NATIONAL
TAXPAYER
ADVOCATE

Report to Congress

Fiscal Year 2011 Objectives

June 30, 2010

I. INTRODUCTION . . . . . *v*

II. AREAS OF EMPHASIS *1*

A. TAS Continues to Believe that the IRS Should Do a Better Job of Meeting Taxpayers Needs and TAS Will Continue to Advocate for Improved Taxpayer Services 1

1. Examples of Taxpayer Service Shortcomings 1

a. Telephone Service 1

b. Correspondence Delays 2

c. Delays in Processing Returns Claiming the Making Work Pay Credit. 2

d. Delays in Processing Returns Claiming the First-Time Homebuyer Credit 3

e. Inadequate Outreach and Education 4

2. Causes of Shortcomings in Taxpayer Service 5

B. TAS Will Examine the Administrative Challenges Presented by New Information Reporting Requirements 9

C. The National Taxpayer Advocate Remains Concerned About IRS Collection Practices that Do Not Promote Future Voluntary Compliance and Can Unnecessarily Harm Taxpayers 13

1. TAS Is Zealously Advocating for the IRS to Change Its Lien Filing Policies and Practices, Which Unnecessarily Harm Taxpayers' Economic Viability and May Undermine Future Tax Compliance 14

2. IRS Delay in Issuing Guidance About Lien Withdrawals Following Lien Releases Unnecessarily Harms Taxpayers and May Undermine Future Tax Compliance 17

3. TAS Will Work with the IRS to Improve Communications and Processes Associated with Rectifying Erroneous Lien Filings 17

D. The IRS's Delay in Incorporating the Tax Court's Decision in Vinatieri v. Commissioner into the Internal Revenue Manual (IRM) and Other IRS Guidance Unnecessarily Harms Taxpayers Who Are Experiencing Economic Hardship 18

E. IRS Initiatives to Improve the Offer in Compromise Program Have Not Yet Achieved Tangible Results 20

1. Returned Offers May Harm Taxpayers Who Submit Otherwise Acceptable Offers 20

2. Unclear Guidance May Be Hampering the IRS from Accepting Offers 21

F. An Understanding of the Factors Impacting Taxpayer Compliance Is Crucial to Effective Tax Administration 23

G. As the IRS Implements the New Return Preparer Initiative, TAS Will Continue to Monitor its Scope as Well as Advocate for Several Statutory Changes 24

H. TAS Will Continue to Work with the IRS to Implement Health Care Reform 27

III. THE STATUTORY MISSION OF THE TAXPAYER ADVOCATE SERVICE *29*

Table of Contents

IV. ASSISTING TAXPAYERS IN RESOLVING PROBLEMS 31

A. TAS Identifies Problems and Trends Which Negatively Impact Taxpayers and Advocates to Resolve These Issues 31

B. TAS Analyzes Economic and Systemic Burden Case Receipts for Process Improvements 34

1. TAS Assists Taxpayers with Audit Issues. 36

2. TAS Assists Taxpayers with Document Processing 40

a. First-Time Homebuyer Credit (FTHBC) Document Processing Challenges 40

b. The IRS Changes Return Processing Procedures Concerning Unsigned Returns and Returns Missing Schedules 44

c. Injured Spouse Document Processing Successes 46

3 TAS Assists Taxpayers with Collection Issues 47

4. TAS Assists Taxpayers with Refunds 49

5. TAS Assists Taxpayers with Entity Issues 51

a. The IRS Continues to Make Strides in Identity Theft Case Processing 51

C. TAS Uses Its Statutory and Delegated Authorities to Advocate Effectively in Taxpayer Cases 54

1. TAS Communicates with the IRS Through the Operations Assistance Request (OAR) Process 54

2. TAS Uses Taxpayer Assistance Orders to Advocate for Taxpayers 55

D. TAS Uses Other Means to Advocate for Taxpayers. 58

1. Identifying Taxpayers in Need of TAS Services 58

a. Reaching the Underserved Through Social Media. 59

b. Reaching The Underserved Through Education. 60

1. Online Tools 60

2. IRS Nationwide Tax Forums 60

3. Internal IRS Education 61

c. Simplifying and Focusing TAS Communications with Taxpayers 61

V. TAS IDENTIFIES PROBLEMS AND LEGISLATIVE SOLUTIONS, AND WORKS WITH THE IRS TO IMPROVE PROCESSES 63

A. Current Advocacy Issues 63

1. Increasing Amount of Undeliverable Mail Leads to Potentially Adverse Consequences for Taxpayers and Costly Downstream Processing for IRS 63

2. Improvements to the Correspondence Audit Program 65

3. Reasonable Cause Assistant Problems Persist Despite Ongoing Discussions with the IRS. 66

B. TAS Research Initiatives 67
1. Earned Income Tax Credit (EITC) Audit Effectiveness 67
2. Testing the Effectiveness of Affidavits During EITC Audits 68
3. TAS Efficiency Measures 69
4. Math Error Codes for Invalid Dependent Taxpayer Identification Numbers 70
5. Impact of IRS Collection Policies on Financially Stressed Taxpayers 71

VI. INFRASTRUCTURE FOR DELIVERING THE TAS MISSION 73

A. TAS Case Inventory Levels 73
B. TAS Continues to Hire a Diverse Workforce 76
C. TAS Enters into a Two-Year Project to Update Information Systems 78
1. Improving the Efficiency of TAS Information Systems 79
2. Improved Electronic Document Management 79
3. Enhancing Workload Distribution 79
4. Overcoming Challenges for a Successful Implementation 80
D. TAS Measures Its Success in Achieving Its Mission 80
1. How TAS Connects with Taxpayers 80
a. Analysis of FY 2008 Customer Satisfaction Survey: Opportunities for Improvement 81
2. Employee Engagement–Creating an Environment for Success 81

APPENDICES I-1

Appendix I: Evolution of the Office of the Taxpayer Advocate I-1
Appendix II: Taxpayer Advocate Service Case Acceptance Criteria II-1
Appendix III: Collaborative Efforts Between TAS and IRS. III-1
Appendix IV: List of Low Income Taxpayer Clinics IV-1
Appendix V: FY 2011 TAS Operational Priorities V-1
Appendix VI: TAS Performance Measures and Indicators VI-1
Appendix VII: List of Advocacy Portfolios VII-1
Appendix VIII Taxpayer Advocate Directives (TADs) 2010-1 and 2010-2 . . . . . VIII-1

GLOSSARY OF ACRONYMS GL-1

Table of Contents

I. Introduction

The Internal Revenue Code requires the National Taxpayer Advocate to submit two annual reports to the House Committee on Ways and Means and the Senate Committee on Finance.[1] The National Taxpayer Advocate is required to submit these reports directly to the Committees without any prior review or comment from the Commissioner of Internal Revenue, the Secretary of the Treasury, the IRS Oversight Board, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget.[2] The first report, due by June 30 of each year, must identify the objectives of the Office of the Taxpayer Advocate for the fiscal year beginning in that calendar year.

The trend toward requiring the IRS to administer social benefits in addition to its core tax administration duties increasingly diverts current IRS resources and diminishes taxpayer service.

The objectives of the Office of the Taxpayer Advocate are inextricably intertwined with the IRS's own goals, initiatives, and challenges. If this year's report demonstrates anything, it is that the IRS is itself greatly taxed by the additional role it is increasingly playing in delivering social benefits and programs to the American public. In the last several years, the IRS has been tasked with administering billions of dollars to millions of taxpayers in Economic Stimulus Payments, Making Work Pay credits (including their interaction with Economic Recovery Payments), First-Time Homebuyer Credit payments, and Hybrid Car credit payments, to name just a few. As described elsewhere in this report, many of these provisions have created taxpayer confusion, generated considerable telephone and correspondence volumes (with corresponding declines in telephone levels of service and increases in average speed of answer and overage correspondence), caused IRS processing delays and programming problems, produced several refund fraud schemes, and resulted in several spikes in the Taxpayer Advocate Service's caseload.[3]

To its credit, the IRS has made it through two or three very challenging filing seasons without imploding. However, taxpayers, practitioners, and IRS employees alike are stretched thin. Taxpayers and practitioners must wait an average of over ten minutes to get through on the phones, and more than one in four taxpayers who wants to reach a live assistor is unable to do so. As of June 19, 2010, over half of all individual taxpayer correspondence in the

1 IRC § 7803(c)(2)(B).

2 IRC § 7803(c)(2)(B)(iii).

3 *See TAS Continues to Believe that the IRS Should Do a Better Job of Meeting Taxpayer Needs, and TAS Will Continue to Advocate for Improved Taxpayer Services, infra; TAS Assists Taxpayers with Audit Issues, infra; TAS Assists Taxpayers with Document Processing Issues, infra; TAS Assists Taxpayers with Refunds, infra.*

adjustments inventory was overage.[4] In response to its increased responsibilities, the IRS has authorized higher than normal levels of overtime and held over its seasonal employees, just to get through backlogs of processing documents and submissions. Because of last-minute passage of legislation, IRS employees are planning and programming system and process changes on the fly, with insufficient time allotted for proper review in order to avoid gaffes.[5] As IRS employees face planning for the start of a new filing season with legislation pending, they are still cleaning up the backlog of cases generated by the past few filing seasons. In this environment, the likelihood of planning and program errors increases.

This situation is likely to worsen if projected decreases in the IRS's taxpayer service funding materialize and as the IRS will soon have to reallocate resources to administer significant aspects of the recently enacted health care legislation. As we discuss in this report, between FY 2004 and FY 2011 (projected), inflation-adjusted spending for the IRS Enforcement account has increased by 17.9 percent, while spending for Taxpayer Services has declined by 6.8 percent. In fact, the Administration's FY 2011 budget proposal projects that from FY 2011 to FY 2013, Enforcement spending will rise by another 13.7 percent while Taxpayer Services spending will decline by an additional 7.2 percent.[6] Taxpayer service funding cuts of this magnitude, when coupled with the IRS's additional responsibilities and the resource requirements of health care reform, mean that taxpayers will be less and less likely to have their problems addressed by the IRS at first point of contact, and as a result, more taxpayers will have difficulty complying with their tax obligations.

So what can be done to address the significant challenges posed by the current budget and tax administration environment? First and foremost, we need to honestly acknowledge that the IRS no longer has a sole mission that involves tax compliance. As with tax administration agencies in many other countries, the IRS is increasingly viewed as able not only to collect taxes but also to administer payments or provisions that have more to do with economic or social benefit policies. The IRS's mission statement should explicitly acknowledge its dual mission. Moreover, this dual mission should be reflected in the IRS's budget structure and funding.

Failure to recognize the different goals and requirements of the IRS's dual mission and failure to fund them adequately leads to perverse effects. For example, the IRS is already under pressure to minimize improper payments from various programs. The IRS's current tax administration approach to improper payments utilizes policies and automation that

4 IRS, *Joint Operations Center Weekly Enterprise Adjustments Inventory Report* (June 19, 2010).

5 Two examples of the consequences of short planning times that affected taxpayers and the IRS alike are (1) the IRS's decision to require taxpayers claiming First-Time Homebuyer Credits to attach a signed settlement statement, without verifying whether every state required the settlement statement to be signed; and (2) the IRS's failure, at the start of the 2010 filing season, to offer on-line and telephone "look-up" service for taxpayers to verify the amount of the Making Work Pay credit they received. Each of these oversights created delays for taxpayers and re-work for the IRS.

6 Budget of the United States Government: Analytical Perspectives, Supplemental Materials Fiscal Year 2011: Federal Programs by Agency and Account 320 (see line labeled "Appropriations, discretionary . . . 803") & 321 (see the sum of the lines labeled "(Federal law enforcement activities): Appropriations, discretionary . . . 751" and "(Central fiscal operations): Appropriations, discretionary . . . 803") *at* http://www.gpoaccess.gov/usbudget/fy11/pdf/ap_cd_rom/33_1.pdf.

minimize taxpayer contact and drive a "checklist" mentality in its employees, rather than encouraging the exercise of judgment and discretion. Thus, as demonstrated throughout this report, it is increasingly difficult for taxpayers whose circumstances do not fit into checklist parameters to find someone able to address their problems. Because the eligibility requirements of social benefit programs are usually very complex and the beneficiary populations often present challenging circumstances, the tendency toward nonpersonal interaction almost guarantees that large numbers of beneficiaries will "get it wrong." Either they will not receive the benefit to which they are entitled, or if they improperly receive that benefit, they will spend years dealing with IRS collection personnel who do not take into consideration their specific circumstances. That is why a dual mission statement is so important. An explicit recognition that the IRS is administering a social benefit program will drive different approaches to its administration of these programs, increasing participation and decreasing improper payments.

The IRS is failing to address the needs of taxpayers who are experiencing economic difficulties and has not revised collection policies that harm taxpayers, thereby undermining its goal of increasing voluntary compliance.

Since 2001, the National Taxpayer Advocate has raised concerns about how the IRS interacts with and treats taxpayers in the collection arena.[7] Over the years, the Office of the Taxpayer Advocate has documented how the IRS has failed to effectively intervene early in the debt cycle, when the tax debt involves low dollars and correction could be relatively easy. We have also shown how the IRS has failed to utilize the significant collection alternatives available to it to resolve taxpayer debts, thus leading to increasing accounts

7 National Taxpayer Advocate 2009 Annual Report to Congress (Most Serious Problems: *One-Size-Fits-All Lien Filing Policies Circumvent the Spirit of the Law, Fail to Promote Future Tax Compliance, and Unnecessarily Harm Taxpayers* 17-40; *The Steady Decline of the IRS Offer in Compromise Program Is Leading to Lost Opportunities for Taxpayers and the IRS Alike* 196-216; *IRS Policies and Procedures for Collection Statute Expiration Dates Adversely Affect Taxpayers* 217-227; *The IRS's Approach Toward Taxpayers During and After Bankruptcy May Impair Their "Fresh Start" and Future Tax Compliance* 228-244; *Status Update: Federal Payment Levy Program: IRS Agrees to Low Income Taxpayer Filter* 318-319). National Taxpayer Advocate 2008 Annual Report to Congress (Most Serious Problems: *The IRS Needs to More Fully Consider the Impact of Collection Enforcement Actions on Taxpayers Experiencing Economic Difficulties* 15-38; *Customer Service Issues in the IRS's Automated Collection System (ACS)* 193-212; Status Update: *The IRS's Private Debt Collection Initiative is Failing in Most Respects* 328-336). National Taxpayer Advocate 2007 Annual Report to Congress (Most Serious Problems: *FPLP Levies on Social Security Benefits* 324-336; *Third Party Payers* 337-354; *Employment Tax Treatment of Home Care Service Recipients* 355-373; *Offer in Compromise* 374-387; *Inadequate Training and Communication Regarding Effective Tax Administration Offers* 388-394; *Assessment and Processing of the Trust Fund Recovery Penalty* (*TFRP*) 395-410; Status Updates: *Private Debt Collection* 411-431; *IRS Collection Strategy* 432-447). National Taxpayer Advocate 2006 Annual Report to Congress (Most Serious Problems: *True Costs and Benefits of Private Debt Collection* 34-61; *Early Intervention in IRS Collection Cases* 62-82; *IRS Collection Payment Alternatives* 83-109; *Levies* 110-129; *Centralized Lien Procedures* 130-140; *Collection Issues of Low Income Taxpayers* 141-156; *Excess Collections* 157-171). National Taxpayer Advocate 2005 Annual Report to Congress (Most Serious Problems: *Training of Private Debt Collection Employees* 76-93; *Levies on Social Security Payments* 123-135; *Complexity of the Employment Tax Deposit System* 192-208; *Automated Collection System Levy Releases* 209-222; *Allowable Expense Standards for Collection Deductions* 270-291; *Limitations of Collection Account Databases* 345-356). *National Taxpayer Advocate* 2004 Annual Report to Congress (Most Serious Problems: *Erroneous and Miscalculated Collection Statute Expiration Dates* 180-192; *IRS Collection Strategy* 226-245; *Federal Contractors and the Federal Payment Levy Program* 246-263; *Offers in Compromise* 311-343; *Taxpayer Rights Training in an Environment of Increased Enforcement* 342-355). National Taxpayer Advocate 2003 Annual Report to Congress (Most Serious Problems: *Offers in Compromise* 99-112; *Federal Payment Levy Program* (FPLP) 206-212). National Taxpayer Advocate 2002 Annual Report to Congress (Most Serious Problems: *Processing of Offer-in-Compromise Cases* 15-24; *Access to ACS* (*Automated Collection System*) 104-109; *Collection Due Process* 110-115; *Awareness and Understanding of Federal Tax Deposits* 116-121). National Taxpayer Advocate 2001 Annual Report to Congress (Most Serious Problems: *Awareness and Understanding Federal Tax Deposits Requirements* 41-42; *Processing Offer in Compromise Applications* 52-55).

receivable on the IRS's books, while taxpayers face staggering accruals of penalties and interest that impact their future compliance. We have further demonstrated that the IRS's policies fail to address the needs of low income taxpayers, and that its lien-filing policies are harming and will continue to harm taxpayers' financial viability without strong evidence that they promote future compliance with the tax laws or even bring in substantial revenue (in fact, the evidence points to the contrary).

There is a general and extremely unfortunate perception in parts of the IRS that taxpayers who fall behind on their tax payments are "bad" taxpayers who deserve whatever they get. In fact, many taxpayers who fall behind on their tax payments have paid taxes in the past and have simply hit a rough patch in their lives – *e.g.,* they have experienced a job loss, serious illness, or other personal setback. Especially at a time when the national unemployment rate is hovering around ten percent, IRS collection policy should focus on two goals: (1) maximizing the likelihood of future tax compliance and (2) collecting as much of the past tax liability as feasible. Yet by ramping up its use of "hard core" enforcement actions like liens and levies while reducing the availability of offers in compromise (OIC) to settle past debts on the condition of future tax compliance, the IRS ignores – and actually undermines – the goal of maximizing future tax compliance.[8]

The National Taxpayer Advocate is not alone in expressing concern with IRS collection actions. In several significant cases, the United States Tax Court found that the IRS's actions in Collection Due Process hearings were an abuse of discretion.[9]

In our view, the IRS's failure to quickly and adequately respond to our concerns has caused taxpayers unnecessary harm, wasted valuable resources by creating downstream re-work, and undermined taxpayer compliance and confidence in the tax system.

In recent years, the Office of the Taxpayer Advocate has acted upon its concerns. This year, the National Taxpayer Advocate issued three Taxpayer Advocate Directives to the senior leaders of the IRS, directing them to revise certain collection practices.[10] The National Taxpayer Advocate issued guidance to TAS Case Advocacy employees about how to advocate for taxpayers with respect to lien filing determinations and levy relief where the

8 Since FY 1999, the number of liens filed each year has risen by about 475 percent and the number of levies has increased by about 600 percent. In approximately the same period, the percentage of offers in compromise accepted by the IRS to settle past-due tax debts has fallen by 72 percent to 10,665 in FY 2009. For context, there were 4,001,260 taxpayers with delinquent accounts at the beginning of FY 2009. That means, roughly speaking, that the IRS accepted only one offer out of every 375 taxpayers with a delinquent account.

9 See for example, *Vinatieri v. Comm'r*, 133 T.C. No. 16 (Dec. 21, 2009). *See also The IRS's Delay in Incorporating the Tax Court's Decision in* Vinatieri v. Commissioner *into the Internal Revenue Manual (IRM) and Other IRS Guidance Unnecessarily Harms Taxpayers Who Are Experiencing Economic Hardship, infra.*

10 Taxpayer Advocate Directives (TADs) 2010-1, 2010-2, and 2010-3 (Jan. 20, 2010). See Appendix VIII, infra, to view the TADs 2010-1 and 2010-2 in their entirety.

taxpayer is experiencing economic hardship.[11] TAS developed training for its employees on taxpayer rights in the collection context.[12] Local Taxpayer Advocates are issuing an increasing number of Taxpayer Assistance Orders in cases involving collection.[13]

In response to these concerns, the IRS has convened a senior-level task force to review collection practices. We are pleased that the IRS is finally taking our concerns seriously, and we have dedicated members of our senior staff to ensure that the task force makes meaningful recommendations. However, there are policies that require no further study and must be corrected immediately to avoid immediate and future harm to taxpayers. For example, it should be obvious to all that it is sheer folly to persist in automatically filing Notices of Federal Tax Lien (NFTL) against taxpayers who have already demonstrated their inability to pay the tax debt. While the IRS insists that it must do so in order to protect the federal revenue, the IRS has no data to show that these taxpayers have now or will ever have assets or income on which the IRS can collect. TAS research studies show largely the opposite -- that the large majority of payments and dollars collected on currently not collectible (CNC) taxpayer debt are not attributable to federal tax lien filings.[14]

In our view, misguided IRS collection practices are certainly not limited to lien filings. In past Annual Reports to Congress, we have criticized the IRS for failing to utilize collection alternatives such as partial-payment installment agreements and offers in compromise. More recently, we have been examining the effectiveness of the IRS's levy policies and the underuse of installment agreements.

In FY 2009, the IRS issued about 3.5 million levies. Yet, according to the IRS, in FY 2009 it collected only $2.3 billion attributable to levies, or $670 per levy issued.[15] This leads one to wonder whether we are issuing levies on accounts that are of low value, worthless, or no longer active.

The National Taxpayer Advocate is aware that a levy is sometimes effective in getting the taxpayer's attention and getting the taxpayer to call the IRS to work out other payment arrangements. However, IRS data show that of the *3.2 million installment agreements entered*

11 TAS, Interim Guidance Memorandum, *Nonfiling of Notices of Federal Tax Liens in Certain Situations*, TAS Control No. 13.1-0310-003, (Mar. 31, 2010), available at http://www.irs.gov/pub/foia/ig/tas/tas-13.1-0310-003.pdf (last visited May 14, 2010). *See also The National Taxpayer Advocate Remains Concerned About IRS Collection Practices That Do Not Promote Future Voluntary Compliance and Can Unnecessarily Harm Taxpayers, supra*, and Appendix VIII, *infra.* TAS, *Interim Guidance Memorandum, Interim Guidance on Handling Collection Cases Where Economic Hardship Is Present but the Taxpayer Has Not Filed All Required Returns*, TAS Control No.13.1-0110-001 (Mar. 23, 2010), *available at* http://www.irs.gov/pub/foia/ig/tas/tas-13_1-0110-01.pdf (last visited May 14, 2010). *See also The IRS's Delay in Incorporating the Tax Court's Decision in* Vinatieri v. Commissioner *into the Internal Revenue Manual (IRM) and Other IRS Guidance Unnecessarily Harms Taxpayers Who Are Experiencing Economic Hardship, supra*, and Appendix VIII, *infra*.

12 *TAS, Collection Alternatives Overview*; TAS, *Collection Alternatives Levies I*; TAS, *Collection Alternatives Liens I*; TAS, *Collection Alternatives Installment Agreements*; TAS, *Collections Alternatives Offers in Compromise*.

13 *See TAS Uses Taxpayer Assistance Orders to Advocate for Taxpayers, infra*.

14 National Taxpayer Advocate 2009 Annual Report to Congress 17-40 (Most Serious Problem: *One-Size-Fits-All Lien Filing Policies Circumvent the Spirit of Law, Fail to Promote Future Tax Compliance and Unnecessarily Harm Taxpayers*); National Taxpayer Advocate 2009 Annual Report to Congress vol. 2, 1-18 (TAS Research Study: *The IRS's Use of Notices of Federal Tax Lien*).

15 IRS, Collection Activity Report 5000-07, FY 2009 (June 1, 2010); IRS, Collection Activity Report 5000-08, FY 2009 (June 1, 2010).

into during FY 2009, only 738,000 were agreed to by the IRS's Automated Collection System (ACS).[16] In fact, the great majority (2.3 million or 72 percent) of installment agreements for FY 2009 were entered into during the "notice stream" – before the IRS issued a levy or filed a lien.[17] (Revenue Officers in the field generated only 53,786 installment agreements in FY 2009, or two percent of the total.)[18]

These data strongly suggest that simply communicating with taxpayers when a tax debt is first incurred is a very effective and inexpensive method of resolving the debt. It also demonstrates that when an account is in ACS, the default procedure is to issue levies, not to attempt to resolve the debt through collection alternatives that address the tax debt while also increasing the likelihood of future tax compliance. In our view, the current ACS approach is short-sighted and is not a sound tax administration practice.

For reasons summarized above and discussed in more detail in prior reports, the National Taxpayer Advocate will continue to advocate zealously until the IRS changes its collection practices and replaces them with policies and practices that focus, first and foremost, on obtaining future compliance of the noncompliant taxpayer. By focusing on understanding the causes of the noncompliant behavior and curing that behavior, the IRS will protect the public fisc and inflict less harm on financially struggling taxpayers. Instead of having one-off collection actions that must be repeated over and over and that bring in minimal revenue, we will have more compliant taxpayers who, over the years, will pay much more tax revenue voluntarily. This approach is better for the affected taxpayer, better for all taxpayers, better for the IRS, and better for the United States.

Respectfully submitted,

Nina E. Olson
National Taxpayer Advocate
30 June 2010

16 IRS, Collection Activity Report 5000-6 (Oct. 5, 2009).

17 *Id.*

18 *Id.*

II. Areas of Emphasis

A. TAS Continues to Believe that the IRS Should Do a Better Job of Meeting Taxpayer Needs, and TAS Will Continue to Advocate for Improved Taxpayer Services

In prior reports to Congress, the National Taxpayer Advocate has expressed concerns about the adequacy of taxpayer services.[19] In FY 2011, this subject will again be an area of emphasis.

The Internal Revenue Code imposes filing and payment requirements on U.S. taxpayers and includes significant penalties for taxpayers who fail to comply with those requirements. As the tax administrator, the IRS should aim to make it as easy as possible for U.S. taxpayers to meet their tax obligations. Indeed, the IRS's mission statement commits the IRS to "[p]rovide America's taxpayers top quality service by helping them understand and meet their tax responsibilities. . . ."[20]

1. Examples of Taxpayer Service Shortcomings

In important areas, the IRS is falling short of providing top quality service. Consider the following:

a. Telephone Service.

Each year, tens of millions of taxpayers call the IRS seeking help with a wide variety of issues, including account questions and tax-filing questions. Yet the IRS is unable to answer a large percentage of these phone calls. The Customer Account Services (CAS) Customer Service Representative Level of Service, or "LOS," generally measures the percentage of calls that get through to a representative among all callers seeking to do so. By this measure, the IRS answered 87 percent of its calls in FY 2004. Since that time, the LOS has been declining, plummeting to a low of 53 percent in FY 2008. In other words, IRS telephone assistors in FY 2008 were unable to answer nearly half the calls they received.

In FY 2009, the LOS rebounded somewhat to about 70 percent, and the IRS's target for the current fiscal year (2010) is 71 percent. For FY 2011, the IRS proposes to achieve an LOS of 75 percent.

19 *See, e.g.*, National Taxpayer Advocate 2009 Annual Report to Congress 4-16 (Most Serious Problem: *IRS Toll-Free Telephone Service Is Declining as Taxpayer Demand for Telephone Service Is Increasing*) and 110-133 (Most Serious Problem: *Beyond EITC: The Needs of Low Income Taxpayers Are Not Being Adequately Met*); National Taxpayer Advocate 2008 Annual Report to Congress 95-113 (Most Serious Problem: *Taxpayer Service: Bringing Service to the Taxpayer*); National Taxpayer Advocate 2007 Annual Report to Congress 162-182 (Most Serious Problem: *Service at Taxpayer Assistance Centers*) and 197-209 (Most Serious Problem: *Exempt Organization Outreach and Education*); National Taxpayer Advocate 2006 Annual Report to Congress 172-196 (Most Serious Problem: *Small Business Outreach*); National Taxpayer Advocate 2005 Annual Report to Congress 2-24 (Most Serious Problem: *Trends in Taxpayer Service*).

20 IRS News Release, IR-98-59, *New IRS Mission Statement Emphasizes Taxpayer Service* (Sept. 24, 1998).

While answering 75 percent of calls would be a vast improvement over 53 percent, it means the IRS still would effectively fail to answer one out of every four calls it receives from taxpayers seeking assistance. Equally concerning, the IRS projects that among calls that do get answered, the average wait time in FY 2010 will be more than 11 minutes, up from about four and one-half minutes in FY 2007. Where taxpayers are seeking to comply with the law and need assistance, the IRS has a duty to be responsive.

b. Correspondence Delays.

The IRS is having difficulty keeping up with taxpayer correspondence. Some Accounts Management (AM) employees shuttle back and forth between working with paper correspondence (including the processing of amended returns) and answering telephone calls. When IRS employees dedicated exclusively to answering taxpayer calls cannot handle the volumes, AM employees are shifted from handling paper correspondence to help out. Not surprisingly, as call volumes have increased and AM employees have been moved to answer phone calls, paper correspondence inventories have increased as well. The correspondence inventory rose from approximately 480,000 at the end of FY 2007 to almost 776,000 at the end of FY 2009 – a 62 percent increase.[21]

At the same time, the amount of overage correspondence has increased considerably. As of June 19, 2010, overage correspondence stood at about 561,000, or 45 percent of all correspondence in the adjustments inventory.[22] As of June 16, 2007, the corresponding date three years earlier, overage correspondence stood at about 410,000, or 32 percent of all correspondence in the adjustments inventory.[23] Thus, overage correspondence has risen by 37 percent from FY 2007 levels. The IRS requires taxpayers to file their returns and respond to notices on a timely basis. Taxpayers have a right to expect comparable timeliness of the IRS.

c. Delays in Processing Returns Claiming the Making Work Pay Credit.

During the 2010 filing season, taxpayers claiming the Making Work Pay (MWP) credit experienced significant problems in filing returns and receiving refunds. The American Recovery and Reinvestment Act of 2009 provided for the MWP credit – a refundable credit up to $400 for working individuals and up to $800 for working married taxpayers who file joint returns.[24] The Act also provided for a one-time Economic Recovery Payment (ERP) of $250 for certain individuals (up to $500 for married couples) who are eligible for Social Security, Supplemental Security Income, Railroad Retirement, and Veterans Disability Compensation or Pension benefits.[25] However, taxpayers were not permitted to receive the benefits of both the MWP credit and the ERP. Where a taxpayer was eligible for the MWP credit and also received an ERP, the taxpayer was required to subtract the ERP from the amount of the MWP credit on Schedule M of Form 1040.

21 IRS, *Joint Operations Center Weekly Enterprise Adjustments Inventory Report* (weeks ending Sept. 29, 2007, and Sept. 26, 2009, respectively).

22 IRS, *Joint Operations Center Weekly Enterprise Adjustments Inventory Report* (May 15, 2010).

23 IRS, *Joint Operations Center Weekly Enterprise Adjustments Inventory Report* (May 12, 2007).

24 Pub. L. No. 111-5, § 1001, 123 Stat. 115, 309 (2009) (adding IRC § 36A).

25 Pub. L. No. 111-5, § 2201, 123 Stat. 115, 450 (2009).

By the time the 2010 filing season began, many taxpayers did not recall whether they had received an ERP in 2009 or did not remember the amount of the ERP they had received. As a result, nearly 1.9 million 2009 returns e-filed with a Schedule M were initially rejected, and of those, more than 1.8 million were rejected because the amount of the ERP reported on Schedule M did not match IRS records.[26] In addition, among e-filed and paper returns with a Schedule M that were accepted, more than 4.1 million were removed from the processing pipeline and placed into the IRS's Error Resolution System, delaying the processing of the returns and the issuance of tax refunds.

It was not until midway through the filing season that the IRS realized what was happening and developed a partial solution. It created a web-based application ("Did I Receive an Economic Recovery Payment?") and a comparable telephone-based application that allowed taxpayers to determine whether they had received an ERP and, if so, how much.

In fairness to the IRS, the MWP and ERP provisions were enacted in 2009, which left the IRS less than a year to prepare to administer them. With better planning, however, we believe the IRS could have anticipated that the interaction between the MWP and ERP provisions would cause confusion, and it could have deployed a more effective solution sooner. Had it done so, several million taxpayers whose refunds were delayed would have received them on a timely basis.

d. Delays in Processing Returns Claiming the First-Time Homebuyer Credit.

During the 2010 filing season, taxpayers claiming the First-Time Homebuyer credit (FTHBC) experienced delays in the processing of their returns and receipt of refunds. Because the FTHBC is refundable and worth up to $8,000, the IRS was understandably concerned about fraud, and it imposed stringent documentation requirements to reduce the risk that it would pay fraudulent claims. However, the IRS did not do a thorough job of thinking through its documentation requirements. It initially required that taxpayers claiming the FTHBC submit a copy of Form HUD-1, *Settlement Statement*, or another settlement statement, bearing the signature of both the buyer and the seller.[27]

But the IRS had not canvassed the states to verify its understanding of closing requirements and did not realize that the law in some jurisdictions does not require signatures on settlement statements. As a result, the IRS rejected or delayed the processing of a significant number of FTHBC claims before it recognized the glitch and clarified that it would accept any statement that is complete and valid according to local law.

26 IRS Wage & Investment Division response to TAS information request (Apr. 6, 2010). Some taxpayers tried more than once to file the return and schedule, bringing the number of rejected occurrences to almost 2.4 million.

27 *See* Instructions for IRS Form 5405, *First-Time Homebuyer Credit and Repayment of the Credit*, at 2 (Rev. Dec. 2009), which instructs taxpayers claiming the credit to "[a]ttach a copy of your settlement statement showing all parties' names and signatures . . . ." A note was later added at the beginning of the electronic version of the instructions posted on the IRS website which acknowledges that signatures are not required on settlement statements in some jurisdictions and says the IRS will accept them as long as they are complete and valid according to local law.

e. Inadequate Outreach and Education.

The IRS is not conducting sufficient outreach and education to important taxpayer groups, including small businesses and tax-exempt organizations, to maximize voluntary compliance. According to the IRS's most recent estimate of unpaid taxes, $148 billion, or 43 percent of the aggregate tax gap, is attributable to unreported income earned by unincorporated businesses and the associated unpaid self-employment tax.[28] To be sure, a portion of the small business tax gap reflects a willful failure to report income.

However, another portion reflects lack of knowledge about how to comply. For example, consider an individual without a college degree who becomes a successful plumber or electrician with a growing customer base. If he hires employees, he will face a host of employment, immigration verification, and state and federal tax requirements, including the need to withhold and pay over payroll taxes with respect to his employees and to file employment tax and income tax returns on behalf of his business. For most taxpayers, these requirements would seem daunting or even impenetrable, and some taxpayers inevitably do not comply simply because they have no idea where to begin.

The IRS's current compliance strategy, which consists largely of posting general information on its website and auditing a tiny fraction of small business returns,[29] can be improved. The National Taxpayer Advocate believes the IRS can increase compliance in the small business community more efficiently if it expands its outreach and education efforts through a more robust field function, and commits more resources to meeting in person with small businesses that are starting operations. Most importantly, the IRS should undertake a comprehensive study of the service needs and preferences of this diverse taxpayer base and apply the knowledge acquired to all interactions with this population.

In our view, the IRS should conduct more outreach to the tax-exempt community as well. A recent example illustrates why. Beginning in 2007, the law for the first time required tax-exempt organizations with gross receipts of $25,000 or less to file returns.[30] The IRS now must automatically revoke the exempt status of any organization that goes three years without filing a return.[31] However, many small tax-exempt organizations (*e.g.,* Little Leagues and PTAs) never learned about the new filing requirement. The Urban Institute

28 *See* IRS News Release, IR-2006-28, *IRS Updates Tax Gap Estimates* (Feb. 14, 2006) (accompanying slide 1), *at* http://www.irs.gov/newsroom/article/0,,id=154496,00.html.

29 In FY 2009, the IRS audited 0.58 percent of all business returns, including 0.85 percent of small C corporations (under $10 million in assets), 0.40 percent of Subchapter S returns, and 0.38 percent of partnership returns. *See* IRS Enforcement and Service Results for FY 2009, slide 4, at http://www.irs.gov/pub/irs-drop/fy_2009_enforcement_results.pdf.

30 Pursuant to IRC § 6033(a)(3)(B), the Secretary has the authority to relieve certain exempt organizations from the requirement to file an annual information return. In Announcement 82-88, 1982-25 I.R.B. 23, the Secretary provided such an exemption for organizations with gross receipts not normally in excess of $25,000. In 2006, Congress effectively reversed the exemption and required organizations with gross receipts of $25,000 or less to begin filing annual information returns. *See* Pension Protection Act of 2006, Pub. L. No. 109-280, § 1223(a), 120 Stat. 780, 1090 (2006).

31 IRC § 6033(i) & (j)(1).

estimates that approximately 214,000 exempt organizations now face revocation of their exempt status because they did not file returns for 2007, 2008, or 2009.[32]

In our 2007 Annual Report to Congress, the National Taxpayer Advocate identified the lack of IRS outreach to exempt organizations as a serious problem, noting that the IRS only devoted the equivalent of about 12 full-time employees to exempt organization outreach.[33] While we commend the Tax-Exempt and Government Entities Division's Customer Education and Outreach office for its efforts, we do not believe it is possible to conduct effective outreach and education on the cheap. Nor is it ultimately cost-effective. To compensate for its inability to reach 214,000 exempt organizations before they failed to meet filing requirements, the IRS is now attempting to provide retroactive relief from the effects of revocation.[34] These relief efforts are likely to consume more resources as the IRS must review and process additional paperwork from so many organizations.

2. Causes of Shortcomings in Taxpayer Service

We want to emphasize that the lack of adequate taxpayer service is not simply attributable to IRS shortcomings. As the National Taxpayer Advocate has stated in prior reports, the IRS is effectively the Accounts Receivable Department of the U.S. Government, and it requires more funding to do its job well.[35] The IRS collects 95 percent of the federal government's receipts,[36] so particularly at a time when the government is concerned about large budget deficits, it makes little sense to underfund tax collection. In addition, Congress in recent years has enacted significant statutory changes that have required the IRS to shift resources quickly to deliver new programs. While some additional funding has been provided, the IRS has not received enough funding – nor has it received enough lead time – to fully meet the rising taxpayer demand.

With respect to funding, the IRS's proposal in FY 2006 to restructure its budget into separate "Taxpayer Services" and "Enforcement" accounts has created continuing challenges. In its 2005-2009 Strategic Plan, the IRS adopted the formula "Service + Enforcement = Compliance" as its organizing principle. The proposed restructuring of IRS budget accounts reflected a desire to align the IRS's budget with its strategic plan. For FY 2006, Congress rejected the IRS's budget restructuring request. For FY 2007, it agreed to the restructuring with the addition of an "Operations Support" account.

From the standpoint of taxpayer services, the current structure has significant downsides. First, the IRS performs many functions that cannot be easily split between Taxpayer

32 *See, e.g.*, Susan Kinzie, *Artistic, for Sure; Tax-Savvy, Not Quite: IRS Rule Jolts Small Groups*, Washington Post, May 16, 2010, at C1.

33 National Taxpayer Advocate 2007 Annual Report to Congress 197-209 (Most Serious Problem: *Exempt Organization Outreach and Education*).

34 *See* Statement of IRS Commissioner Doug Shulman on the Filing Deadline for Small Charities (May 18, 2010), *at* http://www.irs.gov/newsroom/article/0,,id=223609,00.html.

35 *See* National Taxpayer Advocate 2006 Annual Report to Congress 442-457 (Legislative Recommendation: *Revising Congressional Budget Procedures to Improve IRS Funding Decisions*).

36 *See* Department of the Treasury, *FY 2011 Budget in Brief* at 65.

Services and Enforcement. For example, the full cost of processing tax returns is currently included in the Taxpayer Services account – and is its largest component – even though return processing is a business requirement that can no more be considered a taxpayer service than an enforcement function. The IRS uses return processing as much to collect taxes due from persons who have underpaid as to issue refunds to those who have overpaid, and the data captured through returns processing are used in IRS enforcement actions.[37]

Second, the Administration and Congress have adopted a budget procedure that makes it relatively easy to provide increases for Enforcement spending, but that procedure is not used for the Taxpayer Services account. Under a mechanism known as a "program integrity cap adjustment," new funding appropriated for IRS enforcement programs generally does not count against otherwise applicable spending ceilings provided (1) the IRS's existing enforcement base is fully funded and (2) a determination is made that the proposed additional expenditures will generate a return-on-investment (ROI) of greater than 1:1 (*i.e.*, the additional expenditures will increase federal revenue on a net basis).

These conditions reflect the fact that the IRS is able to project the direct ROI of its enforcement activities – it can measure to the dollar the amounts collected by its Examination, Collection, and document-matching functions – but faces a much harder task in measuring the ROI of taxpayer services. Intuitively, it seems clear that the ROI of taxpayer services is greater than 1:1. If the IRS did not publish tax forms, provide guidance, and answer taxpayer questions, the compliance rate would be substantially lower. Yet the IRS cannot quantify either the overall ROI of taxpayer services spending or the ROI of specific taxpayer service initiatives. Therefore, Taxpayer Services spending is not considered eligible for program integrity cap adjustments.

As a consequence, the IRS has been able to request larger increases each year for Enforcement than for Taxpayer Services. The Office of the Taxpayer Advocate has analyzed aggregate IRS budget data since FY 2004 – the earliest year for which we could obtain information broken out roughly in accordance with the current budget structure.[38] In nominal dollars, funding for the Enforcement account has risen by about 36.2 percent

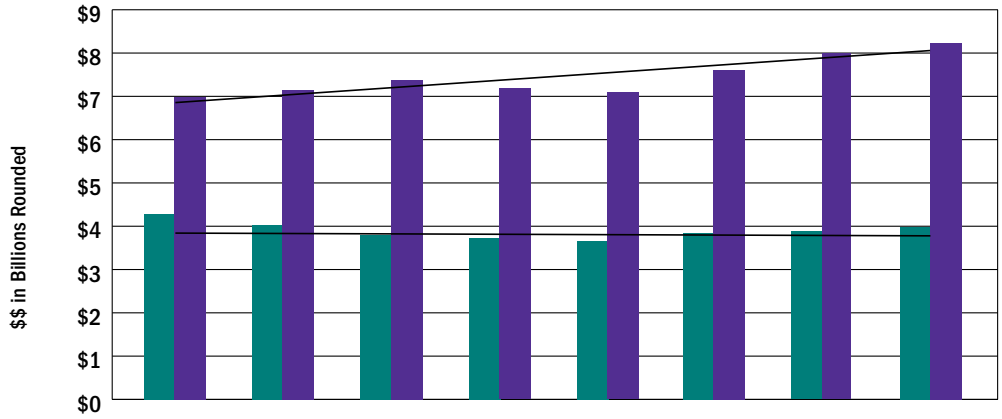
37 In FY 2010, only about 5.6 percent of the IRS budget is allocated for Pre-filing Taxpayer Assistance and Education. Overall, the IRS budget is about $12.1 billion. Of that amount, $2.3 billion is allocated to the "Taxpayer Services" account. However, the majority of the "Taxpayer Services" funding goes toward "Filing and Account Services," which largely covers the costs of processing tax returns. The amount allocated for "Pre-filing Taxpayer Assistance and Education" – which is what most people think of as pure taxpayer service – is only $685 million. *See* Department of the Treasury, *FY 2011 Budget in Brief* at 65.

