I. Preface: National Taxpayer Advocate's Introductory Remarks

Honorable Members of Congress:

The Internal Revenue Code requires the National Taxpayer Advocate to submit two annual reports to the House Committee on Ways and Means and the Senate Committee on Finance.[1] The National Taxpayer Advocate is required to submit these reports directly to the Committees without any prior review or comment from the Commissioner of Internal Revenue, the Secretary of the Treasury, the IRS Oversight Board, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget.[2] The first report, due by June 30 of each year, must identify the objectives of the Office of the Taxpayer Advocate for the fiscal year beginning in that calendar year. This year, the report also includes a Volume Two in which we present the IRS's responses to the 25 Most Serious Problems Encountered by Taxpayers that I identified in my 2013 Annual Report to Congress.

Shortly after I submitted my 2013 Annual Report to Congress, Commissioner Koskinen asked that I identify for his consideration select recommendations from the report that I believed could have a significant positive impact on tax administration and could be undertaken or at least explored with minimal resources. No prior commissioner had made such a request. I was pleased to provide a list of 12 recommendations, including adoption of a Taxpayer Bill of Rights, and I also made recommendations regarding preparer standards in light of the *Loving* decision. I am pleased to report that the IRS has made substantial progress on five of these issues. The memorandum, dated January 22, 2014, is published immediately following this preface.

To date, fiscal year (FY) 2014 has been an active year for the IRS. In addition to accepting my proposal to adopt a Taxpayer Bill of Rights,[3] the IRS ran a generally successful filing season (although taxpayer services were sub-optimal largely due to staffing limitations),[4] instituted a more equitable approach to its Offshore Voluntary Disclosure initiative,[5] and introduced a voluntary system for educating unenrolled return preparers.[6] The IRS has also taken significant steps to implement the Foreign Account Tax Compliance Act (FATCA)[7] and the Affordable Care Act (ACA)[8] and to prepare for a 2015 filing season that will be an extremely heavy lift. All this is generally good news. But as we note in this report, the good news also raises additional questions and concerns.

1 IRC § 7803(c)(2)(B).

2 IRC § 7803(c)(2)(B)(iii).

3 *See* TAS Will Work Closely With the IRS On Implementing the Taxpayer Bill of Rights and Integrating It Into IRS Operations, *infra*.

4 *See* Review of the 2014 Filing Season.

5 See The Most Serious Problems Encountered by Taxpayers Reported in 2013: IRS and TAS Responses at http://www.taxpayeradvocate.irs.gov/userfiles/file/IRS-2013-MSP-Responses.pdf.

6 *See IRS Steps to Create a Voluntary Program for Tax Return Preparer Standards in Light of the Loving Decision Are Well Intentioned, but the Absence of a Meaningful Competency Examination Limits the Program's Value and Could Mislead Taxpayers*, *infra*.

7 Hiring Incentives to Restore Employment Act, Pub. L. No. 111-147, 124 Stat 71 (2010) (adding Internal Revenue Code (IRC) §§ 1471-1474; 6038D).

8 *See* TAS Prepares for Implementation of Filing Season 2015 Affordable Care Act Provisions, *infra*.

The IRS's Procedures with Respect to Exempt Organizations Continue to Raise Concerns.

This next fiscal year, beginning October 1, 2014, promises to be one of great challenges for the IRS. It comes after an especially difficult year in which the IRS has yet to emerge from the controversy surrounding its scrutiny of political activity by organizations applying for tax exemption. In this report, we follow up on our 2013 Special Report, *Political Activity and the Rights of Applicants for Tax-Exempt Status*, published with last June's FY 2014 Objectives Report to Congress.[9] In that Special Report, we made 16 recommendations, and this year we describe what action, if any, the IRS or Congress has taken with respect to those recommendations. We also discuss in detail our concerns about a new approach the IRS has adopted for processing applications for tax exemption under Internal Revenue Code (IRC) § 501(c)(3). Specifically, organizations with a specified level of projected annual receipts, which we understand will be $50,000 or less, will only have to fill out a two-page Form 1023-EZ, *Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, to receive tax exempt status.

