

TAS Case Advocacy

OFFICE OF THE TAXPAYER ADVOCATE

Under Internal Revenue Code (IRC) § 7803(c)(2)(A), the Office of the Taxpayer Advocate, known as the Taxpayer Advocate Service (TAS) and led by the National Taxpayer Advocate, has four principal functions:

- Assist taxpayers in resolving problems with the IRS;
- Identify areas in which taxpayers are experiencing problems with the IRS;
- Propose changes in the administrative practices of the IRS to mitigate problems taxpayers are experiencing with the IRS; and
- Identify potential legislative changes that may be appropriate to mitigate such problems.

The first function described in the statute relates to TAS's case advocacy, which involves assisting taxpayers with their cases by protecting taxpayer rights and reducing taxpayer burden.¹ This section of the report discusses how TAS fulfills its mission to assist taxpayers with their specific issues and concerns involving IRS systems and procedures.

TAS's other three functions involve identifying and proposing changes to systemic problems affecting taxpayers. TAS employees advocate systemically by:

- Identifying IRS procedures that adversely affect taxpayer rights or create taxpayer burden; and
- Recommending solutions, either administrative or legislative, to improve tax administration.²

TAS serves as the voice of the taxpayer within the IRS by providing the taxpayer's view on IRS policies, procedures, or programs. While systemic advocacy is the responsibility of everyone in TAS, primary oversight of systemic advocacy efforts belongs to the Office of Systemic Advocacy and the National Taxpayer Advocate's attorney advisors. Additionally, TAS administers the Low Income Taxpayer Clinic (LITC) grant program³ and oversees the Taxpayer Advocacy Panel (TAP).⁴

1 See Taxpayer Bill of Rights (TBOR), www.TaxpayerAdvocate.irs.gov/taxpayer-rights. The rights contained in the TBOR are now listed in the Internal Revenue Code (IRC). See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, Title IV, § 401(a) (2015) (codified at IRC § 7803(a)(3)).

2 Taxpayers and practitioners can use the Systemic Advocacy Management System (SAMS) to submit systemic issues to TAS at www.taxpayeradvocate.irs.gov/SAMS.

3 The Low Income Taxpayer Clinic (LITC) program provides matching grants of up to \$100,000 per year to qualifying organizations to operate clinics that represent low income taxpayers in disputes with the IRS and educate taxpayers for whom English is a second language about their taxpayer rights and responsibilities. LITCs provide services to eligible taxpayers for free or for no more than a nominal fee. See IRC § 7526 (2012).

4 The Taxpayer Advocacy Panel (TAP) is a Federal Advisory Committee established by the Department of the Treasury to provide a taxpayer perspective on improving IRS service to taxpayers. TAS provides oversight and support to the TAP program. The Federal Advisory Committee Act (5 U.S.C. App'x (1972)) prescribes standards for establishing advisory committees when those committees will furnish advice, ideas, and opinions to the federal government. See also 41 C.F.R. Part 102-3 (2001).

TAS CASE RECEIPT CRITERIA

Taxpayers typically seek TAS assistance with specific issues when:

- They have experienced a tax problem that causes financial difficulty;
- They have been unable to resolve their issues directly with the IRS through normal channels; or
- An IRS action or inaction has caused or will cause them to suffer a long-term adverse impact, including a violation of taxpayer rights.

TAS accepts cases in four categories: economic burden, systemic burden, best interest of the taxpayer, and public policy. See Figure 4.1.1, TAS Case Acceptance Criteria.

FIGURE 4.1.1

TAS Case Acceptance Criteria

As an independent organization within the IRS, TAS helps taxpayers resolve problems with the IRS and recommends changes to prevent future problems. TAS fulfills its statutory mission by working with taxpayers to resolve problems with the IRS.¹ TAS case acceptance criteria fall into four main categories.

Economic Burden	Cases involving a financial difficulty to the taxpayer; an IRS action or inaction has caused or will cause negative financial consequences or have a long-term adverse impact on the taxpayer
Criteria 1	The taxpayer is experiencing economic harm or is about to suffer economic harm.
Criteria 2	The taxpayer is facing an immediate threat of adverse action.
Criteria 3	The taxpayer will incur significant costs if relief is not granted (including fees for professional representation).
Criteria 4	The taxpayer will suffer irreparable injury or long-term adverse impact if relief is not granted.
Systemic Burden	Cases in which an IRS process, system, or procedure has failed to operate as intended, and as a result the IRS has failed to timely respond to or resolve a taxpayer issue ²
Criteria 5	The taxpayer has experienced a delay of more than 30 days to resolve a tax account problem.
Criteria 6	The taxpayer has not received a response or resolution to the problem or inquiry by the date promised.
Criteria 7	A system or procedure has either failed to operate as intended, or failed to resolve the taxpayer's problem or dispute within the IRS.
Best Interest of the Taxpayer	TAS acceptance of these cases will help ensure that taxpayers receive fair and equitable treatment and that their rights as taxpayers are protected. ³
Criteria 8	The manner in which the tax laws are being administered raises considerations of equity, or have impaired or will impair the taxpayer's rights.
Public Policy	TAS acceptance of cases under this category will be determined by the National Taxpayer Advocate and will generally be based on a unique set of circumstances warranting assistance to certain taxpayers. ⁴
Criteria 9	The National Taxpayer Advocate determines compelling public policy warrants assistance to an individual or group of taxpayers.

1 Internal Revenue Code (IRC) § 7803(c)(2)(A)(i).

2 TAS changed its case acceptance criteria to generally stop accepting certain systemic burden issues. See IRM 13.1.7.3(d) (Feb. 4, 2015).

3 See IRM 13.1.7.2.3 (Feb. 4, 2015).

4 See Interim Guidance Memorandum (IGM) TAS-0317-008, *Interim Guidance on Accepting Cases Under TAS Case Criteria 9, Public Policy* (Mar. 22, 2017).

In many of the economic burden cases, time is critical. If the IRS does not act quickly (*e.g.*, to remove a levy or release a lien), the taxpayer will experience additional economic harm.⁵ Systemic burden cases include situations where an IRS process, system, or procedure has failed to resolve the taxpayer's issue.⁶ Best interest of the taxpayer (Criteria 8) includes violations of the Taxpayer Bill of Rights (TBOR).⁷ With respect to public policy cases (Criteria 9), the National Taxpayer Advocate has the sole authority to determine which issues are included in this criterion and will designate them by memorandum.⁸ In fiscal year (FY) 2017, the National Taxpayer Advocate designated Criteria 9 cases to include private debt collection, passport revocation, denial, or limitation, exempt organization revocations due to failure to file a return, and Congressional referred cases that do not fit into any other category.

REFINING TAS'S CASE ADVOCACY OPERATIONS

TAS has implemented multiple strategies to focus on effectively advocating for taxpayers.

TAS Initiative to Expand Local Offices in Underserved Communities

Because populations shift over time and different taxpayer issues emerge, TAS periodically evaluates the placement of its local offices by considering case receipts and demographic information to identify locations either where more or less personnel is required in existing offices, or where TAS does not currently have a local office but a need for a physical location exists. As the IRS moves away from having a local presence, it becomes even more important that all taxpayers have access to a local TAS office.⁹

In FY 2018, TAS is opening new offices in Charlotte, North Carolina; El Paso, Texas; and Tallahassee, Florida.¹⁰ TAS will continue to explore opening additional offices in FY 2018 and beyond as resources allow to ensure we are meeting the needs of taxpayers. We are accomplishing this expansion without increasing staffing levels through attrition and voluntary transfers from existing offices, and competitive announcements.

Routing Cases Based on Zip Code

Traditionally, when a case comes into TAS, it remains in the office where it was created, regardless of where the taxpayer lives. After piloting a zip code routing process that would allow us to transfer cases to the geographic area where the taxpayer is located, TAS was able to fully implement this initiative beginning in October 2017. This new workload management tool is the primary method to determine where new, non-congressional cases will be worked.¹¹ The process is flexible and can be adjusted as staffing patterns and case receipts change. Every effort is made to align taxpayers with a TAS office

5 IRC § 7803(c)(2)(C)(ii); IRM 13.1.7.2.1, *TAS Case Criteria 1-4, Economic Burden* (Feb. 4, 2015).

6 IRC § 7803(c)(2)(C)(ii); IRM 13.1.7.2.2, *TAS Case Criteria 5-7, Systemic Burden* (Feb. 4, 2015).

7 IRC § 7803(c)(2)(C)(ii); IRM 13.1.7.2.3, *TAS Case Criteria 8, Best Interest of the Taxpayer* (Feb. 4, 2015). See TBOR, www.TaxpayerAdvocate.irs.gov/taxpayer-rights.

8 IRC § 7803(c)(2)(C)(ii); IRM 13.1.7.2.4, *TAS Case Criteria 9, TAS Public Policy* (Feb. 4, 2015). See IGM TAS-13-0317-008, *Interim Guidance on Accepting Cases Under TAS Case Criteria 9, Public Policy* (Mar. 22, 2017).

9 See National Taxpayer Advocate 2017 Annual Report to Congress (Most Serious Problem: *Taxpayer Assistance Centers (TACs): Cuts to IRS Walk-In Sites Have Left the IRS With a Substantially Reduced Community Presence and Have Impaired the Ability of Taxpayers to Receive In-Person Assistance*), *supra*.

10 NTA Announces New Offices to Help Advocate More Effectively for Underserved Populations, (Aug. 16, 2017), <https://tasis.ds.irsnet.gov/Pages/Articles/A-message-from-the-NTA.aspx> (on file with TAS). In fiscal year (FY) 2016, TAS opened new offices in San Diego, California and St. Petersburg, Florida. See National Taxpayer Advocate 2016 Annual Report to Congress 518.

11 Cases from a congressional office will continue to be routed to the home state of the congressional office.

in their home state. The new process will provide a more effective and even distribution of cases and ensure a local advocate is providing timely assistance to taxpayers.

Community Outreach and Problem Solving Days

TAS outreach is critical in building relationships with our partners and taxpayers. Local Taxpayer Advocates (LTAs) are responsible for informing local communities and internal stakeholders about TAS and its mission to advocate on behalf of taxpayers. TAS outreach activities are focused on raising awareness of emerging tax law issues, identifying local initiatives, developing and maintaining congressional relationships, reaching external audiences, and educating IRS employees on taxpayer rights. LTAs completed 4,736 outreach events during FY 2017.¹²

In November 2017, TAS began Problem Solving Day (PSD) events as a part of its Outreach Program.¹³ LTAs work with local partners to host community events, at which taxpayers can meet and discuss tax issues with TAS group managers, lead case advocates, case advocates, and technical advisors. These meetings often result in TAS opening a case to assist taxpayers in resolving problems with the IRS. For example, the National Taxpayer Advocate, in conjunction with the Manhattan and Brooklyn Local Taxpayer Advocate offices, participated in the Jones Day event. At the event, TAS held a PSD to assist practitioners with tax problems they were unable to resolve with the IRS. Additionally, the Las Vegas, Nevada TAS office participated in the Latino Tax Fest. During this event, TAS resolved 16 cases on site and opened three additional cases which could not be immediately resolved. In addition, TAS conducted one-on-one consultations with various individuals who brought their IRS notices to the event. During FY 2017, LTA offices held a total of 91 PSD events, at which employees assisted 1,270 taxpayers and opened 223 TAS cases.¹⁴ TAS will continue conducting PSD events in the coming year.

Empathy in Action

To effectively serve taxpayers, the TAS workforce must be empathetic. Empathy requires employees to understand how a taxpayer's emotions may impact the taxpayer's behavior, and to know how to make connections with taxpayers to build mutual trust and respect. By recognizing the signs of distress and demonstrating compassion for various taxpayers and groups, case advocates can take appropriate actions to help taxpayers with their unique needs.

In seeking to understand the population it serves, TAS is ensuring that LTAs and their staff are best equipped to handle the challenges facing various taxpayers and groups. TAS created the Empathy in Action initiative to promote the practice of empathy throughout the organization. While TAS employees excel in being empathetic with taxpayers, senior leaders are continuing to help TAS employees develop empathetic techniques. These techniques include understanding of self and self-awareness, being cognizant of the feelings and emotions of other people, engaging in active listening, practicing open-mindedness, not passing judgment on taxpayers, and exhibiting emotional intelligence, when advocating for taxpayers. This initiative began with a TAS-wide Day of Empathy on November 15, 2017, where local TAS offices planned activities that will help employees focus on the practice of empathy throughout the year.

12 TAS, *National Outreach Events Breakdown* (2017) (on file with TAS).

13 See National Taxpayer Advocate FY 2018 Objectives Report to Congress 106 (Efforts to Improve Taxpayer Advocacy: *Problem Solving Days Outreach Events Support the Back to Basics Initiative of TAS*).

14 TAS, *Completed Problem Solving Events Summary* (2017) (on file with TAS).

Case Resolution Program at the FY 2017 IRS Nationwide Tax Forums

The Case Resolution Program (CRP), coordinated by TAS, is staffed with employees from TAS and the IRS. The purpose of the CRP is to resolve client cases presented by practitioners at each Tax Forum.

Several practitioners indicated they come to the IRS Nationwide Tax Forums solely to have their complex cases resolved and that obtaining Continuing Professional Education (CPE) credits was secondary. They state that working face-to-face with the employees allows them to properly present their case.

In 2017, the CRP assisted with a total of 851 cases, only four of which could not be resolved at the event and were accepted into TAS for further casework.¹⁵ The top six issues that practitioners needed assistance with were:

- Penalties;
- Audit Reconsiderations;
- Processing Amended Returns;
- Account Notices/Inquiries;
- Exam Issues; and
- Identity (ID) Theft.¹⁶

The cases seen in the CRP vary in complexity. Some cases are resolved with the practitioner receiving detailed instructions on how to proceed in working with the IRS since the taxpayer had not responded to the IRS. In many instances, the practitioner had tried to work with the IRS and was unable to get resolution. These cases, such as adjustments made to tax accounts (done on-site by Wage and Investment (W&I) employees), information coordination to the proper IRS department, and work with offsite IRS employees to resolve issues, were resolved by the interviewer at the CRP. Practitioners are very satisfied with the outcome of their cases.¹⁷ Over 52 percent of all cases received during the CRP were resolved by TAS, as depicted below.

FIGURE 4.1.2, Case Resolution Program Cases Resolved in FY 2017¹⁸

Business Operating Division Assigned Case	Total Cases Resolved	Percentage of Total
TAS	443	52.3%
Small Business and Self-Employed (SB/SE)	247	29.2%
W&I	157	18.5%
Appeals	0	0%
Total Cases	847	100%

15 Data obtained from TAMIS (Oct. 1, 2017).

16 *Id.*

17 Email to TAS Analyst (Nov. 28, 2017, 12:36 EST) (on file with TAS) (discussing how practitioners made statements expressing their satisfaction).

