficiary under the plan is different from the beneficiary under the IRA agreement; etc. Some compare these automatic rollover IRAs to the SIMPLE IRA guidance in Notice 98-4, Q&A G-4 regarding employees who can not or will not establish a SIMPLE IRA before a contribution must be made. However, automatic rollover IRAs are not being opened as part of an employer's plan. (Notwithstanding the SIMPLE IRA guidance, some IRA institutions will not establish SEP or SIMPLE IRAs opened solely by an employer.) Immediate guidance on these issues is needed.

6. Amounts Subject to the Rule – Only eligible rollover distributions are subject to the automatic rollover rule. Distributed loans that are not deemed distributions qualify as eligible rollover distributions; however, a distributed loan that is an eligible rollover distribution cannot be rolled to an IRA. Therefore, for purposes of the automatic rollover

requirements only, the IRS should clarify that loans are excluded from the determination of a participant's eligible rollover distribution amount.

7. Application to 403(b) and 457 Plans – The IRS needs to clarify whether section 401(a)(31)(B) applies to section 403(b) and 457 plans.

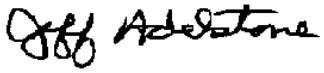
8. Dual Qualified Plans – Clarification is needed regarding the manner in which section 401(a)(31)(B) applies to dual qualified (Puerto Rico) plans.

9. Non-Resident Aliens – Guidance is needed regarding the manner in which section 401(a)(31)(B) applies to participants who are non-resident aliens.

10. Penalties – Mandatory direct rollovers will take place without participant participation. Consequently, IRA issuers will be opening accounts without the participant verifying his or her name and taxpayer identification number. Consequently, the IRS needs to clarify that no penalties will apply to IRA issuers for failure to include correct account owner information, including name/TIN information, on information returns for purposes of various Code sections including, but not limited to, sections 6721 through 6724.

If you have any questions about these issues, please call Patricia A. McCauley at (410) 345-6685.

Sincerely,



Jeffrey Adelstone
Chair, IRPAC

cc: Nancy J. Marks, Division Counsel/Associate Chief Counsel, TEGE
Marjorie Hoffman, Special Counsel, Office of Chief Counsel, TEGE
Cathy Vohs, Attorney, Office of the Division Counsel/Associate Chief Counsel, TEGE
Roger S. Kuehnle, Tax Law Specialist, TEGE
William Gibbs, Attorney/Advisor, TEGE
Thomas D. Terry, Senior Technical Advisor, TEGE

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Patricia Rhodes

October 1, 2004

Mr. Steven T. Miller
Commissioner, TE/GE
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, DC 20224

Re: Tax Reporting for an Individual Retirement Account Closed Due to the Customer Identification Program Rule

Dear Mr. Miller:

On behalf of the Information Reporting Program Advisory Committee ("IRPAC"), I am writing to provide recommendations regarding the federal income tax reporting requirements applicable to distributions from Individual Retirement Accounts (IRAs) that are closed due to a financial institution's inability to verify the identity of a customer in accordance with the Customer Identification Program (CIP) rule.

IRPAC was established in 1991 in response to an administrative recommendation in the final Conference Report of the Omnibus Budget Reconciliation Act of 1989. Since its inception, IRPAC has worked closely with the IRS to provide recommendations on a wide range of issues intended to improve the information reporting program and achieve fairness to taxpayers. IRPAC members are drawn from and represent a broad sample of the payer community, including major professional and trade associations, colleges and universities and state taxing agencies.

IRPAC recommends that a distribution made as a result of closing an IRA is an income tax reportable event, under which the normal income tax withholding and information reporting rules applicable to IRA distributions apply, regardless of the reason for closing the account.

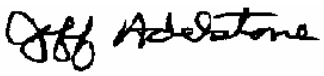
Pursuant to the USA PATRIOT Act, the identity of each customer opening an account, including an IRA, must be verified pursuant to a CIP). If the CIP for a particular account fails (i.e., the financial institution is unable to verify the account owner's identity), the financial institution generally must close the account. (See 31 C.F.R. §103.121(a)(3), and the FAQs thereunder, for the definition of "customer".)

Current rules require that all contributions to and distributions from IRAs be reported, for federal income tax purposes, even if the contributions were made and then distributed because the IRA is treated as revoked under the seven-day revocation rule. See "IRA Revocation" on pages R-2 and R-11 of "Instructions for Forms 1099-R and 548" (2004).

In order to help ensure taxpayer compliance and complete and accurate tax reporting, distributions from IRAs that are opened and later closed because of CIP failures should, for purposes of federal income tax withholding and reporting requirements, be treated in the same manner as all other distributions from IRAs. Therefore, IRPAC recommends that the federal tax requirements applicable to information reporting and income tax withholding in connection with Forms 5498 and 1099-R apply to distributions from IRAs which are closed due to CIP failures.

If you have any questions about this suggestion, please call Patricia A. McCauley at (410) 345-6685.

Sincerely,



Jeffrey Adelstone
Chair, IRPAC

cc: Roger S. Kuehnle , Tax Law Specialist, TEGE
Thomas D. Terry, Senior Technical Advisor, TEGE
Marjorie Hoffman, Special Counsel for Chief Counsel, TEGE, Employee Benefits

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Dorothy Atchison, Chair
Patricia Rhodes

October 1, 2004

Mr. Steven T. Miller
Commissioner, TE/GE
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Re: Optional Treatment of Elective Deferrals as Roth Contributions Under Section 402A

Dear Mr. Miller:

On behalf of the Information Reporting Program Advisory Committee (IRPAC), we appreciate the opportunity to periodically provide the Internal Revenue Service (IRS or Service) with recommendations on various issues on which guidance from the Service is needed. In this regard, we have preliminarily identified a number of issues as needing guidance and clarification in connection with elective deferral contributions to section 401(k) and section 403(b) plans which are designated by the participant/employee as after-tax contributions, pursuant to section 402A of the Internal Revenue Code (Code), which was enacted under the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). Although section 402A is not effective until 2006, because many of the issues we have identified will require substantial changes to and redesign of existing computer systems to allow for implementation, immediate guidance from the Service is needed.

