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“The recent market decline has simply retraced the frothiest portion of the recent bubble, bringing the most reliable market valuation measures back toward their 1929 and 2000 extremes.”

— John P. Hussman, “Market Comment,” July 2022

“Over half of [scientific] studies can’t be replicated. I suggest ‘studies show’ are the two most dangerous words in the English language. Mr. Andreessen quickly adds, ‘The corollary is ‘experts say.’”

— Andy Kessler, “The Wall Street Journal,” January 2022

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Wealth Creation Strategies

The Tax Filing Deadline Should be Permanently Extended And Extensions Should be Automatic

Only tax pros have a clue as to how absurd and unnecessarily complex the tax system is. It is truly shameful. This article describes an iota of this complexity, which explains the announcement at the end of this article.

This is not the first time I have proposed a major change to tax administration. In the late 1980s, as a young Enrolled Agent and a person who values efficiency, I realized extensions were a waste of everyone’s time. I proposed that extensions be automatic. The officers and board of directors of the California Society of Enrolled Agents listened and drafted me to lead a legislative advocacy group, which formally presented this proposal to the IRS and Congress. The idea was nearly accepted, but in the end only the August 15 (2nd extension) was eliminated; the final deadline remained October 15. However, California got the cue and, a few years later, went completely extension-less. Many other states have since followed California’s lead. (And yes, I am given credit for this change.)

It is long past time for a change at the federal level, but with an add-on. Extensions should not only be automatic; the deadline for paying the prior year tax should be extended by at least an additional month. May 15 should be the new April 15.

A bit of history of the filing deadline, extension rules and the massive increase in the size of the tax code, rules, regulations and court decisions will shed light on why such change is

essential—for tax professionals, taxpayers and the IRS alike.

The current federal income tax began in 1913 with the passage of the 16th Amendment. The initial deadline was March 1, with no extensions allowed. By 1918, tax law had become so “complicated” the deadline was extended to March 15 and extensions were allowed to June 15.

These deadlines languished for 37 years. By 1954, the tax filing booklet, consisting of Form 1040 and instructions, had grown to 16 pages with ten different forms. There were 409,000 words in the Tax Code (not quite the length of *Atlas Shrugged* at 562,000 words). At the behest of the IRS, which needed more time to deal with the 58 million individual returns for tax year 1954, Congress permanently extended the deadline to April 15.

Tax law in 1954 was considered complicated. They had no idea what “complicated” is.

Today, the 1040 booklet is 114 pages. There are more than 800 forms and schedules (including business forms). The Internal Revenue Code consists of nearly three million words, with an additional 26 million words in regulations and case law. It would take an average reader 140 days 24/7 to read and several lifetimes to comprehend the legal jargon in the Code, Regulations, IRS pronouncements, Tax Court and other case law, not to mention various state income tax laws.

While tax law has become increas-

ingly byzantine, the Season has become effectively shorter for both the IRS and tax practitioners. In 1955, most returns contained only wages. W-2s and the relatively few 1099s that existed were usually mailed to recipients in early- or mid-January. January tax filings were straightforward, even though returns were hand prepared and mailed via the United States Post Office. Today, January tax filings are but a distant memory.

When e-filing began for the broad population in 1990 (after experimenting with the system with small numbers of taxpayers the previous three years), returns could be submitted online starting as early as January 2. In 2022, due to the need to update software for new tax law and to be able to match W-2s against withholding claims on tax returns, e-filing did not open until January 25. In recent years, many tax forms have not been released by the IRS until late February, further delaying the filing of returns requiring those forms.

Delayed or amended 1099s and W-2s further hinder the start of the filing season. While W-2s and most 1099s are still due January 31, because of the increasing complexity of investments the 1099 filing deadline for brokerage accounts was extended to mid-February nearly a decade ago. Even so, these forms are frequently not issued until late February, postponing the filing of even “simple” returns. Because these are often later revised, we hold many returns for “expected” amended 1099s. Since 2003, the percentage of

1099s later corrected has grown from 5% to 8% of all 1099s filed, a 60% increase. Tax pros and taxpayers alike do not always hold off filing, often requiring amended returns, further burdening everyone involved.

Computing Power for Better, or Worse

Without the power of computers, Congress could never have complicated the Code to the degree it has, beyond the comprehension of even seasoned tax professionals. Rather than taking less time (as one might think), due to massively complex law, most returns take longer to prepare than when they were hand-prepared.