I have long recommended that the IRS adopt a Form 1023-EZ, which the IRS publicly opposed for years.[10] Therefore, it would seem at first blush that I should be very pleased the IRS has reversed its position. Yet I and many others have grave concerns about the IRS's new approach. The IRS's new Form 1023-EZ eliminates all sections of the tax-exemption application in which the organization must describe its mission and activities, and it does not require the organization to send in its formation documents for review.[11] Instead, the IRS adopts a "check-the-box" approach in which the organization merely "attests" that it meets the requirements of § 501(c)(3) and that its articles of incorporation or other formative documents contain the necessary language against self-inurement and the appropriate dissolution clause. A significant majority of applications for exempt status project annual receipts under $50,000. Therefore, instead of using the Form 1023-EZ as an opportunity to educate applicants for tax-exempt status about the legal requirements when we hold the most leverage – namely, when they are seeking the grant of exempt status – the IRS will, as practical matter, automatically grant exempt status to most applicants based solely on a promise via a check-box.

The IRS's rationale for this move is that it must get a handle on its inventory backlog, and it will pick up the difference through auditing a few of these organizations later in their life cycle. In my view, this rationale fails on several points. First, as we have recommended in numerous Annual Reports to Congress, there are many other ways to improve exempt organization (EO) processing. With the introduction of this Form 1023-EZ, the IRS has gone from subjecting small EOs to a tax administration equivalent of a complete physical exam

9 *See* Despite Improvements, TAS Remains Concerned About IRS Treatment of Taxpayers Applying for Exempt Status, *infra*.

10 *See* National Taxpayer Advocate 2011 Annual Report to Congress 437 at 445-446 (IRS Response to Status Update: *The IRS Makes Reinstatement of an Organization's Exempt Status Following Revocation Unnecessarily Burdensome*).

11 As of the date of this report, the most recent version of Form 1023-EZ available on IRS.gov is a draft version dated Apr. 23, 2014, *available at* http://www.irs.gov/pub/irs-dft/f1023ez--dft.pdf.

to saying, "you don't need to bother with a physical – we take your word that you're in good health." Second, tax administrators throughout the world acknowledge that you cannot "audit yourself out of a compliance problem" – that up-front education and outreach are most effective for achieving voluntary compliance. Yet here the IRS will abandon the use of the Form 1023-EZ as an educational tool to achieve voluntary compliance at the outset of the entity's life and is instead relying on audits to address the noncompliance that may occur later. Recall that once these $50,000-and-under entities have their valuable exemption letters, the only annual reporting they have to make to the IRS is a *postcard*, Form 990-N. They can operate in violation of the Internal Revenue laws for years, without any oversight by the IRS. No one would propose such a "pay now, audit later" approach to the Earned Income Tax Credit (EITC). Although the improper payment rate is high in the EITC program, EITC claims are run through numerous filters to try to reduce noncompliance on the front end. By analogy, the IRS should continue to take the same approach toward exempt-organizations determinations. I have repeatedly said that I believe the IRS is underfunded to serve taxpayers, but limited resources cannot be used as an all-purpose justification for failing to administer the tax code properly.

We Recommend that Congress Enact Minimum Standards for Tax Return Preparers.

With respect to adopting minimum standards for return preparers, it is clear the IRS and taxpayers need the action and cooperation of Congress to address the problem of incompetent and unscrupulous return preparers preying on the most vulnerable part of our population. What has been lost in the post-*Loving*[12] discussion of preparer standards is just who is most threatened by the lack of mandatory testing and continuing professional education. Certainly, a middle class taxpayer may have access to a reliable unenrolled preparer and the business and financial savvy to identify a competent one. But the tax system also covers 27 million low income taxpayers who claim the EITC, 42.6 percent of whom use unregulated return preparers.[13] These low income taxpayers do not have access to unenrolled preparers who are certified financial planners or who view themselves as tax professionals. They turn to pawn shops, used car dealers, and check-cashing outlets for their return preparation assistance. It is these taxpayers – the most vulnerable in our population – who will benefit the most from establishing minimum standards for tax return preparers. Return accuracy will also benefit. By failing to enact minimum standards, we will continue to subject these low income taxpayers to the actions of incompetent or unscrupulous preparers and we will be unlikely to make progress in reducing the EITC noncompliance rate to an acceptable level, thus harming the public fisc.

