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## The Diminishing Role of the Revenue Officer Has Been Detrimental to the Overall Effectiveness of IRS Collection Operations

### RESPONSIBLE OFFICIALS

Steven T. Miller, Deputy Commissioner, Services and Enforcement  
Faris Fink, Commissioner, Small Business/Self-Employed Division

### DEFINITION OF PROBLEM

An imbalanced focus within the IRS Collection operation on automation, centralization, and enforcement has undermined the service and compliance-oriented components of the field-based Revenue Officer job. The IRS does little to identify segments of the taxpayer population that would benefit from timely, face-to-face contacts with skilled collectors, specifically trained to address their problems in a service-oriented manner. Particularly with tax debts involving small business taxpayers, the Revenue Officer's skill set should be recognized as critical to case resolutions that are in the best interests of the taxpayers and the United States.

In recent years, the IRS has reduced the role of field contacts in resolving most types of collection cases, and adopted a model for Revenue Officers that emphasizes the use of highly technical enforcement actions in cases that are considered "complex." However, the IRS's simple definition of "case complexity" ignores the characteristics and needs of different types of taxpayers. Small businesses with tax problems represent a particular group of taxpayers with similar needs, which are best met by a local IRS presence. While the IRS does not consider most employment tax delinquencies as "complex," the Automated Collection System (ACS) has not been successful in servicing this segment of the taxpayer population:

- In fiscal year (FY) 2012, the ACS collected only *11.5 percent* of the dollar value of the employment tax cases received.<sup>1</sup>
- Of the employment tax cases routed through the automated system in FY 2012, *62 percent left ACS as unresolved accounts.*<sup>2</sup>
- In FY 2012, the ACS *transferred* to the Collection Queue or the Collection Field operation approximately *7.3 times* the number of delinquent employment tax dollars that it collected.<sup>3</sup>

Nevertheless, the IRS continues to migrate employment tax cases to ACS, even though this practice has never been supported by Collection results.

<sup>1</sup> IRS, Collection Activity Report, NO-5000-2, *Taxpayer Delinquent Account Report* (Oct. 2012).

<sup>2</sup> *Id.* "Unresolved" accounts include those transferred to the Queue and Collection Field function (Cff), along with cases closed as "deferred" and systemically reported as uncollectible.

<sup>3</sup> IRS, Collection Activity Report, NO-5000-2, *Taxpayer Delinquent Account Report* (Oct. 2012).

Although the IRS emphasizes the use of “complex” collection tools in resolving “complex” field cases, most Revenue Officers are not authorized to use all the available tools. Despite the impact of a troubled economy, the use of important collection tools, such as installment agreements, offers in compromise, and lien withdrawals to negotiate “win-win” resolutions in small business cases are conspicuously rare. At the conclusion of FY 2012,

- The IRS reported approximately 4.5 million taxpayer accounts, valued at approximately \$139 billion, in either the Collection Queue or the “currently not collectible” (CNC) inventory.<sup>4</sup>
- Only 3,001 offers in compromise (OICs) had been recommended for acceptance by Revenue Officers, which recovered only \$68.3 million in delinquent revenue, or 0.05 percent of the amount in the Collection Queue and CNC inventories.<sup>5</sup>
- *Revenue Officers issued less than one non-streamlined installment agreement per month for cases reported by the IRS on the Business Master File (BMF), and approximately one BMF streamlined agreement per year.*<sup>6</sup>

The IRS’s use of the Collection Queue masks the ineffectiveness of Collection’s inventory delivery system, and distorts the perceived delivery of taxpayer service in many Collection cases. Further, the use of the Queue appears to have heavily contributed to the indifference of the IRS to the aging of collection accounts, and to the negative outcomes that the delays in case processing have for taxpayers and the IRS’s business results. In addition, traditional IRS measures are not adequate to assess the benefits of the Collection Field operation, particularly in the areas of revenue protection and compliance. Prudent tax administration and debt collection require that the IRS consider issues beyond superficial case processing efficiencies. Particularly in working with small business taxpayers, the IRS cannot achieve important objectives such as revenue protection and long-term compliance without the service-oriented “field presence” the IRS Revenue Officer can provide.

## ANALYSIS OF PROBLEM

**With the increasing use of ACS to address the collection workload, the IRS has struggled to determine the best use of Revenue Officers.**

Revenue Officers are the “most skilled and highly paid” debt collectors in the IRS Collection Field function (CFf).<sup>7</sup> In theory, their assigned cases involve high-risk, complex accounts that require intervention by a Revenue Officer for proper resolution. Accordingly, Revenue

<sup>4</sup> IRS, Collection Activity Reports, NO-5000-2, *Taxpayer Delinquent Account Report* (Oct. 2012), NO-5000-149, *Recap of Accounts Currently Not Collectible Report* (Oct. 2012).

<sup>5</sup> IRS, Collection Activity Report, NO-5000-108, *Report of Offer in Compromise Activity* (Oct. 2012).

<sup>6</sup> Collection Activity Report, NO-5000-6, *Installment Agreement Cumulative Report* (Oct. 2012). In FY 2012, the IRS CFf granted 38,517 installment agreements on BMF accounts. Of these, 3,806 were “streamlined” agreements. Per an IRS response to a TAS information request (Sept. 13, 2012), the IRS had 3,733 Revenue Officers working collection inventories as of September 2011.

<sup>7</sup> IRS, FFCD Project Team, *Future Field Collection Design, Future State Design - Final Report 10* (June 6, 2006).

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Officers are empowered with a wide range of powerful collection tools, along with the ability to conduct personal field contacts with taxpayers at their homes or businesses.

Since the implementation of ACS, however, the role and value of the Revenue Officer within the overall collecting process have been studied, questioned, and debated.<sup>8</sup> Particularly in recent years, budgetary concerns have led the IRS to attempt to improve efficiencies through increased use of automated enforcement tools generated by bulk-processing operations, *e.g.*, ACS call sites. Noting that Cff resources are the “most costly,” one key recommendation in a recent, comprehensive study of the collecting process identified a need to “right-size” the Collection Field function.<sup>9</sup>

A common theme in the IRS’s most recent effort to determine the proper role of the Revenue Officer centers around the concept that field-based Collection work should focus on “complex and higher value cases.”<sup>10</sup> The IRS has noted that Revenue Officers play a special role as the “final stop” in the overall collecting process, and can constitute an “elite corps of collection professionals” with the skills and authority to resolve cases that cannot be handled through notice and telephone contacts.<sup>11</sup> Current IRS thinking holds that Revenue Officers should only work the “most critical, complex, technical cases,” with all other collection cases resolved earlier in the process through notices and taxpayer interactions with ACS.<sup>12</sup>

### **The IRS’s simple definition of “case complexity” ignores the characteristics and needs of different types of taxpayers.**

While the concept of “case complexity” is prominent in virtually all discussions involving the proper use of Revenue Officers, the IRS’s current model for determining the complexity of collection cases is actually a throwback to the traditional IRS mindset, which bases the projected complexity of a case on the dollar value of the delinquent account.

The Cff’s methods of delivering inventory are based in part on IRS studies which determined that cases taking relatively few direct hours for a Revenue Officer to resolve are not complex, *i.e.*, “a relatively rapid closure suggests the Revenue Officer may not have used the time to apply advanced technical skills.”<sup>13</sup> Further, delinquencies involving smaller balances due are generally not considered complex.<sup>14</sup> This model contends that cases requiring Revenue Officer skills should routinely involve the use of technically complex enforcement actions, *e.g.*, seizures, suit recommendations, nominee/alter ego liens, complex financial

<sup>8</sup> The ACS, a group of automated telephone call centers, was implemented by the IRS in 1984 to modernize and centralize the collecting work needed for accounts that are not resolved in the collection notice process. Most Taxpayer Delinquent Accounts (TDAs) are assigned to ACS, at least initially, for resolution.

<sup>9</sup> IRS, *Collection Process Study* 163-66 (Sept. 30, 2010).

<sup>10</sup> *Id.* at 163 (Sept. 30, 2010).

<sup>11</sup> IRS, *Future Field Collection Design, Current State Design* 12, 34 (Nov. 10, 2005).

<sup>12</sup> *Id.* at 5 (Nov. 10, 2005); IRS, *Collection Process Study* 163-66 (Sept. 30, 2010).

<sup>13</sup> IRS, FFCO Project Team, *Future Field Collection Design, Future State Design - Final Report* 12 (June 6, 2006).

