MSP #1

TAXPAYER SERVICE: The IRS Has Developed a Comprehensive "Future State" Plan That Aims to Transform the Way It Interacts With Taxpayers, But Its Plan May Leave Critical Taxpayer Needs and Preferences Unmet

RESPONSIBLE OFFICIALS

John A. Koskinen, Commissioner of Internal Revenue, and Members of the IRS Senior Leadership Team

TAXPAYER RIGHTS IMPACTED[1]

- *The Right to Be Informed*
- *The Right to Quality Service*
- *The Right to Pay No More Than the Correct Amount of Tax*
- *The Right to Challenge the IRS's Position and Be Heard*
- *The Right to Appeal an IRS Decision in an Independent Forum*
- *The Right to Finality*
- *The Right to Privacy*
- *The Right to Confidentiality*
- *The Right to a Fair and Just Tax System*

DEFINITION OF PROBLEM

During the past year-and-a-half, the IRS has devoted significant resources to creating a "future state" plan that details how the agency will operate in five years. The plan is explained and developed in a document known as a Concept of Operations (CONOPS). There are many positive components of the plan, including the goal of creating online taxpayer accounts through which taxpayers will be able to obtain information and interact with the IRS.[2]

However, the CONOPS also raise significant questions and concerns. Implicit in the plan — and explicit in internal discussion — is an intention on the part of the IRS to substantially reduce telephone and face-to-face interaction with taxpayers. The IRS is hoping that taxpayer interactions with the IRS through online accounts will address a high percentage of taxpayer needs. It is also developing plans to enable third parties like tax return preparers and tax software companies to do more to assist taxpayers for whom online accounts are insufficient — an approach that will increase compliance costs for millions of taxpayers.

1 *See* Taxpayer Bill of Rights, *available at* www.TaxpayerAdvocate.irs.gov/taxpayer-rights. The only right in the Taxpayer Bill of Rights that is not directly affected by the IRS's future state planning is *the right to retain representation*.

2 For a more detailed assessment of online taxpayer accounts, see Most Serious Problem: *Taxpayer Access to Online Account System: As the IRS Develops an Online Account System, It May Do Less to Address the Service Needs of Taxpayers Who Wish to Speak with an IRS Employee Due to Preference or Lack of Internet Access or Who Have Issues That Are Not Conducive to Resolution Online*, *infra*.

While online accounts should reduce taxpayer demand for telephone and face-to-face interaction to some degree, they are unlikely to reduce taxpayer demand dramatically. This is true for several reasons, including that millions of taxpayers do not have Internet access, millions of taxpayers with Internet access do not feel comfortable trying to resolve important financial matters over the Internet, and many taxpayer problems are not "cookie cutter," thus requiring a degree of back-and-forth discussion that is better suited for conversation and that taxpayers will insist upon.

Taxpayer demand for IRS services and assistance is high and has remained so for many years:

- Taxpayers place more than 100 million telephone calls to the IRS each year and have done so in every year since FY 2008.[3]
- Taxpayers make more than five million visits to the IRS's walk-in sites (known as Taxpayer Assistance Centers, or TACs) each year.[4]
- Taxpayers send an average of about ten million pieces of correspondence to the IRS in response to proposed adjustment notices each year to which the IRS must respond.[5]

The Concept of Operations (CONOPS) have the potential to bring about a fundamental transformation in the way our government treats its taxpayers and interacts with them. The CONOPS and associated documents speak of contemplated changes in very positive tones. They say little about reductions in core taxpayer services. They say nothing about the increased taxpayer costs and security risks created by relying more on tax return preparers and other third parties for assistance and interacting with the IRS.

Many of the telephone and walk-in contacts take place as taxpayers are trying to prepare their tax returns. But a large number of contacts take place in the post-filing environment, where the IRS has proposed to adjust a taxpayer's tax liability or the IRS has delayed issuing the taxpayer's refund. While some pre-filing contacts may require only generic answers, post-filing contacts are almost always account-specific and require IRS employees to study the details of the taxpayer's account to respond.

If the IRS substantially reduces the opportunity for taxpayers to talk with IRS employees, many taxpayers will find it much harder to resolve their problems and will have to pay third parties to assist them. This will generate a great deal of additional taxpayer frustration with the IRS. As a result, confidence in the fairness of the tax system will erode, and taxpayer frustration and alienation may lead over time to a lower rate of voluntary compliance.

In the National Taxpayer Advocate's mid-year report to Congress, we recommended that the IRS make the CONOPS available for public review and comment.[6] To date, the IRS has not provided comprehensive information about its future state plans to the public, and it has not solicited public comment.