18 Data obtained from TAMIS (Oct. 1, 2017).

Taxpayer Digital Communication (TDC)

In April 2017, TAS began participating in a Taxpayer Digital Communication (TDC) pilot project that introduces a communication alternative in which taxpayers and case advocates can communicate and share documents via a secure web-based portal. TAS started conducting the pilot in Cleveland, Ohio; Dallas, Texas; Nashville, Tennessee; and New Orleans, Louisiana. The pilot was open to unrepresented taxpayers with issues involving the Earned Income Tax Credit (EITC) or levies.¹⁹

Under the pilot project, case advocates invited eligible taxpayers to participate during the first telephone or letter contact. When a taxpayer agreed to participate in the TDC pilot, the case advocate accessed the electronic webmail application and sent the taxpayer a welcome message. Taxpayers then went through an authentication process to secure permission to access the system. If taxpayers were successful with authentication, they could then communicate within the system, exchanging messages and sending documents to their case advocate, using computers, smartphones or tablets.

TAS focused the initial months of the pilot on employee training, project launch, and data collection. Throughout the pilot, TAS captured data on the number of taxpayers invited to participate and how many accepted, declined, created an online account, and communicated through the Secure Messaging system. TAS also conducted focus group sessions in each pilot site to capture employee opinions on the system, and their observations about taxpayers' perceptions of the system.²⁰

TAS had to suspend pilot activity just after the six-month mark because the IRS suspended authentication for taxpayers wishing to create new online accounts in applications such as Secure Messaging, Get Transcript Online, View Your Balance, and Identity Protection PIN (IP PIN)²¹ due to security concerns.²² This unforeseen situation has put a hold on the pilot. TAS is continuing to evaluate how it will further use the pilot once the authentication system has been reactivated. In its November 2017 report based on focus group sessions at each pilot site, TAS was able to capture employee observations and opinions about taxpayers' willingness to use the system and employees' thoughts about the system.²³ Commentary and preliminary data from the EITC cases confirmed TAS's hypothesis regarding the ability of unrepresented, low income taxpayers to utilize digital systems such as TDC. While hundreds of TAS taxpayers were offered the option of using the TDC system, fewer than a dozen had set up or used an account at the time of the TAS Focus Group Report, underscoring the importance of having an omnichannel universe available to all taxpayers.²⁴ The preliminary data highlights the need to explore different approaches for authenticating taxpayers' access to IRS digital services.²⁵

19 TAS-13-0417-001, *Interim Guidance on the Taxpayer Digital Communications (TDC) Pilot* (Apr. 13, 2017).

20 See TAS Communications and Liaison, *TAS Focus Group Report: Taxpayer Digital Communication (TDC) Pilot* (Nov. 2017).

21 The Identity Protection PIN (IP PIN) is a six digit number used to validate a taxpayer's identity. Taxpayers filing electronically will be prompted by the software to input an IP PIN. If a taxpayer files on paper, the IP PIN is placed in the section of the return titled "Identity Protection PIN." See IRM 25.23.2.20, *Identity Protection Personal Identification Number* (Sept. 15, 2017).

22 The IRS suspended the Equifax contract after Equifax disclosed cyber criminals breached its systems. As a result of the contract suspension, the IRS is unable to create new online accounts for taxpayers. John McCrank, *IRS puts Equifax Contract on Hold During Security Review*, REUTERS, Oct. 13, 2017, <https://www.reuters.com/article/us-equifax-cyber/irs-puts-equifax-contract-on-hold-during-security-review-idUSKBN1CI2G9>.

23 See TAS Communications and Liaison, *TAS Focus Group Report: Taxpayer Digital Communication (TDC) Pilot* (Nov. 2017). See also Most Serious Problem: *Online Accounts: The IRS's Focus on Online Service Delivery Does Not Adequately Take into Account the Widely Divergent Needs and Preferences of the U.S. Taxpayer Population*, *supra*.

24 *Id.*

25 See TAS Communications, Stakeholder Liaison and Online Services, *TAS Focus Group Report: Taxpayer Digital Communication (TDC) Pilot* (Nov. 2017). See also Most Serious Problem: *Online Accounts: The IRS's Focus on Online Service Delivery Does Not Adequately Take into Account the Widely Divergent Needs and Preferences of the U.S. Taxpayer Population*, *supra*.

This is particularly important for taxpayers sending information or documents, but not necessarily communicating via secure messaging.

CASE RECEIPT TRENDS IN FISCAL YEAR 2017

As described above, the TAS Case Advocacy function is primarily responsible for direct contact with individual taxpayers, business taxpayers, tax-exempt entities, their representatives, and congressional staff to resolve specific problems taxpayers are experiencing with the IRS. Information from these contacts and case results are vital to TAS's statutory mission to propose changes in the IRS's administrative practices to alleviate taxpayers' problems and to identify potential legislative changes to relieve such problems. The National Taxpayer Advocate and her Attorney Advisors²⁶ often use Case Advocacy's findings as the basis for many of the Most Serious Problems and Legislative Recommendations in the National Taxpayer Advocate's Annual Report to Congress.

Intake Strategy

TAS's intake strategy allows taxpayers to receive assistance at the earliest possible moment while reserving the skills and experience of case advocates to focus on the most complex cases, and those taxpayers most in need of TAS assistance.

The primary mission of TAS's intake strategy is to resolve taxpayer issues on initial contact, to obtain additional information about the underlying issues, to determine the urgency of the issue, to help the taxpayer understand what to expect from TAS, to build the case, and ensure that appropriate cases come to TAS. Under the TAS intake strategy, all Intake Advocates (IAs) conduct in-depth interviews with taxpayers to determine the correct disposition of their issues. Intake advocates:

- Assist taxpayers with self-help options;
- Take actions where possible to resolve the issue upfront;
- Create cases after validating the taxpayer meets TAS criteria; or
- Refer the taxpayer to the appropriate Business Operating Division (BOD) for assistance.

TAS expanded the authority granted to Intake Advocates by allowing them to resolve more types of taxpayer problems during initial contact or to take additional actions to resolve or suspend actions once TAS establishes a case and assigns it to a case advocate.²⁷

Under the TAS Centralized Case Intake (CCI) process, IRS employees who handle taxpayer calls from the NTA toll-free line, transfer calls they believe meet TAS criteria directly to TAS IAs in the CCI sites, providing the taxpayer immediate access to a TAS employee.²⁸

26 TAS Attorney Advisors do not purport to offer formal legal advice or represent the agency, but they are indispensable in enabling the National Taxpayer Advocate to develop an independent perspective and advocate as the law intends, including by providing support to TAS case advocates to assist taxpayers in legally complex cases and by writing large sections of the National Taxpayer Advocate's annual reports to Congress.

27 TAS 13-2-1, *Authority of the Taxpayer Advocate Service Employees to Perform Certain Administrative Functions* (July 27, 2015). Previously, when the IRS toll-free line assistors received a call they determined met TAS criteria, they would enter the case onto the Accounts Management System, and then later transfer it directly to TAS. This process continues for all IRS toll-free lines except the NTA toll-free line. Now, NTA toll-free calls are handled under the Centralized Case Intake (CCI) process.

28 Previously, when the IRS toll-free line assistors received a call they determined met TAS criteria, they would enter the case onto the Accounts Management System, and then later transfer it directly to TAS. This process continues for all IRS toll-free lines except the NTA toll-free line. Now, NTA toll-free calls are handled under the CCI process.

In FY 2017, CCI IAs answering calls transferred from the NTA toll-free line created cases in 67 percent (42,065 of 62,755) of calls.²⁹ Of the remaining 33 percent (20,690) of the calls, CCI IAs assisted taxpayers without creating a new case. Providing taxpayers this assistance during the initial contact allows TAS to use its specialized skills and resources on more complex situations. Additionally, IAs processed 986 quick closures.³⁰

TAS's intake strategy allows taxpayers to receive assistance at the earliest possible moment while reserving the skills and experience of case advocates to focus on complex or difficult cases, and those taxpayers most in need of TAS assistance. In FY 2017, TAS provided training to new intake advocates that will further our efforts to provide assistance at the earliest possible moment. As shown in Figure 4.1.3, the intake strategy has contributed to the reduction of the number of cases established in TAS inventory because intake advocates are able to build the case, obtain better information about issues and urgency at the initial contact, and help taxpayers understand what to expect from TAS, thereby resolving taxpayer issues over the telephone or through another option, such as self-help, or referral to a specific IRS unit or assistance line.

Volume of Cases

In FY 2017, TAS received 167,336 cases, closed 167,687 cases, providing relief to taxpayers in approximately 79 percent of the closed cases.³¹ Of those closures, 1,010 were resolved as “quick closure” cases by an Intake Advocate, freeing up case advocates to focus on more complex cases requiring more analysis and multiple actions to resolve.³² Another 9,500 (6 percent) of taxpayers received relief directly from the IRS prior to TAS intervention.³³ Figure 4.1.3 compares FY 2016 and FY 2017 case receipts and relief rates by case acceptance category.

29 The Intake Strategy includes all Intake Advocates (IAs) in TAS, but tracks the number of calls received by our CCI IAs who use the Aspect phone system (currently migrating to the Infrastructure Update Project (IUP)). The Taxpayer Advocate Management Information System (TAMIS) is used to capture cases meeting TAS criteria. TAS is currently working with IRS Information Technology on improvements to capture the work of all IAs, providing additional capabilities for case building and resolution. These features are scheduled to be delivered by September 30, 2018.

30 When IAs take immediate action to resolve taxpayer issues, they process this as a “quick closure” on TAMIS under TAS 13-2-1, *Authority of the Taxpayer Advocate Service Employees to Perform Certain Administrative Functions* (July 27, 2015). Cases assigned to case advocates are not “quick closure” cases.

31 Data obtained from TAMIS (Oct. 1, 2017).

32 *Id.*

33 *Id.*

FIGURE 4.1.3, TAS Case and Intake Receipts and Relief Rates, FYs 2016–2017³⁴

Case Categories	Receipts FY 2017	Receipts FY 2016	Percent Change	Relief Rates FY 2017	Relief Rates FY 2016	Percent Change
Economic Burden	90,868	119,324	-23.8%	75.3%	74.5%	-1.1%
Systemic Burden	75,795	89,681	-15.5%	83.1%	82.4%	-0.9%
Best Interest of the Taxpayer	448	382	17.3%	82.4%	76.5%	-7.2%
Public Policy	225	122	84.4%	79.8%	78.3%	-1.9%
Subtotal	167,336	209,509	-20.1%	78.9%	77.9%	-1.3%
Calls Resolved by Intake Advocates	20,690	21,554	-4.0%			
Grand Total Receipts	188,026	231,063	-18.6%			

Case Complexity

TAS monitors the complexity of its work to ensure it meets taxpayers' needs efficiently by assigning workload to match the skills of its employees, by identifying when case advocates need additional resources (such as technical advisor assistance,³⁵ Attorney Advisors to the National Taxpayer Advocate advice, or Counsel advice)³⁶ and by balancing case inventory levels between TAS offices to ensure prompt action. TAS measures case complexity in a number of ways, including whether a case involves multiple account-related issues or multiple tax periods and whether case advocates need technical advice, thus requiring more resources to resolve the matter.³⁷ An account-related issue is any tax issue that an individual or business taxpayer has requested TAS to resolve with the IRS. These issues include issues or activities listed under the IRS's Accounts Management function. TAS guidance requires that case advocates must resolve all issues before closing a case.³⁸ Case advocates must identify primary and secondary core issue codes (PCIC and SCIC, respectively) on cases and record them in the Taxpayer Advocate Management Information System (TAMIS), as a way to measure complexity.³⁹ More factors may be identified as the case evolves.

34 Data obtained from TAMIS (Oct. 1, 2016; Oct. 1, 2017).

35 IRM 13.1.12.1.1, *Technical Advisors' Roles and Responsibilities* (Nov. 13, 2009), states in part that "[t]echnical Advisors are responsible for resolving the most technically complex or sensitive issues using effective research, communication, coordination, and negotiating skills."

36 TAS employees often need legal advice to resolve their cases. Attorneys in the Office of Chief Counsel provide legal advice on the correct interpretation of the IRC. See IRC § 7803(b)(2) and IRM 13.1.10.2, *Obtaining Legal Advice From Chief Counsel* (April 9, 2012). TAS Attorney Advisors do not purport to offer formal legal advice or represent the agency, but they provide support throughout TAS. See *supra* note 26.

37 IRM 13.4.5.4, *Case Factors Screen* (July 16, 2012). TAS uses a complexity factor screen in its case management system. This screen contains 24 factors, where the presence of any one of these factors indicates greater case complexity. For example, one factor is whether the case involves analysis of the assessment, collection, or refund statute date to determine if it is about to expire.

38 IRM 13.1.21.1.1, *Introduction* (May 4, 2016).

39 IRM 13.1.16.13.1, *Issue Codes* (Mar. 28, 2017). IRM 13.1.16.13.1.2, *Primary Core Issue Code* (Mar. 28, 2017), states the primary core issue code (PCIC) is a three-digit code that defines the most significant issue, policy, or process within the IRS that underlies the cause of the taxpayer's problem. IRM 13.1.16.13.1.3, *Secondary Core Issue Code* (Mar. 28, 2017), states that the secondary core issue code (SCIC) identifies multiple issues involved in the case that TAS spent time researching or working to resolve.

Complex cases include collection cases (levy release with alternative collection solutions, return of levy proceeds, offer in compromise (OIC), or seizure prevention), ID Theft cases, EITC cases, examination cases with multiple periods and technical issues, or income verification cases for self-employed persons with or without EITC issues.

TAS closed over 94,000 cases (56 percent of all closures) with one or more SCICs, which means the taxpayer had more than one account-related issue to resolve, which is a slight decrease from last year where 59 percent of TAS closed cases reflected multiple issues.⁴⁰ This decrease reflects a higher concentration of issues that generally involve a single issue, like refund, wage verification, and return processing issues, which usually involve a problem impacting a current year return only.⁴¹

In addition to cases with multiple issues, TAS technical advisors assisted case advocates in understanding and resolving the complex issues in over 10,300 TAS closed cases in FY 2017.⁴² Moreover, over 32 percent of TAS closed cases involved multiple tax periods.⁴³ These numbers continue to indicate that while the overall number of TAS cases may have declined, the inventory is complex, requiring more resources, training, and direct time.

