

Efforts to Improve Taxpayer Advocacy

Advocacy on behalf of taxpayers is an ongoing and ever-evolving process at TAS. The efforts we are focused on now and into the next year revolve around getting back to the basics. This includes enhancing our outreach to provide better service; training senior leaders how to specifically assist emotional customers and resolve difficult situations; implementing secure digital messaging; improving TAS's website, www.TaxpayerAdvocate.irs.gov; effectively using the National Tax Forums, case resolution rooms, and focus groups; building upon the newly delegated authority to intake advocates; opening new TAS offices in currently underserved locations; training employees and developing leaders within TAS; and planning for the third International Conference on Taxpayer Rights in Spring 2018.

TAS REMAINS COMMITTED TO COMMUNITY OUTREACH

Local Taxpayer Advocates (LTAs) represent the National Taxpayer Advocate at the local level and are responsible for informing local communities and internal stakeholders about TAS and its mission to advocate on behalf of taxpayers. TAS outreach plays a critical part in building relationships with our partners.

TAS offices added over 4,600 planned outreach activities for fiscal year (FY) 2017, surpassing FY 2016's efforts.¹ Outreach in FY 2018 will continue to focus on raising awareness of emerging tax law issues, identifying local initiatives, developing and maintaining congressional relationships and reaching external audiences, and educating IRS employees on taxpayer rights.

Problem Solving Days Outreach Events Support the Back to Basics Initiative of TAS

In order to reach the TAS underserved population, LTAs will be hosting Problem Solving Day events in their local areas, where LTAs and case advocates will offer taxpayers and their representatives the ability to present unresolved IRS issues, taking steps to resolve them onsite. While the IRS is scaling back on face-to-face interactions with taxpayers as part of its "Future State," TAS wants to make sure we provide taxpayers with a way to reach us if they need help. Case advocates will be prepared to advocate and resolve taxpayer issues on the spot, if possible. LTAs will network with community stakeholders and personally conduct outreach, incorporating problem solving day activities into outreach events when possible.

LTAs have been instructed to seek out outreach opportunities in their communities — either those already established or by creating new ones. Typical events might include annual practitioner continuing education sessions or congressional resource fairs that bring together groups of taxpayers or those who represent taxpayers before the IRS. LTAs will promote the problem solving occasions in advance to make sure taxpayers are aware of the opportunity to meet face-to-face with TAS employees to discuss unresolved issues with the IRS. These face-to-face interactions will also provide TAS employees the chance to educate taxpayers and their practitioners about their rights when dealing with the IRS. For FY 2017, LTAs will explore these opportunities with the expectation that at least one event is completed by the end of the first quarter in FY 2018.

¹ TAS, *National Outreach Events Breakdown for 2017 Report*, May 1, 2017 (on file with TAS).

Identifying and Resolving Specific Issues Affecting Local Populations Improve Taxpayer Service

Continuing our focus on underserved taxpayers, LTAs will identify specific tax issues impacting their community, state, or region. These may be new issues or continuation of a current initiative. If continuing with a previous topic, LTAs must consider whether identifying a particular aspect of the issue or targeting a specific audience would be beneficial in the subsequent year.

When determining unique and significant issues, LTAs will pay particular attention to congressional and other local cases they have received, the interactions they have had with local congressional offices, the issues raised by the Geographical Leadership Communities, as well as issues revealed through recent community outreach. Some of the key issues that LTAs plan to address in outreach efforts include educating taxpayers about their responsibilities under the Affordable Care Act (ACA); educating and advocating for taxpayers affected by new legislation in the Protecting Americans from Tax Hikes (PATH) Act of 2015;² educating and advocating for taxpayers affected by new legislation in the Fixing America's Surface Transportation (FAST) Act,³ and advocating for taxpayers subject to the IRS Private Debt Collection (PDC) program.

Focus for Fiscal Year 2018

In FY 2018, TAS will:

- Ensure LTA offices schedule a “Problem Solving Day” event each quarter, which includes Taxpayer Advocate Group Managers, Lead Case Advocates, and Case Advocates who will meet with attendees and provide immediate service;
- Identify new organizations, locally represented, for personal outreach opportunities, to augment outreach to existing community organizations already familiar with TAS;
- Raise awareness of and advocate for taxpayer rights;
- Develop materials for LTAs and others to use in outreach and education on topics including:
 - Changes to tax returns involving the Earned Income Tax Credit (EITC) and the Child Tax Credit (CTC);
 - Expanded EITC due diligence requirements;
 - New passport revocation provisions; and
- Advocate for taxpayers subject to the IRS PDC program.

