National Taxpayer Advocate 2014 Annual Report to Congress (ARC): The Most Serious Problems (MSPs) Encountered by Taxpayers

2014 ARC – MSP Topic #1 – TAXPAYER SERVICE: Taxpayer Service Has Reached Unacceptably Low Levels and Is Getting Worse, Creating Compliance Barriers and Significant Inconvenience for Millions of Taxpayers

Problem

The most serious problem facing U.S. taxpayers is the declining quality of service provided to them by the IRS when they seek to comply with their federal tax filing and payment obligations. As part of the IRS Restructuring and Reform Act of 1998, Congress directed the IRS "to place a greater emphasis on serving the public and meeting taxpayers' needs." The IRS took this directive to heart and substantially improved its taxpayer services in the aftermath of that Act. Due to a widening imbalance between the IRS's increasing workload and its diminishing resources, however, taxpayer service levels have been declining, and in 2015, taxpayers are likely to receive the worst levels of service since the IRS implemented its current performance measures in 2001.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. In the short term, carefully monitor taxpayer service trends and ensure that the IRS receives the oversight and funding it requires to meet the needs of the taxpaying public.	N/A - Congressional Recommendation	N/A - Congressional Recommendation	N/A - Congressional Recommendation
2. Over the longer term, undertake comprehensive tax reform to reduce the complexity of the Internal Revenue Code and reduce compliance burdens.	N/A - Congressional Recommendation	N/A - Congressional Recommendation	N/A - Congressional Recommendation

2014 ARC – MSP Topic #2 – TAXPAYER SERVICE: Due to the Delayed Completion of the Service Priorities Initiative, the IRS Currently Lacks a Clear Rationale for Taxpayer Service Budgetary Allocation Decisions

Problem

The National Taxpayer Advocate believes taxpayers have a right to expect that their government will take their telephone calls and answer their letters. The IRS agrees and included the *right to quality service* as a fundamental taxpayer right in its recent adoption of a taxpayer bill of rights. The National Taxpayer Advocate is concerned, however, that the ongoing cuts to the IRS's budget in fiscal years (FY) 2010–FY 2015 have resulted in an unacceptably poor level of taxpayer service. In response to these concerns, the Wage & Investment (W&I) Division and the Taxpayer Advocate Service (TAS) are collaborating on the development of a ranking methodology for the major taxpayer service activities offered by W&I. The new methodology will take taxpayer needs and preferences into account while balancing them against the IRS's need to conserve limited resources, thus enabling the IRS to make resource allocation decisions that will optimize the delivery of taxpayer service activities given resource constraints. But limitations imposed by the lack of available data have delayed implementation, and it is unclear whether the IRS will devote the resources necessary to complete development of the methodology.

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1. Complete the ranking process with the newly available tax year 2013 data and identify all steps needed to fully populate the ranking tool.	W&I agrees that the Services Priority Project (SPP) model should be scored, and is currently working with TAS to complete the scoring of the model. To complete the scoring, Wage and Investment Research and Analysis (WIRA) will work with TAS research analysts to populate the SPP model with the 2013 data from the Taxpayer Experience Survey and the TAC Expectation Survey. Once the collaborative effort in scoring the SPP model is completed, the data gaps will be identified and possible	Yes	The National Taxpayer Advocate is pleased the IRS is supporting the development and scoring of the Services Priority Project (SPP) model. TAS is currently working with W&I to do a ranking with newly available tax year 2013 data, which we anticipate completing by the end of September 2015. It will be a partial ranking, however, since data gaps will still remain. To this end, TAS has initiated a procurement request for contractor services to develop and administer

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	solutions for addressing them will be discussed.		a telephone-based survey that will expand on the data collected in prior W&I surveys. Our goal is to complete survey administration in the final quarter of FY 2016. TAS and W&I have also informally agreed to collaborate on a plan and a timeline that would identify all steps needed to fully populate the ranking tool during the remainder of calendar year 2015. However, the National Taxpayer Advocate remains concerned, because the project has already been significantly delayed due to data deficiencies and it lacks a clear plan with accompanying timeline to overcome those deficiencies and a firm commitment to that plan. A memorandum of understanding (MOU) is therefore essential to document agreement on: • The final SPP ranking tool design; • Assignment of responsibilities for data collection and population of the ranking tool; • A timeline including the steps needed for completion of a full

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			ranking; and • Ongoing data collection to support periodic updating of the ranking tool.
2. Develop and execute a memorandum of understanding (MOU) with the National Taxpayer Advocate to document the steps needed to complete development of the Service Priorities Project ranking tool.	W&I supports the development of the SPP model and, therefore, does not believe an MOU is necessary to complete this model.	No	The MOU will provide the clarity and formal commitment needed to assure expeditious implementation of the SPP methodology. While only the provision of adequate funding can facilitate the delivery of the high quality taxpayer service taxpayers deserve, implementation of the SPP will provide the IRS with a rigorous way to select the combination of competing taxpayer service initiatives that maximizes the "value" of service delivery given available resources. At present, the IRS doesn't have sufficient information about the extent of the harm and burden its taxpayer service allocation decisions create for taxpayers.
3. Incorporate the ranking tool and methodology into plans currently under development for the Services on Demand initiative.	W&I supports the use of available tools to make data-driven decisions about the use of its limited resources. We will continue to work on the ranking tool and utilize it with the other tools we have to make service decisions.	Yes	

2014 ARC – MSP Topic #3 – IRS LOCAL PRESENCE: The Lack of a Cross-Functional Geographic Footprint Impedes the IRS's Ability to Improve Voluntary Compliance and Effectively Address Noncompliance

Problem

The Internal Revenue Restructuring and Reform Act of 1998 (RRA 98) required the IRS to replace its geographic-based structure with organizational units serving groups of taxpayers with similar needs. Congress mandated the IRS change its organizational structure but didn't require the IRS to eliminate its physical local presence or centralize its employees in certain locations. While the new taxpayer-based structure has produced some benefits, the elimination of a functional geographic presence, with IRS employees understanding the needs and circumstances of a specific geographic economy, may harm taxpayers and erode compliance.

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1. Reinvigorate the Local Compliance Initiative Program (CIP) by increasing local staffing and research in outreach and education, Exam, Collection, and Appeals.	Most CIPs begin as a Part 1 at the local level, frequently as the result of a suggestion from local field employees. Area CIP coordinators make presentations at group meetings where they encourage field employees to contact them with recommendations for possible CIPs. When we identify issues that appear to be widespread, we leverage that knowledge to expand to a Part 2 CIP incorporating outreach and education into the strategy. This process serves to improve voluntary compliance, reduce the tax gap, and significantly contribute to the IRS's store of knowledge. In addition, Communication and Stakeholder	No	TAS appreciates the IRS's efforts to achieve geographic presence with limited resources. However, we don't believe that the IRS and taxpayers can realize the benefits of local presence discussed in the Most Serious Problem through technology without having the employees physically located in each state.

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	Outreach work closely with IRS advisory groups including the IRSAC, IRPAC and Taxpayer Advisory Panel (TAP). The advisories review products, services and initiatives, work with subject matter experts, conduct research, and provide recommendations on how to make improvements. For 2015, IRSAC and TAP are looking at how to improve outreach to Schedule C filers. SB/SE Research is supporting this effort by providing data on a number of variables, including geographic location. Within SBSE, both Exam and Collection have geographically based areas with Directors responsible for the states within that geographic area. Cross-divisional local compliance councils also already exist. Additionally, Stakeholder Liaison (SL) Field is using technology to reach taxpayers and partners. SL Field hosts virtual Practitioner Liaison Meetings and Small Business Forums that make it possible for taxpayers and stakeholders to		

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	attend from all 50 states. We therefore believe our efforts are efficiently capturing both local and non-geographic taxpayer and compliance needs.		
2. Introduce videoconferencing for a virtual remote office audit or office collection visit.	SB/SE Exam recently completed a Virtual Service Delivery (VSD) pilot in Campus Exam and is considering reestablishing the pilot in one location. SB/SE Field Exam has had an ongoing interest in the VSD initiative and keeps abreast of the status of the program. However, VSD will not be expanded to office audit or office collection visits at this time due to technological and resource limitations including budget and staffing.	No	We understand the IRS has to prioritize its limited resources in this budgetary environment. However, we believe the IRS decisions are short sighted. The downstream impact of these investments will pay off in the long term.
3. Modify batch processing procedures so that once the taxpayer has responded, the case is assigned to one employee for the duration of the case.	Campus Exam does not assign cases to an examiner to complete an audit of a taxpayer from beginning to end. This process enables examiners to be available for interaction sooner after inquiries are received. Audits are initiated via automation (Batch/ACE processing) and assigned to an examiner when correspondence is received. This allows for more resources to work correspondence	No	The National Taxpayer Advocate appreciates the IRS's efforts to achieve geographic presence with limited resources. However, the IRS cannot reasonably conclude it is inefficient to assign one employee for the duration of a correspondence exam case. First, it's ignoring the congressional intent behind RRA 98 § 3705(b). Second, the IRS hasn't studied the costs associated with

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	and answer telephone calls. Exam works to assign subsequent replies to the same examiner. However, to ensure the correspondence is worked in first in first out order this isn't always possible. The Single server model in a multi-phased process doesn't match demand to available resources.		implementation of such recommendation, taking into account the cost savings realized by avoiding downstream consequences. Third, the IRS has failed to analyze such case assignment from a taxpayer's perspective and balance the feasibility with the impact on the taxpayer's rights.
4. Re-staff Appeals Officers and Settlement Officers locally so that one of each employee is located and regularly available in every state, the District of Columbia, and Puerto Rico.	The use of state boundaries to apportion the administrative appeal resources in our Federal tax system in an era of increasing complexity of tax issues and increasing use of and comfort with virtual technologies, would be arbitrary. Matching the expertise of the Appeals employee to the issue(s) presented is more critical to settling a case properly than the physical presence of two employees in each state, who could possess insufficient expertise to cover all issues in the case. Further, two Appeals employees could not handle effectively the broad scope of issues arising in some states; thus, circuit riding would still be	No	While the appeals and settlement officers may have expertise in the subject matter in question, the IRS can realize the benefits of local presence discussed in the Most Serious Problem by having employees physically located in each state. Senators Grassley and Thune acknowledged the benefits of this recommendation by including similar language in the recently introduced Taxpayer Bill of Rights Enhancement Act of 2015.[1] Not all Appeals' cases are as complex as the IRS response indicates. In fact, the majority of Appeals staffing today is concentrated in IRS campuses, which handle, by Appeals' own

[1] Taxpayer Bill of Rights Enhancement Act of 2015, S.1578, 114th Cong. § 602 (2015).

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	required in many cases. Appeals Officers are familiar with the laws of multiple states when necessary to determine federal tax consequences (e.g., definition of alimony), which enables them to cover larger geographic areas. While regional economics are often relevant to tax administration, a state based approach doesn't, among other things, account for multiple jurisdictions within a single local economy (e.g., Kansas City or Texarkana). Appeals regularly circuit rides to areas where there is no permanent Appeals presence, conserving taxpayer dollars by scheduling as many convenient meeting dates and locations as possible during the travel. It's not a good use of taxpayer money to add two Appeals Officers in both Vermont and Rhode Island where nearly 2.5 million residents already live within 200 miles of an Appeals office, while well over 10 million residents in the western states live more than 200 miles from the nearest office. We note that this issue was also raised in the NTA's		admission, "less complex" cases. Many of these cases involve taxpayers who would benefit from employees who have knowledge of local conditions as they hinge on local fact patterns and practices. Moreover, having a modest local Appeals presence does not exclude Appeals from identifying experts in more complex issues who can assist local Appeals officers and help develop greater professionalism and expertise.

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	2009 report to Congress and the recommendation was rejected at that time for substantially similar reasons.		
5. Re-staff local outreach and education positions to bring an actual presence to every state.	In order to ensure we are reaching the maximum amount of external stakeholders (including both taxpayers and practitioners) with our available resources, we have adopted a virtual outreach business model that has garnered positive support from our stakeholders. Our SB/SE Division hosts outreach meetings in person and virtually that reach stakeholders across the country. Virtually, the Stakeholder Liaison (SL) Field function hosts interactive Practitioner Liaison Meetings (PLMs) and Small Business Forums (SBFs) that make it possible for taxpayers and stakeholders to attend from every corner of the country. SB/SE also offers national webinars that include live question and answer sessions. In addition to virtual events, SL Field hosts PLMs and SBFs in many states. If partners are unable to attend in their state, SB/SE encourages them to look for	No	While the National Taxpayer Advocate appreciates the IRS's attempt to virtually reach taxpayers throughout the country, she is perplexed by the IRS's dual standard for outreach and education of SB/SE taxpayers and W&I taxpayers. In its response, the IRS makes a compelling case for why it has SPEC employees in each state to network with stakeholders and taxpayers therein. For small business and self-employed taxpayers, however, the IRS somehow rationalizes the lack of staffing in each state. The IRS's failure to have a robust education and outreach presence for small business and self-employed taxpayers increases the likelihood these taxpayers will be subject to IRS adversarial enforcement actions. The downstream impact of these investments in outreach and education will pay off in the long

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	opportunities in nearby states. Our Stakeholder Partnerships, Education & Communication (SPEC) function in the W&I Division provides oversight of the Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) programs. These programs serve low to moderate-income taxpayers, senior citizens, persons with disabilities, those with limited English proficiency, and Native Americans. To ensure geographical coverage, SPEC currently has employees located in every state who leverage national and local partners to deliver free tax preparation and outreach programs to millions of taxpayers throughout the nation. SPEC also provides virtual support to partners and volunteers through the use of WebInterpoint technology. This technology provides the IRS with the technical and visual capability to conduct virtual meetings and training sessions. The IRS believes using these methods provides an appropriate level of outreach and education to our stakeholders		term.

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	without the necessity of a physical presence of one person in each state.		
6. Provide face-to-face service through the use of mobile vans in each state.	IRS has decided to invest its resources in more efficient web-based and live services that will allow it to serve a greater number of taxpayers. During 2008 through 2011 in North Dakota, IRS used Tax Tours, a "mobile" concept where temporary offices were setup at alternative locations, such as Community Colleges and Universities. The IRS used radio, newspaper, and flyers to advertise the dates and times we would be available at these alternative locations. The number of taxpayers served during these tours was 76 in 2008, 12 in 2009, 13 in 2010, and 13 in 2011. The IRS concluded taxpayers do not come to sites that are not established and staffed on a regular basis and determined the use of mobile vans was not the best use of resources.	No	While the IRS didn't have a positive experience with temporary offices in the past, we encourage the IRS to discuss the migration to web services with Her Majesty's Revenue and Customs (HMRC) in the UK. As part of the migration, the UK performed comprehensive research and determined which taxpayers had enhanced support needs. Rather than provide mobile services to all taxpayers, the UK only provided these services to the limited population that truly needed these services.

2014 ARC – MSP Topic #4 – ACCESS TO APPEALS: The IRS Should Permanently Assign at Least One Appeals Officer and Settlement Officer in Each State, the District of Columbia, and Puerto Rico

Problem

When passing the IRS Restructuring and Reform Act of 1998 (RRA 98), Congress expressed the desire that all taxpayers should enjoy convenient access to Appeals, regardless of their locality. Specifically, in § 3465(b) of RRA 98, Congress required the IRS to ensure that an Appeals Officer is regularly available within each state. The IRS does not appear to have responded directly to this mandate, continuing instead to rely on circuit riding as a means of providing Appeals Officers and Settlement Officers to states lacking a permanent Appeals presence. Almost one quarter of the states (12 out of 50) have no permanent Appeals presence, and this number of states lacking a permanent field office has increased by 33 percent, from nine to 12, since 2011. Additionally, the number of Appeals personnel available to ride circuit has dropped by 27 percent in recent years. Unsurprisingly, circuit riding case closures have likewise fallen in each of the last four years. The IRS's contention that convenient access to Appeals can be adequately satisfied through its system of circuit riding is not supported by the available evidence.

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1. Expand Appeals duty locations in a way that ensures at least one Appeals Officer and one Settlement Officer are stationed within every state, the District of Columbia, and Puerto Rico.	The use of state boundaries to apportion the administrative appeal resources in our Federal tax system in an era of increasing complexity of tax issues and increasing use of and comfort with virtual technologies would be arbitrary. Matching the expertise of the Appeals employee to the issue(s) presented is more critical to settling a case properly than the physical presence of two employees in each state, who could possess insufficient expertise to cover all issues in the case. Further, two Appeals employees	No	The National Taxpayer Advocate has been recommending for years that the IRS station at least one Appeals Officer and one Settlement Officer within every state, the District of Columbia, and Puerto Rico. Appeals has steadfastly refused to implement this recommendation and provides a number of reasons for its refusal. This includes the contradictory notions that, on the one hand, Appeals and Settlement Officers may lack the expertise to handle all or most of the cases arising

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	could not handle effectively the broad scope of issues arising in some states; thus, circuit riding would still be required in many cases. Appeals Officers are familiar with the laws of multiple states when necessary to determine federal tax consequences (e.g., definition of alimony), which enables them to cover larger geographic areas. While regional economics are often relevant to tax administration, a state based approach does not, among other things, account for multiple jurisdictions within a single local economy (e.g., Kansas City or Texarkana). Appeals regularly circuit rides to areas where there is no permanent Appeals presence, conserving taxpayer dollars by scheduling as many convenient meeting dates and locations as possible during the travel. It is not a good use of taxpayer money to add two Appeals Officers in both Vermont and Rhode Island where nearly 2.5 million residents already live within 200 miles of an Appeals office, while well over 10 million residents in the western states live		within a particular state; and on the other hand, circuit riding is feasible because these same Officers are somehow conversant enough with the underlying state law in multiple jurisdictions to resolve any federal tax issues contingent on the interpretation of these wide ranging state laws. In the Most Serious Problem, TAS provides evidence that the ability to interact on a face-to-face basis with the IRS has a significant effect on taxpayer perceptions and satisfaction. The National Taxpayer Advocate doesn't contend a single Appeals Officer and Settlement Officer in every state, the District of Columbia, and Puerto Rico would be sufficient to provide the physical availability, timely access, and understanding of local issues reasonably required to meaningfully furnish taxpayers with the right to appeal an IRS decision in an independent forum. Nevertheless, such an Appeals presence would be a good start.

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	more than 200 miles from the nearest office. We note that this issue was also raised in the NTA's 2009 report to Congress and the recommendation was rejected at that time for substantially similar reasons.		
2. Begin systematically collecting information allowing for a more precise analysis of the timeliness and fairness of Appeals conferences conducted through circuit riding, both in states without a permanent Appeals presence and in states where Appeals field offices are augmented by circuit riding.	Appeals already has a process measure in place for recording the time from when a case is assigned in Appeals to when a conference is held. This time span is reported for all work streams. The fairness of an Appeals hearing can't be measured objectively, but we use the Appeals Customer Satisfaction Survey Report to gauge taxpayers' perceptions of fairness.	No	As part of the research process for this Most Serious Problem, TAS analyzed Appeals' claims that its policy of circuit riding to those states without a permanent Appeals presence resulted in a fair and accessible appeals process. Appeals' position, however, was, and continues to be, based on unsubstantiated assertions. To date, Appeals has rejected TAS's recommendation to develop data regarding the effectiveness of circuit riding, that can be used to evaluate the validity of Appeals' current approach. Even Appeals' Customer Satisfaction Survey does not examine the views of taxpayers regarding the fairness and availability of circuit riding. Appeals has essentially said it disregarded the National Taxpayer

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			Advocate's recommendations made as part of the 2009 Annual Report to Congress and will continue to ignore her recommendations made as part of the 2014 Annual Report to Congress. This response is unacceptable. Appeals should heed the data that clearly demonstrates circuit-riding isn't meeting the needs of U.S. taxpayers and take steps to remedy the ever-dwindling geographic coverage of Appeals.