Most Prevalent Issues in TAS Cases

Figure 4.1.4 represents the top ten sources of TAS receipts by PCIC categories from all sources without regard to TAS criteria, comparing FY 2016 and FY 2017. The “Other TAS Receipts” category encompasses the remaining 118 PCICs not in the top ten.⁴⁴

40 Data obtained from TAMIS (Oct. 1, 2017).

41 Data obtained from TAMIS (Oct. 1, 2016; Oct. 1, 2017).

42 Data obtained from TAMIS (Oct. 1, 2017).

43 *Id.*

44 TAMIS Coding Reference Guide (Sept. 5, 2017).

FIGURE 4.1.4, Top 10 Issues for Cases Received in TAS in FYs 2016–2017⁴⁵

Rank	Issue Description	FY 2016	FY 2017	FY 2017 Percent of Total	Percent Change FY 2016 to FY 2017
1	Identity Theft (ID Theft)	41,819	23,248	13.9%	-44.4%
2	Pre-Refund Wage Verification Hold	29,174	20,014	12.0%	-31.4%
3	Earned Income Tax Credit (EITC)	11,378	13,901	8.3%	22.2%
4	Processing Amended Return	9,671	7,713	4.6%	-20.2%
5	Taxpayer Protection Program (TPP) Unpostables	7,160	6,906	4.1%	-3.5%
6	Other Refund Inquiries and Issues	3,855	5,822	3.5%	51.0%
7	Processing Original Return	6,325	5,434	3.2%	-14.1%
8	Unpostable and Reject	6,938	4,942	3.0%	-28.8%
9	Health Insurance Premium Tax Credit for Individuals under IRC § 36B	10,910	4,643	2.8%	-57.4%
10	Reconsideration of Audits and Substitute for Return under IRC § 6020(b)	6,264	4,596	2.7%	-26.6%
Other TAS Receipts ⁴⁶		76,015	70,117	41.9%	-7.8%
Total TAS Receipts		209,509	167,336	100.0%	-20.1%

Refund inquiries and issues entered the top ten PCICs this year. Financially-strapped taxpayers anticipating refunds often rely on the customary timely release of those refunds to meet necessary living expenses or to resolve significant economic burdens, like automobile repairs, medical procedures, or higher-education expenses. These taxpayers often file early, and when using e-file and direct deposit, may have received those refunds within 10 days in prior years. However, in 2017, the IRS announced the delay of any refund involving certain refundable credits due to the Protecting Americans from Tax Hikes (PATH) Act until after February 15.⁴⁷ The IRS also updated the Where's My Refund Online Application with messaging to educate taxpayers to not expect their refunds earlier than 21 days.⁴⁸ When legislative requirements or IRS procedures delay the release of refunds, taxpayers are directed to TAS, or seek out TAS, for assistance because they meet our criteria, and because the IRS is unable to resolve the problem in time to address the individual taxpayer's specific needs through ordinary IRS timeframes.

TAS Identity Theft (ID Theft) receipts declined by 44 percent as the IRS also reported a significant reduction in ID Theft work after implementing processes and procedures to better identify

45 Data obtained from TAMIS (Oct. 1, 2016; Oct 1, 2017).

46 Levies, open audit-non EITC, injured spouse claims, installment agreements, and returned/stopped refunds round out the top fifteen issues which comprise a total of 11.3 percent of the total case receipts.

47 Protecting Americans from Tax Hikes Act of 2005 (PATH Act), Pub. L. No. 114-113, Div. Q, Title II, § 201, 129 Stat. 2242, 3076 (2015) (codified at IRC § 6402(m)). IRC § 6402(m) mandates that no credit or refund for an overpayment for a taxable year shall be made to a taxpayer before Feb. 15 if the taxpayer claimed the Earned Income Tax Credit (EITC) or Additional Child Tax Credit on the return. See National Taxpayer Advocate FY 2018 Objectives Report to Congress 61–69 (Area of Focus: *TAS Continues to Pursue Improvements to the IRS's Administration of the Earned Income Tax Credit (EITC), Particularly With Recent Changes to the Law*).

48 See IRS, *2017 Tax Season Refund Frequently Asked Questions*, <https://www.irs.gov/refunds/tax-season-refund-frequently-asked-questions> (last visited Dec. 11, 2017).

potentially-fraudulent returns and provide protection to victims of ID Theft.⁴⁹ TAS has worked closely with the IRS to address and improve treatment of victims and processes designed to prevent fraudulent returns from going through.⁵⁰ However, TAS's ongoing high volume of ID Theft cases indicates that taxpayers continue to face sizeable, complex problems from ID Theft, despite a decline from the previous year.⁵¹ Erroneous information resulting from ID Theft can impact a victim's account for multiple tax periods and cause multiple issues, and often requires action from the Accounts Management, Examination, and Collection functions.

ECONOMIC BURDEN CASES

Economic burden (EB) cases often occur where an IRS action or inaction has caused or will cause negative financial consequences or have a long-term adverse impact on the taxpayer. For the sixth consecutive fiscal year, more than half of TAS's case receipts involved taxpayers experiencing EB.⁵² Because these taxpayers face potential immediate adverse financial consequences, TAS requires employees to work the cases using accelerated timeframes.⁵³ TAS receives 41 percent of their cases as referrals from IRS employees, who are directed to send taxpayers meeting our criteria to us for resolution, if they are unable to resolve the taxpayer's issue within 24 hours.⁵⁴ During FY 2017, the IRS received approximately 96 million telephone calls on its toll-free lines.⁵⁵ However, during the 2017 filing season, 79 percent of these calls were answered.⁵⁶ Taxpayers calling a toll-free number with an issue that requires submission of documentation, completed tax forms, or other paper documentation cannot be "helped" over the phone. TAC offices require the taxpayer to schedule an appointment and may not

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- 49 In calendar year 2016, the IRS stopped 883,000 confirmed identity theft returns, a 37 percent drop from 2015. Through August 2017, the IRS stopped 443,000 confirmed identity theft returns, a 30 percent decline from the same period in 2016. The number of people reporting to IRS that they were victims of ID Theft through August 2017 was 189,000 taxpayers, a drop of about 40 percent from the same period in 2016. See Prepared Remarks of Commissioner John Koskinen at the Security Summit Press Briefing (Oct. 17, 2017).
- 50 National Taxpayer Advocate 2015 Annual Report to Congress 180–87 (Most Serious Problem: *Identity Theft (IDT): The IRS's Procedures for Assisting Victims of IDT, While Improved, Still Impose Excessive Burden and Delay Refunds for Too Long*).
- 51 For a detailed discussion of identity theft issues see Most Serious Problem: *Identity Theft: As Tax-Related Identity Theft Schemes Evolve, the IRS Must Continually Assess and Modify Its Victim Assistance Procedures*, *supra*. See also Most Serious Problem: *Fraud Detection: The IRS Has Made Improvements to Its Fraud Detection Systems, But a Significant Number of Legitimate Taxpayer Returns Are Still Being Improperly Stopped by These Systems, Resulting in Refund Delays*, *supra*.; National Taxpayer Advocate 2016 Annual Report to Congress 151–60 (Most Serious Problem: *Fraud Detection: The IRS's Failure to Establish Goals to Reduce High False Positive Rates for its Fraud Detection Programs Increases Taxpayer Burden and Compromises Taxpayer Rights*); National Taxpayer Advocate 2015 Annual Report to Congress 180–87 (Most Serious Problem: *Identity Theft (IDT): The IRS's Procedures for Assisting Victims of IDT, While Improved, Still Impose Excessive Burden and Delay Refunds for Too Long*); National Taxpayer Advocate 2013 Annual Report to Congress 75–83 (Most Serious Problem: *Identity Theft: The IRS Should Adopt a New Approach to Identity Theft Victim Assistance That Minimizes Burden and Anxiety for Such Taxpayers*).
- 52 See National Taxpayer Advocate 2012 Annual Report to Congress 533 (TAS Case Advocacy), which reflects that 60.6 percent of TAS case receipts included economic burden (EB) factors in FY 2012. Data obtained from TAMIS (Oct. 1, 2012; Oct. 1, 2013; Oct. 1, 2014; Oct. 1, 2015; Oct. 1, 2016; Oct. 1, 2017).
- 53 IRM 13.1.18.3(1), *Initial Contact* (May 5, 2016). The TAS employee is to contact the taxpayer or representative by telephone within three workdays of the TARD for criteria 1-4 cases and within five workdays of the Taxpayer Advocate Received Date (TARD) for criteria 5-9 cases to notify of TAS's involvement. Per IRM 13.1.18.1.1, *Working TAS Cases* (Feb. 1, 2011), TAS's policy is that cases involving EB will be worked sooner than other cases.
- 54 Data obtained from TAMIS (Oct. 1, 2017). See also IRM 21.3.5.4.6.2, *Interim Referral Procedures* (Oct. 22, 2015).
- 55 IRS, Joint Operations Center (JOC), *Snapshot Reports: Enterprise Snapshot, IRS Enterprise Total* (final week of each fiscal year (FY) for FY 2008 through FY 2016) (showing telephone call volumes exceeding 100 million in every year).
- 56 IRS, JOC, *Snapshot Reports: Enterprise Snapshot* (week ending Apr. 22, 2017). See also Most Serious Problem: *Telephones: The IRS Needs to Modernize the Way It Serves Taxpayers Over the Telephone, Which Should Become an Essential Part of an Omnichannel Customer Service Environment*, *supra*.; Literature Review: *Improving Telephone Service Through Better Quality Measures*, *infra*.

be accessible to taxpayers in rural areas or taxpayers with transportation challenges.⁵⁷ TAS is the only resource available to taxpayers needing immediate intervention.

FIGURE 4.1.5⁵⁸

TAS Economic and Systemic Burden Receipts

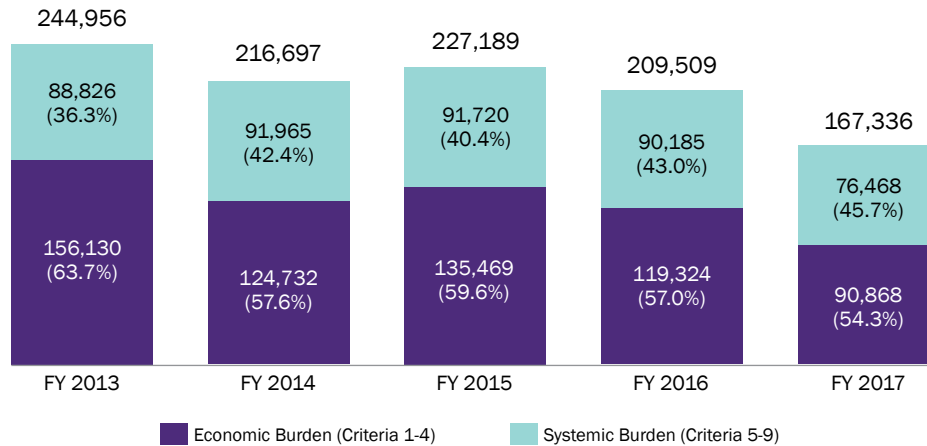


Figure 4.1.6 below shows the top five issues driving EB receipts, which represent the bulk of EB case receipts. TAS dedicates significant resources to resolving the systemic causes of these issues, and as discussed in the Most Serious Problems section of this and past reports, provides recommendations to the IRS to improve processes that cause taxpayers to experience economic or systemic burden.⁵⁹

57 See Most Serious Problem: *Taxpayer Assistance Centers (TACs): Cuts to IRS Walk-In Sites Have Left the IRS With a Substantially Reduced Community Presence and Have Impaired the Ability of Taxpayers to Receive In-Person Assistance*, *supra*. See also National Taxpayer Advocate 2016 Annual Report to Congress 86-97 (Most Serious Problem: *Geographic Focus: The IRS Lacks an Adequate Local Presence in Communities, Thereby Limiting Its Ability to Meet the Needs of Specific Taxpayer Populations and Improve Voluntary Compliance*).

58 Data obtained from TAMIS (Oct. 1, 2013; Oct. 1, 2014; Oct. 1, 2015; Oct. 1, 2016; Oct. 1, 2017).

59 See, e.g., Most Serious Problem: *Identity Theft: As Tax-Related Identity Theft Schemes Evolve, the IRS Must Continually Assess and Modify Its Victim Assistance Procedures*, *supra*. See also Most Serious Problem: *Fraud Detection: The IRS Has Made Improvements to Its Fraud Detection Systems, But a Significant Number of Legitimate Taxpayer Returns Are Still Being Improperly Stopped by These Systems, Resulting in Refund Delays*, *supra*; National Taxpayer Advocate 2016 Annual Report to Congress 138–50 (Most Serious Problem: *Earned Income Tax Credit (EITC): The Future State’s Reliance on Online Tools Will Harm EITC Taxpayers*).

FIGURE 4.1.6, Top Five Issues Causing Economic Burden, FYs 2016–2017⁶⁰

Rank	Issue Description	FY 2016	EB Receipts as % Total EB Receipts for Issue FY 2016	FY 2017	EB Receipts as % Total EB Receipts for Issue FY 2017	EB % Change FY 2016– FY 2017
1	Identity Theft	26,710	22.4%	13,360	14.7%	-50.0%
2	Pre-Refund Wage Verification Hold	16,442	13.8%	11,329	12.5%	-31.1%
3	Earned Income Tax Credit	8,790	7.4%	10,937	12.0%	24.4%
4	Taxpayer Protection Program Unpostables	5,679	4.8%	4,217	4.6%	-25.7%
5	Levies	4,850	4.1%	3,873	4.3%	-20.1%

As discussed in the next section, the decline in Identity Theft and Wage Verification receipts over the years shows that TAS's inventory became bloated because of IRS processes' failure to address taxpayer concerns relating to these issues. Through TAS advocacy and collaboration, IRS ultimately adopted many of the National Taxpayer Advocate's recommendations, and as a result, TAS cases in these categories have declined in recent years, bringing case receipts down to a more manageable level.

Identity Theft (ID Theft)

The number one reason for which taxpayers sought assistance from TAS in FY 2017 was ID Theft issues.⁶¹ TAS experienced a decrease in ID Theft case receipts partly because the IRS also experienced a decrease in ID Theft reports, but also because TAS created a separate issue code to track returns impacted by the Taxpayer Protection Program (TPP).⁶² TAS added this issue code to better quantify and understand the taxpayers we work with who are not actual victims of ID Theft, but whose returns are "stopped" by IRS filters designed to detect potential ID Theft. TAS did this in response to the high "false positive" rate reported by TPP, and has collaborated with Return Integrity and Compliance Services (RICS) to improve the filters that "catch" returns.⁶³

Over the past 14 years, the National Taxpayer Advocate has consistently advocated for taxpayers whose legitimate refunds have been unreasonably delayed by the IRS, recommending improvements to reduce taxpayer burden while preventing refund fraud. As a result of TAS's advocacy, the IRS now tracks false positive rates for its ID Theft and refund fraud filters. Towards that end, the IRS has set a goal for its ID Theft filters of about 50 percent and intends in the future to set a goal for its refund fraud filters, despite its initial rejection of this TAS recommendation. As part of the IRS's phased retirement of its Electronic Fraud Detection System (EFDS) system, the Return Review Program (RRP), a nimbler and more flexible system that has the capacity to have its filters adjusted in real time, is the primary system

60 Data obtained from TAMIS (Oct. 1, 2016; Oct. 1, 2017). TAS computed the top five EB issue codes using only the PCIC. Often TAS cases involve more than one issue and TAS tracks this data; however, these are not included within this computation to avoid counting a case more than once.