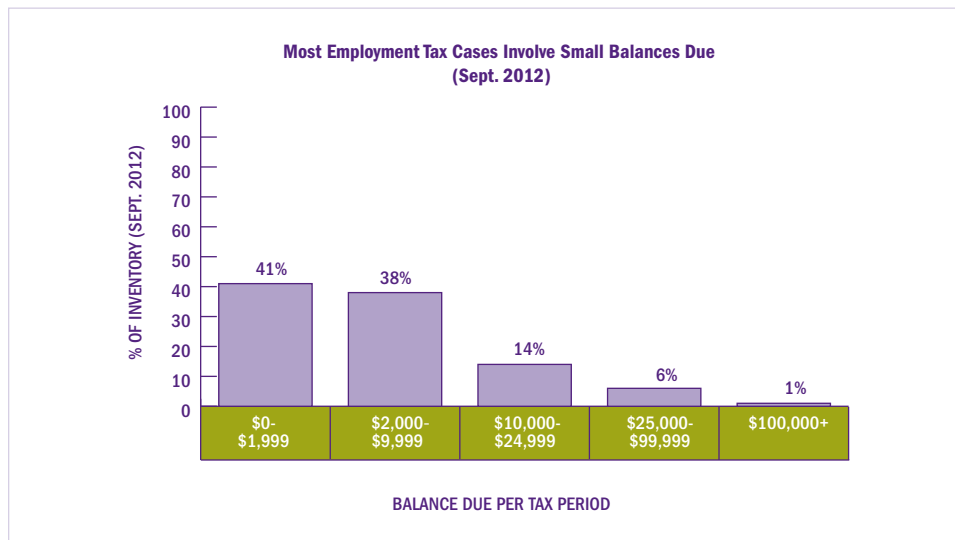
<sup>14</sup> IRS, FFCO Project Team, *Future Field Collection Design, Future State Design - Final Report* 13 (June 6, 2006).

analysis, and complex use of levies and liens.<sup>15</sup> The IRS assumes that assigning Revenue Officers to handle relatively low-dollar delinquencies that are quickly collected with only a modest investment of time represents an inefficient and unproductive use of CFF resources.<sup>16</sup> The future vision for the Revenue Officer involves complex investigations, complex financial analysis, and routine use of highly technical enforcement tools.<sup>17</sup>

**Most employment tax delinquencies are not considered “complex”; yet, ACS has not been successful in servicing this segment of the taxpayer population.**

The majority of employment tax delinquencies originate as relatively small-dollar accounts.<sup>18</sup> At the end of FY 2012, approximately 79 percent of the taxpayer delinquent accounts (TDAs) involving employment taxes had balances due of less than \$10,000, and 41 percent of these balances were less than \$2,000.<sup>19</sup> Generally, the IRS does not consider these cases “complex,” and therefore initially assigns them to the automated system.<sup>20</sup>

**FIGURE 1.20.1, Balances Due in Employment Tax Cases**



<sup>15</sup> IRS, FFCD Project Team, *Future Field Collection Design, Future State Design - Appendices 13* (May 26, 2006).

<sup>16</sup> *Id.* at 18 (May 26, 2006). “Rather, as noted above, the IPT (Integrated Project Team) sought to select the type of cases that the ENTITY extract data review indicated might be prone to closure with relatively few direct hours applied by the RO. The thought was such cases might not require the application of RO technical skills or field presence. In addition, the team felt that these types of cases potentially could be cases more appropriately worked by another treatment stream.”

<sup>17</sup> IRS, FFCD Project Team, *Future Field Collection Design, Future State Design - Final Report 29* (June 6, 2006).

<sup>18</sup> In this report, the term “employment tax” is used for taxes reported on Form 941, *Employer’s Quarterly Federal Tax Return*, and Form 944, *Employer’s Annual Federal Tax Return*.

<sup>19</sup> IRS, Collection Activity Report, NO-5000-242, *Type Assessment Cumulative Report* (Oct. 2012).

<sup>20</sup> IRS response to TAS information request (Sept. 13, 2012). See also IRM 5.1.20.2.3, *Collection Inventory Management – Rules* (May 27, 2008).

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Looking at all cases reported on the IRS Business Master File (BMF), in FY 2012 the IRS routed delinquent BMF tax accounts valued at approximately \$3.5 billion to ACS,<sup>21</sup> but the system only collected about \$394 million, or roughly 11 percent of the dollar value of the cases.<sup>22</sup> Of the BMF tax cases that passed through the ACS system in FY 2012, 60 percent, or \$2.1 billion in delinquent revenue, were transferred to the Queue.<sup>23</sup> An additional 12 percent of these cases, totaling approximately \$426 million, were ultimately transferred to the Cff.<sup>24</sup> Approximately six percent of these accounts, or \$201 million, were systemically reported as uncollectible.<sup>25</sup> In summary, of the BMF tax dollars routed through the ACS system in FY 2012, 78 percent left ACS as unresolved accounts.<sup>26</sup>

In FY 2012, although the IRS routed 525,425 BMF taxpayer cases to ACS, the unit issued only 31,070 installment agreements on BMF accounts.<sup>27</sup> ACS will not discuss an installment agreement, or even obtain a Collection Information Statement, when contacted by a business taxpayer if the delinquency involves unfiled returns.<sup>28</sup> In fact, ACS assistors are not trained to secure and analyze business-related financial statements, and are not authorized to grant non-streamlined installment agreements on employment tax cases.<sup>29</sup> Figure 1.20.2 below illustrates the inefficiency of ACS in handling business tax delinquencies.

<sup>21</sup> IRS, Collection Activity Report, NO-5000-2, *Taxpayer Delinquent Account Report* (Oct. 2012).

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* In FY 2012, ACS reported \$200,511,110 of BMFTDAs as currently not collectible with a closing code indicating the cases were “shelved” as low priority accounts that did not warrant the investment of Collection resources.

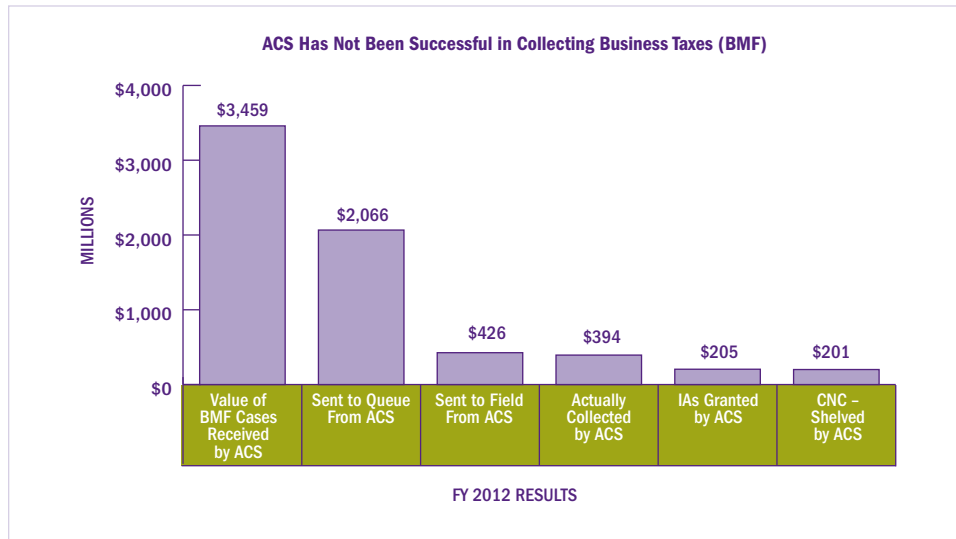
<sup>26</sup> *Id.*

<sup>27</sup> IRS, Collection Activity Reports, NO-5000-6, *Installment Agreement Reports* (Oct. 2012), NO-5000-2, *Taxpayer Delinquent Account Report* (Oct. 2012). The dollar value of the BMF accounts involving installment agreements issued by ACS in FY 2012 was approximately \$205 million.

<sup>28</sup> IRM 5.19.1, *Balance Due* (Nov. 3, 2010).

<sup>29</sup> IRS response to TAS information request (Sept. 13, 2012).