2014 ARC – MSP Topic #5 – VITA/TCE FUNDING: Volunteer Tax Assistance Programs Are Too Restrictive and the Design Grant Structure Is Not Adequately Based on Specific Needs of Served Taxpayer Populations

Problem

On January 2, 2014, the IRS ceased providing free return preparation services at the IRS local Taxpayer Assistance Centers (TACs), and directed taxpayers to use Free File, tax preparation software that is free for taxpayers whose 2013 incomes were less than $58,000, or obtain the services at Volunteer Income Tax Assistance and Tax Counseling for the Elderly (VITA or TCE) sites. Insufficient funding combined with "out of scope" constraints, volunteer training restrictions, and tax preparation software limitations may lead to the VITA and TCE programs lacking the adequate infrastructure to meet the specific needs of underserved taxpayers, including rural, elderly, disabled, English as a second language (ESL), American Indian, and low income taxpayers. By eliminating tax preparation services at TACs and inadequately supporting VITA/TCE sites, the IRS makes it more difficult for taxpayers to get tax preparation assistance that helps them meet their reporting obligations and comply with the tax laws. These shortcomings burden taxpayers and may cause taxpayers to pay more tax than they should or seek assistance from unqualified or unscrupulous preparers, there by undermining voluntary compliance and eroding the taxpayer's rights *to be informed, to quality service,* and *to pay no more than the correct amount of tax*.

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1. Increase VITA funding to maximize the overall resources (federal and matching funds) available for free tax preparation assistance.	N/A – Congressional Recommendation	N/A– Congressional Recommendation	The IRS may increase VITA funding by allocating resources in addition to congressionally-appropriated funds. While closing and consolidating multiple TACs throughout the country, the IRS may allocate a portion of the savings to additional VITA and TCE funding. The National Taxpayer Advocate is keenly aware of the budgetary constraints; however, the reality of limited resources intensifies the need for the IRS to examine its

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			practices, policies, and procedures to ensure existing resources are delivering the maximum benefits to the affected taxpayers, particularly the most vulnerable taxpayers who are often unable to avail themselves of electronic options.
2. Remove VITA and TCE program grant restrictions for specific tax forms, schedules, and issues, including Schedules C, D, and F, and ITINs.	To effectively serve the most taxpayers with the available funding, IRS VITA/TCE grants provide parameters on the type of returns filed at the partner sites. Increasing complexity and scope increases the burden on IRS employees to develop training materials for the partners and manage the quality of returns prepared. It also places burden on the volunteers to learn topics that they may not encounter. Filing Season 2014 research data estimates that two thirds of the VITA/TCE taxpayer base are Form 1040 wage earners, which is consistent with the mission to provide free assistance with basic federal tax returns to individuals with a low to moderate income, the elderly, and disabled taxpayers. Currently, there is limited preparation of Schedule C, Profit or	No	The National Taxpayer Advocate is pleased the IRS is piloting the Schedule C preparation. However, the Schedule C pilot is insufficient to meet the demand of many low income taxpayers with Schedules C, D, F, and ITINs. The IRS's response is not based on data or research about taxpayer needs, rather on what is convenient for the IRS. The IRS fails to acknowledge VITA and TCE sites service taxpayers with needs beyond Form 1040 wage earners, including taxpayers in rural areas and those with limited English proficiency. By restricting grant recipients from preparation of specific forms, the IRS artificially limits VITA and TCE sites' ability to meet the increased demand for services resulting from the elimination of tax preparation

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	Loss from Business. We are piloting the Schedule C preparation, to expand the limit on gross receipts without impacting service. A determination will be made during our post filing season assessment whether to expand the scope for Schedule C for filing season 2016.		services at the TACs. The IRS can and should do more in this area.
3. Allow grant funding for quality review, Certified Acceptance Agents (CAAs), and year-round services at select sites.	Each grant program has established guidelines to ensure grant funds are distributed according to the law and regulations. Funding for the grant programs doesn't allow VITA sites to pay preparers for tax return preparation, quality review, or screening activities. Paying volunteers for quality review with VITA or TCE grant funds contradicts the intent of the volunteer program. Also, paying for a portion of a volunteer's activity also adds complexity to managing volunteers, liability of volunteers, volunteer recruitment, and ensuring appropriate use of federal funds. Organizations may pay for these activities out of their own funds and use them as part of the matching support required of the VITA grant. Use of grant funds for CAA	No	By not allowing grant funding for quality review, CAAs, or screening activities, the IRS relies on circular reasoning. Instead of considering how it could do a better of job of oversight with its current resources, including allowing for some paid infrastructure such as quality review, CAAs, or a requirement of year-round service to taxpayers, the VITA program simply maintains mid-20th century *status quo*. Although the IRS distributes grant funding according to the law and regulations, it uses the Stakeholder Partnership, Education and Communications program (SPEC) in W&I to establish specific program guidelines including how VITA and TCE sites use grant funds. The IRS's argument regarding extra

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	expenses is also not allowable. With regard to year round services at select sites, grant funds are currently allowed for year round services. In fact, the IRS encourages sites to open year round.		burdens and liability imposed on the sites is misleading because VITA and TCE sites are already responsible for managing day-to-day activities. IRS restrictions on how VITA and TCE sites use grant funds limit the effectiveness and reach of both programs. Absent these restrictions, the IRS could develop an infrastructure that: • Allows VITA and TCE sites to assist more taxpayers in need (especially hard-to-serve taxpayer communities Congress intended the VITA program to help); • Encourages VITA and TCE sites to provide year-round services, as taxpayers need return preparation assistance year-round, not just during the January-April filing season; and • Minimizes enforcement costs resulting from noncompliant taxpayers without a place to get free, easily accessible tax return preparation services, or turning to unregulated and incompetent (or unscrupulous)

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			return preparers for assistance. Although sites are "encouraged" to provide year-round service to taxpayers, the current structure and restrictions on grant funding make it prohibitive for many of these organizations, especially in rural areas where these services are most needed because TACs are no longer available to these taxpayers.
4. Require volunteers who are authorized under Circular 230 to practice before the IRS (i.e., attorneys, CPAs, and Enrolled Agents) to annually recertify only on new provisions and changes in tax law.	If funding allows, the IRS will require volunteers who are authorized under Circular 230 to practice before the IRS (i.e., attorneys, CPAs, and Enrolled Agents) to annually recertify only on new provisions and changes in tax law. The Link & Learn process will have to be modified to create separate tracking and testing for the Circular 230 participants. The IRS will continue to include the provision related to the ethics training. Those volunteers falling under Circular 230 (attorneys, CPAs, Enrolled Agents) will be required to take the regular certification test in first year of	Yes (Partial)	The National Taxpayer Advocate is pleased the IRS is willing to modify the Link & Learn process and create separate tracking and testing for Circular 230 practitioners, so that these volunteers annually recertify only on new provisions and changes in tax law. However, in light of the increased demand for VITA and TCE services, the IRS must develop an alternative solution to simplify annual recertification of Circular 230 volunteers. The IRS could change its rules by waiving certification for individuals who passed the initial Link & Learn certification and allow an

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	volunteering, recertify only on new tax law in subsequent years, and certifying in Ethics every year.		abbreviated certification outside of the Link & Learn system for the new tax law provisions until it can update that system.
5. Provide free tax preparation assistance at TACs in areas with limited access to VITA or TCE volunteers, along with proper staffing and hours to handle taxpayer traffic.	The IRS believes the current options for free return preparation are adequate. Currently, there are 380 TACs across the nation and approximately 12,000 VITA/TCE sites open. Taxpayers with limited access to VITA or TCE volunteers have other alternatives such as Virtual VITA, Facilitated Self-Assistance (FSA), Free File, and Free File Fillable Forms that can be used to prepare their return at no cost. To accommodate those with limited access, IRS uses Virtual VITA/TCE to provide the same service as traditional VITA/TCE, with the volunteer and taxpayer connected through technology, remote FSA allows taxpayers to input their own return using internet-based software with the assistance of a certified volunteer, and Free File and Free File Fillable Forms provides taxpayers with a variety of online software options or online fillable forms. The IRS also	No	The IRS can't arbitrarily ignore the impact of the elimination of tax preparation services at TACs, as they remain a preferred option for taxpayers who lack internet access, especially elderly taxpayers. The 2011 SPEC Rural Strategy Initiative acknowledged, "[e]ven though the percentage of low-income residents per capita is higher in rural areas than in larger cities, the coverage rates for free tax preparation services are lower. While many partners want to service rural areas, there are often barriers and challenges that are difficult to overcome." The IRS's response fails to acknowledge the gap in services for taxpayers residing in rural areas and the elderly who aren't comfortable using the Internet for tax preparation.

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	continues to review and adjust its services to ensure that staffing is available to handle taxpayer traffic in TACs.		

2014 ARC – MSP Topic #6 – HEALTH CARE IMPLEMENTATION: Implementation of the Affordable Care Act May Unnecessarily Burden Taxpayers

Problem

The Patient Protection and Affordable Care Act of 2009 (ACA) was enacted by Congress in 2010 to provide affordable health care coverage for all Americans. To accomplish this goal, the ACA provides targeted tax credits for low income individuals and for small businesses, while imposing a personal responsibility on individuals to have health coverage. The true test for the IRS and individual taxpayers will begin in 2015, when those filing tax year 2014 federal income tax returns will have to report that they have "minimal essential coverage" or are exempt from the responsibility to have the required coverage. The IRS has made tremendous progress implementing the healthcare provisions with limited time and resources. However, the role of the IRS is downstream in many of the reporting processes, because it receives new information returns from exchanges through the hub maintained by the Department of Health and Human Services. As a result, taxpayers and the IRS may experience problems over which the IRS has no control. However, the IRS will certainly bear much of the public blame when the problems arise in the context of return filing. Conversely, taxpayers and the IRS will experience problems created specifically by ineffective IRS processes, some of which are exacerbated by the general reduction in funding for taxpayer service.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Educate taxpayers early and repeatedly about the requirement to update their information throughout the year with the exchange, if they are receiving the advanced PTC, to prevent them from owing money to the IRS (or reducing their refunds) or qualifying for too little advance credit during the year.	IRS developed an ACA web page on IRS.gov that provides information on the tax provisions under ACA that apply to individuals, employers and other organizations. Under the Individuals and Families section IRS has information, including questions and answers, on changes in circumstances and how taxpayers should report income and family size changes to the Marketplace throughout the year. Reporting changes will help taxpayers get the proper type and amount of financial	Yes	The National Taxpayer Advocate commends the IRS for prioritizing the education of taxpayers to report their changes in circumstances throughout the tax year. We appreciate the development of the ACA web page, the numerous flyers and publications, and the outreach activities in which the IRS is involved.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	assistance and avoid getting too much or too little in advance. IRS developed health care tax tips (specifically 2015-08, 2015-10 and 2015-20), Fact-Sheets (2014-09) and flyers/publications (Pubs 974, 5121, 5120 and 5152) to help educate taxpayers on their responsibilities related to the premium tax credit. These flyers and publications can be used for a variety of audiences including TAC offices, community-based organizations and IRS partner groups. IRS also has links to Healthcare.gov to direct taxpayers for Marketplace enrollment and other issues. In conducting over 500 outreach activities since October 2014, IRS has consistently emphasized the importance of promptly reporting changes in circumstances to the Marketplace to avoid surprises when the individual reconciles the advance payments of the premium tax credit on their federal tax return. Some of the partners/stakeholders we have		

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	conducted outreach with are community-based organizations, tax professionals, small business industry, navigators/assisters, individual taxpayers, and congressional offices.		
2. For those installment agreements, partial pay installment agreements, and offers in compromise including Shared Responsibility Payment (SRP) liabilities, apply payments to the oldest liability first to protect the government's best interests.	Revenue Procedure 2002-26 sets forth the IRS's position on the application of partial payments of tax, penalties and interest for one or more taxable periods. If the taxpayer doesn't provide specific written instructions as to the application of the payment, the IRS will apply the payments in the order of priority that serves the government's best interest. In general, this means the IRS will apply undesignated payments to the oldest liabilities first (first towards taxes, then penalties, then interest) until the liabilities are fully paid. The IRS is not planning to revise Rev. Proc. 2002-26 to address the individual shared responsibility penalty. The individual shared responsibility payment will be collected in the same manner as any assessable penalty. The current payment application rules fully	Yes	The National Taxpayer Advocate agrees Revenue Procedure 2002-26 provides that the IRS will apply the payments in the government's best interests, which is generally to oldest liability first. She is pleased the IRS has publicly committed to following the approach set forth in this revenue procedure in the context of SRP liabilities. However, TAS will continue to monitor this issue to ensure payments are not applied to SRP liabilities before older liabilities.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	address the Advocate's concerns. No additional actions are required.		
3. Reissue the current white paper addressing the IRS's authority to include SRP liabilities in installment agreements and offers in compromise in the form of Program Manager Technical Advice to be released to the public.	IRS has incorporated pertinent and relevant points from the white paper into the IRM sections which address inclusion of the Shared Responsibility Payment in Installment Agreements and Offers in Compromise. Those IRM sections are publicly available; however we will review the referenced paper to determine if release of additional information is warranted.	Yes (Partial)	The National Taxpayer Advocate commends the IRS for committing to review the issue of addressing the IRS's authority to include SRP liabilities in installment agreements and offers in compromise. However, the IRS should not merely address this issue in an IRM provision. Taxpayers have the *right to be informed,* and the IRS should make publicly available the discussion included in the white paper in the form of Program Manager Technical Advice. Taxpayers are more likely to understand the IRS's reasoning if issued in such a format rather than just a declaratory statement with no explanation in an IRM provision. Accordingly, TAS will continue to monitor the IRS actions and will discuss any further issues in our 2015 Annual Report to Congress.
4. Include information about TAS and Low Income Taxpayer Clinics in 30-day letters that	Although we believe the inclusion of Notice 1214 with the SNOD, complies with the Section 1102(b) RRA 98 requirement, when	No	This recommendation addressed combo letters and 30-day letters, not statutory notices of deficiency. Further, TAS disagrees with the

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
include both the preliminary audit report and describe the taxpayer's appeal rights.	resources (budget, and staffing) are available to make the changes necessary to print the local TAS office directly on the face of the SNOD, we will take steps to ensure, as best we can, that information about the local TAS office is provided to taxpayers in a consistent manner. We will coordinate with the NTA's staff on this matter.		IRS over the fundamental interpretation of the IRC Section 1102(b) requirement to put TAS contact information on the statutory notice of deficiency. RRA 98 requires the IRS to place this information on the notice. However, we are pleased the IRS appears willing to work with us to add this language on the SNODs themselves, although we note the IRS hasn't committed to do so via an action item. We will continue to advocate for inclusion of both local TAS office and LITC information on combo and 30-day letters.
5. Expand the tax identification number matching program to include health insurers and self-insured employers that are required to file Form 1095-B, Health Coverage.	IRS does not have the statutory authority to disclose social security information to health insurers and self-insured employers.	No	After receiving further clarification from the Office of Chief Counsel, it is our understanding the IRS takes the position it doesn't have the authority to expand TIN matching to health insurers and self-insured employers. The program was created under the authority of IRC § 3406 and was strictly limited to payments subject to backup withholding. According to the IRS position, an expansion of the program would violate IRC § 6103. TAS will explore the issue further

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
			and make any necessary legislative recommendations to enable the IRS to take this action.
6. Provide additional guidance to employers on how to calculate the number of full-time equivalents for purposes of meeting the minimum essential coverage requirements.	IRS hasn't adopted this recommendation at this time, but is looking into the issue. In effect this recommendation requests additional guidance in computing hours of service for those employees whose hours of service are difficult to identify or track, the final regulations issued under section 4980H on February 14, 2014, specify that there are many categories of employees whose hours of service will be particularly challenging to identify or track, including adjunct faculty, commissioned sales persons and airline personnel. The final regulations provide that Treasury and the IRS are continuing to consider additional rules for those employees identified above and specify that, until further guidance is issued, employers may use a reasonable method of crediting hours of service that is consistent with section 4980H. Further guidance has not been issued; therefore, employers have the	No	Our final recommendation was for the IRS to provide additional guidance to employers on how to calculate the number of full-time equivalent employees for purposes of meeting the minimum essential coverage requirements. Until the final regulations provide more detailed guidance for these taxpayers, we concur flexibility is necessary in this complex environment. The National Taxpayer Advocate encourages the IRS to regularly update its guidance as we see instructive examples of what constitutes reasonable methods to compute the number of full-time equivalents. The IRS should also develop a method of notating the date of any revisions to FAQs and other flexible guidance, so taxpayers can track what changes have occurred.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	flexibility to determine hours of service using any reasonable method consistent with 4980H.		

2014 ARC – MSP Topic #7 – Offshore Voluntary Disclosure (OVD): The OVD Programs Initially Undermined the Law and Still Violate Taxpayer Rights

Problem

Before it updated the "streamlined" program in 2014, the IRS generally required those who failed to report offshore income and file a related information return (*e.g.*, a *Report of Foreign Bank and Financial Accounts* (FBAR)) to enter into an offshore voluntary disclosure (OVD) settlement program and pay an "offshore penalty" designed for bad actors. "Benign actors" with inadvertent violations generally had to "opt out" and be audited to obtain a lesser penalty. Uncertainty about what penalty might apply in the audit, the IRS's one-sided interpretation of the program terms, processing delays, and the cost of representation in an audit prompted some to pay a disproportionate offshore penalty. Inside the 2011 OVD programs, taxpayers with small accounts paid over eight times the unreported tax—over ten times the 75 percent penalty for civil tax fraud—and those who were unrepresented generally paid even more.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Improve the transparency of the OVD and streamlined programs by: a. Publishing OVD-related program guidance as a revenue procedure (or similar guidance published in the Internal Revenue Bulletin) that incorporates comments from internal and external stakeholders, and assigning	The IRS believes its current publication of the OVDI program terms and instructions are sufficiently transparent, and the current publication methods allow the IRS more flexibility to incorporate input from stakeholders than the Chief Counsel publication process. The IRS has published program terms and instructions for taxpayers and IRS personnel on IRS.gov. This includes extensive guidance for taxpayers in the form of Frequently Asked Questions (FAQs). The FAQs reflect input and feedback from both external and internal stakeholders received since the first	No	The IRS recently adopted the Taxpayer Bill of Rights, which includes the *right to pay no more than the correct amount of tax*, the *right to challenge the IRS's position and be heard*, the *right to appeal an IRS decision in an independent forum*, the *right to be informed*, and the *right to a fair and just tax system*. The IRS's response does not address how its OVD policies are consistent with these rights, because they are not. The IRS's one-sided interpretations of its OVD FAQs and its failure to formally publish those interpretations, explain them

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interpretation of the guidance to national office attorneys whose advice would be disclosed to the public just like other Chief Counsel Advice (CCA). b. Providing instructions to OVD program staff by incorporating them into the IRM; which incorporates comments from internal stakeholders and is disclosed to the public. c. Publishing interpretations of the program terms by any IRS employees authorized to interpret them (*e.g.*, by IRS attorneys and technical advisors) just like CCA. d. More frequently updating the guidance on the IRS website with any	OVDP in 2009. Over the course of the various versions of the OVDP, IRS representatives from multiple divisions and offices have met with both external and internal stakeholders. While the IRS initially received some negative feedback from practitioners about the FAQs following the 2009 OVDP, subsequent feedback about the 2011 OVDI and 2012 OVDP guidance has been positive. Since the inception of the first OVDP in 2009, the IRS has periodically updated the program guidance based on both external and internal input and feedback to make changes, clarifications, and corrections. In addition, the FAQs have been updated periodically to correspond with other legal or administrative changes impacting program terms. The FAQs allow the IRS to respond promptly to practitioner concerns and trends with submissions. In addition to FAQs, the IRM provides guidance for IRS personnel handling OVDP cases. The IRM provisions are published on IRS.gov and are available to the		to the taxpayers who are adversely affected by them, or provide any other way for a taxpayer to ensure IRS is applying them consistently compromises these rights. TAS continues to receive complaints about the lack of transparency and due process the IRS provides in connection with the IRS's OVD and streamlined programs. Earlier this month, practitioners at a roundtable discussion also complained more generally about the IRS's use of FAQs, observing the IRS can change, delete, or move them without notice and without preserving a historical record of the change. Although the IRS has considered some stakeholder concerns through forums such as the recent roundtable, its refusal to invite comments and publicly consider them avoids transparency and accountability, as the public doesn't understand what comments the IRS has considered or why it has rejected them. The "inconvenient" delay associated