12 *Loving v. IRS*, 742 F. 3d 1013 (D.C. Cir. 2014) (statutory authority to "regulate…practice… before the Department of Treasury" did not encompass authority to regulate tax-return preparers.).

13 IRS, Compliance Data Warehouse, Individual Returns Transaction File, Tax Year 2012; IRS, Individual Master File, Tax Year 2012 (net of transactions 764, 765, and 768); IRS, Return Preparers and Providers Database (through Nov. 2013). Note that the amounts paid out by the IRS may have been subsequently disallowed in post-refund audits.

The IRS is Actively Harming Victims of Return Preparer Fraud by Delaying the Release of Refunds for Years.

On June 10, 2014, the IRS adopted the Taxpayer Bill of Rights (TBOR).[14] Nowhere has the IRS failed to abide by the TBOR more than with respect to the issue of return preparer refund fraud. I have covered this topic in three Annual Reports to Congress,[15] issued two proposed Taxpayer Advocate Directives (TADs) and two final TADs, and elevated 25 Taxpayer Assistance Orders (TAOs) to Commissioners (both appointed and acting).[16] As of June 9, 2014, TAS has 113 TAOs currently outstanding involving this issue. Between 2000 and 2011, the IRS Office of Chief Counsel has issued four opinions and other guidance that, read together, authorize the IRS to issue replacement refunds to victims of return preparer fraud – and yet no refunds have been issued to these taxpayers. As I discuss in the Area of Focus, *Return Preparer Fraud: A Sad Story*, the IRS has consistently dragged its heels, making one excuse after another, because providing relief to these victims just is not a high enough priority or, more disturbingly, because the IRS simply does not want to provide relief.

On March 14, Commissioner Koskinen decided that the IRS will issue refunds to victims of preparer fraud who have filed police reports with the appropriate law enforcement agencies and met certain other substantiation requirements. To date, the IRS has not implemented the Commissioner's decision, saying it must first resolve certain accounting issues and declining even to provide a date certain by which it will issue the refunds. Some taxpayers have been waiting for their refunds since 2008! I am now in my 14th year of service as the National Taxpayer Advocate, and I have never seen the IRS act so callously in the face of grievous taxpayer harm as in this instance.

The Role of a Taxpayer Bill of Rights in Tax Administration

As I have stated before, I believe a strong Taxpayer Bill of Rights provides a roadmap for effective tax administration. The Taxpayer Bill of Rights (TBOR) adopted and announced by the IRS in June 2014 has the potential to be an important milestone in tax administration. If the tax system measures its performance through the lens of the TBOR, taxpayers can be confident that they will be treated right, even when they don't get the relief they hope for. But there is a pressure in tax administration today that mitigates against this approach. I don't quite know the right word for it – it is not "efficiency" or "automation" *per se*, nor is it the result of the sheer size and scope of the tax system. What I do know is that the IRS operates such that on a daily basis it ignores the needs of specific groups of taxpayers until the harm is so great that their concerns become something the IRS *has* to address. This, of

14 Publication 1,*Your Rights as a Taxpayer* (June 2014), *available at*: http://www.taxpayeradvocate.irs.gov/About-TAS/Taxpayer-Rights/What-the-Taxpayer-Bill-of-Rights-Means-for-You.

15 *See* National Taxpayer Advocate 2013 Annual Report to Congress 61-74 (RETURN PREPARER FRAUD: *The IRS Still Refuses to Issue Refunds to Victims of Return Preparer Misconduct Despite Ample Guidance Allowing the Payment of Such Refunds*); National Taxpayer Advocate 2012 Annual Report to Congress 68-94 (*The IRS Harms Victims of Return Preparer Misconduct by Failing to Resolve Their Accounts Fully*); and National Taxpayer Advocate 2011 Annual Report to Congress 48-73 (*Tax-Related Identity Theft Cotinues to Impose Significant Burdens on Taxpayer and the IRS*).

16 Of these 25 TAOs, the median Adjusted Gross Income was $17,548 and the median refund was $2,511. Some of these TAOs related to 2008 tax returns.

course, is highly inefficient, because the IRS inflicts harm and then must create procedures to undo that harm. How much easier, not to mention more compassionate, it would be to address these concerns up front, either before the harm occurs or at the initial instance. However, today, the IRS cannot be bothered – it has too much on its plate, it has to deal with the masses, and it cannot address the individual.

