September 17, 2012

Hon. Douglas Shulman
Commissioner
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, DC 20224

Re: Comments on IRS Form 911: Request for Taxpayer Assistance Order

Dear Commissioner Shulman:

Enclosed are comments on IRS Form 911. These comments represent the views of the American Bar Association Section of Taxation. They have not been approved by the Board of Governors or the House of Delegates of the American Bar Association, and should not be construed as representing the policy of the American Bar Association.

Sincerely,

Rudolph R. Ramelli
Chair, Section of Taxation

Enclosure

cc: Mark J. Mazur, Assistant Secretary (Tax Policy), Department of the Treasury
William J. Wilkins, Chief Counsel, Internal Revenue Service
ABA SECTION OF TAXATION
COMMENTS ON
IRS FORM 911: REQUEST FOR TAXPAYER ASSISTANCE ORDER

These comments (“Comments”) are submitted on behalf of the American Bar Association Section of Taxation and have not been approved by the House of Delegates or Board of Governors of the American Bar Association. Accordingly, they should not be construed as representing the position of the American Bar Association.

Principal responsibility for preparing these Comments was exercised by Susan Morgenstern and George Willis of the Pro Bono and Tax Clinics Committee of the Section of Taxation. The Comments were reviewed by T. Keith Fogg, Committee Chair. The Comments were further reviewed by Diana Leyden of the Section’s Committee on Government Submissions and by John Barrie, Council Director, for the Pro Bono and Tax Clinics Committee.

Although the members of the Section of Taxation who participated in preparing these Comments have clients who might be affected by the federal income tax principles addressed by these Comments, no such member or the firm or organization to which such member belongs has been engaged by a client to make a government submission with respect to, or otherwise to influence the development or outcome of, the specific subject matter of these Comments.

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Date:   September 17, 2012
INTRODUCTION

The Internal Revenue Service (IRS) has requested public comments on current IRS Form 911: Request for Taxpayer Advocate Service Assistance (and Application for Taxpayer Assistance Order).\(^1\) The form was last revised in May 2011.

Taxpayers use Form 911 to request assistance from the Taxpayer Advocate Service (TAS). TAS assists taxpayers who are experiencing hardships as a result of IRS action or inaction. It is a separate function within the IRS that works to resolve both individual and systemic issues. TAS may issue orders or directives to other IRS functions to ensure the taxpayer’s hardship is ameliorated, as that hardship is described on Form 911 initially and subsequently developed by the TAS case advocate.

There are no proposed changes to Form 911 outlined in the request for comments; however, the IRS requested comments as to the following: (a) whether the collection of information requested on the form is necessary for the proper performance of functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency’s estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Our comments address items (a), (c) and (d).

Current Form 911 is a useful tool to help both individuals and businesses resolve tax issues in situations where expedited handling is warranted. However, we believe that Form 911 could be revised to increase clarity and accuracy in completing the form.

Our comments address existing lines of the form and instructions and also propose adding new lines.

COMMENTS

1. **Section I – Taxpayer Information**
   Proposed New Line: Victim of Domestic Abuse

   Near Line 1a or 1b we recommend adding a check box where a taxpayer may indicate that he or she is a victim of domestic abuse. This information is important for TAS to do its job of taking precautions not to disclose addresses or other sensitive information about a taxpayer when contacting a taxpayer’s spouse (or third party who may be in contact with a non-requesting spouse) for information regarding joint accounts.

   Line 5: Email Address

   The instructions to Form 911 indicate that the IRS will not discuss the specifics of a case by email. It will only use email to contact the taxpayer when TAS is unable to

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\(^1\) Proposed Collection; Comment Request for Form 911, 77 Fed. Reg. 35478 (June 13, 2012).
reach the taxpayer by phone and the matter appears to be time sensitive. Unfortunately, asking for this information gives taxpayers the false hope that they will be able to communicate with IRS employees via email, and that email is an accepted form of communication with the IRS.

We believe that the use of email is an important communication tool. For this reason, we recommend the addition of a bolded check box by which the taxpayer could knowingly consent to the use of email for correspondence between her/him and TAS, but understand that there are privacy risks that must be waived (perhaps something similar to the language on line 9.b.) The use of email is especially important in situations where a taxpayer may work a different shift than the Local Taxpayer Advocate assigned to the case.

**Line 6: Tax Form(s)**
This line can be vague to a layperson. A better way to elicit the same information is already in use by the IRS and can be found on Line 3 of IRS Form 2848: Power of Attorney and Declaration of Representative (POA). The POA form more aptly describes the information being requested as “Tax Form Number (1040, 941, 720, etc.).” The addition of common tax form numbers makes it much clearer to a layperson what the IRS is requesting. Thus, we recommend re-titling Line 6 to match that of Line 3 on the POA. We believe that this change will benefit the IRS in that taxpayers will better understand Form 911.