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clarifying interpretations rendered by technical advisors or other IRS employees to the extent those interpretations are not incorporated into other public guidance.	public. Thus, the OVDP guidance published on irs.gov reflects cumulative feedback from many internal and external stakeholders and allows the IRS flexibility to make changes, corrections, and clarifications as needed. The formal guidance process in contrast would not allow for such flexibility. Moreover, the public has been on notice that the program may be terminated at any time or that program terms may change at any time, as they did most recently in June 2014. For these reasons and those previously provided in responses to similar recommendations in the 2011, 2012 and 2013 Taxpayer Advocate Reports, the IRS doesn't intend to adopt this recommendation.		with formal guidance – cited by the IRS as a reason for not publicizing it – results from the IRS's obligation to publicly invite comments and then to actually consider and respond to them. When the OVD programs were first established, the IRS's use of FAQs and undocumented procedures was perhaps understandable in light of such delay. Several years later, however, it's difficult to find a legitimate reason for the IRS to continue to run these programs indefinitely using unpublished FAQ interpretations, secret committees, and avoidance of oversight by the Office of Appeals or any other entity.
2. Allow taxpayers to elevate or appeal a revenue agent's OVD and streamlined program determinations. At a minimum, the agent and anyone who advised him	The certification process for OVDP cases involves multiple levels of review and approval. Taxpayers participating in the OVDP may elevate issues and concerns to Exam management. Similarly, agents may seek the advice of	No	IRS employees can make mistakes unlikely to be discovered, except in connection with a scandal, when there is no transparency oversight or accountability, as remains the case with the OVD and streamlined

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or her (*e.g.*, a technical advisor or IRS attorney) with respect to a disputed assumption should be required to explain his or her reasoning to the taxpayer in writing and reconsider the advice in light of any new facts or analysis provided by the taxpayer.	Subject Matter Experts (SMEs) (including Technical Advisors) and Counsel, but neither SMEs nor Counsel are required to explain their reasoning in writing to the taxpayer or provide the taxpayer an opportunity to rebut their advice. This standard applies in both examinations and OVDP certifications. Broadly, taxpayers participating in an OVDP have the same rights as taxpayers undergoing full examinations except for the ability to have their cases reviewed by the Office of Appeals (Appeals). The OVDP is a purely voluntary program, and the lack of review by Appeals is clearly disclosed in FAQ 49. FAQ 49 also notes that taxpayers may opt out and undergo an examination in order to receive consideration by Appeals. The 2014 Streamlined Filing Compliance Procedures are very different from the OVDP in that they don't involve active IRS determinations of liability or penalties. Rather, taxpayers self-compute their tax liabilities (if any),		programs today. Notwithstanding the IRS response's claim to the contrary, these programs offer a far different process than applied in examinations. Examinations are subject to appeals, audit reconsideration, and potential litigation, which give taxpayers more confidence examiners are trying to apply the rules correctly, consistently, and fairly during the exam. The IRS also recently issued to the public an Interim Guidance Memo (IGM), which addresses how it will apply FBAR penalties in examinations outside the OVD programs. This oversight and transparency is lacking in the OVD and streamlined processes. When taxpayers feel the IRS has ignored the facts or applied its secret FAQ interpretations incorrectly, their only recourse is to opt out and give up the potential for settling on terms offered to similarly situated taxpayers. Thus, these taxpayers have a strong incentive to accept seemingly unjust agreements, which many will continue to view as unfair long

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	and for Streamlined Domestic Offshores (SDO) they compute the miscellaneous offshore penalty. The guidelines include: "Returns submitted under either the Streamlined Foreign Offshore Procedures or the SDO Procedures will not be subject to IRS audit automatically, but they may be selected for audit under the existing audit selection processes applicable to any U. S. tax return and may also be subject to verification procedures in that the accuracy and completeness of submissions may be checked against information received from banks, financial advisors, and other sources." In the context of a potential examination after submitting returns through the Streamlined Filing Compliance Procedures, taxpayers would be afforded all routine procedural rights, including review by Appeals. For the reasons stated above, the IRS does not intend to adopt this recommendation.		after these programs have ended. As studies cited in the Most Serious Problem discussion have shown, such views are likely to reduce voluntary compliance.
3. Allow taxpayers to amend their closing	There are several legal and policy reasons that preclude the IRS from	No	The last time the IRS created more favorable terms in connection with

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
agreements to benefit from recent OVD-related program changes.	reopening closing agreements entered into by OVDP participants wishing to benefit from the terms of the modified and expanded Streamlined Filing Compliance Procedures. As a legal matter, under I.R.C. section 7121 closing agreements generally are final and conclusive. Even if the closing agreements could be reopened, the statute of limitations on refunds in I.R.C. section 6511 would prohibit the IRS from refunding payments not made within the period specified in I.R.C. section 6511(b). Closing agreements are used across the vast spectrum of tax cases, not just in OVDP. Closing agreements represent the best deal for the parties (the taxpayer and the IRS) at the time they are entered into, and both parties are protected from any future changes that might have impacted the case but for the closing agreement. Closing agreements provide taxpayers with certainty that even if the terms of the deal change, the IRS cannot demand more tax, interest, or penalties at a later time. Since the first OVDP was		its OVD programs (*e.g.*, the five and 12.5 percent rates), it allowed qualifying taxpayers who already had signed closing agreements to amend them, so they weren't disadvantaged by having come forward earlier. The IRS response doesn't fully explain why it chose to penalize them this time by refusing to amend their closing agreements to offer the same terms as those who came forward later. It cites a policy of finality that it offset last time in favor of equity, but doesn't explain why equity was less important this time. It also cites a statutory limitation on issuing refunds long after amounts have been paid and returns have been filed, but that limitation would only affect a subset of those who would want to modify their agreements. The IRS's apparent indifference to others who are affected by this decision underscores the importance of requiring the IRS to actually request and respond to comments before adopting policies – especially policies that seem to

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	announced in 2009, the miscellaneous offshore penalty has increased with each version of the program. The closing agreement ensures that an OVDP participant will not be subject to a higher penalty when the program terms change. Moreover, OVDP and the Streamlined Filing Compliance Procedures are different programs that were designed for different taxpayers. The respective program terms and penalties were constructed accordingly. OVDP participants pay a higher penalty than taxpayers who file returns through the Streamlined Filing Compliance Procedures, but in return they get the certainty and finality of a closing agreement, as well as a letter from the IRS Criminal Investigation Division stating that the taxpayer will not be recommended the for criminal prosecution. For the reasons stated, the IRS does not intend to adopt this recommendation.		ignore taxpayer rights.

2014 ARC – MSP Topic #8 – PENALTY STUDIES: The IRS Does Not Ensure Penalties Promote Voluntary Compliance, as Recommended by Congress and Others

Problem

Over 20 years ago, Congress recommended the IRS "develop better information concerning the administration and effects of penalties" to ensure they promote voluntary tax compliance. It's the IRS's official policy to do so, and the IRS's stakeholders have recently echoed this recommendation. As the number of civil tax penalties has increased – from 14 in 1955 to more than 170 today – penalty analysis has become more challenging, and the IRS has done little to implement the recommendation. It has assigned responsibility for IRS-wide penalty policy to the Office of Servicewide Penalties (OSP). Over the last ten years, OSP has reviewed only one inconclusive study, and this review did not lead to any policy changes.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Finalize a plan for OSP (or a successor organization) to ensure that all parts of the IRS are administering penalties to promote voluntary compliance in accordance with congressional directives and the IRS policy statement.	During the recent realignment in the Small Business/Self Employed division, it was recognized that a repositioning of the Office of Servicewide Penalties (OSP) was appropriate. This fundamental infrastructure change provides for the revitalization of OSP and places it on a path to bring about an effective achievement of its penalty-related objectives. In addition, the new positioning will facilitate OSP's efforts in completing the development of a plan to comprehensively evaluate penalty administration. The OSP is continuing its efforts to develop a plan to comprehensively evaluate penalty administration to promote voluntary compliance.	Yes (Partial)	The IRS response indicates it reorganized OSP and that OSP will continue its efforts to develop a plan to ensure all parts of the IRS are administering penalties to promote voluntary compliance. These are steps in the right direction. Although OSP hasn't committed to work with TAS or other stakeholders as it develops this plan, it should do so. OSP should also set a specific date by which it will finalize the plan, because without a target date it may never actually complete it.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
2. Provide OSP with sufficient authority, resources, staffing, training, and access to data and systems to ensure the IRS is achieving its penalty-related objectives.	With the recent realignment in the Small Business/Self Employed division, OSP was realigned. The new placement provides for better positioning of the office where issues can be elevated faster to the correct level of leadership. As the NTA has noted, the IRS and OSP have been significantly impacted by IRS budgetary constraints which affected our staffing. Recognizing the importance of OSP's responsibilities, OSP is currently in the process of adding additional personnel to the staff. We agree for OSP to be effective, it must have sufficient resources and training as well as access to data and systems. The hiring of additional staff should assist OSP in achieving its penalty-related objectives and ensure that training needs are met. Despite resource limitations, OSP continues to work with other parts of the IRS, such as SB/SE Research and Research, Analysis & Statistics (RAS), in order to conduct research. OSP will continue to work with these other functions to obtain necessary data and research and will continue to	Yes (Partial)	The IRS response says OSP will be moved in connection with the reorganization, will hire additional staff, will work with research functions to develop training, and will revisit its agreements with other business units. However, it isn't clear if these changes will empower OSP with the authority, resources, staffing, training, and access to data and systems it needs to ensure the IRS is achieving its penalty-related objectives. The response suggests it will continue to rely on IRS research functions for penalty-related analyses and training. These functions have other priorities and may not focus on the IRS's penalty policy statement or voluntary compliance. OSP should develop internal expertise and partner with outside researchers to ensure it addresses these concerns. Other parts of the IRS have ignored OSP in developing penalty guidance, as demonstrated by their issuance of offshore voluntary disclosure programs and guidance without consulting OSP.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	develop necessary training. While we disagree with TAS's assessment that OSP doesn't have sufficient authority, OSP will undertake to evaluate whether an MOU with IRS Business Operating Divisions would be beneficial for clarifying OSP's role in ensuring that the IRS is achieving its penalty-related objectives.		This may suggest OSP lacks authority over penalty policies adopted by IRS business units and functions. Establishing or revisiting agreements (MOUs with other IRS business units), as OSP plans to do, could address this concern.
3. Require all penalty policies and initiatives owned by other IRS business units be incorporated into the IRM and substantively reviewed by OSP for consistency with IRS-wide penalty policy before they are implemented. OSP should also review all previously-adopted policies.	OSP's mission is to provide coordination of policy and procedures concerning the administration of all IRS Civil Penalty programs. OSP supports the mission by working with all IRS Business Operating Divisions. OSP is responsible for issuing civil penalty policy as provided in IRM 1.2.20.1.1(11), Policy Statement 20-1 (Formerly P-1-18), and is responsible for prescribing guidelines in a Penalty Handbook (IRM 20.1) that all operating divisions and functions are to follow. Each operating division and function develops its IRMs to administer OSP's respective penalty policies accordingly. OSP works with all functions within the IRS to provide consistent penalty policy, but does not direct how each function is to carry out its penalty related	Yes (Partial)	The IRS response suggests OSP will review other business units' penalty policies incorporated into the IRM only if it has sufficient resources. However, the IRS doesn't commit OSP to addressing penalty-related procedures other business units haven't incorporated into the IRM, such as the FAQs and memos that describe the offshore voluntary disclosure programs. As previously recommended, OSP should be given the resources and authority needed to review all penalty-related guidance whether incorporated into the IRM or not.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	procedures. Contingent upon resources, OSP will review all previously-adopted policies. In addition, the NTA's recommendation will be taken under advisement while OSP undertakes to evaluate whether an MOU with IRS Business Operating Divisions would be beneficial for clarifying OSP's role in ensuring that the IRS is achieving its penalty-related objectives.		
4. Direct OSP to partner with private-sector researchers to study the effect of penalties on voluntary compliance.	OSP works with other parts of the IRS in order to conduct research that is necessary for the IRS to achieve its penalty-related objectives. Such research allows for data driven recommendations to improve work processes and services and to determine the effect of penalties on voluntary compliance. For example, RAS has begun studying the impact of penalties on voluntary compliance, including a review of current research from both the public and private sectors, as well as a description of the degree to which taxpayers are repeatedly subjected to Failure to Pay penalties and Accuracy Related penalties. A more detailed program of study is currently underway, and	No	The IRS response indicates OSP will work with internal IRS research functions, but doesn't actually commit to undertake any studies by a particular date or indicate OSP will work with outside researchers. Outside researchers may offer unique insight and a potentially broader perspective than internal IRS research functions. Resource and capacity constraints also limit the penalty-related research that internal IRS research functions can conduct. Thus, OSP should consider partnering with outside researchers.

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	RAS is continuing that line of research by following up on questions raised about the income and filing characteristics of taxpayers who receive penalties, and by further evaluating how often taxpayers repeat behaviors associated with the penalty assessment. RAS have also begun research to focus specifically on Partnerships and S-Corporations. OSP will take responsible and appropriate action with input and advice from RAS and SB/SE research with regard to whether private sector research is necessary and will continue to work with SB/SE Research and RAS to study the effects of penalties on voluntary compliance.		
5. Direct OSP to compile, review, and consider current and historical internal and external penalty studies (including TAS studies) in connection with any reevaluation of (or change to) IRS penalty policy or administration.	OSP works with other parts of the IRS, such as SB/SE Research and RAS, in order to conduct research that is necessary for OSP to achieve its penalty-related objectives. OSP will continue to work with these other functions to obtain necessary data and research in connection with any reevaluation of IRS penalty policy or administration. While not compiling all historical penalty studies or	Yes (Partial)	The IRS has declined to publish the studies OSP considers and the conclusions it reaches, so that internal and external IRS stakeholders can build on and contribute to its analysis. It has declined to cite any reasons for this decision. Its lack of transparency also silences the usual public discourse that helps researchers avoid blind spots and

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	conducting an exhaustive search for the same, OSP takes responsible and appropriate action with input and advice from RAS and SB/SE research with regard to the review and consideration of historical studies. OSP will also look at Penalty studies, including those conducted by TAS.		errors in their analysis. As a result, the IRS is more likely to continue to formulate and apply its penalty policies based on incomplete information and unexamined assumptions. Moreover, this lack of transparency is inconsistent with the taxpayer's *right to be informed*, which includes the right to "clear explanations." Finally, OSP's secret penalty analysis is also likely to reduce the public's trust for the IRS and its penalty policies. Research suggests trust in government and the IRS drives voluntary compliance. Thus, OSP's lack of transparency is likely to undermine voluntary compliance – a result inconsistent with the reason for OSP's existence.
6. Direct OSP to publish the studies it considers and the conclusions it reaches after any such review, so that internal and external IRS stakeholders can build on and contribute to its analysis.	OSP's mission is to provide coordination of policy and procedures concerning the administration of all IRS Civil Penalty programs. OSP supports the mission by working with all IRS Business Operating Divisions. OSP also works with other parts of the Service, such as SB Research and the IRS Research, Analysis and	No	The IRS has declined to publish the studies OSP considers and the conclusions it reaches, so that internal and external IRS stakeholders can build on and contribute to its analysis. It has declined to cite any reasons for this decision. Its lack of transparency also silences the

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	Statistics Division (RAS), in order to develop studies and make recommendations. RAS publishes various studies related to tax administration and certain information related to civil penalties. For example, the IRS Data Book, Table 17, contains information specific to civil penalties and is available on IRS.gov. IRS.gov also includes several sources of information to assist taxpayers such as Tax Topics, an online self-help tool to assist with a penalty appeal, and special notices regarding penalty relief. There is also a page providing an email link for external stakeholders to submit comments to help the IRS shape the Future of Civil Penalties. OSP will continue to work with other parts of the Service to develop studies to determine the extent that civil penalties promote voluntary compliance, but will not commit to publish reviews of such studies.		usual public discourse that helps researchers avoid blind spots and errors in their analysis. As a result, the IRS is more likely to continue to formulate and apply its penalty policies based on incomplete information and unexamined assumptions. Moreover, this lack of transparency is inconsistent with the taxpayer's *right to be informed*, which includes the right to "clear explanations." Finally, OSP's secret penalty analysis is also likely to reduce the public's trust for the IRS and its penalty policies. Research suggests trust in government and the IRS drives voluntary compliance. Thus, OSP's lack of transparency is likely to undermine voluntary compliance – a result inconsistent with the reason for OSP's existence.

2014 ARC – MSP Topic #9 – Complexity: The IRS Does Not Report on Tax Complexity as Required by Law

Problem
The IRS Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 98) requires the IRS to report to Congress each year on the sources of and ways to reduce complexity in tax administration. However, the IRS has issued only two such reports and none since 2002. Congress adopted legislation to address each area of complexity referenced in the reports, and the IRS addressed the administrative problems they uncovered. Thus, the IRS's decision to discontinue the reports has likely contributed to tax complexity.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Analyze and report to Congress each year on the sources of complexity in tax administration and on ways to reduce it, as required by law.	Based on continuing collaboration with Treasury, Congressional staff, taxpayer representatives and behavioral-economics experts, an authoritative analysis of the sources of complexity has been completed and published, and a program, including behavioral modeling, has been put in place and is now producing and documenting IRS estimates and statistics on complexity. After 2002, the year the last complexity report was issued, resources gradually were transferred to focus on innovative analytics and away from the reports; and more and more of the statistics reported in the complexity report were made available in other ways, for example, on the IRS web-site and through other media.	No	The IRS's response indicates it addressed Congress's concerns following the 2002 complexity report by publishing more statistics and establishing the National Research Program (NRP) and a vaguely-described taxpayer burden program, but these items aren't reported to Congress and don't include recommendations for simplification. The response later indicates unidentified testimony or reports from other entities identify areas of complexity for Congress. All these items (or their predecessors) existed when Congress enacted legislation requiring the IRS to provide it with a complexity report, which shows Congress wanted something more. Thus, none of this information

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	In addition, a new program to determine the roots of taxpayer compliance, including the effects of complexity--named the National Research Program--was instituted. That program addressed the RRA98 concerns related to the report that gaining such information via an earlier program had been burdensome and intrusive for taxpayers. Both the taxpayer burden research program and the National Research Program on compliance issue periodic reports that provide the information sought for the earlier complexity report, and provide that in more focused, effective, and efficient ways. Therefore, the objectives and reporting role of the complexity reports have been superseded by two newly-established analytical programs that meet and exceed the scope of the reports, provide ongoing information on complexity, and bring best practices in research, analytics,		fulfills the IRS's statutory mandate to analyze and report to Congress each year on the sources of complexity in tax administration and on ways to reduce it.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	and econometric modeling on complexity and taxpayer behavior to IRS operations. Updated information is continuously provided to those programs via new ongoing surveys on taxpayer burden and annual compliance-related studies of taxpayer records.		
2. Issue a report addressing the complexity faced by a different taxpayer segment each year over a rolling multi-year period, so that these reports address the complexity faced by taxpayers throughout the tax system.	RAS has developed a robust model to address the complexity faced by different taxpayer segments in meeting their taxpayer filing requirements. RAS periodically surveys various taxpayer segments to improve and update its model and consults with Treasury's Office of Taxpayer Analysis and Office Management and Budget. The results of the model are used to enable the Service to assess taxpayer burden providing insights and better understanding of how complexity drives costs and affects behavior. RAS provides this information when needed by and useful to various programs and functions. RAS believes this agile method is the most efficient use of its limited resources at this juncture.	Yes (Partial)	The IRS response indicates RAS has a "model to address the complexity faced by different taxpayer segments in meeting their taxpayer filing requirement," which it updates periodically. However, it doesn't specifically identify or disclose any such model. As a result, neither TAS nor Congress can evaluate the extent to which it addresses the complexity faced by a different taxpayer segment each year over a rolling multi-year period, as recommended.
3. Include in the	RAS is surveying taxpayer behavior	No	The IRS response cites a RAS

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
complexity report all of the data suggested by Congress, including areas where employees make frequent errors interpreting or applying the law (*e.g.*, the errors collection employees make in applying taxpayer protection provisions).	and modeling taxpayer post-filing burden with an aim to better understand the compliance experience of the taxpayer and the factors contributing to it. Additionally, both Treasury and IRS officials testify frequently before Congress on the complexity of the tax laws and the need to reform the tax code. This testimony generally includes specific examples of provisions of the tax code that presents issues for taxpayers, their representatives or IRS employees. The legislative proposals, annually included in the General Explanations of the Administration's Fiscal Year Revenue Proposals, in many instances are responses to complexity of the current tax code. GAO and TIGTA also have issued reports on the complexity of the tax code and TIGTA is required to review several IRS programs annually and report on errors it finds in the IRS's administration of those programs. In the annual Taxpayer Assistance Blueprint, the IRS, working with the NTA and the IRS Oversight Board, identifies areas of service		survey of taxpayer behavior and modeling, unspecified testimony before Congress, unspecified TIGTA and GAO reports, and a decade-old analysis of gaps in the IRS's service offerings, in apparently suggesting Congress may not actually need all of the data it requested in connection with the complexity report. However, these items do not fill all of the gaps in data that Congress identified, such as areas where employees make frequent errors interpreting or applying the law (*e.g.*, the errors Collection employees make in applying taxpayer protection provisions). The IRS has unilaterally decided complexity reports, as required by Congress, are no longer necessary. Thus, it's violating the law and making its job more difficult by withholding from Congress and the public vital information and recommendations that could improve tax administration.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	shortcomings, some of which are related to the complexity of the tax code and the improvements the IRS makes to taxpayer service in these areas once they are identified. Thus, the sources of complexity in the agency's administration of the tax code are well known and publicly available.		