I do not agree with this approach or see it as inevitable. My vision of tax administration is one in which the agency is guided by broad principles of tax administration – the Taxpayer Bill of Rights – and uses those principles to analyze its programs and actions. Even as it develops programs that deal with millions of taxpayers, it should seek out information from different sources – internal and external – to identify the unintended downstream consequences of those initiatives on other groups of taxpayers. Reflexively, it should ask itself: How does this initiative impact other, more vulnerable groups of taxpayers who may not be the intended focus of this initiative? This approach keeps the faith with the millions of other taxpayers who are going about their lives doing the best they can. This approach furthers voluntary compliance, because it fulfills the promise of the TBOR – that taxpayers have the right to a fair and just tax system.[17]

But when the IRS has too much work to do, and is under such public scrutiny to get that work done, it turns inward and focuses on the major initiatives. What hits the cutting room floor, so to speak, are the hundreds of things that make the tax system work for the average or vulnerable taxpayer.

The Office of the Taxpayer Advocate was created by Congress, in part, to mitigate this trend toward "one size fits all" tax administration. In many ways, the Taxpayer Advocate Service (TAS) is the safety valve for tax administration.[18] That is, TAS may be able to address the specific needs of taxpayers for whom the "one size" just doesn't fit. But if the IRS designs a system that gets it right for 99 percent of the taxpayers, that still leaves over a million taxpayers for whom the system fails. Think about it. There are over 140 million individual tax returns filed each year. If the system doesn't work for just one percent of those returns, that means about 1.4 million taxpayers have needs that the IRS is not addressing.

There is no way that TAS can assist all these people, nor should it. The IRS has to build into its processes from the start an awareness of its power and the potential harm it can cause to taxpayers. It can do this by bringing TAS in at the beginning of the planning process. And it can do this by consulting with external stakeholder groups, including tax professional organizations, low income taxpayer clinics, and the Taxpayer Advocacy Panel, early in the process, not just as a courtesy heads-up before it announces a decision that has already been made. Most importantly, it can live and breathe by the Taxpayer Bill of Rights.

17 The 10th taxpayer right (to a fair and just tax system) provides that '[t]axpayers have the right to expect the tax system to consider facts and circumstances that might affect their underlying liabilities, ability to pay, or ability to provide information timely."

18 The 10th taxpayer right (to a fair and just tax system) also provides that "[t]axpayers have the right to receive assistance from the Taxpayer Advocate Service if they are experiencing difficulty or if the IRS has not resolved their tax issues properly and timely through its normal channels."

Some commentators have questioned the significance of the IRS's adoption of a TBOR, noting the lack of enforcement mechanisms. It is true that the TBOR alone does not provide taxpayers with specific enforceable rights, unlike the Bill of Rights in the United States Constitution. We are dependent on Congress enacting remedies and the IRS adopting procedures that give meaning to the TBOR. My office has developed a crosswalk that links existing statutory and administrative remedies to each of the ten rights. But that is only the beginning. As anyone can see, there are many gaps, notably with respect to the right to quality service. As we describe in our TBOR Area of Focus, TAS will be very active in FY 2015 and years to come in advocating for and working with Congress and the IRS to fill those gaps, and educating taxpayers about those rights. This activity is central to our mission. As always, we look forward to working with Congress and the IRS to fulfill it.

Respectfully submitted,

Nina E. Olson
National Taxpayer Advocate
30 June 2014

Attachment

TAXPAYER ADVOCATE SERVICE
YOUR VOICE AT THE IRS

THE OFFICE OF THE TAXPAYER ADVOCATE OPERATES INDEPENDENTLY OF ANY OTHER IRS OFFICE AND REPORTS DIRECTLY TO CONGRESS THROUGH THE NATIONAL TAXPAYER ADVOCATE.

January 22, 2014

MEMORANDUM FOR JOHN A. KOSKINEN, COMMISSIONER OF INTERNAL REVENUE

FROM: Nina E. Olson
National Taxpayer Advocate

SUBJECT: National Taxpayer Advocate Priority Recommendations

At your request, I am submitting for your consideration a summary of select recommendations from my recent Annual Report to Congress that I believe will have significant positive impact on tax administration and can be undertaken or explored with minimal resources. Each of these recommendations will enhance taxpayer rights and minimize taxpayer burden. Equally important from an enterprise perspective, I believe they will promote voluntary tax compliance and reduce IRS rework and the downstream use of unnecessary resources.