61 Data obtained from TAMIS (Oct. 1, 2017).

62 See *Taxpayer Protection Program*, *infra*.

63 See Most Serious Problem: *Fraud Detection: The IRS Has Made Improvements to Its Fraud Detection Systems, But a Significant Number of Legitimate Taxpayer Returns Are Still Being Improperly Stopped by These Systems, Resulting in Refund Delays*, *supra*.

responsible for selecting returns where refund fraud is suspected.⁶⁴ Despite the integration of the IRS's new RRP system as its primary refund fraud selection system, the IRS made no filter adjustments to the system during the 2017 filing season. Consequently, it failed to use the system's full capacity to be adjusted in real time, which is one reason for the RRP's 66 percent false positive rate between January 1, 2017, through September 30, 2017.⁶⁵

While the overall cycle time to bring relief to a victim of ID Theft improved after the IRS created a single ID Theft Victim Assistance (IDTVA) organization, there is a category of ID Theft victims who continue to not benefit from IDTVA. As the National Taxpayer Advocate discusses in this and prior reports, several IRS functions were not included in the IRS's reorganization of ID Theft functions.⁶⁶ As a result, there are no procedures in place to allow ID Theft victims with account issues spanning multiple IRS functions outside of IDTVA to deal with a sole point of contact, which increases the risk of an ID Theft case falling through the cracks. One way to ensure that ID Theft victims do not fall through the cracks is to assign a sole IRS contact person who would interact with the taxpayer throughout and oversee the resolution, no matter how many different IRS functions need to be involved behind the scenes.

The National Taxpayer Advocate initially addressed ID Theft as a Most Serious Problem in her 2004 Annual Report to Congress,⁶⁷ and she further identified problems and recommended solutions in later reports.⁶⁸ Since 2010, TAS has helped over 325,000 ID Theft victims resolve their account problems.⁶⁹ In FY 2017, TAS obtained relief for about 83 percent of ID Theft victims.⁷⁰ In FY 2017, TAS worked ID Theft cases to their conclusions in 74 days on average, which is significantly less than the IRS's normal processing time of 120 days for most cases, and as much as 180 days for more complex cases.⁷¹ TAS closed 23,248 ID Theft cases in FY 2017, including 57 percent with EB.⁷²

64 The IRS Electronic Fraud Detection System (EFDS) system retirement includes three systems: Return Review Program (RRP), Enterprise Case Selection (ECS), and Enterprise Case Management (ECM). Of the three, RRP is used for anomaly detection, but fraud processing still relies on the legacy EFDS systems to perform case management screening and to take case actions.

65 A false positive occurs when a system selects a legitimate return and delays the refund past the prescribed review period. See IRS response to TAS Information Request (Oct. 19, 2017). See also Most Serious Problem: *Fraud Detection: The IRS Has Made Improvements to Its Fraud Detection Systems, But a Significant Number of Legitimate Taxpayer Returns Are Still Being Improperly Stopped by These Systems, Resulting in Refund Delays*, *supra*. Despite the RRP's ability to be adjusted in real time, the IRS has failed to fully utilize the system's capabilities.

66 See Most Serious Problem: *Identity Theft: As Tax-Related Identity Theft Schemes Evolve, the IRS Must Continually Assess and Modify Its Victim Assistance Procedures*, *supra*. See also National Taxpayer Advocate FY 2017 Objectives Report to Congress 119–22 (Area of Focus: *The IRS Re-Engineering of Its Identity Theft Victim Assistance Procedures Is a Step in the Right Direction But Does Not Go Far Enough*).

67 See National Taxpayer Advocate 2004 Annual Report to Congress 132–42 (Most Serious Problem: *Inconsistent Campus Procedures*).

68 See Most Serious Problem: *Fraud Detection: As Tax-Related Identity Theft Schemes Evolve, the IRS Must Continually Assess and Modify Its Victim Assistance Procedures*, *supra*; National Taxpayer Advocate 2016 Annual Report to Congress 151–60; National Taxpayer Advocate 2015 Annual Report to Congress 180–87; National Taxpayer Advocate 2014 Annual Report to Congress vol. 2, 44–55; National Taxpayer Advocate 2013 Annual Report to Congress 75–83; National Taxpayer Advocate 2012 Annual Report to Congress 42–67; National Taxpayer Advocate 2011 Annual Report to Congress 48–68; National Taxpayer Advocate 2009 Annual Report to Congress 307–11; National Taxpayer Advocate 2008 Annual Report to Congress 79–93; National Taxpayer Advocate 2007 Annual Report to Congress 96–115; National Taxpayer Advocate 2005 Annual Report to Congress 180–91; National Taxpayer Advocate 2004 Annual Report to Congress 133–36.

69 Data obtained from TAMIS (Oct. 1, 2010; Oct. 1, 2011; Oct. 1, 2012; Oct. 1, 2013; Oct. 1, 2014; Oct. 1, 2015; Oct. 1, 2016; Oct. 1, 2017).

70 Data obtained from TAMIS (Oct. 1, 2017).

71 IRM 25.23.2.10, *IDTVA Case Processing Time Frames* (Mar. 30, 2017). Data obtained from TAMIS (Oct. 1, 2017).

72 Data obtained from TAMIS (Oct. 1, 2017).

As Figures 4.1.7 and 4.1.8 demonstrate, TAS had significant ID Theft receipts from FY 2010 to FY 2017, while TAS greatly improved its timeframes for completing ID Theft cases over time.⁷³ In FY 2017, ID Theft receipts comprised 14 percent of all receipts and 15 percent of EB receipts.⁷⁴ While TAS’s case receipts from ID Theft have declined, the National Taxpayer Advocate continues to monitor any activities related to processing the returns or correcting the accounts of ID Theft victims.⁷⁵

FIGURE 4.1.7⁷⁶

TAS Identity Theft Case Receipts, FYs 2010-2017

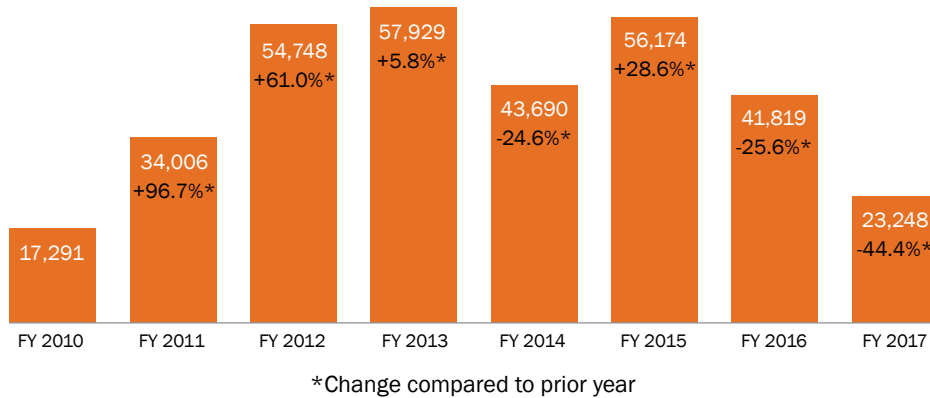
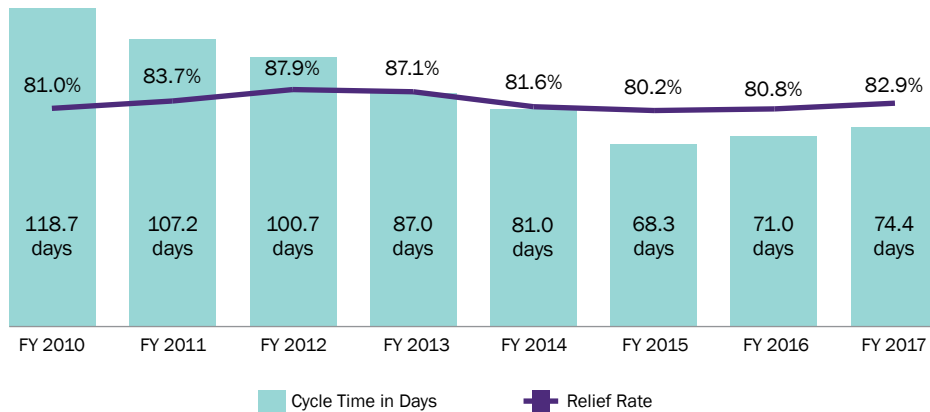


FIGURE 4.1.8⁷⁷

TAS Identity Theft Cycle Time and Relief Rate, FYs 2010-2017



73 Data obtained from TAMIS (Oct. 1, 2010; Oct. 1, 2011; Oct. 1, 2012; Oct. 1, 2013; Oct. 1, 2014; Oct. 1, 2015; Oct. 1, 2016; Oct. 1, 2017).

74 Data obtained from TAMIS (Oct. 1, 2017).

75 See National Taxpayer Advocate FY 2017 Objectives Report to Congress 119–22 (Area of Focus: *The IRS Re-Engineering of Its Identity Theft Victim Assistance Procedures Is a Step in the Right Direction But Does Not Go Far Enough*).

76 Data obtained from TAMIS (Oct. 1, 2010; Oct. 1, 2011; Oct. 1, 2012; Oct. 1, 2013; Oct. 1, 2014; Oct. 1, 2015; Oct. 1, 2016; Oct. 1, 2017).

77 *Id.*

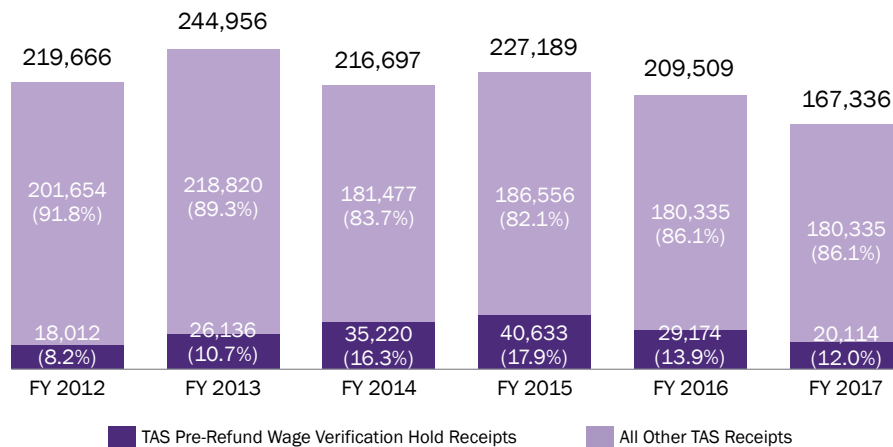
Pre-Refund Wage Verification Holds

The IRS employs various models and data mining techniques in an attempt to prevent issuing fraudulent refunds. For example, the IRS uses the pre-refund wage verification hold (PRWVH) to delay refunds pending wage and withholding verification. In the past, the IRS's actions have raised significant taxpayer rights issues and brought increasing numbers of taxpayers to TAS.⁷⁸

In FY 2017, while the TAS PRWVH cases declined 31 percent from FY 2016, they again constituted the second most frequent reason that taxpayers came to TAS for assistance. PRWVH cases were 12 percent of TAS's total case receipts in FY 2017.⁷⁹ The volume of TAS cases reinforces the concerns about significant systemic and procedural issues in the RICS program.⁸⁰

FIGURE 4.1.9⁸¹

Pre-Refund Wage Verification Hold Receipts, FYs 2012-2017



78 For a more detailed discussion of this issue, see Most Serious Problem: *Identity Theft: As Tax-Related Identity Theft Schemes Evolve, the IRS Must Continually Assess and Modify Its Victim Assistance Procedures*, *supra*; National Taxpayer Advocate 2016 Annual Report to Congress 151–60 (Most Serious Problem: *Fraud Detection: The IRS's Failure to Establish Goals to Reduce High False Positive Rates for Its Fraud Detection Programs Increases Taxpayer Burden and Compromises Taxpayer Rights*); National Taxpayer Advocate 2005 Annual Report to Congress 25, addressing the IRS's Questionable Refund Program (subsequently called the Return Integrity and Compliance Services (RICS) program) that failed to provide taxpayers with adequate due process protections and failed to maintain an adequate system to vet the IRS's concerns about taxpayer refund claims.

79 Data obtained from TAMIS (Oct. 1, 2017). See also Most Serious Problem: *Fraud Detection: The IRS Has Made Improvements to Its Fraud Detection Systems, But a Significant Number of Legitimate Taxpayer Returns Are Still Being Improperly Stopped by These Systems, Resulting in Refund Delays*, *supra*.

80 See also Most Serious Problem: *Fraud Detection: The IRS Has Made Improvements to Its Fraud Detection Systems, but a Significant Number of Legitimate Taxpayers Are Still Being Improperly Selected by These Systems, Resulting in Refund Delays*, *supra*. National Taxpayer Advocate Annual 2015 Report to Congress 45–55 (Most Serious Problem: *Revenue Protection: Hundreds of Thousands of Taxpayers File Legitimate Tax Returns That Are Incorrectly Flagged and Experience Substantial Delays in Receiving Their Refunds Because of an Increasing Rate of "False Positives" Within the IRS's Pre-Refund Wage Verification Program*). For additional discussion, see National Taxpayer Advocate FY 2016 Objectives Report to Congress 143–45 (Area of Focus: *TAS Receipts Suggest the IRS Needs to Enhance Efforts to Detect and Prevent Refund Fraud*).

81 Data obtained from TAMIS (Oct. 1, 2012; Oct. 1, 2013; Oct. 1, 2014; Oct. 1, 2015; Oct. 1, 2016; Oct. 1, 2017).

While IRS has made systemic improvements to the income verification process based on recommendations from the National Taxpayer Advocate,⁸² TAS continues to advocate for the taxpayers who came to TAS when the IRS delayed their refunds under these programs. In FY 2017, TAS achieved an almost 78 percent relief rate and the average cycle time was approximately 49 days.⁸³

Earned Income Tax Credit (EITC) Cases

The EITC is a complex credit that entitles certain working low income taxpayers to claim a refundable credit of up to \$6,269 for 2016.⁸⁴ The EITC may be available to taxpayers either with or without a qualifying child. Certain limitations apply to the EITC related to residency,⁸⁵ filing status,⁸⁶ certain foreign benefits,⁸⁷ and status as a qualifying child of another taxpayer.⁸⁸ In FY 2017, TAS experienced an *increase* of nearly 23 percent in EITC receipts from FY 2016.⁸⁹ TAS received over 2,000 more EITC cases involving Systemic Burden (SB), an increase of 24 percent from FY 2016. TAS also received 14 percent more EITC cases involving EB in FY 2017.⁹⁰

82 The IRS developed the RRP which replaced the EFDS.

83 Data obtained from TAMIS (Oct. 1, 2017).

84 IRC § 32. The maximum amount of the credit is available to a taxpayer with three or more qualifying children. For tax years beginning in 2016, the maximum credit available for a taxpayer with one qualifying child is \$3,373, with two qualifying children is \$5,572, and with no qualifying children is \$506. Rev. Proc. 2015-53, 2015-44 I.R.B. 615. An individual must meet five tests in order to be a qualifying child under IRC § 152(c): relationship, age, residency, support, and no joint return filed with the individual's spouse. An individual meets the **relationship** test to be a qualifying child if the individual is a child of the taxpayer or a descendant of a child of the taxpayer or a brother, sister, stepbrother or stepsister of the taxpayer or a descendant of such a relative, IRC § 152(c)(2). The term "child" means an individual who is a son, daughter, stepson, or stepdaughter of the taxpayer or an eligible foster child of the taxpayer. IRC § 152(f)(1)(A). A child legally adopted by a taxpayer or a child lawfully placed with a taxpayer for legal adoption is treated as a child of the taxpayer by blood. IRC § 152(f)(1)(B). An eligible foster child means an individual who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction. IRC § 152(f)(1)(C). The terms "brother" and "sister" include a half-brother or a half-sister. IRC § 152(f)(4). To meet the **age** requirement, to be a qualifying child, an individual must be under the age of 19 at the end of the year, under the age of 24 at the end of the year and a "student," as defined in IRC § 152(f)(2), or any age if "permanently and totally disabled," as defined in IRC § 22(e)(3). IRC § 152(c)(3). To meet the **residency** requirement to be a qualifying child, an individual must have the same principal place of abode as the taxpayer for more than half of the taxable year. IRC § 152(c)(1)(B). See, however, IRC § 152(e) for a special rule for a child of parents who are divorced or separated or who live apart and IRC § 152(f)(6) for rules on the treatment of missing children. See also, the regulations under section 152 for rules on temporary absences, children who were placed with the taxpayer in foster care or for adoption during the taxable year, or children who were born or died during the taxable year. To meet the **support** test to be a qualifying child, an individual must not have provided more than one-half of his or her own support for the calendar year in which the taxable year of the taxpayer begins. Treas. Reg. §1.152-2. The individual must not have filed a joint return with the individual's spouse for the taxable year in question. IRC § 152(c)(1)(E).

