

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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March 31, 2015

The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, NW
Washington, D.C. 20548

Dear Mr. Dodaro:

The Committee is reviewing agency rulemaking practices and the extent to which they follow established regulatory authorities and principles. The Internal Revenue Service (IRS) enforces the Internal Revenue Code by issuing guidance and “interpretative” rules – both of which are exempt from notice and comment requirements under the Administrative Procedure Act (APA). Accordingly, such IRS rules and guidance are not subject to the same level of scrutiny and review. While guidance lacks the force of a statute or regulation, IRS guidance documents are often utilized in enforcing Treasury regulations.

We are writing to request that the Government Accountability Office examine the IRS’ rulemaking policies, procedures and practices and the extent to which IRS policies and procedures and practices conform with applicable statutory and related authorities. This analysis should examine how the IRS determines whether to initiate formal or informal rulemaking or utilize an alternative method to communicate its interpretation of tax laws to the public. This examination should also address the impact that the IRS’ decision has on enforcement of the Internal Revenue Code. To address these issues, we request that GAO review:

1. How the IRS meets its obligations under relevant statutory and related authorities in its rulemaking activities;
2. The policies and procedures the IRS uses to develop and issue rules and guidance and how those policies and procedures are utilized;
3. The history behind the IRS’ use of exceptions under the APA and the quality of their justifications for doing so;

4. The enforceability of IRS guidance, including its use in the enforcement of Treasury regulations;
5. The extent to which interagency review and coordination plays a role in the development of IRS rules and guidance; and
6. How the IRS ensures the quality of their rules and guidance, including transparency and solicitation of public input in their development.

If you have any questions about this request, please contact Christina Aizcorbe of the Committee Staff at (202) 225-5074. Thank you for your assistance with this request.

Sincerely,



Jason E. Chaffetz
Chairman



Mark Meadows
Chairman
Subcommittee on Government Operations



Jim Jordan
Chairman
Subcommittee on Health Care,
Benefits and Administrative Rules



Matt Cartwright
Ranking Member
Subcommittee on Health Care,
Benefits and Administrative Rules



Gerald E. Connolly
Ranking Member
Subcommittee on Government Operations

cc: The Honorable Elijah E. Cummings
Ranking Member