

October 11, 2013

The Honorable Daniel I. Werfel
Acting Commissioner
Internal Revenue Service
1111 Constitution Avenue, Northwest
Washington, District of Columbia 20224

Re: IRS operations during and after the lapse in appropriations

Dear Acting Commissioner Werfel,

I write on behalf of the National Association of Enrolled Agents (NAEA)—the only organization solely representing the interests of some 47,000 enrolled agents (EAs), America's tax experts—to raise two issues of importance to those in our profession. More specifically, I write to:

- share how the agency's decision to shutter disclosure authorization (DA) has been shown to be ill conceived; and,
- request the agency's plans to reopen those portions of the agency considered nonessential take into consideration pent up demand for services.

As we send this letter, we are two weeks into a government shutdown that has shuttered large swaths of the agency, including taxpayer service, the practitioner priority service, and most, though not all, enforcement.

Disclosure Authorization

One of the significant challenges we've faced during the agency's shutdown is providing representation services to our clients. While IRS has by and large stopped answering the telephones, that has not stopped:

- automated exam notices, which are still being issued to taxpayers;
- nonfilers, who continue to present themselves as citizens who would like to come in from the cold; and,
- extended filers, some of whom invariably lack perfect records.

What do these three have in common you may ask? All are taxpayers for whom enrolled agents likely need to file a Form 2848 or 8821 either to secure account information or provide representation. Before September 2, 2013, enrolled agents would have logged into e-Services, used DA to file the appropriate form, and continued to serve their clients.

But no longer.

When a new client arrives on October 2nd, a full two weeks before the extension filing deadline, but doesn't know how much in quarterly estimated payments he made in

2012, e-Services is of no help whatsoever. When a client arrives with an envelope that contains a federal check for \$458.08 but no explanation in response to a CP-2000 notice he submitted with a \$458.00 check, we cannot use e-Services to check the taxpayer's tax module.

These are taxpayers we should be able to help easily but cannot help at all. These taxpayers are amongst those who are awaiting the return of the CAF. In the meanwhile, we use our best judgment to assist in filing, but do so in an environment analogous to a pilot flying blind.

Pent Up Demand

In addition to taxpayers whom we could help if only DA were available, we see any number of taxpayers with issues that cannot be managed until IRS staff returns. The troubles are wide ranging but include the CP-2000 taxpayer referenced above, who also mysteriously received his check in an envelope printed with the admonishment: "You must replace your paper check with an electronic payment."

Another enrolled agent today received three notices for the same client, whom IRS in August assessed an additional \$17,000 in AMT for TY11. After the EA spoke with Practitioner Priority Service, the IRS staffer discovered an IRS error (someone at IRS mistakenly placed an additional \$50,000 on line 3 of [Form 6521](#)) and corrected it. Nevertheless, the three notices indicate the taxpayer owes \$15,000.

I could continue to provide you with examples. For instance, taxpayers panicked over the CP-2000 notice they received at the beginning of October with an October 30 response date, EAs who cannot get EINs for trusts with filing requirements, and EAs needing to reschedule face-to-face exams.

Summary

We understand that the shutdown is forced upon the agency and not agency initiated. Still, IRS executed its shutdown plan and that action has caused troubles with respect to filing, enforcement, and representation for many taxpayers (and their practitioners).

With respect to DA, in a response¹ to a letter signed by NAEA's executive vice president in late June, the Director, Accounts Management cited the "excessive cost" of retooling e-Services and a "low usage rate" (which, oddly enough, never caused IRS to discontinue e-file) as factors driving a decision to process those forms manually, via fax or through U.S. Mail². I suggest that when the (undisclosed) expense of upgrading DA is compared to the system-wide costs (to the CAF unit, to tax practitioners, and ultimately to taxpayers), the Service cannot be saving money.

¹ The letter is enclosed.

² She did not indicate how much was "excessive," how much more use would have not been considered "low," or how long it would take to provide a "better automated system that will save time and be easier to use." She also never, ever indicated the results of a business case supporting the decision to deep six these profoundly useful tools.

The shutdown demonstrates the value of DA and I ask you to commit to reopening the service as swiftly as possible and to providing a timeframe for this action.

With respect to pent up demand, we are concerned about how the Service plans to manage the onslaught of service requests on PPS, on ACS, through the CAF unit, with correspondence audit, in the OIC program, in rescheduling examinations, and in assessing liens and levies.

The PPS level of service has been frustrating to say the least. Many members report frequently receiving messages that due to high volume, IRS cannot accept their calls and others have waited hours for service. Forms 8821 and 2848 are to be processed in four days—a timeframe that frankly is already too long.

We ask you to consider levels of service when Congress passes a continuing resolution and you reopen your doors (and phones). Taxpayers and their representatives simply must be able to communicate with the Service in a timely fashion and must be provided adequate time to prepare responses to inquiries. They also need to know what to expect from the agency and expect some flexibility in meeting deadlines.

We also ask you to communicate clearly and promptly. Taxpayers—and their representatives—need to know sooner rather than later what steps the agency will take to serve them once we are back to business as usual. And the agency must be clear on what concessions it is granting and what changes it is making to meet what has become a bubble of demand for IRS staff assistance.

I am reminded of the Chinese curse “May you live in interesting times,” which we certainly do. Although we remain zealous advocates for our clients, we are also sensitive to the importance of the agency’s mission and stand ready to assist as we are able.

Sincerely,



Elizabeth “Betsey” Buckingham, EA
President`

Enclosure (1)

cc: Peggy Bogadi, Commissioner, Wage and Investment Division
Paul Cherecwich, Chair, IRS Oversight Board
Nina Olson, National Taxpayer Advocate