38 Although the IRS did not begin using the current budget structure until FY 2007, it provided a breakout going back to FY 2004 showing how its budget would have been categorized if the new structure had been in place.

while funding for the Taxpayer Services account has risen by only 7.5 percent.[39] Adjusting for inflation, Enforcement spending has *increased* by 17.9 percent, while spending for Taxpayer Services has *declined* by 6.8 percent.

The trend in spending is shown in the following chart:

FIGURE II.1, TAXPAYER SERVICES VS. ENFORCEMENT SPENDING SINCE FY 2004 – ADJUSTED TO 2010 DOLLARS (MAY 2010)



	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011 (proposed)
Taxpayer Services	$4.28	$4.03	$3.79	$3.73	$3.66	$3.85	$3.88	$3.99
Enforcement	$6.99	$7.14	$7.37	$7.18	$7.09	$7.61	$7.99	$8.24

In the current fiscal year, Enforcement spending for the first time constitutes more than two-thirds of all IRS spending for Taxpayer Services and Enforcement. Including allocable shares of Operations Support funding, the Taxpayer Services appropriation now stands at $3.9 billion while Enforcement spending has grown to $8.0 billion.

39 The budget totals for FY 2004-FY 2010 (as enacted) and FY 2011 (as proposed by the Administration) are as follows:

($$ in billions rounded)	FY 04	FY 05	FY 06	FY 07	FY 08	FY 09	FY 10	FY 11 (proposed)	FY 04 - FY 11 change
Taxpayer Services	3.71	3.61	3.50	3.55	3.61	3.79	3.88	3.99	7.55%
Enforcement	6.05	6.39	6.81	6.82	7.00	7.49	7.99	8.24	36.20%

These amounts are in nominal dollars. By contrast, the chart in the text shows amounts adjusted for inflation in May 2010 dollars.

This analysis apportions Operations Support funding to the Taxpayer Services and Enforcement accounts based on the allocations provided in the appropriations acts for FY 2004-FY 2010 and the Administration's proposed budget for FY 2011. Prior to FY 2010, the IRS's budget proposal contained a chart showing how the Operations Support account was apportioned. Beginning in FY 2010, the IRS changed its budget practices and no longer shows how the Operations Support funding is allocated between Taxpayer Services and Enforcement. However, the amount of Operations Support funding attributable to Enforcement may be computed by starting with the minimum amount of funding provided for Enforcement as set forth in the administrative provisions of the Appropriations Act and then subtracting the amount of direct Enforcement spending specified. Next, the amount of Operations Support funding attributable to Taxpayer Services may be computed by starting with the total Operations Support funding level and then subtracting the portion attributable to Enforcement as computed above.

Moreover, the recent trend is likely to continue. The Administration's FY 2011 budget proposal contained spending projections for future years.[40] Over the next two years (from FY 2011 to FY 2013), it projects that Enforcement spending will rise by another 13.7 percent while Taxpayer Services spending will decline by a further 7.2 percent.[41] On top of those projections, the Office of Management and Budget issued a memorandum in June 2010 directing the heads of all Executive Departments and Agencies to identify "low priority" programs that constitute at least five percent of the agency's discretionary budget.[42] In the case of the IRS, the Enforcement appropriation accounts for nearly half of the IRS budget and likely will be spared from cuts.[43] For that reason, the IRS in essence will have to identify additional cuts of nearly ten percent in Taxpayer Services and other programs to achieve an aggregate agency reduction of five percent.[44] Taking these proposed reductions in combination, it is conceivable that spending for Taxpayer Services (as well as spending for other programs including technology) will be reduced by around 17.2 percent while Enforcement spending rises by 13.7 percent from FY 2011 through FY 2013.[45]

At the same time, Congress has directed the IRS to administer an increasing number of social benefit programs, including significant aspects of the recently enacted health care reform legislation.[46] If the IRS is to continue to perform its core tax collection work at current levels, it will require additional funding to administer these new programs. Moreover, the nature of a social benefit program is such that much of the work will (or should) consist of outreach, education, and case working as opposed to hard-core enforcement.

Therefore, even if the projected cuts over the next few years do not materialize, holding spending for Taxpayer Services constant will in practice amount to a cut – and perhaps a significant cut – because the IRS will have to shift existing resources to operate new programs.

We note that there appears to be an implicit assumption built into existing budget procedures and projections that raising tax compliance requires ramping up enforcement and

40 Budget of the United States Government: Analytical Perspectives, Supplemental Materials Fiscal Year 2011: Federal Programs by Agency and Account, *at* http://www.gpoaccess.gov/usbudget/fy11/pdf/ap_cd_rom/33_1.pdf.

41 *Id*. at 320 (see line labeled "Appropriations, discretionary . . . 803") & 321 (see the sum of the lines labeled "(Federal law enforcement activities): Appropriations, discretionary . . . 751" and "(Central fiscal operations): Appropriations, discretionary . . . 803").

42 Office of Management and Budget, Ref. No. M-10-20, *Memorandum for the Heads of Executive Departments and Agencies: Identifying Low-Priority Agency Programs* (June 8, 2010), *at* http://www.whitehouse.gov/omb/assets/memoranda_2010/m10-20.pdf.

43 As noted above, one condition for receiving program integrity cap adjustment funding is that the enforcement base must be funded in full, so if the Enforcement base were cut, no program integrity cap adjustment funding presumably could be provided.

44 For the IRS to qualify for additional funding under the program integrity cap adjustment rules, we are uncertain whether the baseline that must be fully funded is merely the Enforcement account or the sum of the Enforcement account and its allocable share of the Operations Support account. In FY 2010, the sum of the Enforcement account and its allocable share of the Operations Support account stands at $7.99 billion, which constitutes nearly two-thirds of the overall IRS budget. Therefore, if the IRS is required to fully fund the baseline of both the Enforcement account and its allocable share of the Operations Support account, the other portions of the IRS budget would have to be cut by nearly 15 percent to achieve an aggregate agency reduction of five percent.

45 The OMB memorandum, while requesting agencies to identify potential reductions, does not say it will necessarily recommend those reductions in its FY 2012 budget proposal. Therefore, the ultimate impact of this directive is unknown at this time and the identification of "low priority" programs may not necessarily translate into proposed budget reductions.

46 Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 (2010).

that taxpayer service is less important – perhaps even unimportant – for compliance. We think this implicit assumption is wrong. As discussed above, we believe that taxpayer outreach and education are key components in improving tax compliance, and a failure to fund taxpayer services adequately will translate into lower tax collections.

As a separate matter, we are concerned that as Congress is directing the IRS to administer more social benefit programs (including Economic Stimulus Payments, the Making Work Pay credit, the First-Time Homebuyer Credit, and a variety of provisions relating to health care reform), the IRS in relative terms is becoming less of a service organization and more of an enforcement agency. We have no doubt the IRS is capable of administering social programs, including health care. But Congress must provide sufficient funding and the IRS itself must recognize that the skills and training required to administer social benefit programs are very different from the skills and training that employees of an enforcement agency typically possess. While some enforcement measures are required to prevent inappropriate claims, the overriding objective of agencies that administer social benefit programs has traditionally been to help as many eligible persons qualify for the benefits as possible. That requires outreach and working one-on-one with potentially eligible individuals. If the IRS continues to ramp up enforcement while reducing taxpayer service programs, we would be concerned about its ability to administer the new health care credits and penalty taxes in a fair and compassionate way.

During the coming year, the Office of the Taxpayer Advocate will place particular emphasis on evaluating the extent to which the IRS is meeting or not meeting taxpayer needs and, to the extent the IRS is not meeting taxpayer needs, we will examine the reasons and possible solutions.

B. TAS Will Examine the Administrative Challenges Presented By New Information Reporting Requirements

A provision in the Patient Protection and Affordable Care Act (PPACA)[47], enacted in March of this year, added a new information reporting requirement that may present significant administrative challenges to taxpayers and the IRS. In particular, businesses will have to issue Forms 1099 for goods purchased after 2011, regardless of the corporate form of the vendor.[48] The Office of the Taxpayer Advocate is concerned that the new reporting burden, particularly as it falls on small businesses, may turn out to be disproportionate as compared with any resulting improvement in tax compliance.

Under prior law, information reporting was required for the purchase of services but was not required for the purchase of goods. A person who made payments in the course of a trade or business to a vendor totaling $600 or more for services or determinable gains in

47 Pub. L. No. 111-148, Title IX, Subtitle A, § 9006 (2010).

48 IRC § 6041(h).

any taxable year was required to furnish an information report to the IRS, with a copy to the vendor. This report, generally a Form 1099-MISC, *Miscellaneous Income*, sets forth the total amount of the payments as well as the name, address, and taxpayer identifying number (TIN) of the vendor.[49]

Prior law generally did not require a person to report payments to purchase goods, presumably because the purchaser could not determine the amount that (less cost of goods sold) would have been income to the vendor. Under a longstanding regulatory regime, moreover, there was an exception for payments to corporations as well as to tax-exempt and government entities. In recent years, legislative proposals to eliminate the corporate exception and expand information reporting appeared as part of an effort to reduce the tax gap. Since 2004, the National Taxpayer Advocate has recommended legislation, in the context of reducing the tax gap or noncompliance in the cash economy, to require Forms 1099-MISC to be issued to incorporated service providers.[50] Similarly, the Department of the Treasury, under both prior and current administrations, has proposed legislation to eliminate the corporate exception to information reporting for services.[51] Neither the National Taxpayer Advocate nor Treasury recommended legislation to extend information reports to vendors of goods. In any case, the new information reporting requirements are likely intended to detect unreported income or gross proceeds.

The PPACA provision would apply to businesses of all sizes, charities and other tax-exempt organizations, and government entities. These would include, as reflected in IRS data, 26 million non-farm sole proprietorships, four million S corporations, two million C corporations, three million partnerships, two million farming businesses, one million charities and other tax-exempt organizations, and probably more than 100,000 federal, state, and local government entities.[52] This mass of persons making payments in the course of a trade or business will soon be required to issue information reports to sellers of goods as well as providers of services. They also will have to report payments to a for-profit corporate service provider. In addition, a business will soon be required to report payments for purchases of goods as well as property of any sort.[53] This new requirement has generated

49 *See* IRC § 6041; Treas. Reg. §§ 1.6041-1(a)(1)(i), 1.6041-6, 301.6109-1.

50 *See* National Taxpayer Advocate 2004 Annual Report to Congress 483; National Taxpayer Advocate 2005 Annual Report to Congress 394-396; National Taxpayer Advocate 2007 Annual Report to Congress 494-396; National Taxpayer Advocate 2008 Annual Report to Congress 388.

51 *See* Department of the Treasury, General Explanations of the Administration's Revenue Proposals, FY 2011 (Feb. 2010) 97, FY 2010 (May 2009) 90, FY 2009 (Feb. 2008) 61, FY 2008 (Feb. 2007) 63.

52 These data reflect returns filed in 2009 for Tax Year 2008 where available and returns filed in 2008 for Tax Year 2007 where more current data is not available. *See* IRS Compliance Data Warehouse, Individual Returns Transaction File (Tax Year 2008) (covering filers of Form 1040, Schedule C and Form 1040, Schedule F); IRS Document 6149 (2009 Update) (covering filers of Form 1120, Form 1120S, and Form 1065); IRS Historical Table 21 (covering filers of Form 990 and related forms); and IRS Office of Federal, State and Local Governments, *FY 2010 Work Plan* 30-32 (stating that more than 105,000 employer identification numbers belong to government entities).

53 A ten-year revenue estimate for the legislative provision for property and corporate reporting was $17.1 billion, and for a prior proposal containing only corporate reporting, $3.387 billion. Joint Committee on Taxation (JCT), *Estimated Revenue Effects of the Manager's Amendment to the Revenue Provisions Contained in the "Patient Protection and Affordable Care Act"*, JCX-61-09 (Dec. 19, 2009); JCT, *Estimated Budget Effects of the Revenue Provisions Contained in the President's Fiscal Year 2011 Budget Proposal*, JCX-7-10 R (Mar. 15, 2010).

a great deal of concern because of its potential to create administrative burdens for businesses, vendors, and the IRS.[54]

First, vendors will have to furnish, and businesses will have to collect, TINs. If the vendor is a sole proprietor who uses his or her Social Security number (SSN) as the TIN, there could be identity theft concerns, especially if TINs essentially become public through routine printing on receipts. Alternatively, such a vendor could obtain an Employer Identification Number (EIN).[55] TAS will monitor any guidance that the IRS may set forth on the use of EINs for this purpose. If a sole proprietor uses an EIN, the IRS systematically will have to be able to associate the corresponding information reports with the SSN under which the resulting income should have been reported.

If a vendor fails to furnish a correct TIN, the business is required by law to impose back-up withholding at the rate of 28 percent of the purchase price.[56] In this situation, the business must prepare and file Form 945, *Annual Return of Withheld Federal Income Tax*, and make federal tax deposits at an authorized institution on a prescribed schedule. Failure to withhold an amount generally results in liability for that amount.[57] In the case of a purchase of goods, back-up withholding may be impracticable, because a business already may have paid the full price at the point of sale before learning that the TIN was incorrect. Alternatively, a vendor may simply refuse to sell goods to any purchaser that refuses to pay the full purchase price. Such an outcome could significantly impair the normal course of commerce. No business should have to choose between compliance with back-up withholding and losing access to vendors on the one hand, and noncompliance while keeping vendor access on the other hand.

Second, businesses will now have to keep records of all purchases sorted by TIN. Under prior law, a business may have retained sufficient records to substantiate lump-sum expense deductions. Under the new law, the business will have to segregate its records by vendor TIN to determine whether the $600 annual threshold is met for each vendor.

Third, businesses will have to produce and transmit information reports, including many not previously required. For this purpose, small businesses may have to acquire new software or pay for additional accounting services, incurring additional costs. Moreover, if a business makes qualifying purchases from at least 250 vendors during the calendar year, it will be required to file Forms 1099 electronically,[58] which may require the business to pay a per-report fee charged by an e-file service provider.

54 *See* Healthcare *Overhaul's Tax Provisions Have Small Firms Crying Foul,* Los Angeles Times (May 17, 2010); Neil deMause, *Health Care Law's Massive, Hidden Tax Change*, CNNMoney.com (May 5, 2010); Meg Shreve, *House Republican Urges Rollback of New Form 1099 Reporting Requirements in Healthcare Reform Law,* Tax Notes Today (Apr. 27, 2010).

55 *See* Treas. Reg. § 301.6109-1(a)(1)(ii)(D).

56 *See* IRC § 3406(a).

57 *See* IRC §§ 3403, 3406(h)(10).

58 *See* IRC § 6011(e)(2)(A); Treas. Reg. § 301.6011-2.

Fourth, the IRS will face challenges making productive use of this new volume of information reports. In general, the IRS's document-matching system (known as the Automated Underreporter (AUR) program) compares amounts shown on a taxpayer's tax return with amounts shown on third-party information reports like Forms W-2, *Wage and Tax Statement*, and Forms 1099. For example, it matches wages shown on a Form W-2 with wages reported on a tax return and interest shown on a Form 1099-INT, *Interest Income*, with interest reported on a tax return.

Under the expanded reporting regime, however, the amounts on the information reports and the tax returns will not match under the rules for at least two reasons. First, total annual payments under $600 will not be reported by the purchaser on Form 1099 but must be reported by the vendor. While the $600 threshold existed under prior law, if a significant proportion of a vendor's proceeds comes from small purchases, PPACA reporting would be underinclusive. Second, the goods market is subject to a high rate of returned items that result in refunds to the purchaser. If a business purchases and then returns goods, the vendor does not have any income. Yet depending on how the purchaser's record-keeping system is set up, a Form 1099 may be filed showing the purchase (particularly if the purchase occurs in one tax year and the return occurs in the following tax year).[59]

Fifth, the expanded requirement for reporting sales of goods or services to corporations raises an important point – an information report is merely a return that itself may be erroneous.[60] Nevertheless, if an information report shows income not included on the corresponding tax return, the IRS may issue a so-called CP 2000 notice of underreported income.[61] This notice is a form letter explaining that income information in IRS files does not match entries on the tax return and advising the taxpayer to respond. At this point, the taxpayer may have to prove a negative. Consequently, the IRS would have to develop a process for verifying and using information reports to establish an accurate amount of gross proceeds.

Sixth, the IRS has authority to impose monetary penalties against businesses that fail to file information reports.[62] The new volume of information reports could exacerbate underassessment of penalties in some cases and overassessment of penalties in others. On the one hand, the IRS will have a difficult time detecting incidents of aggregate payments of $600 or more in a year by a small business to one vendor. On the other hand, failure to file could be explained by a number of complications. In particular, the IRS has announced that filing under § 6041 generally will not be required with respect to purchases made by credit card

59 It is unclear if a returned amount would be gross proceeds "in consideration for property" within the meaning of PPACA § 9006.

60 For example, in *Portillo v. Comm'r*, 932 F.2d 1128, 1131, 1134 (5th Cir. 1991), *rev'g in part* T.C. Memo. 1990-68, the IRS asserted a deficiency of tax based on purportedly unreported income reflected on a Form 1099 that turned out to be erroneous. The IRS had taken the position that the "Form 1099 was presumed correct." Noting that for a taxpayer it is never easy to prove a negative, the Court of Appeals for the Fifth Circuit held that the IRS "had some duty to investigate" the accuracy of the information report.

61 See IRM 4.19.3.1 (Sept. 1, 2009).

62 *See* IRC § 6721.

that are reportable under another provision that is effective in 2011.[63] At any rate, it will be challenging for the IRS to sort these payments out. In our view, it is highly likely that the IRS will improperly assess penalties that it must abate later, after great expenditure of taxpayer and IRS time and effort. Thus, the National Taxpayer Advocate will review closely any regulations that the IRS may promulgate on this issue.

Finally, the PPACA reporting requirement could have distortionary effects on taxpayer behavior. Many large vendors already have computer systems that can track purchases by customer. They are likely to advertise that they will track each customer's total purchases and send them a report at the end of the year that business customers can use to comply with the Form 1099 filing requirement. Small businesses seeking to minimize recordkeeping burden thus will have an incentive to use large vendors that can produce these reports for them. As a consequence, small businesses that lack the capacity to track customer purchases may lose customers, leaving the economy with more large national vendors and less local competition.

During the coming year, TAS will examine the impact of the new reporting requirements more closely, assessing both the anticipated improvements in tax compliance and the burdens the requirements are likely to impose on millions of small businesses. Our principal focus will be on the new requirement to report on purchases of goods (whether from a corporation or unincorporated business). Depending on what our examination reveals, we may propose administrative or legislative recommendations to modify the provision.

C. The National Taxpayer Advocate Remains Concerned About IRS Collection Practices that Do Not Promote Future Voluntary Compliance and Can Unnecessarily Harm Taxpayers

The National Taxpayer Advocate is concerned about the IRS's failure to fully implement its announced initiatives to help taxpayers who are experiencing economic difficulties. In December 2008, the IRS announced an expedited process to assist financially distressed homeowners whose refinancing or sale of their homes was hampered by the IRS's filing of a notice of federal tax lien (NFTL).[64] An IRS news release discussed lien subordinations (*i.e.*, the process by which an NFTL becomes secondary to another creditor's lien) and lien discharges (for payment of the IRS lien interest, the IRS will remove the lien from a specific property in order for the title to be transferred). Moreover, in 2009, the IRS kicked off the tax filing season by announcing assistance to financially distressed taxpayers, including the postponement of collection actions, added flexibility for missed payments, an additional review for offers in compromise on home values, prevention of OIC defaults, and

63 *See* IRS News Release, *Prepared Remarks of Douglas H. Shulman, Commissioner of Internal Revenue, Before the American Payroll Association & the American Accounts Payable Association 28th Annual Congress*, IR-2010-68 (May 27, 2010); IRC § 6050W; Prop. Treas. Reg. § 1.6041-1(a)(1)(iv), 74 Fed. Reg. 61,294 (Nov. 24, 2009).

64 IRS News Release, *IRS Speeds Lien Relief for Homeowners Trying to Refinance, Sell*, IR-2008-141 (Dec. 16, 2008).

expedited levy releases.[65] Finally, in March 2010, the IRS outlined additional steps to assist unemployed taxpayers such as adding "new" flexibility for OIC considerations and accelerated lien relief for taxpayers who cannot refinance or sell a home.[66]

However, as IRS data show, the IRS failed to translate these promises into changes in its longstanding collection policies and procedures. For example, in FY 2010, OIC acceptances have remained at an unacceptably low level,[67] while levies against taxpayers' property in FY 2010 have increased by 12.1 percent over the same period in FY 2009.[68] As of May 2010, the IRS's "second level" review of rejected OICs, established to reconsider whether valuations are accurate in the current economy, has reviewed only 22 offers, accepting just three over a 16 month period.[69] Moreover, the IRS is still moving quickly to file NFTLs early in collection cases even though the filing of the NFTL in the public record might actually prevent the taxpayer from borrowing money to fully pay the outstanding tax liability. While NFTL filings have increased by over 475 percent, from about 168,000 in FY 1999 to nearly 966,000 in FY 2009, inflation-adjusted collection revenue (in 2009 dollars) has declined by approximately 7.4 percent during this period.[70] IRS data confirm that the trend of increasing NFTL filings has not changed in FY 2010.[71] And in a recent user satisfaction survey, over half the comments about IRS customer service with respect to lien assistance were negative, citing extensive processing times, frequent mistakes, and incorrect answers to general lien-related questions.[72]

1. TAS Is Zealously Advocating for the IRS to Change Its Lien Filing Policies and Practices, Which Unnecessarily Harm Taxpayers' Economic Viability and May Undermine Future Tax Compliance

The National Taxpayer Advocate thoroughly examined the IRS NFTL filing policies in the 2009 Annual Report to Congress, and proposed several specific administrative and legislative

65 IRS News Release, *IRS Begins Tax Season 2009 with Steps to Help Financially Distressed Taxpayers; Promotes Credits, e-File Options*, IR-2009-2 (Jan. 6, 2009). *See also* Treasury Inspector General for Tax Administration (TIGTA), Ref. No. 2010-30-032, *Collection Alternatives Were Available to Economically Distressed Taxpayers, but Some New Processes Need Improvement* (Mar. 15, 2010).

66 IRS News Release, *IRS Outlines Additional Steps to Assist Unemployed Taxpayers and Others,* IR-2010-29 (Mar. 9, 2010).

67 For the eight-month periods ending May 2009 and May 2010, the IRS OIC program accepted 25 and 24 percent of its dispositions, respectively. IRS, SB/SE, OIC Executive Summary Report (May 2010).

68 IRS, SB/SE, Collection Activity Report NO-5000-23, *Collection Workload Indicators Report* (Apr. 14, 2009); IRS, SB/SE, Collection Activity Report NO-5000-23, *Collection Workload Indicators Report* (Apr. 19, 2010).

69 SB/SE, Interim Guidance for Additional Review of Real Property Valuations in Offer in Compromise Cases (Feb. 2, 2009); SB/SE response to TAS research request (June 22, 2010).

70 *See* IRS, Statistics of Income (SOI) Data Books, Table 16, Delinquent Collection Activities, 1999-2008; IRS, SB/SE, Collection Activity Report NO-5000-C23, *Collection Workload Indicators Report* (Oct. 13, 2009).

71 During the first half of FY 2010, the IRS filed 651,370 NFTLs (as of Mar. 31, 2010). Annualized data show a 3.1 percent increase compared to FY 2009. IRS, SB/SE, Collection Activity Report NO-5000-C23, *Collection Workload Indicators Report* (Apr. 30, 2010). IRS, SB/SE, Collection Activity Report NO-5000-C23, *Collection Workload Indicators Report* (Oct. 13, 2009).

72 SB/SE Research – Fort Lauderdale/Greensboro, Project FTL0067, *Centralized Liens Processing: Users Satisfaction Survey* (Mar. 2010). The comments mentioned the extensive lien processing time, which slowed down real estate transactions, including home sales and reverse mortgage transactions. The comments also discussed the difficulty in getting responses to payoff amounts and release of liens when the lien amount was satisfied.

changes.[73] Because the IRS has declined so far to implement the recommendations, and its automatic NFTL filing practices continue to harm taxpayers, the National Taxpayer Advocate issued two Taxpayer Advocate Directives (TADs) on January 20, 2010, directing the Commissioner, Wage and Investment (W&I) Division, and Commissioner, Small Business/Self-Employed (SB/SE) Division,[74] to:

- Immediately discontinue the automatic filing of NFTLs on Currently Not Collectible (CNC) hardship accounts with an unpaid balance of $5,000 or more, require employees to make NFTL filing determinations based on a meaningful review of the facts of each taxpayer's case, and require managerial approval for the filing of an NFTL in all cases where the taxpayer has no assets;[75]
- Allow, upon the request of a taxpayer, the withdrawal of an NFTL in situations where one of the statutory withdrawal criteria is satisfied, even if the underlying lien has been released;
- Include the complete TAS training video, *Taxpayer Rights: Collection Case Studies*, in the mandatory annual continuing professional education (CPE) training about exercising judgment and discretion before and after NFTL filing for collection employees and managers in the Collection Field function; and
- In consultation with TAS, develop a separate training on this topic for employees and managers in the Automated Collection System (ACS).[76]

On March 24, 2010, the Commissioners of SB/SE and W&I appealed TADs 2010-1 and 2010-2 to the Deputy Commissioner for Services and Enforcement.[77] On March 31, 2010, the National Taxpayer Advocate sustained TAD 2010-1 and reissued it to the Deputy Commissioner for Services and Enforcement.[78] The National Taxpayer Advocate simultaneously issued a memorandum to TAS employees providing guidance on how to recommend the non-filing of NFTLs in certain situations and properly advocate for taxpayers affected by IRS automatic lien filing policies.[79] The memorandum advises TAS employees to use

73 National Taxpayer Advocate 2009 Annual Report to Congress 17-40 (Most Serious Problem: *One-Size-Fits-All Lien Filing Policies Circumvent the Spirit of Law, Fail to Promote Future Tax Compliance and Unnecessarily Harm Taxpayers*); National Taxpayer Advocate 2009 Annual Report to Congress vol. 2, 1-18 (TAS Research Study: *The IRS's Use of Notices of Federal Tax Lien*). *See also* National Taxpayer Advocate 2009 Annual Report to Congress 357-364 (Legislative Recommendation: *Strengthen Taxpayer Protections in the Filing and Reporting of Federal Tax Liens*).

74 Taxpayer Advocate Directives (TADs) 2010-1 and 2010-2 (Jan. 20, 2010). See Appendix VIII, *infra*, to view the TADs in their entirety.

75 *See* TAD 2010-1 (Jan. 20, 2010).

76 *See* TAD 2010-2 (Jan. 20, 2010).

77 Appeal of TAD 2010-1 (Mar. 24, 2010). According to the IRM, the chief(s) of IRS function(s) subject to a TAD may appeal the proposed action within ten calendar days from the date on the TAD. *See* IRM, 13.2.1.6.2, *TAD Appeal Process* (July 19, 2009). The National Taxpayer Advocate met with IRS executives on a number of occasions after the issuance of TADs and briefed them about her concerns and the results of the lien filing study published in Volume 2 of the 2009 Report to Congress.

78 In subsequent discussions, the SB/SE Commissioner and the National Taxpayer Advocate agreed to continue working on several of the concerns identified in TAD 2010-2, including an agreement to issue IRS guidance about NFTL withdrawal after lien release.

79 National Taxpayer Advocate, *Interim Guidance Memorandum*, Control No. TAS-13.1-0310-003 (Mar. 31, 2010). *See* http://www.irs.gov/pub/foia/ig/tas/tas-13.1-0310-003.pdf.

sound judgment in evaluating relevant facts and circumstances with respect to the filing of an NFTL in cases involving installment agreements (IAs), OICs, or CNC status.

Following meetings with the National Taxpayer Advocate, the Deputy Commissioner for Services and Enforcement issued a response to the TADs on June 10, 2010. In his response, the Deputy Commissioner noted:

> The IRS fully appreciates the views and concerns expressed by the Office of the National Taxpayer Advocate. However, making significant fundamental changes to lien policies and procedures such as those directed in TAD 2010-1 have the potential to materially affect the revenue collected for the United States. Thus, any potential changes should be carefully considered and supported by clear and consistent data as to the effect of the changes including the rights and obligations of taxpayers, effective and efficient resource allocation and revenue collected or foregone. In order to consider the specific directives of TAD 2010-1, additional study is necessary.[80]

The National Taxpayer Advocate agrees that the IRS needs to conduct additional study of all aspects of collection policy, including its inability to accurately measure the effectiveness of any of its collection actions because it cannot accurately track the source of collection payments. However, she respectfully disagrees with the IRS position that it cannot consider her recommended actions until after further study. TAS research studies have sufficiently demonstrated that current lien filing policies and practices actively and unnecessarily harm taxpayers. Particularly when the taxpayer is determined to be CNC on the ground of economic hardship, there is not sound policy or revenue basis for *automatically* filing liens. Therefore, the National Taxpayer Advocate will be elevating Taxpayer Advocate Directive 2010-1 to the Commissioner of Internal Revenue.

In the meantime, TAS is addressing the issues raised in the TADs by participating on the Collection Governance Council and the Collection Process Study Advisory Committee which are examining the IRS's collection and NFTL filing practices,[81] and is advocating on behalf of taxpayers in cases where the taxpayer is experiencing harm as a result of the IRS's current NFTL filing policies. In some cases, TAS has issued Taxpayer Assistance Orders (TAOs) under IRC § 7811.[82]

80 Memorandum for Nina E. Olson, National Taxpayer Advocate, from Steven T. Miller, on TADs 2010-1, 2010-2, and 2010-3 (June 10, 2010).

81 TAS is actively participating in the IRS Collection Process Study (CPS), an extensive overview of IRS Collection processes, and the CPS Tools Assessment Team, which is conducting a policy review and in-depth analysis of the various tools used in Collection, including determining efficiency and appropriateness of liens for different categories of taxpayers. The Executive Director, Systemic Advocacy represents the National Taxpayer Advocate on the Collection Governance Council and is a member of the CPS Advisory Board, which is overseeing the study and will review its findings and recommendations.

82 From October 1, 2010, through June 15, 2010, the National Taxpayer Advocate, Area Directors and Local Taxpayer Advocates issued a total of 60 Taxpayer Assistance Orders, 12 of which involved lien issues. For a more information on TAS advocacy on lien issues, see *TAS Assists Taxpayers with Collection Issues*, *infra,* and TAS *Uses Taxpayer Assistance Orders to Advocate for Taxpayers, infra*.

2. IRS Delay in Issuing Guidance About Lien Withdrawals Following Lien Releases Unnecessarily Harms Taxpayers and May Undermine Future Tax Compliance

Notwithstanding that the IRS Office of Chief Counsel issued an opinion on October 8, 2009, concluding "that as a legal matter, the IRS may file a certificate of withdrawal after a lien release,"[83] the IRS has failed to change its procedures. Thus, for nine months, taxpayers continue to be adversely impacted by the IRS's current policy of not allowing NFTL withdrawals after tax lien release.[84] In response to the TAD, however, the IRS has committed to draft interim guidance to implement the opinion by the middle of July 2010.[85]

3. TAS Will Work with the IRS to Improve Communications and Processes Associated with Rectifying Erroneous Lien Filings

In May 2010, TAS opened an Immediate Intervention project concerning the release of federal tax liens when the filing of the NFTL was erroneous.[86] Under IRC § 6326(b) and the related regulations, if the IRS erroneously files an NFTL, it is required to include on the certificate of release a statement that such filing was erroneous.[87] In a number of TAS cases the computer-generated Form 668(Z), Certificate of Release of Federal Tax Lien, did not contain the statutorily required language stating that the filing was erroneous.[88] Thus, the consumer credit bureaus considered the releases to have been issued because the tax liability was satisfied or unenforceable under IRC § 6325(a) (rather than a release under § 6326), which results in a damaging notation on the taxpayer's consumer credit reports for at least seven years from the date of release.[89] Consequently, victims of erroneous IRS NFTL filings experienced the additional burden of having to prove to credit reporting bureaus that the NFTL filings were erroneous. In addition, even when the IRS provides the Letter of Apology (Letter 544) in these types of cases, it uses a fillable form that prints out with gaps and extra spaces. Therefore, according to an official with Experian, Letter 544 may be perceived as suspicious and rejected by the credit bureau when submitted by the taxpayer to substantiate an erroneous NFTL filing.[90] The National

83 National Office Program Manager Advice, PMTA-2009-158 (Oct. 9, 2009).

84 A lien that is "released" continues to be reflected on the taxpayer's credit record for seven years from the date of the release. However, an NFTL that is "withdrawn" is treated as if it had not been filed and is removed from the taxpayer's credit record

85 Memorandum for Nina E. Olson, National Taxpayer Advocate, from Steven T. Miller, Deputy Commissioner for Services and Enforcement, on TADs 2010-1, 2010-2, and 2010-3 (June 10, 2010); Appeal of TAD 2010-2 (Mar. 24, 2010).

86 IRC § 6326(b); Treas. Reg. § 301.6326-1. An immediate intervention is an operational issue, identified internally or externally, which causes immediate, significant harm to multiple taxpayers and demands an urgent response. IRM 13.2.1.4.2.1 (July 16, 2009). The TAS Technical Analyst assigned to an immediate intervention must develop an action plan for resolution within five calendar days of assignment. IRM 13.2.2.4.1 (July 16, 2009).

87 IRC § 6326(b); Treas. Reg. § 301.6326-1.

88 IRC § 6326(b) and regulations require the IRS to expeditiously (and, to the extent practicable, within 14 days after such determination) issue a certificate of release of an erroneous lien which "shall include in such certificate a statement that such filing was erroneous." IRC § 6326(b); Treas. Reg. § 301.6326-1.

89 The Fair Credit Reporting Act (FCRA), § 605(a)(3), 15 USC § 1681c(a)(3).

90 TAS teleconference with Experian Senior Vice President (Apr. 30, 2010).

Taxpayer Advocate will continue working with the IRS to resolve the systemic issues associated with certificates of release of erroneous tax liens and IRS letters of apology.

IRS NFTL filing policies and processes will remain an area of emphasis for the National Taxpayer Advocate until the IRS addresses her concerns and the underlying issues are resolved. The National Taxpayer Advocate will keep working to improve IRS NFTL filing policies and processes in a manner that would benefit both taxpayers and the United States. Moreover, TAS employees will continue to advocate on behalf of taxpayers in cases involving liens and will issue Taxpayer Assistance Orders, where appropriate.[91] The National Taxpayer Advocate expects the IRS will collaborate with TAS on these issues and will regularly report to Congress on the progress of this effort.

D. The IRS's Delay in Incorporating the Tax Court's Decision in *Vinatieri v. Commissioner*[92] into the Internal Revenue Manual (IRM) and Other IRS Guidance Unnecessarily Harms Taxpayers Who Are Experiencing Economic Hardship

In *Vinatieri v. Commissioner*, the United States Tax Court held that if, during a Collection Due Process (CDP) hearing, the taxpayer establishes that the proposed levy will create an economic hardship (within the meaning of Internal Revenue Code (IRC) § 6343(a)(1)(D)), the IRS cannot proceed with the proposed levy action as a matter of law, even if the taxpayer did not file all required tax returns.[93] The court acknowledged that requiring taxpayers to be current with filing obligations in order to obtain collection alternatives may be reasonable where the taxpayer has sufficient income to meet basic living expenses. However, the court held that proceeding with a levy, which the Internal Revenue Code would require the IRS to immediately release because it creates economic hardship, is arbitrary and an abuse of discretion.

During her CDP hearing, Ms. Vinatieri submitted financial information to support her claim that she could not pay her 2002 income tax liability. The Appeals settlement officer found that although Ms. Vinatieri had established economic hardship, the IRS could not place her 2002 account in currently not collectible status because Ms. Vinatieri had not filed her 2005 or 2007 tax returns.[94] The Appeals team manager agreed, and issued a notice of determination sustaining the proposed levy action. The Tax Court held that as a matter

91 For more information on TAS advocacy on collection issues and TAS case receipts, see *TAS Assists Taxpayers with Collection Issues, infra, and TAS Uses Taxpayer Assistance Orders to Advocate for Taxpayers, infra*.

92 *Vinatieri v. Comm'r*, 133 T.C. No. 16 (Dec. 21, 2009).

93 IRC § 6343(a)(1). Under regulations prescribed by the Secretary, if the Secretary has determined that if the levy is creating an economic hardship due to the financial condition of the taxpayer, the Secretary must release a levy upon all, or part of, a taxpayer's property or rights to property. Economic hardship exists if the levy will leave the taxpayer unable to pay his or her reasonable basic living expenses. *See* Treas. Reg. § 301.6343-1(b)(4).

94 IRM 5.16.1.2.9 (8) (May 5, 2009), standing alone, might be interpreted to support this conclusion. It provides that a compliance check will be made and the results documented in the case history for all hardship determinations per IRM 5.16.1.1(5). All open filing requirements or delinquent return modules must generally be "resolved" and "closed appropriately" when reporting an account CNC.

of law, the Appeals determination to proceed with a levy was wrong, given that a finding of economic hardship mandates the release of a levy under the Code even if the taxpayer has not filed all required returns. In addition to holding that the IRS abused its discretion when it determined to proceed with the levy, the Court held in *Vinatieri* that the IRS should have considered collection alternatives.[95]

Upon publication of the Tax Court opinion and at the National Taxpayer Advocate's urging, the IRS convened a cross-functional team that included participants from TAS, Appeals, Collection Policy, W&I, and the Office of Chief Counsel. The group identified several instances where language in the Internal Revenue Manual (IRM) was inconsistent with *Vinatieri* or unclear. TAS then obtained a verbal commitment from Appeals and the SB/SE division's Collection Policy function that the applicable IRM sections would be revised. However, although the IRS has adjusted its Electronic Automated Collection Service Guide[96] for its employees, and has verbally agreed to revise its IRM, revisions have not been completed as of the printing of this report.

The IRS should implement its promised changes to procedures for all economic hardship cases with unfiled returns, to make it clear that the accounts can be placed in CNC hardship status. The National Taxpayer Advocate will continue to press the IRS for these changes and for additional training of IRS employees on this issue.

The National Taxpayer Advocate has already issued interim guidance to TAS employees about how to advocate for taxpayers who are determined to be in CNC hardship but have unfiled returns.[97] TAS is prepared to assist taxpayers in filing unfiled returns or appropriately closing any open delinquent return modules. Since the *Vinatieri* decision was issued, TAS has successfully advocated for levy releases and for placing taxpayers into CNC status even though the taxpayers had not filed all required returns. Other cases are pending. TAS will continue to assist taxpayers who are suffering an economic hardship in having their cases placed into CNC status, obtaining the release of any levies, and where appropriate, securing the return of levy proceeds.

95 *Vinatieri v. Comm'r*, 133 T.C. No. 16, slip op. at 17 (Dec. 21, 2009).

96 IRM 5.19.9.1.1 (July 1, 2008). For ACS representatives, see Electronic Automated Collection Service Guide (e-ACSg) for a guide to utilize in addressing all compliance issues and controlling the incoming call conversation.

97 TAS Interim Guidance Memorandum (IGM) *Interim Guidance on Handling Collection Cases Where Economic Hardship Is Present but the Taxpayer Has Not Filed All Required Returns*, TAS Control No.13.1-0110-001, March 23, 2010, *available at* http://www.irs.gov/pub/foia/ig/tas/tas-13_1-0110-01.pdf.

E. IRS Initiatives to Improve the Offer in Compromise Program Have Not Yet Achieved Tangible Results

In 2009, the Commissioner emphasized the need to go the "extra mile to help taxpayers, especially those who've done the right thing in the past and are facing unusual hardships."[98] However, despite recent IRS initiatives to help taxpayers submit acceptable offers in compromise, such as a second review of home values and guidelines for offers from low income taxpayers, the number of OICs accepted has shown little improvement. Acceptances declined 72 percent from FY 2001 to FY 2009.[99] This underutilization of the OIC program directly conflicts with both the IRS's policy statement and Congress's intent for the program.[100]

Although OIC receipts have continued to increase (up 11 percent year-to-date through May in FY 2010 over FY 2009), offer acceptances have declined by one percent to 24 percent of dispositions.[101] Offer dispositions also have increased by 22 percent in FY 2010 with 97 percent of the increase in dispositions attributable to the Centralized Offer in Compromise (COIC) unit.[102] Moreover, the number of OIC applications returned to taxpayers increased by 44 percent in FY 2010, with most of the increase attributable to COIC.[103] The National Taxpayer Advocate is concerned that the COIC is automatically returning offers without having a conversation with the taxpayer.

1. Returned Offers May Harm Taxpayers Who Submit Otherwise Acceptable Offers

The National Taxpayer Advocate is particularly concerned about the large increase in returned offers because of the significant harm this action causes taxpayers. If the taxpayer submits a processable offer and it ends up being returned, the taxpayer loses his or her $150 OIC application fee and any partial payments, and does not receive any appeal rights to contest the return determination.[104] The increased number of returned offers may also

98 IRS News Release, *IRS Begins Tax Season 2009 with Steps to Help Financially Distressed Taxpayers; Promotes Credits, e-File Options*, IR-2009-2 (Jan. 6, 2009).

99 IRS, Collection Activity Report NO-5000-108, *Monthly Report of Offer in Compromise Activity (FY 2001-FY 2008)*; IRS, Collection Activity Report NO 5000-108, *Monthly Report of Offer in Compromise Activity* (Sept. 30, 2009). The IRS accepted 38,643 OICs in FY 2001 and 10,655 in FY 2009. National Taxpayer Advocate 2009 Annual Report to Congress 196; IRM 1.2.14.1.17, *Policy Statement* 5-100 (Jan. 30, 1992); IRS Restructuring and Reform Act of 1998, Pub. L. No. 105-206 (1998); H.R. Conf. Rep. 599, 105th Cong., 2d Sess., 289 (1998).