Good tax pros always look for ways to save their clients tax, helping them keep more of their earnings. While planning is best done before year-end, many opportunities for the preceding year are available. These take time to find. Prospective tax savings must be calculated. Time is required to explain to clients tax saving strategies, few of which existed as recently as the 1980s, much less 1955. Many of these strategies have a hard April 15 deadline. Should a taxpayer contribute to a non-deductible traditional IRA or a Roth IRA? Can and should a deductible Individual Retirement Account and/or a Health Savings Account contribution be made? What combination of contributions should be made and, with limited funds, which should be prioritized? How much of such IRA/HSA contributions save at the 22% vs. the 12% tax rate, or some other phantom (but very real) higher rate because tax credits are triggered by making such contributions? What is the effect on state income taxes?

A major factor in these decisions hinge on the marginal tax rate for the client and whether that rate changes with larger contributions. A taxpayer may stray through several phantom (but very real) marginal rates over the span of just one \$7,000 deductible IRA. In one case, not at all unusual, a client's tax savings on the first \$3,000 was 10%, hardly worthy of a deductible contribution. However, because of phase-ins of credits over the span of additional contributions, 43% was

saved on the next \$3,000, after which savings plummeted back to 15%. Long-term forecasts for the client's future tax rates and income in retirement factor into decisions on whether and how much to contribute. Deductible contributions for those who may be subjected to higher tax rates in retirement (which is common) are generally not advisable. Future tax rates in an ever-changing tax system are also relevant, even if impossible to predict.

Tax savings strategies take time to analyze and explain to clients, which is at best difficult given existing time constraints. Due to phase-ins of numerous tax credits, low-income taxpayers often have the most complex situations. In the example above, deductible contributions increased the Earned Income Tax Credit, the Premium Subsidy and the Credit for Qualified Retirement Savings Contributions. Decisions generally must be made by April 15. Lower income taxpayers may qualify for as much as a 50% Retirement Savings Contributions Credit for a prior year IRA or Roth IRA contribution. Because of "clifflike" increases in the credit, amounts far greater than the additional contributions can be saved. One client increased their refund by \$300 by simply increasing their \$1,000 IRA contribution by \$1. Another saved \$325 by contributing \$650 to a non-deductible Roth IRA. These are moving targets and, as seen in the example above, can change non-proportionally by varying traditional IRA and Roth IRA contributions. It takes an alert tax professional to observe that such savings are possible, run the calculations, and explain the opportunity to clients.

Low income entrepreneurs can achieve larger overall tax savings by increasing or decreasing depreciation deductions. For example, if Adjusted Gross Income decreases from \$33,000 to \$32,999, by adding \$1 to a \$1000 contribution an additional \$300 credit may be triggered. Or, as AGI increases from \$10,000 to \$15,000 due to a decrease in depreciation claimed, an Earned Income Tax Credit may increase from \$4,010 to \$5,980, 39.4% of the increased net income or wages. Depreciation can be adjusted to maximize the long-term tax savings. As

recently as the 1990s, depreciation was fixed; today we have a choice between regular, Section 179 or bonus depreciation on many types of property. Depreciation rules often change. Changing one small number on a tax return can have outsized effects on the tax. It's crazy.

Middle-income taxpayers with children in college may be subjected to marginal tax rates as high as 72% as the tuition credit phases out. This can be mitigated by reducing Adjusted Gross Income by making deductible IRA and HSA contributions—which, therefore, can save 72% of such contributions. Higher income taxpayers can increase the Qualified Business Income Deduction by making prior year retirement plan contributions or taking bonus or Section 179 depreciation, if available; such contributions can save more than 50% of the additional deduction.

Compressions in Body and Time are Not Healthy

Given the extraordinary complexity, the training required to educate a novice tax pro is significantly greater than even 10 years ago, much less 30. For a profession in which the vast majority earn most of their income in only 12 weeks out of the year, fewer competent tax pros are available to serve the public. This is not healthy or sustainable for a viable tax system.

Burn-out is becoming increasingly common among tax professionals. Never have so many Enrolled Agents and other tax pros threatened—and acted—to hang it up. Not only must tax pros complete and timely file a certain number of returns each year to run a durable business; they must calculate the expected tax for those going on extension, which requires at least decent estimates of all items of income and deductions. An estimate of expected income and deductions for the coming year is also required so appropriate estimated tax payments can be made (usually included with the extension payment). Such payments can be challenging to calculate and take valuable tax season time. Time is required to file extensions, as well as to ensure everyone who wants or needs one is extended. All this while simultaneously

trying to recommend prior year retirement and HSA contributions for those who may derive extraordinary benefits, ensuring simple returns are completed, and taking time to explain the ever-increasing and complicated options to clients.

The compressed filing season with the pressure to complete accurate returns also leaves less time to research questions and challenging situations. The result is inevitably more frequent errors, subjecting both tax pros and clients to penalties. In 1955, such penalties were either non-existent or, inflation adjusted, a fraction of those today.