3 *See* IRS, Joint Operations Center, *Snapshot Reports: Enterprise Snapshot, IRS Enterprise Total* (final week of each fiscal year for FY 2008 through FY 2015).

4 IRS Wage & Investment Division, Business Performance Review 7 (4th Quarter – FY 2015, Nov. 2, 2015); Government Accountability Office (GAO), GAO-15-163, *Tax Filing Season: 2014 Performance Highlights the Need to Better Manage Taxpayer Service and Future Risks* 21 (Dec. 2014) (showing the number of TAC visits in each year from FY 2009 through FY 2014). During the 2015 filing season, the IRS maintained 380 TACs. *See* Treasury Inspector General for Tax Administration, Ref. No. 2016-IE-R001, *Selected Taxpayer Assistance Centers Were Professional and Organized, and Sensitive Information and Equipment Were Properly Secured* 1 (Oct. 2015).

5 Over the past decade, annual taxpayer correspondence in response to proposed adjustments has ranged from a low of 7.9 million letters to a high of 11.8 million letters and has averaged just over ten million per year. *See* IRS, Joint Operations Center, *Adjustments Inventory Reports: July-September Fiscal Year Comparison* (FY 2006 through FY 2015).

6 National Taxpayer Advocate FY 2016 Objectives Report to Congress 7.

The National Taxpayer Advocate is designating the future of taxpayer service as the #1 most serious problem for taxpayers for purposes of this year's report because the CONOPS have the potential to bring about a fundamental transformation in the way our government treats its taxpayers and interacts with them. The CONOPS and associated documents speak of contemplated changes in very positive tones. They say little about reductions in core taxpayer services. They say nothing about the increased taxpayer costs and security risks created by relying more on tax return preparers and other third parties for assistance and interacting with the IRS.

But trade-offs are inevitable if new services are to be developed and rolled out in a tight budgetary environment. Therefore, we believe it is critical that the IRS share its plans in detail with Congress and outside stakeholders and then engage in a dialogue about the extent to which it intends to curtail or eliminate various categories of telephone service and face-to-face service, whether it will provide sufficient support for taxpayers — and how — as it transitions to its future state, and whether it has an adequate "Plan B" if taxpayer demand for telephone and face-to-face service remains higher than the IRS anticipates. We also believe the IRS should estimate the additional financial burden its plan will impose on various categories of taxpayers — including elderly, low income, disabled, and limited English proficiency taxpayers and small businesses — as well as the impact its plan is likely to have on voluntary compliance.

These concerns are detailed below. In addition, the National Taxpayer Advocate provides a broader assessment of the IRS's future state planning in her preface to this report.

ANALYSIS OF PROBLEM

Long-term strategic planning is critical to the success of any organization, particularly one as large and complex as the IRS. In recent years, significant reductions to the agency's funding level have forced it to scale back its activities in almost every area and to rethink its priorities.[7]

Beginning in 2014, each of the IRS's four IRS Business Operating Divisions developed a CONOPS to articulate its vision and strategic approach for the following five-year period. Later, some of the other IRS functions developed a CONOPS, and the discrete CONOPS documents developed by the business units were ultimately consolidated into a single, enterprise-wide CONOPS.[8]

The IRS senior leadership team and IRS personnel in every business unit have devoted substantial time to this effort. The IRS also has entered into contracts with management consultants, costing the agency several million dollars, for support.

The CONOPS encompass both taxpayer service and enforcement activities, and they describe many initiatives that will both benefit taxpayers and make IRS operations more efficient. Because the IRS has chosen not to release the CONOPS, we are limited in our ability to provide much detail. However, the

7 Since FY 2010, the IRS budget has been reduced by about 19 percent in inflation-adjusted terms. In FY 2010, the agency's appropriated budget stood at $12.1 billion. For FY 2016, its budget has been set at $11.2 billion, a reduction of nearly 8 percent over the six-year period. Inflation over the same period is estimated at nearly 11 percent. *See* Office of Management and Budget, Fiscal Year 2016 Budget of the U.S. Government, *Historical Tables* (230-31), Table 10.1, *available at* https://www.whitehouse.gov/sites/default/files/omb/budget/fy2016/assets/hist.pdf (showing Gross Domestic Product (GDP) and year-to-year increases in the GDP). In addition, the IRS has had to implement the statutory requirements of the Patient Protection and Affordable Care Act and the Foreign Account Tax Compliance Act during this time, causing a further drain on its resources.

8 The four IRS Business Operating Divisions are the Wage & Investment Division, the Small Business/Self-Employed Division, the Tax Exempt & Government Entities Division, and the Large Business & International Division. Other functions that developed CONOPS include the Office of Appeals and the Criminal Investigation function.