100 National Taxpayer Advocate 2009 Annual Report to Congress 196; IRM 1.2.14.1.17, Policy Statement 5-100 (Jan. 30, 1992); IRS Restructuring and Reform Act of 1998, Pub. L. No. 105-206 (1998); H.R. Conf. Rep. 599, 105th Cong., 2d Sess., 289 (1998).

101 IRS, SB/SE, *OIC Executive Summary Report* (May 2010).

102 The IRS disposed 20,596 OICs through March of FY 2009, compared to 25,195 during the same period in FY 2010, an increase of 4,599 disposed OICs. The COIC unit disposed 14,353 OICs through March of FY 2009, compared to 18,807 OICs during the same period in FY 2010, an increase of 4,454 disposed OICs and accounting for a 97 percent of the increase in disposed OICs. IRS, SB/SE, *OIC Executive Summary Report* (Mar. 2010).

103 IRS, SB/SE, *OIC Executive Summary Report* (Mar. 2010).

104 IRM 5.8.7.2.2 (Sept. 23, 2008). Processable offers are offers that the IRS returns after initially considering them processable, *i.e.,* the taxpayer is in filing or payment compliance, has submitted an application, and has paid the application fee and the down payment or initial installment. Some reasons for returning a processable offer are that the taxpayer failed to remain in compliance, filed bankruptcy, or failed to timely perfect the offer forms necessary to process the offer.

indicate that taxpayers are having difficulty understanding the application process, that OIC employees are not working with taxpayers to resolve application problems, or both.

In FY 2011, TAS will explore the causes of returned offers and develop recommendations on how to minimize returns. The National Taxpayer Advocate is encouraged by recent efforts made in the COIC program to improve its' employees interactions with taxpayers. Over the next year, COIC is proposing to test certain procedures that should lead to more direct contact and discussion between offer examiners and taxpayers, thereby resulting in more offer acceptances rather than more returned offers.[105] As part of this test, TAS is arranging training for COIC employees on working with low income taxpayers, taxpayers in economic distress, and taxpayers with limited English proficiency. This training will be provided by representatives from Low Income Taxpayer Clinics (LITCs).

In FY 2011, TAS will work with SB/SE to continue to improve current OIC operations, simplify and clarify Form 656, *Offer in Compromise*, and instructions, and revise the calculation of "reasonable collection potential" to better reflect the taxpayer's actual ability to pay. The National Taxpayer Advocate is cautiously optimistic that there will be positive changes on all three fronts.

2. Unclear Guidance May Be Hampering the IRS from Accepting Offers

The MITRE Corporation[106] recently completed a study of the OIC program that identified deep-rooted problems stemming from a lack of leadership and clear guidance for employees.[107] The National Taxpayer Advocate has voiced similar concerns and has made recommendations to help the IRS improve the effectiveness of its offer program.[108] Yet even while dealing with taxpayers in a troubled economy, the IRS has failed to make the OIC program an integral part of its collection strategy.[109]

105 IRS, *COIC Streamline Processing Test, OIC Executive Steering Committee Briefing* (May 27, 2010).

106 The MITRE Corporation is a not-for-profit organization chartered to work in the public interest. MITRE applies its expertise in systems engineering, information technology, operational concepts, and enterprise modernization to address its sponsors' critical needs. MITRE manages three Federally Funded Research and Development Centers (FFRDCs): one for the Department of Defense (known as the DOD Command, Control, Communications and Intelligence FFRDC), one for the Federal Aviation Administration (the Center for Advanced Aviation System Development), and one for the Internal Revenue Service (the Center for Enterprise Modernization). *See* www.MITRE.org (last visited May 5, 2010).

107 *See* MITRE Corporation, *OIC Study, Executive Advisory Board Briefing* (Mar. 4, 2010).

108 National Taxpayer Advocate 2008 Annual Report to Congress 26-28 (Most Serious Problem: *The IRS Needs to More Fully Consider the Impact of Collection Enforcement Actions on Taxpayers Experiencing Economic Difficulties)*; National Taxpayer Advocate 2007 Annual Report to Congress 374-387 (Most Serious Problem: *Offers in Compromise*); National Taxpayer Advocate 2006 Annual Report to Congress 83-109 (Most Serious Problem: *IRS Collection Payment Alternatives*), 507-519 (Key Legislative Recommendation: *Improve Offer in Compromise Program Accessibility*); National Taxpayer Advocate 2005 Annual Report to Congress 270-291 (Most Serious Problem: *Allowable Living Standards for Collection Decisions*); National Taxpayer Advocate 2004 Annual Report to Congress 226-245 (Most Serious Problem: *IRS Collection Strategy*), 311-341 (Most Serious Problem: *Offers in Compromise*), 433-450 (Key Legislative Recommendation: *Offers in Compromise: Effective Tax Administration*); National Taxpayer Advocate 2003 Annual Report to Congress 99-112 (Most Serious Problem: *Offers in Compromise*); National Taxpayer Advocate 2002 Annual Report to Congress 15-24 (Most Serious Problem: *Processing of Offer in Compromise Cases*); National Taxpayer Advocate 2001 Annual Report to Congress 202-215 (Most Serious Problem: *IRS Collection Procedures*).

109 The IRS accepted roughly 8,000 offers for the eight-month period ended May 2010. IRS SB/SE, *OIC Executive Summary Report* (May 2010). In the same period, the IRS issued nearly 2.3 million levies and filed 900,000 liens. IRS, SB/SE, Collection Activity Report NO-5000-23, *Collection Workload Indicators Reports* (May 2010).

Recently, the IRS has revised its procedures for the calculation of taxpayers' future income during the evaluation of an OIC.[110] While the National Taxpayer Advocate applauds these procedures for the elimination of income averaging when considering OICs from unemployed taxpayers, she remains concerned that the procedures do not clearly instruct IRS employees to apply flexibility and good judgment when calculating future income. For example, the new procedures state, "Judgment should be used in determining the appropriate time to apply income averaging on a case by case basis."[111] However, the IRS does not convey in these procedures, or in the transmittal memorandum, whether employees should use their judgment to accept more offers.

The IRS should remind its employees of Policy Statement 5-100, which says, "An offer in compromise is a legitimate alternative to declaring a case currently not collectible or to a protracted installment agreement. The goal is to achieve collection of what is potentially collectible at the earliest possible time and at the least cost to the Government."[112] Moreover, to achieve the stated goal of "going the extra mile to help taxpayers," a full rewrite of these procedures may be necessary. The National Taxpayer Advocate and TAS are asking the IRS to answer the following questions:

- Has the IRS considered requiring employees to maintain a dialogue with the taxpayer throughout the offer process?
- Are all IRS contact employees (*e.g.*, customer service representatives and revenue officers) recommending OICs to taxpayers and helping them prepare offers?
- Is the IRS simplifying its forms for taxpayers who have verifiable and available income information?
- Is the IRS looking at the taxpayer's complete financial picture (*e.g.*, "upside down" housing debts and other delinquencies such as medical bills and student loans) when considering offers?
- How does the IRS intend to make the offer program viable?
- What mechanisms has the IRS proposed to measure the success of procedural changes in the offer process?

Answers to these questions will provide an indication of the burden placed on the taxpayers filing offers, will more clearly articulate the IRS's intent to revamp the offer program, and will serve as a basis for further advocacy by TAS, as needed.

110 SB/SE, *Interim Guidance Memorandum*: *Interim Guidance for Calculation of Future Income in Offer in Compromise Cases*, Control No. SBSE-05-0310-012 (Mar. 10, 2010).

111 *Id.*

112 IRM 1.2.14.1.17 (Jan. 30, 1992).

F. An Understanding of the Factors Impacting Taxpayer Compliance Is Crucial to Effective Tax Administration

The National Taxpayer Advocate frequently makes recommendations to reduce the tax gap – the amount of tax not voluntarily and timely paid.[113] The tax gap is a problem because all taxpayers have to pay more to make up for those who do not pay their share. The IRS's services to taxpayers and its enforcement actions can have an impact on taxpayer compliance, along with other factors that are outside the IRS's control.

Because a better understanding of the factors that influence taxpayer compliance behavior could improve IRS resource allocation and reduce the tax gap, the National Taxpayer Advocate will initiate research in this area over the next few years.[114]

TAS Research is collaborating with the IRS to explore the factors driving taxpayer compliance behavior. In one initiative, the IRS and TAS will explore National Research Program (NRP) data to determine the extent that inadvertent errors contribute to taxpayer noncompliance.[115]

In the first phase of the study, the team will review case files from recent NRP audits and interview IRS examiners to see if the IRS has sufficient information to definitively determine whether assessments resulted from taxpayers' inadvertent errors or intentional decisions to understate their liabilities. The team will seek a more nuanced explanation for these two broad categories of noncompliance (*e.g.*, did the taxpayer rely on his or her preparer, did the taxpayer misunderstand the relevant tax law, did the taxpayer maintain inadequate records, and was the taxpayer unable to comply with the IRS document request). The team plans to hire an external contractor during a subsequent phase of the study to resolve cases that cannot be resolved during the first phase. The contractor will interview taxpayers or employ other methodologies, as appropriate.

The National Taxpayer Advocate, her Senior Attorney Advisors, and TAS Research will also work independently to explore the factors that drive taxpayer behavior. Fear of punishment (*i.e.*, deterrence) is obviously an important factor but is often overemphasized. Because the deterrence model predicts more noncompliance than is currently observed,[116]

113 *See*, e.g., National Taxpayer Advocate 2003 Annual Report to Congress 20-26; National Taxpayer Advocate 2007 Annual Report to Congress vol. 2 (*A Comprehensive Strategy for Addressing the Cash Economy*).

114 According to the Treasury Department:

"The tax gap does not arise solely from tax evasion or cheating. It includes a significant amount of noncompliance due to tax law complexity that results in errors of ignorance, confusion, and carelessness. This distinction is important even though, at this point, the IRS does not have sufficient data to distinguish clearly the amount of noncompliance that arises from willful, as opposed to unintentional mistakes. Moreover, the line between intentional and unintentional mistakes is often a grey one." Department of the Treasury, IRS, *Reducing the Federal Tax Gap, A Report on Improving Voluntary Compliance* 6 (Aug. 2, 2007), *available at* http://www.irs.gov/pub/irs-news/tax_gap_report_final_080207_linked.pdf.

115 In the NRP, the IRS randomly selects a certain number of returns for in-depth examinations to enable the IRS to develop statistically valid estimates about noncompliance in the overall population of returns, including tax gap estimates. *See generally* IRM 4.22.1 (Oct. 1, 2008).

116 *See, e.g.*, Eric A. Posner, *Law and Social Norms: The Case of Tax Compliance*, 86 Va. L. Rev. 1781, 1784 (2000) (illustrating how the deterrence model would predict much lower compliance than is actually observed).

other factors also must drive tax compliance. A preliminary survey of compliance literature suggests these other factors may include:

- Opportunity – visibility of income (*i.e.*, withholding and information reporting);
- Social norms of compliance (including "tax morale");[117]
- Trust in government (legitimacy) and the tax administration process;
- Convenience of compliance;
- Reliance on preparers; and
- Competitive factors.

TAS Research will explore the most effective methods of quantifying the extent that internal factors affect compliance behavior. TAS plans to develop a research methodology and study plan by December 2010.

G. As the IRS Implements the New Return Preparer Initiative, TAS Will Continue to Monitor its Scope as Well as Advocate for Several Statutory Changes

Due to the complexity of the internal revenue laws, about 60 percent of individual taxpayers and 80 percent of small business taxpayers hire preparers to help them prepare their returns.[118] Some preparers are attorneys, CPAs, or Enrolled Agents, but many individual returns are prepared by "unenrolled preparers," who are not subject to oversight and are generally not required to have any training. The need for oversight for the unenrolled preparer population was made clear in undercover visits by the Government Accountability Office (GAO) and the Treasury Inspector General for Tax Administration (TIGTA). In each case, employees of the organizations posed as taxpayers and visited unenrolled preparation businesses to have their returns prepared. The results of these undercover shopping visits were disturbing.[119]

117 We use the term "social norm" to refer to what taxpayers believe their peers normally do. Taxpayers who believe most other taxpayers are compliant may be more likely to comply with tax compliance norms -- no one wants to be a "tax chump." Those taxpayers who are members of a group of compliant taxpayers may exert social pressure on others to comply (*e.g.*, shaming), and members who cheat may feel guilty (*i.e.*, experience a loss of self-esteem by breaking the norm). For a discussion of norms and tax morale, see National Taxpayer Advocate 2007 Annual Report to Congress vol. 2, 138 (Marjorie E. Kornhauser, *Normative and Cognitive Aspects of Tax Compliance*).

118 IRS Compliance Data Warehouse, Individual Returns Transaction File, Tax Year 2007 (Aug. 2009); IRS, Pacific Consulting Group, *SB/SE Customer Base Report, Covering Tax Year 2008* (Aug. 2009).

119 GAO had 19 returns prepared. All 19 contained errors, and the tax liability was wrong on 17 of the 19 returns. In two cases, the errors would have caused the taxpayer to overpay his tax by more than $1,500. In five cases, the errors would have caused the taxpayers to receive up to nearly $2,000 in excess refunds to which they were not entitled. Where the earned income tax credit (EITC) was claimed, preparers neglected to ask required "due diligence" questions in half the cases, and where a taxpayer told the preparer he earned side income, more than half the preparers did not include that income on the return. In just over 20 percent of the cases, the preparer either did not sign the return or failed to provide an identifying number. *See* GAO, GAO-06-563T, *Paid Tax Return Preparers: In a Limited Study, Chain Preparers Made Serious Errors* (Apr. 4, 2006). TIGTA had 28 returns prepared, and its results were not much better. Sixty-one percent of the returns contained errors. None of the seven preparers working with EITC fact patterns asked required due diligence questions. Of the errors observed, TIGTA believed that about 65 percent were inadvertent, but it felt that 35 percent were willful or reckless. Notably, one of the fact patterns TIGTA used involved a small business, and none of the business returns was prepared correctly. *See* TIGTA, Ref. No. 2008-40-171, *Most Tax Returns Prepared by a Limited Sample of Unenrolled Preparers Contained Significant Errors* (Sept. 3, 2008).

In January 2010, the IRS published a report of its half-year study of federal return preparers and related issues.[120] In most important respects, the IRS plan reflects the proposals made by the National Taxpayer Advocate since 2002:[121]

- In general, all return preparers will be required to apply to the IRS for a preparer tax identification number (PTIN) by the end of 2010.
- Registration will be valid for three-year periods and must be renewed.
- The IRS will conduct a federal tax compliance check on all registered preparers.
- During an initial three-year phase-in process, all unenrolled preparers – meaning everyone except attorneys, Certified Public Accountants (CPAs), and Enrolled Agents – will be required to pass an exam designed to demonstrate their knowledge of basic return preparation concepts.
- After passing the initial exam, all unenrolled preparers will be required to meet periodic continuing professional education requirements.
- After the three-year phase-in for testing, the names of all registered preparers will be available on a public database, so all taxpayers can verify whether their preparer is properly registered.

As detailed in the National Taxpayer Advocate's 2009 Annual Report to Congress, the IRS and the Taxpayer Advocate Service disagreed on the scope of the new requirements. Specifically, the disagreement involved whether tax preparers who meet with and interview clients and prepare returns, but do not sign those returns, would be subject to IRS registration, testing, and continuing education requirements. In our view, failure to include these "nonsigning" preparers in the regulatory regime would have created a loophole that could be widely exploited. This loophole would have a particularly negative impact on low income taxpayers, who often do not know much about the tax laws and may not be able to recognize inaccurate and even illegal advice.[122] In regulations issued in March 2010, the IRS proposes to require a PTIN for all persons who are "compensated for preparing, or assisting in the preparation of, all or substantially all of a tax return."[123] We believe this formulation substantially closes the loophole, and we look forward to working with the IRS on this and related return preparer issues.

120 IRS Publication 4832, *Return Preparer Review* (Dec. 2009), *available at* http://www.irs.gov/pub/irs-pdf/p4832.pdf. (last visited May 21, 2010).

121 *See* National Taxpayer Advocate 2009 Annual Report to Congress 41-69; National Taxpayer Advocate 2008 Annual Report to Congress 503-512; National Taxpayer Advocate 2006 Annual Report to Congress 197-221; National Taxpayer Advocate 2005 Annual Report to Congress 223-237; National Taxpayer Advocate 2004 Annual Report to Congress 67-88; National Taxpayer Advocate 2003 Annual Report to Congress 270-301; National Taxpayer Advocate 2002 Annual Report to Congress 216-230; *Fraud in Income Tax Return Preparation: Hearing Before the Subcomm. on Oversight of the H. Comm. on Ways and Means*, 109th Cong. (2005) (statement of Nina E. Olson, National Taxpayer Advocate).

122 National Taxpayer Advocate 2009 Annual Report to Congress 41-69.

123 Prop. Treas. Reg. § 1.6109-2, 75 Fed. Reg. 14,539 (Mar. 26, 2010).

TAS is participating on the teams charged with implementing the IRS's recommendations as detailed in the study report issued in January 2010. The IRS will issue regulations this year – first in proposed form to solicit public comments and then in final form – to flesh out the details and establish the requirements. Moreover, the registration and competency requirements are just one part of what must be a comprehensive strategy for improving tax return preparation and thereby increasing voluntary compliance. Such a strategy should include preparer education contacts, "shopping" visits, due diligence requirements, and enhanced penalties. In furtherance of a comprehensive strategy, we offer the following four recommendations:

- *Responsive Regulation.* As noted in previous annual reports, we continue to recommend that the IRS take a "responsive regulation" approach to return preparer compliance.[124] That is, the IRS could start with "soft" compliance touches, such as notices and education visits, and progressively ramp up enforcement treatments where a preparer's actions become more egregious.
- *Shopping Visits.* We recommend that the IRS implement a large-scale program of undercover preparer visits, using scenarios carefully designed to incorporate fact patterns addressing areas of substantial noncompliance, and follow up with the appropriate compliance "touch."
- *Due Diligence Requirements.* We recommend that Congress and the IRS impose return preparer due diligence requirements that relate to identified areas of significant noncompliance, similar to the EITC due diligence provision under IRC § 6695(g) and Treas. Reg. § 1.6695-2(b). Such requirements should compel preparers to sign due diligence statements and attach them to the taxpayers' returns, including e-filed returns. Requiring preparers to sign and file these statements will cause preparers who follow the "IRS will never know so you don't need to report this income" approach to have second thoughts. For these new provisions to be effective, Congress must authorize penalties for failure to meet the requirements.
- *Enhanced Preparer Penalties.* We recommend that Congress enhance the monetary sanctions in existing preparer penalties under IRC §§ 6694(a) and (b) and IRC §§ 6695 (a) through (g) pertaining to preparation of tax returns for other persons. We also recommend that Congress extend the penalty under IRC § 6695 for failure to sign or include certain information on tax returns or claims to include "other documents" such as offers in compromise, financial information statements, and collection due process hearing requests.

124 *See* National Taxpayer Advocate 2009 Annual Report to Congress 41-69 (Most Serious Problem: *The IRS Lacks a Servicewide Return Preparer Strategy*); National Taxpayer Advocate 2003 Annual Report to Congress 270-301 (Legislative Recommendation: *Federal Tax Return Preparers: Oversight and Compliance*).

H. TAS Will Continue to Work with the IRS to Implement Health Care Reform

Earlier this year, the President signed into law significant legislation that reforms America's health care system.[125] Under the new law, the IRS has been given a large role to play in implementing these reform efforts.

Although most Americans do not typically interact with the IRS in connection with their health insurance,[126] many provisions in the new law will require IRS involvement at some point. Specifically, some of the major provisions requiring IRS participation include:[127]

- Premium Assistance Credit;[128]
- Small Business Tax Credit;[129]
- Individual Mandate;[130] and
- Employer Assessment.[131]

Health care reform will likely be the most extensive social benefit program the IRS has been asked to implement in recent history. Given the scope of the program and its potential impact on taxpayers and the IRS, it is critical that the IRS take a holistic, research-based approach toward implementation. As with its core tax administration duties, the IRS should develop a detailed understanding of the characteristics and needs of the individuals it will need to assist in order to determine the best way to provide service and resolve taxpayer issues early in the process. Unlike its core tax administration duties, however, the IRS in the context of health care reform often will be the administrator of decisions made by another agency. Some individuals inevitably will be referred repeatedly from one agency to another, and the IRS should be prepared to deal patiently and compassionately with these individuals.

Because implementing health care reform will involve nearly every division and function of the IRS, the various parts of the agency must work collaboratively to implement

125 Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 (2010); Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (2010).

126 One exception is the IRC § 35 Health Coverage Tax Credit, a federal tax credit that pays 80 percent of qualified health insurance premiums for eligible individuals and their family members. For more information on the Health Coverage Tax Credit Program, see http://www.irs.gov/individuals/article/0,,id=187948,00.html (last visited June 15, 2010).

127 This bulleted list is not exhaustive and is in addition to the IRS's role in the numerous revenue provisions passed as part of the new law.

128 IRC § 36B. This provision requires IRS verification of household income for taxpayers applying for the credit through the Exchange. When a taxpayer files his or her return at the end of the year, the IRS will verify eligibility for the premium tax credit, determine whether or not the taxpayer received the right credit amount, and collect any overpayments.

129 IRC § 45R. This provision requires the IRS to accept applications for the credit, determine whether a small business meets the eligibility requirements, verify the amount of the credit, and assess additional tax due in the event there is an overclaim of the credit.

130 IRC § 5000A. This provision requires the IRS to match information returns from taxpayers, the Exchange, insurance companies and employers to determine whether or not an individual has health insurance as required by law. In addition, the IRS will assess and collect penalties against those taxpayers who do not have the required health insurance coverage.

131 IRC § 4980H. This provision requires the IRS to use data provided by the Exchange to assess a payment and collect the assessment against certain employers who fail to offer health coverage.

the provisions in a transparent manner. By collaboration, we mean a coordinated and comprehensive strategic approach that embraces each and every activity related to health care reform within the IRS. Without collaboration, we may end up in a situation in which different areas of the IRS are working on discrete issues, without ever bringing all of those issues together to understand the big picture and its potential impact on taxpayers. Such an approach would increase the opportunity for errors and oversight of key issues, leading to problems in the future.

Finally, external and internal transparency is essential. From an external perspective, taxpayers must understand the procedures so they know what to do and have reasonable assurances that similarly situated taxpayers are receiving similar treatment. From an internal perspective, it is essential that all areas of the IRS understand how implementation is progressing in order to identify potential areas of concern, maximize resources, and prevent duplication. Such transparency will also assist the IRS as it coordinates its implementation efforts with those of other government agencies and will enhance the credibility and accountability of the IRS when it seeks the resources necessary to administer a program of this scope.

TAS is working closely with the IRS on implementing health care reform and will continue its active involvement throughout the process. TAS is also holding bi-weekly internal meetings to discuss the implementation efforts and identify potential issue areas. TAS will work to ensure that taxpayers receive the services they need with minimal additional burden and that the IRS resolves issues at or near the point of first contact to reduce downstream consequences.

III. The Statutory Mission of the Taxpayer Advocate Service

Under IRC § 7803(c), the Office of the Taxpayer Advocate has four principal functions:

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

TAS employees assist taxpayers whose tax problems are causing financial difficulty, who are seeking help in resolving tax problems that have not been resolved through normal channels, or who believe that an IRS system or procedure is not working as it should. TAS employees share with all IRS personnel the responsibility to consider and protect taxpayer rights in all cases.

In addition to helping taxpayers with specific cases and individual problems, TAS employees advocate for taxpayers by identifying IRS procedures that adversely impact taxpayer rights or create taxpayer burden, recommending solutions to taxpayer problems, and working with the IRS to make improvements. TAS serves as the voice of the taxpayer within the IRS by providing the taxpayer's viewpoint when the IRS is considering new policies, procedures, or programs. Additionally, TAS is responsible for administering the Low Income Taxpayer Clinic grant program and overseeing the Taxpayer Advocacy Panel (TAP).[132]

132 LITC workgroups and TAP issue committees work to identify and resolve IRS systemic problems.

IV. Assisting Taxpayers in Resolving Problems

A. TAS Identifies Problems and Trends that Negatively Impact Taxpayers and Advocates to Resolve These Issues

Taxpayers come to TAS when:

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

TAS accomplishes this part of its statutory mission through a combination of case advocacy and outreach. TAS's philosophy calls for each employee who works on a case to advocate, communicate, and reach the correct answer, not only for the taxpayer who sought help but also for others, by elevating issues for a more broad-based form of advocacy. This process allows TAS to resolve individual issues, address systemic issues that surface in our casework, and identify areas where taxpayer education is needed. TAS education and outreach campaigns are designed to make TAS a known advocacy organization, help taxpayers resolve current problems, educate them to avoid future ones, protect taxpayer rights, and reduce taxpayer burden.[133]

TAS provides a vital service to individual and business taxpayers who come to or are referred to TAS for help with a tax issue by:

- Researching IRS systems to determine what is occurring on the taxpayer's account. TAS looks at all of the taxpayer's issues, not just the one that brought the taxpayer to TAS;
- Researching appropriate laws, codes, regulations, and IRS guidance;
- Determining the correct resolution for each issue;
- Helping the taxpayer obtain any supporting documentation needed to resolve the issue;
- Advocating for the taxpayer with the appropriate function in the IRS to resolve each issue, including expediting actions where appropriate; and
- Helping the taxpayer understand all the issues and the resolution.

Because Congress did not intend TAS to be an alternative to regular IRS channels for resolving issues, TAS only accepts cases in four categories:

- Economic Burden – Cases in which a taxpayer is experiencing financial difficulty;

133 *See TAS Uses Other Means to Advocate for Taxpayers, infra.*

- Systemic Burden – Cases in which an IRS process, system, or procedure has failed to operate as intended, and as a result, the IRS has failed to timely respond to or resolve a taxpayer's issue;
- Equitable Treatment or Taxpayer Rights Issues – Cases accepted to ensure that taxpayers receive fair and equitable treatment or that taxpayers' rights are protected; and
- Public Policy – Cases accepted when the National Taxpayer Advocate determines that compelling public policy warrants assistance to an individual or group of taxpayers.

Through March 31 (the midway point of the fiscal year), TAS had received 128,103 cases in FY 2010, a 4.5 percent decrease from the same period in FY 2009.[134] Figure IV.1 shows TAS FY 2010 receipts and closures by case category:

FIGURE IV.1, TAS CASE RECEIPTS, CLOSURES, AND RELIEF RATES THROUGH MARCH 31, 2010[135]

	FY 2010 Receipts	FY 2010 Closures	Relief Rate
Economic Burden	51,779	41,757	68.2%
Systemic Burden	76,195	72,322	75.4%
Equitable Treatment or Taxpayer Rights Issues	99	94	64.9%
Public Policy	30	22	63.6%
Total Cases	128,103	114,195	72.8%

TAS obtained relief for taxpayers 72.8 percent of the time during the first six months of FY 2010. TAS fully relieved the taxpayer's issue or problem in 67.8 percent of the cases and obtained partial relief in five percent.[136]

As reflected in Figure IV.1 above, the bulk of TAS's cases involve either economic or systemic burden. Economic burden cases are those in which taxpayers are experiencing financial difficulty in complying with their tax obligations or where IRS actions are creating or contributing to financial difficulty. While TAS strives to expeditiously resolve all cases meeting TAS criteria, it places special emphasis on helping taxpayers who are experiencing financial difficulty. In these instances, TAS requires case advocates to take specific actions to expedite initial case processing, and contact the taxpayer to communicate these

134 In FY 2009, TAS received 134,126 cases through March. Data obtained from the Taxpayer Advocate Management Information System (TAMIS). TAS uses TAMIS to record, control, and process taxpayer cases, as well as to analyze the issues that bring taxpayers to TAS. However, through May 31, TAS had received 191,901 cases in FY 2010 compared to 184,629 cases for the same period in FY 2009, a 3.9 percent increase.

135 Data obtained from TAMIS. TAS tracks resolution of taxpayer issues through codes entered at the time of closing on TAMIS and requires case advocates to indicate the type of relief or assistance they provide to the taxpayer. *See* IRM 13.1.7.10.2.1 (Apr. 1, 2003). The codes reflect full relief, partial relief, or assistance provided. The relief rate is determined by dividing the total number of cases closed with full relief, partial relief, or assistance provided by the total number of closures.

136 Data obtained from TAMIS. Through March 31, TAS had closed 77,374 cases with full relief or assistance and 5,742 cases with partial relief in FY 2010. TAS does not provide full relief in instances where the law does not allow what the taxpayer requests, the taxpayer chooses not to pursue the issue, or the taxpayer does not provide TAS the documentation required to advocate on the taxpayer's behalf.

actions and request additional information (if needed) within three workdays of the date TAS received the case.[137] Systemic burden cases involve situations in which an IRS process, system, or procedure has failed to operate as intended, and as a result, the IRS has failed to timely respond to or resolve a taxpayer issue.

In addition to the slight decrease in overall receipts, TAS is seeing more economic burden cases, which require quicker action. Economic burden cases rose from 72,463 in FY 2006 to 101,624 cases in FY 2009, a 40.2 percent increase. Meanwhile, systemic burden receipts remained nearly level (a 0.8 percent increase).[138] Economic burden receipts continued to grow in the first half of FY 2010, showing a 3.8 percent increase over the same period in FY 2009. Figure IV.2 demonstrates how the composition of TAS cases has changed over time.

FIGURE IV.2, TAS CASE RECEIPTS BY CASE ACCEPTANCE CATEGORY, FY 2006 – FY 2009 AND FY 2009 – FY 2010 CUMULATIVE THROUGH MARCH

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2009 March Cum	FY 2010 March Cum	% Increase FY 2009 to FY 2010
Economic Burden	72,463	86,261	92,410	101,624	49,863	51,779	3.8%
Systemic Burden	169,198	161,235	181,120	170,524	84,137	76,195	-9.4%
Equity Rights Issues	273	257	484	228	101	99	-2.0%
Public Policy	239	86	37	28	25	30	20.0%
Total TAS Receipts	242,173	247,839	274,051	272,404	134,126	128,103	-4.5%

Sometimes an IRS action (*e.g.*, filing a notice of federal tax lien) or delay causes the economic burden,[139] while in other instances a systemic problem within the IRS may be causing an economic burden for taxpayers. As taxpayers continue to face obstacles because of the economic downturn, the IRS continues to step up compliance initiatives.[140] An analysis of FY 2005 and FY 2006 TAS and IRS data, performed by the Government Accountability Office (GAO), shows the increasing TAS caseload correlates with increases

137 *See* IRM 13.1.7.5.2 (Oct. 31, 2004); TAS Interim Guidance Memorandum, *Implementation of Arbitration Decision re: 2007 Revisions to IRM 13.1*, TAS-13.1.5-0709-051 (Sept. 3, 2009). For all other types of cases, TAS employees have seven calendar days from the date TAS receives the case to complete the same activities. IRM 13.1.7.6.3 (Oct. 31, 2004); TAS Interim Guidance Memorandum, *Implementation of Arbitration Decision re: 2007 Revisions to IRM 13.1*, TAS-13.1.5-0709-051 (Sept. 3, 2009).

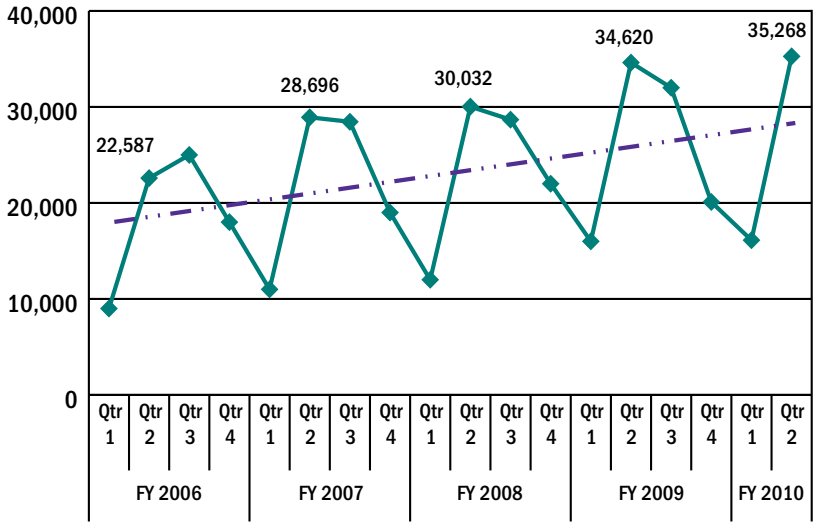
138 Data obtained from TAMIS.

139 *See The National Taxpayer Advocate Remains Concerned About IRS Collection Practices that Do Not Promote Future Voluntary Compliance and Can Unnecessarily Harm Taxpayers, supra*.

140 IRS Commissioner Douglas Shulman has stated that the "IRS will undertake the largest hiring initiative in recent history to enhance taxpayer compliance." IRS Commissioner Douglas Shulman, *FY 2009 Budget, E-Mail Message to IRS Employees* (Mar. 12, 2009).

in IRS enforcement activities, both overall and in some specific enforcement programs.[141] Many taxpayers who always met their financial and tax obligations in the past are now facing unemployment,[142] mortgage foreclosure, and default on loans and credit cards, which may cause delinquent tax liabilities.[143] Further, taxpayers anticipating refunds may rely more heavily on these funds to meet basic living expenses. Given the increase in IRS enforcement hiring over the last two years,[144] we expect the trend of increasing economic burden cases, as shown in Figure IV.3, to continue in FY 2011.

FIGURE IV.3, ECONOMIC BURDEN RECEIPTS BY QUARTER, FY 2006 – FY 2010[145]



B. TAS Analyzes Economic and Systemic Burden Case Receipts for Process Improvements

By categorizing the issues involved in casework, TAS identifies trends in individual cases that also affect larger groups of taxpayers and uses that information to work with the IRS to resolve issues. Figure IV.4 shows the increases and decreases in different types of TAS cases since FY 2006.

141 GAO, GAO-07-156, *TAS Caseload Has Grown and Taxpayers Report Being Satisfied but Additional Measures of Efficiency and Effectiveness Are Needed* (Feb. 22, 2007).

142 *See* Bureau of Labor Statistics, *Labor Force Statistics for the Current Population Survey* (Apr. 2010), *available at* http://data.bls.gov/PDQ/servlet/SurveyOutputServlet?data_tool=latest_numbers&series_id=LNS14000000 (showing the civilian unemployment rate at or over ten percent for October, November, and December of 2009 for the first time since 1983 and has dropped only slightly (to 9.9 percent) in April 2010.)

143 RealtyTrac, *U.S. Foreclosure Market Report* (Apr. 15, 2010). RealtyTrac reported a seven percent increase in foreclosure filings in the first quarter 2010, a 16 percent increase over the first quarter 2009.

144 IRS Commissioner Douglas Shulman has stated that the "IRS will undertake the largest hiring initiative in recent history to enhance taxpayer compliance." IRS Commissioner Douglas Shulman, *FY 2009 Budget, E-Mail Message to IRS Employees* (Mar. 12, 2009).

145 Data obtained from TAMIS.

FIGURE IV.4, TAS RECEIPTS BY ISSUE CATEGORY, FY 2006 – FY 2010 AND FY 2009 – FY 2010 THROUGH MARCH

All Criteria	FY 2006	FY 2007	FY 2008	FY 2009	FY 2009 March Cum	FY 2010 March Cum	% Chg FY 2009 to FY 2010
Audit Issues	47,703	59,601	60,051	55,542	26,884	32,040	19.2%
Document Processing Issues	52,775	44,552	58,888	53,528	22,554	28,900	28.1%
Collection Issues	43,552	43,706	42,418	43,799	21,970	20,831	-5.2%
Refund Issues	27,781	31,521	46,680	47,785	28,225	18,998	-32.7%
Entity Issues	11,495	15,334	17,313	22,920	10,236	9,225	-9.9%
Penalty Issues	12,328	15,716	13,705	13,921	6,914	6,976	0.9%
Technical, Procedural, or Statute Issues	12,585	12,121	11,103	10,248	5,325	4,518	-15.2%
Payment or Credit Issues	8,173	9,047	9,046	7,891	3,912	3,075	-21.4%
Appeals Issues	2,618	2,498	2,841	3,084	1,527	1,493	-2.2%
Criminal Investigation Issues	21,395	11,846	10,152	11,954	5,687	1,347	-76.3%
Interest Issues	1,029	1,249	1,235	1,135	607	469	-22.7%
Other Issues	739	648	619	597	285	231	-18.9%
Total TAS Receipts	242,173	247,839	274,051	272,404	134,126	128,103	-4.5%

The four categories with the highest volumes of receipts have consistently been audit, document processing, collection, and refunds. These issues represent 78.7 percent of TAS's total case receipts for FY 2010, and for FY 2006 through FY 2009, they made up 70.9 percent to 75.9 percent of receipts.[146] Since these issues constitute such a large percentage of TAS cases, it is imperative that TAS educate its employees on how to advocate for taxpayers facing the issues, as well as collaborate with the IRS to make system improvements.

It is not surprising that document processing would generate a high number of TAS cases due to the volume of documents filed with the IRS each year. The remaining three issues—audit, collection, and refunds—are significant because they can directly and immediately affect taxpayers financially (*e.g.*, levies on wages or delays in issuing refunds) even though these issues affect fewer taxpayers than document processing problems. TAS typically sees audit and collection cases because the IRS is taking an enforcement action. It is not uncommon for a single case to involve multiple issues.[147] For example, a taxpayer may need

146 Data obtained from TAMIS.

147 *See TAS Assists Taxpayers with Refunds, infra.*

help in obtaining the documentation required to resolve an audit so he or she can receive a refund needed to cover basic living expenses, such as rent or utilities.

1. TAS Assists Taxpayers with Audit Issues

TAS experienced a dramatic increase in open audit cases from FY 2009 to FY 2010, as reflected in Figure IV.5. Midway through FY 2010, open audit cases exceeded the total for all of FY 2009.

FIGURE IV.5. TAS AUDIT RECEIPTS, FY 2006 – FY 2009 AND FY 2009 – FY 2010 CUMULATIVE THROUGH MARCH

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2009 March Cum	FY 2010 March Cum	% Chg FY 2009 to FY 2010
Open Audits	6,934	8,729	9,232	10,630	4,675	11,687	150.0%
Reconsideration of Substitute for Return Under 6020(b) and Audits	10,005	12,331	12,419	11,488	5,664	6,302	11.3%
Automated Underreporter	12,424	13,770	14,169	11,355	6,091	5,278	-13.3%
Earned Income Tax Credit (EITC)	12,769	16,081	13,489	13,475	6,135	4,861	-20.8%
Other Audits	5,571	8,690	10,742	8,594	4,319	3,912	-9.4%
Total Audit Issues	47,703	59,601	60,051	55,542	26,884	32,040	19.2%

The National Taxpayer Advocate has advocated extensively on audit issues by including 25 Most Serious Problems (MSPs) relating to audit and examination in the Annual Report to Congress from 2001 to 2009.[148] Additionally, TAS conducted two research studies and is collaborating with the IRS on several teams dealing with audit issues.[149] The IRS has adopted a number of TAS recommendations, and TAS is beginning to see decreases in some audit issues as shown in Figure IV.5 above. Audit improvements resulting from collaborative TAS and IRS efforts include:

- *Granting extensions on correspondence audits to allow taxpayers time to gather supporting documentation.* TAS historically received cases because the IRS's correspondence

148 National Taxpayer Advocate 2009 Annual Report to Congress 158-179, 185-195; National Taxpayer Advocate 2008 Report to Congress 176-192, 227-259; National Taxpayer Advocate 2007 Report to Congress 222-241, 259-274, 287-323; National Taxpayer Advocate 2006 Report to Congress 289-310, 355-375; National Taxpayer Advocate 2005 Report to Congress 94-122; National Taxpayer Advocate 2004 Annual Report to Congress 211-255; National Taxpayer Advocate 2003 Report to Congress 26-27, 87-98, 135-144; National Taxpayer Advocate 2002 Report to Congress 55-68, 75-80; National Taxpayer Advocate 2001 Report to Congress 27-29, 60-61.

149 National Taxpayer Advocate 2004 Annual Report to Congress, vol 2, (*Earned Income Tax Credit (EITC) Audit Reconsideration Study*) and National Taxpayer Advocate 2007 Annual Report to Congress vol. 2, 94-117 (*Taxpayer Advocate Service Research Studies and Reports*).

audit program did not grant taxpayers any extensions of time to submit documentation. The Taxpayer Communications Taskgroup (TACT) worked with SB/SE Research to try to determine the ideal number of days to allow taxpayers to respond to a correspondence audit. The research found that taxpayers had a tendency to either respond right away or wait until the due date.[150] Cases where the taxpayers waited for the due date received a further review, which determined that some taxpayers simply needed a longer time to gather documentation. As a result, the IRS updated its guidance and telephone information message to allow taxpayers more time to provide documentation when appropriate.[151]

- *Associating correspondence with audits for proper consideration.* TAS also receives audit cases because the IRS fails to associate taxpayer correspondence with the audit file. While there is still room for improvement, the National Taxpayer Advocate is pleased with the IRS's efforts to address this issue. A team of IRS employees, including a TAS representative, analyzed the mail process at each SB/SE correspondence examination campus. As a result, the IRS streamlined processes, and one campus completely revamped its mail association process and increased secretarial support.
- *Improving employee business expense (EBE) audit training.* SB/SE and TAS collaborated to revamp and teach an EBE training session at two campuses. The focus of this training was to increase customer satisfaction with EBE audits and introduce several tools to help correspondence examination technicians (CETs) provide taxpayers with complete and consistent information when they call. SB/SE and TAS are analyzing the feedback from these sites and the taxpayers they served, and will use the analysis to recommend improvements to the training and tools for all SB/SE CETs.

From October through March of FY 2010, TAS received 11,687 open audit cases, compared to the 4,675 for the same period in FY 2009.[152] This increase of almost 150 percent is due, in large part, to First-Time Homebuyer Credit (FTHBC) correspondence audits, which touch on two issues previously addressed by the National Taxpayer Advocate:

- *Refundable credits and other social programs delivered through the tax code.*[153] These programs raise questions about the sufficiency of IRS resources and suggest that the IRS's dual duties of enforcing the tax code and administering refundable credits and other social programs should be reflected in its mission statement.
- *Impact of late-year tax law changes on taxpayers.*[154] The IRS must divert its thinly stretched resources to implement late-year tax law changes. Among other things, the IRS must reprogram computer systems to reflect changes, rewrite forms, develop new

150 SB/SE Research, DET0088, *Timeliness of Taxpayer Responses to Correspondence Examination Reports* (Mar. 2010).

151 IRM 4.19.13.9.6 (Mar. 10, 2009).

152 From October through May of FY 2010, TAS received 15,984 cases, compared to the 6,263 for the same period in FY 2009, a 155.2 percent increase.