85 A taxpayer is not eligible for the EITC if he or she is a nonresident alien for any portion of the taxable year, unless the taxpayer files a joint return with a spouse who is a United States citizen or resident alien. IRC § 32(c)(1)(D).

86 A taxpayer is not eligible for the EITC if he or she files married filing separately. IRC § 32(d).

87 A taxpayer is not eligible for the EITC if he or she claims a foreign earned income exclusion or deducts or excludes a foreign housing cost amount. IRC § 32(c)(1)(C).

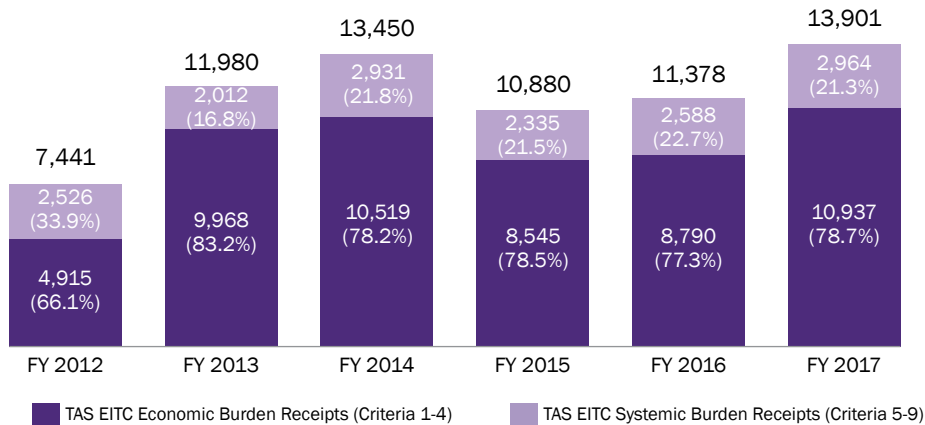
88 A taxpayer is not eligible for the EITC if he or she is the qualifying child of another taxpayer. IRC § 32(c)(1)(B).

89 Data obtained from TAMIS (Oct. 1, 2017; Oct. 1, 2016).

90 *Id.* TAS received 8,790 EITC EB receipts in FY 2016 and 10,937 in FY 2017.

FIGURE 4.1.10⁹¹

TAS Earned Income Tax Credit (EITC) Economic and Systemic Burden Receipts, FYs 2012-2017



When taxpayers face difficulty substantiating their qualification for the EITC, they turn to TAS for assistance. In these cases, securing the required documents can be overwhelming (*e.g.*, the need to obtain birth certificates to prove relationship for a niece, nephew, or other extended relative).⁹² When it comes to complying with document requests, migratory living patterns, lack of education, lack of time (*e.g.*, holding multiple jobs), lack of transportation, and limited access to technology (internet, faxes, etc.) all add to the difficulty of finding and submitting documents.⁹³

TAS continuously reviews how it advocates in EITC cases. In FY 2017, TAS provided its employees with training on advocating for taxpayers with EITC issues. The training stressed the importance of discussions with taxpayers in an effort to understand their circumstances. The training also included how to solicit alternative documentation to establish qualifications for EITC and how to effectively present the cases to the IRS.⁹⁴ TAS urges case advocates to use technical advisors to help assemble the necessary EITC documentation and to assist with presenting a fully developed case to the IRS. Additionally, TAS is an active participant on a collaborative IRS team dedicated to identifying ways to improve the audit process for taxpayers claiming the EITC.⁹⁵ Through the EITC Audit Improvement

91 Data obtained from TAMIS (Oct. 1, 2012; Oct. 1, 2013; Oct. 1, 2014; Oct. 1, 2015; Oct. 1, 2016; Oct. 1, 2017).

92 See National Taxpayer Advocate 2015 Annual Report to Congress 235; National Taxpayer Advocate 2013 Annual Report to Congress 109; National Taxpayer Advocate 2011 Annual Report to Congress 296, 304; National Taxpayer Advocate 2009 Annual Report to Congress 110.

93 See National Taxpayer Advocate 2015 Annual Report to Congress 250; National Taxpayer Advocate 2011 Annual Report to Congress 304; National Taxpayer Advocate 2008 Annual Report to Congress 233.

94 For example, if the taxpayer lived in several places throughout the year, TAS case advocate will spend time linking leases, affidavits, and rental receipts to prove residency. For self-employed taxpayers, TAS will speak with third-party customers and secure affidavits when the taxpayer does not keep complete logs of customer service and billing to prove his or her earned self-employment income.

95 See Most Serious Problem: *Earned Income Tax Credit (EITC): The IRS Continues to Make Progress to Improve Its Administration of the EITC, But It Has Not Adequately Incorporated Research Findings That Show Positive Impacts of Taxpayer Education on Compliance*; *supra*. See also Nina E. Olson, *Earned Income Tax Credit (EITC): TAS Study Finds that Sending an Informative, Tailored Letter to Taxpayers Who Appear to Have Erroneously Claimed the EITC Can Avert Future Noncompliance*, TAXPAYER ADVOCATE SERVICE: NTA BLOG (Oct. 11, 2017), <https://taxpayeradvocate.irs.gov/news/nta-blog-eitc-TPLetters-avert-noncompliance>.

Team, the IRS added IRM Exhibit 4.19.14-1 in July 2016.⁹⁶ This IRM section fosters acceptance of substantiating documentation outside of the traditional EITC documentation. Additionally, it includes a list of various “new” documents for Exam employees to consider, such as paternity test results, eviction notices, and statements from homeless shelters (non-inclusive).⁹⁷ The team also implemented the use of three templates (school, doctor’s office and daycare provider) for use by third parties to help provide information to the IRS. These templates are available on irs.gov.⁹⁸

As an example of a case where non-traditional EITC documentation was used, the IRS disallowed the EITC claimed by a taxpayer due to the child being older than the age requirement. The IRS did not consider the exception to the age requirement that arises when an individual is “permanently and totally disabled.”⁹⁹ The Internal Revenue Code’s definition of disability is the same used by the Social Security Administration to determine whether disability claimants seeking Social Security Disability (SSDI) benefits. To prove the taxpayer met the definition of disabled, TAS provided the IRS with a copy of the Social Security determination letter. The IRS agreed that the individual was disabled and allowed the EITC credit.

Taxpayer Protection Program (TPP)

The Taxpayer Protection Program (TPP) was the fifth largest source of TAS cases overall and the fourth largest source of EB receipts.¹⁰⁰ Taxpayers typically need their refunds expedited to alleviate financial hardships. The IRS uses filters on refund returns to detect and suspend potential ID Theft returns.¹⁰¹ Through the TPP, the IRS protects government funds and attempts to reduce taxpayer burden by assisting legitimate filers to authenticate their suspended returns,¹⁰² while negating losses to the government due to ID Theft. A taxpayer must either call the TPP toll-free line or visit a Taxpayer Assistance Center (TAC) to verify his identity by answering a series of questions.¹⁰³ However, this process is burdensome for taxpayers. The extended telephone hold times has resulted in difficulty for taxpayers in resolving their ID Theft issues over the telephone. Moreover, visiting a TAC center may burden the victimized taxpayer because he or she may have to take off work, (resulting in financial harm), travel long distances to the nearest TAC office, or have difficulty scheduling an appointment.¹⁰⁴ Thus, taxpayers end up turning to TAS for assistance.

96 IRM Exhibit 4.19.14-1, *Examples of Acceptable Documentation for EITC claims (not all-inclusive)* (Jul. 29, 2016).

97 *Id.*

98 See IRS, *I Received a Letter from IRS about EITC or I Am Being Audited, What Should I Do?*, <https://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit/letter-or-audit-for-eitc> (last visited Dec. 10, 2017).

99 IRC § 152(c)(3)(B).

100 TAS did not record data on case receipts specifically from the Taxpayer Protection Program (TPP) until January 2016, so TAS does not have FY 2015 data for comparison. Recording the cases separately accounted for a portion of the decrease in IDT case receipts in FY 2017.

101 See National Taxpayer Advocate 2016 Annual Report to Congress 151–60 (Most Serious Problem: *Fraud Detection: The IRS’s Failure to Establish Goals to Reduce High False Positive Rates for its Fraud Detection Programs Increases Taxpayer Burden and Compromises Taxpayer Rights*); National Taxpayer Advocate 2013 Annual Report to Congress 173–74. Based on prior years’ returns, including those involving “verified” fraud, models are built and implemented for detecting fraud. The IRS passes incoming returns requesting refunds through the knowledge base and scores them for likelihood of fraud. The IRS flags returns that it diverts into a workload for further inspection before it issues any refund. IRS, Kenneth A. Kaufman, *An Analysis of Data Mining in the Electronic Fraud Detection System* (Apr. 28, 2010).

102 IRM 25.25.6.1, *Taxpayer Protection Program* (July 14, 2017).

103 *Id.* Identity verification requires answering “Out of Wallet” questions, which are knowledge-based questions about private information not readily available, that only the user should know.

104 Service at all TACs is by appointment only. See IRS News Release IR-2017-54, *Tax Time Guide: Save Time, Make an Appointment before Visiting an IRS Taxpayer Assistance Center* (March 8, 2017).

In FY 2017, TAS received 6,906 TPP cases, including 4,217 with EB criteria, when taxpayers could not authenticate their identity with the IRS.¹⁰⁵ TAS provided taxpayers with instructions on the types of documents needed to authenticate their return in a TAC. TAS secured relief in 78 percent of TPP cases in an average of 49 days.¹⁰⁶

COLLECTION CASES

The National Taxpayer Advocate is concerned about whether taxpayers' *rights to privacy* and *to a fair and just tax system* are being protected. A lien or levy can significantly harm the taxpayer's credit and therefore negatively affect his or her ability to obtain financing, find or retain a job, secure affordable housing or insurance, and ultimately pay the outstanding tax debt.¹⁰⁷

Taxpayers face severe consequences when the IRS enforces collection by levies on income or other assets, liens on property, or seizures of property. TAS received 17,107 collection issue cases in FY 2017, a decrease of nearly ten percent from FY 2016.¹⁰⁸ The IRS's use of levies and liens declined during this same period.¹⁰⁹ However, liens and levies accounted for about 44 percent of TAS's contact from taxpayers with collection issues in FY 2017, with nearly 83 percent of the lien and levy cases involving EB.¹¹⁰

105 Data obtained from TAMIS (Oct. 1, 2017).

106 *Id.*

107 See National Taxpayer Advocate 2016 Annual Report to Congress 386–92 (Legislative Recommendation: *Notices of Federal Tax Lien (NFTL): Amend the Internal Revenue Code to Require a Good Faith Effort to Make Live Contact with Taxpayers Prior to the Filing of the NFTL*) for a legislative proposal to amend IRC § 6323 to require the IRS to make a good faith effort for contacting a taxpayer prior to the issuance of a NFTL.

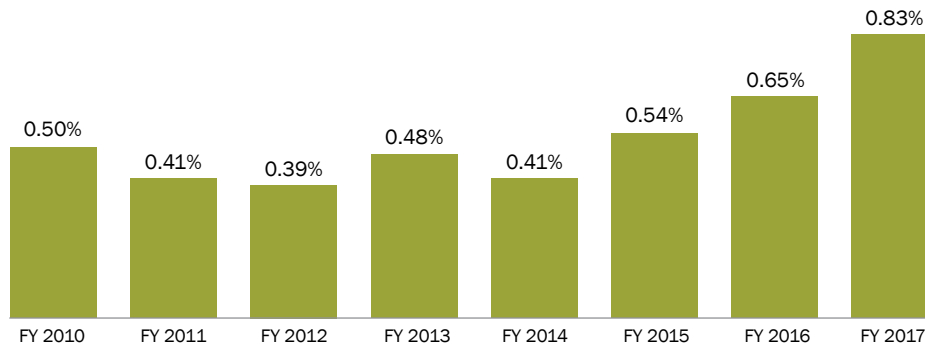
108 Data obtained from TAMIS (Oct. 1, 2016; Oct. 1, 2017).

109 See National Taxpayer Advocate 2015 Annual Report to Congress 100–11. In 2014, TAS's case receipts for all collection PCICs were 21,936. In FY 2015, they were 22,084, an increase of less than one percent. In FY 2016, they were 19,043, a decrease of approximately 14 percent. In FY 2017, they were 17,107, a decrease of approximately 10 percent. From FY 2010 to FY 2017, levies issued by the IRS decreased by about 84 percent and lien filings decreased 60 percent. IRS, Collection Activity Report 5000-25, *Liens Report* (Sept. 2017); Collection Activity Report 5000-24, *Levy and Seizure Report* (Sept. 2010; Sept. 2017).