IRPAC was established in 1991 in response to an administrative recommendation in the final Conference Report of the Omnibus Budget Reconciliation Act of 1989. Since its inception, IRPAC has worked closely with the Service to provide recommendations on a wide range of issues intended to improve the information reporting program and achieve fairness to taxpayers. IRPAC members are drawn from and represent a broad sample of the payer community, including major professional and trade associations, colleges and universities and state taxing agencies.

BACKGROUND

As a result of a change in the law under EGTRRA, effective January 1, 2006, a section 401(k) plan or a section 403(b) arrangement is permitted to provide a "qualified Roth contribution program" to permit a participant to elect to have all or a portion of his or her elective deferral contributions under the employer's plan treated as after-tax designated Roth contributions. These designated Roth contributions, although not excludible from the participant's income at the time of contribution, are none-the-less treated as elective deferral contributions for most purposes. The plan or arrangement is required to separately account for the designated Roth contributions and earnings thereon. Similar to Roth IRAs, a qualified distribution from a participant's designated Roth contributions account is not includible in the participant's gross income. Special rules apply in the case of rollovers of distributions from designated Roth contribution accounts.

ISSUES

In order that affected plans may develop the necessary systems to track contributions and earnings to, and distributions from, a designated Roth contribution account, the following are some preliminary issues which we have identified as needing immediate guidance.

- For contribution purposes, the Department of Treasury is responsible for establishing the procedural rules for making elections for purposes of electing pretax elective deferrals or designating deferrals as Roth contributions. It is recommended that participant elections for designated Roth contributions be required to be irrevocably made at the time the underlying deferral election is made.

- It is recommended that the Service immediately review the manner in which designated Roth contributions will be reportable by an employer, presumably on Form W-2. For example, in the event box 12 of Form W-2 will be used to identify designated Roth contributions, box 12 is running out of single letter codes to be used.

- The Service should clarify that because designated Roth contributions are not contributions to an IRA, they are not reportable on Form 5498.

- The IRS model direct rollover notice under section 402(f) will need to be revised.

- In connection with distributions allocable to designated Roth account distributions, immediate guidance is needed regarding the manner in which such distributions will be reportable on Form 1099-R. For example, where a distribution includes funds allocable to both a designated Roth account and nondesignated funds, will that portion of the distribution allocable to a designated Roth account be reported on a separate Form 1099-R? If Roth distributions may be included on the same Form 1099-R as "regular" distributions, there may need to be separate new boxes on the Form 1099 to indicate the portion that is a qualified Roth distribution.

- In connection with distributions from Roth IRAs, the current Form 1099-R instructions direct the payor to indicate "Taxable amount not determined" on the information return regardless of whether the distribution is a qualified distribution and thus tax-free. If designated Roth distributions are to be reported on a separate Form 1099-R, the Service should clarify that the designation "Taxable amount not determined" on Form 1099-R should apply.

- In order to differentiate Roth IRA distributions from designated Roth account distributions, the Service should review the extent to which new distribution codes may be needed for box 7 on Form 1099-R.

- The Service should clarify that, unlike Roth IRAs under section 408A(d)(6), recharacterizations are not permitted in connection with Roth 401(k)s and Roth 403(b)s.

- Clarification is needed regarding the income tax treatment of ESOP dividends which are distributed in cash from a designated Roth account within 90 days after the end of the year in which the dividends are paid. For example, one assumption is that these dividends would be taxable when distributed and would be tax-free only if reinvested and subsequently distributed in a qualified distribution.

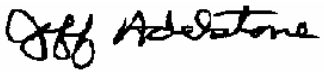
- Guidance is needed on the calculation of NUA on employer stock distributed in-kind from a designated Roth account in a qualifying distribution. Guidance is also needed regarding the determination of the recipient's cost basis after distribution from the plan.

- Guidance is needed regarding the manner in which sections 72, 3405 and 6047 apply to any distribution or deemed distribution, including loans to plan participants, from a section 401(k) plan or section 403(b) contract or account where a designated Roth account exists. For example, guidance is needed regarding the ordering rules that will apply in connection with the following :

    1. Corrective distributions of excess deferrals under Code §402(g);
    2. Excess contributions under §401(k);
    3. Excess annual additions under §415
    4. Distributions, including loan defaults and direct rollovers
    5. The manner in which the minimum required distributions are affected and calculated where a designated Roth account exists.
    6. Special rules affecting distributions and recordkeeping in connection with section 403(b) arrangements, which may or may not be subject to ERISA and which will likely be funded through the use of multiple annuity contracts and/or custodial accounts, including the manner in which the ordering rules apply in the case of direct transfers pursuant to Rev. Rul. 90-24.

Again, the members of IRPAC appreciate the opportunity to provide the Service with comments regarding designated Roth contributions under section 402A. If you have any questions about these issues, please call Barbara N. Seymon-Hirsch at (202) 347-2230.

Sincerely,



Jeffrey Adelstone
Chair, IRPAC

cc: Nancy J. Marks, Division Counsel/Associate Chief Counsel, TEGE
Marjorie Hoffman, Special Counsel, Office of Chief Counsel, TEGE
Thomas D. Terry, Senior Technical Advisor, TEGE
Cathy Vohs, Attorney, Office of the Division Counsel/Associate Chief Counsel, TEGE
Roger S. Kuehnle, Tax Law Specialist, TEGE
William Gibbs, Attorney/Advisor, TEGE

INFORMATION REPORTING PROGRAM
ADVISORY COMMITTEE

TAX-EXEMPT/GOVERNMENTAL ENTITIES
SUBGROUP REPORT

During 2004, the Tax Exempt & Government Entities Subgroup (TE/GE Subgroup) worked with Internal Revenue Service (IRS) representatives from the Tax Exempt & Government Entities (TE/GE) Operating Division of the IRS on a number of information reporting issues, including improvements to pension reporting, increasing taxpayer awareness regarding pension tax law changes, and changes in Form 990 to clarify reporting and ease communication with filers, as well as the elimination of barriers to electronic filing of returns. The following projects were completed by the TE/GE Subgroup:

- **Letter – *(Seymon-Hirsch)*** Optional Treatment of Elective Deferrals as Roth Contributions Under Section 402A
- **Letter – *(McCauley)*** Tax Reporting for an Individual Retirement Account Closed Due to the Customer Identification Program Rule
- **Letter – *(McCauley)*** Mandatory Direct Rollovers (Code Section 401(a)(31)(B))
- **Letter – *(Lampkin)*** Creation of Federal-State Retrieval System for Form 990 Information
.