2014 ARC – MSP Topic #10 – COMPLEXITY: The IRS Has No Process to Ensure Front-Line Technical Experts Discuss Legislation with the Tax-Writing Committees as Requested by Congress

Problem

Pursuant to RRA 98 section 4012, the tax-writing committees in Congress should hear from "front-line technical experts" at the IRS about the "administrability" of pending amendments to the tax code. Employees who regularly communicate with taxpayers probably have a clear and pragmatic understanding of the challenges facing both taxpayers and front-line IRS employees. If it were easier for Congress to consult with these front-line technical experts, then Congress might be more likely to do so before finalizing legislation, and the laws would probably be simpler, less burdensome, more taxpayer-focused, and easier to administer. If such information empowered Congress to write tax laws that are more fair or easier to understand and administer, it would also promote the taxpayer rights *to a fair and just tax system* and *to quality service*.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. The National Taxpayer Advocate recommends the IRS establish a process to automatically provide the tax writing committee staff with a list of specific front-line technical experts who can discuss the administrability of pending (or existing) legislation directly with the tax-writing committees, as provided by RRA 98, without waiting for a specific request from the tax-writing committees.	Legislative Affairs reaches out to the Legislative Liaisons (LLs) of the various business units when Congress asks for comments on pending legislation. In responding to these inquiries, the LLs solicit input from various levels of IRS, including technical experts. These technical experts are analysts, technical advisors, and/or managers who were promoted to these positions from front-line jobs due to their expertise and whose jobs are to use their technical expertise in their field and front-line experience to provide instruction to front-line employees as well as gauge administrability and implement formal guidance and law	No	The IRS response suggests when Congress requests comments from the IRS on pending legislation, the LLs may solicit the views of IRS employees who were promoted from positions as front-line technical experts. While such a process may be helpful to Congress, it's not as proactive as automatically providing the tax writing committee staff with a list of specific front-line technical experts who can discuss the administrability of pending (or existing) legislation directly with the tax-writing committees, as recommended by the National Taxpayer Advocate, without

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	changes. Legislative Affairs reviews all comments received from the various business units and provides the response to Congress.		waiting for a specific request from the tax writing committees. The IRS's procedure doesn't empower the staff in Congress to hear directly from front-line technical experts, as provided by law, or to encourage them to communicate with the IRS's experts proactively, before they have drafted legislation. The National Taxpayer Advocate understands the IRS's concern that the appropriate technical experts be made available to Congress; nothing in her recommendation would eliminate the IRS's authority or ability to select which experts it makes available to Congress. But on occasion after occasion, Congress, IRS employees, and taxpayers can point to laws that would have benefitted from the expertise and practical knowledge of these front-line technical experts, who interact with taxpayers on a daily basis and understand what aspects of law can promote or hinder taxpayer's ability to comply.

2014 ARC – MSP Topic #11 – WORKLOAD SELECTION: The IRS Does Not Sufficiently Incorporate the Findings of Applied and Behavioral Research into Audit Selection Processes as Part of an Overall Compliance Strategy

Problem

Sixteen years after the National Commission for Restructuring the IRS directed the IRS to select returns to audit on the basis of research—which for tax administration today means applied social science research about taxpayer behavior—the IRS continues to base its compliance initiatives, including audit selection, primarily on tax data. The IRS claims to recognize the value of a holistic approach to encouraging compliance, but doesn't seek the data it needs to develop an approach based on applied and behavioral research. Without a more expansive definition of research to drive initiatives, and without using pilots and surveys to test and evaluate these programs before implementing them, IRS compliance initiatives will not drive future compliance. Audit selection will continue to be only a tactic, rather than part of an overall compliance strategy.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Adopt "increasing voluntary compliance" as the primary measure for evaluating both enforcement and taxpayer service initiatives.	Increasing voluntary compliance is a fundamental continuous goal for tax administration. The IRS already considers the impact of case selection methods on voluntary compliance for both enforcement and taxpayer service initiatives. To that end, across the IRS, we have been continuously refining our workload strategy so that it's informed, in part, by a variety of quantitative and qualitative research methods, so that it efficiently uses data analytics and considers numeric, return based, geographic, demographic, and behavioral economic factors, as well as the impact of perceptions of	No	We are pleased the IRS recognizes voluntary compliance as a key, if not primary, measure of its enforcement and service initiatives. However, despite its assertion that it considers the impact of case selection methods on voluntary compliance, the IRS has not pointed to any specific measures to that end, nor has it identified or shared with us any studies it conducted that demonstrate a particular procedure's impact on voluntary compliance. Moreover, the IRS maintains it's not able to accurately measure the effect of generic service and compliance

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	fairness on voluntary tax compliance. While we agree that voluntary compliance is (and should continue to be) a very visible and present goal for IRS, there are challenges with construing it as a primary measure for evaluating all enforcement and taxpayer service initiatives. It is difficult to relate voluntary compliance in a rigorous and meaningful way to all examination and taxpayer service efforts. This is because increasing voluntary compliance is not applicable as a measure to all initiatives. For instance, an initiative regarding specific transactions in a specific industry can be addressed through enforcement. An assessment can be made on subsequent years to see if these transactions are now being reported correctly industry-wide. This could be an indication of increased voluntary compliance. For initiatives where it's possible to measure voluntary compliance, we are attempting to capture that measurement (for example, initiatives around EITC and IRDM).		initiatives on voluntary compliance, a position the National Taxpayer Advocate rejects. The IRS evidently does not intend to attempt or plan to research to determine how it could measure the effect of its initiatives on voluntary compliance as its response does not contain any action items. As discussed in this Most Serious Problem, TAS has itself conducted research into the factors that drive compliance. We have explored the long-term impact on voluntary compliance of liens, penalties, and most recently, audits. Relevant research studies found in Volume Two of our annual reports include: • *Estimating the Impact of Audits on the Subsequent Reporting Compliance of Small Business Taxpayers* (National Taxpayer Advocate 2014 Annual Report to Congress); • *Do Accuracy-Related Penalties Improve Future Reporting Compliance by Schedule C Filers?* (National

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	It's much more difficult to assess the impact that a generic initiative, such as CAP or CMO, spanning industries and code sections, has on voluntary compliance. There are too many factors involved with compliant/non-compliant behavior to point to any specific item in a generic initiative as being the driving force behind increased voluntary compliance.		Taxpayer Advocate 2013 Annual Report to Congress); • *Factors Influencing Voluntary Compliance by Small Businesses: Preliminary Survey Results* and *Small Business Compliance: Further Analysis of Influential Factors* (National Taxpayer Advocate 2012 and 2013 Annual Reports to Congress); • *Investigating the Impact of Liens on Taxpayer Liabilities and Payment Behavior* (National Taxpayer Advocate 2012 Annual Report to Congress);and • Marjorie Kornhauser, *Normative and Cognitive Aspects of Tax Compliance: Literature Review and Recommendations for the IRS Regarding Individual Taxpayers* (National Taxpayer Advocate's 2007 Annual Report to Congress). This work can be done with respect to specific issues and the IRS can transfer the knowledge

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
			gleaned to other issues and form the basis of pilots.
2. Not only incorporate applied and behavioral research into all of its compliance initiatives, but also fund or activate compliance initiatives only after adopting an integrated strategy that articulates how the IRS will: a. Use education, outreach, partners, assistance, non-invasive compliance touches, and enforcement touches to increase compliance; b. Test the initiative before full deployment, and use tests or pilots to project the effect on future compliance; c. Measure the initiative's success, including conducting surveys and focus groups both before and after the initiative; and d. Adjust its overall compliance plan in the	We agree with the importance of education and outreach. IRS employs a robust communication plan that incorporates outreach and education to a wide variety of groups including tax practitioners, industry groups and other stakeholders. For example, IRS partners with external stakeholder groups, such as the Tax Executives Institute, AICPA and industry-specific groups, in order to promote transparency, cooperation and resolution of issues. We solicit feedback from external stakeholders to improve tax forms and publications as well as information on IRS.gov in an effort to increase compliance through non-invasive means. Through the use of innovative tools such as the Payment Mix Comparison Tool, we leverage our relationship with tax practitioners to increase compliance. We also firmly believe in the benefits of the test and learn	Yes (Partial)	The IRS agrees the recommended approach of adopting an integrated strategy to compliance is appropriate and it intends to implement some of the recommended elements as part of the forthcoming Compliance Concept of Operations and the Compliance Capabilities Vision initiatives, even though it believes the approach isn't necessary for all compliance initiatives. The National Taxpayer Advocate hasn't observed this promised approach emerging in the forthcoming initiatives, which do not incorporate the findings of applied and behavioral research. Even if the IRS adopts initiatives with varying strategic emphases, it should still consider and articulate the importance of each component of the recommended approach prior to funding or activating compliance initiatives. In its response, the IRS states that where the need for a

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
light of continuing research findings and trends.	approach, which we have found to be a good methodology. When conducting compliance initiative projects (CIP), IRS generally begins with a Part 1 which involves auditing a limited number of taxpayers. When issues are identified that appear to be widespread, we leverage that knowledge to expand to a Part 2 CIP incorporating outreach and education into the strategy. Likewise, we often pilot programs before full deployment, and then use pilot results and experiences in the decision-making process for full-deployment. And we make use of surveys and focus groups when rolling out new initiatives. The Compliance Concept of Operations and the Compliance Capabilities Vision strategies are being finalized. Many of the approaches recommended by NTA will be addressed as these strategies are implemented. Adopting the full four-part integrated strategy the NTA recommends in every case seems unnecessary. Sometimes, the need for a compliance initiative		compliance initiative is clear and compelling, there is no reason to conduct the "somewhat exhaustive" analysis we propose. On the contrary, where there is a "clear and compelling" need, the IRS should be able to clearly articulate it, and that articulation would include the four components we identify. As the IRS undertakes the research and analysis we recommend, it could rely on a library of research and a basic understanding of taxpayer behaviors and factors driving compliance, which would allow it to avoid reinventing the wheel with each initiative.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	is clear and compelling, and some initiatives can (and should) be taken without first conducting the uniform and somewhat exhaustive analysis the NTA proposes.		

2014 ARC – MSP Topic #12 – ACCESS TO THE IRS: Taxpayers Are Unable to Navigate the IRS and Reach the Right Person to Resolve Their Tax Issues

Problem

Taxpayers very often face difficulty in reaching the right person at the IRS to resolve their problems. The IRS Restructuring and Reform Act of 1998 (RRA 98) requires the IRS to make itself accessible to taxpayers, specifically by phone. However, calling local offices does little good because the IRS does not answer these calls. Taxpayers also encounter problems in reaching the right person on the IRS's nationwide toll-free line, where callers must navigate an extended phone tree without being given the option to speak to a live person. The IRS has failed to embrace current technology that would allow it to comply with the intent of the RRA 98 provisions—ensuring taxpayers can reach the person at the IRS who can answer their questions or help with their problem. When taxpayers can't speak to someone at their local IRS office, or find the right person to talk to, their *right to quality service* is compromised.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Provide an option for taxpayers calling the local TAC lines to speak to a live person or be transferred to another part of the IRS.	Local TAC offices are staffed to provide face-to-face assistance to taxpayers. When TAC employees answer telephone lines they're not available to assist customers already waiting in the TAC. IRS provides toll-free lines for taxpayers to resolve issues on the telephone. During Filing Season 2015, IRS will test serving taxpayers by appointments in 44 TACs. Two appointment scheduling approaches will be explored during the test. One approach will use Customer Service Representatives to schedule appointments during calls made to a dedicated toll-free line. Another approach will be to use TAC	Yes (Partial)	The National Taxpayer Advocate is pleased the IRS is exploring new options that may allow taxpayers to call the IRS to make an appointment at a local TAC. Establishing a dedicated toll-free line for taxpayers to make appointments at all TACs, including a functionality for taxpayers to talk to a live person, receive a call back, or be transferred to another part of the IRS on these lines, will achieve the purpose of this recommendation. This will help all taxpayers, especially the elderly and disabled, more easily

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	personnel to schedule appointments from messages left on the 3709 line, local email, and/or walk-in appointment (generally not the same day). After the test concludes, IRS will determine if the 3709 line should be the intake vehicle for any TAC appointments.		reach someone at the IRS or make an appointment at a local TAC. Without the transfer option on this line, the dedicated toll-free line would fall short of the National Taxpayer Advocate's recommendation.
2. Provide a phone line for elderly or disabled taxpayers to call to make an appointment at a TAC, including messaging and callback service, and establish and publicize timeframes within which callbacks must occur.	The IRS disagrees with this recommendation. However, the IRS is beginning a test in 44 TACs to determine the feasibility of establishing appointments for all taxpayers. Two appointment scheduling approaches will be explored during the test. One approach will use Customer Service Representatives to schedule appointments during calls made to a dedicated toll-free line. Another approach will use TAC personnel to schedule appointments from messages left on the 3709 line, local email, and/or walk-in appointment. While appointments will generally be scheduled in advance, local managers have the discretion to make exceptions. Exceptions can include taxpayers with limited mobility and hardships.	Yes (Partial)	It is unclear why the IRS disagrees with the recommendation to provide a phone line for the elderly or disabled to make an appointment at a TAC when the IRS is currently providing this service through its TAC appointment pilot program. Further, to fully carry out the recommendation, the IRS must hold itself accountable by establishing and publishing timeframes for callbacks.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
3. Make the IRS Telephone Directory for Practitioners or a similar directory available to the public.	The telephone directory for practitioners is intended as an additional resource for practitioners representing clients who may be under audit. Taxpayers who receive IRS correspondence are provided a number for the best place to call to discuss their issue. Providing access to the telephone directory currently available to practitioners could create confusion and delays in the process should taxpayers contact other IRS employees for information instead of the appropriate point of contact for their case. Taxpayers with general tax questions can reach the IRS via phone or the internet. The toll-free 800-829-1040 line is designed to provide individual taxpayers and business owners with tax law and account assistance. Creating a public telephone directory requires resources to compile the directory and then resources to ensure that the directory is continuously updated. Under our current budget, this does not represent the best use of our limited resources.	No	The IRS objects to making the Telephone Directory for Practitioners or a similar directory available to the public based on the potential consequences from taxpayers contacting a person other than the appropriate point of contact for their case. The IRS fails to appreciate the value of the practitioner directory, which doesn't provide a list of individual IRS front-line employees, but instead provides a directory of managers and program owners. This is similar to prevalent practices in the private sector, where for-profit entities routinely list their leadership contact information for the general public to foster transparency and accountability. Taxpayers could use this directory to contact the managers and program owners to report problems, raise concerns, share success stories, and provide valuable information about the programs they are overseeing. A good manager should want to know about the issues in the

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
			programs he or she oversees. The Commissioner of Internal Revenue, as well as the National Taxpayer Advocate, regularly receive and answer emails from taxpayers. If the IRS leadership can do it, then the heads of offices such as Return Integrity and Compliance Services or Submission Processing should follow their example. The IRS cites the current budget as a roadblock to establishing a public directory, stating it would require resources to compile and update the directory. In 2008, the National Taxpayer Advocate made similar recommendations for the IRS to create a topical index on IRS.gov that outlines the related tax law and IRS procedures and gives a contact number for the department with the expertise to answer any questions the site fails to resolve; for taxpayers who need personal interaction, she recommended IRS create a phone number system similar to a 311 system.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
			At that time, when the IRS was operating under a very different budget environment, it also refused to create a directory, stating: "[it] would likely prove unwieldy for taxpayers and a very costly administrative challenge for the IRS to maintain. Further, current telephone systems cannot support large-scale public access to employees' personal administrative telephone lines, nor are most non-customer service occupations trained or able to effectively handle any volume of taxpayer calls." If the IRS had established an external directory when the National Taxpayer Advocate first recommended it, at a time when it was in a better position to upgrade phone lines and provide basic customer service training, it could not cite "resources" as an

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
			excuse now. The IRS missed an opportunity to support a culture of accountability and responsiveness to the public. Taxpayers have the *right to be informed* and the IRS should make publicly available the contact information of IRS program managers. Further, the National Taxpayer Advocate encourages the IRS to cite data and provide analysis when stating a proposal wouldn't be a good use of funding instead of summarily rejecting recommendations.
4. Institute a system similar to a 311 system where a taxpayer can be transferred by an operator to the specific office within the IRS that handles his or her issue or case.	IRS has decided to invest its resources in providing other means for taxpayers to get information. During filing season, IRS uses screeners to direct tax law questions appropriately. Taxpayers who receive IRS correspondence are provided a number for the best place to call to discuss their issue. IRS also uses automation on the toll-free lines to provide customers with efficient and accurate tax law and account assistance and, where appropriate, connect the taxpayer with an assistor	No	Without a telephone directory or a 311 system, taxpayers will continue to face difficulty in finding the right person they need to talk to at the IRS. The phone numbers on correspondence are not helpful if the taxpayer needs to talk to someone other than the specific office assigned to his or her issue or has an issue with the employee handling his or her case, not to mention a taxpayer may misplace correspondence. The current confusing system of

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	who has the skill sets to provide the necessary service. Given our limited budget resources, instituting a 311 system at this time is not the best use of our funding.		automated prompts means taxpayers often do not reach the correct office or person, if they reach a person at all. Given the Commissioner's recent prediction that the phone level of service for all of FY 2015 would be approximately 40 percent, and the acknowledgment taxpayers may have to wait 30 minutes or more before reaching an assistor, it's even more important for the IRS to have an efficient system of connecting taxpayers to the right IRS employee or office.