² See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, Title IV (2015) (Protecting Americans from Tax Hikes Act of 2015, hereinafter - PATH Act). The PATH Act requires the IRS to not release refunds for returns that claim the Earned Income Tax Credit (EITC) or the Additional Child Tax Credit until Feb. 15th and expands the EITC due diligence requirements under Internal Revenue Code (IRC) § 6695 to now include the Child Tax Credit and the American Opportunity Education Credit. Additionally, the PATH Act prohibits individuals from filing amended returns to claim EITC, the Child Tax Credit, or the American Opportunity Education Credit for prior years that a qualifying child did not have a Social Security Number (and ITIN if claiming the Child Tax Credit or the American Opportunity Education Credit) and penalizes individuals for fraudulently claiming those credits. See also Area of Focus: *TAS Continues to Pursue Improvements to the IRS's Administration of the Earned Income Tax Credit, Particularly With Recent Changes to the Law*, *supra*.

³ Fixing America's Surface Transportation (FAST) Act, Pub. L. No. 114-94, Div. C, Title XXXII, §§ 32101 and 32102, 129 Stat. 1312, 1729-32 (2015) (hereinafter FAST Act). Among other provisions, the FAST Act requires the Department of State (DOS) to deny a passport application and allows it to revoke or limit a passport if the IRS certifies a taxpayer's “seriously delinquent tax debt” (codified at IRC § 7345). For a detailed discussion, see Area of Focus: *The IRS's Certification Program Related to Denial or Revocation of Passports Impairs Taxpayer Rights*, *supra*. Additionally, the FAST added subsections (c) and (h) to IRC § 6306(c)(1), which requires the IRS to enter into qualified tax collection contracts for the collection of “inactive tax receivables.” For a detailed discussion, see Area of Focus: *The Design of the IRS's Private Debt Collection (PDC) Program Will Disproportionately Burden Taxpayers in Economic Hardship and Impose Unnecessary Costs on the Public Fisc*, *supra*.

TAS ESTABLISHES EMPATHY IN ACTION TEAM TO ENHANCE SERVICE TO TAXPAYERS

As part of our “Back to Basics” approach for this year, Case Advocacy leadership established the Empathy in Action team comprised of TAS senior leaders experienced in assisting emotional customers and resolving difficult situations. To ensure that LTAs and their staff are best equipped to handle the complex needs of taxpayers in their communities, the team is developing training focused on using empathy to assist case advocacy employees in helping taxpayers suffering from various hardships.

This training will help provide foundational building blocks focused on helping employees improve their awareness of the taxpayers’ circumstances, providing techniques to connect with taxpayers, and responding with appropriate tact in providing advocacy. By actively listening to taxpayers, understanding why they are concerned or upset, and showing empathy in presenting solutions, our case advocates will be able to take appropriate actions to help taxpayers with their unique needs.

Focus for Fiscal Year 2018

In FY 2018, TAS will:

- Deliver quarterly training to TAS Case Advocacy leadership, who will then deliver the training to their employees; and
- Deliver targeted empathy training to TAS employees so they can connect better with taxpayers and understand the unique challenges they face.

TAS IS PILOTING A TAXPAYER DIGITAL COMMUNICATIONS (TDC) PROJECT⁴

TAS is participating in a TDC pilot project, which began in the third quarter of FY 2017. This project offers taxpayers the ability to communicate and share information with their TAS case advocates using a secure, web-based portal without the need to mail or fax documents. The pilot is designed to test whether TDC enhances communication and information sharing between TAS employees and taxpayers. This project is taking place in four TAS offices,⁵ with taxpayers participating by invitation only, and includes EITC and levy cases. The goals of testing EITC cases is to see if taxpayers can create online accounts and clear the IRS’s multi-factor verification process, which will be necessary for all digital communication with the IRS.⁶ Historically, taxpayers have been reluctant to use government digital services.⁷ Nevertheless, the data TAS collects from this pilot will shed light on the ability of TAS’s EITC taxpayers⁸ to participate in the IRS’s “Future State” vision of online digital communication. TAS will gather data on every step of the process, including the e-authentication process and ease and

4 Interim Guidance Memorandum (IGM), *Taxpayer Digital Communications (TDC) Pilot* (Apr. 13, 2017), https://www.irs.gov/pub/foia/ig/spder/tas_13_0417_001_tdc_igm_.pdf.

5 The pilot began running in early April and will run until September 2017, and may continue longer if needed, in the TAS Dallas, Nashville, New Orleans and Cleveland offices. Employees in the four offices received face-to-face training between March 28 and April 25, 2017 and began offering TDC to taxpayers in TAS starting on April 3, 2017.

