

AMERICAN PAYROLL ASSOCIATION

July 26, 2018

CC:PA:LPD:PR (REG-102951-16)
Room 5205
Internal Revenue Service
P.O. Box 7604, Ben Franklin Station
Washington, DC 20044
<http://www.regulations.gov>

Re: Notice of Proposed Rulemaking – Filing Requirements for Information Returns Required on Magnetic Media (Electronically); REG-102951-16

Dear Mr. Hara:

Thank you for the opportunity to comment on the IRS's Notice of Proposed Rulemaking – Filing Requirements for Information Returns Required on Magnetic Media (Electronically), published on May 31, 2018 (83 *Fed. Reg.* 24948). The American Payroll Association (APA) is a proponent of electronic filing capabilities and supports the IRS's efforts in this regard. APA's recommendations are based on implementation by businesses.

ABOUT APA

APA is a professional organization serving the interests of more than 21,000 payroll professionals nationwide. APA also employs more than 100 employees and would be subject to this rulemaking by virtue of aggregating its information returns, including Forms W-2, 1094-C, 1095-C, and 1099-MISC, among others.

Our primary mission is to educate members about the laws and regulations that impact payroll operations, including tax administration. APA's advocacy goals center on reduced administrative burden on government, businesses, and individual workers. With 70.1 percent of tax collections coming from wage withholding and business taxes (*2017 IRS Data Book*), the IRS's implementation of tax policy is extremely important to APA and its members.

COMMENTS

Understanding the Problem

As the IRS states in the "Background" section of the proposed rulemaking, electronic capabilities have both advanced and increased since the original regulations were promulgated. Nevertheless, APA is concerned about the capabilities of electronic filing for businesses that have no experience in filing

electronically. The forms subject to this rulemaking are managed by different business departments, such as accounts payable and payroll, each with separate electronic systems and electronic communication capabilities. This means that under this rulemaking businesses and various department managers will need to:

- Learn about the new requirements,
- Determine that the entire organization is subject to the requirements by compiling data from different departments,
- Outsource or purchase new or updated software systems,
- Train employees on new processes and procedures that include internal communication on the number of forms to be filed and an understanding of the IRS’s filing system, and
- Obtain security clearance for filing with the IRS.

All of this must be completed by January 1, 2019, which is less than five months away and will be even less by the time the final rule is published.

Recommended Solutions

APA offers several recommendations to the IRS on how to ease the burden of this change on businesses. They include business filer outreach, additional time to comply, and improved IRS electronic filing options.

Business Filer Outreach

Outreach by the IRS should include these elements:

1. Communication with the media on the new requirements, including social media and other IRS-prepared publications as well as industry and business publications.
2. Letters to businesses that would otherwise have met the aggregated threshold based on past filing. The IRS could identify the businesses that have previously filed on paper and that would likely reach the threshold for electronic filing. Then, the agency could send these businesses a letter notifying them that they may need to file electronically in accordance with the revised regulations. This will greatly speed the process toward full compliance.

Additional Time to Comply

APA recommends a January 1, 2020, effective date for this rulemaking to accommodate the time it will take for businesses to fully comply. This means that the aggregation requirement would take effect for 2019 information returns filed in 2020.

Improved IRS Electronic Filing Options

- **Form 1099-MISC:** A key goal of this rulemaking is to reduce the number of paper Forms 1099-MISC the IRS receives. APA recommends that the IRS issue guidance creating a free, direct-to-the-IRS, e-filing service for Forms 1099-MISC to accommodate smaller businesses and departments that lack the resources to obtain necessary software or engage third parties to help them file through the IRS’s Filing Information Returns Electronically (FIRE) system. A free-filing service for original and corrected Forms 1099-MISC will increase accuracy and provide cost savings for businesses and the IRS in the same manner that the Social Security Administration has a free-file service for Forms W-2.
- **Security Clearance:** The process for e-services users to register and create new accounts using the two-factor authentication process called Secure Access is still cumbersome for many businesses. Those that have not previously obtained this clearance will also find the process difficult. This is especially true for business representatives that may have to travel to IRS tax centers to prove their identity. APA recommends that the IRS improve its “help with registration” and include this information in agency outreach about the new requirements.

APA continues to appreciate its stakeholder partnership with the IRS. Again, thank you for allowing APA to comment on this notice of proposed rulemaking.

Sincerely,

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