



SCWA Legislative & Regulatory Update

June 10, 2024



CTA Legal Update

Two additional plaintiffs filed suit against Treasury to challenge the CTA.

The first was led by the Black Economic Council of Massachusetts and the African Community Economic Development of New England, and the second was filed in Texas by the National Federation for Independent Business.

By our count, that brings the total number of pending cases to six:

- Massachusetts: BECMA et al v Yellen (5/29/2024)
- Texas: NFIB et al v Yellen (5/28/2024)
- Maine: William Boyle v. Yellen (3/15/2024)
- Michigan: Small Business Association of Michigan et al v. Yellen (3/1/2024)
- Ohio: Robert J. Gargas Co., L.P.A. et al v. Yellen (12/29/2023)
- Alabama (appealed): NSBA et al v. Yellen (11/15/2022)

Meanwhile, the deadline for amicus briefs in the NSBA case – which the federal government appealed to the 11th Circuit Court – was May 20. Fourteen briefs were submitted, with all but three siding with the plaintiffs.

The court recently announced that proceedings would begin in September of this year.

Worth Highlighting

The Black Economic Council of Massachusetts and the African Community Economic Development of New England suit is an excellent compendium of all the reasons the CTA should be shot down. Here's a taste –

Under the CTA, it is unlawful to “willfully fail to report complete or updated beneficial ownership information to FinCEN.” The CTA imposes unprecedented reporting requirements, civil fines, criminal penalties, and terms of imprisonment on beneficial owners and applicants, who are individuals, as opposed to punishing the businesses as entities. For example, a person who is found to willfully fail to report complete or updated information “shall be liable to the United States for a civil penalty of not more than \$500 for each day that the violation continues or has not been remedied” and that person may be fined up to \$10,000 and imprisoned for up to two years, or both. The threat of criminalization and incarceration is particularly harmful to Black and Latinx business owners because Black and Latinx individuals are already disproportionately affected by overcriminalization. The Defendants’ enforcement of the CTA means that millions of Americans must guess at how to comply with its vague terms, disclose personal information of themselves and others, or pay thousands of dollars in civil and criminal fines and risk years in prison.

IRS Makes Direct File a Permanent Option to File Federal Tax Returns; Expanded Access for More Taxpayers Planned for the 2025 Filing Season

IRS Notice: Following a successful filing season pilot and feedback from a variety of partners, the Internal Revenue Service announced that it will make Direct File a permanent option for filing federal tax returns starting in the 2025 tax season.

The agency is exploring ways to expand Direct File to make more taxpayers eligible in the 2025 filing season and beyond by examining options to broaden Direct File's availability across the nation, including covering more tax situations and inviting all states to partner with Direct File next year.

The IRS plans to announce additional details on the 2025 expansion in the coming months.

The decision follows a highly successful, limited pilot during the 2024 filing season, where 140,803 taxpayers in 12 states filed their taxes using Direct File.

The IRS closely analyzed data collected during the pilot, held numerous meetings with diverse groups of stakeholders and gathered feedback from individual Direct File users, state officials and representatives across the tax landscape.

The IRS heard directly from hundreds of organizations across the country, more than a hundred members of Congress and from those interested in using Direct File in the future. The IRS has also heard from a limited number of stakeholders who believe the current free electronic filing options provided by third party vendors are adequate.

The IRS will continue data analysis and stakeholder engagement to identify improvements to Direct File; however, initial post-pilot analysis yielded enough information for the decision to make Direct File a permanent filing option. The IRS noted that an early decision on 2025 was critical for planning and programming both for the IRS and for additional states to join the program.

IRS Commissioner Danny Werfel recommended to Secretary of the Treasury Janet L. Yellen to make Direct File permanent. He cited overwhelming satisfaction from users and improved ease of tax filing among the reasons for his recommendation, which Secretary Yellen has accepted.

“The clear message is that many taxpayers across the nation want the IRS to provide more than one no-cost option for filing electronically,” said IRS Commissioner Danny Werfel. “So, starting with the 2025 filing season, the IRS will make Direct File a permanent option for filing federal tax returns. Giving taxpayers additional options strengthens the tax filing system. And adding Direct File to the menu of filing options fits squarely into our effort to make taxes as easy as possible for Americans, including saving time and money.”

State and eligibility expansion

Building on the success of the limited pilot – where taxpayers with relatively simple tax situations in 12 states were eligible to use Direct File – the IRS is examining ways to expand eligibility to more taxpayers across the country. For the 2025 filing season, the IRS will work with all states that want to partner with Direct File, and there will be no limit to the number of states that can participate

in the coming year. The agency expects several new states will choose to participate.

The IRS is also exploring ways to gradually expand the scope of tax situations supported by Direct File. Over the coming years, the agency's goal is to expand Direct File to support most common tax situations, with a particular focus on those situations that impact working families. Announcements about new state partners and expanded eligibility are expected in the coming months.

“User experience – both within the product and integration with state tax systems – will continue to be the foundation for Direct File moving forward,” Werfel said. “We will focus, first and foremost, on continuing to get it right. Accuracy and comprehensive tax credit uptake will be paramount concerns to ensure taxpayers file a correct return and get the refund they're entitled to. And our North Star will be improving the experience of tax filing itself and helping taxpayers meet their obligations as easily and quickly as possible.”

Direct File's role in the tax system

During the agency's review, many taxpayers told the IRS they want no-cost filing options. Millions of taxpayers who did not live in one of the 12 pilot states visited the Direct File website to learn more about this option or asked live chat assistants to make Direct File available in their state.

As a permanent filing option, Direct File will continue to be one option among many from which taxpayers can choose. It is not meant to replace other important options by tax professionals or commercial software providers, who are critical partners with the IRS in delivering a successful tax system for the nation.

The IRS also remains committed to the ongoing relationship with Free File Inc., which has served taxpayers for two decades in the joint effort to provide free commercial software. Earlier this month, the IRS signed a five-year extension with industry to continue Free File.

As the IRS works to expand Direct File, it will also work to strengthen all free filing options for taxpayers, including Free File, the Volunteer Income Tax Assistance program (VITA) and the Tax Counseling for the Elderly program (TCE).

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