6 For a detailed discussion of the pilot, see Area of Focus: *TAS Remains Committed to the Taxpayer Advocate Service Integrated System (TASIS)*, *supra*.

7 See National Taxpayer Advocate 2016 Annual Report to Congress 121-37 (Most Serious Problems: *Online Accounts: Research Into Taxpayer and Practitioner Needs and Preference Is Critical As the IRS Develops an Online Taxpayer Account System*) (discussing the IRS’s lack of overarching strategy for the online account that is based on an understanding of taxpayer skills and abilities, as well as their needs and preferences for the various modes of receiving taxpayer service).

8 National Taxpayer Advocate 2016 Annual Report to Congress 139 n.9 (Most Serious Problem: *Earned Income Tax Credit (EITC)*).

frequency of system use. TAS expects this data to assist in better understanding the ability of taxpayers to participate in the IRS online applications with Secure Access e-authentication requirements.⁹

Focus for Fiscal Year 2018

In FY 2018, TAS will:

- Evaluate the effectiveness of TDC and expand the system if it proves successful; and
- Identify ways to improve TDC service.

COMMUNICATIONS, STAKEHOLDER LIAISON AND ONLINE SERVICES (CSO) INITIATIVES IMPROVE TAXPAYER ADVOCACY AND SERVICE

TAS Continues to Update Its Website, www.TaxpayerAdvocate.irs.gov, With New and Improved Information

In January 2015, TAS launched a significant update to its website, www.TaxpayerAdvocate.irs.gov. Built with responsive design, the site adapts to any device and better serves the growing population of taxpayers using mobile devices as their primary or only means to access the internet. The website helps taxpayers be better informed tax consumers through the use of plain language explanations of tax-related concepts and problems such as *I got a notice from the IRS*; *I can't pay my taxes*; and *Audits by mail*. Each issue is broken down into a conversation with the taxpayer, so he or she can easily follow the issue and find information. Some pages also include user-friendly videos to allow for quick, easy overviews of the issue.

Understanding and following the directions contained in IRS notices can be confusing and perplexing, as comments in our public forums supported last year. To guide taxpayers through certain IRS notice processes, TAS has an initiative this year to review all IRS Statutory Notices of Deficiency (SNOD), as well as all IRS Collection Due Process (CDP) notices, and provide taxpayers with critical, plain language information about these notices on the TAS website. The system will be designed for a taxpayer to enter a notice number and receive important, easy-to-understand information about the notice. Specifically, information will include an overview of the notice with an emphasis on taxpayer rights, important deadlines and consequences of missed deadlines, and step-by-step actions to take if the taxpayer agrees or disagrees with the IRS, including petitioning the United States Tax Court. The content will also include information about TAS, Low Income Taxpayer Clinic (LITC) services, collection alternatives, and other topics.

As hot topics, emerging tax issues, and tax law changes arise, TAS continues to update its website with:

- Assistance for taxpayers in the online account environment who have a balance due and have questions;
- Information to provide the taxpayer with a better understanding of certain IRS notices;
- News articles to help taxpayers identify and combat telephone and email scams from IRS imposters;
- Affordable Care Act (ACA) estimators such as:
 - Premium Tax Credit Change Estimator,

⁹ See Area of Focus: *The IRS's Heavy Reliance on the Online Account Benefits Taxpayers Who Can Access the Application and Prefer Digital Interaction, But It Burdens Taxpayers Who Need or Prefer More Personalized Service*, *supra*.

- Individual Shared Responsibility Provision Payment Estimator,
- Employer Shared Responsibility Provision Estimator, and
- Small Business Health Care Tax Credit Estimator;
- Help for international taxpayers about their tax obligations as well as how the Foreign Account Tax Compliance Act may impact them;
- Assistance with the PDC Program; and
- Research Studies for the National Taxpayer Advocate's Reports to Congress.

Focus for Fiscal Year 2018

In FY 2018, TAS will:

- Implement a notice resource where taxpayers receive a plain language overview of the notice, an explanation of the actions they should take, and a reference to their taxpayer rights applicable to the notice they received from the IRS;
- Identify additional Get Help Topics to address IRS Online Account Payment options and questions arising from the information and balances presented as the online account capabilities expand; and
- Create supporting Get Help pages for emerging tax issues along with expanding Get Help topics on existing tax issues.