In addition, the TE/GE Subgroup previously presented a letter at the 2003 IRPAC Public Meeting in which the Committee recommended that the IRS finalize and make permanent the interim tax reporting rules set forth in IRS Notice 2003-53 (the "Notice") relating to Coverdell Education Savings Accounts (CESAs). Pursuant to such rules, CESA trustees and custodians are not required to track basis and earnings for CESAs. Rather, basis and earnings calculations would remain the responsibility of each CESA account owner, who

has access to all of the information required to report such information to the IRS completely and accurately. A follow-up letter reaffirming the IRPAC's support of this recommendation has been sent to the IRS.

Finally, due to time constraints, the TE/GE Subgroup found it necessary to table a number of issues for consideration this year, including a review of Forms 1099R, 5329, 5498 and 8606, and their instructions to ensure that they accurately reflect current requirements for information reporting affecting retirement arrangements. These issues will be considered in 2005.

Thomas D. Terry, Senior Technical Advisor TE/GE; Mark O'Donnell, Director, Customer Education & Outreach, TE/GE; Roger Kuehnle, Tax Law Specialist, Guidance & Quality Review TE/GE; Cheryl Chasin, TE/GE; Midori Morgan-Gaide, TE/GE; Marjorie Hoffman, Senior Technician Reviewer, Office of Chief Counsel, TE/GE; Monice Rosenbaum, Attorney, Office of Chief Counsel TE/GE; and Cathy Vohs, Attorney, Office of Chief Counsel TE/GE, in addition to other representatives of the IRS, were instrumental in working with the IRPAC on the issues noted above.

INFORMATION REPORTING PROGRAM ADVISORY COMMITTEE (IRPAC)

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Chair

Connie Davis
Vice Chair

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Jeffrey Adelstone
Carole Conklin

Wage & Investment Sub-Committee:
Connie Davis, Chair
Dorothy Atchison
Karen Carter

October 1, 2003

VIA HAND DELIVERY

The Honorable Mark W. Everson, Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW, Rm. 3000
Washington, DC 20224

Internal Revenue Service
CC:PA:RU (Notice 2003-53)
Room 5226
Internal Revenue Service
POB 7604
Ben Franklin Station
Washington DC 20044

RE: Notice 2003-53, Coverdell Education Savings Accounts

Dear Commissioner:

On behalf of the Information Reporting Program Advisory Committee ("IRPAC"), I am writing to provide comments in response to Internal Revenue Service ("IRS") Notice 2003-53 (the "Notice"), which provides guidance regarding certain reporting requirements and transition rules applicable to Coverdell Education Saving Accounts ("CESAs") described in Section 530 of the Internal Revenue Code. We very much appreciate the opportunity to provide comments before this guidance is finalized for 2004 and future years.

IRPAC was established in 1991 in response to an administrative recommendation in the final Conference Report of the Omnibus Budget Reconciliation Act of 1989. Since its inception, IRPAC has worked closely with the IRS to provide recommendations on a wide range of issues intended to improve the information reporting program and achieve fairness to taxpayers. IRPAC members are drawn from and represent a broad sample of the payer community, including major professional and trade associations, colleges and universities, and state taxing agencies.

IRPAC would like to commend the IRS for responding to the comment letters addressing the compliance and reporting challenges faced by CESA trustees and custodians arising from the publication of the 2003 Forms 5498-ESA and 1099-Q and related instructions and for announcing the substantial modification contained in this Notice. We appreciate the thoughtful consideration that has resulted in the

postponement of the requirements to report on Form 1099-Q the basis and earnings portions of gross distributions from CESAs and transfers to another CESA (hereinafter referred to as "trustee-to-trustee transfers"), in cases where a CESA trustee or custodian is unable to calculate or report such amounts.

In responding to the Notice, IRPAC will focus primarily on three major topics: (1) reporting of basis and earnings by CESA custodians and trustees; (2) reporting of trustee-to-trustee transfers by CESA custodians and trustees; and (3) the Form 5498-ESA reporting deadline. While we understand and support the need for compliance and accurate reporting, we believe that tax reporting is most effective when completed by the person or institution that has access to all of the information required for accurate and complete reporting. To that end, with respect to 2004 and future years, we respectfully request that the Service continue to place the responsibility for tracking and reporting basis and earnings in CESAs with the CESA account owner, rather than requiring such tracking and reporting by CESA trustees and custodians, for the reasons discussed below.

In addition to the above, with respect to the Form 5498-ESA reporting deadline, due to the time it takes for CESA trustees and custodians to process transactions and reconcile and test their records, we strongly urge the Service to consider extending the current April 30 deadline for furnishing Copy B of Form 5498-ESA to CESA account holders to the May 31 IRS delivery date or later.

I. Reporting of Basis and Earnings

This section discusses why a CESA trustee or custodian will be unable to provide many CESA account owners and the IRS with an accurate report of basis and earnings on CESA distributions. Any type of tax reporting is useful for taxpayers or the IRS only if the report is accurate and reliable so that it may be used by taxpayers in self-reporting and by the IRS in verifying compliance with tax laws. Where the report is not accurate, a taxpayer is unable to rely on the report, and the report itself may increase taxpayer confusion and noncompliance.

Many CESA trustees and custodians have not tracked basis for CESAs, as such information previously has not been required to be reported by such trustees and custodians, nor have such trustees and custodians been legally obligated to maintain basis information. When they were created, CESAs were patterned after Individual Retirement Accounts ("IRAs"), and many of the rules and reporting requirements were the same, including the reporting of the taxable amount of a distribution by the taxpayer. Consequently, absent the historical contribution and distribution information applicable to individual CESA account holders, basis and earnings information is not available to the CESA trustee or custodian for reporting to the IRS. Relying on CESA trustees and custodians to report such information based on little or no supportive historical data does not seem appropriate when CESA account holders themselves have the available information to report accurately.

Assuming the necessary historical contribution and distribution information could be obtained or reconstructed for existing CESAs, the systems modifications necessary to report basis and earnings information would be substantial and costly. As a result, given the low contribution limits and small sums accumulated in CESAs, many financial institutions would discontinue offering these accounts if such mandatory reporting were required.