2014 ARC – MSP Topic #13 – CORRESPONDENCE EXAMINATION: The IRS Has Overlooked the Congressional Mandate to Assign a Specific Employee to Correspondence Examination Cases, Thereby Harming Taxpayers

Problem

In the IRS Restructuring and Reform Act of 1998 (RRA 98), Congress intended for the IRS to assign one employee to each taxpayer case, to the extent practicable and when advantageous to the taxpayer. Some IRS functions provide one employee to each case, but others have overlooked or simply ignored this mandate. For example, the Correspondence Examination program, which is used in about 75 percent of individual audits, has no system or procedures for determining when a taxpayer should have one employee assigned to a correspondence exam. Nor has the IRS conducted any research to determine the downstream costs to it or the taxpayer when cases aren't assigned to one employee. The IRS's failure to provide an assigned employee, as well as the associated consequences imposed on the taxpayer violate the taxpayer's *rights to quality service, to be informed, to challenge the IRS's position and be heard*, and *to pay no more than the correct amount of tax*.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Analyze the additional work caused by the current approach taken in correspondence exam. Based on that review, develop procedures and staffing models that enable cases to be assigned to one employee once the taxpayer has contacted the IRS.	As the NTA report noted, the congressional mandate was for IRS to "develop procedures to the extent practicable and if advantageous to the taxpayer to assign one IRS employee to handle a taxpayer's matter until it is closed." Given the technology limitations and our paper centric program in Correspondence Exam, it is not practical to assign one employee to handle the taxpayer's audit from beginning to end. Our current approach to working corporate inventory is a more efficient process than assigning a case to one examiner once the taxpayer has contacted the IRS and the current	No	The IRS's responses indicate it's misinterpreting or ignoring the congressional intent behind RRA 98 §3705(b). The IRS disagrees with recommendations, concluding they're not practicable, without analyzing whether they are advantageous for the taxpayer. The IRS cites no data or pilots to show assigning one employee is not more efficient nor any analysis to show the current process is compliant with RRA 98. Meanwhile, TIGTA, the NTA, and the GAO have all heavily criticized the current IRS

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	procedures do not violate RRA 98. In the current process, the case is assigned to the first Tax Examiner who addresses the response, but may not remain with the initial Tax Examiner until resolution. If sufficient documentation is not received from the initial contact, the case is placed back in the automated system until subsequent correspondence is received or the case is self-assigned by the examiner who handled the taxpayer phone call or was assigned after the documentation was received or the case is closed. Eliminating extension routing of phone calls allows Correspondence Examination to provide one-stop service with most calls. The Correspondence Examination Toll Free Line allows taxpayers to contact an experienced assistor at any campus for immediate assistance, without having to wait for a returned call from an individually assigned examiner. This process allows for the most expeditious resolution of the case. Additionally, as part of the Correspondence Exam Assessment Project, we are engaged in several activities to improve the		correspondence examination processes for inadequately delivering taxpayer service. The IRS needs to revisit its analysis from a taxpayer's perspective and balance the practicability of suggested changes with the impact on taxpayer rights. Congress intended to decrease the burden for taxpayers who had a difficult time resolving their cases because they couldn't reach the appropriate IRS employee. As noted in the Most Serious Problem, the same problems facing taxpayers in 1998 continue to burden taxpayers today.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	correspondence exam experience. Examples include plans to pilot Taxpayer Digital Communications (TDC) to communicate with taxpayers through a secure portal and conducting a phone efficiency review to improve phone operations.		
2. Allow the taxpayer to individually choose service options to his or her advantage, such as leaving a voicemail for the employee owning the case or speaking with the next available employee.	As the NTA report noted, the congressional mandate was for IRS to "develop procedures to the extent practicable and if advantageous to the taxpayer to assign one IRS employee to handle a taxpayer's matter until it is closed." Given the technology limitations and our paper centric program in Correspondence Exam, it's not practical to assign one employee to handle the taxpayer's audit from beginning to end. However, to provide better customer service and a more expedient case resolution, when taxpayers call the Correspondence Examination Toll Free Line, their call is routed to the next available assistor. The assistor is experienced, has access to case history, and will work with the taxpayer toward resolution. If at the end of the call, the taxpayer is not satisfied, they have the option to	No	The IRS cites technology limitations as a reason why it can't comply with the congressional mandate. The IRS response indicates it views providing the next available employee as an efficient way to work cases. Since the IRS has not studied the costs associated with problems the automated system has created in correspondence examination, it is difficult to determine efficiency in working all cases. Perhaps assigning an employee to certain correspondence exam cases, even if it takes longer for a return phone call to occur, will benefit taxpayers and the IRS in the long run. The IRS also asserts assigning the next available employee resolves most cases in a one-stop fashion; however, it

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	have the assigned Tax Examiner return their call.		doesn't provide any data or analysis to support this assertion. In FY 2016, TAS will analyze the "one-stop" effectiveness of the IRS's correspondence examination cases.
3. Design extension routing capabilities to enable taxpayers to reach the employee assigned to their cases.	As the NTA report noted, the congressional mandate was for IRS to "develop procedures to the extent practicable and if advantageous to the taxpayer to assign one IRS employee to handle a taxpayer's matter until it is closed." Given the technology limitations and our paper centric program in Correspondence Exam, it is not practical to assign one employee to handle the taxpayer's audit from beginning to end. We wouldn't want to design extension routing capabilities to enable taxpayers to reach the employee assigned to their cases. In the past, we've found in the automated correspondence environment that when the taxpayers left voice mails the calls were not returned within the previous requirement of 24 hours. Examiners were not able to timely return the taxpayer calls because of handling other calls, working cases,	No	Given the Commissioner's recent prediction that the phone level of service for all of FY 2015 would be approximately 40 percent, and the acknowledgment that taxpayers may have to wait 30 minutes or more before reaching an assistor, it is even more important for the IRS to have cases assigned to a specific employee once the taxpayer has contacted the IRS or at least help route taxpayers to the right IRS employee or office. With such low levels of service on the phone lines, taxpayers must commit a large amount of time and money to wait on hold for the next available employee, who is not always the right one for assistance. For instance, case histories are not always written clearly, and return calls are not always made to the taxpayer. Of

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	using leave, performing other non-casework activities or due to their tour of duty. To improve customer service for the telephones, corporate call routing (Intelligent Contact Management - ICM) was fully implemented in 2009 for Correspondence Examination. Extensive training was provided to all examiners on all audit issues enabling them to effectively respond to telephone calls. Calls were routed to the next available examiner eliminating the need for taxpayers to leave messages. The Correspondence Examination Toll Free Line allows taxpayers to contact an experienced assistor at any campus for immediate assistance, without having to wait for a returned call from an individually assigned examiner. This process allows for the most expeditious case resolution.		course, this assumes the taxpayer is able to get through to an IRS employee. The IRS cites a previous inability of correspondence examination employees to return taxpayer calls within the required 24 hours to justify the current examination process. The IRS explains calls could not be returned within 24 hours because the employees were handling other calls, working cases, taking leave time, etc. However, the IRS could provide taxpayers with a choice. Perhaps some taxpayers would rather wait longer for a response, if the response is coming from the employee working their case.
4. Include an option for single employee assignment in all technology developments, including Virtual Service Delivery.	As the NTA report noted, the congressional mandate was for IRS to "develop procedures to the extent practicable and if advantageous to the taxpayer to assign one IRS employee to handle a taxpayer's matter until it is closed." Given the	No	While we are pleased the IRS is evaluating new technological tools such as Virtual Service Delivery and is planning to pilot Taxpayer Digital Communications, which will allow communications to taxpayers

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	technology limitations and our paper centric program in Correspondence Exam, it's not practical to assign one employee to handle the taxpayer's audit from beginning to end; therefore, we don't concur with this recommendation. However, we are evaluating options to communicate and resolve specific taxpayer issues through technology. Virtual Service Deliver (VSD) is a good example of multiple employees resolving a single case. Through VSD, cases were successfully resolved even though the person conducting the VSD appointment was not always the person previously assigned the audit. We are also planning to pilot "Taxpayer Digital Communications" which will allow communications to taxpayers through a secure portal. Similar to VSD, it's envisioned that multiple examiners may be involved to expedite case resolution.		through a secure portal, the National Taxpayer Advocate remains concerned the IRS is not willing to provide an option for taxpayers to communicate with a specific employees assigned to a case. Having multiple employees work a case creates a culture where no one employee is accountable for how the case is handled. Employees may do just what is required of them at any given moment, but no one is vested in fully helping the taxpayer navigate the process and come to a resolution. The IRS response does not address this lack of accountability, but based on assumed short-term efficiencies already discredited by the GAO and TIGTA, the IRS disregards the suggestions provided by TAS to address the problem. The National Taxpayer Advocate encourages the IRS to observe the congressional mandate, which will result in real efficiencies for the IRS – and benefits to taxpayers.

2014 ARC – MSP Topic #14 – AUDIT NOTICES: The IRS's Failure to Include Employee Contact Information on Audit Notices Impedes Case Resolution and Erodes Employee Accountability

Problem

In Section 3705(a) of the IRS Restructuring and Reform Act of 1998 (RRA 98) Congress required the IRS to include the name, telephone number, and unique employee identification number in any "manually generated correspondence." The IRS has failed to meaningfully implement the requirements of § 3705(a) as it does not include useful specific employee contact information on most computer-generated notices, even when a particular employee has worked on the case. Campus correspondence procedures fail to address Congress' concerns regarding the inability of taxpayers to contact an IRS employee who is knowledgeable about and accountable for the case. This situation erodes several essential taxpayer rights—*the right to quality service*, *the right to be informed*, and *the right to a fair and just tax system*—articulated in the Taxpayer Bill of Rights.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. All audit notices and correspondence currently sent to taxpayers, including those generated by Examination software, should be reviewed to ensure compliance with § 3705(a) of RRA 98.	Based on Counsel's advice, contact information for specific employees isn't required on systemically generated correspondence, but an employee's name should be included on notices that are manually generated. We acknowledge that a specific tax examiner's name isn't included on manually generated correspondence in Correspondence Exam. Our current approach to working corporate inventory is a more efficient process than assigning a case to one examiner once the taxpayer has contacted the IRS. The Correspondence Examination Toll Free Line allows taxpayers to contact an experienced assistor at any campus for immediate	Yes	While inclusion of the name of the Tax Examiner who generated the notice is a step in the right direction toward partial compliance with the requirements of RRA 98, it doesn't fully address the concerns that led to the implementation of § 3705(a) of RRA 98. To fully comply with RRA 98, the phone number of the employee must also be included with the employee name in all manually-generated correspondence. Including just the name of the employee does not remedy congressional concerns about employee

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	assistance, without having to wait for a returned call from an individually assigned examiner. This process allows for the most expeditious resolution of the case. We continue to review our notices through letter, quality, and program/operation reviews. For example, at the beginning of each filing season, notices are reviewed for accuracy to ensure taxpayers receive the appropriate notices and enclosures. The reviews allow us to make necessary revisions prior to the notices being issued to taxpayers. However, to ensure we are in compliance with Section 3705(a) of RRA 98, we'll change the letters that aren't in compliance to include the tax examiner's name. However, the taxpayers will be provided the toll free number which means they may not be able to contact the examiner whose name is listed on the correspondence since extension call routing is not available. The updated letter will also advise taxpayers that they may not be able to reach the examiner whose name is listed on the correspondence, but the experienced assistor who answers the call will be able to address		accountability or assist taxpayers in resolving their IRS issues with an employee with actual knowledge of their particular cases. The National Taxpayer Advocate expects the IRS to consult with TAS as a stakeholder in identifying manually generated notices that should include the Tax Examiner's name. TAS will provide the IRS with a list of notices it has identified where IRS should include employee names and contact information.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	their inquiry.		
2. Where an employee has reviewed a case, letters generated by that review should contain the employee's name and contact information, even if the letter is generated with the assistance of automated systems or software.	Based on Counsel's advice, contact information for specific employees is not required on systemically generated correspondence, but an employee's name should be included on notices that are manually generated. Tax Examiners have the ability to include their name on manually generated letters. However, to provide better customer service, the toll-free number is included on the letters. Currently, 95% of W&I's & SB/SE's inventory is automated. To assign to a Tax Examiner upfront will substantially reduce hours available to address the taxpayer mail since this will require Tax Examiners to manually issue letters and move cases through the audit stream. Our current approach to working corporate inventory is a more efficient process than assigning a case to one examiner once the taxpayer has contacted the IRS. The Correspondence Examination Toll Free Line allows taxpayers to contact an experienced assistor at any campus for immediate assistance, without having to wait for a returned call from an individually assigned examiner. This	Yes	Particularly in cases where a taxpayer receives a letter that provides or impacts the taxpayer's legal rights, it's in the best interest of both the IRS and the taxpayer for the taxpayer to expeditiously reach an IRS employee to resolve the issue, if possible, before the taxpayer must go to court.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	process allows for the most expeditious resolution of the case. However, to ensure we are in compliance with Section 3705(a) of RRA 98, we will change the letters that aren't in compliance as described in our response to recommendation 14-1.		
3. If a notice is generated automatically through a program such as Automated Correspondence Examination (ACE), but has legal impact on the taxpayer, such as a Statutory Notice of Deficiency (SNOD), the contact information for a manager should be included on such notices to facilitate call-routing and case assignment.	The manager's contact information is not included on notices, including stat notices, since cases are not assigned to a single employee. Manager contact information does not facilitate call routing or case assignment. Examiner's addressing taxpayer's inquiries have the ability to work an assigned case based on their training and the documented case history. Having examiners work cases systemically in the automated system allows for more expeditious handling of the case and reduces delays in responding to taxpayers. They have the authority to handle these types of issues, which will prevent delays in processing the case. The current procedures allow taxpayers to request and speak to a manager by calling the toll-free number included in the notices.	No	Including the contact information of a manager on these types of letters will allow the manager to balance workload and expertise to assign cases and resolve taxpayer issues prior to the added burden and expense of legal action to both the taxpayer and the government.
4. Once a taxpayer has communicated with the	Based on Counsel's advice, contact information for a specific employees is	Yes	While inclusion of the name of the Tax Examiner who

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
IRS, either by correspondence or via a phone call, contact information for the employee who reviews that correspondence or answers the telephone call should appear on subsequent correspondence.	not required on systemically generated correspondence, but an employee's name should be included on notices that are manually generated. We acknowledge that we're not in compliance since the examiner's name is not currently included on manually generated correspondence in Correspondence Exam. Tax Examiners (TE's) have the ability to include their name on manually generated letters. However, to ensure we are in compliance with Section 3705(a) of RRA 98, we'll change the letters that aren't in compliance as described in our response to recommendation 14-1. The taxpayers will be provided the toll free number which means they may not be able to contact the TE's name listed on the correspondence since extension call routing is not available. The updated letter will also advise taxpayers that they may not be able to reach the examiner's name listed on the correspondence, but the experienced assistor who answers the call will be able to address their inquiry.		generated the notice is a step in the right direction toward partial compliance with the requirements of RRA 98, it doesn't fully address the concerns that led to the implementation of § 3705(a) of RRA 98. To fully comply with RRA 98, the phone number of the employee must also be included with the employee name in all manually-generated correspondence. Including just the name of the employee does not remedy congressional concerns about employee accountability or assist taxpayers in resolving their IRS issues with an employee with actual knowledge of their particular cases. The National Taxpayer Advocate expects the IRS to consult with TAS as a stakeholder in identifying manually generated notices that should include the Tax Examiner's name. TAS will provide the IRS with a list of notices it has identified where IRS should include employee

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
			names and contact information.

2014 ARC – MSP Topic #15 – VIRTUAL SERVICE DELIVERY: Despite a Congressional Directive, the IRS Has Not Maximized the Appropriate Use of Videoconferencing and Similar Technologies to Enhance Taxpayer Services

Problem

As an element of the IRS Restructuring and Reform Act of 1998 (RRA 98), Congress recognized that videoconferencing and similar technologies present opportunities for effective tax administration. Virtual service delivery (VSD) is an indispensable means of facilitating important taxpayer rights such as *the right to quality service*, *the right to challenge the IRS's position and be heard*, and *the right to a fair and just tax system*. Without access to VSD, taxpayers in remote areas and in states where no Examination, Collection, or Appeals or Settlement Officers are present have limited options for obtaining face-to-face interactions with IRS personnel. Notwithstanding the insights of the IRS Restructuring Commission, the directives of RRA 98, and the successes of other agencies, the IRS is still operating as a 20th century business, primarily relying on postal correspondence, telephone conversations, and taxpayer visits to brick and mortar locations.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Maximize the benefits of VSD in brick and mortar locations currently equipped for videoconferencing by offering VSD services from all such facilities on a day-to-day basis and by enhancing the scope of activities that taxpayers can undertake in	The IRS has an established methodology to optimize the use of existing VSD videoconferencing devices including those located in TACs that are owned by other organizations (Appeals, TAS, and Compliance). The IRS also analyzes the use of VSD in external partner sites for optimization. The existing VSD technology is outdated; therefore, enhancing the scope of activities that taxpayers can undertake in conjunction	No	To the best of TAS's knowledge, the experience of taxpayers using virtual service technology in brick-and-mortar locations has not improved since the National Taxpayer Advocate's published recommendations in the 2014 Annual Report to Congress. Further, meaningful improvements are unlikely to occur in the absence of a funding commitment by the IRS, which

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
conjunction with videoconferencing.	with videoconferencing requires additional Information Technology costs. Those costs must compete with other IRS priorities for funding. The IRS has decided to invest future available resources in virtual technology supported by the CONOPS. This vision includes taxpayers using their own devices to interact with the IRS online enabling the IRS to serve a greater number of taxpayers.		has so far been lacking. Though the IRS is currently allocating funds to development of TDC and other online initiatives, it should not pursue this progress in a way that, even in the short run, fails to protect low-income or other populations who may lack either access to technology or expertise in its use. Even if the IRS makes a resource-based determination to forgo expanding the coverage and functionality of VSD in brick-and-mortar locations, at a minimum, the IRS should allocate existing technology to other functions or programs so as to maximize geographic coverage and day-to-day usage.
2. Establish development and implementation of TDC as one of its highest ongoing priorities.	A cross-functional task force of executives created a 5-year vision for customer service with the mandate to: 1) provide better service to taxpayers and 2) deliver service more efficiently. The Service Approach identified projects and prioritized implementation; sequenced projects according to dependencies; and laid the framework for portfolio management. This	Yes	

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	Roadmap was delivered to the IRS Commissioner in January 2015. We identified several fundamental programs that were essential in making the overall strategy successful and TDC has been named a priority program for the agency, and will deliver secure messaging, text chat, video chat, voice chat, and screen-share capabilities supporting customer service interactions between the IRS and taxpayers. As a building block for future services delivery, we currently have four secure messaging pilots planned that will incorporate one-way and two-way digital communication with planned deployment tentatively scheduled for calendar year 2016. As part of the post-pilot evaluation, we'll evaluate the technology, collect taxpayer feedback, and determine internal business reengineering impact. We are currently assessing the impact and effect of TDC to the Enterprise and anticipate the assessment to be concluded over the next few months. It is expected TDC will play a pivotal role in future customer services. Another priority service digital initiative, Online Account, will enable taxpayers to use		

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	the internet for expanded self-service options as an effective alternative to telephone and face-to-face contacts. The first self-service options under consideration are focused on tax payments and digital transcripts. TDC and Online Account will expand the use of digital communication as an effective service channel for both taxpayers and the Service.		
3. Develop and publish a definitive plan for the continued rollout of both VSD in brick and mortar locations, including non-IRS facilities, and TDC, and articulate concrete dates for implementation at different stages.	Process preparation and configuration planning for the TDC pilots outlined in 15-2 above will inform detailed planning for broader release of TDC capabilities. Post pilot expansion will consider additional supported processes, locations, TDC communications channels, and IRS business units. A more complete roadmap will be developed in early CY16. Earlier roadmap development is not possible until specific vendor technologies and architecture are finalized during the remainder of CY15.	Yes	TAS applauds the IRS for the transparency it has provided regarding its TDC and related initiatives and for its planned publication of a "roadmap" as the technology matures sufficiently. TAS strongly urges, however, the IRS reemphasize the development and expansion of videoconferencing in brick-and-mortar locations.
4. Allocate funding, or seek funding from Congress, sufficient to enable continued implementation of VSD initiatives in brick and	VSD is very much a part of our future plans, and, as such, we'll seek funding for its continued implementation. The allocation of VSD initiatives to brick-and-mortar locations or over the internet will be based on how taxpayer	Yes (Partial)	TAS's understanding is the IRS's TDC and related initiatives are funded, which is commendable, particularly given current limitations of financial resources. The IRS has repeatedly delayed

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
mortar locations and over the Internet.	needs evolve and the ability to virtually interact with taxpayers.		the TDC pilot as a result of procurement and security issues for the last two years. The National Taxpayer Advocate is concerned about the IRS's inability to achieve what so far have been only tentative and aspirational action items and target dates.