We spend three days before the deadline ensuring everyone is extended and paid up to the extent they owe and can pay. Avoiding errors is a pipe dream. In April 2022, we had nearly 100 returns for which we had most if not all of the information required to file; we couldn't complete them because we had to waste limited time filing extensions and contacting those who would benefit from making prior year IRA or HSA contributions by the deadline. I was able to complete 600 returns by April 15 in the late 1980s working with only a tax season temp employee and far more primitive computing technology. In 2022, three of us

each working 50-65 hours per week barely exceeded 400 returns, with far more advanced tax software, an indication of how much more complex tax law has become since the 1980s. By comparison, tax season 1955 would have been a breeze—without any computers.

Unfortunately, the lockdowns made a mess of IRS processing. Delays are epic. As of April 15, 2022, the IRS had three million unprocessed 2020 tax returns; as of August 2022, they reportedly had a couple hundred thousand to process. Unanswered and disconnected phone calls are legion. Many tax pros are so frustrated they hire auto-dialers to reach the Tax Practitioner Hotline.

We need to put an end to the extreme stress any good practitioner is under. We do our best to ensure everyone is extended who has not filed. We do all we can to determine the approximate tax due for those who owe. We do everything possible to prepare complete and accurate returns for those who file timely. We as tax practitioners do our best, but it is not enough.

The April 15 deadline is an anachronism. Tax law and decision making are dramatically more complex than in 1955, or even the late 1980s. It is long past time to extend the filing season permanently to May 15 with automatic

extensions.

While tax professionals under a May 15 regime still will be required to approximate the tax clients owe, more returns will have been completed with correspondingly fewer extensions. Taxpayers and tax professionals will have more time to contemplate valuable tax-saving strategies, which Congress has deemed important enough to offer—largely designed to nudge taxpayers to save for the future. This will be particularly valuable for lower-income taxpayers. Competent tax professionals will more likely stay in the profession; more budding tax pros will be able to withstand the learning curve comprising the complexity of tax law. This is crucial for the IRS, as even IRS officials admit the system would collapse without competent tax professionals. And the IRS will have more time to process returns, helping the IRS to spread out the workflow when they are behind processing millions of documents.

Extending the season by one month from April 15 to May 15 and providing for automatic extensions to October 15 is a win-win for everyone. Until such time as this proposal is implemented, with our sincere regrets, we will no longer see clients live and in person (except by special exceptions) during the normal Season.

Form 1099-K Nightmare: If You Do Not Think This Affects You, Think Again

Since 2012, Forms 1099-K "Payment Card and Third-Party Network Transactions" have been required for certain payments received through credit and debit card transactions and payments via PayPal, Venmo, Zelle and other third-party payment network providers. A 1099-K was issued if there were more than 200 such transactions and with gross payments exceeding \$20,000. Starting in 2022, the threshold has been reduced to \$600 with no minimum number of transactions. (If the \$600 figure seems familiar, it is the same threshold used to determine whether 1099s must be issued by businesses for business services, which has been unadjusted for inflation for decades.)

This is going to be a nightmare! These 1099-Ks will frequently report

non-taxable payments. Guess who needs to prove they are not taxable?

Say you go out to dinner with friends and pay the entire bill; your friends reimburse you via Venmo. Over the course of the year you are reimbursed \$1,200. In January 2023, both you and the IRS will be sent a 1099-K reporting that \$1,200 as "third party network transactions" income.

Or maybe you rent a truck to help family or friends move; they reimburse you \$2,000 for the truck rental via Zelle. In January 2023, a 1099-K will be issued by Zelle, with copies sent to you and the IRS, reporting that \$2,000 payment.

Or you live with roommates and they reimburse you \$1,600 via Venmo and \$700 via Cash App for rent, utilities and groceries. In January 2023, you

and the IRS will be sent two 1099-Ks reporting a total of \$2,300 of what appears to be taxable income.

Or maybe you sell some used items on Facebook Marketplace and, over the course of the year, buyers pay you \$3,000 through Venmo and \$600 through Cash App. You will receive two 1099-Ks reporting a total of \$3,600, which the IRS will expect you to report on your tax return.

To be clear, if a personal item is sold for *more than* the purchase price, the profit from such a sale is taxable and must be reported (even if the entire increase in price is due to inflation). If sold for less than you paid, there is no profit (and, in a "heads we win, tails you lose" moment, you cannot deduct a loss). A 1099-K will be issued if you are paid \$600 or more via

a third-party network, regardless of profit or loss, taxable or not.