IRS Chief Counsel recently articulated the following seven themes for the IRS's future state in a written document distributed at a public event:

- Facilitate voluntary compliance by empowering taxpayers with secure innovative tools and support.
- Understand non-compliant taxpayer behavior and develop approaches to deter and change it.
- Leverage and collaborate with external stakeholders.
- Cultivate a well-equipped, diverse, skilled, and flexible workforce.
- Select highest value work using data analytics and robust feedback loops.
- Drive more agility, efficiency, and effectiveness in IRS operations.
- Strengthen cyber defense and prevent identity theft and refund fraud.[9]

These are laudable goals, but they are very general. As always, the devil is in the details, and unless and until the IRS releases the CONOPS, neither the public nor Congress will have access to the details.

In the National Taxpayer Advocate's mid-year report to Congress, we recommended that the IRS make the Concept of Operations available for public review and comment. To date, the IRS has not provided comprehensive information about its future state plans to the public, and it has not solicited public comment.

Online Taxpayer Accounts Are Unlikely to Produce a Substantial Reduction in Taxpayers' Needs for Telephone and Face-to-Face Assistance

One specific initiative that IRS officials have described publicly is the creation of online taxpayer accounts through which taxpayers can interact with the agency.[10] We have recommended in the past that the IRS develop this capability,[11] provided the agency can work through security risks.[12]

Of considerable concern, however, is what is *not* stated in the CONOPS. Nowhere in the CONOPS is there a statement that the IRS plans to reduce telephone service or close walk-in sites, even though that is a central component of its strategy. By proposing to add new services and continuing to note the impact of funding constraints, it is implicit that some existing services will be reduced or eliminated.

9 William J. Wilkins, Chief Counsel, Internal Revenue Service, *Tax Enforcement in a Resource-Challenged World* 7 (written outline distributed in conjunction with address before the 32nd Annual National Institute on Criminal Tax Fraud and the Fifth National Institute on Tax Controversy, Dec. 11, 2015, Las Vegas, Nevada).

10 Luca Gattoni-Celli, *IRS to Roll Out Online Taxpayer Accounts*, 2015 TNT 213-3, Tax Notes Today (Nov. 4, 2015) (quoting Karen Schiller, Commissioner of the IRS's Small Business/Self-Employed Division, as saying: "Our future vision is, interacting with the IRS will be similar to how the interaction is with a financial institution or a bank … more online access, more self-service capability"). *See also* Matthew R. Madara, *IRS to Expand Online Access As Agency Looks to the Future*, 2015 TNT 240-2, Tax Notes Today (Dec. 14, 2015) (reporting on remarks of William J. Wilkins, Chief Counsel, Internal Revenue Service).

11 *See* National Taxpayer Advocate 2013 Annual Report to Congress vol. 2, 67-96 (Research Study: *Fundamental Changes to Return Filing and Processing Will Assist Taxpayers In Return Preparation and Decrease Improper Payments*); National Taxpayer Advocate 2012 Annual Report to Congress 251-61 (Most Serious Problem: *The IRS Is Striving to Meet Taxpayers' Increasing Demand for Online Services, Yet More Needs to Be Done*) and 180-91 (Most Serious Problem: *The Preservation of Fundamental Taxpayer Rights Is Critical As the IRS Develops a Real-Time Tax System*); National Taxpayer Advocate 2009 Annual Report to Congress 338-45 (Legislative Recommendation: *Direct the Treasury Department to Develop a Plan to Reverse the "Pay Refunds First, Verify Eligibility Later" Approach to Tax Return Processing*).

12 The "Get Transcript" problems involving unauthorized access to taxpayer account information that came to light during 2015 have caused widespread concerns. For more details about those problems, see IRS, *IRS Statement on the "Get Transcript" Application* (May 26, 2015), *available at* https://www.irs.gov/uac/Newsroom/IRS-Statement-on-the-Get-Transcript-Application. The IRS must redouble its efforts to ensure it takes all appropriate steps to guarantee data security and reassure the public it has done so before it rolls out online accounts.

The key unanswered question is by how much. In general, IRS leaders are only indirectly alluding to the possibility of service reductions. In a recent all-employee email, the Commissioner wrote about offering "more online and self-service options to build on our in-person options … [f]or those taxpayers with the ability and interest."[13] An accompanying summary stated that "[t]his approach also has a goal of freeing up limited IRS in-person resources — such as our phone lines — to more easily serve people and tax professionals who need one-on-one assistance."[14]

However, the widespread expectation is that traditional taxpayer services – telephone assistance and face-to-face assistance — will be scaled back dramatically. Based on our internal discussions with IRS officials, TAS has been left with the distinct impression that the IRS's ultimate goal is 'to get out of the business of talking with taxpayers.'

