

April 10, 2019

IRS Reform and the Taxpayer First Act of 2019

The Internal Revenue Service (IRS) has two main statutory responsibilities: to collect most of the revenue needed to fund the federal government and to enforce federal tax laws and regulations. In FY2017, the agency processed 245.4 million tax returns and other documents, collected \$3.4 trillion in gross revenue, and had a budget of \$11.2 billion.

While the collection and enforcement of federal taxes has changed over the years (increasing e-filing, for example), the IRS structure has largely been static over the past 20 years—since the IRS Restructuring and Reform Act of 1998 (P.L. 105-206; RRA98). Since then, the IRS has struggled with customer service, a large and growing amount of uncollected taxes, and information security, as documented by the Taxpayer Advocate and the Government Accountability Office (GAO).

The Taxpayer First Act of 2019 (H.R. 1957 and S. 928; TFA19) would implement various IRS reforms, including establishing an Independent Office of Appeals, making changes aimed at improving taxpayer service, reforming rules related to enforcement, modernizing agency structure and technology, providing better cybersecurity and identity protection, and achieving other objectives.

On April 9, 2019, the House passed H.R. 1957, as amended. TFA19 builds upon H.R. 5444 and H.R. 5445 in the 115th Congress, which both passed in the House on April 18, 2018, but saw no further legislative action.

The Joint Committee on Taxation has scored the TFA19 as raising \$3 million over 10 years, with 44 of the 47 scored provisions having no or negligible revenue effects.

This product focuses on areas of TFA19 that have been historically the focus of congressional oversight. At the end of this product is a list of additional resources.

Establishment of an Independent Office of Appeals

RRA98 directed the IRS Commissioner to restructure the IRS to ensure an independent appeals function within the agency, but did not mandate how it should be accomplished. TFA19 would codify the requirement for an independent appeals function and make access to appeals generally available to all taxpayers.

Taxpayer Service

TFA19 would require the IRS to submit to Congress a comprehensive customer service strategy within one year of its enactment. The legislation would also codify the IRS Free File Program, an agreement between the IRS and commercial tax return preparers to provide free filing services to low-income filers. Some object to codification of the IRS Free File Program, which, they say, from 2002 has barred IRS from creating its own online system of tax

filing to the detriment of some taxpayers. TFA19 would also provide an exemption of certain low-income taxpayers from payments required to utilize the offer-in-compromise program (which allows a taxpayer to settle a tax debt at a lower amount than what the taxpayer generally owes).

Enforcement

TFA19 would exempt two additional categories of taxpayers from referral to the private debt collection and special compliance personnel programs. If enacted, taxpayers with income substantially derived from the supplemental security income (SSI) benefits or disability insurance (DI) benefit and taxpayers with adjusted gross income (AGI) less than or equal to 200% of the poverty level would not be eligible for referral. TFA19 would also require the IRS to notify taxpayers 45 days in advance of contacting third parties (including friends and neighbors) and only if the audit team is intending to actually initiate contact—as opposed to the current practice in which notice is generally given in order to preserve the right to initiate contact.

The legislation would require the IRS to show probable cause that funds believed to have been structured to avoid Bank Secrecy Act reporting requirements are derived from an illegal source or are connected to another criminal activity. A post-seizure hearing would have to be held within 30 days of the seizure, and any interest paid by the government on returned funds would be exempt from tax.

TFA19 would require the IRS to demonstrate that it made a reasonable request for the needed information, prior to the issuance of a designated summons. It would also require that third-party summonses (John Doe summonses) be narrowly tailored.

TFA19 also clarifies that the Tax Court has jurisdiction to redetermine equitable claims for relief from joint liability. It also limits the access of non-IRS employees to returns and return information.

IRS Organizational Structure and Technology

TFA19 would require the Treasury Secretary to submit to Congress a comprehensive written plan to redesign the organization of the IRS by September 30, 2020. The comprehensive plan must consider how the IRS will prioritize taxpayer services, streamline and simplify its structure, better position itself to combat ongoing cybersecurity and other threats, address whether the IRS Criminal Division should report directly to the IRS Commissioner, and implement other priorities of TFA19.

The proposal would also require the National Taxpayer Advocate (NTA) to report to Congress any Taxpayer Advocate Directives not addressed by the IRS, and would

reduce the number of “most serious problems” included in the NTA Annual Report to Congress from “more than 20” to 10. TFA19 would require the IRS to provide statistical support to the NTA, upon request, and require the NTA to coordinate research efforts with the Treasury Inspector General for Tax Administration (TIGTA).

TFA19 would codify the position of the IRS’ Chief Information Officer (CIO) and establish clear roles and responsibilities for the CIO. It also would mandate that the IRS develop and implement a multiyear strategic plan for information technology (IT). Additionally, the legislation would require the verification and validation of two specific IT acquisitions within one year after the date of enactment and require the IRS to develop an internet portal that facilitates taxpayers’ filing Forms 1099 with the IRS.

TFA19 would authorize the IRS to develop an automated system for the Income Verification Express Service (IVES), which currently relies on the forms being sent to the IRS via secure fax.

Cybersecurity and Identity Theft

TFA19 would formally require the IRS to work collaboratively to combat identity theft and tax refund fraud (IDTTRF) through the Security Summit (a public-private partnership). It also would require the Electronic Tax Administration Advisory Committee to make recommendations regarding methods to prevent IDTTRF. The IRS would be encouraged to participate in an IDTTRF information sharing and analysis center with state and private-sector partners. The IRS, in consultation with the NTA, would also be required to develop and implement publicly available caseworker guidelines that reduce the administrative burdens for IDTTRF victims, as they work with the IRS to sort out their tax affairs.

The proposal would require the IRS to notify a taxpayer if the IRS suspects a taxpayer’s identity (or that of the taxpayer’s dependents) has been compromised. TFA19 would also require the IRS to establish a single point of contact within the IRS for any taxpayer who is a victim of identity theft and expand voluntary access to identity protection personal identification numbers (IP PINs) to individuals who are not victims of identity theft nationwide over five years.

Additional Resources

The Joint Committee on Taxation technical summary of TFA19 is available at <https://www.jct.gov/publications.html?func=startdown&id=5175>.

The Joint Committee on Taxation revenue score of TFA19 is available at <https://www.jct.gov/publications.html?func=startdown&id=5177>.

A section-by-section summary of TFA19 prepared by the staff of the Ways and Means Committee is available at https://waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/documents/Taxpayer%20First%20Act_Section%20by%20Section_0.pdf.