1. **Taxpayer Bill of Rights: Adopt a thematic, principle-based Taxpayer Bill of Rights (TBOR) and post it on IRS.gov.** At Acting Commissioner Werfel's direction, NTA has taken the lead in developing a TBOR and coordinating the language with C&L (Terry Lemons) and Chief Counsel (Chris Sterner). TAS has just completed focus groups with taxpayers and preparers to test out the language we developed, and we plan to tweak the language in light of the feedback we received. Posting a TBOR has seemed noncontroversial because the intent is not to create new rights, but simply to organize the dozens of existing taxpayer rights into categories that taxpayers and IRS employees will more easily grasp and remember. The TBOR would serve as an organizing principle for the IRS in establishing agency goals, provide foundational principles to guide IRS employees in their dealings with taxpayers, and provide information to taxpayers to assist them in their dealings with the IRS. More specifically, we recommend that you direct C&L to work with the NTA to coordinate details of website posting and develop an education campaign. We also recommend the development of performance measures and individual commitments for managers and senior leaders regarding taxpayer rights. We further recommend that you direct IRS operating divisions to cooperate with TAS in revising IRM audit and collection provisions to incorporate more discussion of taxpayer rights. [NTA 2013 Report, Most Serious Problem #1, *Taxpayer*

Rights: The IRS Should Adopt a Taxpayer Bill of Rights as a Framework for Effective Tax Administration (pages 5-19).]

2. **Performance Measures: Adopt the suite of taxpayer-centric performance measures we set out in our annual report.** We proposed a set of performance measures geared specifically to gauge the IRS's effectiveness in protecting taxpayer rights and promoting voluntary tax compliance. [See NTA 2013 Report, Preface (especially pages xvi-xviii) and *National Taxpayer Advocate Report Card: Measuring the IRS's Protection of Taxpayer Rights and Promotion of Voluntary Compliance* (pages xxiv and xxv).]
3. **Identity Theft: Direct the Wage & Investment (W&I) Operating Division to collaborate with TAS to test the effectiveness of creating a meaningful "single point of contact" for taxpayers, at least for taxpayers with cases that require the involvement of multiple IRS functions.** For this test, we recommend that the IRS IPSU unit, using the TAS case management system and procedures, assign identity theft cases to specific IPSU employees, who would act as the sole person interfacing with the taxpayer, obtain from the taxpayer the information necessary to resolve the case and all issues in the case, forward that information to the appropriate IRS unit[s], and monitor and follow-up on the timeliness of requested actions. [NTA 2013 Report, Most Serious Problem #4, *The IRS Should Adopt a New Approach to Identity Theft Victim Assistance that Minimizes Burden and Anxiety for Such Taxpayers* (pages 75-83).]
4. **Collection: With respect to IRS attempts to collect delinquent tax debts, instruct the Collection Governance Council to study and test TAS's recommendations to improve the collection of debts, particularly for employment taxes, while also maximizing future voluntary tax compliance.** The IRS typically prioritizes collection cases based on the dollar value of the debt (rather than the recency of the debt), uses its Automated Collection System (ACS) to serve levies and file liens by automation (rather than utilizing Revenue Officers to make personal contact), and emphasizes what we regard as the fairly heavy-handed use of levies and liens over more flexible collection approaches like installment agreements and offers-in-compromise. The NTA has long recommended that the IRS measure the effectiveness of its collection approach in terms of timely interventions, personal contact, and enhancing long-term voluntary tax compliance, particularly with respect to employment tax debts. [See NTA 2013 Report, Most Serious Problem #11, *Collection Strategy: The Automated Collection System's Case Selection and Processes Result in Low Collection Yields and Poor Case Resolution, Thereby Harming Taxpayers and the Public Fisc* (pages 124-133); Most Serious Problem #12, *Collection Process: IRS Collection Procedures Harm Business Taxpayers and Contribute to Substantial Amounts of Lost Revenue* (pages 134-146); Volume 2, Research Study, *A Comparison of Revenue Officers and the Automated Collection System in Addressing Similar Employment Tax Delinquencies* (Vol. 2, pages 15-32).]