National Tax Forums Promote Taxpayer Advocacy

TAS promotes its advocacy efforts through participation at the IRS Nationwide Tax Forums. The forums offer practitioners the opportunity to attend seminars and focus groups and have an opportunity to visit with TAS and IRS personnel about cases. TAS seminars will offer tips for practitioners to advocate for their clients in specific case types, such as PDC cases involving trade and business expenses, including hobby losses, and refund issues associated with nonresident alien withholding on payments of U.S. source income. TAS coordinates the Case Resolution Program (CRP), presents three seminars, and hosts two focus groups.

Case Resolution Rooms Confirm Face-to-Face Assistance for Taxpayers Is Necessary

The CRP is managed by TAS and staffed by employees from TAS, Wage and Investment (W&I), and the Small Business/Self-Employed (SB/SE) divisions to resolve client cases presented by practitioners. The practitioners look forward to “bringing their toughest case” and getting closure for unresolved issues. Practitioners appreciate face-to-face meetings to provide case details to IRS and TAS personnel that they have been unable to resolve previously by telephone or mail contacts with the IRS. Having personal dialogue enhances the ability to immediately exchange information needed to resolve the case, which is apparent by the 99 percent CRP resolution rate.¹⁰ This suggests that not all cases can be resolved using only telephone contacts or through online processes. Based on participants' comments every year, this is a highlight of the practitioners' experience during the forums. In addition, the IRS employees who are involved gain a deeper appreciation of the struggles and barriers often faced by representatives attempting to address unresolved matters.

¹⁰ Tax Forums 2016 Case Resolution Program (CRP) - Case Summary (data on file with TAS).

Focus Groups Gather Valuable Information for TAS

TAS conducts focus groups at the IRS Nationwide Tax Forums to gather valuable information from practitioners about their personal IRS experiences with specific tax issues, IRS processes and procedures, and their clients' experiences. Recent focus groups discussed the impact of the February 15 refund issuance date for EITC taxpayers and IRS's "Future State" vision and how limited personal services and reliance on online resources would affect practitioners and taxpayers. Findings from the focus groups gained directly from the participants are referenced in and support many of the National Taxpayer Advocate's recommendations in her Annual Report to Congress. The perspectives and firsthand accounts of what the public is experiencing are essential to advocate for improvements in the tax administration.

Focus for Fiscal Year 2018

In FY 2018, TAS will:

- Present seminars on tax issues emphasizing taxpayer rights and obtaining practitioner commentary on tax issues through focus groups; and
- Manage the Case Resolution Room to offer practitioners an opportunity to resolve previously unresolved cases face-to-face.

TAS CONTINUES TO IMPROVE THE CUSTOMER EXPERIENCE BY FOCUSING ON EFFORTS TO GET HELP FOR TAXPAYERS AT THE EARLIEST POSSIBLE TIME AND ENSURE THEY ARE SERVED BY A TAS OFFICE IN THEIR GEOGRAPHIC AREA

TAS Intake Strategy Resolves Taxpayer Problems and Allows Case Advocates to Focus on Most Complex Issues

For the first half of FY 2017, Centralized Case Intake (CCI) advocates answered 24,918 calls transferred from W&I, resulting in 16,884 cases created.¹¹ In the remaining 32 percent (8,034) of calls, TAS CCI employees used their new delegated authorities to provide assistance without creating a new case, an improvement over the 27 percent of calls in FY 2016.¹² The new delegated authorities allow intake advocates to take many of the initial actions that case advocates currently take – such as ordering transcripts, setting up streamlined installment agreements, and securing simple collection holds.¹³ Providing taxpayers this assistance during the initial contact frees up TAS case advocates to focus their specialized skills on situations that are more complex.

In 2018, if funding is received, TAS would like to expand the CCI function by taking calls from other 1040 product lines, continuing our goal to have a personal TAS contact at the time of referral, resolving their issues upon initial contact, referring them to the appropriate function, or building cases for case advocates to work the issues promptly.

11 TAS, *Business Performance Review, 2nd Quarter Fiscal Year (FY) 2017*.

12 See TAS, *Business Performance Review, 2nd Quarter FY 2017* 24. In the first quarter of FY 2017, Centralized Case Intake (CCI) Advocates created cases on 66 percent (5,197 of 7,918) of calls transferred from the NTA toll-free line answered by CCI Advocates. In the remaining 34 percent (2,721) of the calls, TAS provided assistance without creating a new case, an improvement over the 21 percent (1,647) of calls in FY 2016. See also IRS, *Aspect Application Activity Report*, (Oct. 1, 2016 – Feb. 28, 2017) and case data obtained from TAMIS (Feb. 28, 2017).

