

**Legislative Recommendation #66****Establish the Position of IRS Historian Within the Internal Revenue Service to Record and Publish Its History****SUMMARY**

- *Problem:* Unlike many other federal agencies, the IRS does not have a historian to catalog and publish an analysis of its successes and failures. This is significant because many of the challenges the IRS faces are recurring, such as its decades-long efforts to modernize its information technology systems and its efforts to strike the appropriate balance between collecting delinquent taxes and respecting taxpayer rights. To cite an old adage, those who fail to learn from history are doomed to repeat their mistakes.
- *Solution:* Establish the position of IRS historian within the IRS to catalog and publish analyses of the agency's successes and failures.

**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 public access to these records 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**

The IRS's mission, priorities, and challenges have remained relatively constant over time. For example, even with the significant funding the Inflation Reduction Act (IRA) has given the IRS to transform tax administration and taxpayer services, the IRS's IRA Strategic Operating Plan (SOP) for fiscal years 2023-2031 conveys similar themes to prior strategic plans, including to:

- Dramatically improve services to help taxpayers meet their obligations and receive the tax incentives for which they are eligible.
- Quickly resolve taxpayer issues when they arise.
- Focus expanded enforcement on taxpayers with complex tax filings and high-dollar noncompliance to address the tax gap.
- Deliver cutting-edge technology, data, and analytics to operate more effectively.
- Attract, retain, and empower a highly skilled, diverse workforce and develop a culture that is better equipped to deliver results for taxpayers.<sup>3</sup>

For the most part, these themes and objectives have been the same for several decades, and they are likely to remain so for the foreseeable future.<sup>4</sup> As IRS officials retire and are replaced and as leaders in the oversight community (including Congress, the Government Accountability Office, and the Treasury Inspector General for Tax Administration) retire and are replaced, these leaders would benefit enormously from an objective recording and assessment of prior IRS initiatives to achieve its strategic goals.

1 44 U.S.C. §§ 3101-3107.

2 5 U.S.C. § 552.

3 IRS, Pub. 3744, IRS Inflation Reduction Act Strategic Operating Plan (Apr. 2023), <https://www.irs.gov/pub/irs-pdf/p3744.pdf>.

4 Some parts of the IRS's mission have evolved. Increasingly, the IRS has been called upon to administer social benefits programs (e.g., the Earned Income Tax Credit and child tax credits) and to administer financial relief payments (e.g., stimulus payments during the pandemic). As is apparent in the IRA SOP, technology, data, and analytics are also increasingly important to the agency. In these areas, too, a thorough history would help policymakers pinpoint where additional resources should be targeted and how.

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.<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 promote transparency and accountability in this way. Because 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 particularly high.

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>9</sup> The IRS eliminated the position and never hired a historian again. The National Taxpayer Advocate believes the IRS should be required to have a historian to assist it in avoiding mistakes of the past and to promote transparency.

## 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>10</sup>

5 *History at the Federal Government*, SOC'Y FOR HISTORY IN THE FED. GOV'T, HISTORY AT THE FEDERAL GOVERNMENT, <http://www.shfg.org/history-at-fedgov> (last visited Sept. 26, 2023).

6 SOC'Y FOR HISTORY IN THE FED. GOV'T, HISTORICAL PROGRAMS IN THE FEDERAL GOVERNMENT: A GUIDE (1992), <http://www.shfg.org/resources/Documents/Historical%20Programs.pdf>.

7 *Id.*

8 22 U.S.C. § 4351(b).

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

10 For additional background, see National Taxpayer Advocate 2011 Annual Report to Congress 582 (Legislative Recommendation: *Appoint an IRS Historian*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/2011\\_ARC\\_Legislative-Recommendations.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/2011_ARC_Legislative-Recommendations.pdf).