Although CESA trustees and custodians are not in the best position to maintain and track the information necessary to report accurate basis and earnings information, we believe that CESA trustees and custodians could provide year-end statements that include cumulative contribution amounts. In fact, currently, most such trustees and custodians provide these statements to CESA account holders to assist them in achieving compliance with the current tax reporting rules. Such statements, along with gross distribution information on Form 1099-Q and increased taxpayer information and education around calculation of basis and earnings on CESA distributions, would help ensure taxpayer compliance and complete and accurate tax reporting.

II. Reporting of Transfers

For many of the same reasons discussed above, it is extremely difficult for CESA trustees and custodians to capture and report trustee-to-trustee transfers. In addition to the requirement in the Form 1099-Q for CESA trustees and custodians to separately report trustee-to trustee transfers distributed out of a CESA, IRS Form 5498-ESA requires such trustees and custodians to report trustee-to-trustee transfers received as well.

CESA trustees and custodians have never been required to capture, maintain, and report trustee-to-trustee transfers to/from like account registrations when the transaction was not otherwise reportable. To require CESA trustees and custodians to do so mid-stream would be extremely expensive from a systems implementation perspective and difficult, if not impossible, due to the level of activity in CESAs. Moreover, we believe data would tend to be incomplete and inaccurate over time because of the potential level of transfer activity between CESA trustees and custodians. Consequently, we strongly urge the Service to reconsider this requirement and continue the current regime of non-reportable direct trustee-to-trustee transfers between like CESAs.

III. Form 5498-ESA Reporting Deadline

The Form 5498-ESA reporting instructions require that CESA trustees and custodians furnish the Form to the IRS by May 31 and to CESA account holders by April 30. The April 30 deadline, however, does not provide CESA trustees and custodians with sufficient time to reconcile and test their records to be able to prepare a complete and accurate report to account holders, since this date is a mere 15 days after the due date for making prior year CESA contributions. In addition, this date does not appear to consider the time needed for CESA trustees and custodians to receive contributions that are mailed via the U.S. Postal Service on April 15.

While we recognize that there is a statutory June 1 date for CESA account holders to make "timely" excess contribution corrections, we strongly recommend that the Service extend the April 30 deadline for providing a copy of Form 5498-ESA to a taxpayer to May 31 (the due date for filing IRS Form 5498 for IRAs). We also recommend that the Service work with the Treasury Department to support a legislative change to extend the June 1 correction deadline to October 15 (the latest date permitted for IRA owners to correct "excess contributions").

IRPAC appreciates the consideration that the IRS has given to the comment letters that it received regarding the reporting scheme originally proposed in connection with Forms 1099-Q and 5498-ESA, and the related instructions. We believe that the IRS has taken strides to balance the needs of CESA trustees and custodians, taxpayers, and the Federal Government.

We would be happy to provide further information on any of our comments contained herein, and we look forward to continuing our work with the IRS on these important reporting issues as the Service works toward finalization of its guidance for 2004 and thereafter. Please feel free to contact Pamela Everhart at (617/563-3902) with any questions or comments that you may have regarding the issues raised in this letter.

Sincerely,

Michael O'Neill
Chair, IRPAC

cc: Evelyn Petschek, Commissioner, TE/GE
Thomas D. Terry, Senior Technical Advisor, TE/GE
Emily Parker, Acting Chief Counsel
Sarah H. Ingram, Division Counsel/Associate Chief Counsel, TE/GE
Monice L. Rosenbaum, Associate Chief Counsel, TE/GE
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Susan Brown, Office of the Tax Legislative Counsel, U.S. Treasury Department

INFORMATION REPORTING PROGRAM ADVISORY COMMITTEE (IRPAC)

Comments to the IRS Oversight Board

On

ACHIEVING THE GOAL FOR E-FILED RETURNS (Panel 3)

January 26, 2004

Presented by
Jeff Adelstone, Chairman
IRPAC

Madam Chairman, Members of the Oversight Board, and Guests:

On behalf of the IRPAC, I want to express our deep appreciation for the opportunity to offer comments and suggestions on Achieving the Goal for E-Filed Returns. Because Electronic Filing is the cornerstone of the entire IRS Modernization Program, the successes enjoyed in this arena are absolutely critical to achieving success with the overall objective of a modernized IRS.

The IRPAC was established in 1991 in response to an administrative recommendation contained in the final Conference Report of the Omnibus Budget Reconciliation Act of 1989. At that time, Congress recommended that the Internal Revenue Service consider the creation of an advisory group comprised of representatives from the payer community as well as practitioners to discuss improvements to the information reporting program. Since its inception, IRPAC has worked closely with IRS officials to provide recommendations on a broad range of issues intended to enhance the reporting program and achieve fairness to taxpayers.

The IRPAC wishes to publicly commend IRS Commissioner Mark Everson. Although he has only been on board for a very short nine months, he is responsible for fostering a smooth transition in the change of Commissioners, and has supervised some "giant leaps" in progress towards the overall goal of modernization. Taking over any large organization in the midst of major change presents a series of challenges which oftentimes lead to disaster. The Commissioner proverbially "hit the ground running", and has spearheaded many of the improvements which I will address today.

Since 1990, the number of E-Filed returns has increased from 4 million to approximately 53 million. However, RRA '98 sets a goal of achieving an 80% level for E-Filed returns by 2007. **The IRPAC believes that such a goal is unobtainable under the current circumstances!** To achieve the 80% goal, the number of E-Filed returns would have to double in the next four years. Most of the obstacles preventing the achievement of this goal appear to fall into one of three general areas: (1) Why E-Filing is Viewed as Problematic by the Public, (2) Business E-Filing, and (3) Available Resources for E-Filing.

What steps have the Service been taking to enhance the number of E-Filed returns? It has realigned its service centers (now referred to as campuses) to achieve greater efficiency. It has established a special E-Help telephone line to specifically address queries from practitioners and other interested parties with electronic filing problems. Six new forms and three new records have been added to the electronic filing form base this year, and now, even decedent returns can also be filed in this manner. It has made many changes to strengthen the Service's ability to prevent online fraud, and earlier this year, it began accepting payments for Sub Chapter S returns and their extensions.