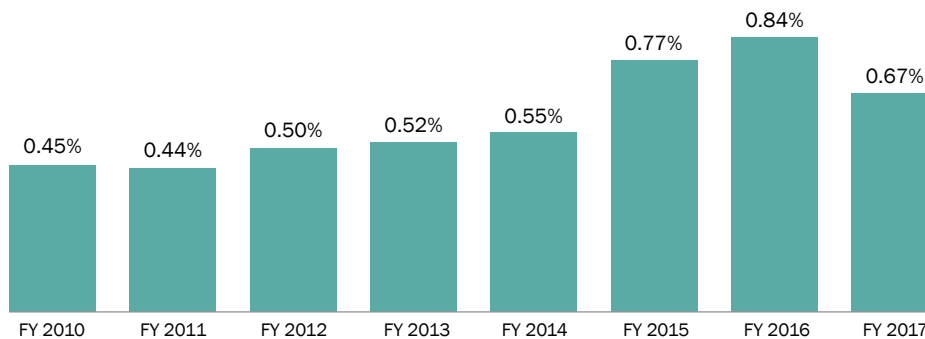
110 Data obtained from TAMIS (Oct. 1, 2016; Oct. 1, 2017). In FY 2016, TAS received 5,626 levy cases and 3,072 lien cases for a total of 8,698 cases, or 45.7 percent of the total collection cases. Of the 8,698 cases, 4,850 levy cases and 2,377 lien cases were economic burden, or 83.1 percent. In FY 2017, TAS received 4,500 levy cases and 3,012 lien cases for a total of 7,512 cases, or 43.9 percent of the total collection cases. Of the 7,512 cases, 3,873 levy cases and 2,350 lien cases were EB, or 82.8 percent.

FIGURE 4.1.11¹¹¹

TAS Levy Cases as Percentage of IRS Levies Issued, FYs 2010-2017

FIGURE 4.1.12¹¹²

TAS Lien Cases as Percentage of IRS Liens Issued, FYs 2010-2017



Despite a decline in the number of liens or levies being issued by the IRS, the percentage of taxpayers seeking TAS assistance with these issues has not declined proportionately, as shown in Figures 4.1.11 and 4.1.12. In FY 2017, the IRS issued 37 percent fewer levies than in FY 2016, but TAS levy receipts only declined by 20 percent.¹¹³ The IRS issued 22 percent more liens in FY 2017 than in FY 2016 and TAS lien receipts decreased by 60 cases (two percent).¹¹⁴ Levies on a taxpayer's sole source of income or primary bank account obviously have significant adverse impact on the taxpayer's finances, creating

111 Data obtained from TAMIS (Oct. 1, 2010; Oct. 1, 2011; Oct. 1, 2012; Oct. 1, 2013; Oct. 1, 2014, Oct. 1, 2015; Oct. 1, 2016; Oct. 1, 2017). IRS, 5000-23 Collection Workload Indicators Report (Mar. 22, 2011; Oct. 11, 2011); IRS, 5000-25 Collection Activity Report (Oct. 1, 2012; Sept. 30, 2013; Sept. 29, 2014, Oct. 9, 2015; Oct. 19, 2016).

112 Data obtained from TAMIS (Oct. 1, 2010; Oct. 1, 2011; Oct. 1, 2012; Oct. 1, 2013; Oct. 1, 2014, Oct. 1, 2015; Oct. 1, 2016; Oct. 1, 2017). IRS, 5000-23 Collection Workload Indicators Reports (Mar. 22, 2011; Oct. 11, 2011); IRS, 5000-24 Collection Activity Report (Oct. 9, 2012; Oct. 22, 2013); IRS, 5000-25 Collection Activity Report (Oct. 6, 2014, Oct. 7, 2015; Oct. 19, 2016). IRS liens may be placed on an account in one year but become a TAS case in a different year. For purposes of this chart, TAS divided the number of lien cases received by TAS in the given FY by the number of liens issued by the IRS for the same FY.

113 IRS issued 869,196 levies in FY 2016 and 545,026 levies in FY 2017. Collection Activity Report C-24, *Levy & Seizure Report* (Oct. 3, 2017). TAS received 5,626 levy cases in FY 2016 and 4,500 cases in FY 2017. Data obtained from TAMIS.

114 IRS reported 366,663 liens in FY 2016 and 446,378 liens in FY 2017. Collection Activity Report C-25, *Liens Report* (Oct. 3, 2017). TAS received 3,072 lien cases in FY 2016 and 3,012 cases in FY 2017. Data obtained from TAMIS.

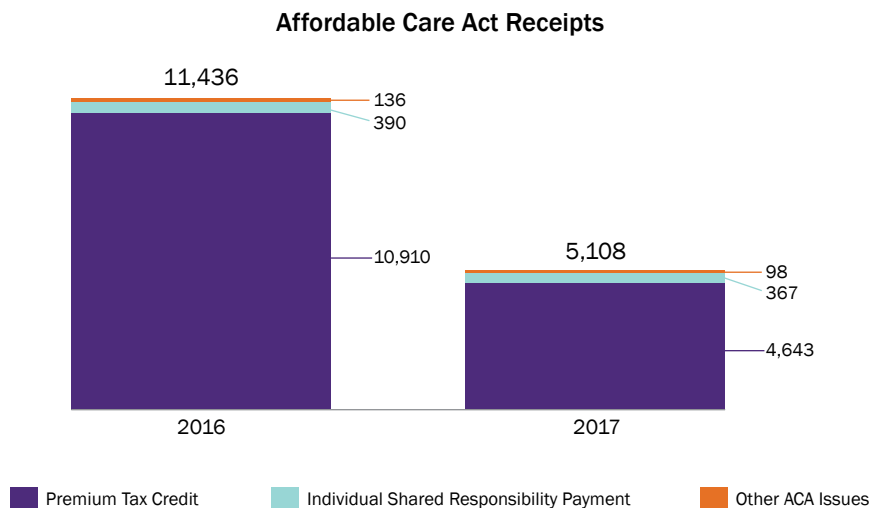
economic burden. Thus, most taxpayers with a levy meet TAS criteria. Liens also have significant economic impact on taxpayers. As long as the IRS issues liens and levies, taxpayers will seek or be referred to TAS for assistance in relieving those burdens.

Taxpayers who cannot reach an IRS Customer Service Representative often contact TAS.¹¹⁵ TAS resolves taxpayer collection issues by educating the taxpayer on collection alternatives, such as an Installment Agreement or OIC, or by reviewing the taxpayer's case to ensure that the taxpayer's rights have not been violated and that the IRS has followed applicable law and procedures. Some taxpayers are referred to an LITC which can further assist the taxpayer in preparing an OIC, even as TAS retains the case.

Affordable Care Act (ACA)

TAS continues to focus on issues taxpayers are experiencing as a result of the Affordable Care Act (ACA). Issues surrounding the Premium Tax Credit (PTC) made up 91 percent of the ACA cases TAS received in FY 2017.

FIGURE 4.1.13 AFFORDABLE CARE ACT RECEIPTS



While TAS ACA cases decreased by 55 percent as taxpayers became more accustomed to the reporting requirements and exchanges improved the accuracy of reporting, many taxpayers continue to struggle with correctly reporting and calculating the PTC, causing processing problems and delays.¹¹⁶ Oftentimes, taxpayers do not understand how income and family size changes during the tax year impact the PTC, and seek TAS assistance with unpostable returns and math error notices related to the PTC or Individual Shared Responsibility Payment (ISRP).

¹¹⁵ In FY 2017, only 56 percent of calls were answered by IRS Customer Service lines with an average hold time of 17 minutes. It is likely that many of the taxpayers who were not able to get through to an IRS Customer Service Representative and was unable to resolve their collection issues.

¹¹⁶ See National Taxpayer Advocate 2016 Annual Report to Congress 266–76 (Most Serious Problem: *Affordable Care Act (ACA): The IRS Has Made Progress in Implementing the Individual and Employer Provisions of the ACA But Challenges Remain*).

The National Taxpayer Advocate developed a self-help website with over 50 tax-related topics to assist taxpayers with many of their questions.¹¹⁷ Using plain language explanations of common tax issues, self-help videos and guides, and other tools, the website helps taxpayers become better informed about their tax obligations and how to handle them. As part of that enhancement effort, the website offers self-help tools that support taxpayers' understanding of specific tax related responsibilities under the ACA. One of these tools is the ISRP estimator. It assists taxpayers in determining if they are liable for a payment. If they are liable, it then helps estimate the amount they will owe on their tax return. Use of this tool has grown significantly, indicating its usefulness to taxpayers. Over the last two years, taxpayers visited this tool nearly 400,000 times.

The ISRP estimator is just one of the ACA self-help tools available on TAS's website. There are currently four ACA estimators. Two are designed for individual taxpayers and two are designed for business use. All can be used to estimate tax responsibilities and for planning purposes throughout the year. The four available ACA estimators¹¹⁸ are listed below with brief descriptions of their primary purpose:

- Individual Shared Responsibility Payment Estimator: This estimates any payment due for not having minimum essential medical insurance coverage for all or part of the year where no exemption is applicable.
- Premium Tax Credit Change Estimator: Estimates premium tax credit changes throughout the year if income or family size changes.
- Small Business Health Care Tax Credit Estimator: Estimates if users may be eligible for the Small Business Health Care Tax Credit and estimates the tax credit.
- Employer Shared Responsibility Payment Estimator: Employers can use this to estimate the number of full-time employees, including full-time equivalent employees (FTEs), whether a business may be considered an applicable large employer (ALE), and, if the business is an ALE, an estimate of the maximum amount of the potential liability for the employer shared responsibility payment that could apply to the business based on the number of FTEs that it reports if it fails to offer coverage to full-time employees.

Currently the National Taxpayer Advocate is developing TAS Employer Shared Responsibility Payment training that will kick off with Train-the-Trainer sessions in early 2018 and continue with training all TAS employees in January as part of Filing Season Readiness training. This training will provide our employees with guidance regarding Employer Shared Responsibility Payments under IRC § 4980H of the IRC. Although the effective date of IRC § 4980H and reporting requirements under IRC § 6056 first applied in 2015, the National Taxpayer Advocate is anticipating that TAS will begin providing more and more assistance to taxpayers in resolving tax issues related to IRC § 4980H and its reporting requirements.

EMERGING ISSUES

Private Debt Collection (PDC)

In 2015, Congress enacted legislation requiring the IRS to enter into “qualified tax collection contracts” for the collection of “inactive tax receivables.”¹¹⁹ The National Taxpayer Advocate cautioned that the

117 See TAS, *Get Help*, <https://taxpayeradvocate.irs.gov/get-help> (last visited Nov. 14, 2017).

118 ACA Estimators, <http://www.taxpayeradvocate.irs.gov/get-help/aca> (last visited Dec. 27, 2017).

119 Fixing America's Surface Transportation Act (FAST Act), Pub. L. No. 114-94, Div. C, Title XXXII, § 32102, 129 Stat. 1312, 1733–36 (2015), (amending IRC § 6306).

initiative, as implemented, appeared inconsistent with the law and would disproportionately burden taxpayers experiencing economic hardship.¹²⁰ The IRS assigned the first tax debts to private collection agencies (PCAs) in April 2017.¹²¹

In preparation for case assignments to PCAs, in January 2017, TAS delivered in-person training to Private Collection Agency (PCA) managers. The training included a 45-minute video of the National Taxpayer Advocate explaining how the Taxpayer Bill of Rights applies to PCA employees and activities. TAS requested that all PCA employees be required to view the video as part of their training, but the IRS refused to impose this training requirement.¹²²

TAS also delivered training to all Local Taxpayer Advocates in March 2017, prior to the assignment of the first cases to PCAs. Additional training was provided in December 2017 focusing on issues that arose from actual experience with these cases. Other resources for employees include a dedicated mailbox for case advocates to send any questions they have about the program; and answers to their questions are generally provided within 24 hours. TAS training and messaging for employees stresses the importance of considering all viable collection alternatives, including review of the accuracy or validity of the underlying balance due, when advocating for taxpayers assigned to a PCA.¹²³

To ensure taxpayers, stakeholders, and congressional offices are informed about the program and its procedures, TAS developed the following educational and outreach materials:

- Information about the PDC initiative on the Taxpayer Toolkit,¹²⁴ which includes a link to a sample of a letter taxpayers can use to request the PCA to stop contacting them;
- Information about the program for LTAs to consider including in their correspondence with congressional offices; and
- Talking points for LTAs for their outreach events.

By the end of FY 2017, TAS had received 38 cases from taxpayers whose debts had been assigned to a PCA.¹²⁵ By the end of FY 2017, TAS had closed 14 of the 38 cases.¹²⁶

120 See National Taxpayer Advocate 2016 Annual Report to Congress 172–91 (Most Serious Problem: *The IRS Is Implementing a PDC Program in a Manner That Is Arguably Inconsistent With the Law and That Unnecessarily Burdens Taxpayers, Especially Those Experiencing Economic Hardship*).

121 IRS News Release IR-2017-74, *Private Collection of Some Overdue Federal Taxes Starts in April; Those Affected Will Hear First From IRS; IRS Will Still Handle Most Tax Debts* (Apr. 4, 2017), <https://www.irs.gov/newsroom/private-collection-of-some-overdue-federal-taxes-starts-in-april-those-affected-will-hear-first-from-irs-irs-will-still-handle-most-tax-debts>. See also Most Serious Problem: *Private Debt Collection: The IRS's Private Debt Collection Program Is Not Generating Net Revenues, Appears to Have Been Implemented Inconsistently with the Law, and Burdens Taxpayers Experiencing Economic Hardship*, *supra*.

122 However, one private collection agency (PCA) appears to be including the video in its training. Another PCA, committed to displaying IRS Publication 5170, Taxpayer Bill of Rights, throughout its workplace, including in each PCA employee cubicle. Publication 5170 is a bilingual (English and Spanish) brochure that displays as a poster and lists and explains the ten taxpayer rights in the TBOR.

123 See IGM TAS-13-1217-006, *Interim Guidance on Advocating for Taxpayers Whose Module(s) the IRS Assigned to a Private Collection Agency* (Dec. 27, 2017).

124 See TAS, *Private Debt Collection Program – What You Need to Know*, <https://taxpayeradvocate.irs.gov/news/private-debt-collection-program-what-you-need-to-know> (last visited Dec. 28, 2017).

125 Data obtained from TAMIS (Oct. 3, 2017).

126 *Id.*

FIGURE 4.1.14, PDC FY 2017 Case Closures¹²⁷

Case Resolution	FY 2017
Hardship Currently Not Collectible	5
Closed as no response (no relief)	3
Installment Agreement	2
Answered TP's Questions	2
Reversed Erroneous Assessment	1
Sent Transcripts and Blank Form 1040X	1
Total Closures	14

All of these 38 cases were recalled from the PCA, as opening a TAS case causes the case to be recalled.