There is an enormous difference between developing online accounts with the hope that they will reduce taxpayer demand for personal service, on the one hand, and making plans to reduce personal service now. It is incumbent upon the IRS to be much more specific about how much personal taxpayer assistance it expects to provide in its "future state."

There are three reasons why we are not optimistic online accounts will dramatically reduce taxpayer demand for telephone or face-to-face service:

1. **Millions of taxpayers do not use the Internet.** A Pew Research Center study published in 2015 found the percentage of American adults who do not use the Internet is about 16 percent.[15]
2. **Millions of taxpayers who use the Internet do not want to handle complex financial transactions online.** According to a Forrester Research study published in 2015, 37 percent of survey respondents said they do not trust the federal government to secure their personal data, and the majority uses non-digital channels more than digital ones.[16] Moreover, a 2014 TAS study of taxpayers with incomes of less than 250 percent of the federal poverty level ($29,175 for a single person in the 48 contiguous states, D.C., or Puerto Rico) found that more than 70 percent of these taxpayers preferred communicating in person, and only about ten percent were willing to interact by computer.[17]

    Example: Assume a taxpayer has been victimized by identity theft or has been asked to supply identity information after IRS filters have flagged his return and frozen his refund pending verification. Many taxpayers whose personal information has been actually or potentially compromised will not feel comfortable entering the very same personal information into an Internet site. Moreover, many taxpayers waiting for a much-needed refund will want to resolve the problem directly with an IRS employee so they know, when the call ends, whether the documentation they are providing is sufficient and when they can expect to receive their refund.

13 Email from John A. Koskinen, Commissioner of IRS, to all employees, *Update on IRS changes, Future State work* (Dec. 16, 2015).

14 Summary explanation titled "A future vision for taxpayers and employees." *Id.*

15 Andrew Perrin & Maeve Duggan, Pew Research Center, *American's Internet Access: 2000-2015* (June 26, 2015).

16 Rick Parrish, Forrester Research, *Washington Must Work Harder to Spur the Public's Interest in Digital Government: Federal Agencies Are Spending Millions on Digital CX That Customers May Not Want* (Apr. 28, 2015).

17 *See* National Taxpayer Advocate 2014 Annual Report to Congress vol. 2 § 1, 9 (Research Study: *Low Income Taxpayer Clinic Program: A Look at Those Eligible to Seek Help From the Clinics*). About 45 percent of taxpayers have incomes at or below 250 percent of the Federal Poverty Level. IRS CDW, Individual Returns Transaction File, tax year 2014

3. **Even among taxpayers who have Internet access and skills and are comfortable handling financial transactions online, the complexity of tax issues and the amount of money at stake will make online resolution impractical or undesirable from the taxpayer's perspective in many cases.** Online resolution will be difficult partly due to the complexity of the transaction and partly due to the difficulty in designing a website that is both easily navigable by first-time users and capable of handling a wide range of transactions. Online accounts work well for "cookie cutter" transactions. For example, a bank website can be easy to use if the account holder is solely seeking to pay bills; an airline website can be easy to use if a passenger is solely seeking to purchase tickets; and a retailer's website can be easy to use if a customer is seeking solely to make a purchase. But if the account holder wishes to dispute an erroneous charge, the passenger is seeking a refund, or the purchaser of retail goods has not received his order by the promised date, a telephone call is often necessary. When dealing with the IRS, little is "cookie cutter" and much is case-specific.

    Example: A taxpayer may claim the earned income tax credit with respect to a child only if the child lives with her for more than one-half of the year.[18] Where parents have been divorced or otherwise live separately and the child lives part-time with each parent, it can be difficult for the parent claiming the credit to substantiate that the child lived with her for more than one-half of the year. An online account cannot substitute for a conversation with an IRS employee in which the parent describes the kinds of records she possesses and can talk through which ones the IRS will accept.

    Example: The IRS denies business deductions claimed by a small business, such as a sole proprietor. Businesses keep expense records in different formats, and it is often not clear to a small business owner what documentation the IRS will accept. Rather than uploading large volumes of records through an online account, the business owner may wish to speak with an IRS employee to clarify the documentation requirements.

In light of the complexity of the tax code and the wide variation in taxpayer circumstances, these are typical problems that arise. Where substantial money is at stake and particularly where a taxpayer is experiencing a financial hardship, an online account will neither resolve issues like these nor provide the taxpayer with the certainty he seeks.