2014 ARC – MSP Topic #16 – MATH ERROR NOTICES: The IRS Does Not Clearly Explain Math Error Adjustments, Making it Difficult for Taxpayers to Understand and Exercise Their Rights

Problem

Under Internal Revenue Code (IRC) § 6213(b) and (g), the IRS is authorized, in specific instances, to assess tax without first issuing the Statutory Notice of Deficiency that allows taxpayers access to the prepayment forum of the U.S. Tax Court. Previously this provision applied only to mathematical errors. In 1976, Congress expanded math errors to include "clerical errors" (*e.g.*, inconsistent entries). Congress directed that when the IRS makes an assessment for a mathematical error, the taxpayer must be given an explanation of the adjustment, which is critical to the taxpayer's ability to challenge the adjustment and preserve his or her right to petition the U.S. Tax Court by requesting abatement within 60 days of the notice being sent. Nearly four decades since Congress provided such a directive, the explanations are often unclear, complex, and leave taxpayers confused. This makes it difficult for taxpayers to determine what, specifically, has been corrected on their returns and whether they should accept the adjustment or request a correction.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Organize a team, which would include TAS, to review all current explanations of math error adjustments, and rewrite where necessary, to ensure the congressional directive is being met.	The IRS disagrees with this recommendation. There is already a process in place to create and revise taxpayer correspondence. When a business notice owner identifies a need for a new or revised correspondence product, a request is submitted to the Office of Taxpayer Correspondence (OTC) for services through the "Green Button" application. OTC will work all aspects of correspondence development, including compliance with the Plain Language Writing Act of 2010 and Chief Counsel review for legal sufficiency and submission of	No	The IRS's established process for reviewing math error notices has failed to ensure these notices reflect Congress's desire for clear, simple math error correspondence. When enacting math error authority, Congress required the IRS to provide taxpayers with a clear explanation of the math error adjustment. However, as discussed in the Most Serious Problem, the more than two million math error notices issued annually by the IRS are often vague and unclear and don't

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	programming requirements. Prior to correspondence implementation, TAS and other stakeholders are given an opportunity for review and provide feedback on the product.		comply with Congress' directives on how the IRS should explain a math error adjustment to the taxpayer. This leaves taxpayers confused as to what adjustments the IRS has made to his or her return. To address the inadequate math error notices, it is essential IRS establishes a team, including TAS, to create standard and non-standard templates for math error notices that meet Congress' desire for clarity and simplicity.
2. Set forth an IRM template for non-standard math error adjustment explanations that provides an outline of the elements to be included in the explanation, with examples. The IRM should also require that these explanations be developed and approved by the OTC, Chief Counsel, and the National Taxpayer Advocate or delegate.	IRS will add IRM guidelines for crafting math error explanations that don't have a taxpayer notice code (TPNC) or language specified in the current IRM guidance. During calendar year 2014 non-standard (TPNC 100) explanations represented 0.66% of all ME error explanations; 2,266,658 explanations issued, only 14,878 used a non-standard explanation. The non-standard notices have unique circumstances; the guidelines will include the elements that all explanations should include. It is impractical to develop a template for all possible	Yes (Partial)	TAS is pleased the IRS will provide guidance on the particular elements non-standard math error notices should include. Although TAS understands such notices will vary according to a taxpayer's particular circumstances, we believe it's essential for the IRS to include a non-standard template which will illustrate how information about a math error adjustment in these non-standard situations can be incorporated in a clear and simple manner. Further, TAS reiterates its desire

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	circumstances; however, IRS currently provides specific guidance and text for several non-standard error codes situations, including: *Multiple filers in the same return*; IRM 3.12.3.3.21, *Unemployment Compensation*; IRM 3.12.3.77.3.13, *State Income Tax Refund*; IRM 3.12.3.77.3.8, *Schedule H, Correction Procedures*; IRM 3.12.3.72.2.3, *IRA Distributions*; IRM 3.12.3.77.3.11. In the rare occasion a non-standard ME explanation is required, IRM 3.12.3.2.6.9 provides instructions and procedures for employees to follow for TPNC 100, and IRM 3.14.1.6.17.12.7, states that "A 100 percent review of Key 100s is required each cycle. This will ensure they are mailed with the appropriate explanation(s)." Adding the required elements of an explanation will aid in the creation and review of the non-standard explanations.		to be included in this IRM revision process.
3. Update math error notices to clearly disclose that the taxpayer may request abatement without providing an explanation or substantiating	When resources will allow, the IRS will develop language to include on math error notices to disclose that taxpayers may request abatement without providing an explanation or substantiating documentation.	Yes (Partial)	TAS is pleased the IRS has agreed to revise its math error notices to clearly disclose the taxpayer may request abatement without providing an explanation or substantiating documentation. However, the IRS should make

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
documentation.			this change immediately and not be contingent on the availability of resources. Informing taxpayers of their rights goes to the heart of due process and the fundamental fairness of the summary assessment procedure. Procedural due process is at the core of the U.S. tax and legal system and can't be arbitrarily denied based on a "lack of resources" argument. A taxpayer's *right to appeal an IRS decision in an independent forum* is critical to the tax administration system. Therefore, it's essential the IRS revises math error notices to disclose taxpayers may request abatement without providing an explanation or substantiating documentation promptly.

2014 ARC – MSP Topic #17 – NOTICES: Refund Disallowance Notices Do Not Provide Adequate Explanations

Problem

The IRS is not providing taxpayers with adequate explanations as to why it is disallowing their refund claims as required by Section 3505 of the IRS Restructuring and Reform Act of 1998 (RRA 98). Some IRS notices include an explanation that is too short or too vague for the taxpayer to learn the specific reasons for the disallowance. Other explanations aren't written in language the taxpayer can easily understand. Some letters provide no explanation or reason at all, other than stating there is no basis for the IRS to allow the claim, or that another notice explaining the disallowance is forthcoming. A taxpayer's *right to challenge the IRS's position and be heard* means taxpayers have the right to raise objections and provide additional documentation in response to formal IRS actions. Without an adequate explanation of its actions, taxpayers can't respond appropriately to the IRS and challenge the disallowance.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Issue a stand-alone statutory notice of claim disallowance in all cases where the taxpayer doesn't waive the right to receive one.	These are the existing procedures. If the taxpayer doesn't waive his right to receive a formal claim disallowance letter, all disallowances are closed with either a 105C Claim Disallowed or 106C Claim Partially Disallowed letter.	No	The National Taxpayer Advocate is disappointed by the IRS response citing current procedures as adequate, when the Most Serious Problem details how these procedures fall short of congressional intent. The IRS response states it issues a stand-alone statutory notice of claim disallowance in all cases where the taxpayer doesn't waive the right to receive one. However, per IRM 4.8.9.15.2 (Sept. 9, 2013), the IRS issues combination statutory notices of deficiency and claim disallowance letters. It appears the IRS ignores its own policies.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
			This IRM needs to be revised to instruct employees to issue a Letter 105C in all cases.
2. Maintain copies of all refund disallowance notices on an electronic database that employees can easily access when working inquiries related to the letters.	An electronic database for immediate letter viewing is currently not available. IRS employees who need information to assist taxpayers with questions on claim disallowance can view the paragraph selections on letters generated within the Correspondence Image System, obtain a copy of the letter from Control-D Web Access software that allows for viewing of letters generated electronically, or from Examination work papers as part of the case. When a claim is disallowed, a transaction is input with an appropriate two digit reason code that tells employees the reason why the issue was disallowed. IRS will implement a system where copies of notices are available on demand for all employees, if funding and other priorities allow.	Yes (Partial)	The National Taxpayer Advocate is pleased the IRS is willing to implement a system where copies of notices will be available on-demand for all employees and understands the fulfillment of this recommendation is contingent on funding. It's important for IRS employees to have easy access to actual copies with the exact wording used on notices of claim disallowance to address taxpayer concerns and questions.
3. Revise Letter 569 (SC) to clearly explain a taxpayer's right to challenge the claim	The Letter 569 (SC) explains that the taxpayer should only complete the Form 2297, *Waiver of Statutory*	No	The IRS's apparent disregard of the importance of a taxpayer understanding the effect of

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
disallowance in court and the consequences of waiving the right to receive the statutory notice of claim disallowance.	*Notification on Claim Disallowance*, if they agree with our findings. Further, it advises the taxpayer to look in Publication 3498-A for more information on their rights. The letter 569 (SC) is a proposal to disallow the claim, not the formal disallowance. At the point when the Letter 569 (SC) is issued, the taxpayer can't go to Court of Claims. The final claim disallowance letter explains how to challenge the decision of the IRS.		waiving the statutory notice is unacceptable. Letter 569 and Form 2297 don't provide sufficient information for the taxpayer to understand the consequences of waiving his or her right to receive the final claim disallowance letter. The National Taxpayer Advocate encourages the IRS to test Letter 569 by surveying real taxpayers to determine whether they understand what it means and their comprehension of the consequences of signing the Form 2297. The IRS points out Letter 569 is not a final claim disallowance notice; however, the explanation on the final claim disallowance letter has no importance if the taxpayer never receives it, because he or she waived the right to receive it without understanding the effect. Furthermore, the IRS response overlooks the fact that the taxpayer may be able to file suit in a U.S. District Court at the time of receiving Letter 569, if six months have elapsed since the

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
			taxpayer filed his or her claim for refund with the IRS.
4. Revise Form 2297 to include further information about the taxpayer's right to appeal, including the court where the taxpayer may file suit, and a statement that this is the taxpayer's only opportunity to challenge the disallowance in court.	Form 2297, Waiver of Statutory Notification of Claim Disallowance is utilized in all cases in which there is a complete or partial disallowance of a claim. The form includes the taxpayer's information, tax year, type of tax, amount of the claim and the amount disallowed if appropriate. Information about the taxpayer's right to appeal a claim disallowance is included in letter 569 and Pub 3498. Additionally, the taxpayer receives Pub 1 at the beginning of the audit. Therefore, we don't agree with the recommendation to include information about appeal rights on Form 2297.	No	The National Taxpayer Advocate reiterates her recommendation to include the information outlined in this recommendation on the Form 2297. Some taxpayers may sign this form without fully understanding their rights and the consequences of signing the form. The IRS's response refusing to devote a small amount of space on the actual form to provide taxpayers with specific information about their rights calls into question the IRS's commitment to protecting taxpayer rights.
5. Require all letters or notices stating that a claim for refund is being partially or fully disallowed, regardless of whether they start the running of the statute of limitations on filing suit, to explain the specific reasons for the	IRS already has procedures in place which requires all claim disallowance letters issued to contain the specific reason for the claim disallowance. To ensure IRM procedures are followed, managerial, lead, and Program Analysis System reviews are performed to ensure accuracy of	No	Current procedures requiring claim disallowance letters to contain specific reasons for disallowance are deficient or inadequate. As stated in the Most Serious Problem, 92 percent of the sample of 100 letters TAS reviewed didn't sufficiently explain the specific

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
disallowance. This explanation can be included on an attachment, such as Form 886-A attached to Letter 569 (SC).	the case closure (which includes letter generation). This includes providing feedback on any issue (including letter generation) identified during the review.		reasons for disallowance, were not written in plain language, or didn't provide the taxpayer with the information needed to respond.
6. Provide training to all employees who create notices of claim disallowance and "No Consideration" letters to reinforce the requirement to provide an explanation of the specific reasons for the disallowance, with detailed guidance on explaining the most common reasons for disallowance, such as the expiration of the refund statute.	IRS provides training to all employees who issue claim disallowance and/or "No Consideration" letters. Various courses are available for the utilization of disallowance letters and "No Consideration" letters. The training lessons include reviewing the applicable sections of the IRM (each lesson includes a list of the IRM references). The 916C, 105C, and 106C letters are used by various programs in several functions.	No	It's clear the IRS's process for providing review and feedback on any issues found in the review isn't working. IRS employees need additional training to reinforce the requirement to provide the specific reasons for disallowance, which should provide detailed explanations of the most common reasons for disallowance.
7. Require all notices of claim disallowance and "No Consideration" letters to include the amount of the claim.	IRS employees select available paragraphs in the claim disallowance, partial disallowance, or "no consideration" (105C/106C/916C) letters to ensure taxpayers are aware of the amount of the claim, when the claim was received, current balance due, penalty and interest for each applicable tax period, and	No	The National Taxpayer Advocate is pleased the IRS plans to update IRM guidance and notices to include the date of the taxpayer's claim, but is concerned the IRS will not agree to make the amount of the claim a mandatory part of all notices of claim disallowance and "no consideration" letters. Although

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	that IRS will continue to charge penalties and interest until the account is fully paid. IRS employees also use "open" paragraphs to provide specific information when issuing no consider or disallowance letters. To ensure letters are complete, managerial, lead, and Program Analysis System reviews are performed to ensure accuracy of the case closure, including letter generation. This includes providing feedback on any issue (including letter generation) identified during the review.		the IRS response indicates employees can select an open paragraph to indicate the amount of the claim and other important information, TAS's review showed employees don't always select a paragraph or may leave the field blank. The paragraph or entry providing the amount of the claim should be mandatory and programmed into the system, ensuring an employee can't generate a letter without including this information.
8. Require all notices of claim disallowance where the reason for disallowance is the expiration of the refund statute of limitations to include the date the return was deemed filed, how the IRS calculated that date, and the date the claim was due.	IRS will update guidance to ensure notices of claim disallowance due to statute issues contain information so the taxpayer understands the dates associated with the return filing and taxes paid time frames.	Yes	
9. Require "No Consideration" letters to include an explanation of the specific reason for the	IRS already has procedures in place which require all 916C "No Consideration" letters to advise the taxpayer why the claim is not being	No	The current "no consideration" letters don't require employees generating the letters to provide the specific reasons or a detailed

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
disallowance, and if supporting documentation wasn't accepted, an explanation of why and what the taxpayer can do to cure the claim.	considered. To ensure IRM procedures are followed, managerial, lead, and Program Analysis System reviews are performed to ensure the accuracy of case closure, including letter generation. This includes providing feedback on any issue (including letter generation) identified during the review.		explanation of why documentation wasn't allowed. Although the IRM does instruct employees to provide a reason, the "no consideration" letters use generic reasons that are hard to understand. Taxpayers may be confused about what was deficient regarding their documentation and how they may correct the problem. The National Taxpayer Advocate encourages the IRS to thoroughly examine the letters it is sending to taxpayers to ascertain whether they actually include adequate explanations of the reasons.
10. For notices of disallowance where the taxpayer can challenge the refund disallowance in court, provide details similar to those in Letter 5087C, including where to find more information about filing refund suits.	The disallowance letters (105C/106C) contain paragraphs for the IRS employee to select that explain the reason for the disallowance. Also included is information on how to appeal the decision and file suit to recover tax, penalties, or other amounts, with the United States District Court having jurisdiction or with the United States Court of Federal Claims. Upon generation of	No	The disallowance letters (105C/106C) don't provide details similar to those in Letter 5087C or let the taxpayer know where to find more information about filing refund suits as suggested in this recommendation. The IRS should provide the taxpayer instructions on where he or she can find more information about filing refund suits. Taxpayers

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	disallowance letters, Publication 1, *Your Rights as a Taxpayer*, is automatically enclosed with the letter. Publication 1 provides detailed information on additional publications available for requesting an appeal or filing suit.		have the *right to be informed*, which is a fundamental right, and this right is crucial when the information relates to exercising other taxpayer rights.

2014 ARC – MSP Topic #18 – COLLECTION DUE PROCESS: The IRS Needs Specific Procedures for Performing the Collection Due Process Balancing Test to Enhance Taxpayer Protections

Problem

Congress intended the IRS to provide meaningful Collection Due Process (CDP) hearings to taxpayers, weighing their concerns that any collection action be no more intrusive than necessary against the government's need for the efficient collection of taxes. This balancing test is central to a CDP hearing because it instills a genuine notion of fairness into the process from the perspective of the taxpayer. The balancing test also validates the taxpayer's *right to privacy* by taking into account the invasiveness of enforcement actions and the due process rights of the taxpayer. A TAS review of CDP procedures and case law reveals the IRS Office of Appeals is not giving proper attention to the balancing test, especially to legitimate concerns of taxpayers regarding the intrusiveness of the proposed collection action. Instead, Appeals often uses *pro forma* statements (without elaboration or proper analysis) that the balancing test has been performed. These issues contribute to the appearance that Appeals is simply "rubber stamping" prior determinations by the Collection function. By not applying the balancing test consistently, the IRS is missing opportunities to improve compliance, enhance taxpayer trust and confidence, relieve undue burden on taxpayers, and lend true meaning to the Taxpayer Bill of Rights (TBOR). The lack of detailed and specific procedures describing how to conduct the balancing test, along with inadequate training on how to apply such a test, undermines the congressional intent to enhance taxpayer protections through CDP hearings, and erodes core taxpayer rights.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. In collaboration with TAS, formulate a policy statement on the CDP balancing test based on congressional intent.	The empirical data show that Appeals already is meeting its requirement to balance collection alternatives. Of the 34,155 CDP cases considered in Fiscal Year 2014, no more than 181 were remanded by the Tax Court. An even smaller number of these were because the balancing test was misapplied, as opposed to other procedural errors. Appeals quality measurement data shows a 98.26% rate of cases in which Appeals met	No	The National Taxpayer Advocate is concerned the IRS is missing the point of this Most Serious Problem. The CDP Balancing test doesn't simply require "balancing" of collection alternatives. Congress created CDP to provide extra measures of protection for taxpayers against abuse in the collection arena and included the balancing test among the three major

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	balancing analysis requirements.		elements of a CDP hearing to ensure any collection be "no more intrusive than necessary." The CDP balancing test requirement is critical to due process and fairness of tax administration – it doesn't dictate the outcome, but it does weigh the impact of the proposed collection action on the taxpayer with the government's interest for efficient collection of taxes. The IRS's refusal to adopt a policy statement underlying congressional intent and reiterating the focus of the balancing test on whether the collection action is more intrusive than necessary demonstrates a lack of commitment to taxpayer rights.
2. In collaboration with TAS, develop specific factors for the application of the CDP balancing test based on an analysis of case law and legislative history for use by both Appeals and Collection.	The empirical data show that Appeals already is meeting its requirement to balance collection alternatives. Of the 34,155 CDP cases considered in Fiscal Year 2014, no more than 181 were remanded by the Tax Court. An even smaller number of these were because the balancing test was misapplied, as opposed to other	No	As stated in the Most Serious Problem, while the vast majority of balancing test related cases ruled in favor of the IRS notwithstanding the IRS merely stated (without elaboration or proper analysis) in these cases that the balancing test had been performed, analyzed cases

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	procedural errors. Appeals quality measurement data shows a 98.26% rate of cases in which Appeals met balancing analysis requirements.		showed that there was little scrutiny or in-depth review, if any, of how an Appeals Officer balanced the taxpayer's concerns with the government's interest to collect. TAS believes this result is largely due to the abuse of discretion judicial standard of review, not because Appeals conducted the balancing test properly or analyzed any balancing factors. As indicated in the IRS's response, it confuses analysis of collection alternatives with the balancing test, which should include meaningful factors, some of which were analyzed by courts.
3. Revise the IRM to specifically prohibit *pro forma* statements that the balancing test has been performed, and instead require a description of what factors were considered and how they apply in the particular taxpayer's case.	The existing guidance on drafting an Appeals Case Memorandum (ACM) already effectively prohibits pro forma conclusions regarding the balancing test. The balancing analysis is the last of seven sections in the ACM that is completed by the Appeals Officer. The factors considered are found in the other sections of the ACM, which are incorporated into the ultimate conclusion. To the extent there is a *pro forma* or similar	No	As explained in the Most Serious Problem, Hearing Officers are required to write a determination in the form of an Appeals Case Memo, in which they should document the balancing test was considered. However, there is little guidance on how to actually perform the balancing test in a meaningful way to ensure collection action is no more intrusive than necessary and

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	statement in a concluding section (which is very likely given the annual number of CDP cases), it's merely a confirmation that the analysis was performed.		taxpayer rights are not undermined.
4. Integrate any newly developed factors for the application of the CDP balancing test into the Appeals IRM and train all Appeals Officers, Settlement Officers, and Appeals Account Resolution Specialists on applying the balancing test consistently.	As reflected in the responses above, Appeals data do not support a need for developing new factors to perform the balancing test, or that existing training or guidance is deficient. From 2011-2014, there were at least five Enterprise Learning Management System (ELMS) courses that covered the balancing test and other major issues involving CDP cases, including verification that legal and administrative prerequisites to collection were met. This is further augmented by guidance in IRM sections 8.22.9.6.4 and 8.22.9.6.7.	No	The IRM doesn't elaborate on the balancing test or advise employees how to analyze the factors. The ongoing effort to incorporate TBOR into IRMs is a positive step toward protecting taxpayer rights. However, IRS should emphasize incorporating specific balancing test factors into the Collection IRM and training employees on how to analyze these factors during consideration of enforced collection actions.
5. Incorporate balancing test analysis into the Collection IRM and provide necessary training to Collection employees.	As the NTA acknowledges in the report, recent revisions to Collection IRMs have a "meaningful incorporation of TBOR provisions" including a balancing test analysis. We will continue to review IRM sections during the normal update cycle and revise IRM sections to include the balancing test when/where appropriate. Our Field	Yes (Partial)	The ongoing effort to incorporate TBOR into IRM is a positive step toward protecting taxpayer rights. However, the emphasis should be given to incorporating specific balancing test factors into the Collection IRM and training employees on how to analyze these factors during consideration of enforced

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	and Campus collection new hire training will be updated to include any changes made to the IRM. In addition, we have provided all of our Compliance employees specific messages highlighting the Taxpayer Bill of Rights and actions our employees take in support of these rights every day.		collection actions.