Form 1099-K was designed to nab businesses under-reporting income. All payments reported on Form 1099-K look like business income to the IRS. The entity issuing the 1099-K cannot distinguish between business and personal transactions. The IRS's computer in the sky assumes all amounts reported on the 1099-K constitute taxable income until and unless you tell them differently. If you do not report the income or report an amount that is less than that shown on the 1099-K, you can expect a love letter from the IRS asking about your "unreported income." Adding to the logistical nightmare, you may receive a Form 1099-MISC or 1099-NEC for the same business income, double reporting the income.

This new \$600 threshold will flood the IRS with returns with "errors"—returns that often must be hand-checked. I bet the cost of enforcement by the IRS, not to mention taxpayers' costs (tracking, reporting and responding) will greatly exceed the ad-

ditional tax collected. This will likely be yet another in a long line of examples of the failure to rationally calculate costs and benefits of regulatory actions on the part of the administrative state.

Those using these apps will be required to keep detailed records of everything. Those who, based on the examples above, expect to receive a 1099-K(s) for non-business income should diligently keep records of all transactions during the year to prove payments are not business transactions. 1099-Ks are nothing to worry about so long as the income is not taxable, records are maintained to prove each transaction was non-taxable, and there is no operating business. Be prepared to report such non-taxable income and to prove the money received was a non-business reimbursement or payment for the sale of personal items for which the cost of each item sold exceeded the sales price.

We suspect Congress instituted this new requirement because the IRS, through intensive audits, discovered some taxpayers have been operating businesses for years for which income

was never reported. The issuance of 1099-Ks for 2022 will likely expose/flush out such businesses—hopefully, none of you. However, we have been surprised before. Anyone with unreported business income in prior years should immediately amend relevant prior year returns; we can assist in the proper reporting of all income and offsetting business expenses. Because we do not have client-attorney "privilege," the counsel of an attorney may be advisable.

Some services, such as PayPal, lets the user differentiate "friends & family" payments versus business payments. We strongly advise that you use separate accounts for each type of payment on other third-party network platforms.

We expect a significant number of taxpayers will receive 1099-K's that report non-taxable personal transactions. Be prepared to provide not just the 1099-Ks, but also an explanation for the amounts reported on such forms. Because of this new rule alone, we anticipate another chaotic filing season in 2023.

An Increase in the Optional Standard Mileage Rate for Business-Use Vehicles

The optional standard mileage rate ("optional") can be used by self-employed individuals in lieu of deducting a portion of actual expenses (including fuel, repairs, insurance and depreciation) of business-use vehicles. The "actual" method allows a deduction for a percentage of costs, calculated by prorating business vs. non-business usage. The optional mileage rate gives a per-mile deduction. Set by the IRS each year, the 2022 rate was originally set at 58.5 cents per mile and, due to the surge in gas prices, increased to 62.5 cents effective July 1. This means that *business owners must know total business and personal miles for both the first and second halves of the year.*

A \$2 increase in the price of a gallon of fuel for a standard 20 mpg vehicle would require an increase in the optional rate of ten cents per mile. This does not include dramatically increased prices for repairs and insurance. Nor does it include much higher depreciation deductions for newly purchased,

far more expensive, vehicles (due to another issue altogether—higher prices due to a dearth of silicon chips).

The increase in the optional rate is clearly inadequate to compensate for price increases. While we won't look a gift-horse in the mouth, the fact the optional rate has not kept up with costs shifts the "shall we take actual or optional rate?" decision towards "actual".

However, those electing the optional rate in the first year may switch back and forth in future years between optional and "actual," maximizing flexibility. If you start with actual in the first year, you are stuck with actual.

Another consideration is the availability of several depreciation methods due to the flexibility afforded by regular, "bonus" and Section 179 depreciation. This makes long-term tax planning especially challenging. Initial large depreciation deductions translate to a far greater potential for "depreciation recapture" on a sale, which requires that tax be assessed at ordinary income

tax rates on depreciation taken to the extent the sales price exceeds the after-depreciation "adjusted basis" when sold. Tax law now treats "trade-ins" for vehicles and other equipment as sales. "Adjusted basis" is the original cost of the vehicle, generally including sales tax and other one-time purchase costs, minus depreciation taken (technically, "allowed or allowable"). Percentage of business use factors into the calculation. This will make more sense with an example.

Say you purchase a vehicle for \$60,000 and 80% of all miles were business-related. Your business "cost basis" starts at (\$60,000 x 80% =) \$48,000. Using depreciation options to their fullest, you depreciate a less-than-6,000-pound GVW (Gross Vehicle Weight) car, which includes standard sedans and "light" trucks, by \$25,360 in the first two years (getting the tax benefit of that deduction). Your "adjusted basis" is now (\$48,000 - \$25,360 =) \$22,740. Because used auto prices have

skyrocketed, you sell (or trade) the car for \$50,000. The business portion was sold for (80% of \$50,000 =) \$40,000. You report a taxable (ordinary income) gain of (\$40,000 sale of the business portion minus the “adjusted basis” of the business part, \$22,740 =) \$17,260, on which you will likely pay tax of nearly \$5,000. If you did not consult with us, you may not be expecting this extra tax! In hindsight, you may have been better off claiming the optional rate, which generally imputes a much lower depreciation amount each year (a topic beyond the scope of this article).

