

Miscellaneous Recommendations

#56 ESTABLISH THE POSITION OF IRS HISTORIAN WITHIN THE INTERNAL REVENUE SERVICE TO RECORD AND PUBLISH ITS HISTORY

Present Law

The IRS, as a federal agency, is required to properly maintain and manage its records under the Federal Records Act¹⁸⁶ and to provide access to these records to the public under the Freedom of Information Act.¹⁸⁷ However, the IRS is not required to publish a historical analysis of its tax administration programs and policies.

Reasons for Change

A documented history of the IRS's programs and policies would assist Congress, the agency itself, and the public. It would assist Congress by helping Members and staff gain a fuller understanding of the IRS's successes and failures, so future legislation can be developed in a manner that plays to the agency's strengths and helps to address the agency's weaknesses. It would help the IRS more effectively assess its programs, reduce redundant efforts, and share knowledge within the agency. In addition, an IRS historian could assist the public by promoting a more accountable and transparent IRS.¹⁸⁸

During the early 1990s, the IRS made an administrative decision to hire an IRS historian. However, the relationship was tense, and the individual who held the position subsequently told Congress that the IRS undermined her work and fought transparency, concluding that "the IRS shreds its paper trail, which means there is no history, no evidence, and ultimately no accountability."¹⁸⁹ The IRS eliminated the position and never hired a historian again.

There are at least 29 federal offices of history operating in the executive, judicial, and legislative branches.¹⁹⁰ Government historians serve various roles, such as researching and writing for publication and internal use, editing historical documents, preserving historical sites and artifacts, and providing historical information to the public through websites and other media.¹⁹¹ Historians are generally required to be objective and accurate in preparing histories that can be controversial.¹⁹² For example, the Historian of the Department of State is required to publish a documentary history of the foreign policy decisions and actions of the United States, including facts providing support for, and alternative views to, policy positions ultimately adopted without omitting or concealing defects in policy.¹⁹³ Historians in federal agencies serve an important role, and because

186 44 U.S.C. §§ 3101-3107.

187 5 U.S.C. § 552.

188 See, e.g., 22 U.S.C. § 4351(a), which states in pertinent part: "Volumes of this publication [Foreign Relations of the United States historical series] shall include *all records* needed to provide a comprehensive documentation of the major foreign policy decisions and actions of the United States government, including the facts which contributed to the formulation of policies and records providing supporting and alternative views to the policy position ultimately adopted." (Emphasis added.)

189 See *Practices & Procedures of the Internal Revenue Service: Hearings Before the S. Comm. on Finance, 105th Cong.* 35 (Sept. 23-25, 1997) (statement of Shelley Davis, former IRS Historian).

190 Society for History in the Federal Government, *History at the Federal Government*, <http://www.shfg.org/history-at-fedgov#agencies> (last visited on Nov. 13, 2018).

191 *Id.*

192 See, e.g., 22 U.S.C. § 4351(a).

193 *Id.*

more U.S. citizens interact with the IRS than with any other federal agency, the public interest and potential benefit in learning from the agency's successes and failures are particularly high.

Recommendation

Add a new subsection to IRC § 7803 to establish the position of IRS historian within the IRS. The IRS historian should have expertise in federal taxation and archival methods, be appointed by the Secretary of the Treasury in consultation with the Archivist of the United States, report to the Commissioner of Internal Revenue, and have access to IRS records, including tax returns and return information (subject to the confidentiality and disclosure provisions of IRC § 6103). The IRS historian should be required to report IRS history objectively and accurately, without omitting or concealing defects in policy.¹⁹⁴

¹⁹⁴ For additional background, see National Taxpayer Advocate 2011 Annual Report to Congress 582-586 (Legislative Recommendation: *Appoint an IRS Historian*).