5. **EITC 2-Year Ban: Direct W&I to issue guidance regarding its application.** When the IRS makes a "final determination" that an individual improperly claimed the EITC due to "reckless or intentional disregard of rules and regulations", Section 32(k)(1)(B)(ii) of the Internal Revenue Code authorizes the IRS to ban the individual from receiving EITC benefits for the succeeding two years. This standard requires more than mere negligence on the part of the taxpayer. Yet the IRS has automatically applied the 2-year ban in many cases, which I believe is inconsistent with the statutory requirement of a "determination" that the improper claim was due to more than mere negligence (our MSP also cites Chief Counsel guidance to this effect) and which violates multiple provisions of the Internal Revenue Manual. I have discussed this issue with the W&I commissioner; she expressed a willingness to work with TAS to resolve this issue. [NTA 2013 Report, Most Serious Problem #9, *Earned Income Tax Credit: The IRS Inappropriately Bans Many Taxpayers from Claiming EITC* (pages 103-115).]
6. **Civil Tax Penalties: Create a cross functional task force to review the rationale and application of the more than 130 penalties contained in the Internal Revenue Code.** The primary objective of civil tax penalties is to promote voluntary compliance with the tax laws. In 1989, Congress recommended that the IRS "develop better information concerning the administration and effects of penalties." Over the last 20 years, the IRS has increasingly applied penalties automatically. TAS research shows that taxpayers against whom automatic penalties have been applied show significantly lower levels of voluntary compliance after five years than those not subject to a penalty. We recommend the IRS conduct a review of its penalty policies to ensure it receives sufficient information from the taxpayer to make a determination as to whether the penalty actually applies and will enhance voluntary compliance, rather than being purely punitive. I have discussed this proposal with the SB/SE commissioner, and she expressed support for such a review. [See NTA 2013 Report, Volume 2, *Do Accuracy-Related Penalties Improve Future Reporting Compliance by Schedule C Filers?* (Vol. 2, pages 1-14); see also Most Serious Problem #17, *Accuracy-Related Penalties: The IRS Assessed Penalties Improperly, Refused to Abate Them, and Still Assesses Penalties Automatically* (pages 182-187).]
7. **Exempt Organizations: Provide administrative review before automatically revoking an organization's exempt status.** By law, the IRS is now required to revoke the exempt status of organizations that do not file returns for three consecutive years. The Exempt Organizations (EO) function ordinarily receives about 60,000 applications for exempt status each year, and the number of existing organizations whose exempt status was revoked and applied anew added about 50,000 cases to EO's workload over the past three years. Some of those revocations were erroneous and others required needless rework. If the IRS sent a letter to exempt organizations at least 30 days before revoking their exempt status that provided them with an opportunity to correct the condition (e.g., by filing returns), the heavy burdens on the organizations and the IRS alike could be reduced. I have already discussed this proposal with the new TEGE commissioner, who has expressed interest in this approach as a way to minimize

unnecessary reinstatements. [NTA 2013 Report, Most Serious Problem #15, *Exempt Organizations: The IRS Continues to Struggle with Revocation Processes and Erroneous Revocations of Exempt Status* (pages 165-172).]

8. **Offshore Accounts: Revamp the Offshore Voluntary Disclosure Program to reduce the disproportionate burden imposed on taxpayers who lacked willful intent or had reasonable cause for their mistakes.** NTA proposed a three-tier penalty structure that would (1) provide full relief from FBAR penalties for taxpayers whose under-reporting falls below a threshold amount, (2) impose "non-willful' FBAR penalties on qualifying taxpayers, and (3) impose higher penalties on taxpayers who either acted willfully or lacked reasonable cause. I have met with the deputy commissioner of LB&I (Mike Danilack), who expressed general support for the approach of differentiating penalties. [NTA 2013 Report, Most Serious Problem #22, *Offshore Voluntary Disclosure: The IRS Offshore Voluntary Disclosure Program Disproportionately Burdens Those Who Make Honest Mistakes* (pages 228-237).]