153 *See Tax Filing Season Update: Current IRS Issues, Hearing Before the Sen. Committee on Finance,* 111th Cong. (Apr. 15, 2010). National Taxpayer Advocate 2009 Annual Report to Congress vol. 2, 75-104 (*Running Social Programs Through the Tax System*).

154 National Taxpayer Advocate 2007 Annual Report to Congress 3-12.

training for telephone assistors who answer tens of millions of taxpayer calls, and provide new instructions for volunteers who staff Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) sites. This additional work requires the IRS to divert staff from other priority projects. Additionally, where third-party verification data is lacking, taxpayers may be required to file paper returns with substantiation attached to prove eligibility.

Since the enactment of the FTHBC:[155]

- As of May 23, 2010, taxpayers have filed more than 3.1 million original and amended returns that include FTHBC claims;[156]
- The IRS has selected more than 326,000 of those returns for examination through May 21, 2010; and
- Nearly 128,000 of these audits remain open.[157]

To place the issue in context, through May 2010 the IRS had closed over 777,000 correspondence examinations in FY 2010,[158] of which nearly 181,000 involved the FTHBC.[159] The FTHBC issues account for over 23 percent of the IRS's total correspondence audits so far in FY 2010, not including open FTHBC exams and returns filed since May.

It is taking the IRS, on average, 122 days to close an examination of a return selected solely for FTHBC issues.[160] Moreover, the IRS estimates that it takes an average of about 150 days to process an amended FTHBC return from submission to the IRS until closing of the audit.[161] This means that some taxpayers have to wait five months or more to receive the FTHBC, a credit intended to stimulate the economy.[162]

The delay in completing FTHBC audits is reflected in TAS casework. Through March FY 2010, TAS had 6,456 FTHBC cases dealing with open audits.[163] While this may seem like a small fraction of the 326,000 FTHBC returns selected for audit, a review of overall

155 To stimulate the housing market, Congress has enacted three laws over the last two years allowing qualified first-time homebuyers to claim refundable credits on their tax returns. The laws, in order of enactment, are the Housing and Economic Recovery Act of 2008 (HERA), Pub. L. No. 110-289, 122 Stat. 2654; the American Recovery and Reinvestment Act of 2009 (ARRA), Pub. L. No. 111-5, 123 Stat. 115; and the Worker, Homeownership, and Business Assistance Act of 2009 (WHBAA), Pub. L. No. 111-92, 123 Stat. 2984.

156 IRS Compliance Data Warehouse, *Individual Masterfile*, data is for the 2010 filing season (May 23, 2010).

157 IRS, *FTHBC Compliance Activity Report* (May 21, 2010).

158 Automated Information Management System (AIMS) Closed Case Database on the IRS Compliance Data Warehouse. Statistics are through March 2010.

159 FTHBC Compliance Activities Report (Mar. 2010). Statistics are through March 2010 and include both open and closed examinations.

160 AIMS Closed Case Database on the IRS Compliance Data Warehouse (including returns closed by the Examination function from January 2010 through May 2010). The data includes pre-refund returns selected for examination due solely to the FTHBC.

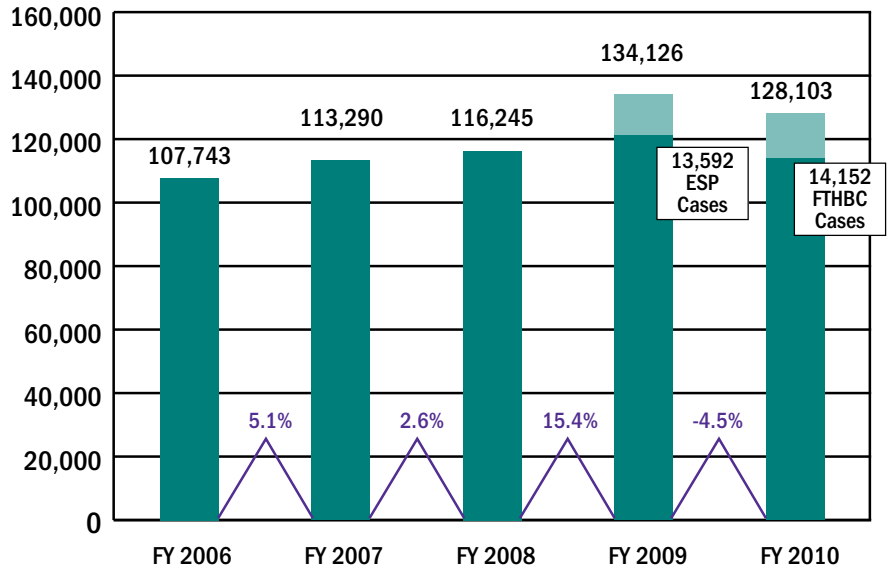
161 IRS, Talking Points: *First-Time Homebuyer Credit* (Jan. 25, 2010).

162 *See TAS Assists Taxpayers with Document Processing Issues, infra.*

163 Data obtained from TAMIS.

TAS receipts shows that 11 percent of all TAS cases for the first half of FY 2010 involved various FTHBC issues. TAS experienced a similar impact from the enactment of the Economic Stimulus Act of 2008, another refundable credit run through the IRS.[164]

FIGURE IV.6, TAS CASE RECEIPTS, FY 2006-FY 2010, CUMULATIVE THROUGH MARCH



The growing TAS caseload related to FTHBC has led TAS to form an internal steering committee to identify and share FTHBC issues and to work closely with the IRS to reduce the time needed to examine FTHBC returns. TAS will continue to work with the IRS to identify ways to reduce the time needed to process FTHBC audits.

The recently enacted Patient Protection and Affordable Care Act will create new tax administration responsibilities. While the Department of Health and Human Services is in charge of the healthcare policy aspects of the legislation, the measure includes the following major roles for the IRS:

- Delivering tax credits to businesses and individuals to help cover the cost of health coverage;
- Administering a requirement that individuals who are deemed able to afford health coverage either purchase it or pay an additional amount with their tax return; and
- Administering various tax provisions designed to raise revenues; some relate directly to health care, others do not.

164 *See* National Taxpayer Advocate 2008 Annual Report to Congress 554-556; National Taxpayer Advocate 2010 Objectives Report to Congress 4-16.

TAS is participating in the IRS's planning of how to implement these provisions. In addition, the National Taxpayer Advocate has established an informal TAS team that meets biweekly to identify and discuss implementation issues relating to the health care administrative responsibilities. While the tax provisions will take effect over many years, TAS will need to prepare for the downstream impact of this legislation on TAS operations during FY 2011.

2. TAS Assists Taxpayers with Document Processing

Historically, document-processing issues have been among the largest sources of TAS systemic burden receipts.[165] The issues include problems or delays related to IRS processing of original returns, amended returns, and claims for refund. Figure IV.7 depicts the various TAS case-related issues associated with document processing:

FIGURE IV.7, TAS DOCUMENT PROCESSING CASES, FY 2006 – FY 2009, AND FY 2009 – FY 2010 CUMULATIVE THROUGH MARCH

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2009 March Cum	FY 2010 March Cum	% Chg FY 2009 to FY 2010
Processing Amended Returns	17,140	16,267	21,963	19,939	7,096	15,490	118.3%
Other Document Processing Issues	13,638	10,700	12,666	14,289	6,434	6,776	5.3%
Processing Original Return	10,398	9,290	10,021	9,170	4,171	4,023	-3.5%
Injured Spouse Claim	11,599	8,295	14,238	10,130	4,853	2,611	-46.2%
Total Document Processing Issues	52,775	44,552	58,888	53,528	22,554	28,900	28.1%

a. First-Time Homebuyer Credit (FTHBC) Document Processing Challenges

TAS's document processing case receipts began to increase during FY 2008 as the IRS struggled to keep up with document processing tasks while simultaneously handling increasing call volumes on its toll-free customer service lines.[166] IRS Accounts Management (AM) employees who answer the toll-free phone lines also process paper correspondence (including amended returns).[167] One way the IRS adjusts to fluctuating call volumes is by shifting AM staff from paper correspondence to the phone lines (and *vice versa*).[168] Figure IV.8 compares Customer Account Services (CAS) calls answered by an assistor to the IRS's paper correspondence inventory.

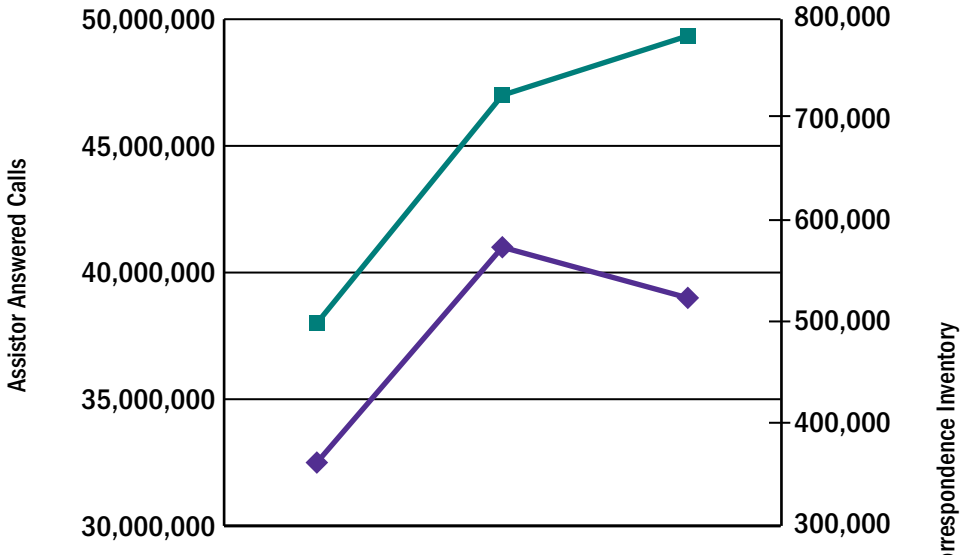
165 Data obtained from TAMIS.

166 National Taxpayer Advocate 2009 Annual Report to Congress 6.

167 IRM 1.4.16.2 (Jan. 1, 2009).

168 IRM 1.4.16.2.2(3) and (4) (Jan. 1, 2009).

FIGURE IV.8, COMPARISON OF CAS ASSISTOR-ANSWERED CALLS TO THE IRS'S PAPER CORRESPONDENCE INVENTORY[169]



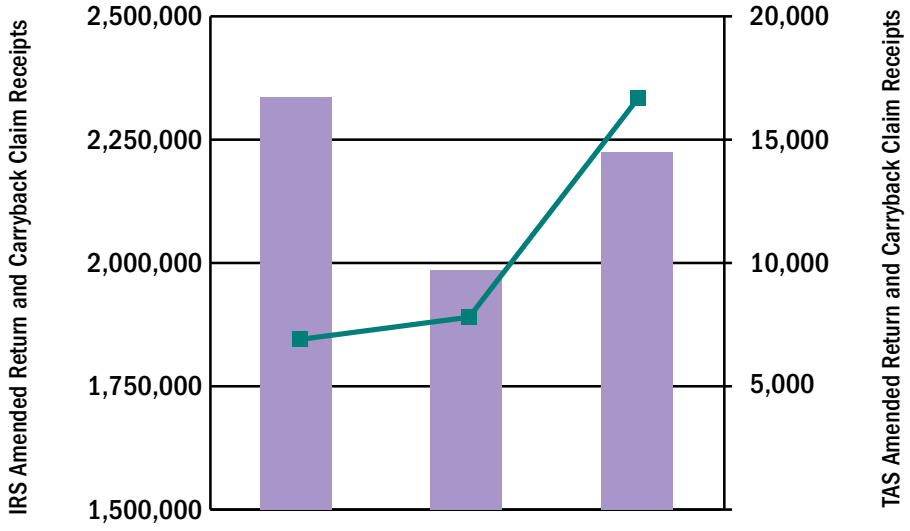
	FY 2008	FY 2008	FY 2008
CAS Assistor Answered Calls	33,226,235	40,445,173	38,956,542
Paper Correspondence Inventory	480,292	725,943	775,960

In 2008, the IRS shifted assistors from processing paper documents to answering phone calls relating to the Economic Stimulus Payments (ESP), thereby creating backlogs in paper document processing.[170] With so many AM employees answering calls, the IRS could not process amended returns and carryback claims timely, making more taxpayers eligible for TAS assistance. Figure IV.9 compares IRS and TAS amended return and carryback claim receipts through March of 2008, 2009, and 2010. In 2008, the IRS experienced an increase in amended return receipts, attributable to the ESP.

169 IRS, Joint Operations Center (JOC) Enterprise Telephone Data, *Enterprise Snapshot & JOC Accounts Management Paper Inventory Adjustments Reports FY05, FY07, FY09* (Oct. 30, 2009). These calls were made to the telephone lines the IRS refers to as CAS toll-free, which includes 15 to 22 toll-free lines, depending on the fiscal year.

170 In February 2008, Congress passed the Economic Stimulus Act of 2008, Pub. L. No. 110-185, 122 Stat. 613 (2008). The ESP created new customer service issues for the IRS and taxpayers. Calls to the IRS more than doubled to 118 million in 2008 as many taxpayers had questions about the amounts or the timing of their stimulus payments. To address the increased phone volume, the IRS brought in Accounts Management employees who work on account adjustments (including taxpayer correspondence, amended returns, responses to math error notices, and injured spouse claims). As a result, AM became less productive in processing taxpayer correspondence relating to adjustments. *See* GAO, GAO-09-146, *IRS's 2008 Filing Season Generally Successful Despite Challenges, Although IRS Could Expand Enforcement During Returns Processing* (Dec. 12, 2008); W&I, *Business Performance Review* 22, 28 (Oct. 30, 2008).

FIGURE IV.9, IRS AND TAS AMENDED RETURN AND CARRYBACK CLAIM RECEIPTS, FY 2008 - FY 2010, CUMULATIVE THROUGH MARCH[171]



	FY 2008	FY 2008	FY 2008
IRS Amended Return and Carryback Claim Receipts	2,337,577	1,985,248	2,224,303
TAS Amended Return and Carryback Claim Receipts	6,704	7,614	16,584

171 Data obtained from TAMIS.

Additionally, tax legislation enacted in 2008 and 2009 involving new or expanded tax credits produced an expansion of credits. In 2009 and 2010, amended return filings and open audits increased.[172] As Figure IV.9 demonstrates, through March 2010 the IRS experienced another increase in amended returns and carryback claims, this time attributable to the FTHBC. The FTHBC presented perhaps the most significant challenge for the IRS and certain taxpayers to overcome in the 2010 filing season.[173] To claim the FTHBC, taxpayers must navigate a complex set of rules, each of which creates a risk of error.[174]

As of May 23, taxpayers had filed more than 3.1 million original and amended returns claiming the FTHBC.[175] Through March 31, TAS received 5,991 FY 2010 document-processing cases related to the FTHBC.[176] It is important, however, to put these numbers into context. Taxpayers claiming the FTHBC cannot file electronically because they must attach a properly executed settlement statement or similar documents to prove eligibility for the credit.[177] Filing paper returns increases the potential for errors in processing FTHBC claims.

Through the end of May, TAS received 51,575 FY 2010 document-processing cases compared to 32,451 similar cases for the same period in FY 2009, a 58.9 percent increase. FTHBC-related cases accounted for 11,989 or 23.2 percent of the TAS document processing receipts through May 2010.[178]

The IRS adopted and implemented many of the W&I – TAS Amended Return team's recommendations. However, the improvements the IRS made to its procedures for processing amended returns have likely been obscured by the influx of FTHBC claims and the previous ESP initiative.

172 HERA, Pub. L. No. 110-289, 122 Stat. 2654; ARRA, Pub. L. No. 111-5, 123 Stat. 115; WHBAA, Pub. L. No. 111-92, 123 Stat. 2984. *See TAS Assists Taxpayers with Audit Issues, supra.*

173 To stimulate the housing market, Congress enacted three laws over the last two years allowing qualified first-time homebuyers to claim refundable credits on their tax returns. The laws, in order of enactment, are HERA, Pub. L. No. 110-289, 122 Stat. 2654; ARRA, Pub. L. No. 111-5, 123 Stat. 115; WHBAA, Pub. L. No. 111-92, 123 Stat. 2984. *See also Tax Filing Season Update: Current IRS Issues, Hearing Before the S. Comm. on Finance*, 110th Cong. (Apr. 15, 2010) (statement of Nina E. Olson, National Taxpayer Advocate); *The National Taxpayer Advocate's 2009 Annual Report to Congress, Hearing Before the H. Subcomm. Oversight, Comm. on Ways and Means*, 110th Cong. (Mar. 16, 2010).

174 There are three different maximum credit amounts, two different eligibility phase-outs based on adjusted gross income, two different eligible statuses (first-time homebuyer and long-time resident) with special rules for military personnel, and three different effective dates with separate eligibility dates for entering into a contract and for completing the sale. There are also age limits, home purchase price limits, and related-party rules.

175 IRS Compliance Data Warehouse, *Individual Masterfile* (May 23, 2010).

176 Data obtained from TAMIS.

177 IRS, *First-Time Homebuyer Credit*, *at* http://www.irs.gov/newsroom/article/0,,id=204671,00.html (last visited May 17, 2010).

178 Data obtained from TAMIS.

b. The IRS Changes Return Processing Procedures Concerning Unsigned Returns and Returns Missing Schedules

As shown in Figure IV.10, another issue affecting TAS's document processing case receipts relates to unpostable and reject returns.[179] These returns are incomplete, perhaps missing a signature or a schedule, and the IRS Rejects function has suspended the returns and sent letters to the taxpayers seeking the missing information. In previous years, the IRS would send back an incomplete return claiming a refund with correspondence and require the taxpayer to resubmit the return.

On September 2, 2008, IRS Counsel issued a memorandum addressing "Correspondence to the Taxpayer for Missing Information and Supporting Schedules."[180] This memorandum stated that an unsigned refund return does not constitute a valid return,[181] but should be retained by the IRS to determine whether the document can be processed as an informal claim for refund. Additionally, in instances where a filed return is missing a schedule, the return is still valid. The IRS is obligated to assess the tax shown on the return regardless of whether it is a balance due, refund, or zero balance return.[182]

Based on this memorandum, on October 1, 2009, the IRS changed its return processing procedures to retain and process refund returns missing a signature or schedule, and send the returns to the Rejects function, which would attempt to obtain the missing information from the taxpayer.

With this change in processing the IRS created a very large inventory of returns being held awaiting replies from the taxpayers and found it could not keep up with this work in the Rejects function during the 2010 filing season.

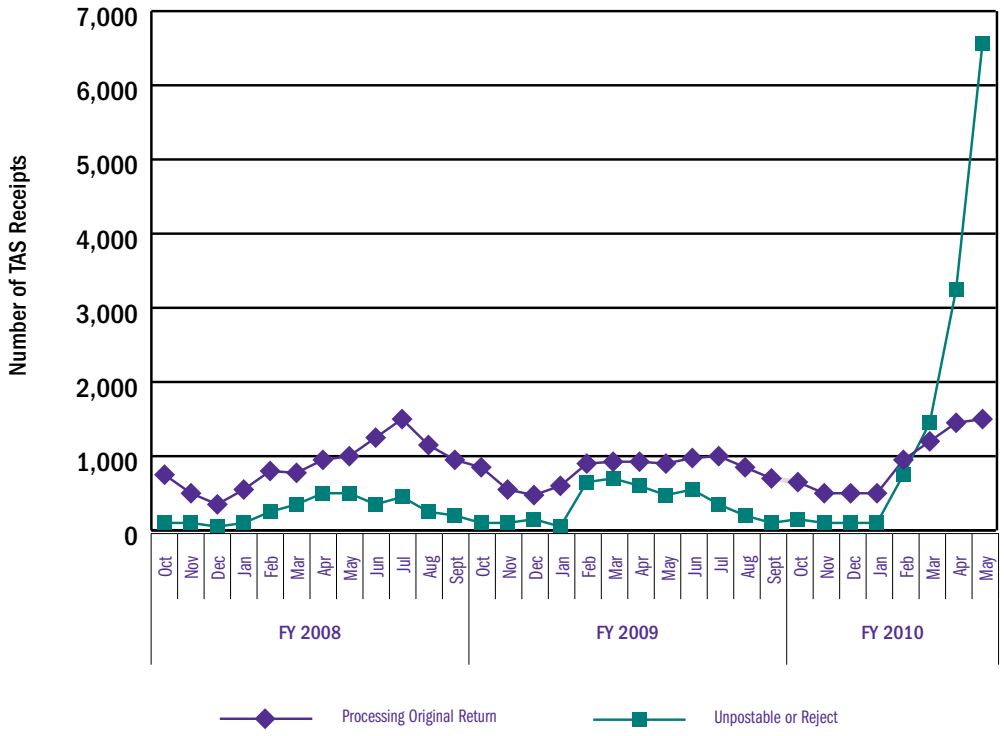
179 Each account transaction is subjected to a series of validity checks prior to posting to the Master File. A transaction is termed unpostable when it fails to pass any of the validity checks and is then returned to the campus (Rejects Function) for follow-up action(s). IRM 21.5.5.2 (Oct. 1, 2007).

180 Division Counsel (W&I), Memorandum to the Director, Submission Processing, *Correspondence to the Taxpayer for Missing Information and Supporting Schedules* (Sept. 2, 2008).

181 IRC § 6061 and *Beard v. Commissioner,* 82 T.C. 766,777 (1984), *aff'd per curiam* 793 F.2d 139 (6th Cir. 1986).

182 Division Counsel (W&I), Memorandum to the Director, Submission Processing, *Correspondence to the Taxpayer for Missing Information and Supporting Schedules* (Sept. 2, 2008). Further, the memorandum discussed instances where the IRS may use math error authority under IRC § 6213(g)(2)(D) to assess any additional tax due where an entry on the return is not properly substantiated.

FIGURES IV.10, TAS CASE RECEIPTS RELATED TO PROCESSING ORIGINAL RETURNS AND UNPOSTABLE AND REJECT RETURNS BY MONTH FROM FY 2008 THROUGH MAY FY 2010[183]



This change in processing was not widely shared or discussed throughout the IRS. In March 2010, TAS's reject case receipts began to increase significantly, peaking in May 2010.[184] In the past, TAS received about 150 reject cases per week. In May of this year, TAS was receiving 1,800 such cases every week.

This issue is an excellent example of the IRS not fully realizing and planning for the downstream consequences of changes in processes on other IRS functions (in this case TAS), as well as the impact on taxpayers. TAS secured additional funding from the Chief Financial Officer for overtime to cover some of the impact of the large increase in cases as well as FTHBC cases.

183 Data obtained from TAMIS.

184 During March 2009, TAS received 1,528 unpostable and reject cases; in March 2010, TAS received 2,519. During April 2009, TAS received 1,468 unpostable and reject cases; in April 2010, TAS received 4,743. During May 2009, TAS received 1,341 unpostable and reject cases; in May 2010, TAS received 8,259.

Beginning in June 2010, TAS will bring approximately 50 IRS campus employees who are familiar with document processing procedures into TAS temporarily to assist with document processing case receipts. This action will allow TAS to resolve the significant number of document processing cases it received more expeditiously.

Additionally, TAS will continue discussions with the IRS to ensure staffing levels are adequate to prevent this type of document processing backlog so that taxpayers' refunds will not be delayed, and that the IRS considers taxpayer rights when it changes procedures.

c. Injured Spouse Document Processing Successes

If married taxpayers file a joint federal tax return claiming a refund and one of the spouses has an outstanding federal tax debt, debts owed to other federal agencies (*e.g.*, student loans from the Department of Education), unpaid child support, or state income tax obligations, the IRS will offset the couple's refund against these debts.[185] These non-IRS debts are tracked by the Treasury Department's Financial Management Service (FMS), which administers the Treasury Offset Program (TOP).[186] The spouse who is not liable for the debt(s) can avoid having his or her portion of the refund offset against the debt(s) by filing Form 8379, *Injured Spouse Allocation*, with the IRS.

The National Taxpayer Advocate identified injured spouse allocations as a most serious problem in her 2006 Annual Report.[187] In April 2005, TAS collaborated with W&I to form a task force to review the IRS's Form 8379 processing procedures. This group studied the injured spouse process and recommended six improvements. W&I implemented four of these recommendations. The final recommendation, creation of an injured spouse application for the toll-free customer service phone system, is targeted for implementation in 2011.[188]

While the task force studied systemic issues affecting injured spouse claims, the number of TAS injured spouse claim cases rose from 11,599 in FY 2006 to 14,238 in FY 2008. Once the IRS put the task force recommendations into effect, TAS's injured spouse claim receipts declined 28.9 percent from FY 2008 to FY 2009. This trend continued through the first half of FY 2010 as TAS receipts dropped by 46.2 percent, from 4,853 through March of FY 2009 to 2,611 for the same period in FY 2010.[189] During FY 2011, TAS will continue to participate on the Injured Spouse Allocation task force to improve the process further.[190]

185 IRC § 6402.

186 The Treasury Offset Program is a centralized database system managed by the FMS and Debt Management Service (DMS). The purpose of this program is to collect delinquent debts owed to federal and state agencies. Department of the Treasury, *Treasury Offset Program*, *at* http://fms.treas.gov/debt/top.html (last visited May 20, 2010).

187 National Taxpayer Advocate 2006 Annual Report to Congress 397-407.

188 Four of the six task force recommendations were implemented by FY 2009, and the other two were combined into one that is still pending.

189 Data obtained from TAMIS.

190 *See Appendix III*, *infra*.

3. TAS Assists Taxpayers with Collection Issues

The issues most likely to impact taxpayers who are facing an economic burden involve IRS collection actions. Given the economic downturn and stepped-up enforcement action by the IRS, it is not surprising that collection issues account for the largest volume of economic burden cases. As shown in Figure IV.11, levies, installment agreements, liens, Currently Not Collectible determinations, and OICs generated 76.1 percent of TAS economic burden collection cases in FY 2009.[191] As illustrated by Figure IV.11, through March 2010, TAS economic burden case receipts for levies, liens, CNC (unable to pay), and OIC determinations have increased over the same period in FY 2009.

FIGURE IV.11, ANALYSIS OF TAS ECONOMIC BURDEN (EB) LEVY, IA, LIEN, CNC, AND OIC CASES COMPARED TO ALL TAS EB COLLECTION RECEIPTS, FY 2006 - FY 2009 AND FY 2009 - FY 2010 OCTOBER THROUGH MARCH[192]

Issue Code Description	FY 2006	FY 2007	FY 2008[193]	FY 2009	FY 2009 Mar Cum	FY 2010 Mar Cum	% Chg FY 2009 to FY 2010
Levies	11,676	12,586	11,342	12,419	6,181	6,708	8.5%
Installment Agreements (IAs)	1,191	1,660	2,114	2,536	1,288	1,177	-8.6%
Liens	3,287	3,246	3,022	2,961	1,357	1,563	15.2%
Currently Not Collectible (CNC)	972	1,218	1,448	1,746	847	923	9.0%
OIC	483	433	411	418	197	192	-2.5%
Other Collection Issues	7,269	6,652	5,992	6,322	3,154	2,921	-7.4%
Total EB Collection Issues	24,878	25,795	24,329	26,402	13,024	13,484	3.5%

Figure IV.11 shows the primary issue for each collection activity that led to an economic burden TAS case. Because the IRS often uses more than one tool to collect revenue, a taxpayer may come to TAS when a levy is causing an immediate financial hardship, but may

191 Data obtained from TAMIS.

192 Data obtained from TAMIS.

193 Taxpayers' access to the IRS's telephone assistors in 2008 was substantially lower than in 2007 because of an unanticipated increase in call volume triggered by the Economic Stimulus Act of 2008 (Pub. L. No. 110-18, 112 Stat. 613 (2008)). The IRS acted to answer the calls by shifting hundreds of employees from its Automated Collection System (ACS) operations to telephone assistance. *See* GAO, GAO-09-146, *IRS's 2008 Filing Season Generally Successful Despite Challenges, Although IRS Could Expand Enforcement During Returns Processing* (Dec. 12, 2008). TAS's collection cases experienced a decrease in FY 2008, because ACS employees were moved from core collection work to support the Economic Stimulus Payment (ESP) program.

be unaware that the IRS has also filed a notice of federal tax lien that could impede the taxpayer's future financial viability and ability to pay past, current, and future taxes.[194] TAS is advocating on behalf of taxpayers with collection issues.[195] At the beginning of FY 2010, TAS gave its employees comprehensive training on collection alternatives, to prepare them to help taxpayers deal with all aspects of IRS collection policy. In FY 2009, the National Taxpayer Advocate recognized the need to reach out to all taxpayers, not just those who contact TAS, and recorded a series of YouTube videos discussing collection alternatives.[196] In FY 2010, she released another video discussing the power of the federal tax lien.[197] The National Taxpayer Advocate issued additional guidance to TAS employees on how to advocate in cases involving IRS lien filing determinations in conjunction with IAs, CNC, and OIC determinations,[198] and where the IRS refuses to release levies or place accounts in CNC status when a taxpayer is experiencing economic hardship and had not filed returns.[199]

A CNC designation includes situations in which the IRS has determined that collection of a liability would create a hardship on a taxpayer by leaving him or her unable to meet necessary living expenses.[200] TAS CNC economic burden cases rose from 972 in FY 2006 to 1,746 in FY 2009, an 80 percent increase, while IRS CNC determinations increased by 37.2 percent in the same period.[201] So far in FY 2010, TAS economic burden CNC cases have increased nine percent over the first half of FY 2009. While a CNC determination may benefit a financially struggling taxpayer, that same taxpayer may not realize that the IRS automatically requests NFTLs for every taxpayer whose delinquency exceeds $5,000 when

194 National Taxpayer Advocate 2009 Annual Report to Congress 17-40 (Most Serious Problem: *One-Size-Fits-All Lien Filing Policies Circumvent the Spirit of Law, Fail to Promote Future Tax Compliance and Unnecessarily Harm Taxpayers*); National Taxpayer Advocate 2009 Annual Report to Congress vol. 2, 1-18 (TAS Research Study: *The IRS's Use of Notices of Federal Tax Lien*). National Taxpayer Advocate 2009 Annual Report to Congress 357-364 (Legislative Recommendation: *Strengthen Taxpayer Protections in the Filing and Reporting of Federal Tax Liens*). *Tax Filing Season Update: Current IRS Issues, Hearing Before the Sen. Comm. on Finance*, 111th Cong. 26-35 (Apr. 15, 2010) (statement of Nina E. Olson, National Taxpayer Advocate). *The National Taxpayer Advocate's 2009 Annual Report to Congress, Hearing Before the H. Subcomm. on Oversight and H. Comm. on Ways and Means*, 111th Cong. 5-13 (Mar. 16, 2010) (statement of Nina E. Olson, National Taxpayer Advocate). *See also The National Taxpayer Advocate Remains Concerned About IRS Collection Practices that Do Not Promote Future Voluntary Compliance and Can Unnecessarily Harm Taxpayers, supra*.

195 For additional discussion on TAS's advocacy efforts on behalf of taxpayers with collection issues, see *TAS Uses Taxpayer Assistance Orders to Advocate for Taxpayers, infra.*

196 *See* http://www.youtube.com/user/TASNTA (last visited May 18, 2010).

197 *See id*.

198 TAS Interim Guidance Memorandum, *Nonfiling of Notices of Federal Tax Liens in Certain Situations*, TAS Control No. 13.1-0310-003 (Mar. 31, 2010), *available at* http://www.irs.gov/pub/foia/ig/tas/tas-13.1-0310-003.pdf (last visited May 14, 2010). *See also The National Taxpayer Advocate Remains Concerned About IRS Collection Practices That Do Not Promote Future Voluntary Compliance and Can Unnecessarily Harm Taxpayers, supra*, and Appendix VIII, *infra*.

199 TAS Interim Guidance Memorandum, *Interim Guidance on Handling Collection Cases where Economic Hardship is Present but the Taxpayer Has Not Filed All Required Returns*, TAS Control No.13.1-0110-001 (Mar. 23, 2010), available at http://www.irs.gov/pub/foia/ig/tas/tas-13_1-0110-01.pdf (last visited May 14, 2010). *See also The IRS's Delay in Incorporating the Tax Court's Decision in Vinatieri v. Commissioner into the Internal Revenue Manual (IRM) and Other IRS Guidance Unnecessarily Harms Taxpayers Who Are Experiencing Economic Hardship, supra, and Appendix VIII, infra*.

200 CNC status generally suspends collection actions but the liability is still due and owing; thus, penalties and interest continue to accrue until the statutory period of collection expires. IRM 5.16.1.2.9(11) (May 5, 2009); *see also* IRM 1.2.14.1.14, IRS Policy Statement P-5-71 (Nov. 19, 1980).

201 IRS Collection Activity Report 5000-149 (Sept. 2006 and Sept. 2009). The IRS made 751,012 CNC determinations in FY 2006 compared to 1,030,748 in FY 2009.

the IRS determines the liability is "currently not collectible,"[202] or may not understand the impact of the NFTL on future financial viability. Further, a CNC determination does not eliminate the taxpayer's liability for the unpaid tax, so penalties and interest continue to accrue until the statutory period for collection runs out or the liability is paid. On the other hand, a successful offer in compromise resolves the entire tax debt. However, in FY 2009, the IRS received 52,102 offers and accepted 10,665, only 20.5 percent of the OICs received, an indication that IRS collection policy encourages employees to place a taxpayer in CNC status, as opposed to accepting an offer.[203] As discussed previously in this report,[204] TAS is actively advocating changes in the offer program to bring the IRS action in line with Policy Statement 5-100, which says, "An offer in compromise is a legitimate alternative to declaring a case currently not collectible or to a protracted installment agreement. The goal is to achieve collection of what is potentially collectible at the earliest possible time and at the least cost to the Government."[205]

In FY 2011, TAS will continue to study the impact of IRS collection policies on financially stressed taxpayers and issue additional guidance as warranted. TAS will also continue to train its case advocate employees on collection issues so that they may more effectively advocate on behalf of taxpayers.

4. TAS Assists Taxpayers with Refunds

Refund issues involve much more than just financial hardships. When the IRS does not process original or amended returns timely and efficiently, it delays the release of refunds to many taxpayers. Taxpayers seeking TAS assistance due to systemic problems often are waiting on refunds that depend on resolving those problems. While some taxpayers may not be experiencing a financial hardship when they first contact TAS, significant IRS delays could mean that they will face such a hardship before the issue is resolved. For the first half of FY 2010, 64.6 percent of taxpayers seeking TAS's assistance with a refund issue were experiencing an economic burden.[206] As shown in Figure IV.12, TAS refund cases increased progressively from FY 2006 through FY 2009.

202 IRM 5.19.4.5.2 (Aug. 4, 2009).

203 IRS, Collection Activity Report NO-5000-108, *Monthly Report of Offer in Compromise Activity* (Sept. 30, 2009); IRS, Collection Activity Report NO-5000-108, *Monthly Report of Offer in Compromise Activity* (Sept. 30, 2008). For FY 2009, the IRS received 52,102 offers compared to 43,989 in FY 2008. However, the IRS accepted 10,665 offers in FY 2009 compared to 10,677 in FY 2008. *See also* National Taxpayer Advocate 2009 Annual Report to Congress 196-216; *IRS Initiatives to Improve the Offer in Compromise Program Have Not Yet Achieved Tangible Results, supra*.

204 *See IRS Initiatives to Improve the Offer in Compromise Program Have Not Yet Achieved Tangible Results, supra.*

205 IRM 1.2.14.1.17 (Jan. 30, 1992). *See also IRS Initiatives to Improve the Offer in Compromise Program Have Not Yet Achieved Tangible Results, supra*.

206 Data obtained from TAMIS.

FIGURE IV.12, TAS REFUND RECEIPTS FY 2006 – FY 2009, AND FY 2009 – FY 2010 CUMULATIVE THROUGH MARCH

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2009 March Cum	FY 2010 March Cum	% Chg FY 2009 to FY 2010
Other Refund Inquiries or Issues	7,438	8,186	20,656	18,334	11,166	5,689	-49.1%
Expedite Refund Request	10,070	9,627	11,376	10,959	6,428	5,411	-15.8%
IRS Offset	3,791	4,836	6,461	6,176	3,980	4,435	11.4%
Returned or Stopped Refunds	2,856	5,117	4,412	5,517	2,847	1,989	-30.1%
Lost or Stolen Refunds	3,626	3,755	3,775	6,799	3,804	1,474	-61.3%
Total Refund Issues	27,781	31,521	46,680	47,785	28,225	18,998	-32.7%

For the first half of FY 2010, however, refund cases have decreased 32.7 percent from the same period in FY 2009 largely because of a decline in Economic Stimulus Payment cases.[207] In FY 2009, TAS received more than 7,200 refund cases because of the ESP. If those cases are excluded, the decline in overall refund receipts from FY 2009 to FY 2010 would only be nine percent.[208]

At first glance, TAS appears to be receiving fewer refund cases.[209] However as discussed above, TAS refund receipts often involve an underlying systemic issue. This is especially true of document processing cases, in which a secondary refund issue was identified 26.8 percent of the time in FY 2009 and 25.5 percent for the first half of FY 2010.[210] Secondary refund issues also appeared in 10.5 percent of the TAS audit cases in FY 2009 and 18.1 percent for the first half of FY 2010.[211] In economically distressed periods, many taxpayers may rely on refunds for basic living expenses. TAS recognizes how important it is for the IRS to process refunds as quickly as possible, and will continue to analyze refund cases to find underlying systemic issues and work to resolve them.

207 Data obtained from TAMIS. Economic Stimulus Act of 2008, Pub. L. No. 110-18, 112 Stat. 613 (2008). Congress passed the Economic Stimulus Act in February 2008 with a goal of strengthening the economy by placing an estimated $152 billion into the hands of consumers and business. *See, e.g.*, The White House, Fact Sheet: *Bipartisan Growth Package Will Help Protect Our Nation's Economic Health* (Feb. 13, 2008).

208 Data obtained from TAMIS.

209 *See Figure IV.12, supra*.

210 Data obtained from TAMIS. TAS employees can identify multiple issues for any given case, but in order to avoid duplicating data, TAS generally reports issue statistics based on the primary issue code unless otherwise stated. *See TAS Assists Taxpayers with Document Processing, supra.*

211 *See TAS Assists Taxpayers with Audit Issues, supra*.

5. TAS Assists Taxpayers with Entity Issues

Entity issues involve taxpayers' identities, including their names and taxpayer identifying numbers (TINs).[212] Most TAS entity cases stem from identity theft.[213]

a. The IRS Continues to Make Strides in Identity Theft Case Processing

The National Taxpayer Advocate initially recognized identity theft in tax administration as an emerging trend in her 2004 Annual Report to Congress.[214] Since that time, the IRS has improved its processes for identifying and helping taxpayers who are victims of identity theft.[215] Identity theft occurs in tax administration when an individual intentionally uses the Social Security number (SSN) of another person to file a false tax return or fraudulently gain employment. When these types of identity theft occur, the victim often begins a journey through IRS processes and procedures that may take years to complete. When those processes and procedures fail to resolve the taxpayers' issues timely, taxpayers seek TAS assistance.

In January 2008, the IRS began marking the accounts of identity theft victims to protect them from tax-related identity theft actions. This marker puts IRS employees on notice that the individual owning this SSN has been or may be the victim of identity theft and allows the IRS to track the number of affected taxpayer accounts, protect federal revenue threatened by identity theft, and reduce taxpayer burden.[216]

In January 2009, the IRS began to apply a series of filters or "business rules" to any return filed with an SSN associated with a marked account.[217] Business rules give the IRS an automated means of distinguishing valid returns from fraudulent ones, and blocking potentially fraudulent returns from processing. Returns that do not pass the "business rules" will not post to the taxpayer's account until the IRS reviews the account and determines that the return belongs to the true owner of the SSN. In calendar year 2009, the IRS marked 254,079 taxpayer accounts with the identity theft tracking marker and has marked an additional 56,104 accounts through March 2010.[218]

In FY 2010, the IRS will subject all accounts with identity theft markers to the business rules designed to protect taxpayers from identity theft perpetrators. Unfortunately, the rules can also delay refunds for the very taxpayers the process is designed to protect. To address these concerns, the IRS enlisted employees in the Identity Protection Specialized Unit

212 See IRM 21.6.2.1 (Feb. 2, 2009) for details about the types of problems relating to TINs.

213 Of the 9,225 entity cases TAS received for the first half of FY 2010, 6,427 involved identity theft. Data obtained from TAMIS.

214 *See* National Taxpayer Advocate 2004 Annual Report to Congress 133-136.

215 *See* National Taxpayer Advocate 2009 Annual Report to Congress 307-318.

216 IRM 10.5.3.2.3 (May 15, 2009).

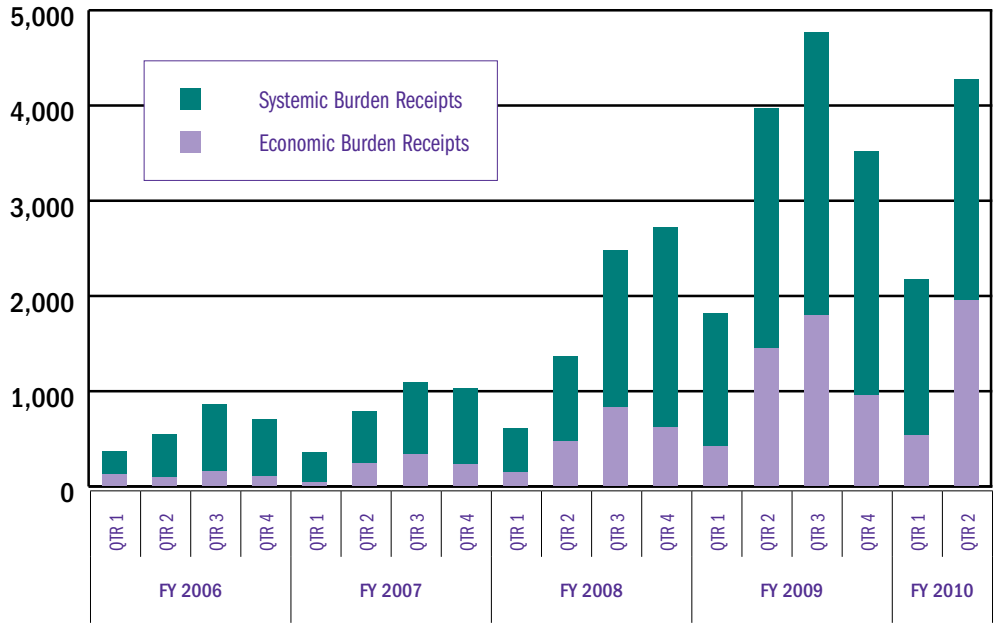
217 IRM 3.12.179.43.1 (Jan. 1, 2010).