Complicating matters further, a heavier-than-6,000-pound GVW vehicle could be fully depreciated in one year under 2021 federal tax law. **Any** amount you receive times percent of overall business use, then, would be taxable when sold! Gas-fueled and hybrid vehicles that exceed 6,000 GVW include 2022 models found at <https://amanandhisgear.com/vehicles-that-weigh-over-6000-pounds>; a list by car make is at <https://diminishedvalueofgeorgia.com/6000-pound-vehicles/>.

Relevant items that greatly complicate the decision as to which method (“optional” vs actual) to choose include:

- 1) Relative tax rates in the years of depreciation vs. that expected for the year of gain or loss on sale.
- 2) Whether you plan to keep the car forever (oftentimes the best tax decision if you wish to go all-out on depreciation).
- 3) “Imputed” depreciation per mile using the optional mileage rate.
- 4) Yearly operating costs.
- 5) Original cost of vehicle.
- 6) Which year you purchase it in (because the rules keep changing).
- 7) Miles driven each year, because the higher the miles, the lower the fixed costs per mile; the lower the miles, the higher the fixed costs per mile, making the optional mileage rate more profitable for those driving a lot (think: Uber).

You might think deducting actual expenses saves more tax, which is often true in the short run, but the optional rate may save more in the long run,

even for an expensive vehicle.

Contemporaneous records of business miles **must** be kept either in written or digital form to claim a business deduction. If you don’t track all of your business mileage, you can use the “three-month sample method,” which requires that you maintain a mileage log for any three consecutive months of the tax year. Then, extrapolate from that period to substantiate the business miles for the entire year. You also need to prove your vehicle use is about the same throughout the year, which you can do by using invoices showing the mileage. An appointment book or work history for the other nine months may add credibility. If your business miles are consistent throughout the year and you drove 20,000 business miles, using the optional mileage rate your deduction would total (10,000 miles x 58.5 cents + 10,000 miles x 62.5 cents =) \$12,100.

Best: track *all* your business mileage, which makes it much easier to prove mileage for both the first *and* last six months.

I-Bonds: Safely Earn Nearly 7% per Annum Tax-Favored in More Ways than One, Too!

Monetary inflation is an increase in the supply of money and credit. It quickly presents as an increase in the price of assets, especially real estate and stocks. Only after the supply trickles through the economy does it increase prices of goods and services. The massive and sudden increase in the money supply from March through June 2020 (due to “free” money during the lockdowns taking form as “stimulus” payments) did what Austrian-school economists might predict: stocks and real estate prices skyrocketed from late March 2020 through the end of 2021. As this excess money creation winds its way through the economy, we experience the aftermath of increases in the supply of money and credit—skyrocketing prices of goods and services.

Monetary inflation does not necessarily induce price increases if the supply of goods and services increases by a corresponding amount. However,

aside from a shrinking workforce, decreased productivity and decreased production of useful goods, the current administration has shut down new production of reliable sources of energy, the cost of which is embedded in nearly everything.

The good news is returns on I-Bonds are linked to government-reported inflation, understated though it may be.

I-Bonds are government-secured savings bonds paying state tax-free (federally taxable) interest. Pretty boring stuff, usually. But not so much when, through April 2023, you can lock in a 6.82% return for six months after purchase.

Aside from the obvious (6.82% virtually risk-free?!), here are some other pros:

- 1) I-Bonds are state and local income tax-free.

- 2) Earnings can either be taxed annually or taxation can be deferred until the bonds are cashed. Because they are technically 30-year bonds, you could leave each purchase for up to 30 years before you must cash out, when you ultimately pay tax.
- 3) You avoid the tax altogether if the funds are used for “qualified” higher education expenses.
- 4) Any I-Bonds owned at date of death revert to your estate; the executor may elect to have the accumulated earnings taxed on your final return, or defer realizing the income, leaving the tax obligation to the beneficiary. This may provide unique tax planning opportunities.
- 5) While the yearly limit per person or entity for I-Bond purchases is \$10,000 (plus an additional \$5,000 if you apply a federal tax refund to

I-Bonds), you can gift an additional \$10,000 per person using the “gift box” option, by gifting I-Bonds from one family member to another. You can also purchase another \$10,000 as early as January 2 each year; you can keep buying year-after-year. In other words, while there is an annual limit, you can purchase the maximum amount every year for as many years as you are alive.