Pre-Filing Requests for Assistance. In 2015, the IRS received about 150 million income tax returns from individuals.[19] It also received more than ten million returns from business entities (corporations and partnerships).[20] Many of these taxpayers seek assistance from the IRS in the course of preparing or filing their returns. Requests for assistance range from the general (*e.g.,* a request for a form or a tax-law

18 *See* IRC § 32(c)(3)(A) (incorporating the definition of a qualifying child in IRC § 152(c)(1)(B)).

19 In calendar year 2015, the IRS received slightly more than 150 million individual income tax returns. *See* IRS, *Filing Season Statistics for Week Ending Nov. 20, 2015*, *available at* https://www.irs.gov/uac/Newsroom/Filing-Season-Statistics-for-Week-Ending-November-20-2015. For fiscal year 2015, the IRS projected it would receive just under 150 million returns but has not released the final count. *See* IRS Pub. 6292, *Fiscal Year Return Projections for the United States 2015-2022,* Table 1 (Rev. Aug. 2015).

20 *See* IRS Pub. 6292, *Fiscal Year Return Projections for the United States 2015-2022*, Table 1 (Rev. Aug. 2015). (projecting the IRS would receive about 6.9 million corporation income tax returns and 3.8 million partnership returns in FY 2015, a slight increase in both categories as compared with FY 2014).

Offloading work to third parties will substantially increase compliance costs for many taxpayers who now work directly with the IRS. Taxpayers deserve better. Having written a tax code so widely and rightly criticized for its complexity, the government has a practical and moral obligation to help taxpayers comply. It should not withdraw existing taxpayer service to the point where taxpayers have to incur additional compliance costs just to file their returns and pay their taxes.

question) to account-specific matters (*e.g.,* a request for a replacement Identity Protection (IP) PIN where a taxpayer has lost the IP PIN the IRS sent him by letter and cannot file his return without it).[21]

Post-Filing Contacts. In FY 2015, the IRS had actual or possible post-filing contacts with more than nine million taxpayers. Most arose because of proposed tax adjustments the IRS made. Others arose because the IRS temporarily or indefinitely froze tax returns and withheld refunds, generating taxpayer inquiries and attempts to provide substantiation.

If one were to focus solely on the individual audit rate of less than one percent,[22] one might assume that fewer than 1.5 million individual taxpayers have contacts with the IRS after filing a tax return. In fact, the number of taxpayers who have post-filing contacts with the IRS is vastly larger. For example:

- The IRS makes adjustments to taxpayer accounts under "math error" authority that do not count as audits.[23]
- The IRS makes adjustments to taxpayer accounts based on document-matching between information a taxpayer reports on his tax return and information the taxpayer's employer reports on a Form W-2 or a payor reports on a Form 1099. These adjustments also do not count as audits.[24]
- The IRS operates an Automated Substitute for Return program in which it creates tax returns for taxpayers who did not file and who the IRS believes should have filed a return.[25]

21 An IP PIN is a number assigned to an eligible taxpayer to help prevent the misuse of his Social Security number on fraudulent federal income tax returns. Once the IRS issues an IP PIN to a taxpayer, the taxpayer currently is required to use an IP PIN to file returns for the rest of his life. According to the IRS website: "You currently can't opt out once you get an IP PIN. You must use an IP PIN to confirm your identity on all federal tax returns you file this year and in subsequent tax years. If you e-file your return and your IP PIN is missing or incorrect, our system will reject your return. Filing a paper return with a missing or incorrect IP PIN delays its processing."

22 In FY 2014, the individual audit rate was 0.86 percent. *See* IRS, *FY 2014 Enforcement and Service Results* 2, *available at* https://www.irs.gov/PUP/newsroom/FY-2014%20Enforcement%20and%20Service%20Results%20–%20web%20version.pdf. At this writing, the individual audit rate for FY 2015 has not yet been released.

23 IRC § 6213(b) & (g).

24 *See* IRC § 7605 and Rev. Proc. 2005-32, 2005-1 C.B. 1206, regarding contacts with taxpayers and other actions taken by the IRS that are not treated as "examinations." In general, an examination involves the IRS's inspection of a taxpayer's books and records. Among contacts not treated as examinations are those resulting from the matching of information on a tax return with information already in the IRS's possession and considering any records the taxpayer provides voluntarily to explain a discrepancy between a filed return and information furnished by third parties that is used as part of a data-matching program. *See* § 4.03(1)(b) & (c) of Rev. Proc. 2005-32.