**FIGURE 1.20.2, ACS Business Collection Results for FY 2012**



These results indicate that although the IRS has determined the majority of employment tax cases are not complex enough to warrant immediate assignment to Revenue Officers, assigning these accounts to ACS is ineffective. Overall in FY 2012, the IRS collected approximately \$1.7 billion in delinquent employment taxes, but reported \$5 billion as uncollectible — a net loss of \$3.3 billion.<sup>30</sup> Nevertheless, recent decisions to “right-size” the Cff will force approximately 80 percent of delinquent employment tax cases through ACS before considering them worthy of field assignment.<sup>31</sup>

**“Time is Money”: IRS failure to timely address emerging employment tax problems leads to larger liabilities downstream.**

IRS focus group participants have indicated that the main reason small business taxpayers do not pay their payroll taxes is because “they do not see the immediate consequences of noncompliance.”<sup>32</sup> When participants were asked how the IRS could help these taxpayers, the number one strategy they recommended was “the need for the IRS to react faster.”<sup>33</sup> Participants stated, “The main problem is that many taxpayers are buried too deep by the time the IRS gets involved.”<sup>34</sup>

<sup>30</sup> IRS, Collection Activity Reports, NO-5000-2, *Taxpayer Delinquent Account Report* (Oct. 2012), NO-5000-149, *Recap of Accounts Currently Not Collectible Report* (Sept. 2012).

<sup>31</sup> IRS response to TAS information request (Sept. 13, 2012); IRS, Collection Activity Report, NO-5000-2, *Taxpayer Delinquent Account Report* (Oct. 2012). Based on open TDA inventory as of Sept. 2012, the change in case routing would result in the assignment of approximately 80 percent of all employment tax cases to ACS.

<sup>32</sup> IRS, SB/SE Research, *Your Clients and the Economy – How Can the IRS Help*, 4 (Jan. 2010).

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

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Unfortunately, “reacting faster” from the taxpayer’s perspective is not a key component of the IRS collection strategy, which places very little emphasis on pre-delinquency education and intervention. The use of Federal Tax Deposit (FTD) Alerts and other field contacts on relatively small balance-due employment tax accounts is rare.<sup>35</sup> In FY 2012, BMF taxpayer cases routed to the Cff had, on average, approximately seven tax delinquency accounts (TDAs) per taxpayer.<sup>36</sup> Given that many of these taxpayers are accumulating additional tax debts, most of these cases are likely to include at least one additional quarterly employment tax liability that the IRS is trying to resolve by sending notices, along with unpaid FTDs in the current quarter.<sup>37</sup>

Thus, it appears that the typical BMF case that the IRS believes warrants a field contact has already accumulated over two years of quarterly employment tax delinquencies before the IRS even attempts a face-to-face contact. As the National Taxpayer Advocate noted in the 2010 Annual Report to Congress, by this time, unfortunately, many of these small business taxpayers are already “buried too deep.”<sup>38</sup>

### The IRS’s “complexity” model has reversed case assignment practices implemented through earlier “Collection Reengineering” efforts.

A key component of the IRS Restructuring and Reform Act of 1998 was a realignment into units serving particular groups of taxpayers with similar needs.<sup>39</sup> In June 2001, the IRS approved and implemented a number of recommendations designed to meet this service objective for small business taxpayers.

The primary focus of the Collection Reengineering, Phase I recommendations was to make relatively fresh employment tax delinquencies the top priority for Cff case assignments.<sup>40</sup> The IRS determined that early intervention by Revenue Officers in these emerging cases would not only increase the dollars collected but also would minimize the substantial amount of revenue lost to delays built into the collecting process. At the time, the Collection Reengineering team estimated that approximately \$2.8 billion per year in otherwise lost revenue could be “protected” through early intervention by Revenue Officers.<sup>41</sup>

<sup>35</sup> IRM 5.7.1.1 (May 12, 2012). The FTD Alert process identifies, at an early stage (*i.e.*, before the return is due), taxpayers who have fallen behind in their deposits. FTD Alerts determine an employer’s compliance with employment tax deposit requirements for the quarter of Alert issuance, and for subsequent quarters until the taxpayer is brought into full compliance.

<sup>36</sup> IRS, Collection Activity Report, NO-5000-2, *Taxpayer Delinquent Account Cumulative Report* (Oct. 2012).

<sup>37</sup> IRS, SB/SE Research, *Evaluating the Effect of Time in Inventory on the Compliance of Employment Tax Cases 27* (Mar. 2010). This study concluded, “Business taxpayers with employment tax cases sitting in the Queue, where there is no collection activity, by and large do not appear to independently take steps to resolve their delinquent accounts.”

<sup>38</sup> National Taxpayer Advocate 2010 Annual Report to Congress, vol. 2, 39-70 (*An Analysis of the IRS Collection Strategy: Suggestions to Increase Revenue, Improve Taxpayer Service, and Further the IRS Mission*).

<sup>39</sup> Pub L. No. 105-206, 112 Stat. 685 (1998).

<sup>40</sup> IRS, *SB/SE Collections Quick Hits, Approach and Preliminary Findings 5* (Mar. 27, 2001). This report stated, “We believe that dramatic collection improvements can be achieved through modification of IDS priorities to emphasize BMF trust fund cases in the field.”

<sup>41</sup> *Id.* at I-8 (June 21, 2001).

(As noted earlier: in FY 2012, the IRS reported approximately \$5 billion of employment tax delinquencies as uncollectible.)<sup>42</sup>

While acknowledging that ACS can collect a portion of the employment tax accounts, the Collection Reengineering project team stressed that the system was not designed to effectively address compliance, in either the short or long term, on business accounts.<sup>43</sup> Additionally, ACS employees do not have the training or experience to conduct the complex financial analysis required to determine the most appropriate payment options for in-business taxpayers with emerging tax problems.<sup>44</sup>

The project team also emphasized that early intervention by Revenue Officers would improve taxpayer service and satisfaction by addressing the tax problems at a point when taxpayers are more likely to resolve the delinquencies without declaring bankruptcy or ceasing business operations.<sup>45</sup> On the other hand, the team projected that removing all but the smallest employment tax cases from ACS would allow the call sites to devote more time and attention to the accounts they are better designed to service — relatively simple individual income tax delinquencies.

**Although early results of the Collection Reengineering effort indicated substantial improvements, the IRS soon returned to a “complexity” model.**

In May 2004, the IRS conducted a follow-up analysis of the impact of the Collection Reengineering recommendations and determined that:

- Total dollars collected and full paid accounts increased in both the CFF and ACS;
- Cases reported as uncollectible decreased; and
- Dollars collected in employment tax cases increased.<sup>46</sup>

<sup>42</sup> IRS, Collection Activity Report, NO-5000-149, *Recap of Accounts Currently Not Collectible Report* (Oct. 2012).

<sup>43</sup> IRS, *SB/SE Collections Quick Hits, Approach and Preliminary Findings* 24 (Mar. 27, 2001). This report noted, “Concentration of 941 cases in ACS leaves many 941 cases unresolved, while keeping ACS from working its IMF caseload.”

<sup>44</sup> IRS response to TAS information request (Sept. 13, 2012).

<sup>45</sup> IRS, *SB/SE Collections Quick Hits, Approach and Preliminary Findings* 4 (Mar. 27, 2001). This report noted, “Current system does not promote ‘Fairness to Each Taxpayer’ — Delayed IRS intervention makes it difficult for delinquent taxpayers to resolve tax problems while continuing in business... Aged Trust Fund accounts with multiple delinquent periods usually require enforcement action to resolve because taxpayers do not have the financial capability to comply voluntarily. Interactions with taxpayers are much more confrontational.”

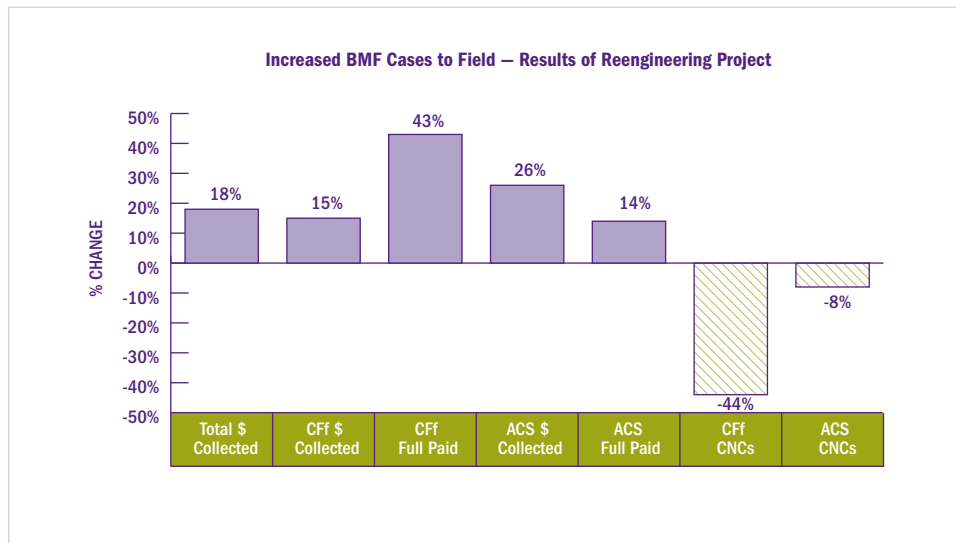
<sup>46</sup> IRS, *Collection Reengineering – Phase I, Interim Report* 8-29 (May 14, 2004). This analysis compared collection data collected prior to Collection Reengineering (FY 2001) with data after the implementation of Collection Reengineering (FY 2002). The study also compared the six-month period post-Phase I implementation, October 2001 through March 2002, to the comparable period in the following fiscal year, October 2002 through March 2003. The analysis indicated that total dollars collected increased by 18 percent. The age and average cycle times of employment tax cases in the CFF decreased. Full paid dispositions in the CFF increased by 43 percent, and cases reported as uncollectible decreased 44 percent. Dollars collected in the CFF increased by 15 percent overall, and 23 percent for employment tax cases.