Perhaps one of the greatest achievements this past year was the debut of the new web site **1040 Central**, found on the IRS site at www.irs.gov. The site contains a plethora of information, and is designed to allow a taxpayer to open the site, and have at hand virtually everything he or she would require in order to complete a tax return. The sight

is complete with E-File software and accommodates both individual as well as business E-Filing on a no cost basis for the user. The site is available to users 24 hours a day and seven days a week. The IRPAC believes that this site will go a long way towards encouraging taxpayers to use the E-Filing process when preparing their tax returns.

What obstacles still must be overcome in order to enhance the numbers of E-Filed returns? Based on numerous focus group discussions held over the past few years, the feedback we received indicate three primary areas into which most of these objections fall. The first objection relates to **Costs.** Practitioners indicate that they have inadequate incentives to bear the cost of purchasing electronic filing software. They further object to the rather high fees assessed in the use of both credit and debit cards, and voice a final objection over the additional time required to properly format a return for electronically filing. Put succinctly, they believe the expenses they would incur, along with a decrease in productivity due to formatting requirements outweigh the intrinsic benefits of participating in the E-File program.

Another area of objection is the lack of incentives for the practitioner and the taxpayer to participate in the program. While a taxpayer expecting a refund for the year can expect to receive it in under three weeks when filing electronically, currently, there is no visible incentive for a taxpayer to file a "Balance Due" return in this manner. Other obstacles mentioned include the inability of one to file a MFS return electronically as well as the fact that many forms required are still not allowed to be filed electronically. Finally, a recurring objection which we see often from practitioners is the fact that once a return is filed electronically, instead of being able to just go back into the return and make corrections, a formal amendment (Form 1040X) must be prepared in order to affect a change, thereby further reducing productivity.

The third primary area of objection fall into the area of Taxpayer Confidence and Distrust of the Internal Revenue Service. Over the years, policies of the IRS have varied depending upon which commissioner was in charge, and whether he chose to take a "mild" approach to tax administration or whether he chose to use the proverbial "Big Stick". Because of this history, many taxpayers simply do not trust the IRS. Among the obstacles most often identified in this area are objections to electronic filing from many older taxpayers who are "set in their ways" and have been doing their returns on paper all of their lives. The fact is that paper returns are within their "comfort zone". Taxpayers also express concerns about the security of their personal information should they transmit their returns electronically, and perhaps most important is the fact that **taxpayers are skeptical about giving their credit card or bank account data to the IRS** in fear that the IRS will use the data for collection or other unauthorized uses.

These are the primary obstacles currently impeding progress towards the RRA '98 goal, and whether they are credible or not, is really immaterial. The Service must find a way to address these issues if it is to have any chance of being successful in reaching it's 2007 goal. This is one of those situations where the old adage of "Perception is Reality" certainly applies.

What Can IRS Do to Change Behavior and Attitudes of Those Not E-Filing?

The IRPAC believes that one of the most basic steps which the Service can take is to continue the expansion of forms eligible to be filed electronically as rapidly as is possible. We further believe that the Service should seriously consider engaging a private contractor to create electronic filing software on a fee basis, with copyright ownership retained by the Service, **to be distributed at no cost to practitioners who wish to participate in the program.** By doing so, the Service would end up removing one of the more significant barriers to electronic filing.

Finally, we recommend close monitoring of the results in the eight states which have mandated electronic filing for the 2003 tax return year. The IRPAC believes that this is the start of a trend which will be expanded rapidly to the other states once the results of these mandates have been properly evaluated by other state taxing authorities.

How Can IRS Better Market E-Filing?

There is consensus among IRPAC members that the first step to obtaining better marketing results for E-Filing is for the Service to request and obtain a significant increase in funding for their marketing budgets. In addition to providing some needed flexibility in marketing, larger budgets would allow for a more rapid expansion of the E-Filing program by increasing both the "Reach" and "Frequency" of its advertisements.

Among our specific recommendations, the E-File system, throughout it's history, has always been targeted to individual filers. Therefore, we recommend the creation of a marketing campaign specifically targeting Business E-Filing. Further, ads should be created stressing the "Safety and Security" of the personal information of those using the E-File system.

Perhaps the boldest recommendation coming from the IRPAC is a recommendation to create a series of ads which are *indirectly* pointed at the practitioner community through creating a demand on the non participating practitioner to "get with the program". Such ads would posture paper returns as "Old Fashioned and Obsolete" with an overall theme of Is Your Accountant Up to Date?

Specific advertisements could be designed using themes such as:

Is the Accountant Preparing Your 2004 Tax Return Still Using 19th Century Technology?

Do You Still Wait 8-12 Weeks to Get Your Tax Refund?

Tax Cuts Offer the Largest Refunds in History—How Fast Can You Get Yours?

Regardless of the individual marketing themes chosen, the idea is to create a specific client demand for E-File services on those professionals not currently participating in the program.

How Will the Implementation of E-File Services Impact the Number of Returns Filed Electronically?

We presently believe that E-File Services will serve to assist many practitioners in transitioning into the electronic filing system. Created as a direct result of practitioner recommendations, E-File Services was established to simplify the system and remove barriers through this special service.

Through this service, practitioners can provide on-line Powers of Attorneys, Transcript Delivery, and handle a bevy of tax questions or other problems which the practitioner may view as obstacles in dealing with the electronic filing system.
Because the initial requirement to qualify to use E-File services requires that a practitioner file a minimum of 100 returns, we believe this program is a big step forward towards increasing the number of returns filed electronically.

Because this program was specifically geared to the requests of practitioners, as well as the fact that it addresses many of the needs and concerns expressed by them, and most importantly, **practitioners indicated that were such a service offered, they would most likely participate in the E-File program,** we anticipate an increase in the number of E-Filed returns to be the direct result.

How Will State Mandated E-File Programs Impact the Federal Program?