9. **International Taxpayer Service: Explore the use of voice-over-Internet-protocol and other alternative methods of telephone services that will allow taxpayers to contact the IRS, or the IRS to contact taxpayers, without paying international call rates.** Taxpayers living overseas generally do not have the option of calling IRS customer service representatives toll-free to seek help in complying with their U.S. tax obligations. This recommendation is designed to plug that hole. NTA has briefed the commissioner of W&I on a U.S. embassy contract in the United Kingdom that allows the U.S. Tax Attaché to make an unlimited number of international outbound calls for the same low rate. [NTA 2013 Report, Most Serious Problem #20, *International Taxpayer Service: The IRS Is Taking Important Steps to Improve International Taxpayer Service Initiatives, But Sustained Effort Will Be Required to Maintain Recent Gains* (pages 205-213).]

10. **Revenue Protection: Reinstate the cross-functional Pre-Refund Program Executive Steering Committee to coordinate the development of fraud-detection filters.** Imprecise filters produce both underinclusive results (failing to catch refund fraud) and overinclusive results (substantially delaying and in some cases denying the payment of refunds to eligible taxpayers). A cross-functional group can help ensure that multiple perspectives are considered, allowing the IRS to target its filters more precisely. [NTA 2013 Report, Most Serious Problem #16, *Revenue Protection: Ongoing Problems with IRS Refund Fraud Programs Harm Taxpayers by Delaying Valid Refunds* (pages 173-181).]

11. **Bitcoin: The IRS should issue guidance now to advise the growing number of Bitcoin users how the digital currency will be taxed.** The IRS has an obligation to be transparent and tell taxpayers up front what the tax treatment of common transactions will be. It should not wait in ambiguous areas to impose tax on audits after-the-fact. [NTA 2013 Report, Most Serious Problem #24, *Digital Currency: The IRS Should Issue Guidance to Assist Users of Digital Currency* (pages 249-255).]

12. **"Real Time" Tax System: Create a cross-functional task force to explore and make specific plans to transition to a system whereby the IRS matches tax returns against third-party information reports (e.g., Forms W-2 and 1099) before paying out refunds, and makes this information available in electronic form to taxpayers for assistance in preparing their returns.** [NTA 2013 Report, Volume 2, *Fundamental Changes to Return Filing and Processing Will Assist Taxpayers in Return Preparation and Decrease Improper Payments* (Vol. 2, pages 67-96).]

In addition, I made several recommendations in my annual report regarding steps to mitigate the impact of the Loving decision (assuming it is affirmed on appeal) and allow the IRS to do a better job of raising minimum competency and ethical standards in the return preparation industry. Some of these steps likely will require more than minimal resources, but they could be substantially accomplished using the resources currently allocated to the Return Preparer Office. Preparer oversight would protect taxpayers from unscrupulous preparers and, in my view, would be extremely cost effective in the long-term by improving return accuracy and helping to reduce improper payments.

Specifically, I recommended that the IRS take the following steps: (1) offer unenrolled preparers the opportunity to earn a voluntary examination and continuing education certificate; (2) restrict the ability of unenrolled preparers to represent taxpayers in audits of returns they prepared unless they earn the certificate; (3) restrict the ability of unenrolled preparers who have not earned the certificate to be named as a third-party designee on Form 1040, U.S. Individual Income Tax Return; (4) mount a consumer protection campaign to educate taxpayers about the value of selecting a qualified preparer; (5) develop a research-driven and service-wide preparer compliance strategy similar in nature to the Earned Income Tax Credit preparer compliance strategy; and (6) recommend that Congress revise 31 U.S.C.§ 330(a)(2) to expressly authorize the IRS to regulate unenrolled preparers. [NTA 2013 Report, Most Serious Problem #5, *Regulation of Return Preparers: Taxpayers and Tax Administration Remain Vulnerable to Incompetent and Unscrupulous Return Preparers While the IRS is Enjoined from Continuing Its Efforts to Effectively Regulate Unenrolled Preparers* (pages 61-74).]

I have met with the Director of the Office of Professional Responsibility, the Director of the Return Preparer Program, and the Associate Chief Counsel for Procedure and Administration about the next steps for instituting voluntary testing and continuing education of unenrolled tax return preparers, and there appears to be general consensus about these recommendations.

I look forward to working with you on these issues and appreciate the opportunity to discuss them with you.