218 IRS, *Identity Protection Incident Tracking Statistics Reports 2008*; IRS, *Identity Protection Incident Tracking Statistics Report 2009*, IRS, *Identity Protection Incident Tracking Statistics Report* (Mar. 2010).

(IPSU), Accounts Management Taxpayer Assurance Program (AM TAP), and the Criminal Investigation Division, who have unique skills in resolving identity theft issues. The IRS expects the revised procedures to facilitate case processing and reduce refund delays. TAS will continue to closely monitor its receipts in FY 2011 to determine the effect of the revised procedures.

Despite all of these improvements, as shown in Figure IV.13, TAS identity theft-related receipts continue to increase.

FIGURE IV.13, TAS IDENTITY THEFT RECEIPTS FY 2006 TO FY 2010 ECONOMIC AND SYSTEMIC BURDEN[219]



With the establishment of the IPSU, the National Taxpayer Advocate and the Commissioner of Wage & Investment have discussed the transition of TAS criteria 5 - 9 identity theft casework to the IPSU.[220] On March 31, 2010, the W&I Commissioner signed a Memorandum of Understanding with the National Taxpayer Advocate that grants the IPSU the authority to work certain identity theft systemic burden cases. For taxpayers whose cases move to the IPSU, the IRS has agreed to provide a level of service similar to that provided by TAS and to contact the taxpayer within TAS timeframes so the change will not harm the taxpayers. The IPSU will function in a manner similar to TAS, maintaining contact with the taxpayer

219 An economic burden case occurs when a taxpayer experiences a financial difficulty, and a system burden is a case in which an IRS process, system, or procedure has failed to operate as intended, and as a result, the IRS has failed to timely respond to or resolve a taxpayer's issue. Data obtained from TAMIS.

220 IRM 13.1.7.2 (July 23, 2007). TAS developed nine case criteria for use in determining which taxpayers qualify for TAS assistance. For an explanation of TAS criteria 5 – 9, see Appendix II, *infra*.

and providing estimated case completion dates and next contact dates through final case resolution. The IPSU will direct taxpayers facing economic burden to TAS for assistance.[221] TAS employees will continue to handle cases involving identity theft when taxpayers:

- Are facing financial difficulties;
- Are dissatisfied with prior attempts to resolve the issue with the IRS; or
- Have unusual circumstances that require TAS's unique advocacy role.

TAS is optimistic about this agreement, which is a good example of how TAS's statutory role as an advocate can succeed in improving service, reducing burden, and protecting the rights of taxpayers. TAS contributed to the evolution of the IRS's approach to identity theft by:

- Noting an increase in the number of taxpayers turning to TAS for assistance when they could not resolve their issues through ordinary IRS channels;
- Identifying, through casework, a lack of IRS procedures to resolve certain account-related issues;[222]
- Using procedural and statutory tools (*i.e.*, Operations Assistance Requests and Taxpayer Assistance Orders) to alert the IRS to the need for additional procedures and account tracking;[223]
- Championing change by establishing a collaborative TAS – IRS task force;
- Including identity theft as a Most Serious Problem in multiple Annual Reports to Congress;[224] and
- Negotiating a memorandum of understanding (MOU) for proper IPSU handling of identity theft cases created by systemic problems.

During FY 2011, TAS will explore whether this approach or something similar can be applied to other tax issues. TAS and the IRS will be able to track these cases to ensure that taxpayers are receiving the proper assistance and are not harmed by this agreement.

221 *See Memorandum of Understanding Between the National Taxpayer Advocate and the Commissioner, Wage & Investment to Transition TAS Criteria 5-7 Identity Theft Cases to Wage & Investment Identity Protection Specialized Unit (IPSU)* (Mar. 31, 2010).

222 *See* IRM 21.6.2 (Oct. 1, 2009), IRM 21.9.2 (Oct. 1, 2009), and IRM 21.3.4.32 (Oct. 1, 2009).

223 TAS issues OARs to the IRS operating divisions and functions when TAS does not have the statutory or delegated authority to take the actions necessary to resolve a case. A TAO is an order issued by the National Taxpayer Advocate or her delegate under IRC § 7811 when the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered.

224 *See* National Taxpayer Advocate 2005 Annual Report to Congress 180-191; National Taxpayer Advocate 2007 Annual Report to Congress 96-115; National Taxpayer Advocate 2008 Annual Report to Congress 79-94; National Taxpayer Advocate 2009 Annual Report to Congress 307-317.

C. TAS Uses Its Statutory and Delegated Authorities to Advocate Effectively in Taxpayer Cases

The National Taxpayer Advocate uses two tools in working with the IRS and advocating for the taxpayer in specific cases: the Operations Assistance Request (OAR) and the Taxpayer Assistance Order (TAO). TAS employs these tools to resolve individual cases, and in the process, engages the IRS to take corrective actions.

1. TAS Communicates with the IRS Through the Operations Assistance Request (OAR) Process

To serve taxpayers more efficiently, the Commissioner delegated to the National Taxpayer Advocate certain tax administration authorities that do not conflict with or undermine TAS's unique statutory mission of advocating for taxpayers, but allow TAS to take many actions to resolve routine problems.

When TAS lacks the statutory or delegated authority to directly resolve a taxpayer's problem, TAS interacts with the responsible IRS operating division (OD) or function to resolve the issue a process necessary in more than half of all TAS cases.[225] After independently reviewing the facts and circumstances of the case and communicating with the taxpayer, TAS uses Form 12412, *Operations Assistance Request*, to transmit documentation to the IRS and convey a recommendation or requested action to resolve the taxpayer's issue. The OAR also serves as an advocacy tool by:

- Giving the IRS a second chance to review the issue;
- Opening discussions between TAS and the IRS in an effort to resolve the issue without having to elevate it; and
- Documenting trends that could lead to improvements in IRS processes.

Each IRS function has agreed to work TAS cases with priority and to expedite the process for taxpayers whose circumstances warrant immediate handling. These agreements require the ODs and functions to direct resources to process OARs and alert them to the number of taxpayers who seek TAS assistance because they have not been able to resolve their problems through regular IRS channels.

TAS and the IRS have jointly studied the OAR process since 2008 to make it more efficient and in FY 2011 will collaborate on improvements. The first steps will include developing a shared vision for the process by:

- Continuing to recognize that OARs require priority attention;
- Reducing the time needed to process an OAR, simplifying processes, and improving accuracy;

225 In FY 2009, TAS closed 128,358 cases without requiring an OAR, representing 45.2 percent of total closures (283,841). During the first six months of FY 2010, TAS closed 47,690 cases without OARs, representing 41.8 percent of total closures (114,195). Data obtained from TAMIS.

- Electronically sharing OAR information, tracking OAR status, and automating the workflow; and
- Promoting a clear understanding of when and how to escalate an OAR through the management chain.

2. TAS Uses Taxpayer Assistance Orders to Advocate for Taxpayers

IRC § 7811 authorizes the National Taxpayer Advocate to issue a Taxpayer Assistance Order (TAO) when a taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered if relief is not granted.[226] In certain circumstances, the National Taxpayer Advocate may issue a TAO to order the IRS to take an action, cease an action, or refrain from taking an action in a case.[227] The National Taxpayer Advocate may also issue a TAO to order the IRS to expedite consideration of a taxpayer's case, reconsider its determination in a case, or review the case at a higher level.[228] Upon receipt of a TAO, the responsible IRS official can either agree to take the action ordered or appeal the order.[229] Only the National Taxpayer Advocate, the Commissioner of Internal Revenue, or the Deputy Commissioner can modify or rescind the TAO.[230]

The TAO can be an effective advocacy tool. In situations where the IRS does not agree with TAS's recommendation, TAS can issue a TAO to advocate for the taxpayer based on the law and the facts of the taxpayer's case. TAS frequently uses the TAO to secure taxpayer relief in situations where the IRS has not taken the actions requested in an OAR. TAS issued seven TAOs in such situations in FY 2009. After the IRS received the TAOs, the IRS complied with the actions required to resolve the taxpayers' accounts. TAS issued 60 TAOs through June 8, 2010.[231]

The table below depicts the number of TAOs issued to the IRS annually from FY 2005 through June 8, 2010.

FIGURE IV.14, TAXPAYER ASSISTANCE ORDERS ISSUED FROM FY 2005 THROUGH FY 2010

Fiscal Year	TAOs Issued
2005	20
2006	46
2007	28
2008	68
2009	45
2010 (Through June 8, 2010)	60

226 *See* IRC § 7811(a)(1); IRM 13.1.20.1 (Dec. 15, 2007).
227 *See* IRC § 7811(b); IRM 13.1.20.3 (Dec. 15, 2007).
228 IRM 13.1.20.3 (Dec. 15, 2007).
229 IRM 13.1.20.5(2) (Dec. 15, 2007).
230 IRC § 7811(c).
231 Data obtained from TAMIS.

Of the 60 TAOs issued through June 8, 2010, the IRS complied with 36, TAS rescinded two, and 22 remain under consideration.

In FY 2009, TAS used the TAO to advocate for the taxpayer in a myriad of situations involving the IRS Collection function.[232] For example, if a taxpayer fails to pay taxes after receiving a notice and demand for payment, the IRS can levy on the taxpayer's property, *i.e.*, legally seize the property to satisfy the debt. However, the IRS will release the levy if:

- The tax, penalty, and interest owed are paid in full;
- The time for collection (the statute of limitations) ended before the levy was served;
- Documentation proves that releasing the levy will facilitate collection of the tax;
- The taxpayer has an installment agreement or enters into one, unless the agreement says the levy does not have to be released;
- The levy creates an economic hardship as defined in Treas. Reg. §301.6343-1(b)(4) and the taxpayer is an individual; or
- The fair market value of the property exceeds the liability, and the levy could be released on a part of the property without hindering collection of the liability.[233]

TAS successfully advocated for taxpayers by issuing TAOs and demonstrating to the IRS that the TAOs met at least one of the conditions established for release of the levy.

In FY 2010, TAS has encountered a growing number of taxpayers seeking relief from civil penalties, and has successfully used TAOs in such cases when the IRS has refused to reconsider a penalty assessment. TAS will continue to issue TAOs as appropriate when the IRS fails to consider all of the facts and circumstances in a penalty abatement case.

TAS has recently used TAOs to advocate for the release of levied funds in instances where taxpayers have used another person's Social Security number (or another person's name and SSN) to work but filed tax returns using their own names and assigned Individual Taxpayer Identification Numbers (ITINs).[234] Individuals using another person's SSN to work have had their wages attached by levies associated with the account of the legitimate holder of the number, when in fact they have reported their earnings for federal tax purposes and paid the associated taxes using their ITINs.[235]

232 National Taxpayer Advocate 2009 Annual Report to Congress 512-513. See also *The IRS's Delay in Incorporating the Tax Court's Decision* in *Vinatieri v. Commissioner* into the *Internal Revenue Manual (IRM) and Other IRS Guidance Unnecessarily Harms Taxpayers Who Are Experiencing Economic Hardship, supra*, for a discussion of how TAOs were used in FY 2010 to resolve collection issues.

233 IRC § 6343(a), Treas. Reg. § 301.6343-1(b).

234 Any individual who has a tax return filing obligation but is not eligible to obtain an SSN must apply to the IRS for an ITIN. IRC § 6109; Treas. Reg. § 301.6109-1(d)(3). See *TAS Assists Taxpayers with Entity Issues, supra*, for additional discussion concerning identity theft.

235 TIGTA, Ref. No. 2010-40-040, *Procedures Need to Be Developed for Collection Issues Associated with Individual Taxpayer Identification Numbers* 2 (Mar. 29, 2010).

However, only certain IRS employees may release a levy under specific circumstances.[236] In a March 2010 report, TIGTA found the IRS has no internal guidance that specifies what an employee should do when an individual who used another person's SSN to work asks the IRS to release a wage levy.[237] TIGTA recommended the IRS "update internal procedures and guidelines to ensure all collection issues are considered and all required actions are taken to resolve the issues and establish a process to notify a taxpayer when there is evidence that the taxpayer's identity (name and SSN) has been compromised."[238] As a result of the TIGTA audit, W&I asked TAS to refrain from issuing OARs on this issue until the division received guidance from the IRS Office of Chief Counsel.[239] Rather than refrain from working these cases indefinitely, TAS issued TAOs to alleviate the economic burden placed on these taxpayers. After receiving assistance from Counsel, the IRS drafted revised procedures for IRM Chapter 5.11.2, *Serving Levies, Releasing Levies and Returning Property,* which should resolve the issue in the future.

TAOs focus the IRS's attention on procedures and policies that are not working as intended. Figure IV.15 lists the tax issues and reason(s) for which TAOs were issued in FY 2010 through June 8.

FIGURE IV.15, TAXPAYER ASSISTANCE ORDERS ISSUED IN FY 2010 THROUGH JUNE 8, 2010

TAO Issue Category	# of TAOs Issued	Explanation of Why a TAO Was Issued
Refunds	6	The IRS refused to process a refund claim.
Technical/Procedural/ Statute	4	The manner in which the IRS administered the tax account caused additional penalty and interest charges to accrue.
		The IRS refused to correct the statute expiration date.
Document Processing	6	The IRS refused to process injured spouse claims along with other document processing issues.
Penalty	8	The IRS refused to reconsider penalty abatement.
Audit	11	The IRS refused to consider additional information provided to support the taxpayer's claim.
		The IRS refused to expedite the taxpayer's claim after proof of economic burden was provided.
Collection	21	The IRS refused to withdraw a lien.
		The IRS refused to release a levy.
		The IRS refused to return wrongfully levied funds.
Other	4	The IRS refused to reconsider its decision to deny an offer in compromise.
		The IRS refused to reconsider an innocent spouse claim.
		The IRS refused to follow its policy concerning cash bond payments.
		The IRS incurred delayed processing of requests for exempt status.
Total	**60**	

236 IRC § 6343(d) authorizes the release of levy proceeds. *See* IRM 5.11.2.3.2 (July 26, 2002).

237 Further, TIGTA found the IRS has no procedures for employees to initiate a process for notifying the taxpayer whose SSN has been stolen. TIGTA, Ref. No. 2010-40-040, *Procedures Need to Be Developed for Collection Issues Associated with Individual Taxpayer Identification Numbers* 2 (Mar. 29, 2010).

238 *Id*. at 3.

239 E-mail from W&I Campus Compliance (Jan. 27, 2010) (on file with TAS).

D. TAS Uses Other Means to Advocate for Taxpayers

For TAS to be effective, taxpayers must be aware of the organization, its role, and the services it provides, and have access to tax-related educational material. TAS engaged Russell Research to identify and deliver data about the taxpayer groups "underserved" by the TAS program.[240] To gain a better understanding of these underserved taxpayers and their preferences, TAS further contracted with Porter Novelli to conduct focus group interviews and style surveys.[241] As a result, TAS developed educational materials and delivery methods to address the different needs and preferences of each component of the underserved audience, and to help taxpayers understand the tax system and the implications of various tax decisions. The material will also aid taxpayers in becoming knowledgeable enough to advocate for themselves on certain tax issues.

1. Identifying Taxpayers in Need of TAS Services

A 2002 Russell Research study found that the TAS underserved included struggling families, unmarried low income taxpayers, surviving spouses, and small businesses, with an overall underserved population of about 5.3 million.[242] A subsequent Russell Research study in 2007 revealed that the underserved segment had grown to 7.9 million.[243] This population was older, better educated, had higher incomes, and contained more non-English speaking taxpayers than in 2002. Perhaps most importantly, it included a much larger component of what was then described as the *stable middle class*. Figure IV.16 shows the various groups of taxpayers making up the underserved population in the 2002 and 2007 studies.

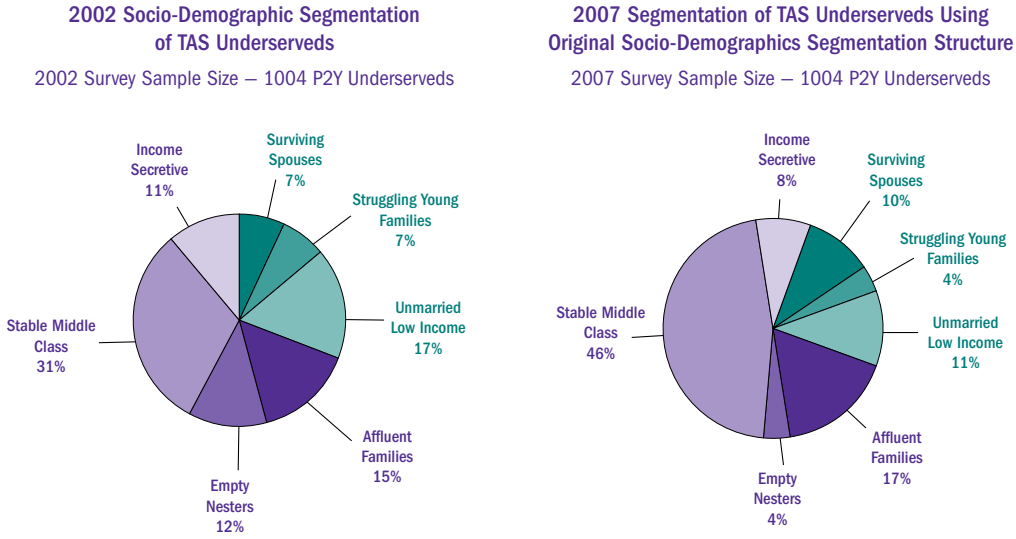
240 The 2002 study showed non-English speakers made up five percent of the underserved audience. In 2007, the figure rose to eight percent. The "stable middle class" rose from 31 percent of the underserved in 2002 to 46 percent in 2007. Russell Research, *Report of Findings from 2007 Market Research for the Taxpayer Advocate Service* 8 (Sept. 6, 2007).

241 Porter Novelli, *2009 Styles Survey Analyses* (Aug. 7, 2009).

242 Russell Research, *Task 149 – Phase II, Findings from the TAS Benchmark Awareness & Usage Study 33* (Feb. 2002).

243 Russell Research, *Report of Findings from 2007 Market Research for the Taxpayer Advocate Service* 9 (Sept. 6, 2007). In FY 2002, the 5.3 million underserved population has a confidence level of plus or minus 1.35 million. In FY 2007, the 7.9 million underserved population has a confidence level of plus or minus 1.95 million. Using the expanded criteria for the underserved population identified in the 2007 study, the underserved population is 10.4 million with a confidence level of plus or minus 2.2.

FIGURE IV.16, COMPARISON OF TAS's UNDERSERVED POPULATION BY SEGMENT FOR 2002 AND 2007[244]



Since its inception, TAS has sought to reach the underserved through partners such as tax practitioners, financial professionals, health and human services professionals, and other associations and community organizations. Each local taxpayer advocate (LTA) conducts an annual grassroots outreach campaign to strengthen and expand these partnerships based on the unique needs of the geographic area served by that LTA. With the latest research findings in hand, we developed a campaign for middle-class taxpayers, built around issues such as cancellation of debt income (CODI) and mortgage foreclosures that we knew would begin to affect large numbers of taxpayers. In FY 2011, TAS will maintain this type of outreach and will also build on its efforts to advocate for taxpayers through:

- Social media;
- Educational efforts; and
- Simplified communications.

a. Reaching the Underserved Through Social Media

To reach more taxpayers, TAS placed numerous educational products on social media sites such as Facebook (http://www.facebook.com/YourVoiceAtIRS), Twitter (http://twitter.com/YourVoiceAtIRS) and YouTube (http://www.YouTube.com/TASNTA). This material includes a series of videos by the National Taxpayer Advocate, addressing taxpayer rights on subjects such as the Philosophy of Advocacy, Choosing a Tax Return Preparer, Regulation of Tax Return Preparers, Identity Theft, CODI, Liens, the Federal Payment Levy Program, and Mortgage Verification, Form 4506-T, *Request for Transcript of Tax Return.* TAS also posted

244 Russell Research, *Report of Findings from 2007 Market Research for the Taxpayer Advocate Service* 27, 28 (Sept. 6, 2007). P2Y stands for past two years.

videos of the National Taxpayer Advocate discussing the top three Most Serious Problems from the 2009 Annual Report to Congress and is planning further videos highlighting other key issues from the report.[245] In FY 2011, TAS will create similar videos for items identified in the upcoming 2010 Annual Report to Congress.

The National Taxpayer Advocate also has recorded a series of videos addressing audit and collection issues.[246] The audit topics include an overview of the audit process, a discussion of correspondence audits, the Automated Underreporter process, and how to appeal an audit determination. The collection series covers alternatives available to taxpayers, such as installment agreements and offers in compromise, and how a taxpayer should proceed if he or she receives a notice of levy or lien.

The focus of all these videos is to inform taxpayers about their rights and responsibilities, and to educate taxpayers on how to proceed when they encounter problems with the IRS. In every video, one message is clear: taxpayers should respond to the IRS and not ignore the issue. The various segments also explain the role of TAS, when to come to TAS for help, and how the Low Income Taxpayer Clinics can help taxpayers.

b. Reaching The Underserved Through Education

Advocacy efforts can be strengthened through education. TAS will continue its educational efforts through:

1. Online Tools

All of the videos discussed above will also appear on the Tax Toolkit, which contains information about basic tax responsibilities for those new to the federal tax system, taxpayers with limited English proficiency, and those with disabilities.[247] The toolkit presents information in both English and Spanish, with some pages in Korean, Vietnamese, Chinese, and Russian. TAS will continue to expand efforts in social media, as a no-cost marketing alternative and to further reach taxpayers online. For FY 2011, TAS intends to develop an online interactive version of the Annual Report to Congress, giving users a more comprehensive, in-depth experience. TAS will also redesign and consolidate the Tax Toolkit with its other electronic toolkits, and will work to develop a new website for the LITCs.

2. IRS Nationwide Tax Forums

The IRS Nationwide Tax Forums are the largest tax practitioner outreach the IRS performs each year. Over the past several years, TAS has presented pertinent information on topics

245 The top three MSPs were: *IRS Toll-Free Telephone Service Is Declining as Taxpayer Demand for Telephone Service Is Increasing*, *One-Size-Fits-All Lien Filing Policies Circumvent the Spirit of the Law, Fail to Promote Future Tax Compliance, and Unnecessarily Harm Taxpayers*, and *The IRS Lacks a Servicewide Return Preparer Strategy*. *See* National Taxpayer Advocate 2009 Annual Report to Congress 41-69.

246 The Exam series of videos has been recorded and will be posted in FY 2010. The Collection series can be found on TAS's YouTube channel (http://www.YouTube.com/TASNTA) and on our Tax Toolkit site (http://www.taxtoolkit.irs.gov/).

247 http://www.taxtoolkit.irs.gov.

at the forum's seminars, including CODI, collection alternatives, the FTHBC, and issues surrounding the IRS lien process.[248] TAS also participates in the Tax Forums by:

- Conducting focus groups on issues identified for inclusion in the National Taxpayer Advocate's Annual Report to Congress, communications tools, and more;
- Staffing an exhibit booth to allow practitioners to learn more about the TAS mission and how TAS can serve their clients; and
- Leading the Case Resolution Program (CRP), which allows practitioners the opportunity to advocate in person and resolve difficult issues on behalf of their clients.[249]

3. Internal IRS Education

TAS educates IRS employees about taxpayer rights and the importance of working together to resolve taxpayer issues. TAS continues to work with the IRS to provide training about TAS to new employees, especially Revenue Agents (RAs) and Revenue Officers (ROs) recently hired through the IRS hiring initiative.[250] In FY 2010, TAS developed job-specific training designed to give RAs and ROs a clear understanding of when to refer a taxpayer to TAS if they are not able to take steps to resolve the taxpayer's problem themselves. In FY 2011, TAS will expand this approach to other compliance operations as well as the Automated Collection System (ACS), the IRS Office of Appeals, and Accounts Management (AM).

c. Simplifying and Focusing TAS Communications with Taxpayers

In line with the servicewide effort by the Taxpayer Advocate Communications Taskgroup (TACT) to simplify and focus communications with taxpayers, TAS is expanding the basic message it places in IRS publications, instructions, websites, and other products. This campaign emphasizes that TAS is "Your Voice at the IRS," and, as such, will advocate for taxpayer rights, as well as educate taxpayers to advocate for themselves.

248 *See* National Taxpayer Advocate 2009 Annual Report to Congress 17.

249 TAS has offered this service for the last several years and plans to continue it in FY 2011 and beyond.

250 A Revenue Agent audits tax returns filed by many types of entities, depending on the IRS business unit. For example, SB/SE RAs audit individual taxpayers and small businesses, while a Large and Mid-sized Business (LMSB) division agent audits corporations with assets in excess of $10 million. A Revenue Officer collects outstanding tax liabilities, secures delinquent returns, and assists taxpayers in reaching compliance.

V. TAS Identifies Problems and Legislative Solutions, and Works with the IRS to Improve Processes

Consistent with its statutory mission, TAS studies issues that negatively affect large groups of taxpayers (*e.g.*, individuals, businesses, and tax-exempt organizations) and, where warranted, proposes recommendations for administrative or legislative change to address the issues. Systemic issues are defined as those that impact multiple taxpayers and:

- Are not individual problems or cases;
- Require analysis, administrative solutions, or legislative changes; and
- Involve protecting taxpayer rights, reducing or preventing taxpayer burden, ensuring equitable treatment of taxpayers, or providing essential services to taxpayers.

TAS uses a variety of sources to identify systemic problems, including TAS employees, IRS employees, tax practitioners, members of Congress, Low Income Taxpayer Clinics, the Taxpayer Advocacy Panel, and the public. These stakeholders submit systemic issues to TAS through a variety of channels, including the Systemic Advocacy Management System (SAMS) on the IRS employee intranet and the TAS site on IRS.gov (http://www.irs.gov/advocate). These submissions help TAS recognize taxpayer problems and gauge their impact on processes. TAS also uses SAMS data to identify and analyze the most serious taxpayer problems for the National Taxpayer Advocate's Annual Report to Congress. The LITCs and TAP provide further insight on issues affecting large groups of taxpayers.

A. Current Advocacy Issues

In addition to economic factors affecting taxpayers' ability to fulfill their tax obligations, TAS anticipates that several advocacy issues emerging from new legislation or IRS processes or procedures will cause problems for taxpayers during FY 2011 and beyond. The following section highlights some of these issues.[251]

1. Increasing Amount of Undeliverable Mail Leads to Potentially Adverse Consequences for Taxpayers and Costly Downstream Processing for IRS.

The IRS communicates with taxpayers and taxpayer representatives primarily through correspondence, mailing over 200 million notices, letters, and other mail each year.[252] In FY 2009, approximately 19.3 million[253] pieces of mail were returned to the IRS for various

251 For a detailed list of current TAS Collaborative Efforts, see Appendix III, *infra*.

252 Bureau of National Affairs (BNA), Daily Tax Report Tax Administration: *IRS Redesigns Nine Notices to Avoid Taxpayer Confusion, Improve Communication* (Jan. 12, 2010); TIGTA, Ref. No. 2010-40-055, *Current Practices Are Preventing a Reduction in the Volume of Undeliverable Mail* 1 (May 14, 2010).

253 TIGTA, Ref. No. 2010-40-055, *Current Practices Are Preventing a Reduction in the Volume of Undeliverable Mail* 1 (May 14, 2010).

reasons.[254] The delivery of refunds, notices, letters, stimulus letters, and other correspondence to a legally established address is essential to effective and efficient tax administration. When taxpayers do not receive timely notification of their tax issues, undue taxpayer burden and unnecessary enforcement actions, including the issuance of levies and liens, may result.

When issuing correspondence, the IRS uses its Integrated Data Retrieval System (IDRS) Masterfile database, which usually contains the "last known address of record" supplied by the taxpayer.[255] However, this may not always be the "best" or most current address for many taxpayers. Further compounding the issue is the fact that the U.S. Census Bureau and the Social Security Administration, along with numerous other federal and state agencies, also use IRS addresses to contact their customers or validate their records.

The National Taxpayer Advocate previously expressed concerns with the IRS's use of the "address of record" standard in the 2007 Annual Report to Congress.[256] The National Taxpayer Advocate recommended that Congress direct the Secretary of the Treasury to develop procedures for checking third party databases for credible alternate addresses prior to sending notices that establish legal rights and obligations, and to require the IRS to mail the notice simultaneously to the last known address and to a credible alternate address if one exists.

TAS recently evaluated randomly selected mail returned to the IRS as undelivered (UD) or undelivered as addressed (UAA). TAS's analysis included only mail received in the Kansas City Campus from October through November 2009. When considering all of the mail reviewed, at least 38 percent of the undelivered mail could be perfected to a "deliverable" address before mailing.[257]

When the United States Postal Service (USPS) returns undeliverable mail to the IRS, the campuses destroy most non-certified mail upon receipt, with no attempt to locate a current address or perfect a faulty one.[258] Only selected UD and UAA notices and letters (mainly final IRS notices and compliance letters) are processed, either by the originating operation or by the IRS's Address Research System, in an attempt to obtain a "possible" current address.[259]

254 TIGTA, Ref. No. 2001-30-168, *Improvements in Recording Third Party Addresses from Tax Returns Will Reduce Undeliverable Business Mail* 2 (Sept. 25, 2001).

255 Neither Masterfile nor outgoing Letter/Notice file addresses are "perfected" to ensure that they meet both United States Postal Service (USPS) address standards.

256 National Taxpayer Advocate 2007 Annual Report to Congress 449-451.

257 TAS informal review of available undelivered mail data (UAA and UD totals tab) (Nov. 2009). One hundred thirty-five pieces of undelivered mail received an "in depth review" to determine if using address locating and perfecting software would make the mail deliverable to the taxpayer. This data forms the basis for the 38 percent. The confidence interval for this data is about plus or minus eight percent, or approximately 38 to 54 percent. Any attempt to show percentages of undeliverable mail that could be fixed by subtype (ADR processing, certified, or non-certified mail) would result in much larger confidence intervals for the subtypes. Due to the small sample reviewed it is not appropriate to generalize this to the population of returned mail.

258 IRM 3.13.62-56 (Jan. 1, 2010). For example, in 2008 and 2009, all economic stimulus payment mail returned as undelivered was destroyed. IRM 21.6.3.6.10 (July 21, 2008).

259 IRM 5.19.7.5 (Jan. 16, 2009). The Address Research System (ADR) is an IRS System that uses internal databases and ACCURINT, contracted locator software, to search for potential new taxpayer addresses. When potential addresses are secured, Letter 2797CG, *R-U-There*, is generated and mailed to all potential taxpayer addresses, requesting that the taxpayer confirm the address, and sign and return the letter. This process can take 112 days or more.

In January 2010, TAS reached out to the W&I Submission Processing and Filing and Payment Compliance functions, as well as the SB/SE Filing and Payment Compliance function, to explore formation of an enterprise-wide task force to address UD and UAA mail issues. This group could explore the impact of requiring all IRS systems and correspondence to use a Masterfile address that is validated and perfected using USPS-approved software to ensure correct and early delivery. Although the IRS has not officially agreed to form the task force, the W&I Office of Taxpayer Correspondence recently invited TAS to participate in an initiative to explore the enhanced usage of Intelligent Mail barcodes.[260] The National Taxpayer Advocate applauds the IRS for seeking TAS's involvement in this study and looks forward to working collaboratively on other UD/UAA mail issues in the remainder of FY 2010 and in FY 2011.

2. Improvements to the Correspondence Audit Program

The National Taxpayer Advocate remains committed to working with the IRS to improve the correspondence audit program, and applauds the IRS for establishing several process improvement teams to address the needs of taxpayers.

Through the Phone Optimization Project, the IRS is attempting to identify ways to improve taxpayer satisfaction with the correspondence audit program by "optimizing" telephone contacts and providing tools to assist with audits related to employee business expenses. However, the National Taxpayer Advocate is concerned that current business systems, tools, and goals could hinder the desired results. Specifically, in regard to the following problems related to the premature issuance of Statutory Notices of Deficiency:[261]

- Requests for managerial conferences and Appeals hearings have not been considered;
- Case transfer requests from correspondence audit to a local office have not been considered;
- Inadequate procedures for receipt, control, and routing prevent documentation from being associated with audit cases;[262] and
- Underutilization of phone conversations with taxpayers impedes the resolution of outstanding issues.

260 The Intelligent Mail barcode is used by the USPS to sort and track letters and flats. According to the Postal Service, it expands the ability to track individual mail pieces and provides customers with greater visibility into the mail stream. USPS, *Intelligent Mail® Barcode Questions and Answers*, Revision 3.4 (Sept. 17, 2008).

261 A "statutory notice of deficiency" or "90-Day Letter," is the Commissioner's determination of a taxpayer's income, estate, gift or certain excise tax (Chapters 41 – 44 of the IRC) deficiencies sent to the taxpayer by certified or registered mail. The taxpayer must file a petition with the United States Tax Court within 90 days from the notice date (150 days if the notice is addressed to a person outside the United States) to contest the proposed assessment, or the IRS will assess the additional tax. IRC § 6213(a). When the IRS issues a premature notice of deficiency, it very often has not considered the documentation that the taxpayer has submitted. Thus, the taxpayer has not had the opportunity to substantiate the position he or she has taken on the return.

262 While the IRS now honors taxpayer requests for extensions of time to submit documentation, it is difficult to update the extensions on the automated system properly and consequently the IRS may issue a Statutory Notice of Deficiency without regard to the extension. For a discussion of problems associated with the automated process utilized by Correspondence Examination, see, *e.g.*, National Taxpayer Advocate 2009 Annual Report to Congress 248–250.

While the IRS is now honoring taxpayer requests for extensions of time to submit documentation, the IRS often fails to document the extensions properly, and consequently may issue a Statutory Notice of Deficiency without regard to the extension.

In FY 2011, the National Taxpayer Advocate will work with the IRS Correspondence Audit improvement teams to correct processes and procedures that generate premature notices of deficiency. The National Taxpayer Advocate further challenges the IRS to design telephone contact strategies within the audit program that address both level of service goals and taxpayer needs.

3. Reasonable Cause Assistant Problems Persist Despite Ongoing Discussions with the IRS

Every year the IRS assesses penalties on millions of taxpayers, many of whom ultimately request penalty abatement for various reasons.[263] In 2000, the IRS implemented the Reasonable Cause Assistant (RCA), a computer-based decision support tool, to help make fair and consistent abatement decisions.[264] As evidenced by persistent RCA-related concerns elevated through SAMS, TAS has observed the contrary.[265]

In 2005, the National Taxpayer Advocate urged the IRS to review the RCA tool and all related training and guidance to determine whether the application actually gives the user the flexibility to fully consider all facts and circumstances.[266] A 2009 IRS Research study supports many of the National Taxpayer Advocate's conclusions and recommendations;[267] however, the IRS has implemented very few of the recommendations.[268] The IRS study also found the following penalty abatement rates:[269]

- 43 percent are abated when RCA is not used;
- 18 percent are abated by subject matter experts (not using the RCA); and
- Only two percent are abated when using the RCA.

While the RCA cannot address every potential issue raised by a taxpayer, the IRS programmed an override option for use when the various relief categories do not adequately address a taxpayer's explanation and managerial assistance may be needed. The two

263 In FY 2009, the IRS assessed at least one of the following penalties - Failure to File (FTF), Failure to Pay (FTP), or Failure to Deposit (FTD) - to 12.2 million taxpayers, including both individuals and businesses. A taxpayer may have been assessed more than one of these penalties or had these penalties on more than one module (counted as one taxpayer). Enforcement Revenue Information System (ERIS) (Sept. 2009).

264 IRM 20.1.1.3.6 (Dec. 11, 2009).

265 Since 2002, there have been 35 RCA-related submissions on SAMS with additional concerns raised almost every month in FY 2010.

266 National Taxpayer Advocate 2005 Annual Report to Congress 357.

267 "Because of customer resource limitations, [the SB/SE Research] user samples were too small to reach conclusions with statistical confidence. However, the evidence [SB/SE Research] did gather seems to indicate that the RCA process is biased and has inconsistent elements." IRS, SB/SE Research RCA Report: *A Study of the Reasonable Cause Assistant*, iii (Oct. 2009).

268 National Taxpayer Advocate 2005 Annual Report to Congress (Most Serious Problem: *Reasonable Cause Assistant*) 357-368.

269 IRS, SB/SE Research RCA Report: *A Study of the Reasonable Cause Assistant*, iii (Oct. 2009). This report addressed FTF and FTP penalties imposed against individuals and FTD penalties imposed against businesses.

percent rate at which RCA users abate penalties may indicate that the IRS does not encourage users to override an RCA decision even when appropriate.[270]

The IRS responded to the National Taxpayer Advocate's 2005 Annual Report to Congress by saying it was developing a proposal to implement a systemic waiver based on the taxpayer's compliance history with regard to three penalties: Failure to File, Failure to Pay, and Failure to Deposit.[271] According to the IRS, the waiver would lead to a decrease in penalties and the number of abatements.[272] To date this has not been accomplished.

In her 2009 Annual Report to Congress, the National Taxpayer Advocate made specific recommendations that the IRS consider development of a more sophisticated usability lab, referred to as the Cognitive Research Lab, to test products and systems.[273] In April 2010, SB/SE conducted a TAS-recommended usability test of the RCA at the IRS's Ogden (Utah) Usability Lab. TAS is awaiting a copy of the final report. In FY 2011, the National Taxpayer Advocate will continue discussions with the IRS to explore the effectiveness of the RCA and develop better reasonable cause guidance to guarantee fair and equitable treatment for all taxpayers.

B. TAS Research Initiatives

The National Taxpayer Advocate is a strong proponent of the role of theoretical, cognitive, and applied research in effective tax administration. The Office of the Taxpayer Advocate is sponsoring or participating in a number of research initiatives that, as a body of work, demonstrate how research enhances taxpayer service and increases the effectiveness of enforcement initiatives. A primary focus of these efforts is to determine how to minimize taxpayer burden, while assisting the IRS with its efforts to increase voluntary compliance. Following is a discussion of the research initiatives that TAS is sponsoring or participating in for the remainder of FY 2010 and during FY 2011.

1. Earned Income Tax Credit (EITC) Audit Effectiveness

The 2002 Annual Report to Congress cited IRS EITC initiatives as sixth out of the 23 Most Serious Problems for taxpayers. Since that time, the IRS has taken significant steps to address many of the difficult problems historically associated with EITC compliance. However, the National Taxpayer Advocate remains concerned that the IRS may disallow the credit for many eligible taxpayers who cannot navigate the correspondence audit process.[274]

270 IRM 20.1.1.3.5 (Feb. 22, 2008).

271 National Taxpayer Advocate 2005 Annual Report to Congress 364. The RCA program was developed to address the abatement of penalties for FTF and FTP by individuals and FTD by businesses.

272 *Id.*

273 National Taxpayer Advocate 2009 Annual Report to Congress 300.

274 *See TAS Assists Taxpayers with Audit Issues, supra.*

The law generally places the burden of proof on the taxpayer, but if he or she cannot sufficiently understand the rules or negotiate the audit process, achieving a correct audit outcome is problematic. TAS Research studies conducted in collaboration with the IRS show that taxpayers encounter barriers during the audit, and representation or TAS assistance helps these taxpayers receive EITC that might otherwise be denied.[275] These studies provide empirical support for the National Taxpayer Advocate's concern that IRS correspondence audit procedures may deny the EITC to eligible taxpayers.

TAS Research is collaborating with the IRS to study whether changes in the EITC audit process can lessen the barriers taxpayers encounter. The study objectives include determining:

- Whether alternative approaches to conducting EITC audits impact the change rate and response rate; and
- Whether alternative approaches impact the taxpayer's perception of the process (*i.e.*, do they ease barriers taxpayers face during correspondence audits conducted under current procedures?).

The study will explore two alternatives to the current EITC correspondence audit process. One test group of taxpayers will have their returns examined in the traditional office audit setting (face-to-face). The second group will be examined by correspondence (typically conducted by campus employees) and will be given a phone number to contact their examiners directly. IRS employees in both test groups will receive training to enhance communication with the taxpayers. The results from the two groups will be compared to results for a control group of similar taxpayers undergoing regular EITC correspondence audits.

TAS plans to complete the study design and coordination with the IRS by December 2010, so the IRS can conduct the test audits during the 2011 filling season.

2. Testing the Effectiveness of Affidavits During EITC Audits

The IRS administers the EITC to millions of taxpayers each year.[276] An important aspect of effective tax administration is to verify the accuracy of the EITC claims. One way the IRS does this is by auditing some of the returns filed. EITC audits represent approximately 36 percent of all individual taxpayer examinations.[277]

The most common reason the IRS disallows EITC claims with regard to children is because taxpayers do not substantiate that their children lived with them for over half of the tax

275 National Taxpayer Advocate 2004 Annual Report to Congress vol. 2 *(Earned Income Tax Credit (EITC) Audit Reconsideration Study). See also* National Taxpayer Advocate 2007 Annual Report to Congress vol. 2 *(The IRS EIC Audit Process - A Challenge for Taxpayers).*

276 Over 23 million filers claimed EITC in tax year 2008. IRS, *Earned Income Tax Credit (EITC) Summary of Vital Statistics* (Aug. 31, 2009).

277 IRS, IRS 2009 Data Book, Table 9a, FY 2009 (508,180 returns were selected for audit on the basis of EITC out of 1,425,888 individual returns audited).

year.[278] IRS audit procedures allow taxpayers to provide either official records or letters on official letterheads to meet the residency test for a child. The process of verifying a child's residency is burdensome for taxpayers, third parties, and the IRS. One proposed change in procedures would give the taxpayer the option of using a third type of documentation, a third-party affidavit. This system would allow third parties with knowledge of the child's residency to fill out a standardized affidavit rather than write a letter.[279]

In 2009, the IRS, with the assistance of TAS Research, began a three-year study to investigate whether the use of third-party affidavits can help EITC claimants demonstrate the residency of qualifying children during audits. The study will answer the following questions:

- To what extent does the use of affidavits reduce underclaims or increase overclaims?
- What percentage of taxpayers used affidavits to try to demonstrate residency of their qualifying children?
- How does the option of using the third-party affidavit affect the efficiency of the audit process?