13 See IGM, *TAS Delegation Order 13-2-1* (July 27, 2015).

TAS Will Evaluate and Expand Its Local Presence to Best Meet Taxpayer Needs

Over the past few years, the National Taxpayer Advocate has been evaluating the location of TAS offices required under IRC § 7803(c)(2)(D) to adapt to shifting and underserved taxpayer populations.¹⁴ As the IRS moves away from having a local presence, it becomes even more important that all taxpayers have access to a local TAS office. As populations shift and new issues emerge, TAS will evaluate its case receipts and geographic data to identify areas where taxpayers are in need of TAS assistance but do not have easy access to a local office. TAS is currently evaluating opening new offices in Tallahassee, Florida; Charlotte, North Carolina; Trenton, New Jersey; Grand Rapids, Michigan, San Antonio and El Paso, Texas; and Savannah, Georgia, as budget and space permit.

At the same time, TAS is using this information to evaluate the size of its current offices to ensure they are adequately staffed to meet taxpayer demands. However, TAS is currently unable to track the calls that our local offices receive. This hampers our ability to plan for work and ensure our offices have the staff they need. TAS plans to identify technological solutions that can help track local office calls, further improving our ability to serve our taxpayers.

TAS Will Continue Efforts to Ensure Taxpayer Cases Are Worked in the TAS Office Where the Taxpayer Is Located

Generally, when a case comes into TAS, it remains in the office where it was created, regardless of where the taxpayer is located. Zip code routing allows us to transfer cases to the geographic area where the taxpayer is located. We are piloting this effort in a number of TAS sites. Our workload management initiative will allow us to roll out zip code routing to all TAS offices.

Focus for Fiscal Year 2018

In FY 2018, TAS will:

- Revise Internal Revenue Manuals (IRMs) to reflect current technology, systems, organizational structure, and the Intake Strategy;
- Identify opportunities to expand delegated authorities to TAS intake advocates and train them accordingly;
- Develop a plan to receive TAS-eligible calls from other IRS toll-free product lines as budget and staffing permit;
- Open new TAS offices in areas where taxpayers are in need of TAS assistance but do not have easy access to a local office, subject to the availability of additional funding;
- Analyze case receipts and taxpayer geographic data to identify locations where taxpayers lack access to a TAS office;
- Evaluate the size of existing TAS offices to ensure they are accurately sized to meet taxpayer demands;
- Identify methods to track local office calls; and
- Begin implementation of the workload initiative.

14 See National Taxpayer Advocate Fiscal Year 2017 Objectives Report to Congress 192.

TAS TRAINING INITIATIVES AND LEADERSHIP DEVELOPMENT EFFORTS FOCUS ON IMPROVING ADVOCACY, PROTECTING TAXPAYER RIGHTS, AND PROVIDING BETTER SERVICE TO TAXPAYERS

TAS equips its employees with the right skills delivered at the right time to ensure we have technical knowledge about tax law and procedures. This allows us to advocate effectively for taxpayers and to protect their rights. A principal focus in FY 2017 was to train intake advocates on new delegated authorities that allow them to take many of the initial actions that case advocates currently take — such as ordering transcripts, setting up streamlined installment agreements, and securing simple collection holds. This provides better service to taxpayers by allowing them to speak to a TAS employee at the earliest opportunity, assisting the taxpayer, and possibly closing the issue without accepting a case in TAS. The training focused on identifying and resolving technical issues up front, as well as tax training, financial analysis, and advocacy in fraud-related cases. Also in FY 2017, TAS delivered an “Improving Advocacy Through Effective Writing” course that focused on enhancing our advocates’ writing and communication skills.

We continued the use of virtual and local face-to-face training in FY 2017 to maximize student interaction while minimizing travel cost. We also emphasized low-cost on-demand training by using Lynda.com, a leading online learning platform that helps users learn business, software, technology, and creative skills to enhance their personal skills and achieve business goals.

TAS Will Emphasize Information and Research Contained in Previous Annual Reports to Congress in Training Employees

The National Taxpayer Advocate will lead a new effort in FY 2018 to emphasize the information contained in our Annual Reports to Congress and to use the information as a basis for training and educating our employees. We will begin with the Most Litigated Issues (MLIs) analyzed in the 2015 and 2016 Reports to Congress, focusing on:

- Trade or business expenses, including hobby losses;
- Accuracy-related, failure-to-file, failure-to-pay, and frivolous issues penalties;
- Gross income; and
- Appeals from CDP hearings.