For the current filing year, eight states have **mandated** E-Filing for practitioners filing a minimum number of returns. (Some states require those filing 50 or more returns use E-File, while others, a 100 or more.) **Therein may lie the only real "twinkle of hope" that the Service may actually be able to achieve it's 80% goal by 2007.**

The move is a direct result of very tight state budgets—a problem confronting virtually all but one or two states this year. We anticipate that those participating states will enjoy significant cost savings resulting from these mandates, and as a result, these mandates will be expanded rapidly to other state taxing authorities.
Further, as a result of a fairly rapid expansion of states mandating E-Filing, another of the barriers previously identified, can eventually be eliminated. I refer to the barrier of Lost Productivity in formatting a return for E-Filing. Since most computer systems will format the federal return at the same time it formats a state return, if the state mandates E-Filing, **both returns are essentially formatted for E-File at the same time—without any additional time required from the practitioner to format for federal purposes.**

The IRPAC believes that we will see a substantial increase in the number of returns being filed electronically on the federal level as an indirect result of these state mandates. To further support this conclusion, we point out the fact that many states are not internally structured to receive E-Filed returns on a direct basis; rather, the return is filed electronically to the IRS who then transmits returns in bulk to the appropriate state authorities. Therefore, for those states mandating E-File, we believe that necessarily, the

number of returns filed electronically to the federal government from those states must increase.

No discussion regarding mandated state sponsored E-Filing and it's impact on the federal system can be completed without mentioning the possibility of the IRS also mandating E-Filing at some date in the future through a change in regulations and procedures. While the current political climate may not presently allow for such a mandate, the IRPAC envisions a rapid expansion of mandatory E-File programs among the states, and as that occurs, believes that political resistance will eventually be broken down so that the Service will eventually be able to issue its own E-File mandate applicable to federal return requirements. **Unfortunately, under current circumstances, the IRPAC believes that this is the only realistic way for the Service to reach its RRA '98 goal.**

What Legislative Changes Would Encourage More E-Filing?

The IRPAC suggests two legislative items which we believe would result in increased participation in the E-Filing program. First, we recommend an **E-File Tax Credit.** A credit of $10 per individual return and perhaps $25 to $50 for a business entity return would likely meet this need. Once passed into law, the new credit should be heavily marketed. This would be of great help in overcoming two of the barriers previously identified. Specifically, since there currently is no incentive for taxpayers to file "Balance Due" returns electronically, that barrier would be removed. Additionally, such a tax credit would create pressure on non participating practitioners to join the program rather than to have to explain to each client why he or she was not receiving that "heavily advertised E-File credit" to which he or she would otherwise be entitled.

Our second recommendation for legislative change is geared to overcoming the obstacle of taxpayers' distrust of the IRS. **We recommend that Congress pass a resolution, mandate, etc prohibiting the IRS from using any of the personal credit card or bank account information provided it as part of the E-File process for the purpose of Collection Activities.** Again, I remind you that Perception is Reality, and even though the Service can obtain the same information from other sources, we believe that a Congressional Resolution of this type will go far to ease the fears of the American taxpayer as regards a possible "IRS Raid" upon their accounts.

In closing, I again want to express our thanks to the Board for the opportunity you have given us today. However, I would be remiss in my responsibility if I were to fail to express our deep appreciation and thanks to the entire staff from the IRS office of Public Liaison, IRS senior officials and to Commissioner Everson for the splendid cooperation and eagerness displayed in working with us to achieve our common goal. Together, we will continue to strive to achieve a tax system which is both fair to the American taxpayer, and an administration of that system which operates as efficiently as possible.

QUESTIONS ON FORM W-4s

REPORT FROM THE INFORMATION REPORTING PROGRAM ADVISORY COMMITTEE

JULY 5, 2004

Prepared by

Jeff Adelstone, Chairman

QUESTIONS ON W-4s

The IRPAC was charged with six questions for which it was requested to provide input. The questions, along with the group's responses, are addressed individually:

1. **How can IRS improve the Form W-4 and withholding process to make it work easier and better for employees and employers?**

   A redesign of the Form W-4 using larger print and a format similar to that used on other newly designed forms will make it less intimidating and easier for the employee to follow. Placing the form at the TOP of the page is also recommended. The employer would benefit from receiving "package" that includes the several forms and publications referred to in the W-4 instructions. Those large companies with payroll clerks have these but the smaller or one-man employer does not. These tools should be available to the employee. We also recommend directions to the irs.gov withholding calculator be included in the instructions.

   The employer needs the W-4 information at job onset for payroll as well as liability coverage. The instructions to W-4 are very complex and the employee usually does not have the tools and knowledge to complete the form. Educational tools should be developed for the employee and employer.

   IRPAC recommends a Legislative change to require employees to produce their Social Security Card to begin work.

   The signature line only refers to verifying the number of withholding allowance claimed or that the exemption claim is valid. IRPAC recommend adding, "Under penalties of perjury, I certify that my name and Social Security number on this form matches the name and Social Security number on my most recent Social Security card."

   We suggest adding space for employees and employers phone numbers.

2. **How can IRS address employee mis-identification, or in the alternative, assure adequate withholding?**

   We recommend a slight change to Publication 15 withholding tables. An additional $3 of withholding under the "2 withholding allowances" column for a single person/weekly payroll will avoid a balance due tax return. Anything above $152.00 a week will have taxable income for a single worker and result in a tax liability. On Single Persons-Biweekly, Semimonthly, or Monthly charts similar changes should also be made.

   Employees and employers should be reminded of the existing requirements of withholding at S/0 rate if a valid W-4 is not submitted.

   Name mismatches are a problem – employees should be directed to use the name as it appears on his Social Security card. If he does not want to do this, he should be directed to SS to obtain a new card/number before entering employment.

Since a substantial number of W-2s showing zero withholding were not filed, if the minimum amount of withholding was $1 instead of $0 for any employee who is not exempt there would be no W-2 with zero withholding and this would increase the filing compliance. Exempt employees would still have zero withholding.

3. **Recognizing that employers must also report W-4 information for the newly hired employees to state Child Support Enforcement Agencies, what can IRS do to increase employer filing of problem W-4s?**

   At present the Service has no way of knowing there are problems withW-4s until the W-2 information is sent in and low withholding is noted. IRPAC recommends a fax number for problem W-4s or the ability to e-file them would simplify the process.

4. **Should IRS change its criteria for required submissions of Form W-4s and if so, how?**

   At present, employers need only submit W-4s if the employee claims an exempt status or claims 10 or more allowances. If the W-4 exceeds these criteria, the form must be submitted in paper form one month after the end of the quarter in which it was tendered to the employer.