- 6) You, your spouse, children, and any business or estate and trust entities you own each has its own \$10,000 limit. If you are married with three kids, the sole owner of two S-corporations, and you own a partnership with family members, the family can purchase up to \$130,000 (and possibly more—we’ve got ideas in mind for anyone interested) of I-Bonds each calendar year (\$10,000 each x 5, \$10,000 “gift box” x 5, plus \$10,000 by each S-corporation, plus \$10,000 by the partnership, plus \$5,000 via a tax refund).
- 7) Interest compounds on the interest earned in previous periods.
- 8) You can purchase in increments of as little as \$25, creating gifts to children, grandchildren, nieces or nephews (or anyone else) under the Uniform Gifts to Minors Act. Carefully planned, the recipient may avoid tax altogether.

It all sounds great, doesn’t it! However, there are some cons to consider. Always invest with eyes wide open and be sure to do your own due diligence.

- 1) The interest rate is restated every six months. If inflation increases,

you make more; if it declines, you make less. The interest rate follows inflation. However, the rate cannot go below zero if there is deflation. (For example, the interest rate decreased from 9.62% for purchases through October 2022.)

- 2) You cannot cash out of the investment for one year from the time the investment is made.
- 3) You lose three months of interest if you cash out before five years have elapsed. For example, if you earned 6.89% and immediately cashed out after the first year, you will end up making only 5.1675%. Still, not bad for a virtually “risk-free” savings account.
- 4) Despite the seemingly frothy return, you are losing “real” money: after all, you pay tax on the 6.89%, so your net after-tax yield adjusted for inflation is negative. However, stocks were down as much as 20% recently, real estate appears to be heading down in many areas and bonds got crushed the first half of the year as yields increased (the value of bonds decreases as interest rates increase). So, a slightly negative net yield is looking good.
- 5) You must be a U.S. citizen with a valid Social Security number.
- 6) The yearly maximum investment is \$10,000 per year per person, plus up to \$5,000 of a tax refund (regardless of filing status, so joint filers are effectively penalized). However, as noted above (#5 and #6 on the “pro” list), you may be able to work around this limit.
- 7) I-Bonds can be purchased only online at www.TreasuryDirect.gov. If the data you enter does not

match the data the Treasury has on you, you may end up in a months-long battle, because you will be required to verify your identity with a signature certified by a bank or broker on a document known as Form 5444. (The Treasury may soon permit notary publics to certify identities.) After getting the certification you must send the form via snail-mail. Because the TreasuryDirect.gov website’s last significant update was in 2002, there are other quirks: for example, you may not be able to use the same email for two different accounts. And because the Treasury, in the first half of 2022, sold 40 times what they sold in all of 2020, they are likely behind processing manually submitted forms. Trying to call Treasury Direct has been likened to calling the IRS: they reportedly have 40 full-time staff fielding 20,000 calls weekly. And there are technical glitches: their entire website went down for several days immediately before the expiration of the old 9.62% rate. Many eager, willing and able Americans were unable to lock in that rate.

- 8) Because they are online only, you have another set of usernames and passwords to track.
- 9) If you change your email address without first notifying TreasuryDirect.gov, you will have great difficulty accessing your account.
- 10) You have another investment to account for in your will and trust.
- 11) There may be technical challenges with “gift box” purchases that are beyond the scope of this article.

The IRS Backlog

How to Minimize Unnecessary Phone Calls and Correspondence with the IRS

It has been nearly three years since the greatest mass hysteria in history brought the world to a standstill. We are still dealing with the mess lockdowns created (and we will be dealing with the repercussions for decades which, in my opinion, will be orders of magnitude worse than the Virus). There are not only enormously damag-

ing supply chain disruptions (predicted in Issue # 68 of *Wealth Creation Strategies* and the reason we included the great essay, “I, Pencil” in our 2020 tax prep package), but there has been huge disarray at the IRS. One comparison tells the story: at the end of the 2019 filing season the IRS was sitting on 7.4 million unprocessed paper returns

while on the same date in 2021 the IRS held over 35 million unprocessed returns.

Aside from the lockdowns, which greatly impeded the processing of returns and correspondence, Congress foisted complex tax initiatives onto the IRS. These included three separate “stimulus” payments that had to be

reconciled on tax returns, PPP (Paycheck Protection Program) “loans” that required a tremendous number of new rules that had to be clarified and enforced by the IRS, and massive tax law changes intended to spur the economy (none of which created any permanent growth). One of those changes included the exclusion of prior year unemployment income (we detailed this mess, promulgated in the middle of March 2021, in Issue # 69 of *WCS*). These and other major tax law changes created logistical nightmares for both the IRS and tax pros.