The courses will include a review of the substantive tax law, an analysis of recent decided cases and what taxpayer rights are affected by the litigated concerns, and a discussion of how to best advocate on behalf of taxpayers in these matters. The trainings will be videotaped and available to all TAS and IRS employees.¹⁵

Developing Leaders in TAS Will Improve Advocacy and Taxpayer Service

TAS will continue preparing its employees for leadership positions through our Leadership 365 website, encouragement of Leadership Succession Review (LSR) participation, and a renewed focus on Career Learning Plans (CLPs).

Educating our employees about taxpayer rights — and protecting those rights as we advocate for taxpayers — will also continue to be a primary focus throughout our training and leadership efforts this

¹⁵ For example, the IRS Office of Appeals has expressed interest in TAS trainings based on most litigated issues contained in the National Taxpayer Advocate’s Annual Reports to Congress.

year. TAS is working with the Human Capital Office (HCO) to create a mandatory briefing on the Taxpayer Bill of Rights (TBOR) to be delivered as part of the FY 2018 training cycle. The briefing will explain the statutory basis for TBOR and remind employees about their responsibility to be aware of and act in accordance with taxpayer rights at all times. TAS has also worked with the HCO to develop TBOR “front matter,” brief information appearing at the beginning of a training course that provides a link to related material. The TBOR front matter will be added to all future IRS training courses. Finally, TAS has begun creating a TBOR training course for all IRS employees who author training materials, internal guidance such as the IRM, and correspondence. This course will be modeled after a National Taxpayer Advocate-led TAS training video that provided detailed instructions and examples for TAS employees regarding how to write about the TBOR and taxpayer rights and how to incorporate this information into materials. We will also emphasize providing taxpayer rights training whenever possible to the PDC agencies contracted as part of the FAST Act.¹⁶

Focus for Fiscal Year 2018

In FY 2018, TAS will:

- Generate training opportunities from the wealth of technical knowledge contained in our Annual Reports to Congress and use this technical and legal expertise to advance advocacy for our taxpayers;
- Explore innovative low-cost virtual and local face-to-face training methods to maximize student interaction while minimizing costs;
- Use the IRS’s servicewide virtual library to provide IRS employees with the knowledge, tools, and resources needed to fulfill their role of assisting taxpayers, providing top-quality service, and protecting taxpayer rights;
- Concentrate on leadership development to offset expected retirement attrition, using our Leadership 365 program and a renewed focus on LSR and CLPs;
- Incorporate ways to promote the protection of taxpayers’ rights into all of our training and development efforts;
- Develop and produce a mandatory briefing for all IRS employees on the TBOR;
- Work with HCO to revise its IRM to require all new training courses to include TBOR front matter;
- Create a TBOR training course for all employees who author training materials, internal guidance, and correspondence;
- Work with HCO and IRS senior leadership to promote the training course and advise all employees who author materials to take the training course; and
- Update IRM sections to advise employees to take the TBOR training course when appropriate.

¹⁶ FAST Act, Pub. L. No. 114-94, Div. C, Title XXXII, § 32102, 129 Stat. 1312, 1729-32 (2015). For a detailed discussion of Private Debt Collection (PDC), see Area of Focus: *The Design of the IRS’s Private Debt Collection (PDC) Program Will Disproportionately Burden Taxpayers in Economic Hardship and Impose Unnecessary Costs on the Public Fisc*, *supra*.

THE THIRD INTERNATIONAL CONFERENCE ON TAXPAYER RIGHTS WILL HIGHLIGHT GOOD GOVERNANCE AND REMEDIES

On March 13-14, 2017, the National Taxpayer Advocate convened the Second International Conference on Taxpayer Rights, hosted by the Institute for Austrian and International Tax Law at WU (Vienna University of Economics and Business) in Vienna, Austria. More than 160 government officials, scholars, and practitioners from over 40 countries around the world gathered to explore how taxpayer rights globally serve as the foundation for effective tax administration. For two days, eight panels discussed topics that included these themes:

- Privacy and Transparency in Tax Administration;
- Taxpayer Rights in Multi-Jurisdictional Disputes;
- Access to Taxpayer Rights and the Right to Quality Service;
- Impact of Penalty Administration on Taxpayer Trust; and
- Transforming Cultures of Tax Agencies and Taxpayers.