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In addition, ACS dispositions increased, with a 49 percent increase in installment agreements, and a substantial gain in ACS dollars collected on accounts involving tax delinquencies on individuals.<sup>47</sup>

**FIGURE 1.20.3, Collection Reengineering Results In Business Cases**



Although this analysis indicated the Collection Reengineering changes were delivering the intended results, the IRS astonishingly concluded in a subsequent study that Cff resources used in this manner were not efficient. In 2006, the Future Field Collection Design (FFCD) project determined that relatively small-dollar employment tax cases could be resolved by ACS and did not meet the “complexity” threshold for Revenue Officer assignment.<sup>48</sup> Yet, the FFCD report acknowledged that the project *did not conduct any analysis of the effectiveness of ACS* in handling these cases.<sup>49</sup>

In 2010, the IRS Collection Process Study (CPS) adopted the FFCD complexity model, and recommended that over 90 percent of all new employment tax cases be handled, at least

<sup>47</sup> *Id.* The analysis indicated that ACS dispositions increased by 20 percent, with a 14 percent increase in full paid accounts. Additionally, installment agreements issued by ACS increased by 49 percent, while ACS cases reported as uncollectible decreased by eight percent. Dollars collected by ACS increased 26 percent overall, and 42 percent on accounts involving individual tax delinquencies.

<sup>48</sup> IRS, FFCD Project Team, *Future Field Collection Design, Future State Design – Final Report 18* (May 26, 2006). “One potential factor contributing to this high percentage of cases with few hours applied and not needing to be worked by Revenue Officers is that most of these cases did not have the benefit of upstream ACS processing. Since the majority of cases reviewed were from the 100 risk code series, they met the ACS ‘bypass’ criteria. If ACS had had an opportunity to work these cases, some portion of them may have been closed and not assigned to the field. This demonstrates the need and, therefore, our recommendation to redesign and utilize ACS to the greatest extent possible to work high priority/high risk cases.” *Id.*

<sup>49</sup> *Id. at 2* (May 26, 2006). “The FFCD project team did not conduct any analysis of Automated Collection System (ACS). However, the team believes that a redesign of ACS’s upfront collection stream processes could potentially provide a more cost-effective solution toward closing the less complex work that is now in the Queue or in the inventory of the ROs. A comprehensive workload study should include a thorough review of what changes in ACS operations, processes, staffing, and management would have to take place to ensure success in working a different workload.”

initially, by ACS.<sup>50</sup> The IRS implemented a modified version of the CPS recommendation in FY 2012.<sup>51</sup> Although the FFCD and CPS studies both recommended that the IRS conduct further, comprehensive workload studies to support organizational changes in assignments, no such study has been completed.<sup>52</sup> Further, the National Taxpayer Advocate is not aware of any study that has concluded that ACS has been effective in fully resolving employment tax cases.<sup>53</sup> Nevertheless, the migration of these cases to ACS continues.

IRS program results do not appear to support these decisions. In FY 2012, the IRS issued 82 percent of the new BMF taxpayer cases to ACS; overall, BMF taxpayer case receipts in ACS increased by 17 percent over the same period in FY 2011.<sup>54</sup> This increase reflects the most recent emphasis on routing these cases through ACS prior to any involvement by the Cff.<sup>55</sup> At the same time, however, the delinquent dollars collected on BMF tax accounts by the IRS decreased by 14 percent — over \$378 million.<sup>56</sup> Overall, full paid employment tax modules declined by 20 percent.<sup>57</sup> Dollars collected by ACS on employment tax accounts declined by 16 percent, a decrease of approximately \$47 million, and the number of full paid employment tax modules collected by ACS decreased by 18 percent.<sup>58</sup> Further, the number of BMF cases transferred from ACS to the Collection Queue in FY 2012 has increased by 57 percent over the FY 2006 level.<sup>59</sup>

<sup>50</sup> IRS, *Collection Process Study* 165 (Sept. 30, 2010); IRS, Collection Activity Report, NO-5000-2, *Taxpayer Delinquent Account Report* (Oct. 2012).

<sup>51</sup> IRS response to TAS information request (Sept. 13, 2012).

<sup>52</sup> *Id.*

<sup>53</sup> IRS, Pub. 3744, *IRS Strategic Plan* 30 (Apr. 2009). A key element of the IRS Strategic Plan is an objective to use data and research across the organization to make informed decisions and allocate resources. However, decisions made over the past decade to migrate employment tax cases to ACS do not appear to be data driven.

<sup>54</sup> IRS, Collection Activity Report, NO-5000-2, *Taxpayer Delinquent Account Report* (Oct. 2012);

<sup>55</sup> IRS, Collection Activity Report, NO-5000-2, *Taxpayer Delinquent Account Report* (Oct. 2011 and Oct. 2012).

<sup>56</sup> *Id.*

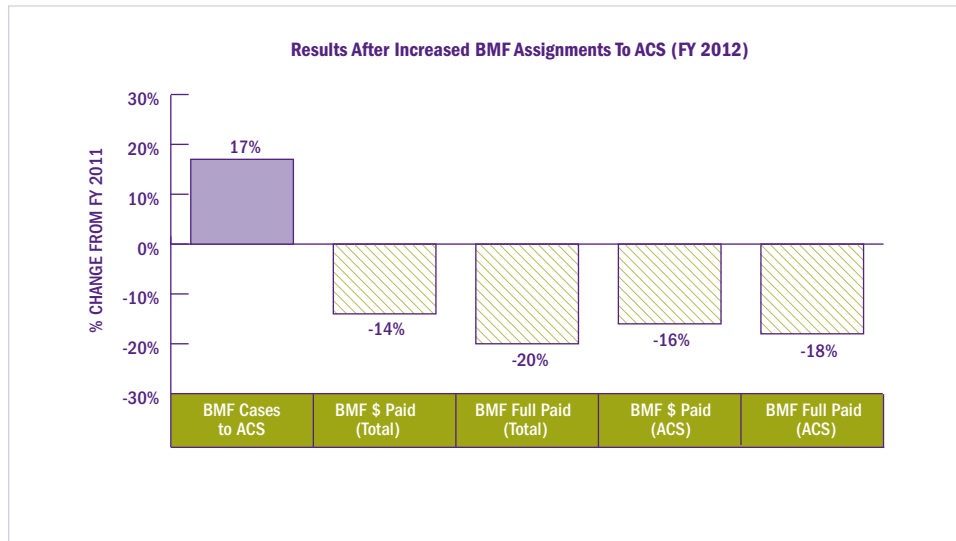
<sup>57</sup> *Id.*

<sup>58</sup> IRS, Collection Activity Report, NO-5000-2, *Taxpayer Delinquent Account Report* (Oct. 2011 and Oct. 2012).

<sup>59</sup> IRS, Collection Activity Report, NO-5000-2, *Taxpayer Delinquent Account Report* (Oct. 2006 - 2012).

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**FIGURE 1.20.4, Increased Business Case Movement to ACS**



**Despite the IRS’s emphasis on the routine use of “complex” collection tools in resolving “complex” field cases, most Revenue Officers are not authorized to use all the available tools.**

Ironically, although it appears that the IRS model for “complex” Collection cases presumes they are difficult to resolve without highly technical collection tools, two valuable tools are unavailable to most Revenue Officers and highly underutilized by the IRS. One of these tools is the offer in compromise (OIC), which less than four percent of Revenue Officers are authorized to recommend that the IRS accept.<sup>60</sup> By design, the OIC allows the IRS to resolve debts for less than the full amount owed, conditioned on the requirement that the taxpayer remain in compliance for the following five years.<sup>61</sup> Under IRS policy, the OIC is a legitimate alternative to reporting an account as uncollectible or resolving it through a lengthy installment agreement.<sup>62</sup>

The current IRS collection inventory delivery system routinely sends the Cff aged cases with multiple delinquent tax periods, *i.e.*, complex cases that are difficult to collect. At the conclusion of FY 2012,

- The Collection Queue contained approximately \$63 billion in delinquent accounts, an increase of 132 percent since FY 2006;

<sup>60</sup> IRS response to TAS information request (Aug. 14, 2012). As of June 2012, the IRS reported 3,459 Revenue Officers working collection inventories. However, only 129 Revenue Officers were designated as Offer Specialists, who are the only Revenue Officers authorized to investigate OIC applications and make a recommendation to accept a taxpayer’s offer.