2014 ARC – MSP Topic #19 – FEDERAL PAYMENT LEVY PROGRAM: Despite Some Planned Improvements, Taxpayers Experiencing Economic Hardship Continue to Be Harmed by the Federal Payment Levy Program

Problem

The Federal Payment Levy Program (FPLP) is an automated system the IRS uses to match its records against those of the government's Bureau of the Fiscal Service (BFS) to identify taxpayers with unpaid tax liabilities who receive certain payments from the federal government. Internal Revenue Code (IRC) § 6331 allows the IRS to issue continuous levies for up to 15 percent of federal payments due to these taxpayers who have unpaid federal liabilities. In January 2011, the IRS began applying a low income filter (LIF) to the FPLP to screen out low income taxpayers whose incomes are below 250 percent of the federal poverty level and who may experience economic hardship due to a levy on their Social Security old age or disability benefits, or Railroad Retirement Board benefits. However, under current LIF exclusion criteria, low income taxpayers who have accounts with an unfiled delinquent tax return indicator (i.e., a tax delinquency investigation (TDI) indicator), will bypass the LIF and be subject to the FPLP. Excluding these taxpayers from the LIF and failing to consider their financial circumstances is contrary to the IRS's own pre-levy determination guidance, which requires employees to consider hardship before issuing a levy. When the IRS fails to consider taxpayers' financial circumstances by having them bypass the LIF, it undermines their *right to privacy* and their *right to a fair and just tax system*.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Eliminate the LIF exclusion for unfiled returns.	Taxpayers with delinquent tax returns don't go through the Federal Payment Levy Program (FPLP) Low Income Filter (LIF) because the IRS has decided that the filter should be used only when we have the most accurate and up-to-date information about a taxpayer. Whether an individual is a low income taxpayer is based either on the latest current year tax return or third-party reporting information. An important aspect	Yes (Partial)	TAS is pleased the IRS has taken steps to eliminate low income taxpayers from the FPLP program. However, as discussed in the Most Serious Problem, the IRS's implementation to exclude taxpayers from the FPLP program who have a TDI, who have filed a return within the last three years, who don't have a potential delinquency after filing, and who are over 65, will only exclude about ten percent of taxpayers whose incomes fall below

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	in the LIF is to build or formulate an estimated income for the taxpayer using the most accurate and most current income information. Including taxpayers with delinquent unfiled returns in the LIF analysis would result in an estimated income analysis based solely on third party information without the benefit of the taxpayer's return information. Thus, taxpayers with delinquent returns remain in FPLP and are put through the LIF only after delinquent returns are filed. However, in response to a Taxpayer Advocate Directive, we are working on an update to the programming that will allow taxpayers who have a TDI, have filed a return within the last three years, and who do not have a potential delinquency after filing to go through the LIF.		250 percent of the federal poverty guidelines and who have a TDI indicator on their account. The remaining 90 percent of low income taxpayers with a TDI indicator on their accounts are left unprotected and are subject to an FPLP levy. Requiring taxpayers to have filed a return in the past three years may subject those who didn't file because their income was below the filing thresholds to unjustified FPLP levies. Further, for the IRS to continue to proclaim filing a return is necessary to determine income and if a taxpayer should be subject to the FPLP LIF is confusing. As it does in other situations, the IRS could consider third-party information to determine a taxpayer's income level, rather than requiring taxpayers to file a return. Determining a taxpayer's income level using third-party information, including Forms W-2 and 1099s, is easier than ever before, because of the IRS's implementation of its Information Reporting Documents Matching

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
			Program. IRS established this program after Congress passed legislation requiring banks or organizations who make contractual payments to merchants in settlement of third-party payment card transactions (i.e., transactions made by debit or credit card) to report such payments to the IRS. This program provides the IRS with more than enough information to paint an accurate picture of these elderly and disabled taxpayers' income levels. The IRS's failure to consider this third-party documentation in place of a filed return to determine if a taxpayer meets the income threshold for the LIF will only cause more rework (i.e. the IRS will later have to release the FPLP levy because of hardship). This is yet another example of mismanagement and the IRS wasting resources to work inappropriate cases.
2. Expedite programming to exclude taxpayers receiving Social Security Disability Insurance (SSDI) payments from the FPLP.	The programming change required to exclude taxpayers receiving (SSDI) payments from the Federal Payment Levy Program (FPLP) is to Bureau of Fiscal Service (BFS) system. We	Yes	

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	have requested that BFS update their system as quickly as possible. BFS has advised that they are completing programming to exclude SSDI payments from the FPLP and that the programming will be completed in October 2015.		
3. In collaboration with TAS, SB/SE should review the FPLP program requirements and ensure that the correct taxpayers are bypassing the LIF.	We provided the Taxpayer Advocate Service with all Federal Payment Levy Program (FPLP) requirement packages. We also responded to all of TAS's questions as they reviewed the taxpayers who were excluded from the FPLP Low Income Filter. In every case that TAS provided to us, the programming was shown to be correct. No further action is required at this time.	Yes	Although the National Taxpayer Advocate is pleased with the overall implementation of the FPLP LIF, she is concerned about the LIF programming and other reasons for which taxpayers will bypass the LIF. For instance, a taxpayer will bypass the LIF and be subjected to the FPLP in the following situations: 1. Taxpayer's spouse has an invalid Taxpayer Identification Number (TIN) on the liability subject to FPLP; 2. Taxpayer's spouse has an invalid TIN on their tax record; 3. Taxpayer's TIN on the liability subjected to the FPLP doesn't match his or her spouse's TIN on their joint income tax returns; and 4. Taxpayer's name on the liability doesn't match their name on their

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
			most recent filed tax return. Although the National Taxpayer Advocate can understand why the IRS would want to put some cases aside and look at them closer (i.e., the taxpayer has had a name change and it's not clear who they are). IRS should not levy on these taxpayers for that exact reason, especially if they are low income. Further, in the example above, there seems to be no good explanation as to why this taxpayer would be excluded from the LIF, since his name didn't change and the IRS should be able to determine his income level.

2014 ARC – MSP Topic #20 – OFFERS IN COMPROMISE: Despite Congressional Actions, the IRS Has Failed to Realize the Potential of Offers in Compromise

Problem

With the passage of RRA 98, Congress intended for the IRS to adopt a flexible use policy for the offer in compromise (OIC) program in order to provide a collection alternative to struggling taxpayers. Specifically, Congress introduced the concept of effective tax administration (ETA) offers with the hope that the IRS would take into consideration factors such as equity and public policy when compromising a liability. Despite the many benefits that derive from OICs, the IRS has not developed practices that facilitate flexible use of the OIC program. IRS procedures particularly burden taxpayers who submit non-hardship ETA OICs on behalf of businesses. These taxpayers often face the hurdle of proving that they will not receive a financial advantage over other businesses if their OIC is accepted. Under current OIC practices, the IRS is not only gradually losing the ability to collect any revenue on aging collection inventory, but is denying taxpayers a timely resolution of their tax problems, thereby violating the taxpayer's *right to finality*. Additionally, when the IRS unreasonably denies an OIC and resumes collection activity, it may violate the taxpayer's *right to privacy*, which ensures that any IRS enforcement action be no more intrusive than necessary. Lastly, the IRS approach to OICs may deny offers to eligible taxpayers by not considering all the facts and circumstances affecting an underlying liability, thereby undermining the *right to a fair and just tax system* and harming future compliance.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Increase staffing in the OIC program to 2001 levels and train employees to evaluate complex offers. Staffing available to work offers can be increased by allowing all Revenue Officers to review and accept OICs as part of working their inventory.	One of the primary reasons that we centralized the Offer-In-Compromise (OIC) process in 2001 is that it provides more control and consistency in processing OICs. Decentralizing the process will significantly increase training costs, decrease the effectiveness of specialized training, increase the chance that a taxpayer's offer is processed by an employee with limited exposure to the offer	No	The National Taxpayer Advocate remains concerned that without sufficient staffing, the IRS will not be able to encourage a flexible use of the OIC program, which is what Congress intended in RRA 98. Since the revenue officers working these cases are already conducting the financial analysis to determine CNC status, the National Taxpayer Advocate believes that a flexible approach to

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	program, require revenue officers to reprioritize their work to ensure that offer decisions are made within the statutorily mandated 24-month period and generally increase the risk that there will be inconsistencies in OIC processing. The recent realignment of the Collection program within the Small Business/Self-Employed Division further centralized the offer program under one executive. We expect to get additional efficiencies with this new leadership structure.		OIC consideration prior to putting a case in CNC status could further Congress's intent and protect taxpayer rights. Increasing OIC staff levels would allow for an efficient resolution of the case for both the taxpayer and the IRS and it would encourage flexible use of the OIC program as a collection alternative.
2. Expand use of the Effective Tax Administration offer for both individual and business taxpayers with an emphasis on flexibility in evaluation of the taxpayer's circumstances.	IRM 5.8 and interim guidance currently provide for the use of Effective Tax Administration (ETA) offers and flexibility in evaluating the taxpayer's situation when these offers are submitted. In late FY14, we conducted ETA training for COIC offer examiners and Independent Administrative Reviewers (IARs). ETA training was also included as a FY13 Revenue Officer/ Offer Specialist (RO/OS) Continuing Professional Education (CPE) module. Additionally, Tax Topic 204, Offers In Compromise, which is available	Yes (Partial)	Employee training is important for increasing awareness and education around ETA offers. However, some specific guidance within the IRM may prohibit flexible analysis of the taxpayer's facts and circumstances. For instance, IRM section 5.8.11.2.2(4) requires that it shouldn't appear to other taxpayers that a non-hardship ETA OIC places the taxpayer in a better position than if they had complied with their tax obligations. This may lead to subjective determinations by IRS employees who may have differing standards of what other

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	to taxpayers on the IRS webpage, provides a description of the three grounds on which the IRS may accept an offer in compromise, including ETA offers.		taxpayers' attitudes are. The National Taxpayer Advocate believes that this guidance should be revised in order to ensure it encourages a flexible analysis of the taxpayer's particular facts and circumstances, which is the intent of Congress.
3. Proactively identify cases that would be viable candidates for offers and reach out to those taxpayers prior to placing accounts in currently not collectible status, the Queue, or shelved status.	With the assistance of Office of Program Evaluation and Risk Analysis (OPERA), we completed similar tests in Fiscal Year 2013 that resulted in little or no success. At this time, we don't plan to perform any additional tests. We are, however, working to change our balance due notices to identify OICs as a payment alternative. We are including the OIC reference in these notices in an effort to provide taxpayers information about OICs earlier in the process. We expect the OIC reference to be included in the CP501, CP503, CP504 and CP504B letters beginning in January 2016.	Yes (Partial)	The National Taxpayer Advocate commends IRS efforts to increase information offered to taxpayers regarding the OIC program. Educating taxpayers early in the collection process may help to promote the OIC program. However, given the large growth of accounts in CNC, the Queue, and Shelved status, an analysis prior to putting the account in a different status could resolve cases efficiently. This would require education of staff and a change in procedure.
4. Increase the information and training about the OIC program provided to the Automated Collection	Our ACS employees have a Probe and Response Guide on offers in compromise available to them to assist taxpayers with questions	Yes (Partial)	Currently, ACS employees get little training on OICs and how to identify taxpayers who would be good candidates for an OIC. ACS

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
System so employees can identify good offer candidates; and share more information with the Stakeholder Partnerships, Education and Communication unit, the Low Income Taxpayer Clinics, and the Volunteer Income Tax Assistance program.	about OIC. The Probe and Response guide was recently updated and is available to our employees through our Servicewide Electronic Research Program (SERP). It was developed specifically for non-OIC employees. Additionally, we developed a Pre-Qualifier Tool that provides information that can assist taxpayers determine whether they may be eligible for an OIC. The Pre-Qualifier Tool is available to internal and external stakeholders. Finally, we held an OIC training session with TAS employees and another is planned in March.		employees merely have a Probe and Response Guide (*i.e.*, an electronic ACS employee handbook that explains the OIC process) made available to them. However, typically, ACS employees will only share the OIC information in the guide if taxpayers specifically ask about OICs, and a number of taxpayers may not know the option of an OIC exists. This means that taxpayers with cases in ACS may never learn about the possibility of resolving their case by submitting an OIC. It is critical that the IRS train ACS employees to identify good OIC candidates, rather than placing the burden on the taxpayer to know and ask about an OIC. Since ACS deals with many cases that could potentially go into CNC status or the Queue, providing such training to ACS employees on how to proactively identify strong candidates for an OIC would be an efficient way to encourage use of the OIC program. Although the IRS has made minor

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
			efforts to better educate its ACS employees on OICs, it hasn't provided any OIC training to LITCs. The IRS has conducted a webinar on payment alternatives, which is the March 2015 training referenced by the IRS in its response, but OICs were not the focus of this webinar and it was for the general public not just for LITCs. Further, even though the IRS asserts it has provided OIC training to TAS, TAS has no record of any such training. However, the National Taxpayer Advocate herself has conducted extensive collection training to TAS employees over the years. In fact, several years ago all TAS employees were required to complete a training entitled "A Roadmap to a Tax Controversy." On several occasions, the National Taxpayer Advocate has offered to conduct collection training, including training on OICs, to IRS collection employees, but her offer has never been accepted. The National Taxpayer Advocate is pleased that the IRS has agreed to

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
			develop OIC training for SPEC and VITA volunteers. TAS, along with the LITCs, would like to be included in the development of this training.
5. Revise IRM 5.8.11.2.2(4) to remove the economic competition argument as it's irrelevant and violates the taxpayer's *right to a fair and just tax system*.	IRM 5.8.11, *Effective Tax Administration*, is being revised to remove "competitive advantage" and is currently in clearance.	Yes (Partial)	The National Taxpayer Advocate is pleased the IRS has agreed to review and revise IRM 5.8.11. TAS will review the changes to this section in collaboration with the IRS. The portion of the IRM that requires the offer be viewed as fair by other taxpayers is not present in the tax code or regulations. It may lead to subjective determinations by IRS employees who aren't in a position to be aware of broad taxpayer views; therefore, the National Taxpayer Advocate recommends this requirement be eliminated. The IRS hasn't responded to this aspect of our recommendation. However, if the IRS is planning to keep this requirement, then the National Taxpayer Advocate, as the voice of taxpayers, should make this determination.
6. In the case of non-economic hardship ETA	Allowing the NTA to determine whether a non-economic hardship	No	It's not an abrogation of the Commissioner's responsibility.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
offers, if the IRS persists in requiring the subjective assessment of whether other taxpayers would view the compromise as a fair and equitable result, it should revise its procedures to have the National Taxpayer Advocate, as the voice of taxpayers within the IRS, determine whether other taxpayers would view the compromise as fair and equitable.	Effective Tax Administration (ETA) offer is fair and equitable to taxpayers generally is inconsistent with the Commissioner's responsibility to administer the Internal Revenue Code. Additionally, because IRC 7122(e) requires the taxpayer be permitted to appeal any rejection of the offer to the IRS Office of Appeals, a rejection of the offer made by the NTA would be subject to review by an IRS Appeals Officer. Review of an NTA action by an IRS Appeals Officer is inconsistent with the role of the NTA as set forth in IRC 7803. Where the NTA does not agree with the IRS determination, the NTA can issue a Taxpayer Assistance Order (TAO).		Administratively, the Commissioner of the Internal Revenue Service has the ability to delegate his authority to the National Taxpayer Advocate. However, the responsibility for the determination would be non-delegable, so Appeals could not override it. The National Taxpayer Advocate is in a unique position to speak as the "voice of taxpayers," given the authority under IRC §§ 7803 and 7811. The National Taxpayer Advocate is able to resolve problems with the IRS on behalf of taxpayers and issue Taxpayer Assistance Orders. As such, the National Taxpayer Advocate is in a better position to have a pulse on broad taxpayer beliefs compared to individual IRS employees.