The National Taxpayer Advocate is currently planning the Third International Conference on Taxpayer Rights on May 3 and 4, 2018. The conference, which will be held in the Netherlands, will be hosted by the International Bureau of Fiscal Documentation (IBFD). The conference theme is “Taxpayer Rights: Good Governance and Remedies.” Topics will include:

- Penalties: Proportionality and Deterrence;
- Early Warnings of Rights;
- Violations and Prevention;
- Taxpayer Rights in the Preliminary Phase of Tax Procedures;
- Taxpayer Right Considerations in Cross-Border Issues, including Transfer Pricing, Advanced Rulings, and Exchange of Information;
- Burden of Proof Issues; and
- Administrative Appeals and Mediation.

Focus for Fiscal Year 2018

In FY 2018, TAS will:

- Plan and convene the Third International Conference on Taxpayer Rights in Spring 2018.

TAS’S ADVOCACY AND IMPLEMENTATION AND EVALUATION (AIE) GROUP CONTINUES PROACTIVE ADVOCACY EFFORTS

Systemic Advocacy (SA) proactively uses the Systemic Advocacy Management System (SAMS) as an advocacy tool by encouraging IRS employees, taxpayers, tax practitioners, and others outside of the IRS to use SAMS to identify systemic issues adversely impacting taxpayers and to protect taxpayers’ rights.¹⁷ For example, an issue elevated through SAMS prompted TAS to review the accuracy of Collection Statute Expiration Dates (CSEDs) on taxpayer accounts containing multiple installment agreement

¹⁷ See Taxpayer Bill of Rights (TBOR), www.TaxpayerAdvocate.irs.gov/taxpayer-rights. The rights contained in the TBOR are now listed in the IRC. See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, Title IV, § 401(a) (2015) (codified at IRC § 7803(a)(3)).

requests. TAS identified a number of accounts with potential collection statute errors and brought a comprehensive listing of the affected accounts to the IRS and requested corrective action. TAS will continue to work with the IRS on this issue, monitoring to ensure affected accounts reflect correct CSEDs and that we are protecting taxpayers' *rights to pay no more than the correct amount of tax* and ensuring the *right to a fair and just tax system*.

TAS also received a SAMS submission concerning the date the IRS posts restitution payments to a taxpayer's account. In a Judgment and Commitment Order, the Court ordered the taxpayer to make restitution payments to the Clerk of District Court by a specific date. The taxpayer timely submitted a restitution payment to pay in full the taxes due *plus* the court cost to the applicable Clerk of District Court. The payment was processed and recorded by the Clerk of District Court and then forwarded to the IRS almost four months later. The IRS posted the payment to the taxpayer's account as of the date the IRS received the payment, which resulted in additional penalties and interest.

Based on the advice of Chief Counsel, the IRS's policy states, "The Service must consider any remittances made to the Service when actually received by the Service." IRM 3.8.45.2(9) provides that "[a]ll remittances will be credited to taxpayer accounts for the earliest IRS Received Date," which is "the date the remittance is received by the IRS or Department of Treasury."¹⁸ The payment posting date of restitution is the date the IRS receives the payment, not the date the Clerk of Court receives it. The burden occurs when there is a substantial delay between these two dates that results in the IRS adding additional interest and penalties to the taxpayer's Restitution Based Assessments. TAS successfully advocated for a change in this policy.

TAS Internal Management Document/Single Point of Contact (IMD/SPOC) Activities Improve Taxpayer Rights and Reduce Taxpayer Burden

Systemic Advocacy also employs its IMD/SPOC program to review internal management documents (IMDs), IRM changes, and other IRS items such as forms, letters, and publications, to verify products are technically, legally, and procedurally accurate and do not create undue taxpayer burden or infringe upon taxpayer rights. TAS negotiates with the IRS to change products containing burdensome procedures, policies, or authorities.

At a cross-functional IRS and TAS meeting, TAS recommended that IRM 25.23.1, *Identity Protection and Victim Assistance - Policy Guidelines*, incorporate content related to Practitioner Data Breaches as the IRS continues to receive additional requests from taxpayers impacted by practitioner breaches. Because there is no published IRM providing guidance, TAS recommended adding the following, "...IRS report client data theft to your local stakeholder liaison. Liaisons will notify IRS Criminal Investigation and others within the agency on your behalf." Based on TAS's concerns and position, the Operating Division issued an Interim Guidance Memorandum (IGM)¹⁹ and added the statement above that will reduce taxpayer burden and assist in fraud detection.

TAS was also concerned the IRS was not adequately addressing taxpayer rights in procedures pertaining to the levy of retirement assets. Provisions regarding flagrant conduct were not defined and led to subjective interpretations. TAS recommended the flagrant conduct be defined and cross-referenced to relevant IRMs. Collection Policy responded to TAS's recommendations by publishing an Internal

18 Internal Revenue Manual (IRM) 3.8.45.2, *Deposit Procedures (General)* (Jan. 1, 2011).

19 Internal Procedural Update (IPU) 16U0648 of IRM 25.23.1.10, *Data Breach - Business Entities Whose Employees or Clients PII was Breached* (Mar. 3, 2017).