<sup>61</sup> IRM 5.8.1.1.1, *Definition* (Sept. 23, 2008).

<sup>62</sup> IRM 5.8.1.1.3, *Policy* (Mar. 16, 2010).

- Another 174,057 taxpayer accounts were actively assigned to the Cff at that time;<sup>63</sup>
- Yet in FY 2012, only 3,001 OICs recovering \$68.3 million in delinquent revenue had been recommended for acceptance by Revenue Officers.<sup>64</sup>

These data indicate that although the number of cases that appear tailor-made for offers in compromise is very high, the number of offers recommended for acceptance by the Cff is incredibly low. Still, the IRS has empowered very few Revenue Officers to recommend the acceptance of offers, and only a small percentage of Revenue Officers have the OIC in their toolkit.

Similarly, relatively few Collection employees are empowered to approve and issue lien withdrawals.<sup>65</sup> Although all Revenue Officers at the journey level and above can file Notices of Federal Tax Lien without managerial approval, they do not have similar authority for withdrawing liens.<sup>66</sup> In fact, not even Revenue Officer group managers have this authority. Lien withdrawals must be approved by certain managers in the SB/SE Technical Services operation.<sup>67</sup> In FY 2012, the IRS approved only 12,004 lien withdrawals.<sup>68</sup> Here again, we see a valuable tool that could improve both collection and service to taxpayers, but is not part of the Revenue Officer toolkit. In addition, these restrictions create a significant bottleneck in processing lien withdrawal certificates, which in turn may harm taxpayers.<sup>69</sup>

**Despite the impact of a troubled economy, the use of important collection tools such as installment agreements, offers in compromise, and lien withdrawals to negotiate “win-win” resolutions in small business cases is conspicuously rare.**

The Cff is the only component of the IRS Collection operation whose employees are trained and authorized to work with small business taxpayers in establishing installment agreements that do not meet “streamlined” criteria, *i.e.*, those that require analysis of the

<sup>63</sup> IRS, Collection Activity Report, NO-5000-2, *Taxpayer Delinquent Account Report* (Oct. 2012).

<sup>64</sup> IRS, Collection Activity Report, NO-5000-108, *Report of Offer in Compromise Activity* (Oct. 2012).

<sup>65</sup> IRS response to TAS information request (Aug. 14, 2012). The IRS reports that only approximately 80 Collection employees are authorized to approve requests for lien withdrawals.

<sup>66</sup> IRM 1.2.44.5, *Delegation Order 5-4 (Rev. 2)* (May 11, 2012).

<sup>67</sup> *Id.*

<sup>68</sup> IRS, Collection Activity Report, NO-5000-25, *Liens Report* (Oct. 2012).

<sup>69</sup> For an in-depth discussion of the National Taxpayer Advocate’s concerns about IRS lien filing and lien withdrawal policies, see *Although the IRS “Fresh Start” Initiative Has Reduced The Number Of Liens Filed, The IRS Has Failed To Determine If Its Lien-Filing Policies Are Clearly Supported By Either Increased Taxpayer Compliance Or Revenue, infra/supra*. See also National Taxpayer Advocate 2009 Annual Report to Congress 17-40 (Most Serious Problem: *One-Size-Fits-All Lien Filing Policies Circumvent the Spirit of the Law, Fail to Promote Future Tax Compliance, and Unnecessarily Harm Taxpayers*), vol. 2, 1-18 (Research Study: *The IRS’s Use of Notices of Federal Tax Lien*); National Taxpayer Advocate 2010 Annual Report to Congress 302-10 (Status Update: *The IRS Has Been Slow to Address the Adverse Impact of its Lien-Filing Policies on Taxpayers and Future Tax Compliance*), 89-100 (Research Study: *Estimating the Impact of Liens on Taxpayer Compliance Behavior: An Ongoing Research Initiative*); National Taxpayer Advocate 2011 Annual Report to Congress 109-28 (Most Serious Problem: *Changes to IRS Lien Filing Practices are Needed to Improve Future Compliance, Increase Revenue Collection, and Minimize Economic Harm Inflicted on Financially Struggling Taxpayers*), 91-112 (Research Study: *Estimating the Impact of Liens on Taxpayer Compliance Behavior and Income*).

## The Diminishing Role of the Revenue Officer Has Been Detrimental to the Overall Effectiveness of IRS Collection Operations

taxpayer's financial situation to determine an appropriate payment schedule.<sup>70</sup> *Yet in FY 2012, Revenue Officers issued less than one non-streamlined installment agreement per month on BMF accounts, and approximately one BMF streamlined agreement per year.*<sup>71</sup>

Since 2008, the impact of the struggling economy on small businesses, along with high rates of unemployment, have been headline news on a daily basis. Within this environment, the IRS should be placing more emphasis on identifying and working with small businesses that could potentially survive with the assistance of flexible payment options to resolve their past due taxes. In this manner, these businesses could continue to contribute to the economic recovery and avoid adding numbers to the already high unemployment rate. Nevertheless, the Cff continues to underutilize flexible payment options and lien withdrawals in handling small business cases.

### **The IRS's use of the Collection Queue masks the ineffectiveness of Collection's inventory delivery system, and distorts the perceived delivery of taxpayer service in many Collection cases.**

As the National Taxpayer Advocate discussed in the 2010 Annual Report to Congress, the existence of the Collection Queue has created a “numbing effect” by masking the ineffectiveness of the current collection strategy.<sup>72</sup> Rather than serving as a temporary stop on the “assembly line” for cases requiring assignment to the Cff, the Queue has become an institutionalized repository for cases the IRS has failed to resolve. Further, the use of the Queue appears to have heavily contributed to the indifference of the IRS to the aging of collection accounts, and to the negative outcomes that the delays in case processing have for taxpayers and the IRS's business results.

The Collection Queue's inventory of taxpayer delinquent accounts has increased by 58 percent since FY 2006.<sup>73</sup> At the end of FY 2012, the Queue inventory contained approximately 1.1 million taxpayer accounts, involving 3.9 million TDA modules with delinquencies of approximately \$63.1 billion, an increase of 132 percent since FY 2006.<sup>74</sup> In FY 2012, 65 percent of the TDA modules “resolved” in the Queue were reported as uncollectible.<sup>75</sup> These uncollectible TDAs accounted for \$6.2 billion, which was 102 percent of all TDA dollars collected by ACS and the Collection Field function *combined*.<sup>76</sup> Further, 35 percent of the

<sup>70</sup> IRS response to TAS information request (Sept. 7, 2012). Business-related “Express” installment agreements do not require the analysis of a collection information statement, but are limited to taxpayers who owe less than \$25,000, and a payment schedule that cannot exceed 24 months.

<sup>71</sup> Collection Activity Report, NO-5000-6, *Installment Agreement Cumulative Report* (Oct. 2012). In FY 2012, the IRS Cff granted 38,517 installment agreements on BMF accounts. Of these, 3,806 were “streamlined” agreements. Per an IRS response to a TAS information request (Sept. 13, 2012), the IRS had 3,733 Revenue Officers working collection inventories as of September 2011.

<sup>72</sup> National Taxpayer Advocate 2010 Annual Report to Congress, vol. 2, 69 (*An Analysis of the IRS Collection Strategy: Suggestions to Increase Revenue, Improve Taxpayer Service, and Further the IRS Mission*).

<sup>73</sup> IRS, Collection Activity Report, NO-5000-2, *Taxpayer Delinquent Account Cumulative Report* (Oct. 2012).