25 *See* IRC § 6020. For additional information regarding the automated substitute for return program, see Most Serious Problem: *Automated Substitute for Return (ASFR) Program: Current Selection Criteria for Cases in the ASFR Program Create Rework and Impose Undue Taxpayer Burden*, *infra*.

- The IRS employs a wide variety of anti-fraud filters to screen out fraudulent tax returns and refund claims. However, these filters are inherently both under-inclusive and over-inclusive. Where filters are over-inclusive, the IRS sometimes notifies taxpayers it has frozen their returns and requires them to submit additional documentation before it can proceed, and it sometimes temporarily suspends the processing of their returns (and the issuance of refunds) pending internal verification measures. Even where the IRS is solely performing internal verification, taxpayers experiencing refund delays will often call the IRS to find out why.

Thus, the number of taxpayers who receive notices and may have to get into a dialogue with the IRS about their unique facts and circumstances is as follows:

FIGURE 1.1.1, Post-Filing Notices and Refund Delays That Generate Taxpayer Contacts[26]

Individual Audits	1,228,693
Document Matching (AUR) Notices	3,836,216
Math Error Notices	1,886,216
Automated Substitute for Returns	184,776
Refund Delays	2,078,311
Total	**9,214,212**

It is not realistic to expect that taxpayers who are told they owe more tax or whose refunds have been significantly delayed are going to be satisfied resolving their problems with the IRS exclusively through an online account. A high percentage of taxpayers in this situation will want to speak with an IRS employee so they can be certain they understand the source of the problem and what more they need to do — and try to obtain reassurance about when they can expect a final resolution.

IRS Technology Advancements Historically Have Not Reduced Taxpayer Demand for Personal Services Despite Hopes to the Contrary

Ever since Congress enacted the IRS Restructuring and Reform Act of 1998,[27] the IRS has been speaking about harnessing technology to improve efficiency and reduce the need for personal service. In fact, the IRS has succeeded in dramatically increasing the percentage of taxpayers who file their returns electronically, it has vastly expanded and improved its website to provide more information to taxpayers, and it

26 Sources for data on audit and similar contacts are as follows: IRS Audit Information Management System, Closed Case Database (showing number of individual examinations closed in FY 2015); IRS Compliance Data Warehouse, Notice Delivery System (showing number of CP2000 and CP2501 document-matching notices mailed to distinct taxpayers by the IRS's Automated Underreporter Program in FY 2015); IRS Individual Master File (showing number of math error notices mailed to distinct taxpayers in FY 2015); IRS Collection Activity Report NO-5000-139 (Oct. 5, 2015) (showing number of automated substitute for return (ASFR) notices issued in FY 2015; ASFRs are created with respect to taxpayers that did not file tax returns but that the IRS believes should have filed tax returns). Sources for data on refund delays are as follows: IRS Generalized Unpostable Framework (GUF) Report, GUF5740 Closed Inventory Summary (Dec. 17, 2015) (showing that 729,487 returns were initially deemed unpostable for inconsistency with ID theft business rules but were later processed in calendar year 2015 through Dec. 17); IRS Return Integrity & Compliance Services (RICS), *Update of the Taxpayer Protection Program (TPP)* 8, (Dec. 9, 2015) (showing that 649,915 returns were stopped by Taxpayer Protection Program filters but were later found to be legitimate in calendar year 2015 through Dec. 9); IRS Individual Master File (showing that 179,459 returns were stopped due to suspected fraudulent income documents that later were found to be legitimate and 155,103 returns were frozen from Jan. 1 through Sept. 30, 2015 because an identity theft return in the taxpayer's name had previously been submitted and posted; refund delays of less than two weeks are generally excluded from these totals). The number of refund delays shown in this figure is under-inclusive overall because there are additional sources of refund delays. However, a small number of returns may fit into more than one category and therefore be double-counted.

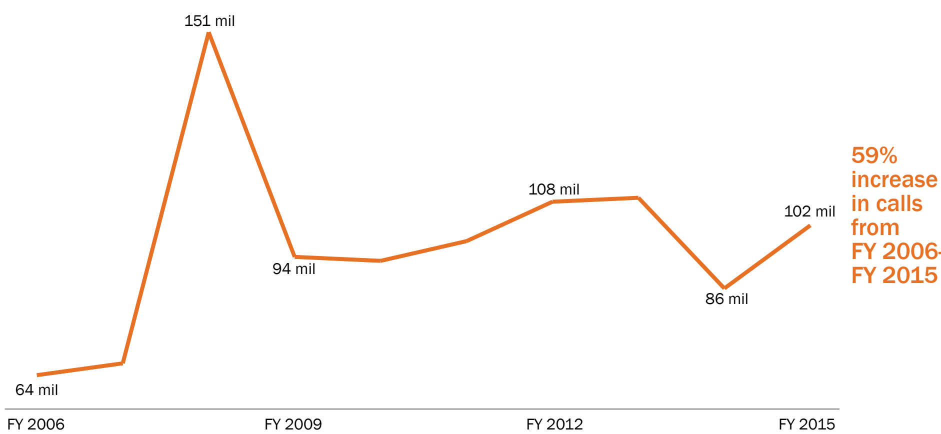
27 Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. No. 105-206, 112 Stat. 685 (1998).