Procedural Update,²⁰ and the guidance now includes examples of extenuating circumstance to mitigate flagrant conduct. The revision will help inform taxpayers of the types of behavior that might be considered flagrant behavior and the new guidance will help ensure the IRS treats taxpayers consistently and considers all other collection options before levying retirement accounts.

In a further instance of IMD/SPOC efforts, TAS identified a discrepancy and negotiated the elimination of incorrect language in the CP 74, *Earned Income Credit (EIC) Recertification Letter*, that stated taxpayers may have to file Form 8862, *Information to Claim Earned Income Credit After Disallowance*, following receipt of the notice. This contradicts information that is provided to taxpayers on irs.gov which explicitly states that individuals who receive CP 74s are re-certified for the EITC and do not have to fill out Form 8862 in the future.²¹ After TAS elevated this concern, the IRS agreed to modify the CP 74 to remove the inconsistent language and clarify the notice. TAS will continue to monitor for implementation of revision.

TAS Technical Advocacy Groups Collaborate with the IRS to Resolve Systemic Problems and Make Recommendations for Change to Policies and Procedures

Systemic Advocacy's technical advocacy group also continues to proactively advocate. TAS's group of subject matter experts (SMEs) and technical specialists work on cross-functional teams, collaborating to address issues identified as causing taxpayer burden.

For example, due to a programming error by the IRS, some taxpayer accounts were erroneously marked as deceased, causing taxpayer's electronically filed returns to be rejected or causing returns that had previously been accepted as valid in the IRS system to be deleted. This caused the IRS to issue erroneous notification to taxpayers to contact the Social Security Administration to correct deceased information and to resubmit their 2016 income tax returns to the IRS. TAS immediately contact Return Integrity and Compliance Services (RICS) to recommend that they initiate corrective actions with the return information available instead of requesting the taxpayer to refile the return to prevent additional delays and possible cost of obtaining a copy of the return from the tax preparer. RICS agreed and implemented expedite corrective actions to process the original return received, electronic and paper, from the taxpayer to prevent additional taxpayer burden.

TAS Technical Advocacy also identified an IRS system programming problem regarding Married Filing Joint (MFJ) tax returns, where the secondary taxpayer's Tax Identification Number (TIN) on the valid joint tax return has also been used to file a fraudulent tax return. In this circumstance the IRS holds the MFJ tax refund, but TAS discovered the IRS system fails to denote the MFJ account as requiring review for verification and refund release. Furthermore, the IRS does not notify the legitimate taxpayers of the delay. Taxpayers are left to independently identify there is an issue, contact the IRS, and inquire about the status of their refund for the IRS to release it. TAS requested a change in system programming to recognize the duplicate tax return condition caused by the identity theft. The change will signal that the MFJ tax return needs to be verified and the refund released to the legitimate taxpayers. The IRS agreed to TAS's request, and after implementing the programming change, the author of IRM 21.6.7, *Adjusting Individual Tax Accounts*, will revise all necessary guidelines and information.

20 IPU 16U1064 of IRM 5.11.6.2, *Funds in Pension or Retirement Plans* (June 14, 2016).

21 See *Understanding Your CP74 Notice*, <http://www.irs.gov/individuals/understanding-your-cp74-notice> (reviewed or updated July 5, 2016) (last visited June 7, 2017).

On December 1, 2016, the IRS launched a new online account tool that allows taxpayers to view their IRS account balance, including the amount they owe for tax, penalties, and interest. TAS's Technical Advocacy group immediately learned that taxpayers with an identity theft (IDT) indicator on their account were receiving messages when using this Tool indicating that their account balance was unavailable. TAS promptly notified the IRS of the problem. The IRS updated the tool's message to advise taxpayers with IDT indicators to contact the Identity Protection Specialized Unit's (IPSU) toll-free number for account balance inquiries.

Focus for Fiscal Year 2018

In FY 2018, TAS will:

- Proactively market SAMS to internal and external stakeholders to help identify systemic issues that affect taxpayer rights or cause taxpayer burden, and implement a public relations campaign to champion the use of SAMS as a tool to advocate for taxpayers; and
- Continue and advocate for IMD/SPOC changes through our review process, examining the full spectrum of IRS publications, and argue for corrective amendments when taxpayer rights are threatened.