**Line 7: Tax Period(s)**
As with Line 6, this line can be confusing to a layperson. Again, a better example that is already in use by the IRS can be found on Line 3 of the POA form. The POA form better describes what information being by requesting tax “Year(s) or Period(s).”

**Line 8: Person to Contact**
This line is necessary as Form 911 is used by both individuals and entities. We recommend a small change to this line that we believe will assist taxpayers in completing this section and reduce errors. After the words “Person to contact” there should be language added to clarify that this refers either to the individual who is requesting relief or his/her authorized representative. By way of suggestion only, the words “self or authorized representative” could be included here. The instructions section for this line should be modified to make it clear that the taxpayer can list his/her self on this line.

**Lines 12a and 12b: Regarding Issue Description and Relief Request**
Many taxpayers who complete this section do not understand that Form 911 is for use only in situations that meet certain TAS criteria. The TAS criteria are listed in Section III of Form 911 - which is designated for IRS use only. There is no explanation of the thresholds to the requestor.

A better explanation of when TAS has the authority to issue a Taxpayer Assistance Order should either be noted near Lines 12a and 12b, or be listed in the instructions to these lines. This explanation should discuss the nine enumerated TAS criteria for relief.
If the explanation is placed in the instructions section of Form 911, then a clear reference to those instructions should be located near Line 12. We suggest the form explicitly direct the taxpayer to the instructions and direct the taxpayer to complete Lines 12a and b taking into account the criteria listed in the instructions.

Alternatively, each element of the TAS criteria could be listed on the face of Form 911, followed by blank spaces for the taxpayer’s response.

We believe that either of these changes will significantly benefit both taxpayers and the IRS. First, it would help taxpayers with cases requiring immediate attention to better focus their request. Second, we hope that it will also cause taxpayers with cases that do not rise to the level of urgency that warrants TAS intervention to understand that their situation may not qualify for a Taxpayer Assistance Order. The effect of this would be that fewer unqualified requests might be filed, reducing the administrative burden on the IRS.

Line 11: Special Communication Needs.
The Service’s Multilingual Initiative (MLI) outlines the IRS’s commitment to assist non-English speaking taxpayers or those with limited English proficiency.

The check box for Interpreter is somewhat confusing. We believe a simplification could be made by changing this to ask for “Preferred Language” or “Language Spoken” followed by a fillable field and then a checkbox for “Interpreter Needed.” Since it is not feasible to have an all-inclusive list of languages, taxpayers could simply state their preferred language. The instructions to the form should also be updated to add an instruction that indicates something to the effect of “Please let us know the language in which you prefer we communicate with you.” We believe that this would aid both the IRS and taxpayers in quicker resolution of Form 911 requests.

2. Section II – Representative Information
Lines 1 through 5
The current Adobe Acrobat (PDF) version of Form 911, revised in May 2011, does not allow for this section to be filled in electronically. Given that the other sections of the form are fill-in – including the portions to be filled out by TAS employees after receiving this form from a taxpayer – it appears that this may have been an oversight in the last revision of the form. We recommend that Lines 1 through 5 be reformatted so that they may be filled in and saved electronically in PDF format.

If TAS will communicate with authorized representatives, we also recommend this section include a request for the authorized representative’s email address.

3. Section III – Initiating Employee Information
Generally
Although this section is marked “to be completed by the IRS only”, we have found that taxpayers simply do not notice the instruction because it does not stand out
sufficiently. The result is that the taxpayers attempt to fill out this section. We have three suggestions, with the third one being what we believe to be the best recommendation.

(1) Make the warning notice in this section larger and bolder in order to stand out better. Many IRS forms incorporate a visual cue such as a graphic image of a stop sign to clearly cause a person to take notice that they have reached a pausing point of some kind.

(2) Move Section III to a location after the instructions for Sections I and II. The instructions for Section I and II should be re-titled “Instructions for Taxpayer or Requestor.” The instructions for Section III should be moved to the end of the form and re-titled “Instructions for IRS.”

(3) Remove Section III from Form 911 and create a companion form such as “911-A” to capture such information. This, we believe, would be the best way to minimize taxpayer confusion.

CONCLUSION

The changes we suggest will improve accuracy in completing Form 911 by better focusing the taxpayer preparing the form on precisely what needs to be done. If the form can better articulate the taxpayer’s concerns, the IRS will more easily understand the taxpayer’s issue and respond more quickly. Further, the changes we suggest will assist TAS in better responding to requests for help.