

## Legislative Recommendation #66

# 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 Act<sup>1</sup> and to provide access to these records to the public under the Freedom of Information Act.<sup>2</sup> 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 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.<sup>3</sup>

During the early 1990s, the IRS decided to hire an IRS historian. However, the relationship was tense, and the individual who held the position 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."<sup>4</sup> The IRS eliminated the position and never hired a historian again.

Numerous offices of history operate in the executive, judicial, and legislative branches.<sup>5</sup> Government historians serve various roles, such as researching and writing for publication and internal use, editing historical documents, preserving historical sites and artifacts, and providing historical information to the public through websites and other media.<sup>6</sup> Historians should be objective and accurate, particularly when preparing histories that can be controversial.<sup>7</sup> 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.<sup>8</sup> Historians in federal agencies serve an important role, and because

1 44 U.S.C. §§ 3101-3107.

2 5 U.S.C. § 552.

3 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).

4 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).

5 Society for History in the Federal Government, *History at the Federal Government*, <http://www.shfg.org/history-at-fedgov> (last visited Oct. 28, 2020).

6 Society for History in the Federal Government, *Historical Programs In The Federal Government: A Guide*, <http://www.shfg.org/Historical-Programs-Guide> (last visited Oct. 28, 2020).

7 *Id.*

8 22 U.S.C. § 4351(a).

more U.S. citizens interact with the IRS than any other federal agency, the public interest and potential benefit in learning from the agency's successes and failures are 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, and report to the Commissioner of Internal Revenue. The duties of the IRS historian require 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.<sup>9</sup>

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<sup>9</sup> For additional background, see National Taxpayer Advocate 2011 Annual Report to Congress 582-586 (Legislative Recommendation: *Appoint an IRS Historian*).