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TAXES

IRS Looks to Provide Businesses with More Tax Certainty and Issue Resolution Tools

The IRS included this initiative in its Strategic Operating Plan, which outlines how it will use funding from the Inflation Reduction Act.

Jason Bramwell • Sep. 15, 2023



The IRS is asking taxpayers for their thoughts on how the agency can improve and expand its tax certainty and issue resolution options for businesses of all sizes.

Under Initiative 2.4 of the [IRS Strategic Operating Plan](#), which outlines how the IRS intends to use the nearly \$80 billion in additional funding received as part of the Inflation Reduction Act, the IRS reiterated its commitment to enabling taxpayers to resolve potential compliance issues up front, through expanded pre-filing and tax certainty programs.

The IRS said it is evaluating its tax certainty programs and tools to determine potential improvements that would result in the faster resolution of taxpayer issues and a reduction in post-filing compliance activities for affected taxpayers. The IRS is also evaluating the value of new or alternative programs to advance tax certainty and issue resolution for businesses.

The IRS currently offers tax certainty and issue resolution programs for a variety of taxpayers and their situations, including [Dispute Prevention and Resolution for Large Business and International Taxpayers](#), the [IRS Employee Plans Compliance Resolution System \(EPCRS\)](#), and the [Voluntary Classification Settlement Program \(VCSP\)](#).

The IRS is requesting comments and feedback on opportunities to expand and enhance tax certainty and issue resolution across the entire business taxpayer population—whether through enhancing existing programs and tools or developing new ones. While this initial request is focused on business taxpayers, the IRS said its program improvement effort will not be limited to one taxpayer segment.

Taxpayers and tax professionals are welcome to submit comments via email to LBI.SOP.Initiative.Feedback@irs.gov by March 31, 2024.

Specific comments are requested on:

- The scope of the program, with specific examples of issues that would be appropriate for coverage under the program and issues that could be carved out of scope initially (e.g., limited to domestic issues) or generally (e.g., “comfort” requests).
- The parameters for defining the population of eligible taxpayers (e.g., publicly traded, audited financial statements, materiality, taxpayers operating under a robust tax control framework, etc.) or ineligible taxpayers (e.g., engaging in listed transactions or other abusive transactions, taking positions inconsistent with a

Treasury regulation, etc).

- Timeframe for application to the program (e.g., cut-off date of no more than X months after return filing).
- Resolution options other than traditional examination.
- Expectations with respect to taxpayers not accepted into the program (e.g., filing an amended return).
- Potential for initiating a program as a limited scope pilot.
- Recommended guardrails to ensure program's scope would be consistent with applicable law and does not undermine timely information reporting to the fullest extent feasible, as well as the timely and accurate filing of returns.

In addition to the general request for comments, the IRS also is seeking feedback on the following programs and suggestions:

Compliance Assurance Process (CAP): CAP is a voluntary audit program developed by the IRS Large Business and International Division in 2005 through which the IRS and participating taxpayers work together to achieve tax compliance by resolving issues prior to filing of the tax return. Eligible taxpayers are publicly traded companies with at least \$10 million in assets.

Comments are invited on whether the IRS should consider modifications to the eligibility requirements or other program features, including whether eligibility requirements should be modified to include any taxpayer that prepares an annual financial statement that is audited by a third party, or whether there is a value for a partnership CAP in light of the IRS's plans for increased coverage of partnership structures.

Pre-Filing Agreements (PFAs): Comments are invited on opportunities to increase effectiveness of PFAs to promote tax certainty. Please include specific comments on any barriers to using the current program, program timelines, resources needed to participate, tax issues and/or tax entities that are especially well-suited to PFAs, or any other factors relevant to participation in the program.

Industry Issue Resolution (IIR): Comments are invited to identify opportunities to enhance or grow the current program to increase benefits for taxpayers. Input is requested on how to address any barriers and on any tax issues that may be candidates for an IIR. Observations from prior participation in the program or prior use of IIR guidance are welcome.

Competent Authority Assistance for U.S. Residency Determinations: U.S.

taxpayers with investments in other jurisdictions often need to demonstrate U.S. tax residency to other jurisdictions to take advantage of favorable withholding rates under U.S. tax treaties. Upon request, the IRS issues [Form 6166](#), *Certification of U.S. Tax Residency*. Some jurisdictions may nevertheless require more than the certification on Form 6166.

Comments are invited about instances where a treaty jurisdiction has not accepted a Form 6166 for a U.S. treaty resident to claim benefits. Please include the name of the country, the stated reason the jurisdiction would not accept Form 6166, the country-specific requirements, and/or whether certain clarifications on the residency status of a U.S. treaty resident would be helpful. These comments will help inform whether and how the [U.S. Competent Authority \(USCA\)](#) may be able to help in such instances, for example, by providing a supplemental letter for U.S. taxpayers who have received an IRS Form 6166 but are still unable to claim treaty benefits in foreign jurisdictions.

Voluntary Submission Program: Comments are invited on the value, scope, and parameters for establishing voluntary submissions processes to help resolve taxpayer matters including post-filing errors, omissions, or other corrections to bring taxpayers into compliance. The process could, for example, address these issues when both the IRS and taxpayer agree a voluntary submission is the most efficient and/or effective approach. The process, which would generally be available only for taxpayers not under examination, may result in a closing agreement to provide certainty on the submitted issues.

Taxpayers should typically file amended or delinquent returns, or, where available, request relief pursuant to existing programs or income tax return instructions. In some cases, those may not be the best methods for resolving taxpayer errors, omissions and other corrections, and a voluntary submission by the taxpayer may be more appropriate.

Pass-Through Entities: Comments are invited on opportunities to improve tax certainty and issue resolution at the entity level through to the ultimate taxpayer of pass-through entities.

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