IRS Oversight Board

September 16, 2008

The Honorable Charles B. Rangel, Chairman
Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

The Honorable James McCrery, Ranking Member
Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

Dear Chairman Rangel and Ranking Member McCrery:

The Internal Revenue Service (IRS) was forced to delay the start of the 2007 and 2008 tax filing seasons for millions of taxpayers because of late legislative changes related to tax extenders and the Alternative Minimum Tax (AMT), respectively, and the IRS Oversight Board is concerned that without Congressional action by the end of September, we risk an unnecessarily burdened tax administration system, late filing, and unnecessary risks to the 2009 filing season

The Tax Relief and Health Care Act (Public Law 109-432) became law on December 20, 2006, and delayed the start of the 2007 filing season until February 3, 2007 for more than 11 million taxpayers. The following year, the Tax Increase Prevention Act (Public Law 110-106) became law on December 26, 2007 and delayed the start of the 2008 filing season until February 11, 2008 for 13.5 million taxpayers.

Once more the start of the filing season is threatened by late passage of tax legislation that affects millions of taxpayers as Congress considers changes affecting both tax extenders and the AMT. Although the Board takes no position on the enactment of the legislation, it recommends in the interest of sound tax administration that any congressional action be completed in a timely fashion.

The attachment identifies the forms that are affected by the expiring tax provision that Congress is considering extending and the number of taxpayers that used each form during the last filing season. More importantly, the AMT patch that was enacted last year was a one-year correction and needs to be considered this year to prevent the AMT from applying to 26 million taxpayers in 2008—22 million more than were subject to the AMT in 2007.

The Congress has only limited time to consider these tax law changes without causing potential delays in tax return processing during the next filing season. If new legislation is delayed into November or December, the processing of tax returns and refunds for millions of Americans could be delayed.

Processing delays undermine the confidence that taxpayers need to have in the tax administration system and their perception of how effectively the federal government is working on their behalf. Under worse case conditions, if the IRS is forced to delay the filing season for all taxpayers, a delay of only 3 weeks would prevent the IRS from issuing over 10 million refunds to individual taxpayers totaling approximately $40 billion, based on 2007 IRS weekly filing statistics.

Tax law changes late in the year create the following challenges and risks:

Inaccurate or incomplete tax forms: Legislation enacted after the end of October cannot be properly reflected in IRS tax forms, instructions, and publications that must be printed in November to be available at the start of the filing season. Late tax law changes force the IRS to go to print with inaccurate or incomplete tax forms and instructions. Evidence presented by the National Taxpayer Advocate indicates that such obsolete printed forms in the past have resulted in hundreds of thousands of taxpayers not claiming specific deductions or credits to which they were entitled.

Delays and burdens throughout the entire tax system: Although the IRS is the focal point of the tax administration system, the effects of late legislative changes extend beyond the IRS. They affect tax preparers, tax preparation software companies, volunteer organizations that offer tax assistance, state governments whose income taxes piggyback on the federal system, and taxpayers, who have more difficulty and uncertainty in determining tax deductions and credits to which they are entitled. The impact could be most burdensome on low and middle income taxpayers during difficult economic times.

Increased costs in programming and testing IRS computers: Late year tax law changes present the IRS with significant computer programming and testing challenges as it works to update tax return processing systems to perform proper math checks based on particular line entries on the returns, compute taxes owed, identify both overpayments and underpayments, evaluate returns for indications of fraud, retain data for later information return matching; and thoroughly test all programming changes in sufficient time to have complete confidence in the modified system.

Furthermore, in the last 12 months the IRS has been required to develop emergency programs to implement the 2008 AMT changes and the Economic Stimulus Payment (ESP) program that became law on February 13, 2008 (Public Law 110-185). Although the IRS has responded successfully in both instances, past success does not guarantee future results.

Such emergency efforts entail a great deal of risk in making computer programming changes and rigorously testing the changed programs. Continued engagement in such risky undertakings can lull policy-makers into setting unrealistic expectations and underestimating the consequences of failure. A lengthy disruption of the filing season would have serious effects on the US economy. Some members of Congress have raised the possibility of another stimulus program, which would place new burdens on the IRS and stretch the resources of an already-underfunded IRS once again.

The Oversight Board urges the Congress to eliminate the uncertainty facing taxpayers, the IRS, and the tax administration system by taking final action on the AMT and tax extenders before it goes into recess at the end of September. The Board is not advocating any specific tax policy, only that whatever action Congress intends to take be completed prior to recess in the interests of providing taxpayers with a smooth filing season unencumbered by difficulties of incorporating late tax legislation.

Sincerely,

Paul Cherecwich, Jr
Chairman, IRS Oversight Board

Attachment

Forms Affected by Extender Provisions

Form	Number of Returns (TY2007)
Schedule A (State and local sales tax deduction)	10,913,909
Form 1040, line 34 (and Form 8917) Higher Education and Tuition Fees Deduction	4,302,501
Form 1040, line 23 Educator Expense Adjustment to Income	3,508,786
Form 1040, line 49 (and Form 8863), Education Credit	7,176,327
Form 3800 General Business Credit	302,201
Form 5695 Residential Energy Credits	4,200,244 *
Form 6765 Credit for Increasing Research Activities	27,081
Form 8845 Indian Employment Credit	4,214
Form 8859 DC First Time Homebuyer Credit	5,713 *
Form 8864 Biodiesel and Renewable Diesel Fuels Credit	6,196
Form 8900 Qualified Railroad Track Maintenance Credit	381
Form 5735 American Samoa Economic Development Credit	Pertains to domestic corporations only
Form 8850 Pre-Screening Notice and Certification Request for Work Opportunity Credit	Not filed with IRS, sent to individual states
Form 8860 Qualified Zone Academy Bond Credit	No data; it is combined with other credits on the 1040
Form 8923 Mine Rescue Team Training Credit	No data

*Also impacted by AMT.

FORMS AFFECTED BY AMT ONLY

Form	Number of Returns (TY2007)
Schedule 2, Form 1040A, Child and Dependent Care Expenses	241,649
Form 1116 Foreign Tax Credit	6,787,641
Form 6251 Alternative Minimum Tax	3,495,011
Form 8396 Mortgage Interest Credit	43,827
Form 8839 Qualified Adoption Expenses	86,964
Form 8880 Credit for Qualified Retirement Savings Contributions	5,746,259
Form 2441 Child and Dependent Care Expenses	6,270,779