The initial data collection phase of the study began in February 2010 with EITC audits of tax year 2009 returns.

3. TAS Efficiency Measures

In 2007, the GAO issued a report acknowledging TAS customers' ongoing satisfaction with TAS services. The GAO also noted that TAS case customer satisfaction and case quality remained at high levels despite significant increases in TAS case inventory.[280] However, the report stated that TAS has not developed a true measure of case advocacy efficiency or developed a unit cost per case type.[281] Before it could develop a reliable measure of case advocacy efficiency, TAS had to find a way to capture the direct time actually spent by caseworkers on cases. TAS began developing a system to measure direct case time in FY 2005. However, it was not until June 2009 that TAS's case inventory system received the programming enhancements necessary to achieve a reliable case time tracking system, paving the way for the development of a TAS case advocacy efficiency measure.

TAS Research is part of a TAS team working to develop the case advocacy efficiency measure. The team has prepared an extensive project plan to develop, test, and implement the

278 IRS, *Compliance Estimates for Earned Income Tax Credit Claimed on 1999 Return* 13 (Feb. 28, 2002).

279 The IRS first tested the use of affidavits to establish residency of qualifying children on tax year 2003 taxpayers who participated in a test of a proposed EITC certification process. *See IRS Earned Income Tax Credit (EITC) Initiatives: Report on Qualifying Child Residency Certification, Filing Status, and Automated Underreporter Tests* 8 (2008).

280 GAO, GAO-07-156 *Caseload Has Grown and Taxpayers Report Being Satisfied, but Additional Measures of Efficiency and Effectiveness Are Needed* 3 (Feb. 22, 2007).

281 *Id.*

measure. TAS expects some types of cases to require more direct case advocate time than others because they are inherently more complex. Accordingly, case efficiency will not just depend on the amount of time necessary to work a case but also on the complexity of the case (TAS will use a case complexity measure that it has developed based on 22 different complexity factors). TAS will also incorporate case quality measures that address timeliness and effectiveness in the case efficiency measure calculation.

TAS plans to develop and test case complexity and direct time reports during FY 2010 and to develop recommendations for possible efficiency measure formulas by the end of FY 2010. TAS plans to test case advocacy efficiency measure formulas and establish baseline data during FY 2011, and implement a final case efficiency measure in FY 2012.

4. Math Error Codes for Invalid Dependent Taxpayer Identification Numbers

When the IRS corrects a return with basic errors, it uses its math error authority to adjust the entries and avoid costly audits.[282] The IRS will issue a math error notice when a dependent's taxpayer identification number (TIN) appears to be invalid, generally because the dependent's TIN or last name is different from Social Security Administration records. The IRS also uses a separate math error notice when a dependent's TIN is missing from the return. The issuance of these notices will adjust a number of dependent-related tax items, including credits for household and dependent care expenses, tuition credits, child tax credits, and additional child tax credits. Additionally, the IRS may disallow all or part of the EITC. The taxpayer may respond to the math error notice by phone or in writing with the correct TIN or name and have the dependent exemption and associated credits reinstated. This error identification and correction process delays the taxpayer's refund, takes time, and is costly to the IRS. If the taxpayer fails to respond timely, he or she loses the opportunity to challenge the adjustment in the United States Tax Court.

In our view, in many instances, the IRS has the data needed to correct dependent TIN errors without first issuing math error notices to the taxpayers. Specifically, the procedures for processing original returns with missing or mismatched dependent TINs should allow IRS employees to use more of the readily available research tools to identify or correct dependent TINs. This would be consistent with the TIGTA recommendation in 2003 that the IRS perform adequate research to keep from erroneously denying personal exemptions and EITC claims.[283] Current IRS procedures for identifying and correcting dependent TINs only allow the IRS to search the return and its attachments for a correct number or name. Correcting the return without contacting the taxpayer would save the IRS money and

282 The IRS's math error authority allows the IRS to correct return errors during processing, including calculation errors and entries that are inconsistent or exceed statutory limits. The IRS was granted math error authority in IRC § 6213(b) and can use it only as specified in IRC § 6213(g)(2). An example of a math error correction would be where the IRS can automatically correct a return by disallowing a Child Tax Credit if the filer fails to provide the correct taxpayer identifying number. IRC § 6213(g)(2)(L).

283 TIGTA, Ref. No. 2003-40-124, *Additional Effort Is Needed to Prevent Taxpayers' Personal Exemptions and Tax Credits from Being Erroneously Denied* (May 2003).

reduce the burden placed on the taxpayer when the IRS asks for additional documentation and delays the refund.

TAS initiated a project to explore this issue and determine the number of returns that the IRS could have corrected without contacting the taxpayer, the size of the delayed refund, and the length of the delay. To conduct this study, TAS Research pulled a representative sample of cases with dependent TIN math errors. The study is cataloging:

- The type of error;
- Subsequent IRS collection actions when the disallowance of the credit created a balance due;
- The amount of interest paid by the IRS on refunds held beyond 45 days;
- The effect on the taxpayer's account;
- The outcome of cases petitioned to the Tax Court;
- The number of late or non-respondents who ultimately got their assessments abated;
- The involvement of a paid return preparer; and
- Whether the problem occurs year after year.

TAS Research is also reviewing the number of cases where the taxpayer did not respond to the math error notice, but where IRS data indicate the taxpayer was entitled to the refund. This review will estimate the amount of money the IRS may have erroneously withheld from taxpayers. TAS plans to complete this study by the end of December 2010.

5. Impact of IRS Collection Policies on Financially Stressed Taxpayers

The current economic environment is placing severe financial stress on many taxpayers. This situation is reflected almost daily in media reports of prominent economic indicators such as the unemployment rate, mortgage delinquencies and foreclosures, and depressed levels of private consumption. The National Taxpayer Advocate is concerned about the impact of these challenging conditions on taxpayers.

In a recent study, TAS Research identified recipients of cancellation of debt income (CODI) as a growing taxpayer group undergoing significant financial stress.[284] In FY 2010 and FY 2011, TAS Research will study trends in the volume of issuance of Forms 1099-C, *Cancellation of Debt Income*, IRS treatment of 1099-C recipients, and the impact of the IRS's policies on taxpayers' financial health and tax compliance.
During the 2010 IRS Nationwide Tax Forums, TAS will conduct focus groups with practitioners to explore tax issues affecting the small business community. TAS Research will use

284 National Taxpayer Advocate 2009 Annual Report to Congress vol. 2 *(Subsequent Compliance Behavior of Delinquent Taxpayers: A Compliance Challenge Facing the IRS.).*

the focus group results to identify issues meriting further study and development in FY 2011. Possible issues could include:

- The impact of IRS lien filing and release policies on the current and future compliance of small businesses;
- Availability of collection alternatives (*e.g.*, offers in compromise) to small businesses and their impact on subsequent compliance;
- The success of IRS payment agreement policies in getting and keeping small businesses compliant; and
- The success of IRS employment tax collection policies in preempting significant compliance problems.

VI. Infrastructure for Delivering the TAS Mission

To carry out the functions of the Office of the Taxpayer Advocate, TAS relies on having the correct systems, policies, procedures, evaluative tools, and budget (the infrastructure) to support skilled employees who advocate for taxpayers. Since 2006, when TAS began to experience a significant increase in case receipts due to the IRS's stepped-up enforcement actions, and the recent downturn in the economy, TAS's leaders were challenged to examine the way we did business and determine whether the infrastructure met and would continue to meet the organization's needs.

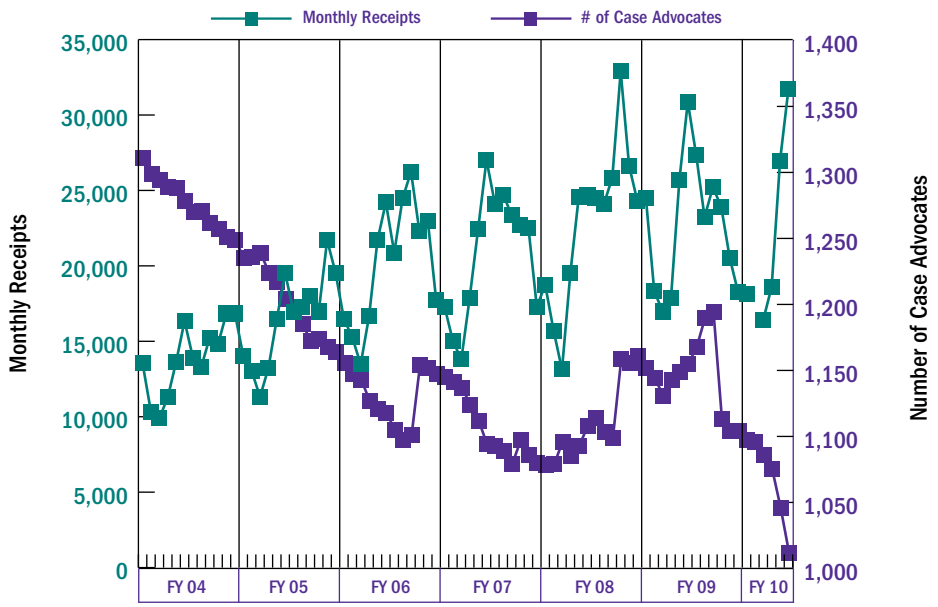
A. TAS Case Inventory Levels

As discussed earlier in this report, a number of factors influence TAS receipts. These factors include late or complex changes in legislation, new IRS initiatives, outdated IRS practices, increased IRS emphasis on enforcement activities, and external factors such as the state of the U.S. economy.

Most of the cases that come to TAS involve instances in which an IRS process, system, or procedure has failed to operate as intended, and as a result, the IRS has failed to timely respond to or resolve a taxpayer issue.

For several years leading up to FY 2009, TAS faced the challenge of increasing workload across all functions of the organization. For example, as shown in Figure VI.1, TAS receipts rose while the number of case advocates working individual taxpayer issues declined during fiscal years 2005, 2006, and 2007. Not until the end of FY 2008 did TAS hiring begin to outpace attrition. It is essential to sound tax administration that taxpayers receive prompt and thorough action when they come to TAS after unsuccessful attempts to resolve their problems with the IRS, or when they experience significant economic hardship.

FIGURE VI.1, TAS MONTHLY RECEIPTS COMPARED TO NUMBER OF CASE ADVOCATES[285]



TAS recognized that simply hiring more case advocates would not effectively address the issue of ever-increasing receipts. Instead, TAS focused its efforts on achieving the right mix of staffing within its case advocacy function, as seen in Figure VI.2 below. For example, TAS created two new case advocacy positions – the intake advocate (IA) and lead case advocate (LCA) – to improve effectiveness, efficiency, and productivity.

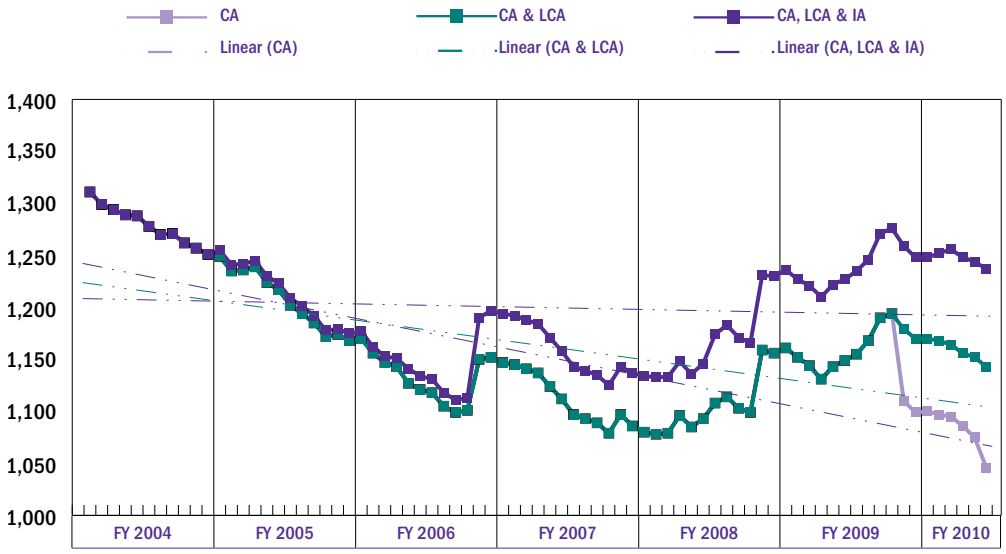
IAs expedite the handling of initial case receipts from taxpayers, their representatives, or the IRS, by performing a variety of up-front duties, including ensuring that the cases meet TAS criteria and that all necessary documents are associated with the cases. This relieves case advocates of these administrative and clerical duties, allowing them to spend more time actually working with taxpayers to resolve their problems.

LCAs conduct non-evaluative reviews of the case advocates' work to identify trends and provide constructive feedback. Lead case advocates also provide one-on-one coaching and instruction to case advocates, helping them resolve complex cases more quickly and efficiently. Although they do not carry a full complement of cases, LCAs are assigned the most complex and sensitive cases to resolve.

285 Monthly receipts data obtained from TAMIS. Case Advocate data obtained from the IRS Human Resources Reporting Center. FY 2010 data through March 2010.

The combination of these three Case Advocacy positions allows TAS to use its resources to advocate more effectively for taxpayers. Additionally, this restructuring of the case advocate position provides a career ladder for employees to advance within the TAS organization.

FIGURE VI.2, CASE ADVOCACY POSITION COMPARISONS AND TRENDS[286]



As reflected in Figure VI.2 above, the total number of case advocates has declined since the last quarter of FY 2009, but this can be attributed in large part to the impact of the hiring of lead case advocates from within the case advocate ranks and the focus on hiring of intake advocates.

Additionally, TAS is collaborating with the IRS to find new processes for identifying and working cases that meet TAS systemic case criteria but do not require TAS's unique advocacy role. Once these cases are identified, the IRS will be given the first opportunity to resolve them, but only if this approach causes no harm to the taxpayer. An example of this approach appears previously in this report in the discussion of identity theft cases.[287]

Even though over 40 percent of TAS's casework is generated by taxpayers experiencing an economic burden, the underlying cause of many economic burden cases is often a systemic IRS problem.[288] So, in addition to a strong case advocacy function (which makes up over 90 percent of all TAS's employees), the National Taxpayer Advocate maintains a staff of

286 Data concerning CAs, LCAs, and IAs were obtained from the IRS Human Resources Reporting Center. FY 2010 data run through March.

287 *See TAS Assists Taxpayers with Entity Issues, supra*.

288 Data obtained from TAMIS. Through March of FY 2010, TAS received 128,103 cases of which TAS identified as 51,779 cases as meeting economic burden criteria.

employees skilled in tax law, research, analytics, critical thinking, and report writing.[289] These employees enable TAS to provide the taxpayer's perspective in working with the IRS on projects and initiatives, recommend improvements to the IRS's procedures and systemic processes to prevent problems for taxpayers, and recommend legislative changes.
In addition to maintaining our staffing level in Case Advocacy in FY 2011, TAS also strives to maintain our staffing levels in other critical functions such as Systemic Advocacy, Research, Attorney Advisors to the National Taxpayer Advocate, and the Low Income Taxpayer Clinic and the Taxpayer Advocacy Panel programs.

Despite an increasing workload, TAS is prudent with its limited budget and is constantly striving to improve its processes and become more efficient while remaining available to taxpayers who require our unique advocacy role.

To better serve its customers, TAS recently reconfigured its organizational structure by creating two new Area offices and realigning offices within the new Area design.[290] TAS considered the following parameters in determining the appropriate restructuring actions:

- Local offices, to the extent possible, should be grouped with other offices in close proximity so that TAS can identify and react to common characteristics (including economy, industry, and culture) that give rise to the region's unique tax problems; and
- To the extent possible, each Area office should be able to perform a comparable amount of work, as impacted by a number of factors, including the number of employees, the number of case receipts, and the complexity of the casework.

The organizational restructuring will allow TAS to advocate more effectively for taxpayers and will improve customer satisfaction, employee satisfaction, and business performance.

B. TAS Continues to Hire a Diverse Workforce

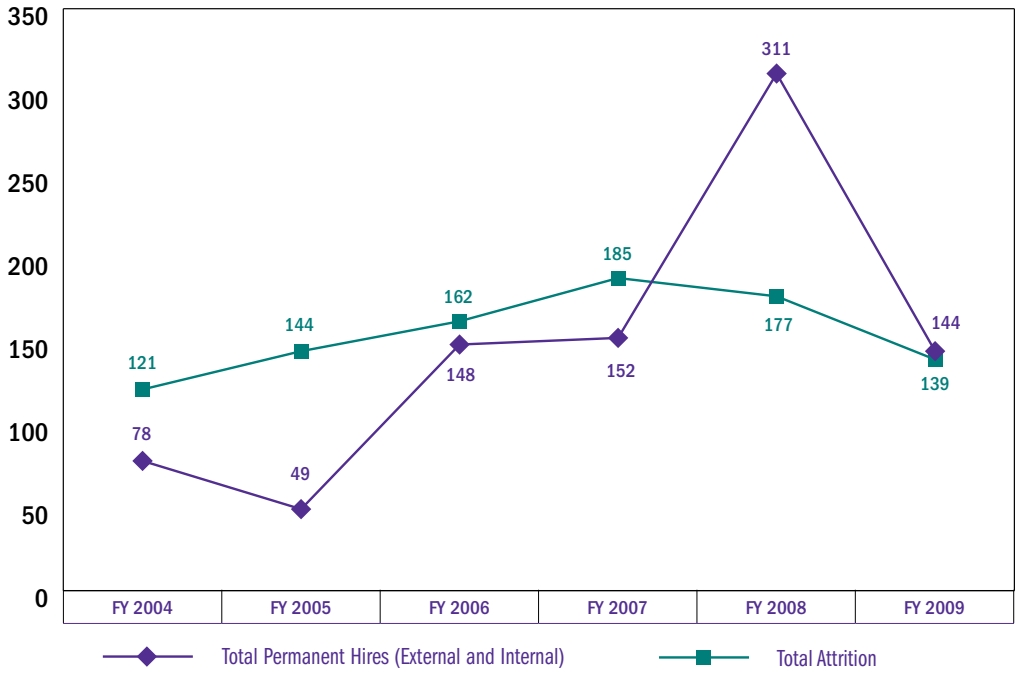
In September 2003, TAS had 2,133 employees. At the end of March 2010, TAS had a total of 2,017 employees in a broad range of functions including 1,800 assigned to Case Advocacy, 32 to Systemic Advocacy, 24 to assist the TAP, ten to assist the LITCs, six assigned to Research, and 145 employees supporting these functions. Based on strong congressional support,[291] for the first time since FY 2003, TAS was able to hire above its annual attrition level in FY 2008 and FY 2009 to meet the needs of its customers.

289 Data obtained from the IRS Human Resources Reporting Center as of March 27, 2010.

290 TAS currently has seven areas servicing its local and campus offices.

291 H.R. 3288, 111th Cong. (2010) allocated nearly $206 million for TAS operating expenses. H.R. 1105, 111th Cong. (2009), allocated $193 million for TAS operating expenses. H.R. 2764, 110th Cong. (2008), allocated $177 million for TAS operating expenses.

FIGURE VI.3, TAS HIRING AND ATTRITION FY 2004 THROUGH FY 2009[292]



TAS recognizes that to make advocacy a reality, it must hire the right employees for the right positions and most importantly, all TAS employees must have an aptitude and attitude for advocacy.

When forecasting its hiring needs, TAS considers both retirements and attrition. TAS projects that approximately 24 percent of its workforce will be eligible to retire in FY 2011. In light of the current economic conditions (with more employees retaining their jobs after achieving retirement eligibility), it is a challenge to project attrition rates and schedule hiring to meet the projections. TAS's attrition rate remains well below that of FY 2008 and prior years. For example, TAS finished FY 2009 with a 7.1 percent attrition rate as compared to 9.4 percent in FY 2008. At the end of March 2010, TAS's attrition rate stood at 3.4 percent, only slightly over the 3.3 percent rate for the same period in FY 2009. In FY 2011, TAS will emphasize maintaining the hiring gains made in FY 2008 and FY 2009, and balance that objective with the need to hire additional employees to address the expected increase in case receipts resulting from the economic downturn and IRS enforcement.

TAS places particular emphasis on hiring applicants with bilingual skills and targeted disabilities. In FY 2009, 13 percent of the case advocates and 20 percent of the intake advocates hired were bilingual. TAS has leveraged the following opportunities to hire individuals with disabilities:

292 Data obtained from the IRS Human Resources Reporting Center.

- Sharing hiring information with the Wounded Warrior Project's "Warriors to Work" program;[293]
- Participating in the Department of Veterans Affairs Non-Paid Work Experience (NPWE) Program.[294] TAS has been able to place 12 veterans through this program and convert seven to permanent positions;[295]
- Using the Schedule A authority to hire individuals with disabilities.[296] In FY 2009, nearly ten percent of TAS's workforce self-identified as having some type of disability and two percent self-identified as having a targeted disability[297]; and
- Hiring student interns, including those hired through the Workforce Recruitment Program for College Students with Disabilities (WRP).[298] Since FY 2003, TAS's participation in the WRP has resulted in 13 permanent hires (nine with targeted disabilities) and 43 internship opportunities for students with disabilities (13 with targeted disabilities).[299]

C. TAS Enters into a Two-Year Project to Update Information Systems

The National Taxpayer Advocate's Fiscal Year 2010 Objectives Report to Congress detailed the immediate need to upgrade and replace the systems on which TAS relies to perform the statutory mission of case advocacy and systemic advocacy.[300] TAS is pleased to report that the IRS has recently approved almost $3.38 million in FY 2010 to begin development of the TAS Integrated System (TASIS).[301] It is anticipated that an additional $3.56 million will be needed in FY 2011 to complete and implement TASIS by 2012.[302] However, engineers estimate the new system will quickly pay for itself through business savings of $18 million over five years.[303] Because TASIS will affect *all* TAS employees, TAS is engaging *all* of its employees to provide ideas to be considered in the development of TASIS and to volunteer to work in trained groups to identify business requirements. This is a once-in-a-generation opportu-

293 The Wounded Warrior Project's Warriors to Work Program helps individuals recovering from severe injuries received in the line of duty to connect with the support and resources they need to build a career in the civilian workforce. *See* http://wtow.woundedwarriorproject.org (last visited May 20, 2010).

294 Through the NPWE Program, a veteran is placed in a local, state, or federal government office. The agency does not pay the veteran. During the placement, the veteran works to gain or strengthen particular skill sets. The goal of the program is for the veteran to obtain full time, permanent employment in the office where he or she is placed or in a similar office. *See* http://www.vba.va.gov/bln/vre/emp_resources.htm (last visited Apr. 29, 2009).

295 *TAS Federal Agency Annual EEO Program Status Report FY 2009, Management Directive 715*, 49.

296 Schedule A appointments are authorized by the Office of Personnel Management and are governed by 5 C.F.R. § 213.3101. Agencies may make appointments under this section to positions that are not of a confidential or policy-determining character and are not in the Senior Executive Service. Positions filled under this authority are excepted from the competitive service and constitute Schedule A.

297 *TAS Federal Agency Annual EEO Program Status Report FY 2009, Management Directive 715*, 7, 37.

298 The Workforce Recruitment Program for College Students with Disabilities is run by the Department of Labor's Office of Disability Employment Policy. It is a resource to connect public and private sector employers nationwide with highly motivated post secondary students and recent graduates with disabilities who are eager to provide their abilities in the workforce. *See* http://www.dol.gov/odep/pubs/brochures/wrp4Cstd.htm (last visited June 22, 2010).

299 *TAS Federal Agency Annual EEO Program Status Report FY 2009, Management Directive 715*, 49.

300 National Taxpayer Advocate FY 2010 Objectives Report to Congress 60-62.

301 Modernization and Information Technology Services (MITS), e-mail, *FY 2010 Above Core Decisions Communication* (Apr. 23, 2010) (on file with author).

302 MITS, Enterprise Services, Estimation Program Office, *Taxpayer Advocate Service (TAS) Integrated System, Release 1: Basis of Estimate (BOE) Report*, version 2.0 5 (Feb. 29, 2008).

303 MITS, Systems Architecture and Engineering, *TAS Assessment* 34 (June 12, 2007).

nity for TAS to dramatically improve the work life of all employees, the service provided to each taxpayer, our advocacy for all taxpayers, and our productivity, efficiency, and effectiveness. Following is a summary from last year's objectives report to highlight the importance and benefits of TASIS.

1. Improving the Efficiency of TAS Information Systems

Through TASIS, taxpayers will experience faster, more consistent case processing; employees will appreciate improved tools for managing their workload; and taxpayers will experience more effective delivery of the advocacy mission. TAS employees fulfill the mission of the Office of the Taxpayer Advocate from 75 locations, operating in every state, the District of Columbia, and Puerto Rico to annually serve more than 270,000 individual and business taxpayers; and even more through systemic analysis of tax laws and administration. These services require interaction with every IRS function. Information systems provide the means of coordinating and managing TAS operations effectively. They are tools for bringing work in, distributing it to the right personnel, communicating with key participants, and recording findings for others in the process. TASIS also supports program planning, evaluation, accountability, and reporting.

TASIS will gather the organization's data needs under one tent, improving linkage between advocacy efforts. It will include connections with other IRS systems to limit repetitive manual research. Consolidation of systems will also streamline administration and the ability to incorporate new tools as they become available by replacing more than 14 legacy systems at the end of their practical limits.

2. Improved Electronic Document Management

A core element of TASIS is electronic document management. TAS operations are still supported largely by paper in spite of various electronic tools. One review of TAS case operations estimated annual paper volume at more than 12 million pages. Aside from storage, that volume requires a mountain of labor and time to research, share, or redistribute. Imaging these records and making them available in a secure environment will eliminate a continual stream of faxing and shipping to get supporting documents in front of the case advocate, manager, reviewer, or supporting IRS personnel. The resulting "virtual" case folders will also preserve hardship assistance efforts when there are emergency office closures.

3. Enhancing Workload Distribution

TASIS will also be designed to distribute work more effectively and to keep assignments on track. Analysis is in progress to create a seamless, automated process capable of receiving work and distributing it to employees with the right skills and availability. System features will support this intake process and will employ workflow tools to keep assignments on schedule. These elements are keys to keeping commitments and resolving taxpayer problems efficiently.

TASIS positions us to incorporate other new services as the IRS progresses. This may include a secure portal through which the taxpayer or representative can apply for TAS assistance or bypass the imaging process by providing documents to TAS electronically. Taxpayers can already check the status of their refunds through the IRS website. TAS case updates may become available as well.

4. Overcoming Challenges for a Successful Implementation

The TASIS project is a two-year effort that is just beginning and will require coordination between contracted developers and several internal Information Technology (IT) functions. Though the IRS has talented staff, the logistics involved in securing thoughtful input from thinly stretched specialists have led to delays on past projects and could pose a risk to the timely completion of TASIS as well. To overcome this obstacle, TAS is hiring staff to help usher TASIS through the process.

The TASIS project strongly reflects IRS strategic foundations for improving efficiency and productivity through use of advanced technology. While the end product will feature striking new improvements for customer, employee, and stakeholder benefit, the underlying design of TASIS will also align with IRS efforts to maximize the benefit of IT investments. To this end, TASIS will be designed to retrieve and send taxpayer information to and from IRS information systems while maintaining taxpayer confidentiality.

TASIS will allow employees to focus their efforts on advocating for taxpayers rather than on clerical or administrative duties.

D. TAS Measures Its Success in Achieving Its Mission

TAS has developed a comprehensive set of measures to gauge its effectiveness in achieving its statutory mission. These measures capture TAS's success in meeting its goals for quality and efficiency, customer satisfaction, and TAS employees' satisfaction. In addition to these measures, TAS assesses its impact on resolving problems that originate from the IRS, as well as its influence on legislative changes. Applying these measures helps TAS consider taxpayers' needs in decisions relating to its processes, policies, and resources, and identifies how issues raised by the National Taxpayer Advocate are considered by the IRS and Congress.

1. How TAS Connects with Taxpayers

TAS listens to taxpayers to determine how well we are helping them. This, in turn, guides TAS in identifying ways to improve customer satisfaction. TAS uses an independent contractor to conduct confidential telephone surveys to obtain the opinions of taxpayers and their representatives who have recently received TAS assistance. The survey covers a broad range of issues that are critical to enhancing customer satisfaction, including timeliness,

fairness, accuracy, and communications. TAS analyzes the survey results to improve the taxpayer's experience.

a. Analysis of FY 2009 Customer Satisfaction Survey: Opportunities for Improvement

TAS has maintained a very high customer satisfaction rate compared to other IRS functions with similar types of casework (for example, Appeals and Accounts Management processing of claims and correspondence). For the last five years, TAS customer satisfaction has ranged from 83 percent to 86 percent.

TAS became concerned that the rise in receipts and resulting higher inventory per case advocate could impact customer satisfaction.[304] In late FY 2008, TAS launched an innovative approach to customer satisfaction, one that included the high-level diagnostics and improvement plans based on needs identified across the organization. This effort also includes office consultation visits – an employee engagement grassroots approach to improving customer satisfaction. Each TAS office has a week-long, facilitated meeting in which all employees analyze expanded customer satisfaction data for their specific office, identify barriers, and develop and implement unique improvement actions. Employees are trained in the continuous improvement cycle and develop office action plans with which they monitor and report on actions they take and the results. Office analysts receive specialized training on data analysis and access to raw customer satisfaction data. Leaders in each office share best practices and learn from each other while receiving coaching on an individual basis. Some offices receive follow-up visits to reinforce the learning and maintain the high level of engagement.

In offices where TAS completed consultation visits, customer satisfaction and employee engagement have increased.

2. Employee Engagement – Creating an Environment for Success

TAS recognizes that a positive work environment is critical to its mission. TAS conducts an annual employee satisfaction survey, sharing its results with employees who work together to develop initiatives to improve the organization.

TAS communicates continuously with all of its employees through a number of media and forums, discussing issues raised by TAS employees in the annual survey and town hall meetings (as well as what TAS is doing to address those issues). TAS's success in engaging its employees is reflected in the 2009 and 2010 surveys, in which 86 percent of employees expressed opinions about their working conditions. In FY 2006, TAS's overall satisfaction rate was 64 percent. The FY 2009 overall satisfaction rate of 74 percent indicates that

304 *See TAS Case Inventory Levels, supra.*

TAS's employee satisfaction level continues to improve.[305] Both the participation rate and the employee satisfaction rate are the highest ever for TAS. When TAS reports its overall employee satisfaction results, each TAS office receives its own results and conducts meetings to discuss how to overcome barriers.

Two examples of how TAS engages its employees are the process we are using to secure employees' ideas in the development of TASIS, and in the customer satisfaction office consultation visits, both discussed earlier in this section.

Another example of employee engagement in TAS is the Support Staff Initiative (SSI), which started in FY 2008 as the result of concerns raised to TAS leadership by our support staff. This initiative engages volunteer support staff in identifying problems unique to their positions, and developing and implementing solutions. So far, the SSI has developed career learning plans for support staff to identify developmental opportunities, launched a web page with information and links to help support staff perform their duties, and developed bridge training that allows support staff to learn skills needed to transfer into technical fields. The SSI is currently developing desk guides and a peer coaching program.

305 FY 2010 overall employee satisfaction rates will not be available until August 2010.

Appendix I: Evolution of the Office of the Taxpayer Advocate

The Office of the Taxpayer Ombudsman was created by the IRS in 1979 to serve as the *primary advocate*, within the IRS, for taxpayers. This position was codified in the Taxpayer Bill of Rights (TBOR 1), included in the Technical and Miscellaneous Revenue Act of 1988 (TAMRA), Pub. L. No. 100-647. In TBOR 1, Congress added IRC § 7811, granting the Ombudsman the statutory authority to issue a Taxpayer Assistance Order (TAO) "if, in the determination of the Ombudsman, the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered by the Secretary."[306] Further, the Taxpayer Ombudsman and the Assistant Commissioner (Taxpayer Services) were directed to jointly provide an annual report to Congress about the quality of taxpayer services provided by the IRS. This report was delivered directly to the Senate Committee on Finance and the House Committee on Ways and Means.[307]

In 1996, Taxpayer Bill of Rights 2 (TBOR 2) amended IRC § 7802 (the predecessor to IRC § 7803), replacing the Office of the Taxpayer Ombudsman with the Office of the Taxpayer Advocate.[308] The Joint Committee on Taxation set forth the following reasons for change:

To date, the Taxpayer Ombudsman has been a career civil servant selected by and serving at the pleasure of the IRS Commissioner. Some may perceive that the Taxpayer Ombudsman is not an independent advocate for taxpayers. In order to ensure that the Taxpayer Ombudsman has the necessary stature within the IRS to represent fully the interests of taxpayers, Congress believed it appropriate to elevate the position to a position comparable to that of the Chief Counsel. In addition, in order to ensure that the Congress is systematically made aware of recurring and unresolved problems and difficulties taxpayers encounter in dealing with the IRS, the Taxpayer Ombudsman should have the authority and responsibility to make independent reports to the Congress in order to advise the tax-writing committees of those areas.[309]

In TBOR 2, Congress not only established the Office of the Taxpayer Advocate but also described its functions:

- To assist taxpayers in resolving problems with the IRS;
- To identify areas in which taxpayers have problems in dealings with the IRS;

306 TAMRA, Pub. L. No. 100-647, Title VI, Sec. 6230, 102 Stat. 3342, 3733 (Nov. 10, 1988).

307 *Id.* at 3737.

308 Pub. L. No. 104-168, Sec. 101, 110 Stat. 1452, 1453 (July 30, 1996).

309 Joint Committee on Taxation, *General Explanation of Tax Legislation Enacted in the 104th Congress*, JCS-12-96, 20 (Dec. 18, 1996).

- To the extent possible, propose changes in the administrative practices of the IRS to mitigate those identified problems; and
- To identify potential legislative changes which may be appropriate to mitigate such problems.[310]

Congress did not provide the Taxpayer Advocate with direct line authority over the regional and local Problem Resolution Officers (PROs) who handled cases under the Problem Resolution Program (PRP). At the time of the enactment of TBOR 2, Congress believed it sufficient to require that "all PROs should take direction from the Taxpayer Advocate and that they should operate with sufficient independence to assure that taxpayer rights are not being subordinated to pressure from local revenue officers, district directors, etc."[311]

TBOR 2 also replaced the joint Assistant Commissioner/Taxpayer Advocate Report to Congress with two annual reports to Congress issued directly and independently by the Taxpayer Advocate. The first report is to contain the objectives of the Taxpayer Advocate for the fiscal year beginning in that calendar year. This report is to provide full and substantive analysis in addition to statistical information and is due no later than June 30 of each calendar year. The second report is on the activities of the Taxpayer Advocate during the fiscal year ending during that calendar year. The report must identify the initiatives the Taxpayer Advocate has taken to improve taxpayer services and IRS responsiveness, contain recommendations received from individuals who have the authority to issue a TAO, describe in detail the progress made in implementing these recommendations, contain a summary of at least 20 of the Most Serious Problems (MSPs) which taxpayers have in dealing with the IRS, include recommendations for such administrative and legislative action as may be appropriate to resolve such problems, describe the extent to which regional problem resolution officers participate in the selection and evaluation of local problem resolution officers, and include other such information as the Taxpayer Advocate may deem advisable. The stated objective of these reports is "for Congress to receive an unfiltered and candid report of the problems taxpayers are experiencing and what can be done to address them. The reports by the Taxpayer Advocate are not official legislative recommendations of the administration; providing official legislative recommendations remains the responsibility of the Department of Treasury."[312]

Finally, TBOR 2 amended IRC § 7811, extending the scope of the TAO, by providing the Taxpayer Advocate with broader authority "to affirmatively take any action as permitted by law with respect to taxpayers who would otherwise suffer a significant hardship as a result of the manner in which the IRS is administering the tax laws."[313] For the first time, the

310 Pub. L. No. 104-168, Sec. 101, 110 Stat. 1452, 1453-54 (July 30, 1996).

311 Joint Committee on Taxation, *General Explanation of Tax Legislation Enacted in the 104th Congress*, JCS-12-96, 21 (Dec. 18, 1996).

312 *Id.*

313 *Id*. at 22.

TAO could specify a time period within which the IRS must act on the order. The statute also provided that only the Taxpayer Advocate, the IRS Commissioner, or the Deputy Commissioner could modify or rescind a TAO, and that any official who so modifies or rescinds a TAO must respond in writing to the Taxpayer Advocate with his or her reasons for such action.

In 1997, the National Commission on Restructuring the Internal Revenue Service called the Taxpayer Advocate the "voice of the taxpayer." In its discussion of the office of the Taxpayer Advocate, the Commission noted:

> Taxpayer Advocates play an important role and are essential for the protection of taxpayer rights and to promote taxpayer confidence in the integrity and accountability of the IRS. To succeed, the Advocate must be viewed, in both perception and reality, as an independent voice for the taxpayer within the IRS. Currently, the national Tax payer Advocate is not viewed as independent by many in Congress. This view is based in part on the placement of the Advocate within the IRS and the fact that only career employees have been chosen to fill the position.[314]

In response to these concerns, in the IRS Restructuring and Reform Act of 1998 (RRA 98), Pub. L. No. 105-206, Congress amended IRC § 7803(c), renaming the Taxpayer Advocate as the National Taxpayer Advocate and mandating that the National Taxpayer Advocate could not be an officer or an employee of the IRS for two years preceding or five years following his or her tenure as the National Taxpayer Advocate (service as an employee of the Office of the Taxpayer Advocate is not considered IRS employment under this provision).[315]

RRA 98 provided for Local Taxpayer Advocates to be located in each state, and mandated a reporting structure for Local Taxpayer Advocates to report directly to the National Taxpayer Advocate. As indicated in IRC § 7803(c)(4)(B), each Local Taxpayer Advocate must have a phone, fax, electronic communication, and mailing address separate from those of the IRS. The Local Taxpayer Advocate must advise taxpayers at their first meeting of the fact that "the taxpayer advocate offices operate independently of any other Internal Revenue Service office and report directly to Congress through the National Taxpayer Advocate."[316] Congress also granted the Local Taxpayer Advocates discretion to not disclose the fact that the taxpayer contacted the Office of the Taxpayer Advocate or any information provided by the taxpayer to that office.[317]

The definition of "significant hardship" in IRC § 7811 was expanded in 1998 to include four specific circumstances: (1) an immediate threat of adverse action; (2) a delay of more than

314 Report of the Commission on Restructuring the Internal Revenue Service: *A Vision for a New IRS* 48 (June 25, 1997).

315 Pub. L. No. 105-206, Sec. 1102, 112 Stat. 685, 699 (July 22, 1998).

316 IRC § 7803(c)(4)(A)(iii).

317 IRC § 7803(c)(4)(A)(iv).

30 days in resolving taxpayer account problems; (3) the taxpayer's incurring of significant costs (including fees for professional representation) if relief is not granted; and (4) the taxpayer will suffer irreparable injury or a long-term adverse impact if relief is not granted. The committee reports make clear that this list is a non-exclusive list of what constitutes significant hardship.[318]

318 *See, e.g.*, H.R. Conf. Rep. No. 105-599, at 215 (1998).

Appendix II: Taxpayer Advocate Service Case Acceptance Criteria

As an independent organization within the IRS, TAS helps taxpayers resolve problems with the IRS and recommends changes to prevent future problems. TAS fulfills its statutory mission by working with taxpayers to resolve problems with the IRS.[319] TAS case acceptance criteria fall into four main categories:

1. Economic Burden

Economic burden cases are those involving a financial difficulty to the taxpayer. An IRS action or inaction has caused or will cause negative financial consequences or have a long-term adverse impact on the taxpayer.

- **Criteria 1:** The taxpayer is experiencing economic harm or is about to suffer economic harm.
- **Criteria 2:** The taxpayer is facing an immediate threat of adverse action.
- **Criteria 3:** The taxpayer will incur significant costs if relief is not granted (including fees for professional representation).
- **Criteria 4:** The taxpayer will suffer irreparable injury or long term adverse impact if relief is not granted.

2. Systemic Burden

Systemic burden cases are those in which an IRS process, system, or procedure has failed to operate as intended, and as a result the IRS has failed to timely respond to or resolve a taxpayer issue.

- **Criteria 5:** The taxpayer has experienced a delay of more than 30 days to resolve a tax account problem.
- **Criteria 6:** The taxpayer has not received a response or resolution to the problem or inquiry by the date promised.
- **Criteria 7:** A system or procedure has either failed to operate as intended, or failed to resolve the taxpayer's problem or dispute within the IRS.

319 IRC § 7803(c)(2)(A)(i).

3. Best Interest of the Taxpayer

TAS acceptance of these cases will help ensure that taxpayers receive fair and equitable treatment and that their rights as taxpayers are protected.

- **Criteria 8:** The manner in which the tax laws are being administered raises considerations of equity, or has impaired or will impair the taxpayer's rights.

4. Public Policy

Acceptance of cases into TAS under this category will be determined by the National Taxpayer Advocate and will generally be based on a unique set of circumstances warranting assistance to certain taxpayers.

- **Criteria 9:** The National Taxpayer Advocate determines compelling public policy warrants assistance to an individual or group of taxpayers.

Appendix III: Collaborative Efforts Between TAS and IRS

Collaborative Effort	Objectives	Status Updates
Large and Mid-Sized Business (LMSB) & Tax Exempt/Government Entity (TE/GE) Rework Studies	Analyze LMSB and TE/GE related TAS cases to determine the causes of rework.	An analysis of TAS's LMSB and TE/GE related casework was completed to determine which cases involve "rework." A report was shared with the National Taxpayer Advocate. The report made suggestions regarding Business Master File (BMF) phone assistance and improvements in the processing of superseding returns. Once approved, TAS will share this information with LMSB and TE/GE and determine the next steps.
Small Business/Self Employed (SB/SE) Correspondence Examination Customer Service Initiative	Improve taxpayer satisfaction within the Correspondence Examination program by optimizing telephone contacts and providing tools and training to assist with Employee Business Expense examinations.	The first phase of this rollout is taking place at the Brookhaven and Cincinnati campuses. Business measures are in place to measure successes, identify failures, and suggest improvements. The training design phase included manager and employee focus groups, as well as an employee questionnaire at the beginning and end of the training. Throughout the three-month implementation, employees and managers are asked for feedback on a weekly basis while intercept telephone surveys capture customer feedback. For comparison, the surveys are conducted on taxpayers served by a newly trained employee and on taxpayers served by an employee who has not had the updated training.
S-Corporation Processing Improvement Team	Assess the current nature and type of unpostable S-Corporation returns and offer taxpayer-friendly solutions to resolve the accounts.	This team has updated S-Corporation correspondence to include new revenue procedure information, offered a redesign of the follow-up letter for a Private Letter Ruling, updated procedures with entity, and worked open cases to resolution. The lessons learned and updated procedures were presented at the 2009 TAS Technical Symposium. In FY 2010, the team is working to incorporate Examination reviews and approval into entity processing.