As of the end of April 2022, there were more than 9.6 million unprocessed individual returns, which include returns received before 2022 and new tax year 2021 returns. Of these, 2.9 million returns required error correction or other special handling and 6.7 million were paper returns waiting to be reviewed and processed. The numbers increased as of July 15, 2022, when they had 11 million unprocessed individual 2021 returns. Of these, 1.9 million returns required error correction or other special handling (down a million) and 9.1 million were paper returns waiting to be reviewed and processed. Paper returns should obviously be avoided whenever possible. Unfortunately, due to IRS limitations, returns containing certain unusual items *must* be paper filed; we have several of these, nearly half of which require additional IRS correspondence. E-filing business returns (partnerships, corporations, trusts and non-profits) is especially important because the IRS says paper filed business returns will not even be looked at until all individual returns are processed.

In March 2022, the IRS destroyed some 30 million paper-filed information return documents, mostly W-2s and 1099s. We can only assume it was related to the tax return backlog. These documents are used to conduct compliance matches to identify taxpayers who do not accurately report income. Business filers, including those with Schedules E or C, must respond to a question on their returns asking whether 1099s were required and filed. Letters may be sent to those responding in

the affirmative if the IRS has no 1099s from those filers, even though they destroyed them. Through no fault of our own, we will be required to respond to such love letters. (If you or I destroyed such essential documents there would be hell to pay, but I digress.)

Considering my view that the 16th Amendment should never have been ratified, it may seem crazy to suggest the IRS needs more employees. It does: at call centers. Less than 10% of calls from taxpayers are getting through to a human, the wait times are notoriously long, and many calls get dropped. Our experience with the Practitioners’ Hotline is no better. Ninety percent of the time we get a recording that says, “We are sorry, but due to extremely heavy call volume we cannot take your call; please try again later.” The one in ten times we get through to a “please wait” command we often spend up to two hours on hold before being disconnected. In 2021, the IRS received 167 million phone calls but only had 15,000 employees working the phones (often from home). That averages to 11,000 calls per employee, or over 50 calls per day. We can’t imagine an IRS employee speaking with more than a dozen taxpayers per day given the complexity and difficulty of the issues they must resolve after getting past verifying both client and practitioner information. In 2018 and 2019, the IRS received an average of about 45 million calls yearly, barely a quarter of the number of calls received in 2021.

There are solutions to this mess that we, as taxpayers and tax pros, have some control over. We must first identify the reasons for which telephone calls are required. Some issues will diminish over time, such as reconciling the funny money 1st, 2nd and 3rd “stimulus” payments; millions of taxpayers reported incorrect payments received, which resulted in reconciliation errors on tax returns. If the IRS paid you, say, \$1,400 for the third “stimulus” payment during 2021 but you claimed on your tax return you never received it, you were seemingly shorted that amount. A phone call may have been required to ascertain you

were paid the refund and never received it. Much of this can now be done online by setting up an account on the IRS website at <https://www.irs.gov/payments/your-online-account>, where you can check for such payments.

One issue that will never completely be eliminated is the inadvertent omission of income reported on 1099s and W-2s. Even though most of our clients carefully track 1099s (our exclusive “tax prep package” is tremendously helpful for organizing important tax documents), we occasionally deal with cases of omitted document-reported income. Our worst cases, a few ending in full-blown audits of their tax returns, involve those filing near the end of the October 15 extension period, after plenty of time to misplace documents or forget they were received. A computer-generated fax in response to an IRS letter usually does the trick to avoid human contact but occasionally such matters require a human to resolve. The solution is, of course, track income from various sources throughout the year and compare with Official Looking Documents (OLD’s) received.

The most common reason we must contact the IRS is to ask for wage and income reports for clients with serious illnesses, who are sometimes incapable of tracking their OLD’s. Once security protocols are in place, the client should be able to do this online, avoiding a phone call, but that is still a way off and for many the IRS account site is too difficult to navigate.

The second most common reason we must contact the IRS by phone relates to non- or late-filing tax returns. The solution is file timely. Nine and a half months, January 1 to October 15 every year, provides plenty of time. If you think you can file later without issues (which likely will cost much more than whatever time you saved by procrastinating) because you are due a refund, please rethink this. Late filing may require speaking with someone at the IRS to let a live human know the return(s) is/are on their way. Late payment penalties for owing personal income tax and late filing penalties for filing entities late (corporations and

partnerships can incur draconian penalties for late filing even though income flows through such entities and are taxed to the owners) may require phone calls to ask that penalties be abated, even though that can be a long-shot.