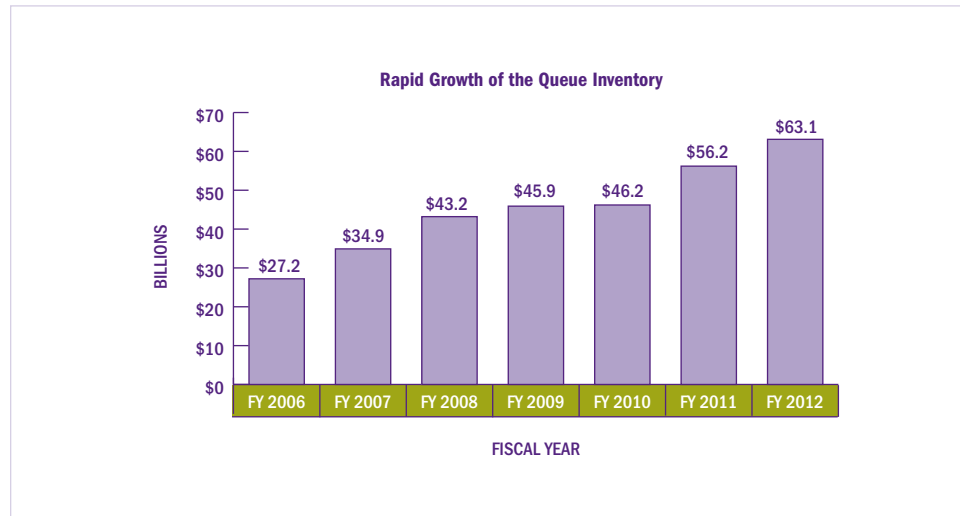
<sup>74</sup> IRS, Collection Activity Report, NO-5000-2, *Taxpayer Delinquent Account Cumulative Report* (Oct. 2006 and Oct. 2012).

<sup>75</sup> IRS, Collection Activity Report, NO-5000-2, *Taxpayer Delinquent Account Cumulative Report* (Oct. 2012). In FY 2012, 1,101,649 TDAs were reported as closed while assigned to the Queue.

<sup>76</sup> IRS, Collection Activity Report, NO-5000-2, *Taxpayer Delinquent Account Cumulative Report* (Oct. 2012).

TDA's that left the Queue in FY 2012 were *returned to ACS*.<sup>77</sup> Only 25 percent of cases leaving the Queue were actually assigned to the CFF.<sup>78</sup>

**FIGURE 1.20.5, Growth of Collection Queue Inventory**



The IRS perceives the Queue as necessary to manage its excessively large collection workload. However, the existence of the Queue mitigates the need for the IRS to routinely evaluate and revise its case creation practices, make timely, effective contacts on self-reported tax delinquencies, and emphasize “one-stop service” in most collection contacts.

**Traditional IRS measures are not adequate to assess the benefits of the Collection Field operation, particularly in the areas of revenue protection and compliance.**

The Future Field Collection Design study recommended that the IRS establish a new measure for “return on investment” involving Revenue Officers.<sup>79</sup> Generally, most discussions of this issue involve comparisons using traditional collection measures, such as dollars collected per staff year, case dispositions per staff year, and time the case has been worked by a particular function, *i.e.*, cycle time.<sup>80</sup> Using these measures, the “return on investment” for resources allocated to ACS appears to be substantially higher than for those applied to the CFF.

It is appropriate for the IRS Collection operation to be concerned with increasing the recovery of delinquent revenue, *i.e.* “dollars collected,” but this measure must be viewed

<sup>77</sup> IRS, Collection Activity Report, NO-5000-2, *Taxpayer Delinquent Account Cumulative Report* (Oct. 2012).

<sup>78</sup> *Id.* In FY 2012, 994,707 TDAs were transferred from the Queue to ACS; 701,933 were transferred to the CFF.

<sup>79</sup> IRS, FFCD Project Team, *Future Field Collection Design, Future State Design – Final Report 3* (May 26, 2006).

<sup>80</sup> IRS, *Collection Process Study, Appendix C: Metrics and Measures 2* (Sept. 30, 2010). In this study’s recommendations, “return on investment” is defined as “Dollars Collected/Actual FTEs.” The term FTE stands for “full time equivalent” of a staff year.

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within a proper context. An equally important metric for any collection operation involves the objective of reducing lost revenue, or “revenue protection.” In FY 2012, while the IRS collected approximately \$7 billion on TDA accounts, it also reported \$30.6 billion as “currently not collectible.”<sup>81</sup> At the conclusion of FY 2012, approximately 3.4 million taxpayer accounts representing \$76.3 billion were in the CNC inventory.<sup>82</sup>

Within the IRS’s current collection strategy, the high volumes of cases reported as CNC, as well as those transferred to the Collection Queue, generally passed through ACS without productive resolution. IRS data indicate that ACS may be effective at quickly resolving accounts that are relatively easy to collect, but never collects substantial portions of its accounts receivable. Yet traditionally, IRS measures appear to disregard this lost revenue when comparing the return on investment of Collection treatments.

Further, the IRS lacks valid measures for the impact of its Collection programs on voluntary compliance — a shortcoming noted in a variety of studies and IRS improvement efforts. In 2005, the Future Field Collection Design study noted, “the Cff has not adopted a measure for compliance at any organizational level.”<sup>83</sup> This study went on to recommend that “the Cff develop and implement an explicit compliance goal and measure,” noting that it could “drive organizational behavior and performance that is consistent with Cff objectives to assure that Revenue Officer field presence and actions secure short- and long-term compliance.”<sup>84</sup>

Inadequate measures for revenue protection and compliance have distorted the perceived “returns on investment” for the Cff and ACS. However, without meaningful measures in these critically important areas, the IRS will continue to exaggerate the positive returns on investing in centralization, and devalue the potential benefits of wise investments in the Cff.

**Small businesses with tax problems represent a particular group of taxpayers with similar needs, which are best met by a local IRS presence with a focus on increased compliance.**

The scope of IRS collection cases is diverse, including a broad range of taxpayers with differing needs. When used in a service-oriented manner, the field-based Revenue Officer position is uniquely positioned to address the needs of certain segments of the population of delinquent taxpayers, particularly small businesses with tax debts. The under-utilization of Revenue Officers to address employment tax delinquencies in a timely, service-oriented

<sup>81</sup> IRS, Collection Activity Reports, NO-5000-2, *Taxpayer Delinquent Account Report* (Oct. 2012), NO-5000-149, *Recap of Accounts Currently Not Collectible Report* (Oct. 2012).

<sup>82</sup> IRS, Collection Activity Report, NO-5000-149, *Recap of Accounts Currently Not Collectible Report* (Oct. 2012). The CNC inventory contained 3,389,745 taxpayer accounts as of September 2012.

<sup>83</sup> IRS, FFCD Project Team, *Future Field Collection Design, Current State Design* 13 (Nov. 10, 2005).

<sup>84</sup> IRS, FFCD Project Team, *Future Field Collection Design, Future State Design – Final Report 2* (June 6, 2006).

manner contributes to lost revenue and lost opportunities to promote voluntary compliance.

The IRS's focus on "complexity" in determining the most appropriate role for the Revenue Officer in collection casework fails to recognize that in most cases, "complexity" is an unfortunate byproduct of inadequate concern for taxpayer service. Failure to intervene early in emerging tax delinquencies, inadequate attention for collection accounts in the Collection Queue, and a reluctance to use flexible payment options to arrive at mutually agreeable payment solutions create "complexity" in cases that could otherwise be resolved more expeditiously.

The National Taxpayer Advocate is concerned that Collection has closely linked the resolution of "complex" cases by Revenue Officers to the need to employ technically complex enforcement tools, with very little emphasis on the "complex" payment alternatives such as offers in compromise, non-streamlined installment agreements, and lien withdrawals. Consequently, the Cff appears to be developing into a cadre of enforcement specialists. Yet, there are no indications that this imbalanced approach has produced more revenue, or more effectively promoted the future compliance of taxpayers.

Further, the IRS fails to routinely measure critical factors such as the age of collection accounts upon delivery to the Cff, revenue lost to untimely treatments, and variations in the future compliance of taxpayer segments by treatment (field v. ACS). Nevertheless, these issues must be considered in determining the true "return on investment" for Revenue Officers, and ensuring that the IRS is staffed to provide high-quality service to all taxpayers with debt problems.

## CONCLUSION

The National Taxpayer Advocate preliminarily recommends that the IRS:

1. Use direct assignments to the Cff for cases that are most likely to be fully resolved in the field environment, with particular emphasis on in-business taxpayers with employment tax delinquencies.
2. Reevaluate and redesign the Collection Queue concept, including the assignment of accountability for the overall Queue inventory to a specific Collection executive. While it may be practical to maintain temporary "secondary inventories" at the Collection Area or group levels, specific Cff managers should be accountable to the taxpayers assigned to these inventories.
3. Empower all Revenue Officers to recommend the acceptance of offers in compromise.
4. Revise the delegated authority for issuance of lien withdrawals so that any Revenue Officer who can independently file an NFTL also can issue a lien withdrawal.
5. Develop and implement measures for the Collection operations that accurately represent the outcomes the IRS is trying to achieve. In addition to measures reflecting the



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recovery of delinquent revenue, along with new measures to track revenue protected (*e.g.*, project the reduction of lost revenue tied to the prevention of the pyramiding of liabilities), the most critical needs are for measures illustrating the short and long-term compliance benefits of Collection treatments. We suggest the following:

- Track and evaluate the number and percentage of taxpayer entities brought into full compliance at the conclusion of specific collection treatments (short-term compliance),
- Track and evaluate the long-term effectiveness of collection treatments on taxpayer compliance, *e.g.*, the number and percentage of taxpayers that remain in compliance for the five years following the collection treatment (long-term compliance).