   SB/SE Sub-committee of the IRPAC recommends that IRS setup a fax line at the campuses designated as business center to collect paper W-4s Daily. Another approach would be to setup an e-file system to which the form could be uploaded after it had been scanned into the employer's computer. However, we recommend that forms should be filed on at least a monthly rather than a quarterly basis. If an employee is hired at the beginning of a quarter and claims either exempt status or excessive allowances, four months have passed before any corrections could even be considered let alone made. The time lag could result in a substantial under withholding of tax. It has been demonstrated that persons who have insufficient withholdings are also far more likely to be non-filers. This fact increases the "tax gap".

   Another way to cut down the number of non-compliant W-4s would be to require employees to prove they have the right to the number of allowances they are claiming, e.g., via proof of marriage and birth certificates for children being claimed. Copies of these documents could be submitted along with the unusual W-4s.

5. **How well does the use of a lock-in letter address withholding noncompliance and how can the process be improved?**

   The subgroup was generally not familiar with a lock-in letter until the IRS brought it up. After discussing the matter, we felt that a copy of the letter should be sent to the employer as well as the employee. Once a letter is in place, the employer and employee should have 30 days to address the contents of the letter and if a remedy is required, the employer must attest to implementing any changes that were necessary to create proper compliance. IRPAC recommends that fines and penalties should be immensely increased for noncompliance. In addition, if the employer is complicit in avoiding proper withholding, the company should be penalized in a like manner.

6. **Help us identify a few large employers that would be willing to partner with IRS to test a number of educational materials designed to address employees who submit potentially problematic W-4s.**

   The LMSB subgroup of the IRPAC helped to identify a few large companies and they have agreed to participate in the W-4 education test program.

   The IRPAC appreciates the opportunity to provide input on these important questions affecting the W-4. Any additional questions or comments may be addressed to Jeff Adelstone, Chairman.

INFORMATION REPORTING PROGRAM ADVISORY COMMITTEE

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OCTOBER 28, 2004

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2004 Member Biographies

Jeffrey A. Adelstone Mr. Adelstone is President and CEO of Adelstone Financial Services, Inc., a financial services firm established in 1969, specializing in income tax preparation, financial planning, management advisory services for small business, and accounting. He is a Past President of the Arizona Society of Practicing Accountants and the Arizona Society of Enrolled Agents, and holds a BS and an M.Ed from the University of Arizona. Routinely preparing in excess of 1,000 income tax returns annually, Mr. Adelstone has prepared well in excess of 30,000 income tax returns during his professional career. **(Chairman)**

Dorothy T. Atchison Ms. Atchison has been a tax preparer for the past thirty years. In 1985, she opened her own business, The Atchison Business Center, in Jackson, Alabama. Ms. Atchison prepares tax returns and other required reporting documents for individuals whose annual incomes range from the poverty level to over $150,000, small corporations (C and S), partnerships, LLCs, Tax-Exempts, and Estates. Ms. Atchison, an Enrolled Agent, is a member of the National Association of Tax Professionals and has represented numerous taxpayers, both individuals and corporations in audits and other situations. **(W&I Subgroup Chairperson)**.

Martha Bell Ms. Bell has been preparing taxes for over twenty-four years and is the owner and operator of TaxAdvantage of Lakeland, LLC. Prior to owning her own business she worked for an accountant/computer company. She was the controller for a managing general insurance agency where she earned her enrolled agent's credentials. She currently sits on the Advisory Committee of the Florida Metropolitan University, Lakeland campus. She was the former President of the Florida Association of Accounting and Tax Professionals and continues to serve in a variety of capacities. She currently serves as the Florida State Director for the National Society of Accountants. Ms. Bell holds a BS in Education from the University of Akron, a Masters in Education from Kent State University and a BA in Business Administration (Accounting) from the University of Florida. In addition, she is an Accredited Business Accountant, Accredited Business Advisor, Florida mortgage broker, Series 6, and a US Tax Court Practitioner. **(SBSE Subgroup)**

Carole R. Conklin Ms. Conklin currently provides tax consulting and small business accounting services through her own company, Accounting by Conklin. She began her tax career as a preparer with H&R Block in 1982. Presently, her firm has over 200 clients, a significant number of which are corporations and partnerships with complex consulting needs. In

addition, she prepares returns and provides tax planning services for all of her clients. A member of the National Association of Tax Professionals since 1987, and an Enrolled Agent since 1989, Ms. Conklin holds a BS in Marketing from Indiana University with a minor in Accounting. **(SB/SE Subgroup)**

Dave Corthell

Mr. Corthell is Vice President and Corporate IRS Compliance Manager of SunTrust Banks, Inc. in Orlando, Florida. Mr. Corthell has over 20 years experience with IRS Information Reporting programs. He manages all programs associated with IRS Information Reporting and IRAs for affiliates and subsidiaries of SunTrust Banks Inc. His responsibilities include IRS and IRA regulatory analysis, coordination of all information reporting projects, development of related policies and procedures, filing of all 945s, 941s for non qualified plans, state reporting, managing all daily IRS compliance activities and the SunTrust IRS toll free help line. Dave is a member of the American Bankers Association ("ABA") and The IRS Information Reporting Roundtable. He attended Ohio State University and Terra Community College and holds a degree in Accounting and Computer Science Technology. **(LMSB Subgroup)**

Pamela D. Everhart

Ms. Everhart is currently the Senior Vice President for Fidelity Investments. Ms. Everhart advises Fidelity's retail retirement business unit regarding information and tax reporting compliance. In this role, she researches and analyzes various federal and state income tax reporting and withholding issues arising from Fidelity's management of retail retirement assets, including Keogh plans, traditional, Roth, SEP and SIMPLE IRAs. Most recently, she has been analyzing possible tax information reporting changes as a result of the passage of the Economic Growth and Tax Relief Reconciliation Act of 2001. Pamela holds a BBA from the University of Texas at Austin and a JD from Harvard University. **(TEGE Subgroup)**

Debra Heikkinen

Ms. Heikkinen is a Tax Senior Manager at Deloitte in the Tax Controversy Services practice. She has fifteen years of international, domestic, and state tax reporting experience, focusing on executive compensation, employment taxes, tax information reporting and tax controversy. She has worked with large and medium-sized clients in a variety of industries. She also serves as President of the National Association of Tax Reporting and Payroll Management (NATRPM); is a member of the American Bar Association, Section of Taxation, and Employment Taxes Committee. Ms. Heikkinen holds an A.B. in Government and Economics from Smith College, a J.D. from Duquesne University School of Law, and an LL.M. in Tax from Boston University School of Law. **(LMSB Subgroup)**