Individual Taxpayer Identification Number (ITIN)

Individual Taxpayer Identification Numbers (ITINs) play a valuable role in tax administration by allowing taxpayers who are ineligible for Social Security Numbers (SSNs) to file returns and pay taxes that are required under the law. ITINs facilitate international business with foreign taxpayers, who provide ITINs to third parties and withholding agents to document foreign status and claim exemptions from withholding or reduced rates of withholding. In late 2015, Congress passed the Protecting Americans from Tax Hikes (PATH) Act and for the first time, codified elements of the ITIN program, including how an applicant may apply, what is required documentation, when an ITIN expires, and when an ITIN must be issued to claim certain refundable credits. The PATH Act also expanded the IRS's math error authority to correct returns containing expired ITINs. Following the passage of the PATH Act, the IRS implemented changes to the ITIN program.¹²⁸ These changes have created hardships for:

- Taxpayers whose ITINs expired, did not know to renew it, and owe taxes due to a math error notice;
- Taxpayers whose ITIN applications the IRS has rejected without providing an adequate explanation; and
- Taxpayers whose original documents are lost or returned to them after much delay.¹²⁹

For example, a taxpayer who was experiencing a family emergency and needed to travel out of the country with his children contacted TAS for assistance. He sent his children's passports to the IRS with his 2015 tax return, along with Form W-7, *Application for IRS Individual Taxpayer Identification*

¹²⁷ The IRS can place an account into currently not collectible (CNC) status when the collection of the liability would create a hardship for taxpayers by leaving them unable to meet necessary living expenses. A hardship occurs when an individual taxpayer is unable to meet their basic living expenses. IRM 5.19.1.1.6.5.2, *Hardship CNC Closing Codes* (Mar. 1, 2016). The standard amounts for basic living expenses will be established by the IRS, and will vary according to the unique circumstances of the individual taxpayer. IRM 5.19.17.2.1.3, *CNC Unable to Pay - Hardship* (Oct. 5, 2017). In terms of "Answered TP's Questions," for example, after answering the taxpayer's questions, one of the taxpayers chose to work with the assigned PCA. Another taxpayer chose to utilize the irs.gov Online Payment Agreement (OPA) application to set up an installment agreement because the installment agreement user fee is lower by completing it online.

¹²⁸ See National Taxpayer Advocate FY 2018 Objectives Report to Congress 70–75 (Area of Focus: *The IRS Makes Needed Changes to the Individual Taxpayer Identification Number (ITIN) Program, But Barriers for ITIN Applicants Remain*).

¹²⁹ For a detailed discussion of these problems and administrative recommendations, see Most Serious Problem: *Individual Taxpayer Identification Numbers (ITINs): The IRS's Failure to Understand and Effectively Communicate with the ITIN Population Imposes Unnecessary Burden and Hinders Compliance*, *supra*.

Number (ITIN), requesting ITINs be assigned for his children. The IRS processed his return without considering his ITIN request and did not allow his dependency exemptions, causing a balance due on his return. TAS checked the return information and found that the passports were attached to the back of the return. TAS contacted the IRS to show them the return so they could see that the ITIN application requests had not been processed and the passports had not been returned. TAS explained the urgency of overnighting the passports by 2:00 p.m. that same day. The IRS expedited the ITIN request and manually assigned the ITINs by noon that same day, so the passports could be mailed overnight to the taxpayer. The taxpayer received the passports in time to travel for his family emergency. TAS then advised the taxpayer to file an amended return to claim the dependency exemptions for the children now that ITINs were assigned, which would eliminate the balance due on the taxpayer's 2015 return.

TAS created an Educational Learning Management System (ELMS) training course in 2017 that provides information on the requirement that every individual tax document have a TIN. This course is mandatory curriculum for new hires, but is made available to all TAS employees.

Revocation or Denial of Passports

In 2015, Congress passed the Fixing America's Surface Transportation (FAST) Act, which requires the Department of State to deny an individual's passport application and allows the Department of State to revoke or limit an individual's passport if the IRS has certified the individual as having a seriously delinquent tax debt.¹³⁰

The IRS will implement the passport certification program in January 2018, and the proposed IRS procedures and policies raise concerns about how the program will harm taxpayers and infringe upon their rights.¹³¹ First, the IRS has refused to exclude from certification open TAS cases resulting in taxpayers being certified to the Department of State with unresolved tax issues. Second, taxpayers may be unaware that their tax debts have been certified to the Department of State prior to certification taking place because of the lack of prior notice. Third, some taxpayers may need their passports more quickly than the time it takes to resolve their tax issue with the IRS and have the decertification transmitted to the Department of State.

In preparation of the potential problems associated with the Passport Revocation program, the National Taxpayer Advocate has developed training to educate case advocates on how to advocate for taxpayers whose passport has or may be in the process of being revoked or denial because of the FAST Act. The training will cover the specifics of the legislation, as well as advocacy options for the taxpayer. TAS will also issue guidance to its employees regarding when and how to issue Taxpayer Assistance Orders (TAOs) in appropriate cases.

130 FAST ACT Pub. L. No. 114-94, Div. C, Title XXXII, § 32101, 129 Stat. 1312, 1729-32 (2015) (codified as IRC § 7345).

131 Most Serious Problem: *Passport Denial and Revocation: The IRS's Plans for Certifying Seriously Delinquent Tax Debts Will Lead to Taxpayers Being Deprived of a Passport Without Regard to Taxpayer Rights, supra.*

TAS OPERATIONS ASSISTANCE REQUEST (OAR) TRENDS

To assist taxpayers more efficiently, the Commissioner of Internal Revenue delegated to the National Taxpayer Advocate certain tax administration authorities that do not conflict with or undermine TAS's unique statutory mission, but allow TAS to resolve routine problems.¹³² When TAS lacks the statutory or delegated authority to resolve a taxpayer's problem, it works with the responsible IRS BOD or function to resolve the issue, a process necessary in 65 percent of all TAS cases closed in FY 2015, 68 percent in FY 2016, and 68 percent in FY 2017.¹³³ After independently reviewing the facts and circumstances of a case and communicating with the taxpayer, TAS issues OARs to convey a recommendation or request that the IRS take action to resolve the issue, and provides documentation that supports it. The OAR also serves as an advocacy tool by:

- Giving the IRS a second chance to resolve the issue;
- Giving TAS and the BOD a chance to resolve the issue without having to elevate it; and
- Documenting systemic trends that could lead to improvements in IRS processes.

All BODs agree to work TAS cases on a priority basis and expedite the process for taxpayers whose circumstances warrant immediate handling. The Service Level Agreements (SLAs) require the BODs to direct resources to process OARs.¹³⁴ The OAR report alerts the BODs to the number of taxpayers who seek TAS assistance, because they have not been able to resolve their problems through regular channels within the BODs' control and the types of issues. Form 12412, *Operations Assistance Request*, includes an "expedite" box that TAS case advocates may check when the BOD needs to act immediately to relieve the taxpayer's significant hardship.

TAS generally sends one or more OARs on individual cases to secure action by the IRS, but TAS may use a single OAR to work the same issue for multiple taxpayers, which TAS calls a "bulk OAR." During the 2016 filing season, TAS successfully implemented a bulk OAR process for cases involving Integrity and Verification Operations (IVO) Pre-Refund Wage Verification Holds. TAS and IVO used this process during FY 2017 and TAS sent 109 accounts to IVO on bulk OARs. IVO quickly reviewed and took action to release refunds to taxpayers in two business days or less. In addition, during FY 2017, TAS successfully implemented a bulk OAR process for taxpayers impacted by identity theft whom required the issuance of an identity protection personal identification number (IP PIN). The bulk OAR process was used to issue an IP PIN to 47 taxpayers during FY 2017.

Writing effective recommendations for OARs gives the IRS the information needed for efficient resolution to a taxpayer's issue(s). The National Taxpayer Advocate delivered training to case advocates in May 2017 for writing effective OARs to improve our advocacy efforts.

132 IRM 1.2.50.3(1), *Delegation Order 13-2 (Rev. 1) Authority of the National Taxpayer Advocate to Perform Certain Tax Administration Functions* (Mar. 3, 2008).

133 TAS closed 149,484 cases with Operations Assistance Requests (OARs) in FY 2014; 156,273 in FY 2015; 149,739 in FY 2016; 114,669 in FY 2017. TAS can issue more than one OAR on a case. Data obtained from TAMIS (Oct. 6, 2014; Oct. 5, 2016; Oct. 3, 2016; Oct. 23, 2017). If the IRS already has an open control on an account, TAS must use the OAR process and request that the IRS function take the requested actions.

134 TAS has a Service Level Agreement (SLA) with each business operating division (BOD). Each SLA states the terms of engagement between TAS and the BODs, as agreed to by their respective executives, including timeframes and processes for communication in the OAR and Taxpayer Assistance Order (TAO) processes to assure that the IRS treats TAS cases with the agreed upon level of priority.

FIGURE 4.1.15, Expedited and Non-Expedited OARs Issued by BOD, FY 2017¹³⁵

Business Operating Division	FY 2017 OARs Issued Requesting Expedite Action	FY 2017 OARs Issued without Expedite Request	FY 2017 Total OARs Issued
Appeals	777	274	1,051
Criminal Investigation	100	34	134
Large Business & International	994	258	1,252
Small Business/Self-Employed	40,884	18,922	59,806
Tax Exempt/Governmental Entity	471	217	688
Wage & Investment	149,834	77,270	227,104
Total	193,060	96,975	290,035

TAS USES TAXPAYER ASSISTANCE ORDERS (TAOS) TO ADVOCATE EFFECTIVELY

The TAO is a powerful statutory tool, delegated by the National Taxpayer Advocate to LTAs to resolve taxpayer cases.¹³⁶ LTAs issue TAOs to order the IRS to take certain actions, cease certain actions, or refrain from taking certain actions.¹³⁷ A TAO may also order the IRS to expedite consideration of a taxpayer's case, reconsider its determination in a case, or review the case at a higher level.¹³⁸ If the facts and law support relief and the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered, an LTA may issue a TAO.¹³⁹ Once TAS issues a TAO, the BOD must comply with the request or appeal the issue for resolution at higher management levels.¹⁴⁰ Only the National Taxpayer Advocate, Commissioner of Internal Revenue, or Deputy Commissioner may rescind a TAO by the National Taxpayer Advocate, and unless that rescission occurs, the BOD must abide by the action(s) ordered in the TAO.¹⁴¹

In FY 2017, TAS issued 166 TAOs,¹⁴² including 15 in cases where the IRS failed to respond to an OAR, further delaying relief to taxpayers. Of these 15 TAOs, the IRS complied with 14 TAOs in an average of 13 days, meaning the IRS did not have a significant disagreement as to the resolution and the taxpayers could have had relief sooner if the IRS had been more responsive to TAS.¹⁴³ Figure 4.1.16 reflects the results of all TAOs. Figure 4.1.17 shows the TAOs issued by fiscal year.

135 Data obtained from TAMIS (Oct. 1, 2017). As depicted in Figure 4.1.15, TAS issues OARs across all IRS Business Operating Divisions and Functions.

136 IRC § 7811(f) states that for purposes of this section, the term "National Taxpayer Advocate" includes any designee of the National Taxpayer Advocate. See IRM 1.2.50.2, *Delegation Order 13-1 (Rev. 1)* (Mar. 17, 2009).

137 IRC § 7811(b); Treas. Reg. § 301.7811-1(c)(3); IRM 13.1.20.3, *Purpose of Taxpayer Assistance Orders* (Dec. 15, 2007).

138 Treas. Reg. § 301.7811-1(c)(3); IRM 13.1.20.3, *Purpose of Taxpayer Assistance Orders* (Dec. 15, 2007).

139 IRC § 7811(a)(1); Treas. Reg. § 301.7811-1(a)(1) and (c).

140 Treas. Reg. § 301.7811-1(b); IRM 13.1.20.5(2), *TAO Appeal Process* (Dec. 9, 2015).

141 IRC § 7811(c)(1) and Treas. Reg. § 301.7811-1(b).

142 Data obtained from TAMIS (Oct. 1, 2017).

143 *Id.*

FIGURE 4.1.16, Actions Taken on FY 2017 TAOs Issued¹⁴⁴

Action	Total
IRS Complied with the TAO	109
IRS Complied after the TAO was modified	5
TAS Rescinded the TAO	11
TAS Pending (in Process)	41
Total	166

FIGURE 4.1.17, TAOs Issued to the IRS, FYs 2012–2017¹⁴⁵

Fiscal Year	TAOs Issued
2012	434
2013	353
2014	362
2015	236
2016	144
2017	166

The examples presented in this report illustrate issues raised in cases handled by TAS. To comply with IRC § 6103, which generally requires the IRS to keep taxpayers' returns and return information confidential, the details of the fact patterns have been modified or redacted. In certain examples, TAS has obtained the written consent of the taxpayer to provide more detailed facts. Cases in which a written consent were received are indicated below. The examples in the following sections illustrate the use of TAOs to obtain taxpayer relief.

Taxpayer Assistance Orders Involving Account Resolution

As discussed above, ID Theft can adversely affect taxpayers. Approximately 74 percent of individual taxpayers filing returns claimed refunds, averaging about \$2,800.¹⁴⁶ In an ID Theft situation, where the IRS has processed a false return before the actual taxpayer files a return, the IRS will not issue a refund to the actual taxpayer until the IRS fully resolves the SSN ownership, which the IRS estimates can take 180 days.¹⁴⁷ In FY 2017, TAS issued seven TAOs involving ID Theft. The IRS complied with six of these TAOs within an average of 47 days.¹⁴⁸ TAS issued four ID Theft-related TAOs in cases that met EB case criteria and thus needed expedited case handling.¹⁴⁹ Specific examples of hardships encountered by these taxpayers and exacerbated by IRS delays included:

- Taxpayer was being evicted;

144 Data obtained from TAMIS (Oct. 1, 2017).

145 Data obtained from TAMIS (Oct. 1, 2012; Oct. 1, 2013; Oct. 1, 2014; Oct. 1, 2015; Oct. 1, 2016; Oct. 1, 2017).

146 IRS, *2017 IMF Filing Season Statistics for Week Ending May 12, 2017*, <https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-may-12-2017> (last visited Dec. 22, 2017). Through May 12, 2017, the IRS received 139,586 million individual tax returns, of which 102,863 million claimed a refund averaging \$2,769.

147 IRM 25.23.2.10, *IDT Case Processing Time Frames* (Mar 30, 2017).

148 Data obtained from TAMIS (Oct. 1, 2017).

149 *Id.*

- Taxpayer needed to pay rent and utilities; and
- Taxpayer was behind on bills and needed to repair auto to get to work.

TAS issued 81 TAOs involving account resolution for issues other than ID Theft, return preparer misconduct issues, and exam issues.

Examples of TAOs involving account resolution issues include the following:

A Power of Attorney (POA) contacted TAS to resolve an ongoing challenge with filing an amended return for his clients.¹⁵⁰ The IRS timely received and processed Forms 1040, *U.S. Individual Income Tax Return* for tax year 2011 for two separate individual accounts. Some months later, the IRS received a Form 1040X, *Amended U.S. Individual Income Tax Return* for tax year 2011, with an explanation of the taxpayers' marital status change from single to married filing joint as based on Revenue Ruling 2013-17,¹⁵¹ a breakdown of each taxpayers' original single tax returns and their total joint tax return, and signed Forms 2848, *Power of Attorney and Declaration of Representative* for both taxpayers. Each Form 2848 appointed the same POA and authorized the POA to sign their tax returns. However, the IRS rejected the 2011 Form 1040X and requested additional supporting documentation, even though a similar Form 1040X for 2012 was processed near the same time. The IRS failed to record the Form 2848, and neither the POA nor the taxpayers received the reject notice. The POA sent another Form 2848, but the IRS responded with a letter incorrectly stating the 2011 Form 1040X would not be considered since the refund statute of limitations had now expired, even though it had been filed timely.¹⁵² The POA contacted TAS to request assistance in resolving the issue. TAS sent a Form 12412, Operations Assistance Request (OAR) to the IRS, requesting that the Form 1040X be processed and a refund issued. However, the IRS rejected the request, citing a missing signature on the Form 1040X, and suggested the taxpayers file an appeal. TAS issued a TAO clarifying the authorized signature issue, outlining the inconsistent treatment between processing of the two tax years, and failure to allow the POA an opportunity to perfect the signature issue.¹⁵³ Subsequently, the IRS processed the Form 1040X and a refund was issued to the taxpayers.