### IRS COMMENTS

The IRS must continually balance the ability to service our taxpayers with sound fiscal management practices, resolving cases at the business unit where it is most cost effective to do so. Currently, there are in excess of 1.1 million cases in the collection queue.<sup>85</sup> Revenue officers are the most skilled and highly paid employees in the collection area. With less than 3,400 bag-carrying revenue officers available to work these cases, it is imperative that IRS continues to prioritize workload to ensure coverage of priority work.<sup>86</sup>

In the National Taxpayer Advocate's report, the National Taxpayer Advocate notes that the Automated Collection System has not been successful in collecting business taxes, noting that in FY 2012, 62 percent of employment tax cases routed through the automated system left ACS as unresolved accounts. However, by routing these cases through ACS first, IRS was able to resolve over 249,000 delinquent modules, resulting in \$243 million secured.<sup>87</sup> By allowing these to go through ACS, the ability to work these cases was greatly enhanced as they would otherwise have first been placed in the queue awaiting assignment given the limited field resources.

The IRS recognizes the benefit of early intervention in employment tax cases and, as such, has made significant efforts to expand the current Federal Tax Deposit Alert program. In 2012, the IRS implemented a pilot initiative where a "Soft Letter Notice" is used to contact business taxpayers in which account indicators are present that a potential tax liability will exist for the business due to reduced federal tax deposits. The soft letter notice explains the importance of making timely federal tax deposits and the consequences of failure to do so. The letter also reminds the taxpayer to file timely Form 941, *Employer's Quarterly Federal Tax Return*, to prevent additional penalties and provides IRS contact information if assistance is needed. While the results of the pilot are currently being evaluated, preliminary

<sup>85</sup> IRS, Collection Activity Report, NO-5000-2, *Taxpayer Delinquent Account Report* (Oct. 2012).

<sup>86</sup> IRS, Collection Activity Report, NO-5000-23, *Collection Workload Indicators Report* (Oct. 2012).

<sup>87</sup> IRS, Collection Activity Report, NO-5000-2, *Taxpayer Delinquent Account Report* (Oct. 2012).

feedback suggests that this effort has been effective in providing education to taxpayers before significant liabilities accumulate and allowing the IRS to react faster and earlier to indicators that a business may be in trouble.

IRS collection programs continually monitor performance using a diverse array of measures and diagnostic indicators to assess and improve organizational results. These metrics help leadership evaluate the efficiency of critical business processes and the effectiveness and quality of major program inputs and outputs. Like other large IRS programs, Collection uses a balanced measures approach that focuses on employee engagement, customer satisfaction, and business results as they make strategic and operational decisions to deliver its mission. We track these different suites of measures at the enterprise level and for each collection program; and where appropriate, outcome-neutral measures are used to assess the performance of field and campus offices.

The National Taxpayer Advocate makes five preliminary recommendations in her Most Serious Problem report. The IRS will take or has taken the following actions with respect to these recommendations.

Based on current staffing and system resources, it is not feasible to directly assign all cases that are most likely to be resolved in a field environment directly to Field Collection. However, cases in the queue are prioritized and the inventory is presented for assignment in priority order using business rules and sophisticated analytics. In-business cases with employment tax delinquencies are considered high priority cases. Other than cases identified as mandatory assignments, such as FTD Alerts and cases with a balance due in excess of \$1 million, business cases with employment tax delinquencies are listed first for the manager to assign when selecting cases to replenish a Revenue Officer's inventory.

The Collection Queue is managed corporately. This corporate approach allows for more effective case management while the cases are awaiting assignment. For example, the Inventory Delivery System (IDS) is programmed to conduct an annual systemic queue review and may route cases awaiting assignment to other work streams if new conditions have occurred. In addition, taxpayer correspondence and incoming calls on these cases are more efficiently addressed by these other collection work streams and not by one specific collection executive.

The IRS believes that the offer in compromise is an effective tool for resolving outstanding liabilities. Working an OIC case requires specialized skills and a concentrated effort on the part of our offer specialists. The IRS believes that revenue officers should be aware of the offer program as a tool to resolve a taxpayer's liability. The revenue officer working the case is in a position to make an initial recommendation regarding the feasibility of the OIC. As such, the IRS is in the process of revising Form 657, *Offer in Compromise Revenue Officer Report*, and will be adding a box to the form that will allow a revenue officer to check "yes" if he or she believes the offer should be accepted. In addition, if the revenue officer indicates the offer should be accepted and a decision is subsequently made to reject the OIC, guidance is being issued requiring the investigating offer specialist or offer

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examiner to contact the revenue officer and explain the reasoning as to why the offer is not being recommended for acceptance.

The IRS does not agree that all revenue officers who can independently file an NFTL should also be able to issue a lien withdrawal.<sup>88</sup> As with other types of enforcement tools that impact the overall fairness and equity of the tax system, the IRS has put into place a set of safeguards to ensure that proper case decisions and actions are made. This set of safeguards provides for a separate authority to issue the NFTL withdrawal. However, the IRS does recognize the need for the timely processing of the NFTL withdrawal when this action is appropriate. As such, in May 2012, the IRS revised Delegation Order 5-4, Federal Tax Lien Certificates, to provide additional NFTL withdrawal authorities. For cases assigned to Field Collection, the authority to withdraw an NFTL, or reject a request to withdraw an NFTL, was given to Revenue Officer Group Managers for situations where the NFTL was premature or the lien has already been released. In addition, the authority to withdraw or reject a request to withdraw an NFTL was given to Advisor/Reviewers in situations including Direct Debit Installment Agreements and where the lien has already been released. The authority to withdraw or to reject a request to withdraw an NFTL was given to Centralized Case Processing Managers for Automated Lien System Units in situations where the lien has already been released with the exception of liens that have self-released; and authority to withdraw or reject a request to withdraw an NFTL was given to Appeals Team Managers as part of a Collection Due Process Hearing or Equivalent Hearing Determination or, after the opportunity for dissent, as part of a Collection Appeals Program Decision.

The IRS agrees that helping taxpayers resolve tax debts and delinquencies and maintain compliance are key outcomes of IRS collection programs. To support the achievement of these outcomes, collection routinely reviews operational results and sponsors research studies to better understand the effectiveness of specific programs and resolution strategies. This information is used to inform work plan development and initiatives, case selection and prioritization rules, and resource allocation decisions. The IRS is already analyzing the long-term compliance trends of taxpayers who have been through the collection process. Understanding how taxpayer needs and expectations influence collection outcomes is critical for improving current collection strategies and for creating new tools and options that benefit both taxpayers and tax administration.

We agree that Collection programs should assess results in promoting both short-term and long-term compliance. We are already pursuing research along these lines and will continue to do so. Developing an understanding of taxpayer compliance trends and the differential impact of available collection treatments require detailed analysis of historical compliance data (often over extended timeframes). This is better achieved through rigorous research of the kind we are already undertaking rather than through additional measure reporting in our management information systems.

<sup>88</sup> The IRS does not have the statutory authority to withdraw a lien. Only the “notice” of the lien’s existence (NFTL) may be withdrawn.

## Taxpayer Advocate Service Comments

Although the National Taxpayer Advocate acknowledges the challenges inherent in balancing service delivery with “sound fiscal management” (*i.e.*, efficiency), for more than a decade she has stressed that these two objectives are not mutually exclusive. Particularly in regard to the IRS Collection operation, it has become increasingly clear that timely and effective taxpayer service is a critical component of a truly cost-effective collection strategy. Unfortunately, the IRS response to this report does not indicate that Collection has accepted that connection.