Carol A. Kassem

Ms. Kassem is Vice President and Information Reporting Manager of Bank One Corporation in Baton Rouge, Louisiana. Ms. Kassem is responsible for the overall coordination of the Information Reporting process for all Bank One affiliates and subsidiaries, including the issuance of year-end information reporting to customers and the submission of information returns to the IRS. Ms. Kassem provides timely updates and guidance throughout the organization with respect to changes in IRS' Regulations and reporting requirements. She currently represents Bank One on the New York Clearing House Tax Withholding and Information Reporting Committee. Ms. Kassem is a member of the American Bankers Association and holds a BS in Accounting from Louisiana State University. **(LMSB Subgroup)**

Linda M. Lampkin

Ms. Lampkin serves as Program Director of the Urban Institute's National Center for Charitable Statistics, a program of the Center on Nonprofits and Philanthropy. Ms. Lampkin works closely with the IRS, key nonprofit groups, and the scholarly community to maximize usage of nonprofit data and promote research in the sector. The National Center for Charitable Statistics serves as the national repository of nonprofit information and plays a critical role through collaborations with the IRS and state officials to improve the quality and accessibility of Form 990 data which it holds and disseminates, along with data from other sources. Ms. Lampkin is the author of many articles on IRS Form 990 data quality and on the classification of nonprofit organizations. She co-authored the *Nonprofit Almanac 2001* with INDEPENDENT SECTOR, which was released in February 2002. Ms. Lampkin holds a BS in Economics and an MS in Labor Economics and Statistics from Cornell University. (**TEGE Subgroup**)

Patricia McCauley

Ms. McCauley is an Associate Legal Counsel of T. Rowe Price specializing in retirement plan matters. Ms. McCauley provides research and analysis for retirement savings products (e.g., defined contributions plans, Traditional, Roth, SEP and SIMPLE IRAs, and 403(b) plans and custodian accounts) that T. Rowe Price offers to plan sponsors and individual investors. Ms. McCauley also is involved in issues relating to information and tax reporting for all T. Rowe Price retirement savings products. **(TEGE Subgroup)**

Ernest V. Molinari

Mr. Molinari is Vice President and Corporate Counsel for Prudential Insurance Company Financial, Inc., Newark, New Jersey. Mr. Molinari is the lead attorney responsible for providing legal support to Prudential Financial and its subsidiaries Insurance and Prudential Securities' relating to tax information reporting and withholding issues, which include fringe benefits, payroll, and employment tax issues. Mr. Molinari presently serves on the Withholding and Information Reporting Committee and the Independent Contractor/Employee Group of the American Council of Life Insurers (ACLI), and has actively participated in a number of ACLI Committees, Task Forces, and Working Groups addressing

product taxation, reporting and withholding issues. Mr. Molinari holds a BS in Accounting from New York University, and a JD from Brooklyn Law School. **(LMSB Subgroup Chairman)**

Ronald C. Moonin

Mr. Moonin is President of Gushem & Moonin, PC. Mr. Moonin's accounting experience includes management accounting, accounting firm management, tax and audit services, and forensic accounting. Mr. Moonin specializes in corporate and individual taxes, bankruptcy, financial planning and forensic accounting. He has negotiated and prepared financial situations with the Pension Benefit Guaranty Corporation for a company operating under Chapter 11. He provides management consulting services for corporations operating under Chapters 7 and 11. His extensive bankruptcy experience involves the review of preferential payments, tax return preparation for complex corporations, and personal tax planning. Mr. Moonin is a member of the American Arbitration Association and the American Institute of Certified Public Accountants, and he holds a BS in Finance from the University of Illinois. (**SB/SE Subgroup Chairman**)

Steve Neiss

Mr. Neiss has been active in the securities industry for more than thirty-two years and is currently employed by the Prudential Insurance Company of America, as a Vice President, supporting tax reporting and withholding Operations and Systems Departments of Wachovia Securities, LLC. In 1983, he was President of the Securities Industry Association (SIA) Dividend Division. He is licensed with the National Association of Securities Dealers as a securities salesman, principal, and registered in all states. Steve holds a BA from The City University of New York**. (LMSB Subgroup)**

Rachel Paliotti

Ms. Paliotti is Corporate Tax Manager for Blue Cross & Blue Shield of Rhode Island. Ms. Paliotti is responsible for all federal, state and local tax planning and compliance matters as well as all Form 1099 information reporting matters. Ms. Paliotti is Co-Chairperson of the Blue Cross & Blue Shield Association Information Reporting Task Force. The mission of this task force is to recommend appropriate policy actions and strategies in the reporting, processing, and filling of information returns. Ms. Paliotti is a Certified Public Accountant and is a member of the Rhode Island Society of Certified Public Accountants and The American Institute of Certified Public Accountants. Ms. Paliotti holds both a MBA and BS from Bryant College. **(SBSE Subgroup)**

Patricia A. Rhodes

Ms. Rhodes is President and CEO of Pat Rhodes Accounting, Inc. A firm that provides tax preparation services for individuals (poverty level to six figure incomes) and businesses (sole proprietors and small corporations, both C & S). Her business provides other services such as write-up, payroll, tax representation, small business start-up and tax planning. Annually, she personally prepares over a thousand tax returns.

She is the President and CEO of TaxTime Software Group, Inc., est. 1998. Ms Rhodes holds an advisory position on the Executive Partner Council of Orrtax Software Solutions, Seattle, WA. She is a member of the National Association of Tax Professionals, National Association of Enrolled Agents, and other professional organizations. Ms. Rhodes holds a B.S. from Jacksonville University (1973) and is a retired teacher. **(W&I Subgroup)**

Barbara Seymon-Hirsch

Ms. Seymon-Hirsch is a partner with the law firm of Davis & Harman LLP, specializing in federal tax matters, and concentrating particularly on issues related to insurance product tax compliance, qualified retirement plans, Internal Revenue Code section 403(b) arrangements, and employment tax. Ms. Seymon-Hirsch is a member of the District of Columbia and New York State Bar Associations, and a member of the Committee on Employee Benefits of the Tax Section of the American Bar Association. Barbara holds a BA from Vassar College, a JD from California Western School of Law, and a LLM in Taxation from Georgetown University Law Center. **(TEGE Subgroup Chairperson)**