Collaborative Effort	Objectives	Status Updates
Adjusted Employment Tax Return Program	Reduce burden for employers and the IRS by creating a new set of user-friendly forms and implementing a more accurate process for making adjustments. The new forms will replace Form 941c, Supporting Statement to Correct Information. The new forms correspond with Form 941, *Employer's Quarterly Federal Tax Return*, Form 943, *Employer's Annual Federal Tax Return for Agricultural Employees*, Form 944, *Employer's Annual Federal Tax Return*, Form 945, *Annual Return of Withheld Federal Income Tax*, and Form CT-1, *Employer's Annual Railroad Retirement Tax Return*. The new forms and process apply to errors discovered on or after January 1, 2009.	The IRS released the new forms, implemented new procedures, and guidance in 2009. The guidance found in Rev. Rul. 2009-39 provides special rules for adjusting employment taxes to correct reporting errors using the interest-free adjustment and refund claim processes prescribed in IRC §§ 6205, 6402, 6413, and 6414. In 2010, the cross-functional team continues to: ■ Monitor the filing and processing of the new forms; ■ Address systemic and procedural problems that arise; ■ Revise and update the forms, instructions, and publications; ■ Coordinate and monitor unified work requests; and ■ Implement IRS's marketing and communication strategies.
Appeals and SB/SE Fast Track Task Force	Appeals and SB/SE Fast Track is an alternative dispute resolution strategy that seeks to resolve disputes in 60 days. It shortens the audit process, allowing taxpayers and representatives to resolve issues with revenue agents and appeals officers during the audit. Benefits result from reduced burden and audit cycle time.	As of May, 2010 Appeals had received 21 SB/SE Fast Track Settlement (FTS) cases, six less than the 27 cases received for the same period in FY 2009. Since the pilot began in September 2006, Appeals has closed 159 cases, with an average cycle time of 69 days. Although receipts have fallen slightly, Appeals continues to believe SB/SE will shift mediation cases to FTS because the FTS program grants the mediator settlement authority.[320]

320 Appeals, *Appeals Business Performance Review, Second Quarter FY 2010* 10 (May 20, 2010).

Collaborative Effort	Objectives	Status Updates
Technical Working Group (TWG) for Identity Theft Victim Assistance	The TWG develops recommendations for improving procedures for and reducing the burden facing identity theft victims. The group engages in cross-functional discussion, gathers identity theft case data, and analyzes the burden of affected taxpayers to recommend improvements to the process.	The group will continue to elevate identity theft case scenarios for which procedures are incomplete, inconsistent, or non-existent. Other identity theft issues for 2010 include developing a proactive strategy around the "Theft of a Dependent's SSN"; distinguishing between refund fraud, forgery, and ID theft and developing IRM procedures for each; reviewing the business rules triggered by the identity theft marker and the resulting "unpostable" procedures; and improving the processing of ID theft issues by TAS and the IRS functions relative to Criminal Investigation accounts impacted by ID theft.
Fraud Action Team	Modernize the IRS's ability to protect revenue from fraud and other forms of noncompliance at the front end, before the IRS releases a refund. This is a cross-functional team that provides input into the direction of the project, as well as training, education, configuration control, enhancements definition, and modeling alignment.	TAS identified a programming error that erroneously froze refunds for combat veterans. Accounts Management verified that the error has been corrected. Return Review Program (RRP) will replace the Electronic Fraud Detection System (EFDS) and provide new capabilities to: ■ Detect additional fraudulent return claims; ■ Integrate legacy systems; ■ Automate manual processes; ■ Provide flexibility to support changing business needs; ■ Enable treatment stream selection based on available resources; ■ Enable use of additional treatment streams to effect pre-refund compliance; ■ Provide support of analysis and case processing needs of both civil and criminal investigative employees who play a role in criminal prosecution, revenue protection, account management, and taxpayer communications; and ■ Reduce the percentage of non-fraudulent refund claims frozen by the IRS.

Collaborative Effort	Objectives	Status Updates
IRC § 3401 Collection Due Process (CDP) Working Group	The CDP Working Group is a cross-functional team of IRS stakeholders with a vested interest in CDP matters who collectively work to resolve issues and improve the CDP process. The working group will assess planned procedural changes or problematic CDP issues, such as review and reconsideration of the current CDP and offer in compromise (OIC) workflow.	The team has not met since April 2008. It planned to reconvene in February or March 2010, but no meetings have been scheduled.
Payment Alternatives – OIC	The task force is taking a closer look at OIC policy and procedures and will determine if they are needlessly deterring taxpayers from submitting good offers (*i.e.,* an offer that represents a good-faith attempt by a taxpayer to resolve the tax debt).	The team is reviewing changes to OIC processing criteria and equity in real property valuations and will gauge the effectiveness of these changes. The team will explore the current reasonable collection potential (RCP) formula to determine if other suitable alternatives exist. Moreover, the team will conduct an "end to end" review of the OIC process with a focus on barriers that may be keeping taxpayers from submitting offers.
Employment Tax Treatment of Home Care Service Recipients	This team is addressing systemic problems regarding the employment tax treatment of in-home care service recipients. Employment tax rules and regulations are complex and applying those rules in situations where the employer-employee relationship involves a home-care service recipient and a home-care service worker can be difficult. The absence of clarity creates compliance problems for employers and administrative challenges for the IRS.	The team implemented administrative solutions to better identify these tax relationships and to reduce inappropriate collection and enforcement action against elderly and disabled taxpayers. The team worked with Chief Counsel to ease reporting and filing requirements for fiscal agents who perform payroll functions for home care service recipients. On January 13, 2010, Treasury issued proposed regulations under IRC § 3504 to allow an enrolled participant in a home care services program to designate an agent to report, file, and pay all employment taxes, including federal unemployment (FUTA) taxes. The change will allow an agent to file a single federal unemployment tax return for multiple home care service recipients. The team also worked with SB/SE to design a Schedule R (Form 941, Employer's Quarterly Federal Tax Return) and Schedule R (Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return) for agents to allocate wages, tax, and credits for each employer (service recipients) starting in 2010. The team will monitor the filing and processing of Schedule R (Forms 941 and 940).

Collaborative Effort	Objectives	Status Updates
Enterprise Wide Employment Tax Program (EWETP)	The EWETP team developed the Employment Tax Strategy to emphasize a collaborative and strategic approach for establishing priorities, goals, and measures for improving employment tax compliance. The team includes members from all IRS functions.	The IRS Compliance Counsel has approved the Strategy, which reinforces the commitment to operate in developing servicewide employment tax work plans. For FY 2010, the EWETP team and sub-teams will focus on helping taxpayers comply through education and voluntary programs; implementing an enterprise approach to resource allocation; leveraging technology and new learning; and exploiting third party information. The EWETP team will implement a communications plan and develop strategic measures to determine impact on taxpayer behavior.
IRS Coordinated Response to CSX Decision Team	Develop a coordinated strategy to respond to approximately 50,000 protective claims for refund or credit of overpaid employment taxes.[321] These claims are based on *CSX Corp. v. United States*, 518 F.3d 1328 (Fed. Cir. 2008) which addressed whether certain payments made pursuant to reduction in force programs are considered wages for purposes of Federal Insurance Contributions Act (FICA) and Federal Unemployment Tax Act (FUTA) taxes and compensation for purposes of Railroad Retirement Tax Act (RRTA) taxes. The U.S. Court of Appeals for the Federal Circuit decided in the government's favor, holding that all payments are subject to taxes.	The team developed procedures to systemically disallow all of the claims. In 2009, the IRS piloted a disallowance process to measure taxpayers' responses and identify resources needed to process the responses as well as address the needs of taxpayers exercising appeal rights. Very few taxpayers responded in the pilot phase. In February 2010, the IRS launched a mass disallowance process. Taxpayers are responding and some are exercising their appeal rights. Recently, a new batch of claims has been filed in response to the U.S. District Court decision in *Quality Stores, Inc. v. United States*, 424 B.R. 237 (W.D. Mich. 2010), which affirmed the bankruptcy court decision in 383 B.R. 67 (Bankr. W.D. Mich. 2008), concluding that the severance payments made to the employees were not wages for purposes of FICA taxation. The IRS had appealed the decision to the U.S. Court of Appeals for the Sixth Circuit.
Third Party Payers	TAS is collaborating with SB/SE Collection Policy, SB/SE Employment Tax Policy, and Chief Counsel to address the effects of misappropriation of employment taxes by third party payers, to improve IRS work processes to allow early interventions and notice to taxpayers about outstanding liabilities, and to issue guidance on case resolution, collection alternatives, and relief available to victims of third party payer failures.	In December 2009, the group began researching the viability of sending dual confirmation letters to the new and former addresses of the taxpayer when it appears that a third party may have changed the address on the Form 941 to the third party's address; as well as developing targeted outreach and education for affected taxpayers. In January 2010, the IRS Office of Penalty and Interest Administration (OPIA) updated the Reasonable Cause Assistant (RCA) tool to include additional questions and answers in the Reporting Agent category for consideration of penalty relief requests from affected taxpayers whose Payroll Service Provider (PSP) failed to pay their payroll taxes over to the IRS. OPIA rescinded permission to waive the use of RCA in these instances.

321 *See* Servicewide Electronic Research Program (SERP) Alert IMF/BMF 100072, *Disallowance of CSX/SUB-Pay Claims* (Feb. 17, 2010).

Collaborative Effort	Objectives	Status Updates
Form 944, *Employers Annual Employment Tax Program*	The IRS launched the Form 944, *Employer's Annual Tax Return* program in 2006 as a customer-friendly initiative to reduce burden and simplify employment tax reporting, filing and payment requirements for certain taxpayers and to reduce administrative cost to the IRS.	The National Taxpayer Advocate disagreed with the launch and recommended the IRS pilot the program first. In 2009, the IRS removed the mandatory requirement for taxpayers to participate. As of January 2010, taxpayers can decide whether to file Form 944 annually or file Form 941 quarterly. The servicewide Form 944 team is monitoring the transition.
Internal Management Documents (IMD) Counsel	The Internal Management Documents (IMD) Oversight Council collaborates on and implements strategies related to all IMD activities. The Council supports the IRS goal of ensuring the IRM is the official source of all procedures, policy, directives, delegations, and guidelines.	TAS continues to negotiate with the Servicewide Policy Directives and Electronic Research office (SPDER) for changes based on the IRM 1.11 series.
Automated Underreporter (AUR) Customer Satisfaction Team	Review and analyze customer satisfaction data to recommend immediate (within 12 months) improvement initiatives to improve customer satisfaction within AUR.	The kick-off meeting was held January 26, 2009, in Philadelphia. The team held practitioner focus groups at the Tax Forums and employee focus groups at every campus. The team has identified initial opportunities for improvement and is working on five business solutions. SB/SE elected to pursue the Maximize the Value of Phones (MVP) solution. The team is developing storyboards to support an online case research and process tool for every AUR tax technician. Bargaining with the National Treasury Employees Union (NTEU) is underway, with pilot testing scheduled for October through December 2010.
Fraud Detection Center (FDC)/ Special Assistance Unit and Pre-Refund Steering Committee Tiger Team	This cross-functional team has been overseeing the transition of pre-refund holds and identification of potentially fraudulent returns or refund schemes. In addition, a "Tiger Team" identifies and addresses issues with procedures. TAS participates to protect taxpayer rights during the implementation.	Fraudulent withholding may be assessed under IRC § 6201(a)(3) after the IRS has issued a refund. The team discussed the benefits and cost of creating these assessments. TAS stressed the need to ensure that only fraudulent refunds are assessed, and that taxpayers have recourse when they are found to be victims of preparer fraud or identity theft.

Collaborative Effort	Objectives	Status Updates
International Planning and Operations Council (IPOC) Servicewide Approach to International Tax Administration	The objective of the Servicewide Approach is to improve tax administration to deal more effectively with the increase of globalization of individual and business taxpayers. This will be accomplished through servicewide cooperation in addressing emerging international issues. The priorities are to improve voluntary compliance with the international tax provisions and reduce the tax gap attributable to international transactions. The approach includes three strategic goals of international tax administration: improved taxpayer service, enhanced enforcement of tax laws, and modernizing the IRS to deal more effectively with the global economy.	The Council will evaluate the effectiveness of the IRS Strategic Plan for 2009-2013 to enforce the law to ensure all taxpayers meet their obligation to pay taxes, improve service to make voluntary compliance easier and invest for high performance.
First-Time Homebuyer Credit (FTHBC) teams and committees	TAS is an active participant in a number of collaborative efforts to implement, control, monitor, and manage FTHBC cases and inquiries. The Executive Director, Systemic Advocacy is a member of the IRS FTHBC Executive Steering Committee (ESC) and chairs the TAS FTHBC Steering Committee. TAS also established a joint TAS/OD FTHBC Team to address elevated concerns stemming from TAS casework.	Ongoing meetings will identify emerging issues and seek systemic solutions.

Collaborative Effort	Objectives	Status Updates
American Recovery and Reinvestment Act of 2009 (ARRA) Team	The Compliance ARRA team is working to develop a compliance strategy for the three FTHBC laws: The Housing and Economic Recovery Act of 2008 (HERA); the ARRA; and the Worker, Homeownership and Business Assistance Act of 2009 (WHBAA). TAS participates in all activities to protect taxpayer rights and ensure that taxpayers are not unnecessarily burdened when claiming the credit.	Group activities include: ■ Research studies to profile FTHB and identify non-compliant characteristics for examination. ■ Development and programming of audit selection rules for both Exam using the Dependent Database, and Accounts Management using the Integrated Automation Technology (IAT) tool, X-claim. ■ Implementation of math error authority after working issues with Chief Counsel ■ Soft notice development to inform the taxpayer of FTHBC recapture rules. ■ Forms, notice and publication updates. ■ Continuing Professional Education (CPE) for employees. ■ Outreach and education through a variety of media, including IRS.gov. TAS participates in weekly meetings with the ARRA Exam Compliance Team. If an issue cannot be resolved on the analyst level, it is elevated to the Executive Director of Systemic Advocacy for inclusion in the IRS FTHBC meeting. Executives and other key personnel from TAS, Exam, and AM hold regular conference calls on FTHBC issues, with TAS's internal steering committee sharing the information with TAS employees.
FTHBC Study	This study was created to track and if possible correct the issues that TAS is seeing involving the FTHBC, both in casework and systemic issues relayed through SAMS.	This study will begin in FY 2010.

Collaborative Effort	Objectives	Status Updates
The Stuffer Elimination Task Force	The Correspondence Reduction team continues to develop Unified Work Requests (UWR) to eliminate inserts included with notices sent to the Reporting Agents File (RAF) and the Centralized Authorization File (CAF) - Power of Attorney representatives. The team is working with Tax Forms and Publications to revise Form 2848, *Power of Attorney and Declaration of Representatives*. ■ Proposed text changes, notifying taxpayers that their representatives will not be receiving inserts, were submitted for the Form 2848 and Form 8821, *Tax Information Authorization.* ■ A "What's Hot Topic" is ready for posting to IRS.gov, where representatives look for important changes to tax products. The team also provided the National Distribution Center a list of the inserts that taxpayers or their representatives can request. All of the inserts can be obtained on irs.gov.	The test coincided with the Correspondence Reduction Team's quarterly face to face meeting.

Collaborative Effort	Objectives	Status Updates
TACT Team – Interim Letters	The Commissioner chartered the Taxpayer Communications Taskgroup (TACT) to study and improve the clarity, accuracy, and effectiveness of written communications to taxpayers. Five different work teams, all with representatives from Systemic Advocacy, Field Systemic Advocacy, Research, or a TAS Attorney Advisor, are looking at the notices and correspondence sent to taxpayers as well as the processes in place that generate those notices. The work of TACT will be conducted through the eyes of the taxpayer. TACT aims to: ■ Simplify and clarify language; ■ Streamline and improve business processes; ■ Develop alternative electronic solutions; ■ Eliminate unnecessary or duplicate notices, letters, reminders and inserts; ■ Reduce erroneous correspondence; and ■ Institute effective measures, including taxpayer responsiveness. The teams have identified the letters, notices, and inserts with the most need (based on concerns, complaints, and volume) for revision. The Commissioner will make a final decision on which documents to change. A contractor is developing prototypes for the letters already approved for revision (for example Letter 566, *Examination Initial Contact Letter*).	The initial data analysis found the use of interim letters is inconsistent across functions, with a variety of formats, content, and timeframes in use and that current letters do not meet customer needs. The team developed a proposal to standardize and automate the use of interim letters. The team drafted revised letters that would be written in plain language and provide uniformity between operations, and also proposed a consistent timeframe for the letters. The team developed an executive briefing package, has started briefing W&I executives, and is receiving valuable feedback.

Collaborative Effort	Objectives	Status Updates
W&I: Address Research System (ADR)	Implement use of United States Postal System (USPS) electronic mail information for Certified and other mail that is currently received by the IRS Notice Delivery System (NDS) but not currently utilized. Send all USPS undelivered mail status information to ADR System for processing. ■ Future enhancements/updates for ADR & Telephone Number Research (TNR) (future state); ■ Process of submitting work requests and/or Information Technology Application Modernization System (ITAMS) tickets for Locator Services; ■ Understanding the vendor process and soliciting for future enhancements; ■ Discuss the impact and feasibility of reducing ADR timeframes from 112 days; and ■ Data collection and research.	TAS participated in a Work Request review (May 3-7, 2010) in Ogden with Address Research System (ADR) Operating Division and ADR programmers. Several pending work requests (WR) were discussed which would enhance the correct delivery of IRS notices and letters to taxpayers The IRS will begin implementation of enhancements as follows: ■ Use specific coding to determine if undelivered mail is due to a "bad address;" ■ Perfect "bad address" undeliverables; and ■ Scan all undelivered mail sent to ADR and post mail status to the taxpayer entity section of the IRS database before continuing ADR processing. Additional Enhancements will include: ■ Using the USPS electronic mail status file; ■ Changing Master File Addresses for any forwarding addresses provided by USPS; ■ Sending Letter 2797 Are You There letters for any third party potential address; ■ Processing other undelivered mail in ADR to obtain a potential new address; and ■ Sending a 2797 letter to potential addresses using contracts with LexisNexis (Choicepoint) and internal IRS information approved by Chief Counsel.

Executive Oversight Boards and Steering Committees

The Executive Director Systemic Advocacy participates on the following executive steering committees and/or oversight boards:

- Return Review Program Advisory Committee;
- Information Reporting Document Matching Advisory Committee;
- First-Time Homebuyer Credit Executive Steering Committee;
- TAS First-Time Homebuyer Credit Steering Committee;
- TAS Identity Theft Steering Committee;
- Examination Executive Governance Board;
- Collection Governance Council;
- Pre-Refund Program Executive Steering Committee;
- Language Services Executive Steering Committee;
- Senior Manager Executive Readiness Board;
- Office of Privacy and Information Protection Advisory Committee; and
- Collection Process Study Advisory Committee.

The overall objective is to share information and participate in decision making.

Appendix IV: List of Low Income Taxpayer Clinics

Low Income Taxpayer Clinics (LITCs) represent low income taxpayers before the Internal Revenue Service and assist taxpayers in audits, appeals, and collection disputes. LITCs can also help taxpayers respond to IRS notices and correct account problems.

If you are a low income taxpayer who cannot afford professional tax assistance or if you speak English as a second language (ESL) and need help understanding your taxpayer rights and responsibilities, you may qualify for help from an LITC that provides free or nominal cost assistance. Although LITCs receive partial funding from the IRS, the clinics, their employees, and their volunteers are completely independent of the federal government. The LITCs listed below are operated by nonprofit organizations or academic institutions.

Clinics receiving federal funding for the 2010 calendar year are listed below. Each clinic independently decides if you meet the income guidelines and other criteria before it agrees to represent you. Eligible taxpayers must generally have incomes that do not exceed 250 percent of the Federal Poverty Guidelines. The Federal Poverty Guidelines are published annually by the Department of Health and Human Services and can be found at http://aspe.hhs.gov/poverty/index.shtml.

In lieu of an LITC, low income taxpayers may be able to receive assistance from a referral system operated by a state bar association, a state or local society of accountants or enrolled agents, or another nonprofit tax professional organization.

This publication is not a recommendation by the IRS that you retain a Low Income Taxpayer Clinic or other similar organization to represent you before the IRS.

Low Income Taxpayer Clinics
Type of Clinic: C = Controversy Clinic; E = ESL Clinic; and B = Both Controversy and ESL Clinic

State	City	Organization	Public Phone Numbers	Type of Clinic	Languages Served in Addition to English
AK	Anchorage	Taxpayer Education Services	907-272-5432	B	Yupik, Korean, Samoan, German, Spanish
	Anchorage	ABDC's Volunteer Tax and Loan Program	1-800-478-3474 907-562-0335	B	All Alaskan Native Languages
AL	Birmingham	Lawson State Community College LITC	205-929-6384	E	Spanish
	Montgomery	Legal Services Alabama	1-866-456-6353 334-223-0504	B	Spanish
AR	West Memphis	Delta Economic Education Resource Service	870-733-1700 1-877-733-1704	B	Spanish
	Fayetteville	Legal Aid of Arkansas	1-800-967-9224 479-442-0600	B	Spanish, Marshallese
	Little Rock	William H Bowen School of Law LITC	501-324-9441	B	Spanish
AZ	Phoenix	CLS LITC Controversy and Outreach Program	1-800-852-9075 602-258-3434	B	Spanish
	Chinle	DNA-People's Legal Services, Inc.	1-800-789-5242 928-647-5242	B	Navajo, Hopi
	Tucson	Taxpayer Clinic of Southern AZ	520-622-2801	B	Spanish
CA	Fresno	Central California Legal Services LITC	559-570-1200 1-800-675-8001	B	Spanish, Hmong
	San Francisco	Asian Pacific Islanders Legal Outreach	415-567-6255	B	Cantonese, Mandarin, Vietnamese, Japanese, Tagalog, Korean, Lao, Punjabi, Hindi, Russian, Chiu Chow, Taiwanese
	Orange	Chapman University Tax Law Clinic	1-877-242-7529 714-628-2535	C	Spanish, Vietnamese
	San Francisco	Chinese Newcomers Service Center	415-421-2111 ext. 691	B	Cantonese, Mandarin, Chinese
	Los Angeles	HIV/AIDS Legal Services Alliance (HALSA)	1-866-953-1293 213-637-1690	C	Spanish, American Sign Language
	San Diego	Legal Aid Society of San Diego, Inc. LITC	1-877-534-2524	B	Spanish, Russian, French, German, Farsi, Arabic, Tagalog, Korean, Vietnamese, Chinese, Laotian
	Northridge	The Bookstein Tax Clinic	818-677-3600	B	Spanish
	San Diego	University of San Diego Tax Clinic	619-260-7470	B	Spanish
	San Francisco	Homeless Prenatal Program LITC	415-546-6756	B	Spanish
	San Francisco	VSLP Low Income Taxpayer Clinic	415-982-1600	C	Spanish
	San Luis Obispo	Cal Poly CITC	805-756-2951	B	Spanish
	Santa Ana	Legal Aid Society of Orange County	1-800-834-5001 714-571-5200	B	Farsi, Spanish, Vietnamese
CO	San Luis	Southern Colorado LRC Tax Clinic	719-672-1002 1-866-607-8462	B	Spanish
	Denver	University of Denver LITC	303-871-6239	C	English
	Denver	Colorado LITC	303-388-7030	B	Spanish, Vietnamese, Russian
CT	Hamden	Quinnipiac University School of Law LITC	203-582-3238	C	Spanish, Other languages as arranged
	Hartford	University of Connecticut School of Law Tax Clinic	860-570-5165	C	Spanish

State	City	Organization	Public Phone Numbers	Type of Clinic	Languages Served in Addition to English
DC	Washington	Janet R. Spragens Federal Tax Clinic	202-274-4144	C	Spanish
	Washington	CARECEN's ESL LITC	202-328-9799	E	Spanish
	Washington	UDC David A. Clarke School of Law LITC	202-274-7300	B	Spanish, Other languages as arranged
DE	Wilmington	Delaware Community Reinvestment Action Council (DCRAC) LITC	1-877-825-0750	B	Spanish
FL	Plant City	Bay Area LITC	813-752-1335	B	Spanish, Creole
	Palatka	Community Legal Services of Mid-Florida (CLSMF) LITC	1-866-886-1799 386-328-9361	B	Spanish
	St. Petersburg	Gulfcoast Legal Services LITC	727-821-0726 1-800-230-5920	B	Spanish
	Miami	Sant La LITC	305-573-4871	E	Spanish, Haitian, Creole
	Plantation	Legal Aid Service of Broward County LITC	954-765-8950	B	Spanish, Creole
	West Palm Beach	Legal Aid Society of Palm Beach County LITC	561-655-8944 ext 287 1-800-403-9353	B	Spanish, Creole
	Miami	Legal Services of Greater Miami, LITC	305-576-0080	B	Creole, Haitian, Spanish
	Tallahassee	Legal Services of North Florida	850-385-9007 ext 55	B	Spanish
	Jacksonville	Three Rivers Legal Services LITC	904-394-7450	B	Spanish, Bosnian
GA	Atlanta	Georgia State University College of Law Tax Clinic	404-413-9230	C	Spanish
	Hinesville	JC Vision and Associates LITC	912-877-4243 1-866-902-4266	B	Spanish
	Cedartown	Tax Care Clinic	706-252-2178	C	English
HI	Honolulu	Community Tax Education & Tax Assistance LITC	1-800-839-5200 808-528-7046	B	Chuukese, Filipino, Italian, Hawaiian, Japanese, Korean, Marshallese, Samoan, Vietnamese
	Honolulu	Legal Aid Society of Hawaii	1-800-499-4302 808-527-8050	B	Japanese, Filipino, Chinese, Spanish, Vietnamese
IA	Des Moines	Legal Services Corporation of Iowa	1-800-532-1275	B	Spanish, Other Languages
ID	Moscow	College of Law Legal Aid Clinic	208-885-6541 1-877-200-4455	B	Spanish
	Boise	Boise Family Strengthening Center LITC	1-800-796-4131 208-345-6031	E	Spanish
	Twin Falls	LaPosada Tax, Inc.	208-735-1189	B	Spanish
IL	East Dundee	Administer Justice	847-844-1100	B	Spanish
	Chicago	Midwest Tax Clinic	312-630-0280 1-888-827-8511	B	Spanish
	Chicago	Korean American Community Services	773-583-5501	E	Korean, Spanish
	Chicago	Chicago Kent College of Law LITC	312-906-5050 312-906-5041	C	Spanish
	Chicago	Loyola University Chicago School of Law Federal Tax Clinic	312-915-7176	C	English
	East St. Louis	Taxpayer Outreach Clinic	1-866-862-8293 618-874-8580	B	Chinese, Spanish

State	City	Organization	Public Phone Numbers	Type of Clinic	Languages Served in Addition to English
IN	Valparaiso	Valparaiso University Law Clinic	219-465-7903 1-888-729-1064	C	Spanish, Chinese, Russian, Polish, Korean
	Indianapolis	Neighborhood Christian Legal Clinic	317-429-4131	B	Spanish, French, Chinese, Korean, Burmese
	Bloomington	LITC at ILS Bloomington	1-800-822-4774 812-339-7668	C	English
KS	Lawrence	Legal Services for Students	785-864-5665	B	Spanish, Additional Languages
	Wichita	South Central Kansas LITC	316-688-1888 1-800-550-5804	C	Spanish
KY	Somerset	LITC of Appalred	1-800-866-7313 606-679-7313	B	All Languages
	Louisville	Legal Aid Society LITC	502-584-1254 1-800-292-1862	B	Spanish plus 150 other languages
	Erlanger	Northern Kentucky University LITC	859-572-5781	C	Spanish
LA	New Orleans	New Orleans Legal Assistance	504-529-1000 1-877-521-6242	C	Spanish, Vietnamese, Hindi, Portuguese
	Monroe	North Louisiana Low Income Tax Clinic	318-362-0074	B	Spanish
	Baton Rouge	Southern University Law Center LITC	225-771-3333	C	English
MA	Waltham	Bentley College Multi-Lingual Tax Information Program	781-891-2083	B	Spanish, Portuguese, Russian, Haitian, Chinese
	Boston	Greater Boston Legal Services LITC	1-800-323-3205 617-371-1234	B	Chinese, Creole, Haitian, Spanish
	Springfield	Springfield Partners for Community Action	413-263-6500	B	Spanish, Vietnamese, Chinese, French, Portuguese, Russian
ME	Bangor	Pine Tree Legal Assistance	207-942-8241	B	All Languages
MD	Baltimore	University of Baltimore Tax Clinic	410-837-5706	C	All Languages
	Baltimore	Maryland Volunteer Lawyers Service LITC	1-800-510-0050 410-547-6537	C	English
MI	East Lansing	Michigan State University College of Law – LITC	517-336-8088	B	All Languages
	Ann Arbor	University of Michigan Law School Tax Clinic	734-936-3535	B	Spanish
	Detroit	Accounting Aid Society LITC	1-866-673-0873 313-566-1920	B	Arabic, Spanish, Other
MN	Minneapolis	Mid-Minnesota Legal Assistance LITC	1-800-292-4150 612-332-1441	B	Spanish, Somali, Russian, Arabic, Hmong, Oromo, Amharic, Other
	Minneapolis	University of Minnesota Tax Clinic	612-625-5515	B	Somali, Hmong, Spanish
MO	Kansas City	ESL/LEP Taxpayers Awareness Clinic	1-800-990-2907 816-474-6750	B	Spanish
	Springfield	Missouri State University LITC	417-836-3007 417-836-5414	B	Chinese, Korean Spanish, Thai, Vietnamese
	St. Louis	Harris-Stowe Tax Clinic	314-256-8175	B	Spanish
	Kansas City	Kansas City Tax Clinic	816-235-6201	C	English
MS	Oxford	Mississippi Taxpayer Assistance Project	1-888-808-8049	B	All Languages
	Jackson	The FI & ED Tax Clinic	601-500-7739	B	Spanish
MT	Missoula	Montana Legal Services Association LITC	1-800-666-6899 1-800-666-6124	C	English

State	City	Organization	Public Phone Numbers	Type of Clinic	Languages Served in Addition to English
NC	Greenville	Northeastern NC Low Income Taxpayer Assistance Project	252-758-0113 1-800-682-4592	B	Spanish
	Charlotte	Western North Carolina LITC	1-800-438-1254 704-971-2622	B	Spanish
	Camden	Northeastern Community Development Corporation	252-338-5466	B	Spanish
ND	New Town	Legal Services of North Dakota LITC	1-877-639-8695 1-800-634-5263	B	Arikara, Hidatsa, Mandan, Dakota Sioux, Métis, French Chippewa
NE	Omaha	Legal Aid of Nebraska LITC	402-438-1069	B	Spanish
NH	Concord	Legal Advice & Referral Center	1-800-639-5290 603-224-3333	E	All Languages
	Concord	NH Pro Bono LITC	603-228-6028	C	Spanish, Other Languages
NJ	Newark	Rutgers Law School Federal Tax Clinic	973-353-1685	C	All Languages
	Edison	Taxpayers Legal Assistance Program	1-888-576-5529 732-575-9100	B	Spanish, French, Creole, 19 other languages
	Jersey City	Northeast New Jersey Legal Services	201-792-6363	B	Spanish, Tagalog, Korean
	Bridgeton	South Jersey Legal Services	1-800-496-4570 856-691-0494	B	Spanish
NM	Albuquerque	University of New Mexico School of Law Clinical Law Programs	505-277-5265	C	English
NV	Las Vegas	Nevada Legal Services LITC	1-866-432-0404 702-386-0404	B	Spanish
NY	Albany	Albany Law School Clinic & Justice Center LITC	518-445-2328	C	Spanish
	Brooklyn	Bedford-Stuyvesant LITC	718-636-1155	C	Spanish, Haitian, Chinese
	Buffalo	Erie County Bar Association Volunteer Lawyers Project LITC	1-800-229-6198	C	Spanish, French
	New York	Fordham Law School Tax Litigation Clinic	212-636-7353	C	Spanish
	New York	Legal Aid Society LITC (NY)	212-426-3013	B	Spanish, Chinese
	Rochester	Volunteer Legal Services Project LITC	585-232-3051	E	Spanish, Interpretive for Hearing Impaired
	Bronx	Legal Services for New York City – Bronx LITC (LSNY Bronx)	718-928-3700	C	English
	Jamaica	Queens Legal Services Corporation	718-657-8611 347-592-2178	B	Chinese, Creole, Hindi, Korean, Russian, Spanish, Urdu
	Rochester	Pathstone, Inc.	585-340-3300 1-800-888-6770		
	Brooklyn	Brooklyn Low Income Taxpayer Clinic	718-237-5528	B	Spanish, 140 other languages
	Syracuse	Syracuse University College of Law LITC	1-888-797-5291 315-443-4582	C	Spanish, Vietnamese
	Elmsford	WestCOP Taxpayer Education Services	914-592-5600	E	Spanish
	Flushing	Young Korean American Service & Education Center LITC	718-460-5560 718-460-5600	E	Korean

State	City	Organization	Public Phone Numbers	Type of Clinic	Languages Served in Addition to English
OH	Toledo	Advocates for Basic Legal Equality LITC	1-888-534-1432 419-255-0814	B	All Languages
	Akron	Community Legal Aid Services LITC	1-800-998-9454	B	All Languages
	Columbus	Ohio State Legal Services Association LITC	1-800-589-5888 614-221-7201	C	Spanish
	Piketon	Community Action Committee of Piketon County	1-866-820-1185 740-289-2371	C	English
	Cleveland	Friendship Foundation of American-Vietnamese LITC	216-961-6005	E	Cambodian, Laotian, Spanish, Arabic, Vietnamese
	Columbus	Legal Aid Society of Columbus LITC	1-877-224-8374 614-224-8374	C	Spanish, Somali, Ejagham, French, Creole, Ethiopian
	Cleveland	Legal Aid Society of Cleveland LITC	1-888-873-9665 216-687-1900	C	English
OK	Oklahoma City	Oklahoma Indian Legal Services LITC	405-943-6457 1-800-658-1497	B	Navajo
	Tulsa	CAP, LITC	918-382-3200	B	Spanish, Russian, Ukrainian, Vietnamese
OR	Gresham	E! Programa Hispano	503-669-8350	B	Spanish
	Portland	Legal Aid Services of Oregon LITC	1-888-610-8764 503-224-4094	B	Spanish, Russian
	Portland	Lewis & Clark College Legal Clinic	503-768-6500	C	All Languages
PA	Lancaster	Central Pennsylvania Federal Tax Clinic	1-800-732-0018 717-299-7301	B	Spanish
	Pittsburgh	LITC Tax Practicum	412-396-5877	C	English
	Philadelphia	PFP/VIP LITC	215-981-3800 1-888-541-1544	B	Spanish
	Pittsburgh	University of Pittsburgh School of Law LITC	412-648-1300	C	English
	Philadelphia	Villanova University School of Law Federal Tax Clinic	610-519-4123 1-888-829-2546 (E) 1-866-655-4419 (S)	C	Spanish
PR	Santa Isabel	Pathstone of Puerto Rico	1-888-440-1716	B	Spanish
RI	Providence	Rhode Island Legal Services LITC	401-274-2652 1-800-637-4529	B	Spanish
	Providence	Rhode Island Tax Clinic LITC	401-421-1040	B	Spanish, Portuguese, Creole
SC	Greenville	South Carolina Legal Services	1-888-346-5592	B	All Languages
	Columbia	South Carolina Association of Community Action Partnerships LITC	1-888-722-4227 803-771-1524	E	Spanish
SD	Spearfish	South Dakota LITC	605-642-6002	C	Lakota
TN	Nashville	Conexion Americas LITC	615-269-6900	E	Spanish
	Memphis	Memphis Area Legal Services, Inc.	901-523-8822	B	All Languages
	Oak Ridge	Legal Aid Society Tennessee Taxpayer Project	865-483-8454 1-866-481-3669	B	Spanish

State	City	Organization	Public Phone Numbers	Type of Clinic	Languages Served in Addition to English
TX	Sugarland	Centro Familiar Cristiano, Inc. LITC	281-340-2400	E	Spanish, German
	Midland	Federal Tax Clinic	1-877-333-8925 432-682-5200	B	Spanish
	San Antonio	Project Quest	210-270-4690	B	Spanish
	Houston	Houston Volunteer Lawyers Program LITC	713-228-0732	C	Spanish, Urdu, Mandarin, Vietnamese
	El Paso	El Paso Affordable Housing LITC	915-838-9608	E	Spanish
	Ft. Worth	Legal Aid of Northwest Texas	1-800-906-3045 972-542-9405	B	Spanish
	Austin	Texas Rio Grande Texas Taxpayer Assistance Project	1-888-988-9996	B	Spanish
	Lubbock	Texas Tech University School of Law LITC	806-742-4312 1-800-420-8037	B	Spanish
UT	Provo	Centro Hispano	801-655-0258	B	Spanish, Portuguese
	Salt Lake City	University of Utah LITC	1-888-361-5482 801-236-8053	B	Spanish
VA	Arlington	EDG LITC Clinic	703-685-0510	E	Spanish, Amharic, Farsi, Vietnamese
	Richmond	Community Tax Law Project LITC	804-358-5855 1-800-295-0110	B	Spanish
	Lexington	Washington & Lee LITC	540-458-8918	B	Spanish
VT	Barre	Central Vermont LITC	802-479-1053 1-800-639-1053	B	Bosnian, Spanish, French, Russian
	Montpelier	Vermont Low Income Taxpayer Project	1-800-889-2047 802-863-5620	C	English
WA	Spokane	Gonzaga University School of Law LITC	1-800-793-1722 509-313-5791	B	Spanish, Russian
	Seattle	University of Washington School of Law LITC	206-685-6805 1-866-866-0158	B	Spanish, Russian, Somali, Chinese, Japanese, Korean
WI	Milwaukee	University of Wisconsin-Milwaukee LITC	414-229-3232 1-866-896-5482	C	English
	Milwaukee	Taxpayer Advocacy and Counseling Services	1-888-565-8135 414-725-5326	C	Spanish
	Whitewater	University of Wisconsin-Whitewater LITC	262-472-1293 1-877-899-5482	B	Spanish
	Wausau	Wisconsin Judicare LITC	1-800-472-1638 715-842-7681	B	Spanish, Hmong
WV	Morgantown	Clinical Law Program LITC	304-293-7249	C	All Languages
	Martinsburg	Legal Aid of West Virginia	1-866-255-4370 304-343-4481	B	Spanish
WY	Jackson	Teton County LITC	1-888-310-6999 307-734-0333	E	Spanish

Appendix V: FY 2011 TAS Operational Priorities

The TAS mission statement is, "As an independent organization within the IRS, we help taxpayers resolve problems with the IRS and recommend changes that will prevent the problems." TAS accomplishes its mission by:

- Resolving taxpayer problems accurately and timely;
- Protecting taxpayer rights;
- Reducing taxpayer burden;
- Becoming a known taxpayer advocacy organization;
- Enhancing taxpayer access to TAS; and
- Sustaining and supporting a fully engaged and diverse workforce.

The areas TAS identified as operational priorities for FY 2011 and the objectives and strategies that support these priorities are listed below. TAS strategically uses its resources to effectively and efficiently accomplish its mission and improve all balanced measures by engaging employees in the Continuous Improvement Cycle and action plans to improve processes. TAS's collaborative efforts with the IRS, and the FY 2011 goals of these initiatives are contained in Appendix III of this report.

TAS Goal 1 (G1): Resolve Taxpayer Problems Accurately and Timely

IRC § 7803(c)(2)(A)(i)
In general, It shall be the function of the Office of Taxpayer Advocate to-
(i) assist taxpayers in resolving problems with the Internal Revenue Service.

IRC § 7803(c)(2)(C)(ii)
The National Taxpayer Advocate shall –
(ii) develop guidance to be distributed to all Internal Revenue Service officers and employees outlining the criteria for referral of taxpayer inquiries to local offices of taxpayer advocates.

Objective G1.1 Advocate, communicate, and get to the right answer in providing assistance to individual taxpayers.

STRATEGY G1.1.1: CONTINUOUSLY UPDATE ADVOCACY TOOLS AND GUIDANCE TO EMPOWER EMPLOYEES TO EFFECTIVELY ADVOCATE FOR TAXPAYERS.

Operational Priority G1.1.1.1: Identify, develop, and deliver advocacy tools.

Operational Priority G1.1.1.2: Identify, develop, and deliver timely guidance.

STRATEGY G1.1.2: ENGAGE TAS CUSTOMERS THROUGH CLEAR AND CONCISE COMMUNICATION.

Operational Priority G1.1.2.1: With an understanding of taxpayers' needs and preferences, simplify and enhance TAS's communications with its customers.

Objective G1.2: Enhance the TAS case intake workload distribution process.

STRATEGY G1.2.1: INTEGRATE TAS'S CASE INTAKE PROCESS AND WORKLOAD DISTRIBUTION SYSTEMS.

Operational Priority G1.2.1.1: Design a case intake and workload distribution system that assigns casework based on issues, needs of the taxpayer, and case advocate availability and skills.

Operational Priority G1.2.1.2: Test aspects of the new case intake and workload distribution system before finalizing for the new TASIS.

Objective G1.3: Capture opportunities to provide improved customer service and reduce taxpayer burden.

STRATEGY G1.3.1: CONTINUE FOCUS ON DMAIC DRIVEN PROCESS IMPROVEMENT USING DATA FROM THE CUSTOMER SATISFACTION SURVEYS, PRODUCT QUALITY REVIEW, AND OTHER BUSINESS RESULTS.[322]

Operational Priority G1.3.1.1: Study issues with low relief rates and low response rates to determine barriers and possible process improvements.

Operational Priority G1.3.1.2: Continue work with the IRS to improve the processing of Operations Assistance Requests (OARs) to reduce taxpayer burden, employee rework, and reduce time to resolve the taxpayer's problem.

