NAEA National Association of Enrolled Agents

NAEA 2021-2022 Policy Priorities

NAEA identifies long-term trends and policy issues affecting enrolled agents and articulates the profession's position through a variety of avenues, public and private. The vision of NAEA is to be the leading professional association dedicated to supporting America's Tax Experts®, enrolled agents. To date, NAEA is made up of over 10,000 tax practitioners that are involved in tax preparation and representation. In order to best serve its members, NAEA participates in state and federal advocacy efforts to support policy initiatives.

The main policy priorities for NAEA in 2021 are as follows:

- Regulation of tax preparers
- Funding the IRS
- Fixing the IRS's broken system
- State regulation of enrolled agents

Regulation of Tax Preparers

Issues: Although enrolled agents must pass several obstacles such as an examination and background check to become a licensed tax practitioner, currently anyone can be paid to prepare a tax return. This is an issue, as the Government Accountability Office (GAO) has found that unlicensed tax return preparers are more likely to commit significant errors that result in larger refunds than allowed by law.

Solutions: Require tax return preparers to

1. Obtain a Preparer Tax Identification Number (PTIN)
2. Pass an examination that will cover basic Form 1040 tax questions (including EITC and ethics standards)
3. Fulfill annual continuing education requirements
4. Complete a background check
5. And lose the right to prepare tax returns for serious malfeasance

Legislation: In June 2021, Representative Jimmy Panetta (D-CA) and Rep. Tom Rice (R-SC) introduced H.R. 4184, the Taxpayer Protection and Preparer Proficiency Act.

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This legislation proposes the aforementioned solutions and would allow the Department of Treasury to regulate the practice of tax return preparers. Senators Ben Cardin (D-MD) and Rob Portman (R-OH) also proposed a bill in 2018, the Protecting Taxpayers Act, which would have allowed the IRS to regulate paid tax return preparers. Provisions from these proposed bills could potentially move to a larger package in the future as well, such as reconciliation.

Funding the IRS

Issues: The current underfunding of the IRS has negatively impacted enrolled agents. On a daily basis, enrolled agents directly interact with underfunded functions of the IRS such as return processing, data management, audit, and collection. There is also a need for technology maintenance and development that has been neglected due to underfunding and affects how efficiently enrolled agents can do their jobs.

Solutions:

1. Congress needs to properly fund the IRS.
2. Congress should work to enact budget reforms such as providing the IRS with a two-year budget and two-year authorizations to ensure the smooth administration of the tax collection system.
3. Other helpful budget reforms would include authorizing the Joint Committee on Taxation and the Congressional Budget Office to provide an annual report on estimates of the funding necessary to carry out the IRS's priorities.

Legislation: Currently, the reconciliation package includes provisions which would increase IRS funding by $80 billion dollars. The funding would go to 1) strengthen tax enforcement activities, 2) increase voluntary compliance, and 3) modernize information technology to help support the tax enforcement activities. Provisions such as these would be a step in the right direction towards properly funding the IRS. In October of 2021, an increase to the IRS budget of $1.639 billion was proposed in the Senate Fiscal Year 22 appropriations bill. As negotiations over the Fiscal Year 22 budget continue, this number will likely fluctuate.

Fixing the IRS's Broken System

Issues: The foundation of the tax administration system has been eroded by chronic underfunding, indecisive leadership, government shutdowns, politicization of the tax system, and out-of-date technology systems. These issues have broken the IRS and in effect, hindered the ability of enrolled agents to do their jobs to the best of their abilities.

Solutions: It is NAEA's belief that if the broken tax administration system is going to be fixed, each level of the pipeline must be addressed. To that end, NAEA recommends that the IRS implement four categories of reform:

1. Budget Reform: On the taxpayer level, special funding attention should be provided to timeliness and efficiency. Also, appropriate staffing needs to be provided at the points of significant taxpayer contact.
2. Workforce Reform: The IRS should implement a dedicated training division, streamline the IRS education process, and focus IRS training on early and fair resolution of tax disputes. NAEA recommends that the IRS also research state-of-the-art tax administration techniques and implement these techniques into education materials and the Internal Revenue Manual.

3. Technology Reform: The IRS needs to comply with the requirements of the Taxpayer First Act and provide guidance on the use of private sector electronic signature options for Forms 2848 and 8821 used by Circular 230 practitioners. A real-time system that relies on algorithms to screen all power of attorney and disclosure authorization forms should replace the CAF. Tax practitioner online accounts should be implemented to increase the ability of practitioners to communicate with the IRS. Lastly, the agency needs to replace the Centralized Lien System to allow practitioners and taxpayers to quickly obtain lien release certificates.

4. Organizational Reform: To centralize and modernize its approach to all practitioners, the IRS should create a dedicated, executive-level practitioner services unit. IRS should also create a robust practitioner priority hotline with higher-skilled employees who are able to address more complex, technical, and procedural issues. Under the practitioner services unit, the IRS should assign customer service representatives to each geographic area to address unusual or complex issues that practitioners were unable to resolve through the priority hotlines.

State Regulation of Enrolled Agents

Issues: Enrolled Agents do not fall under the jurisdiction of state legislation or regulation but are licensed by the U.S. Department of Treasury. The State of Minnesota, under Statute 332B, currently requires enrolled agents who provide debt settlement services to disclose detailed taxpayer information to the Minnesota Department of Commerce and be paid only by continency fees. If enrolled agents comply with Statute 332B and provide the required information, however, they would be in noncompliance with Circular 230 and the Internal Revenue Code.

Solutions: NAEA is working with the Minnesota Society of Enrolled Agents to keep enrolled agents safe from unlawful state-regulation that would require agents to disobey the federal regulations they are bound by. NAEA will use every means necessary – including state legislation and the courts – on behalf of enrolled agents who may be hindered by state regulations that are contrary to IRS and Department of Treasury regulations.

Legislation: Because there are state-by-state unique cases that inhibit enrolled agents' abilities to lawfully complete their duties, NAEA must approach each challenge to federal regulation on an individual level. In the case of Minnesota, NAEA is working with the Minnesota Society of Enrolled Agents to challenge Statute 332B's application to enrolled agents.