150 In this instance, the taxpayer has provided written consent for the National Taxpayer Advocate to use facts specific to the taxpayer's case. Release signed by the taxpayer dated Sept. 16, 2017 (on file with TAS).

151 In *United States v. Windsor*, 133 S.Ct. 2675 (2013), the Supreme Court invalidated Section 3 of the 1996 Defense of Marriage Act, which barred married same-sex couples from being treated as married under federal law. Following the Windsor decision, the IRS issued Revenue Ruling 2013-17, which holds that married same-sex couples are now treated as married for all federal tax purposes where marriage is a factor, if the couple is lawfully married under state law. Rev. Rul. 2013-17, 2013-38 I.R.B. 201. The revenue ruling declared that a civil union, registered domestic partnership, or other similar formal relationship recognized under state law that is not treated as a marriage under the laws of that state does not fall within the definition of marriage as used in the tax code. Additionally, the revenue ruling stated that terms in the tax code which reference marriage, spouse, husband, or wife include all married couples, irrespective of gender, so long as the individuals are lawfully married under state law.

152 IRM 21.5.3.4.6.1, *Disallowance and Partial Disallowance Procedures* (Mar. 2, 2017), states "Letters must contain the specific reason for the claim disallowance. NOTE: If the claim is being disallowed due to statute issues, the 105C letter must include the received date of the original/amended return or postmark date of the envelope and the date the claim should have been filed to be considered timely for the specific tax year. NOTE: This explanation is required under IRC § 6402(l), formerly IRC § 6402(k), which states, "In the case of a disallowance of a claim for refund, the Secretary shall provide the taxpayer with an explanation for such disallowance." [Emphasis added.]

153 Per IRM 21.5.3.4.2 *Tax Decrease or Credit Increase Processing* (Dec. 20, 2010), the taxpayer or power of attorney (POA) may perfect a claim.

In another case, a taxpayer filed a tax return with the IRS, which included flow-through income from a subchapter S corporation. Later, the taxpayer filed an amended Form 1040X to correct some of the income amounts, which was subsequently audited by the IRS. After consulting with a tax professional, the taxpayer filed a second amended return to correct the subchapter S income from passive to non-passive income. Accounts Management (AM) refused to process the amended return, stating that the Form 1040X must be sent to Exam for an audit reconsideration. The POA sought assistance from TAS to resolve the issue, and TAS issued an OAR requesting that AM refer the case to Exam as a Joint Committee case, since the amended return could result in a very large refund with interest payable.¹⁵⁴ AM initially refused, stating the claim must be sent for audit reconsideration. After a second OAR was sent with additional information from the initial audit, Exam still refused to review the claim, stating that the taxpayer would need to provide information not previously considered in the initial audit. Even after manager review, AM and Exam remained under the incorrect impression that this issue was previously audited and the taxpayer had agreed to a disallowance, and that the claim should not be considered. TAS issued a TAO advocating that the nature of the new claim is significantly different from the original examination and should therefore be examined as a new issue, and the amended return was accepted for Exam review.

Taxpayer Assistance Orders to Examination Functions

In FY 2017, TAS issued 32 TAOs to examination units in W&I, Small Business/Self-Employed (SB/SE), and LB&I BODs for issues including return preparer misconduct, the EITC, audit reconsiderations, actions to complete open audits of original returns, penalty abatements, and appeal rights.¹⁵⁵ The IRS complied with 28 within an average of 13 days. In one example, a taxpayer came to TAS after the IRS did not issue the refund claimed on the return. Exam then disallowed the EITC because the taxpayer could not verify the income. Exam disallowed the income from the taxpayer's employer because the Employer Identification Number (EIN) was not on the pay stubs. The taxpayer had no prior compliance issues, and the delayed refund created an economic hardship. TAS secured Form W-2 information from the IRS's own database that included the EIN and issued a TAO for Exam to reevaluate its prior determination, including allowance of the income and corresponding withholding. Exam subsequently accepted the documentation, issued the refund, and closed their case. The taxpayer was able to avoid eviction due to TAS's efforts.

In another example, the taxpayer had claimed the EITC on a properly filed tax return, which was selected for exam due to a mismatch in reported income. The taxpayer, who was unemployed and experiencing financial hardship, requested TAS assistance with providing the necessary documentation for the Exam review. Once received, TAS submitted an OAR to Exam to substantiate the income information. After reviewing the supporting information, Exam adjusted the account to match the income verified by the taxpayer, agreed to allow the two dependents claimed, but implemented the two-year EITC ban¹⁵⁶ due to prior year concerns regarding the taxpayer's EITC claims. Exam incorrectly

154 See IRC § 6405 (report must be made to the Joint Committee on Taxation before a refund or credit in excess of \$2 million (\$5 million in the case of a C corporation) can be made).

155 Data obtained from TAMIS (Oct. 1, 2017).

156 Per IRM 4.19.14.6.1, *2/10 Year Ban - Correspondence Guidelines for Examination Technicians (CET)* (Dec. 9, 2016), a two-year ban applies when it is determined that a taxpayer recklessly or intentionally disregarded the EITC, rules and regulations when claiming the credit. The two-year ban should be considered by the technician on every EITC case. A variety of facts must be considered by the CET in determining whether the two-year ban should be imposed. A taxpayer's failure to respond adequately or not respond at all does not in itself indicate that the taxpayer recklessly or intentionally disregarded the rules and regulations. For a discussion of the National Taxpayer Advocate's concerns regarding the application of the EITC two-year ban, see 2013 National Taxpayer Advocate Annual Report to Congress 103–15; 311–15.

determined the taxpayer had a history of inflating income in an apparent attempt to maximize EITC. TAS then issued a TAO for Exam to reconsider the two-year ban as excessively harsh and unnecessary, based on the taxpayer's education and reliance on a neighborhood preparer who mistakenly reported unemployment income and withholding. Exam reversed its decision on the two-year ban, and the taxpayer received a refund.

Taxpayer Assistance Orders on Collection Issues

TAS provided relief in about 73 percent of collection cases in FY 2017, compared to approximately 79 percent on all issues.¹⁵⁷ In FY 2017, TAS issued 46 TAOs in collection cases where the IRS did not agree with TAS's recommendations initially.¹⁵⁸ Of these 46 TAOs, the IRS complied with 27 in an average of 24 days, meaning the IRS's negative responses to TAS's requests unnecessarily delayed resolution, further harming the taxpayers, when there was no material disagreement on the resolution.¹⁵⁹

TAS issued 23 TAOs involving levies cases in FY 2017.¹⁶⁰ The IRS complied with 12 of the 23 TAOs within an average of 26 days for levies in FY 2017, with TAS subsequently rescinding one TAO.¹⁶¹ Fourteen of the 23 levy-related TAOs requested the return of levy proceeds for taxpayers experiencing EB.¹⁶² TAS issued 23 TAOs to collection functions for non-levy issues.¹⁶³ The IRS complied with 15 within an average of 22 days. Non-levy issues include OICs, lien withdrawal, collection statute of limitation issues, and transfer of payments from one tax period to another. Examples of collection TAOs include:

In one case, a taxpayer contacted TAS for assistance after the IRS placed a levy on the taxpayer's monthly social security benefits.¹⁶⁴ Since the taxpayer's sole source of income is social security and a small pension, the levy on her social security was creating an economic hardship as it left her with insufficient funds to pay for medication and normal living expenses.¹⁶⁵ TAS immediately sent an OAR to the IRS to release the levy on the social security benefits and have the account placed in currently-not-collectible (CNC) status. TAS also requested that the IRS return two levy payments. The IRS agreed there was economic hardship and released the levy and placed the taxpayer's account in CNC. It also returned the second of the two levy payments but refused to return the first payment stating that the taxpayer had not met the criteria for return of the levy proceeds. TAS then issued a TAO, requesting return of the first levy payment. In the TAO, TAS relied on IRM 5.19.9.3.8 which provides that when a levy was released due to a finding of economic hardship, it is in generally in the Government's best interest to return the payment. Ultimately, the first levy payment was returned to the taxpayer but only after the IRS appealed and the National Taxpayer Advocate sustained the TAO to the SB/SE Commissioner.

¹⁵⁷ Data obtained from TAMIS (Oct. 1, 2017).

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ In this instance, the taxpayer has provided written consent for the National Taxpayer Advocate to use facts specific to the taxpayer's case. Release signed by the taxpayer dated Oct. 18, 2017 (on file with TAS).

¹⁶⁵ IRC § 6343(a)(1)(D) provides that a levy should be released when the Secretary has determined the levy "is creating an economic hardship due to the financial condition of the taxpayer."

In another example, a taxpayer was making payments on a tax debt through a direct debit installment agreement.¹⁶⁶ Due to changes in the taxpayer's financial situation, the taxpayer called the IRS three times over a four-month period requesting that payments no longer be debited automatically. Despite efforts to obtain relief, which were documented on IRS records, the IRS continued to debit the taxpayer's account each month. The taxpayer contacted TAS for assistance. TAS determined that the contractual language for the installment agreement clearly stated that the authorization to initiate a monthly payment is to remain in effect until the taxpayer notifies the IRS to terminate the authorization.¹⁶⁷ TAS issued an OAR requesting a refund of the three payments, but the IRS declined, incorrectly citing the terms of a subsequent OIC that had been accepted. TAS then issued a TAO to Collection and secured a refund of the installment payments erroneously retained by IRS.

Taxpayer Assistance Orders to Appeals

TAS issued eight TAOs during FY 2017 to the Office of Appeals, and Appeals complied with three.¹⁶⁸

In one case, a representative for a taxpayer/small business owner contacted TAS for assistance with an issue that had been unresolved for over three years. At issue was the correction of employment taxes attributable to the business for payments that were reclassified from distributions to wages. The IRS had examined two tax years and assessed additional quarterly taxes. Subsequently, the representative requested an Appeals review, and the additional quarterly taxes on one of the two tax years was abated. Despite correspondence from the previous Appeals Officer stating that both years should have been abated, Appeals failed to correct the second year. After reviewing the facts and circumstances of the case, TAS sent an OAR to Appeals requesting that the remaining balance be adjusted, as previously indicated by the Appeals Officer. TAS ultimately issued a TAO to request abatement of the quarterly taxes from the remaining tax year, and relief was provided to the taxpayer.

CONGRESSIONAL CASE TRENDS

Taxpayers often turn to their congressional representatives when faced with IRS issues. The congressional representatives refer these taxpayers to TAS, which is responsible for responding to tax account inquiries sent to the IRS by Members of Congress. Figure 4.1.18 reflects the total congressional case receipts and total TAS receipts from other contacts.

¹⁶⁶ In this instance, the taxpayer has provided written consent for the National Taxpayer Advocate to use facts specific to the taxpayer's case. Release signed by the taxpayer dated Oct. 16, 2017 (on file with TAS).

¹⁶⁷ Form 433D, *Installment Agreement*, DIRECT DEBIT.

¹⁶⁸ Data obtained from TAMIS (Oct. 1, 2017).

FIGURE 4.1.18¹⁶⁹

TAS Congressional Receipts, FYs 2012-2017

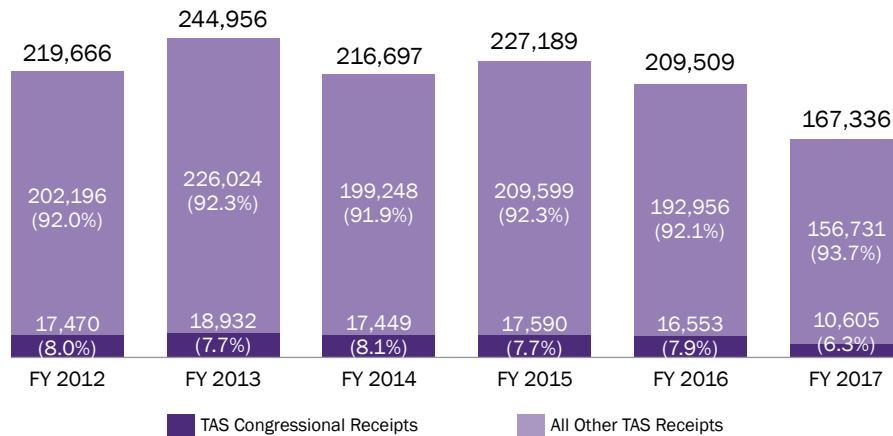


Figure 4.1.19, seen below, shows the top ten PCICs causing taxpayers to seek the assistance of their congressional representatives. ID Theft receipts decreased by more than 64 percent between FY 2016 and FY 2017, and Pre-Refund Wage Verification Holds decreased by more than 65 percent.¹⁷⁰ Issues associated with the processing of amended returns decreased by more than 42 percent. These trends followed the overall TAS decrease in receipts for these issues.¹⁷¹

FIGURE 4.1.19, TAS Top Ten Congressional Receipts by Primary Core Issue Code, FYs 2016-2017¹⁷²

Rank	Issue Description	FY 2016	FY 2017	Percent Change
1	Identity Theft	2,556	911	-64.4%
2	Processing Original Return	852	543	-36.3%
3	Transcript Request	517	480	-7.2%
4	Other Refund Inquiry/Issue	569	431	-24.3%
5	Processing Amended Return	731	418	-42.8%
6	Installment Agreement	498	399	-19.9%
7	Pre-Refund Wage Verification Hold	1,062	368	-65.3%
8	Failure to File Penalty (FTF)/Failure to Pay Penalty (FTP)	465	339	-27.1%
9	Open Automated Underreporter	389	323	-17.0%
10	Levies	409	303	-25.9%
	Other Issues	8,505	6,090	-28.4%
	Total Congressional Receipts	16,553	10,605	-35.9%

169 Data obtained from TAMIS (Oct. 1, 2012; Oct. 1, 2013; Oct. 1, 2014; Oct. 1, 2015; Oct. 1, 2016; Oct. 1, 2017).

170 Data obtained from TAMIS (Oct. 1, 2016; Oct. 1, 2017).

171 PCIC 460 Application for Exempt Status cases from all sources, including congressional referrals, were 486 in FY 2016 and 407 in FY 2017, which was a decline of approximately 16 percent.

172 Data obtained from TAMIS (Oct. 1, 2016; Oct. 1, 2017).