The IRS cites the \$243 million of employment tax debts collected by ACS in FY 2012 as the core benefit of initially routing the majority of business tax delinquencies through these call centers. However, this analysis overlooks the fact that *overall* dollars collected on BMF accounts *declined* by \$378 million in FY 2012 — a year in which significantly more BMF cases were routed through ACS.<sup>89</sup> Further, the IRS response does not mention as a matter of concern the \$2.1 *billion* in BMF accounts transferred by ACS to the Collection Queue in FY 2012.<sup>90</sup>

Past IRS studies have consistently concluded that ACS has not been effective in fully resolving most BMF tax delinquencies, and the IRS response provides no new data analysis to support current case assignment practices in this area. Rather, the IRS response assumes that the only realistic alternative to routing most BMF cases through ACS is to place them in the Collection Queue, and cites “limited field resources” as the basis for this assumption.

Currently, Revenue Officers make up approximately 55 percent of the collectors assigned to the Small Business/Self-Employed operating division.<sup>91</sup> The IRS states that, with few exceptions, employment tax cases have the highest level of priority for Collection Field assignment. Yet as of September 2012, fewer than half of the taxpayer cases in CFF inventory involved BMF accounts, and employment tax delinquencies accounted for only 42.6 percent.<sup>92</sup> On the other hand, almost three times as many employment tax cases were sitting in the Collection Queue — aging, very likely pyramiding additional liabilities, and becoming increasingly uncollectible.<sup>93</sup> In addition, the IRS has acknowledged that ACS collectors lack the training or delegated authorities to resolve most accounts where a BMF taxpayer cannot immediately full pay the balance due, or qualify for a streamlined installment agreement.<sup>94</sup>

<sup>89</sup> IRS, Collection Activity Report, NO-5000-2, *Taxpayer Delinquent Account Report* (Oct. 2012).

<sup>90</sup> *Id.*

<sup>91</sup> IRS response to TAS information request (Aug. 14, 2012). As of June 2012, SB/SE reported 3,459 Revenue Officers working collection inventories and 2,885 collection tax examiners working cases.

<sup>92</sup> IRS, Collection Activity Report, NO-5000-2, *Taxpayer Delinquent Account Report* (Oct. 2012). As of September 2012, the IRS reported 174,057 taxpayer cases in the CFF inventory, of which 81,716 were BMF accounts and 74,125 involved trust fund tax liabilities.

<sup>93</sup> *Id.* As of September 2012, the IRS reported 207,349 taxpayer cases involving trust fund delinquencies in the Collection Queue inventory.

<sup>94</sup> IRS response to TAS information request (Sept. 7, 2012).

The National Taxpayer Advocate recognizes the IRS's efforts to expand the use of the FTD Alert program as a positive development, but questions whether the use of soft notices will be as effective as personal contacts from Revenue Officers in fully meeting the needs of this segment of the taxpayer population. We believe that failure to employ Revenue Officer resources in a timely manner to BMF tax debts is potentially harmful to the small business community, and causes the government to lose significant amounts of revenue.

The National Taxpayer Advocate acknowledges as a positive development the proposed change to Form 657, *Offer in Compromise Revenue Officer Report*, in which Revenue Officers will be able to recommend the acceptance of the taxpayer's offer, as well as propose a rejection. However, this change does little to alleviate the "bottleneck" in the IRS's ability to receive and work OICs; nor will it expand the ability of the IRS to consider more offers in a timely manner.

Moreover, we do not agree that working an OIC case requires more "specialized skills and concentrated effort" than is already required in Revenue Officer casework. It is the policy of the IRS that an OIC is a viable alternative to reporting an account as uncollectible, or to a protracted installment agreement. Currently, Revenue Officers can recommend cases for partial payment installment agreements (PPIA) and report accounts as currently not collectible (CNC). The consideration of an OIC is no more technically complex than these other alternatives. Further, as of September 2012, almost 70 percent of the open TDAs in Collection inventory involved tax delinquencies from 2008 and prior years.<sup>95</sup> In other words, the bulk of the Collection workload consists of aged cases that are prime candidates for OICs. Failure to expand the use of the OIC to resolve more of these cases will likely result in lost revenue and lost opportunities to improve voluntary compliance.

In a similar manner, the IRS response regarding expanding authority for Revenue Officers to issue lien withdrawals does little to reduce the "bottleneck" condition that confronts taxpayers attempting to secure a withdrawal. The National Taxpayer Advocate agrees with the IRS on the importance of "safeguards to ensure that proper case decisions and actions are made" in IRS enforcement actions. However, these safeguards are no less important in determining the need to *file* a Notice of Federal Tax Lien than in deciding to withdraw the notice. Of particular note, in the IRS Restructuring and Reform Act of 1998, Congress passed legislation requiring an IRS supervisor's approval prior to filing a notice of lien in order to affirm that the action was appropriate under the taxpayer's circumstances.<sup>96</sup> However, no such approval requirement was even suggested for lien withdrawals. Yet, the IRS currently requires managerial approval for all lien withdrawals, while most Notices of Federal Tax Lien are filed with no approval at all.

<sup>95</sup> IRS, Collection Activity Report, NO-5000-2, *Taxpayer Delinquent Account Report* (Oct. 2012).

<sup>96</sup> Section 3421 of Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 98) provides that, where appropriate, a supervisor review the proposed lien filing, considering the amount due, the value of the taxpayer's assets, and affirm the lien-filing is appropriate under the circumstances. RRA 98, Pub. L. No. 105-206, Title III, § 4321, 112 Stat. 685, 758 (1998).

We applaud the decision to delegate lien withdrawal authority to Appeals Team Managers as an important step in the right direction, and acknowledge the limited authority delegated to Revenue Officer Group Managers as a positive development. Nevertheless, we continue to believe a broader delegation of this authority is appropriate.

Lastly, we do not dispute that the IRS tracks and monitors volumes of program-related data — our concern is what data the IRS is *not* tracking. As the National Taxpayer Advocate discussed in the 2010 Annual Report to Congress, most of the performance measures by which the IRS evaluates the Collection operation focus on production and efficiency.<sup>97</sup> By comparison, very few metrics are available to assess service and quality-related issues that directly impact taxpayer satisfaction with the IRS collecting process. The National Taxpayer Advocate is concerned that taxpayer perceptions of imbalances between production efficiencies and quality taxpayer service, as well as the restricted use of problem-solving tools (*e.g.*, OICs, IAs, lien withdrawals) as opposed to the liberal use of automated enforcement actions (*i.e.*, liens and levies) may actually contribute to non-compliance in certain segments of the taxpayer population.<sup>98</sup>

Moreover, the IRS has done very little to measure the impact of Collection operating units and treatments in the areas of delinquency prevention (*i.e.*, revenue protection) and voluntary compliance. The IRS contends that it has employed research studies to develop “an understanding of taxpayer compliance trends and the differential impact of available collection treatments” on taxpayer behavior. To date, however, we have seen very little IRS-generated data in these areas. A greater concern, however, is that research studies do not drive organizational performance in a manner that can be achieved through meaningful performance measures. Until this “measures gap” has been corrected, the IRS will continue to struggle to accurately assess the return on investment for its Collection programs.

<sup>97</sup> See National Taxpayer Advocate 2010 Annual Report to Congress 28-48 (Most Serious Problem: *IRS Performance Measures Provide Incentives That May Undermine the IRS Mission*).

<sup>98</sup> For a detailed discussion of this issue, see *Factors Influencing Voluntary Compliance by Small Businesses: Preliminary Survey Results, vol. II, infra/supra*.

## Recommendations

In summary, the National Taxpayer Advocate recommends that the IRS:

1. Use direct assignments to the CFF for the cases most likely to be fully resolved in the field environment, with particular emphasis on in-business taxpayers with employment tax delinquencies.
2. Reevaluate and redesign the Collection Queue concept, including the assignment of accountability for the overall Queue inventory to a specific Collection executive. While it may be practical to maintain temporary “secondary inventories” at the Collection Area or group levels, specific CFF managers should be accountable to the taxpayers assigned to these inventories
3. Empower all Revenue Officers to evaluate offer in compromise applications and recommend the acceptance of OICs.
4. Revise the delegated authority for issuance of lien withdrawals so that any Revenue Officer who can independently file an NFTL also can issue a lien withdrawal.
5. Develop and implement measures for the Collection operations that accurately represent the outcomes the IRS is trying to achieve. In addition to measures reflecting the recovery of delinquent revenue, along with new measures to track revenue protected (*e.g.*, project the reduction of lost revenue tied to the prevention of the pyramiding of liabilities), the most critical needs are for measures illustrating the short and long-term compliance benefits of Collection treatments. We suggest that the IRS track and evaluate:
  - The number and percentage of taxpayer entities brought into full compliance at the conclusion of specific collection treatments (short-term compliance); and
  - The long-term effectiveness of collection treatments on taxpayer compliance, *e.g.*, the number and percentage of taxpayers that remain in compliance for the five years following the collection treatment (long-term compliance).