has launched "Where's My Refund" to reduce telephone calls. The hope and expectation was that these measures would have substantially reduced taxpayer demand for personal service by phone or in person.

In fact, taxpayer demand for personal service has *increased* over time. The number of calls the IRS received on its Accounts Management lines over the past decade has risen from about 64 million in FY 2006 to about 102 million in FY 2015, an increase of about 59 percent, as shown in the following figure:

FIGURE 1.1.2[28]

Taxpayer Calls to IRS Accounts Management Telephone Lines



(The one-time spike in telephone calls in FY 2008 was attributable to widespread confusion concerning payments under the Economic Stimulus Act of 2008.)[29]

Taxpayer demand for face-to-face service at the IRS's walk-in sites has also remained high — above 5.6 million visits in FY 2015 — despite IRS service reductions, such as directing employees to refrain from answering tax-law questions and discontinuing the preparation of tax returns.[30]

These results are hardly surprising. The continuing demand for personal service despite greater online functionality is not unique to tax administration. For example, the Board of Governors of the Federal Reserve System conducts an annual survey of bank customers who use mobile phones to conduct their banking. The most recent survey found that 72 percent of bank customers reported they had visited a branch and spoken with a teller within the preceding month (an average of two times), and 68 percent reported they had used telephone banking within the preceding month (also an average of two times).

28 IRS, Joint Operations Center, *Snapshot Reports: Enterprise Snapshot* (final week of each fiscal year for FY 2006 through FY 2015). The majority of the additional calls were handled by automation. The increase in calls seeking to speak with an IRS customer service representative (CSR) was 20 percent. The IRS's Snapshot Reports do not specify the number of calls routed to CSRs, but that number can be roughly computed by dividing the number of calls answered by CSRs by the percentage of calls answered by CSRs (known as the "CSR Level of Service"). The number of calls routed to CSRs on the Account Management telephone lines increased from about 39.8 million in FY 2006 to about 47.9 million in FY 2015. The percentage increase in calls seeking to reach a CSR likely would have been considerably higher absent IRS policies designed to limit the scope of CSR-eligible subjects, such as sharply restricting the scope of tax-law questions CSRs may answer.

29 Pub. L. No. 110-185, 122 Stat. 613 (2008).

30 IRS Wage & Investment Division, Business Performance Review 7 (4th Quarter – FY 2015, Nov. 2, 2015).

In addition, 85 percent reported they had used an automated teller machine (ATM) within the preceding month (an average of three times).

Summarizing these survey results, the report concluded:

> Taken together, these estimates indicate that while mobile banking users are utilizing technological platforms at a high rate and on a consistent basis, they have also maintained connections to their banks through the more traditional branch and ATM channels.[31]

There is no doubt that secure online taxpayer accounts will be a positive development for both taxpayers and the IRS. But the IRS's own experience with technology improvements and data from other sectors suggest online accounts are unlikely to substantially meet taxpayer demand for telephone and face-to-face service. Therefore, the open question is whether, and to what extent, online accounts will allow the IRS to achieve costs savings without leaving taxpayer needs unmet.

Requiring Taxpayers to Rely More on Tax Return Preparers and Other Third Parties Will Increase Taxpayer Costs and Create Data Security Risks

The CONOPS highlight a second concern. The IRS recognizes that not all taxpayers will be able to resolve problems through online accounts. To address the needs of these taxpayers, the IRS envisions giving tax practitioners, noncredentialed preparers, and tax software companies access to additional taxpayer information so they can assist taxpayers without the need for direct IRS involvement. That may work in some instances, but we have two reservations about this approach.