2014 ARC – MSP Topic #21 – OFFERS IN COMPROMISE: The IRS Does Not Comply with the Law Regarding Victims of Payroll Service Provider Failure

Problem

Outsourcing payroll and related tax duties to payroll service providers (PSPs) is a common business practice, especially for small business owners. However, if a PSP mismanages or embezzles funds that should have been paid to the IRS or state tax agency, the client employer will remain responsible for unpaid tax, interest, and penalties, effectively (from the employer's perspective) paying the tax twice – once to the failed PSP, and again to the IRS. Congress recently enacted legislation that incorporates two recommendations made by the National Taxpayer Advocate over the years and requires the IRS to: (1) issue notices to both the employer and the PSP when either party requests an address change; and (2) give special consideration to an offer in compromise (OIC) request from a victim of fraud or bankruptcy by a third-party payroll tax preparer. The National Taxpayer Advocate will monitor the process to ensure the IRS is on track to issue the dual notices by the date promised, and has concerns about how the IRS will implement its recently issued guidance on processing OICs submitted by victims of PSPs.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Amend interim guidance and IRM to incorporate the changes suggested by the National Taxpayer Advocate.	We're in the process of revising IRM 5.8.11 to incorporate Interim Guidance issued on September 16, 2014. As we complete this revision, we will give further consideration to the NTA's additional recommendations.	Yes	The National Taxpayer Advocate is pleased the IRS is incorporating the suggested changes into IRM 5.8.11. When revisions are complete, TAS will review the IRM to ensure inclusion of the National Taxpayer Advocate's recommendations.
2. Develop and deliver comprehensive training to all Revenue Officers and Centralized OIC employees on the new guidance for reviewing and processing ETA OICs submitted by	We provided training on the new guidance to the Non-Economic Hardship-Effective Tax Administration (NEH-ETA) group and offer specialists/offer examiners shortly after the guidance was issued. Additionally, training on the new guidance has	Yes	We believe with the updated guidance and improved training, the IRS will be able to meet the congressional mandate to give special consideration to victims of payroll service provider fraud.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
victims of PSP failure.	been incorporated into the OIC Update for Field Revenue Officers (#59163), which is scheduled for delivery in FY 2015 CPE.		
3. Update IRM 5.7, Trust Fund Compliance, instructing Revenue Officers to pass on OICs submitted by PSP victims to the centralized OIC group without delay.	IRM 5.1.24.5.7, *Offers in Compromise*, instructs revenue officers who secure an offer in compromise from an employer whose liability was affected by the actions of a payroll service provider to submit the OIC to the appropriate centralized OIC campus within 24 hours of receipt. However, we will include a cross reference in IRM 5.7, *Trust Fund Compliance*.	Yes	The National Taxpayer Advocate is pleased the IRS is incorporating the suggested changes into IRM 5.7. When revisions are complete, TAS will review the IRM to ensure inclusion of the National Taxpayer Advocate's recommendations. We believe with the updated guidance and improved training, the IRS will be able to meet the congressional mandate to give special consideration to victims of payroll service provider fraud.

2014 ARC – MSP Topic #22 – MANGERIAL APPROVAL FOR LIENS: The IRS's Administrative Approval Process for Notices of Federal Tax Lien Circumvents Key Taxpayer Protections in RRA 98

Problem

One of the IRS's most significant powers is its authority to file a Notice of Federal Tax Lien (NFTL) in the public records when a taxpayer owes past due taxes. The NFTL protects the government's interests in a taxpayer's property against subsequent purchasers, secured creditors, and junior lien holders. Unlike most other creditors, the IRS does not need a judgment from a court to file an NFTL. When properly applied, lien authority can be an effective tax collection tool. However, when improperly applied, NFTLs can needlessly harm a taxpayer's creditworthiness and undermine long-term tax collection. In § 3421 of the IRS Restructuring and Reform Act of 1998 (RRA 98), Congress required the IRS to adopt procedures in which an employee's determination to file an NFTL would, "where appropriate," be approved by a supervisor, with disciplinary actions for failing to obtain this approval. However, the IRS has made virtually no adjustments to its procedures along the lines of what Congress directed. Flipping Congress's intent on its head, the IRS in many cases requires employees to obtain managerial approval if they determine *not* to file or defer filing an NFTL. The IRS's decision to ignore a congressional directive and rely on a broad NFTL filing policy compromises a taxpayer's rights *to privacy* and *to a fair and just tax system*.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. In collaboration with TAS, develop and implement factors to determine situations in which managerial approval of NFTL filings is appropriate and should be required.	IRM 5.12.2.7, *Approval of Lien Notice Filing* and IRM 5.19.4.5.3.4, *When Filing an NFTL Requires Approval*, set forth the policies and procedures for obtaining managerial approval for NFTL filings. IRM 5.12.2.3 through IRM 5.12.2.6 and IRM 5.19.4.5 provide the criteria for making NFTL determinations and filing criteria instructions, including clarifying when to consider filing an NFTL. TAS personnel reviewed and cleared these IRMs before they	No	The IRS has based its NFTL filing model and policy on recommendations (now 13 years old) noted in a Treasury Inspector General for Tax Administration (TIGTA) audit. In response to the TIGTA report, the IRS took the position unless it filed the NFTL in most cases, it was losing revenue, regardless of a taxpayer's inability to pay, the absence of assets to which the lien could attach, or the harm to the financial viability of the taxpayer. However, multiple TAS

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	were published. However, we periodically evaluate our programs to identify policies or procedures that can be improved. If TAS has suggested improvements for these procedures, TAS should provide their suggestions, including data or other information that supports the suggested changes, to our analysts for evaluation and consideration. Finally, we note the Treasury Inspector General for Tax Administration (TIGTA) performs an annual review of the IRS's lien procedures and our compliance with these procedures. In contrast to the NTA, TIGTA thinks the agency should be filing more NFTLs to protect the government's interest. Additionally, TIGTA generally has given the IRS high marks in connection with our employees' adherence to agency procedures.		studies found most payments for taxpayers with NFTLs filed against them were attributable to sources other than the lien notice, *e.g.*, refund offsets. For many years TAS repeatedly disputed the IRS's interpretation of RRA 98 § 3421 and recommended the IRS adopt guidance reflecting Congress' intent. For example, in 2010, the National Taxpayer Advocate issued Taxpayer Advocate Directive 2010-1 in which, among other things, she directed the IRS to require managerial approval for filings of an NFTL in all cases where the taxpayer has no assets. In the 2011 Annual Report to Congress, the National Taxpayer Advocate recommended the IRS "require managerial approval for NFTL filings in cases where no attempted personal contact was made or the notice to the taxpayer was returned as undeliverable." Further, TAS has continuously raised its disagreement with IRS interpretation of RRA98 § 3421

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			when reviewing IRS guidance. Specifically, in 2012, TAS disputed IRM sections 5.12.2.3 through 5.12.2.6 and IRM 5.19.4.5 and their lack of managerial approval prior to filing a NFTL for over 16 months. For the IRS to indicate in its response TAS has not raised these objections while reviewing IRM guidance is disingenuous. Finally, the IRS's reference to TIGTA annual reviews of the IRS's lien procedures and its compliance with these procedures is irrelevant in the context of managerial approval as required by RRA98 § 3421. The overall objective of TIGTA annual reviews is to determine whether the IRS complies with legal guidelines set forth in IRC § 6320, *i.e.*, it has timely issued the Letter 3172, *Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320*, which advises taxpayers they have 30 calendar days, after the five-day period of the filing of NFTL, to request a Collection Due Process (CDP)

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			hearing with the IRS's Office of Appeals. This requirement is separate and unrelated to the congressional mandate contained in § 3421 of RRA98.
2. Develop and implement disciplinary actions to be taken when managerial approval prior to filing a NFTL is not secured in the specified situations.	IRM 6.751.1.16, *Disciplinary and Non-Disciplinary Action Defined*, Document 11500, *IRS Manager's Guide to Penalty Determinations*, and IRM 1.4.50.5, *Performance Evaluation* set forth IRS policy and procedures for disciplinary actions. The IRS has in place instructions for disciplinary action when any employee fails to observe written regulations, orders, rules, or IRS procedures.	No	Although there is general guidance on when IRS should take disciplinary action, it should set out specific disciplinary action when an employee fails to obtain managerial approval prior to filing an NFTL where such approval is required. Setting forth such disciplinary guidelines will bring the IRS more in line with what Congress instructed the IRS to do in § 3421 of RRA 98.

2014 ARC – MSP Topic #23 – STATUTORY NOTICES OF DEFICIENCY: Statutory Notices of Deficiency Do Not Include Local Taxpayer Advocate Office Contact Information on the Face of the Notices

Problem

Section 1102(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 98) provides that statutory notices of deficiency (SNODs) "shall include a notice to the taxpayer of the taxpayer's right to contact a local office of the taxpayer advocate and the location and phone number of the appropriate office." However, our review of existing IRS statutory notices of deficiency found that more than half, or eleven out of 17, types of SNODs fail to comply with the statutory requirements and instead include this information in a "stuffer" or insert. Congress enacted this provision of RRA 98 to ensure that taxpayers are aware of their right to contact the local office of the Taxpayer Advocate Service (TAS) at a crucial point in their tax controversy. While these notices are still valid, the failure of the IRS to comply with the requirements harms taxpayers and violates the taxpayer's *right to a fair and just tax system*.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Evaluate every SNOD to determine which ones comply with RRA 98.	Although we believe the inclusion of Notice 1214 with the SNOD complies with the Section 1102(b) RRA 98 requirement, when resources (budget and staffing) are available to make changes, and in view of our other priorities, we will explore options to make the changes necessary in order to print the local Taxpayer Advocate Service office directly on the face of the SNOD.	Yes (Partial)	The Taxpayer Advocate Service and the IRS have a fundamental disagreement about the interpretation of the § 1102(b) requirement. RRA 98 requires the IRS to place this information on the notice. Notwithstanding our disagreement, we appreciate the IRS's willingness to insert local TAS office information on SNODs in the future. However, we note the IRS hasn't committed to a specific action item or completion date. TAS will continue to push the IRS to ensure this is actually accomplished, in accordance with law.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
2. In conjunction with the National Taxpayer Advocate, develop an agreed-upon set of rules and language to appear on each SNOD.	Although we believe the inclusion of Notice 1214 with the SNOD complies with the Section 1102(b) RRA 98 requirement, when resources (budget, and staffing) are available, and in view of our other priorities, we will explore options to make the changes necessary to print the local Taxpayer Advocate Service office directly on the face of the SNOD and take steps to ensure, as best we can, that information about the local Taxpayer Advocate Service office is provided to taxpayers in a consistent manner. We'll coordinate with the National Taxpayer Advocate's staff on this matter.	Yes	The National Taxpayer Advocate appreciates the IRS's willingness to review and potentially incorporate TAS developed training on this item. We look forward to working with the IRS on this action.
3. Revise all SNODs not in full compliance with RRA 98 to include the taxpayer's right to contact TAS and the name and telephone number of the local office on the face of the notice in a way that is consistent with how TAS aligns taxpayers to local offices.	Although we believe the inclusion of Notice 1214 with the SNOD complies with the Section 1102(b) RRA 98 requirement, when resources (budget and staffing) are available, and in view of our other priorities, we will explore options to make the changes necessary in order to print the local Taxpayer Advocate Service office directly on the face of the SNOD. Until then,	No	The Taxpayer Advocate Service and the IRS have a fundamental disagreement about the interpretation of the § 1102(b) requirement. RRA 98 requires the IRS to place this information on the notice. Notwithstanding our disagreement, we appreciate the IRS's willingness to insert local TAS office information on SNODs in the future. However, we note

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	we will continue to provide the information in a separate notice included with the SNOD.		the IRS hasn't committed to a specific action item or completion date. TAS will continue to push the IRS to ensure this is actually accomplished, in accordance with law.
4. Require all employees involved in issuing SNODs or answering incoming calls about them to take technical training developed by TAS on issues including SNOD rescission and the taxpayers' rights to file a petition in the U.S. Tax Court and to contact their LTAs.	We don't agree with the recommendation to provide the technical training developed by TAS for all employees involved with issuing SNODs without the opportunity to review the training to evaluate whether the training is appropriate for the targeted audience. We will review the training materials developed by TAS to determine applicability for the impacted employees and update our current training materials as appropriate.	Yes (Partial)	We appreciate the IRS's willingness to review and potentially incorporate TAS developed training on this item. We look forward to working with the IRS on this action.

National Taxpayer Advocate 2014 Annual Report to Congress (ARC): Volume Two: TAS Research and Related Studies

2014 ARC – Volume 2 Topic #3 – Identity Theft Case Review Report - A Statistical Analysis of Identity Theft Cases Closed in June 2014

Problem

In general, tax-related identity theft (IDT) occurs when an individual intentionally uses the personal identifying information of another person to file a falsified tax return with the intention of obtaining an unauthorized refund. The National Taxpayer Advocate is concerned that a significant percentage of the IRS's IDT cases involve multiple issues, some of which must be addressed by multiple IRS organizations, requiring victims to navigate a labyrinth of IRS operations and recount their experience time and again to different employees. Even when cases remain in one IRS function, they may be transferred from one assistor to another with significant periods of non-activity. We're also concerned the IRS may close IDT cases prematurely, before all related issues have been fully addressed. In this review, we attempt to get a better sense of the true IDT cycle time—the time it takes to fully resolve the IDT victim's account, measured from the perspective of the victim.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Functions working IDT cases should conduct a global account review upon case receipt and handle only single-issue IDT cases.	On July 13, 2015, the IRS will complete centralization of identity theft casework and policy in W&I Accounts Management (AM), providing AM leadership with full end-to-end responsibility for victim assistance, including identity theft policy in AM headquarters and a campus component comprised of approximately 1,700 employees. The next phase of our efforts will be an effort to re-engineer/improve the identity theft processes to begin in early October 2015. We appreciate	Yes	The National Taxpayer Advocate is pleased the IRS is in the process of reengineering its IDT victim assistance procedures. Improving IDT victim assistance procedures has been a priority for the National Taxpayer Advocate for many years, and we now have empirical evidence to support our recommendations. We appreciate the commitment by the IRS to collaborate with TAS and use our research as a framework of analysis.

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	the suggestions in the TAS report, and will use them as a framework to begin analyzing our processes and will work in collaboration with TAS to assess our current global review process to identify process improvement opportunities. Currently the IRS performs a global account review upon case receipt. All employees working identity theft cases rely on IRM 10.5.3.1.2.3 guidance which directs employees to perform an initial case review to identify all taxpayer and account issues. Employees assigned an identity theft case are directed to treat the identity theft victim's account as a whole and expected to resolve all account issues prior to case closure. There are taxpayer situations involving multiple account issues across functional lines requiring access to unique systems and specialized training. The IRS ensures oversight of these cases through monitoring efforts by the Identity Protection Specialized Unit (IPSU). The IPSU office performs a check to ensure that all taxpayer issues have been resolved prior to		

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	case closure. We look forward to identifying and exploring efforts to improve our global report processes in our upcoming re-engineering efforts.		
2. IDT victims with multiple issues should be assigned a sole IRS contact person (and provided with a toll-free direct extension to this contact person) who would interact with them throughout and oversee the resolution of the case, no matter how many different IRS functions need to be involved behind the scenes.	As the IRS embarks on a re-engineering effort to create process improvements in the identity theft arena, we will analyze identity theft case resolution from beginning to end to improve the taxpayer experience. We'll assess feasibility of the recommendations in the TAS report, will use them as a framework to analyze our process and will work in collaboration with TAS to assess procedures in the Identity Protection Specialized Unit (IPSU). Currently, IPSU provides taxpayers with a single point of contact at the IRS via a specialized toll-free telephone line. This approach has allowed taxpayers to reach one of many trained employees and doesn't depend on the availability of a single IRS employee who may be away or assisting another taxpayer. The IPSU customer service representatives input electronic	No	Our research study empirically demonstrated victims of such a traumatic and invasive crime would be best served by having the IRS assign a sole IRS contact within the IRS, regardless of how many related issues stem from the IDT. Simply tasking the IPSU with "monitoring" the victim's account has proven to be ineffective – because the victim must still deal with multiple assistors within the IPSU, leading to additional delay and frustration and because the IPSU does not have the authority to require other IDT functions handling the case to meet timeliness goals. As our 2014 case study has shown, a significant number of IDT cases had extended periods of inactivity, particularly when multiple assistors handled an IDT case. For the IRS to continue to equate a specialized phone line with a "single employee

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	case notes that provide the most up-to-date actions taken or advice provided to taxpayers. The notes can then be utilized by any IRS employee who interacts with the taxpayer. Guidance for IPSU employees is found in IRM 10.5.3.2.3, *Defining Multiple Case Issues*, and IRM 21.9.2.4.3, *Case Monitoring*. There are taxpayer situations involving multiple account issues across functional lines requiring access to unique systems and specialized training. The IRS ensures oversight of these cases through monitoring efforts by IPSU who perform a check to ensure that all taxpayer issues have been resolved prior to case closure. We are looking forward to improving the taxpayer experience through our collaborative re-engineering efforts.		dedicated to the case" is akin to equating the NTA Toll Free line with TAS case advocates. They are radically different; one screens calls and the other stays and works with the taxpayer from start to finish, until all related issues are resolved. We'll continue to push for the IRS to provide a sole contact person for IDT victims who have more than one issue or year to resolve, or must deal with more than one IRS unit.
3. The IRS should count each function that works IDT cases separately, rather than lumping eight different functions into a catchall "Compliance" bucket for purposes of its multiple function criteria.	The Compliance identity theft caseworkers were recently centralized with Accounts Management employees in the Identity Theft Victim Assistance (IDTVA) organization. The centralization offers an opportunity to evaluate the way Compliance	Yes	The National Taxpayer Advocate is pleased the IRS will consider this recommendation as part of its IDT re-engineering beginning in October 2015. TAS looks forward to working in collaboration with W&I in this effort.

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	cases are counted. Before the centralization, the "Compliance bucket" ensured identity theft cases involving only compliance issues were worked by one Compliance function based upon the earliest IRS received date as directed by IRM 4.19.24.1.2.2. This approach was used to reduce hand-offs between functions, improve case processing through streamlined, consistent procedures, and improve communication. Now that we have completed the centralization of Compliance employees in IDTVA, we'll include the reporting of the Compliance casework in our re-engineering effort beginning in October 2015 and we will consider the recommendations in the TAS report in collaboration with TAS employees.		
4. The IRS should track IDT cycle time in a way that reflects the taxpayer's experience more accurately—from the time the taxpayer submits the appropriate documentation to the time	Your suggestions will be assessed in re-engineering efforts slated to begin in October 2015. During this process the organization will look for improved means to track the resolution of an identity theft case from beginning to end. While current identity theft case cycle time	No	It's imperative the IRS accurately determine its IDT case cycle time. The IRS should calculate cycle time from the taxpayers' perspective – i.e., from the date it receives the case until the date of case resolution, when it has taken actions to address all related

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the IRS issues a refund (if applicable) or otherwise resolves all related issues.	reporting is consistent with the manner in which all case cycle time is calculated, from the received date of the case to the date of case resolution (the date the final corrective actions are input to the taxpayer's account), we are committed to exploring feasible options that might improve taxpayer perceptions of the time it takes to receive resolution and the overall taxpayer experience. We look forward to collaborating with TAS on our re-engineering efforts.		issues. For example, even if IRS has taken an action to release a taxpayer's refund, it should keep the case open until it actually issues the refund to the taxpayer. If the IRS closes a case prematurely, it distorts IDT cycle time and underrepresents the harm suffered by IDT victims. Notwithstanding W&I's quality review results, in our 2014 study, we found the IRS closed 22 percent of the cases before it had taken actions required to resolve all related issues.
5. The IRS should review its global account review procedures to ensure all related issues are actually resolved (including issuance of a refund, if applicable) prior to case closure, and conduct appropriate training for its employees.	Re-engineering efforts to begin in October 2015 will include analyzing suggestions from TAS to ensure identity theft caseworkers complete all account issues before the closing the case to improve the taxpayer experience. Currently, while a case is still open, Identity Protection Specialized Unit (IPSU) employees conduct a monthly global review using an Integrated Automation Technologies (IAT) tool to review taxpayer accounts; if an unresolved issue is found, the case is referred to the responsible	Yes (Partial)	The IRS states its current procedures call for a global account review upon case receipt and again prior to case closure. However, our 2014 case study showed the global account review was ineffective, as IRS closed more than one-fifth of the IDT cases in our study before it had resolved all related issues. We suggest IRS revamp the global account review procedures and provide employees doing the global review with better training (or both). We expect the IRS will

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	function if IPSU doesn't have the authority, tools, or training to resolve the issue. Prior to case closure, IPSU performs a final global account review to ensure all taxpayer issues were resolved by the responsible functions. This is additional layer of review was designed to help ensure the taxpayer has been made whole, and is defined in IRM 21.9.2.6. In addition, IRM 10.5.3.8 directs the employee to review both prior and subsequent tax years ensuring all issues are addressed including the release of taxpayer refunds.		look at this as part of its IDT reengineering efforts.