IRS Delays Tax Deadlines Set by Congress. It Could Cost $8 Billion.

The tax agency postpones new requirements for online sellers, 401(k) savers and crypto brokers

By Richard Rubin
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WASHINGTON—Congress set strict enforcement deadlines when it created new tax requirements for e-commerce platforms, older 401(k) savers and cryptocurrency brokers.

The Internal Revenue Service has now postponed them all for two years—which could cost the Treasury more than $8 billion.

The latest IRS move to push back a congressional deadline came this week. Officials for the second time delayed the requirement that platforms such as Venmo send informational tax forms to the IRS and to many users who receive more than $600 in revenue a year.

The IRS decisions help the affected taxpayers avoid burdensome requirements. Millions of people selling goods on

At least in the short run, however, the tax agency's moves frustrate lawmakers' attempts to raise revenue and plug gaps in tax compliance.

They are symptomatic of a phenomenon in which administrations of both parties take action without the oversight or cost analysis required by legislation. The tax delays aren't as headline-grabbing as President Biden's student-loan relief or former President Donald Trump's border-wall construction. But they allow the IRS to deliver what are, in a sense, tax breaks without congressional approval.

The IRS, like every administrative agency, exercises discretion as it interprets sometimes vague laws. It tries to balance helping taxpayers meet their obligations with strictly enforcing the law. This year alone, the IRS gave Californians seven extra months to pay their 2022 taxes after natural disasters. Separately, it prevailed over a taxpayer who filed a Tax Court petition 11 seconds too late.

In a statement justifying the recent series of rule delays, the IRS pointed to a tax code section that gives the commissioner the power to "administer, manage, conduct, direct, and supervise the execution and application" of tax laws.

"The IRS has used its authority over the years to delay implementation of complex laws in the interest of good tax administration," the statement said.

Some lawmakers say the tax agency can't change deadlines that Congress wrote into law.

"The IRS is completely out of control and must be held accountable as they continue to make up the law as they go," said Rep. Carol Miller (R., W.Va.), a Ways and Means Committee member who has been pushing to repeal the online seller law. "The Biden administration must be reminded that Congress writes the laws; they are the ones who must correctly implement them."

Fred Goldberg, a former IRS commissioner, said officials have a responsibility to look holistically at making the tax system run as smoothly as possible.

"My starting assumption is that the IRS does what the statute says, read literally. It's a big barrier to get over. But they can and should get over it," he said, endorsing occasional relief such as the delays the IRS has recently allowed. "It's common sense, and it's not willy-nilly and it's not mere personal preference."

Rule: Online sellers

Cost: $2 billion

The most recent IRS decision pushed back new requirements for payment and e-commerce platforms such as Venmo and Ticketmaster. In a 2021 law, Congress said they must send information returns to the IRS and to sellers who receive at least $600 in revenue in a given year. The law didn't change what is taxable but, generally, if the IRS has more information on more transactions, tax compliance improves.

That was supposed to take effect for tax year 2022, with the first forms sent in early 2023. But the IRS postponed it last December after lawmakers and business groups warned that the forms could be difficult for taxpayers to understand and use in filing their own returns. The agency again delayed the rule for tax year 2023 and said it would attempt to enforce a $5,000 threshold—neither the old law nor the new one—in tax year 2024.

The congressional Joint Committee on Taxation projected that the first two full years would generate about $2 billion when the law was passed by Democrats in 2021. Congress had counted the revenue to help pay for pension-law changes.

Many lawmakers want to reverse the 2021 law or impose a threshold far above $600. But the idea is stuck in a logjam with other tax measures, and its prospects are uncertain.

"There are times where arguably this kind of discretion of agencies to not enforce the law kind of does get us to the place where a well-functioning Congress would have gotten us anyway," said Brian Galle, a tax law professor at Georgetown University.

And when the IRS moves on its own, there is generally no legal recourse. Taxpayers can challenge IRS actions when they are individually harmed, but they typically can't sue over taxpayer-friendly rules.

"As taxpayers, all we can do is complain," Galle said.

Rule: Crypto brokers

Cost: $4 billion

The delay on crypto brokers' reporting, however, has drawn frustration from some in Congress.

The law, passed in 2021, was intended to ensure crypto transactions would be reported similar to stock sales, so the IRS has independent information on costs and gains that it can use for audits. Similar to the changes for online sellers, these rules wouldn't change what is taxable but would give the IRS more visibility into opaque income streams. The rules were supposed to take effect in tax year 2023, with forms sent in 2024.

The IRS released proposed rules earlier this year but said they won't take full effect until 2026. The first two years were projected to generate more than $4 billion, to help pay for the bipartisan infrastructure law.

"An additional two-year delay not only contravenes this statutory directive; it runs counter to the interests of American taxpayers and the federal government," Sens. Elizabeth Warren (D., Mass.) and Angus King (I., Maine) wrote to IRS Commissioner Danny Werfel and Treasury Secretary Janet Yellen last month. "Any delay would give crypto lobbyists even more opportunity to undermine the administration's efforts to impose basic reporting requirements on the nearly unregulated crypto sector."

Rule: Retirement contributions

Cost: $2 billion

The delay in retirement rules was also partly a response to industry pressure. Congress, in a 2022 law, required most people age 50 and up to change how they make catch-up contributions, or amounts above the annual limits.

That was supposed to start in 2024. But industry groups questioned how they could comply, and the IRS gave everyone another two years.

The delay is likely to cost about $2 billion over 10 years, based on the original estimates from the joint tax committee. When writing the law, Congress had counted that money toward a package of retirement-policy changes.