1. Offloading work to third parties will substantially increase compliance costs for many taxpayers who now work directly with the IRS. Taxpayers deserve better. Having written a tax code so widely and rightly criticized for its complexity, the government has a practical and moral obligation to help taxpayers comply. It should not withdraw existing taxpayer service to the point where taxpayers have to incur additional compliance costs just to file their returns and pay their taxes.
2. Tax return preparers are currently unregulated. Anyone, including individuals with no tax background and even individuals with criminal convictions, can obtain a Preparer Tax Identification Number from the IRS and hang out a shingle as a tax return preparer. Many are competent and conscientious, but as Government Accountability Office (GAO) and Treasury Inspector General for Tax Administration (TIGTA) studies have shown, others are not.[32] The IRS should not even consider giving tax return preparers access to taxpayer account information until it is able to establish minimum standards for competence, to suspend preparers who engage in improper conduct, and to conduct background checks to weed out preparers with criminal records. To grant all preparers access to taxpayer accounts is to put taxpayers' confidential tax information at risk.

Referring taxpayers to third party providers raises important issues — both policy issues regarding the role government should play in assisting taxpayers who are trying to comply with their tax obligations and practical issues regarding data security. These issues deserve a thorough public discussion before the IRS begins to downsize its existing taxpayer service operations and outsource taxpayer assistance to third

31 Board of Governors of the Federal Reserve System, *Consumers and Mobile Financial Services 2015*, at 11 (Mar. 2015), *available at* http://www.federalreserve.gov/econresdata/consumers-and-mobile-financial-services-report-201503.pdf.

32 *See* GAO, GAO-14-467T, *Paid Tax Return Preparers: In a Limited Study, Preparers Made Significant Errors* (Apr. 2014); TIGTA, Ref. No. 2008-40-171, *Most Tax Returns Prepared by a Limited Sample of Unenrolled Preparers Contained Significant Errors* (Sept. 2008); GAO, GAO-06-563T, *Paid Tax Return Preparers: In a Limited Study, Chain Preparers Made Serious Errors* (Apr. 2006).

parties, which will have the effect of introducing a third-party intermediary between the IRS and taxpayers, and increasing taxpayers' compliance costs.

CONCLUSION

The IRS's future state plan has been driven by two considerations. First, long-range strategic planning is always important to ensure an organization achieves its objectives as effectively and efficiently as possible. Second, significant reductions in the IRS's budget since FY 2010 have forced the agency to look for ways to scale back its operations in order to deliver on its tax-collection mission more cheaply.

The National Taxpayer Advocate has been recommending against significant reductions in the IRS's budget because reductions of this magnitude have harmed taxpayers. Moreover, while this report identifies numerous areas where we believe the IRS can and should improve, it is important to acknowledge that the IRS generally speaking is an efficient agency. In FY 2015, the IRS collected about $3.3 trillion on a budget of $10.945 billion, which translates to a return-on-investment of about 300:1.[33]

There is much in the CONOPS that is positive for taxpayers and the IRS. However, the implicit intent to make substantial reductions in telephone and face-to-face taxpayer service — particularly when coupled with the implicit intent to refer more taxpayers to for-profit practitioners and preparers for help that the IRS currently provides — raises concerns about whether the government will continue to meet its responsibilities to taxpayers.

Because the CONOPS lay out proposals that will be transformational for taxpayer service, we believe the IRS should publish its proposed plans and seek public comments and suggestions before it adopts any proposals and before, even if it has not formally adopted them, any of these proposals becomes a *fait accompli*. U.S. taxpayers pay the bills for our government. U.S. taxpayers deserve a say in how the tax collection agency will treat them.

RECOMMENDATIONS

1. The National Taxpayer Advocate recommends that the IRS immediately publish its CONOPS, publicize them widely, and seek comments and suggestions from the public.
2. The National Taxpayer Advocate recommends that Congress hold hearings during the next few months on the future state of IRS operations. These hearings will help foster better communication between the IRS and Congress on the front-end, potentially reducing the risk of continuing conflict in the future. These hearings should seek testimony from groups representing the interests of individual taxpayers (including elderly, low income, disabled, and limited English proficiency taxpayers), sole proprietors, other small businesses, and Circular 230 practitioners and unenrolled tax return preparers. They should also include witnesses who can address the additional compliance burden the CONOPS will impose on various categories of taxpayers as well as the likely impact of the CONOPS on the overall rate of voluntary tax compliance.

33 GAO, GAO-16-146, GAO-16-146, *Financial Audit: IRS's Fiscal Years 2015 and 2014 Financial Statements* 25 (Nov. 2015), *available at* www.gao.gov/assets/680/673614.pdf (showing the IRS collected total tax revenue of about $3.3 trillion in FY 2015); IRS, *IRS FY 2016 Budget-in-Brief*, *available at* https://www.irs.gov/PUP/newsroom/IRS%20Budget%20in%20Brief%20FY%20 2016.pdf (showing the IRS's enacted FY 2015 IRS appropriation was $10,945,000,000).