Where's My Money?

Another reason we must talk to an IRS employee is to deal with delayed refunds. However, you can check your refund status for current and prior years at <https://www.irs.gov/refunds> (California refund status is at <https://www.ftb.ca.gov/refund/index.asp>), and the status of amended federal returns is available at <https://www.irs.gov/filing/wheres-my-amended-return>. For other states, simply Google “Where’s my refund” with the name of the state; *use ONLY that government’s web page, not some private provider of such services, who will charge you a fee or, even, scam you.* Be sure to read the information on those web pages before clicking through to “check my refund status.” Sometimes, refunds are delayed because the IRS receives so many fraudulent credit claims (the Earned Income Tax Credit and Child Tax Credit are notorious in attracting huge numbers of fraudsters), or IRS’s computers don’t see withholding to match employer and other payer reports, or they suspect taxpayer identity fraud. There is nothing you can do to prevent such occurrences. We’ve also seen delayed refunds in the past couple years for which we have no explanation. A few clients’ refunds for tax year 2020 arrived eight to ten months after filing those returns, my own included.

Refunds lost in the mail are another matter requiring IRS contact. This can be avoided by having refunds directly deposited to your bank account. Until recently, we discouraged this due to bank privacy and direct deposit errors. However, the IRS and states now verify the owners of the account before paying refunds and errors, in which refunds were sent to the wrong taxpayer, have seemingly been eliminated. If you wish to have refunds deposited into a financial account,

simply send us a voided check with your instructions (better now than during the Season!) and we will take care of the rest for the upcoming year. Be sure to tell us of any bank changes—we will not verify your bank info each year so it is up to you to confirm it.

Due to long turnaround times, we suggest that nothing be mailed to the IRS that does not have to be mailed. There have been several times we or clients have had to call the IRS to see whether something important was received. Except for extremely unusual situations involving payments of tens of thousands of dollars or concerns over the expiration of a statute of limitations, we never felt correspondence warranted a trip to the post office. If something must be mailed and it is time-sensitive or involves a material amount of money, with our experience of the last two years, we now advise certified mail with return receipt in more instances. This includes mailing a tax return that cannot be efiled, important correspondence, or large checks sent to a government entity. (This does not change our preference that certified mail sent to us not require a signature and, if it does, that it be sent to our physical address. It’s more the IRS losing or misplacing mail than the post office failing to deliver it.)

We now advise, too, that payments, especially large ones, be made electronically, directly with the appropriate government agency. While we can instruct the IRS to debit amounts from your bank account, we do not want the liability of an incorrect or untimely debit. We suggest you pay online at <https://www.irs.gov/payments/direct-pay> [and the state of California at <https://www.ftb.ca.gov/pay/bank-account/index.asp>; for other states, Google “How to pay (name the state) tax online,” if applicable]. *Be sure to use ONLY that government’s web page, not a private provider of such services, who will charge you a fee or worse.* Also, we suggest paying via your bank account and not via a credit card for which you will be charged an additional 3-4% fee by the applicable government entity.

One final item for which we have

experienced issues requiring unnecessary correspondence with the IRS relates to Identity Protection Personal Identification Numbers, known as IP PINs. These are six-digit numbers assigned to taxpayers by the IRS to help prevent the misuse of Social Security numbers, which prevents someone else from fraudulently filing a federal income tax return in your name and SSN. The system works so well the IRS will not accept an e-filed return for anyone with a current year IP PIN not included with an e-filed return.

Once you receive an IP PIN, you will receive a new one every January for use in filing any prior year returns (not just the immediately preceding year) during that year. Be sure to send us your IP PIN letter with your initial “batch” of information containing our admin forms and your tax documents or, if you are among those who like to jump on this in early January (before OLDs are available), with business-and rental-related income and expense reports. Many fail to send the IP PIN letter, which we must ask for and, because of internal limitations in tracking these, we don’t always know an IP PIN is missing until we try to e-file the tax return and it gets rejected. If you did not have one last year, we do not know to ask for one this year. You can get an IP PIN at <https://www.irs.gov/identity-theft-fraud-scams/get-an-identity-protection-pin>; select “Get an IP PIN” on the blue button on the page. Do this now for 2022 because these take several weeks to receive. Be sure to keep the IRS IP PIN letter in a safe place—we will need it to file your return. If you lose a current year IP PIN, whether you chose to get one or the IRS assigned one (usually after you were victim to suspected tax return ID theft), you can access it through your IRS.gov account using the “IP PIN Retrieval” tool at <https://www.irs.gov/identity-theft-fraud-scams/retrieve-your-ip-pin>. If you do not have an IRS.gov account, you will have to call to get the letter reissued, which will take 4-6 weeks.