Operational Priority G1.3.1.3: Share best practices and successes in customer satisfaction to be applied through all offices through an interactive and collaborative tool.

STRATEGY G1.3.2: IDENTIFY AND PURSUE OPPORTUNITIES TO IMPROVE TAS CASE REFERRALS.

Operational Priority G1.3.2.1: Collaborate with the IRS on case referral criteria where the National Taxpayer Advocate has determined the IRS should be given the first opportunity to resolve problems meeting TAS criteria, as long as taxpayers are not harmed by the process.

Operational Priority G1.3.2.2: Collaborate with the IRS to improve the process for referring cases to TAS, focusing on efficiency and quality of information.

322 TAS uses the DMAIC approach to: Define the problem, Measure the impact, Analyze barriers, Implement improvements, and Control actions.

TAS Goal 2 (G2): Protect Taxpayer Rights and Reduce Burden

IRC § 7803(c)(2)(A)(ii)–(iv)
In general, It shall be the function of the Office of Taxpayer Advocate to-
(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service;
(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii); and
(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

Objective G2.1: Advocate for changes in the tax law or IRS procedures that reduce taxpayer burden and improve IRS effectiveness.
STRATEGY G2.1.1: ANALYZE CASES AND ISSUES RECEIVED TO IDENTIFY SOURCES AND SYSTEMS THAT GENERATE TAS CASEWORK AND RECOMMEND PROCESS IMPROVEMENTS AND LEGISLATIVE RECOMMENDATIONS THAT WILL REDUCE TAXPAYER BURDEN.
Operational Priority G2.1.1.1: Propose or direct changes in the administrative practices of the IRS to improve their processes.
STRATEGY G2.1.2: SERVE AS THE TAXPAYER'S VOICE WHEN THE IRS IS EXPLORING OPERATIONAL CHANGES THAT AFFECT TAXPAYERS.
Operational Priority G2.1.2.1: Collaborate with the IRS to promote the taxpayer's perspective and include TAS in policy decisions, new initiatives, and work processes.
STRATEGY G2.1.3: MODEL THEORETICAL, COGNITIVE, AND APPLIED RESEARCH TO ENHANCE EFFECTIVE TAX ADMINISTRATION.
Operational Priority G2.1.3.1: Sponsor or participate in research initiatives to minimize taxpayer burden, while assisting the IRS with its efforts to increase voluntary compliance.

Objective G2.2: Support Low Income Taxpayer Clinics (LITCs) in their mission to represent low income taxpayers before the IRS and provide multilingual information about taxpayer rights and responsibilities to taxpayers whose native language is not English.
STRATEGY G2.2.1: EFFECTIVELY ADMINISTER THE LITC GRANT PROGRAM.
Operational Priority G2.2.1.1: Support LITCs by improving the grant process and expanding coverage.
Operational Priority G2.2.1.2: Develop an online toolkit that allows for collaboration and information sharing among LITCs.

Objective G2.3: Support the Taxpayer Advocacy Panel (TAP) in their mission to listen to taxpayers' concerns, identify taxpayers' issues, and make suggestions for improving IRS service and customer satisfaction.
STRATEGY G2.3.1: EFFECTIVELY SUPPORT THE TAXPAYER ADVOCACY PANEL
Operational Priority G2.3.1.1: Provide the Taxpayer Advocacy Panel with support, funding, and administrative oversight.
Operational Priority G2.3.1.2: Redesign the TAP website to increase collaboration and information sharing among TAP members.

TAS Goal 3 (G3): Become a Known Taxpayer Advocacy Organization.

IRC § 7803(c)(2)(C)(ii) and (iii):
The National Taxpayer Advocate shall –
(ii) develop guidance to be distributed to all Internal Revenue Service officers and employees outlining the criteria for referral of taxpayer inquiries to local offices of taxpayer advocates;
(iii) ensure that the local telephone number for each local office of the taxpayer advocate is published and available to taxpayers served by the office.

Objective G3.1: Understanding taxpayers' and stakeholders' perspectives, leverage opportunities to enhance TAS's identity as a taxpayer advocacy organization by engaging in clear and open communication.
STRATEGY G3.1.1: CONDUCT RESEARCH TO IDENTIFY AND UNDERSTAND TAS's UNDERSERVED POPULATION.
Operational Priority G3.1.1.1: Conduct the recurring action items as part of TAS's 5-year cycle to identify its underserved population
STRATEGY G3.1.2: CONDUCT OUTREACH AND EDUCATION TO ENHANCE AND EXPAND AWARENESS OF TAS SERVICES.
Operational Priority G3.1.2.1: Conduct effective outreach to TAS's target audiences and continue to refine messages used in TAS's notices, letters, and publications.
STRATEGY G3.1.3: COMMUNICATE AND COLLABORATE WITH STAKEHOLDERS TO STRENGTHEN THE ROLE OF TAS AS THE TAXPAYER'S VOICE AT THE IRS.
Operational Priority G3.1.3.1: Effectively communicate with Congress on tax advocacy issues.
Operational Priority G3.1.3.2: Effectively communicate with the IRS regarding tax advocacy issues.
Operational Priority G3.1.3.3: Effectively communicate and engage with tax professionals.

Objective G3.2: Provide taxpayers a variety of avenues to access TAS.
STRATEGY G3.2.1: PROACTIVELY SEEK OPPORTUNITIES TO ALLOW FOR INCREASED INTERACTIONS WITH CUSTOMERS.
Operational Priority G3.2.1.1: Utilize and expand the use of toolkits and social media sites such as Facebook, YouTube, and Twitter to deliver key messages and educational information to TAS's underserved taxpayers and key stakeholders.
Operational Priority G3.2.1.2: Develop and test alternative methods for taxpayers to contact TAS for assistance.
STRATEGY G3.2.2: COLLABORATE WITH FOREIGN TAXING AUTHORITIES TO EXCHANGE INFORMATION REGARDING THE ROLE OF ADVOCACY IN TAX ADMINISTRATION.
Operational Priority G3.2.2.1: Meet with officials in the taxing agencies of foreign countries to discuss the concept, design, and mission of TAS.

TAS Foundation 1 (F1): Enhance TAS Infrastructure to Improve Taxpayer Interaction.

IRC § 7803(c)(4)(B)
Maintenance of independent communications. Each local office of the taxpayer advocate shall maintain a separate phone, facsimile, and other electronic communication access, and a separate post office address.

IRC § 7803(c)(4)(A)(IV)
In general, Each local taxpayer advocate –
(iv) may, at the taxpayer advocate's discretion, not disclose to the Internal Revenue Service contact with or information provided by such taxpayer.

Objective F1.1: Use information technology that interfaces with IRS systems and enhances TAS's ability to accomplish its statutory mission.
STRATEGY F1.1.1: DESIGN, DEVELOP, AND TEST INFORMATION TECHNOLOGY SOLUTIONS TO MEET TAS'S OPERATIONAL NEEDS AND ALIGN WITH ITS INTEGRATED SYSTEM.
Operational Priority F1.1.1.1: Develop information systems to replace outdated databases and manual processes.
Operational Priority F1.1.1.2: Enhance TAS systems to make them user-friendly.
STRATEGY F1.1.2: COLLABORATE WITH MODERNIZATION AND INFORMATION TECHNOLOGY SERVICES (MITS) AND OUTSIDE VENDORS TO DEVELOP AND DEPLOY AN EFFICIENT AND INTEGRATED INFORMATION TECHNOLOGY SYSTEM.
Operational Priority F1.1.2.1: Continue development of the Taxpayer Advocate Service Integrated System (TASIS) with MITS Application Development.
Operational Priority F1.1.2.2: Deploy components of TASIS as they become available.

Objective F1.2: Protect the privacy and security of taxpayer and employee data.
STRATEGY F1.2.1: COMPLY WITH ALL REGULATIONS AND AGENCY DIRECTION GOVERNING THE SAFEGUARDING OF TAXPAYER AND EMPLOYEE DATA.
Operational Priority F1.2.1.1: During the development of new systems, ensure the privacy and confidentiality of taxpayer and employee data.

TAS Foundation 2 (F2): Sustain and Support a Fully-Engaged and Diverse Workforce.

IRC § 7803(c)(2)(C)(i) and (iv)
The National Taxpayer Advocate shall –
(i) monitor the coverage and geographic allocation of local offices of taxpayer advocates;
(iv) in conjunction with the Commissioner, develop career paths for local taxpayer advocates choosing to make a career in the Office of the Taxpayer Advocate.

Objective F2.1: Hire and retain an outstanding workforce.

STRATEGY F2.1.1: EMPLOY VARIOUS HIRING AUTHORITIES TO REMAIN COMPETITIVE IN HIRING TALENTED PROFESSIONALS.

Operational Priority F2.1.1.1: Using excepted service hiring authorities; identify and recruit qualified candidates to fill TAS positions.

Operational Priority F2.1.1.2: Continue to attract a diverse pool of applicants to fill TAS positions.

Objective F2.2: Align resources to fully utilize employee skills.

STRATEGY F2.2.1: PROVIDE DEVELOPMENTAL OPPORTUNITIES THAT ALLOW EMPLOYEES TO REACH THEIR FULL POTENTIAL.

Operational Priority F2.2.1.1: Develop and deliver training that provides employees with the necessary skills to complete their assigned duties.

Operational Priority F2.2.1.2: Update and execute a viable employee development program for all TAS employees.

Operational Priority F2.2.1.3: Explore and capture opportunities to improve the quality of worklife for employees.

Objective F2.3: Attain a workplace free from discrimination, where diversity is leveraged and every employee is assured an equal opportunity to achieve their full potential.

STRATEGY F2.3.1: MAINTAIN AND ENHANCE A WORK ENVIRONMENT THAT VALUES AND SUPPORTS A DIVERSE WORKFORCE.

Operational Priority F2.3.1.1: Develop initiatives and products that promote a work environment of inclusion and understanding.

Operational Priority F2.3.1.2: Evaluate the current diversity pattern in TAS's workforce, and develop and deploy the appropriate action plan if under- representation exists.

Objective F2.4: Protect the safety and security of employees and TAS's ability to maintain an operational presence.

STRATEGY F2.4.1: REVIEW, UPDATE, AND IMPLEMENT SAFETY AND SECURITY POLICIES AND PRACTICES TO INSURE COMPLIANCE WITH FEDERAL DIRECTIVES.

Operational Priority F2.4.1.1: Educate employees on safety and security issues.

STRATEGY F2.4.2: MAINTAIN EFFECTIVE BUSINESS CONTINUITY PLANS FOR TAS.

Operational Priority F2.4.2.1: Develop, update, and implement a suite of continuity plans to address employee safety issues and to mitigate work stoppage situations.

Objective F2.5: Use performance measures and indicators to continually improve TAS's processes and procedures.

STRATEGY F2.5.1: USING THE CONTINUOUS IMPROVEMENT CYCLE, ENGAGE EMPLOYEES WHEN DEVELOPING, DEPLOYING, AND ENHANCING TAS'S PERFORMANCE MEASURES (BUSINESS RESULTS, CUSTOMER SATISFACTION, AND EMPLOYEE SATISFACTION).

Operational Priority F2.5.1.1: Develop, update, and implement a suite of TAS performance measures..

Operational Priority F2.5.1.2: Engage employees and managers in activities that further the TAS mission.

Appendix VI: TAS Performance Measures and Indicators

RESOLVE TAXPAYER PROBLEMS ACCURATELY AND TIMELY

Measure	Description	FY 2010 Target	FY 2010 Actual Mar Cum
Overall Quality of Closed Cases	The measure of TAS's effectiveness in meeting customer expectations based on a random sample of cases scored against timeliness, accuracy, and communication quality standards.	91.5%	86.9%
Timely Initial Contacts	Percent of all cases with timely initial contacts – within three workdays of receipt for economic burden cases and five workdays of receipt for all other cases.	97%	97.2%
Timely Initial Case Actions	Percent of all cases with timely initial case actions – within three workdays of receipt for an economic burden case and within five workdays for all other cases.	97%	96.9%
Timely Subsequent Actions	Percent of all cases with timely subsequent actions and contacts by the date provided to the taxpayer and by the follow-up dates set by TAS procedural requirements.	79%	69.7%
Resolved All Taxpayer Issues	Percent of all cases where TAS has taken all actions necessary to resolve all taxpayer issues, including the underlying root-causes (such as a missing payment causing the non-receipt of a refund), and all transactions have posted.	96%	92.5%
Related Issues Addressed	Percent of all applicable cases where TAS accurately and completely addressed all related issues. This includes such items as advising a taxpayer about an unfiled return where the initial problem was non-receipt of requested IRS publications or updating a taxpayer's address in conjunction with resolving the taxpayer's primary issue.	90%	78.9%
Procedurally Correct	Percent of all cases where all the actions taken by TAS and the IRS are worked in accordance with IRM technical and procedural requirements.	88%	80.7%
Correct Closing Explanation	Percent of all cases where TAS provides the taxpayer a clear, complete, and correct explanation of the resolution of the problems at closing (such as providing an updated balance due or complete refund information to the taxpayer).	91%	85.8%
Educated Taxpayer	Percent of all cases where TAS correctly educated the taxpayer.	99.5%	97.9%
Timeliness of Actions [323]	Percent of the overall timeliness rate (initial case actions, initial taxpayer contact, and timely subsequent actions). This is a composite score of the next three measures.	91%	87.2%
Accuracy of Closed Cases [324]	Percent of cases where the taxpayer's problems are resolved completely and correctly. This is a composite score of the next four measures.	91%	87.3%
Error-Free Cases [325]	Percent of cases with no errors on any of the quality standards that comprise the TAS case quality index.	60%	48.4%
OAR Reject Rate	Percent of requests for action to be taken by the Operating function (*i.e.*, Operations Assistance Request, or OAR) rejected compared to prior year.	7%	5.1%
Customers Satisfied [326]	Percent of taxpayers who indicate they are very satisfied or somewhat satisfied with the service provided by TAS (Question 12 on Customer Satisfaction Survey).	88%	85.1%
Customers Dissatisfied [327]	Percent of taxpayers who indicate they are somewhat dissatisfied or very dissatisfied with the service provided by TAS (Question 12).	10%	11.7%

323 The current design of the TAS Quality Review Database (QRDB) does not compute this measure and it is not feasible to modify it. TAS is currently working with Statistics of Income division (SOI) to manually compute this until a new database is developed.

324 The current design of the TAS QRDB does not compute this measure and it is not feasible to modify it. TAS is currently working with SOI to manually compute this until a new database is developed.

325 *Id*.

326 The total percentage of Customers Satisfied and Customers Dissatisfied will not add up to 100 percent since customers may indicate that they are neither satisfied nor dissatisfied.

327 *Id*.

Solved Taxpayer Problem	Percent of taxpayers who indicate the Taxpayer Advocate employee did his or her best to solve their problems.	89%	86%
Relief Granted [328]	Percent of closed cases in which full or partial relief was provided.	Indicator	72.8%
Number of TAOs Issued	The number of Taxpayer Assistance Orders (TAOs) issued by TAS. IRC § 7811 authorizes the National Taxpayer Advocate to issue a TAO when a taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the tax laws are being administered.	Indicator	60 (Through June 8, 2010)
Median – Closed Case Cycle Time [329]	Median time taken to close TAS cases.	Indicator	59 days
Mean – Closed Case Cycle Time	Mean time taken to close TAS cases.	Indicator	86.2 days
Closed Cases per Case Advocacy FTE	Number of closed cases divided by total Case Advocacy full-time equivalents (FTEs) realized. (This includes all hours reported to Case Advocacy organization except Field Systemic Advocacy).	149	128
Closed Cases per Direct FTE	Number of closed cases divided by direct Case Advocate FTEs realized.	342	303.5

PROTECT TAXPAYER RIGHTS AND REDUCE BURDEN

Measure	Description	FY 2010 Target	FY 2010 Actual Mar Cum
Accuracy of Closed Advocacy Projects	Percent of correct actions overall in accordance with statute and IRM guidance. This includes accurate identification of the systemic issue and proposed remedy.	93.5%	96.4%
Timeliness of Actions on Advocacy Projects	Percent of all projects with timely actions in accordance with IRM guidance, including contacting the submitter within three business days from assignment, issuing an action plan within 30 calendar days, and working the project with no unnecessary delays or periods of inactivity.	70%	76%
Quality of Communication on Advocacy Projects	Percent of projects where substantive updates were provided to the submitter on the initial contact and subsequent contacts, appropriate coordination and communication took place with internal and external stakeholders, written communications followed established guidelines, and outreach and education action taken when appropriate.	92.3%	93.2%
Advocacy Projects Closed per Advocacy Projects FTE	Advocacy Projects FTE includes direct hours spent on Advocacy Projects by all TAS personnel with added overhead based on TAS overhead ratio.	11.2	6.1
Accuracy of Closed Immediate Interventions	Percent of correct actions overall in accordance with statute and IRM guidance. This includes accurate identification of the systemic issue and proposed remedy.	92.2%	93.9%
Timeliness of Actions on Immediate Interventions	Percent of all projects with timely actions in accordance with IRM guidance, including contacting the submitter within one business day, issuing an action plan within five business days, and working the Immediate Intervention with no unnecessary delays or periods of inactivity.	70%	59.5%
Quality of Communication on Immediate Interventions	Percent of projects where substantive updates were provided to the submitter on the initial contact and subsequent contacts, appropriate coordination and communication took place with internal and external stakeholders, written communications followed established guidelines, and outreach and education action taken when appropriate.	82.5%	85.7%
Immediate Interventions Closed per Immediate Intervention FTE	Immediate Intervention FTE includes direct hours spent on projects by all TAS personnel with added overhead based on TAS overhead ratio.	27.8	11.5
Related Issues Resolved	Percent of all projects where related issues were addressed. When such issues arise during the course of working a project, the analyst or team will resolve if possible or forward to the office who can address them.	97.5%	100%

328 Relief Determinations are made on those cases where the IRC §7811 determinations are "Yes" or an assistance code is provided (TAMIS Relief Codes 60, 61, 70, and 71, with TAMIS Assistance Codes 97 and 98).

329 This indicator does not currently include the number of days of the reopened cases. While the number of days associated with reopened cases is relatively small, TAS is reviewing alternative computations that may permit inclusion of these cases.

Timeliness of ARC Deliverables [330]	Percent of milestones met on the National Taxpayer Advocate Annual Report to Congress (ARC).	Indicator	TBD
Percent of NTA Annual Report Recommendations Addressed by Congress, IRS, Treasury, or External Stakeholders or Further Pursued by TAS for Adoption Within Four Years	Percent of recommendations in NTA Annual Reports to Congress addressed (*e.g.*, through hearings, enactment, implementation of policy, etc.) or further pursued by TAS within four years of publication. For recommendations made in the Annual Report delivered on December 31, 2006, TAS will measure the percentage of recommendations addressed by Congress or further pursued by TAS as of December 31, 2010. Results will be available in early 2011	Indicator	TBD
Number of Policy Issues Influenced Via IMD Reviews	Policy issues influenced due to TAS's Internal Management Document (IMD) review and feedback.	Indicator	91
Percent of Immediate Interventions Acted Upon by IRS within One Year.	The percentage of immediate intervention recommendations acted upon by the IRS within one year of the immediate intervention closure date. The calculation is immediate intervention recommendations acted upon by the IRS (numerator) over the total number of recommendations made (denominator). The result is the percentage of recommendations implemented. Systemic Advocacy will deliver the measure on a quarterly basis beginning one year after the closure of the immediate interventions.	Indicator	43.8%
Percent of Advocacy Projects Addressed by IRS within Two Years	The percentage of advocacy project recommendations, (excluding issues also raised in the Annual Report to Congress) acted upon by the IRS within two years of the Advocacy Project closure date. The calculation is advocacy project recommendations acted upon by the IRS (numerator) over the total number of recommendations made (denominator). The result is the percentage of Advocacy Project recommendations implemented. Systemic Advocacy will deliver the measure on a quarterly basis beginning two years after the closure of the advocacy projects.	Indicator	78.6%
Internal Customer Satisfaction Survey (CSS) Baseline Improvements	Implement an internal CSS.	TBD	TBD

SUSTAIN AND SUPPORT A FULLY-ENGAGED AND DIVERSE WORKFORCE

Measure	Description	FY 2010 Target	FY 2010 Actual Mar Cum
Employee Satisfaction [331]	Percent of employees who are satisfied or very satisfied with their job. (Question 39 on annual employee survey).	76%	74% (FY 2009)
Employee Participation [332]	Percent of employees who take the survey.	88%	86%
Continuing Professional Education (CPE) Evaluation [333]	Percent of employees who are satisfied or very satisfied with annual CPE.	92%	88.2% (FY 2009)

330 Tracking and reporting on the timeliness of key actions and deliverables for the 2009 ARC will commence during the first quarter FY 2010 and extend through the end of the first quarter FY 2011.

331 TAS measures employee satisfaction annually based on the annual servicewide Employee Satisfaction Survey. Results are for FY 2009; FY 2010 results will not be available until August 2010.

332 TAS measures employee participation annually in the servicewide Employee Satisfaction Survey.

333 The results are for the FY 2009 TAS Technical Symposium.

Appendix VII: List of Advocacy Portfolios

Portfolio	Local Taxpayer Advocate Name	State/Office	Phone Number
Abusive Schemes	Gilchrist, L	South Dakota	605-377-1606
Allowable Living Expenses	Spisak, J	New York (Manhattan)	212-436-1010
Alternative Minimum Tax (AMT)	McDonell, T	Washington	206-220-5704
Amended Returns/Claims/Carryback/ Carryforward Claims	Reeve, D	North Dakota	701-239-5400 ext. 234
Appeals: Nondocketed Inventory, Alternative Dispute Resolutions, Collection Due Process	Leith, J	Baltimore	401-962-2082
Audit Reconsiderations	Carey, W	Atlanta Campus	770-936-4543
Automated Collection System (ACS)	Lombardo, L	Pennsylvania (Philadelphia)	215-861-1237
Automated Underreporter (AUR)	Boucher, D	Maine	207-622-8577
Bankruptcy Processing Issues	Mettlen, A	Pennsylvania (Pittsburgh)	412-395-6423
Cancellation of Debt	Mings, L	Kansas City Campus	816-291-9001
Centralized Lien Filing and Releases	Diehl, J	Cincinnati Campus	859-669-4013
CI Freezes and Tax Assurance Program	Wess, D	Memphis Campus	901-395-1700
Collection Statute Expiration Dates (CSED)	Sherwood, T	Colorado	303-603-4601
Combined Annual Wage Reporting (CAWR)/Federal Unemployment Act (FUTA)	Polson, R	Ogden Campus	801-620-3000
Communication Liaison Group (CLG)	Campbell, M Hickey, M James, G Martin, B Simmons, M Washington, J	Virginia Nebraska Hawaii Tennessee New Hampshire Mississippi	804-916-3500 402-221-7240 808-539-2855 615-250-6015 603-433-0753 601-292-4810
Correspondence Exam	Blinn, F	Indiana	317-685-7799
Customer Account Data Engine (CADE)	Logan, A	Oregon	503-326-2333
Designated Federal Official (DFO) - Taxpayer Advocacy Panel (TAP)	Curran, D Browne, R Adams, M Thompson, T Juncewicz, T Benedetti, E Martin, B	California (LA) Georgia Kansas Montana North Carolina Rhode Island Tennessee	213-576-3016 404-338-8085 316-352-7505 406-441-1044 336-378-2141 401-528-1916 615-250-6015
Disaster Response and Recovery	Washington, J	Mississippi	601-292-4810
E- Services	Todaro, T	California (Oakland)	510-637-3068
Earned Income Tax Credit (EITC) Compliance	Taylor, S	Illinois (Chicago)	312-566-3801
EITC: Outreach, Education, Financial Literacy Low Income	Campbell, D	Kentucky	502-572-2201
Electronic Tax Administration (ETA)	Martin, B	Tennessee	615-250-6015

Portfolio	Local Taxpayer Advocate Name	State/Office	Phone Number
Employment Tax Policy	Garvin, W	Delaware	302-286-1545
Examination Strategy	Revel-Addis, B	Florida (Jacksonville)	904-665-0523
Excise Tax	Diehl, J	Cincinnati Campus	859-669-4013
Exempt Organization (EO) Education and Outreach	Guinn, P	Missouri	314-612-4371
Federal Payment Levy Program (FPLP)/ FPLP Communications	Simmons, M	New Hampshire	603-433-0753
Federal Tax Liens including Lien Release, Lien Withdrawal, Lien Subordination, Lien Discharge; CSED	Sherwood, T	Colorado	303-603-4601
First-Time Homebuyer Credit	Lucas, D	Texas (Houston)	713-209-4781
Form 2848, Power of Attorney	Hawkins, D	Alabama	205-912-5634
Healthcare Initiative	DeTimmerman, P	Iowa	515-564-6880
Identify Theft	Fuentes, B	Brookhaven Campus	631-654-6687
Identity Theft - Identity Protection Specialized Unit (IPSU)	Seeley, S	Andover Campus	978-474-9560
Indian Tribal Government Issues	Wirth, B	New York (Buffalo)	716-686-4820
Individual Taxpayer Identification Number (ITIN) Outreach	Blount, P	Michigan	313-628-3664
ITIN Processing	Caballero, A	Austin Campus	512-460-4652
Injured Spouse	Post, T	West Virginia	304-420-8695
Innocent Spouse Relief: IRC § 6015	Knowles, J	Idaho	208-387-2827 ext. 272
Installment Agreements: Processing	Sanders, W	Texas (Dallas)	214-413-6520
Interest Computations: Abatement of Interest	Romano, F	Connecticut	860-756-4550
International Taxpayers	Vargas, C	Puerto Rico	787-622-8950
IRS Policies Affecting Financially Distressed Taxpayers	Hensley, D	Oklahoma	405-297-4139
IRS Training on Taxpayers' Rights	Hickey, M	Nebraska	402-221-7240
Levy (Determination Linked to Release of Levy)	Wilde, B	Arkansas	501-396-5820
Low Income Taxpayer Clinics (LITC)	Lewis, C	Louisiana	504-558-3468
Math Errors	Sonier, G	South Carolina	803-765-5300
Military Issues	Douts, K	Alaska	907-271-6297
Mixed and Scrambled Taxpayer Identifying Numbers	Murphy, M	Arizona	602-636-9503
Multilingual Initiative (MLI)	Rolon, J	New Mexico	505-837-5522
Nonfiler Strategy (Substitute for Returns)	Warren, J	Minnesota	651-312-7874
Offer In Compromise	Tehrani, B	New York (Brooklyn)	718-488-3501
Office of Professional Responsibility	Juarez, V	Philadelphia Campus	215-516-2499
Preparer Penalties	Greene, S	New York (Albany)	518-427-5412
Processing: Payments	Davis, S	Ohio (Cleveland)	216-522-8241

Portfolio	Local Taxpayer Advocate Name	State/Office	Phone Number
Returned/Stopped Refunds	Johnson, B	Wisconsin	414-231-2391
Seizure and Sale - Foreclosures on Equity (Recommended)	Crook, T	Florida (Ft. Lauderdale)	954-423-7676
TAS Confidentiality/IRC § 6103	Cooper-Aquilar, S	Utah	801-799-6962
Tax-Exempt Entities: EO Applications & Determinations	Esrig, B	Ohio (Cincinnati)	513-263-3249
Tax Forums - Case Resolution Program	Sawyer, M Adams, C	Fresno Campus California (Laguna Nigel)	559-442-6418 949-389-4790
Taxpayer Assistance Centers (TACs)	Fett, B	Vermont	802-859-1056
Tip Reporting	Grant, D	Nevada	702-868-5180
Trust Fund Recovery Penalty (TFRP)	Campbell, M	Virginia	804-916-3500
US Territories and Possessions	James, G	Hawaii	808-539-2855

Appendix VIII: Taxpayer Advocate Directives (TADs) 2010-1 and 2010-2

TAD 2010-1

January 20, 2010

MEMORANDUM FOR RICHARD E. BYRD, JR.
COMMISSIONER
WAGE AND INVESTMENT DIVISION

CHRISTOPHER WAGNER
COMMISSIONER
SMALL BUSINESS/SELF-EMPLOYED DIVISION

FROM: Nina E. Olson
National Taxpayer Advocate

SUBJECT: Taxpayer Advocate Directive 2010-1 (*Immediately discontinue automatic lien filing on Currently Not Collectible (CNC) hardship accounts with an unpaid balance of $5,000 of more, require employees to make meaningful notice of federal tax lien (NFTL) filing determinations, and require managerial approval for filings of an NFTL in all cases where the taxpayer has no assets*)

TAXPAYER ADVOCATE DIRECTIVE

I am issuing this Taxpayer Advocate Directive (TAD) to direct the Commissioner, Wage and Investment Division, and Commissioner, Small Business/Self- Employed Division, to:

1) Immediately discontinue the policy of automatic NFTL filing on CNC hardship accounts with an unpaid balance of $5,000 or more.

2) Within 30 days of the date of this TAD, in consultation with the National Taxpayer Advocate, issue interim guidance to all IRS contact employees to base lien filing determinations on a thorough review of information (including IRS and available third party information) concerning the taxpayer's assets, income, and the value of the equity in the assets; and after weighing all facts and circumstances, to determine that:

(A) the NFTL will attach to property, and

(B) the benefit to the government of the NFTL filing outweighs the harm to the taxpayer and the NFTL filing will not jeopardize the taxpayer's ability to comply with the tax laws in the future; and to make a documented good faith attempt at personal (in-person or telephone) contact using internal and external databases.

3) Within 90 days of the date of this TAD, in consultation with the National Taxpayer Advocate, revise the Internal Revenue Manual (IRM) to direct all IRS contact employees to base lien filing determinations on a thorough review of information (including IRS and available third party information) concerning the taxpayer's assets, income, and the value of the equity in the assets; and after weighing all facts and circumstances, to determine that (1) the NFTL will attach to property, and (2) that the benefit to the government of the NFTL filing outweighs the harm to the taxpayer and the NFTL filing will not jeopardize the taxpayer's ability to comply with the tax laws in the future; and to make a documented good faith attempt at personal (in-person or telephone) contact using internal and external databases.

4) Within ten days of the date of this TAD, in consultation with the National Taxpayer Advocate, issue interim guidance to require managerial approval for NFTL filings in all cases where the taxpayer has no assets, regardless of the employee's grade level.

5) Within 90 days of the date of this TAD, in consultation with the National Taxpayer Advocate, revise the IRM to issue interim guidance to require managerial approval for NFTL filings in all cases where the taxpayer has no assets, regardless of the employee's grade level.

I. Authority

This TAD is issued pursuant to Delegation Order No. 13-3, which grants the National Taxpayer Advocate the authority to issue a TAD to mandate administrative or procedural changes to improve the operation of a functional process or to grant relief to groups of taxpayers (or all taxpayers) when implementation will protect the rights of taxpayers, prevent undue burden, ensure equitable treatment, or provide an essential service to taxpayers.[334] I have raised concerns in writing (via the 2009 Annual Report to Congress)[335] regarding the IRS policy of automatic NFTL filing for accounts reported CNC, both when the IRS cannot locate or contact the taxpayer and when the taxpayer is experiencing an economic hardship. I have raised further concerns (again via the 2009 Annual Report) regarding the IRS's policy to automatically, per the IRM, file an NFTL without consideration of the existence of

334 Internal Revenue Manual (IRM) 1.2.50.4, Delegation Order 13-3 (formerly DO-250, Rev. 1), *Authority to Issue Taxpayer Advocate Service Directives* (Jan. 17, 2001). *See also IRM* 13.2.1.6, *Taxpayer Advocate Directives* (July 16, 2009).

335 National Taxpayer Advocate 2009 Annual Report to Congress 17-40, vol. 2, 1-18.

assets and the likelihood that the taxpayer will acquire assets during the remaining statute of limitations period, and an absence of meaningful managerial review of lien filing determinations in cases where the taxpayer has no assets. Attached are the Most Serious Problem: *One-Size-Fits-All Lien Filing Policies Circumvent the Spirit of Law, Fail to Promote Future Tax Compliance and Unnecessarily Harm Taxpayers*, and the TAS Research Study: *The IRS's Use of Notices of Federal Tax Lien*, from the National Taxpayer Advocate's 2009 Annual Report to Congress, which serve as a written memorandum issued to the responsible operating areas within the meaning of IRM 13.2.1.6.1.2, and which include the IRS formal written response, declining to make those changes. Therefore, all procedural requirements for issuing this TAD have been satisfied.[336]

II. Background

An NFTL protects the government's interests in a taxpayer's property against subsequent purchasers, secured creditors, and junior lien holders when past due taxes are owed.[337] The NFTL filing and the information contained on the notice are included in consumer (credit) reports[338] and therefore may impair a taxpayer's ability to obtain financing, find or keep a job, and secure affordable housing or insurance.[339]

IRS business rules require or incentivize automatic lien filing after a simple verification that the amount due is correct.[340] When the account is in CNC status, the IRM requires NFTL filing for any unpaid balance of $5,000 or more if the IRS is unable to locate or contact the taxpayer, or the taxpayer is experiencing an economic hardship.[341] The IRM generally does not require verification of the existence or value of the taxpayer's property before filing an NFTL, nor does it determine whether the taxpayer is likely to acquire assets in the future. The IRS implemented the IRS Restructuring and Reform Act of 1998 (RRA

336 In advance of issuing a TAD, the National Taxpayer Advocate is required to work with and communicate with the owners of the process in order to correct the problem. IRM 13.2.1.6.1 (July 16, 2009). The requirement to issue a proposed TAD was satisfied when the Most Serious Problem was submitted to the IRS for comment. Thus, the procedural requirements set forth in IRM 13.2.1.6.1.3 have been satisfied.

337 Internal Revenue Code (IRC) § 6321 and 6323.

338 The term "consumer report" is defined in § 603(d) of the Fair Credit Reporting Act (FCRA) (codified at 15 USC § 1681a(d)). Hereinafter, we will use the more commonly used term "credit report." On average, the filing of an NFTL reduces a taxpayer's credit score by 100 points. Written response from Vantage Score® (Sept. 17, 2009). The impact of the NFTL filing is greatest upon the initial filing and diminishes over time.

339 National Taxpayer Advocate 2009 Annual Report to Congress 17-19 (Most Serious Problem: *One-Size-Fits-All Lien Filing Policies Circumvent the Spirit of Law, Fail to Promote Future Tax Compliance and Unnecessarily Harm Taxpayers*). TAS teleconferences with the major consumer reporting agencies (CRAs) – Experian (Oct. 1, 2009), Equifax (Sept. 1, 2009), and Transunion (Sept. 3, 2009). *See also* IRS Pub. 594, *What You Should Know About the IRS Collection Process* (Jan. 2006) (recognizing the taxpayer may not be able to get a loan to buy a house or a car, get a new credit card, or sign a lease as result of the NFTL filing).

340 IRM 5.19.4.5.2 (Apr. 26, 2006); IRM 5.19.5.5.7(3) (May 29, 2008).

341 § 501(a), 110 Stat. 1452, 1460 (1996)

342 Memorandum from Assistant Commissioner (Collection) (July 30, 1998) (concluding section 3421 does not require supervisory review of all collection actions but allows the IRS discretion to determine where such review would be appropriate); Memorandum to Counsel to the National Taxpayer Advocate from Chief, Branch 1, General Litigation Division, Ref. No. GL-122444-98 (Dec. 23, 1998) (same). *See also* IRM 5.12.2.5 (Feb. 1, 2007); IRM 5.12.2.5.1 (Feb.1, 2007); IRM 5.12.2.5.2 (Oct. 30, 2009).

98) § 3421 lien approval requirement by limiting managerial review to only those liens filed by lower-graded revenue officers (ROs), specifically those below the GS-9 level. In the Automated Collection System (ACS), employees at the GS-6 level are authorized to file an NFTL without managerial approval.[343]

III. Reasons for Issuing This TAD

An NFTL "attaches" to all of the taxpayer's property (*e.g.*, a house or car) and to all of his or her rights to property (such as accounts receivable if the taxpayer operates a business), including after-acquired property. Once a lien is filed, the taxpayer's credit rating may be harmed. For example, the taxpayer may not be able to secure a home or car loan, obtain a new credit card, or sign a lease. Therefore, it is very important that the IRS properly evaluates the taxpayer's situation and judiciously uses the lien as one of its collection tools. The IRS frequently requests NFTLs through an automatic process that does not take into account the taxpayer's individual circumstances (*e.g.*, an economic hardship). I am concerned that the automatic filing of liens is unnecessarily harming taxpayers, especially those facing hardships.

The 2009 Annual Report to Congress discusses the long-lasting and unnecessary harm that the IRS's NFTL filing policy creates for taxpayers who are currently unable to pay.[344] In the written response to the Most Serious Problem, *One-Size-Fits-All Lien Filing Policies Circumvent the Spirit of Law, Fail to Promote Future Tax Compliance and Unnecessarily Harm Taxpayers*, the IRS stated:

> [F]iling the NFTL [in CNC hardship cases] is the most responsible and appropriate action the IRS can take in its effort to ensure sound tax administration.[345]

I reject the IRS's rationale for current lien filing procedures that ensure an NFTL will be filed on most CNC (hardship) accounts with an unpaid balance of $5,000 or more.[346] Sound tax administration requires a careful, case-by-case analysis of a taxpayer's specific facts and circumstances. It does not mean an arbitrary, automatic decision, per the IRM, to file an NFTL without consideration of the existence of assets, the likelihood that the taxpayer will acquire assets during the remaining statute of limitations period, and the taxpayer's history of compliance.[347] Even though in many cases an IRS employee may have talked to

343 Delegation Order 5-4 (Rev. 1), IRM 1.2.44.4 (Sept. 23, 2005); IRM 5.19.4.5.1(7) (Apr. 28, 2009).

344 National Taxpayer Advocate 2009 Annual Report to Congress 17-40.

345 *Id*. at 33.

346 IRM 5.12.2.4.1 (Oct. 30, 2009). In general, the IRM requires NFTL filing when "an open account with an aggregate UBA [Unpaid Balance of Assessment] of $5,000 or more is being reported as currently not collectible."

347 For example, automatic lien filing may be harming a generally compliant taxpayer who has a history of making timely payments absent the NFTL.

the taxpayer and evaluated his or her financial information or other evidence of financial difficulty (including a medical hardship) prior to reporting the account as currently not collectible, the IRS has replaced its employees' judgment and discretion with a business rule that requires NFTL filing.[348]

A TAS analysis of collection payment data from a subset of taxpayers in CNC (hardship) status shows that:

- IRS refund offsets were responsible for nearly $6 of every $10 in payments collected from taxpayers; and
- NFTLs were responsible for $2 of every $10 in payments collected from taxpayers.[349]

Nonetheless, a TAS analysis of lien filings in calendar year 2009 shows the NFTL was filed in 72.9 percent of CNC hardship modules.[350]

As noted above, automatic NFTL filing on CNC (hardship) taxpayers exacerbates their financial difficulties. Therefore, I direct the IRS to immediately discontinue the policy of automatic NFTL filing on CNC hardship accounts with an unpaid balance of $5,000 or more.

I expressed concerns in the 2009 Annual Report that the IRS generally does not verify the existence or the value of the taxpayer's property before filing an NFTL, and does not determine whether the taxpayer is likely to acquire assets in the future.[351] In the written response to the Most Serious Problem, *One-Size-Fits-All Lien Filing Policies Circumvent the Spirit of Law, Fail to Promote Future Tax Compliance and Unnecessarily Harm Taxpayers*, the IRS stated:

> [F]iling an NFTL, even in situations when assets have not been identified, is a prudent case decision because the NFTL attaches to a taxpayer's right, title, and interest in current and future property.[352]

348 Policy Statement P-5-71, IRM 1.2.14.1.14 (Nov. 19, 1980). *See also* IRM 5.16.1.1, *Currently Not Collectible Policy and Procedure Overview* (May 5, 2009); IRM 5.16.1.2.9, Hardship (May 5, 2009). The basis for a hardship determination is from information about the taxpayer's financial condition provided on Form 433-A, *Collection Information Statement for Wage Earners and Self-Employed Individuals*, or Form 433-B, *Collection Information Statement for Businesses*. See also IRM 5.15.1, *Financial Analysis Handbook* (Oct. 2, 2009).

349 TAS pulled the subset of 21,695 CNC Hardship taxpayers with refund offset or specific DPC coding from the 270,399 individual taxpayers who first incurred new balance due delinquencies in TY 2002, had no previous unpaid tax liabilities at that time, and against whom NFTLs were filed in subsequent years (discussed above). It does not include those payments that were coded as "Miscellaneous" or had no DPC coding. IRS, CDW, IMF Transaction File Cycle 200913. See also National Taxpayer Advocate 2009 Annual Report to Congress vol. 2, 1-18 (*The IRS's Use of Notices of Federal Tax Lien*).

350 IRS, Compliance Data Warehouse (CDW), Individual Masterfile (IMF) Transaction File Cycle 200952 and Accounts Receivable Dollar inventory (ARDI) Entity File thought 200951. In calendar year 2009, TAS identified 419,931 modules with a CNC Hardship closing code and a taxpayer owed $5,000 or more in unpaid tax liability, of which 144,704 modules contained an NFTL issued in CY2009 and 161,465 contained an NFTL issued prior to CY2009, leaving 113,762 modules with no lien filed.

351 National Taxpayer Advocate 2009 Annual Report to Congress 17-40.

352 *Id*. at 33.

353 *IRC §§ 6321 and 6323.*

An NFTL protects the government's interests in a taxpayer's property against subsequent purchasers, secured creditors, and junior lien holders when past due taxes are owed.[353] Automatic filing of NFTLs without verifying that the taxpayer has assets does not provide the government with the intended priority in the taxpayer's assets but it does impose immediate harm on the taxpayer and is likely to undermine future compliance. Therefore, I direct the IRS to issue an interim guidance memorandum (IGM) to all IRS contact employees within 30 days of the date of this TAD and revise the IRM within 90 days of the date of this directive to base lien filing determinations on a thorough review of information (including IRS and available third party information) concerning the taxpayer's assets, income, and the value of the equity in the assets; and after weighing all facts and circumstances, to determine that (1) the NFTL will attach to property, and (2) that the benefit to the government of the NFTL filing outweighs the harm to the taxpayer and the NFTL filing will not jeopardize the taxpayer's ability to comply with the tax laws in the future; and to make a documented good faith attempt at personal (in-person or telephone) contact using internal and external databases. The IRS must provide the draft IGM and IRM to me and obtain my concurrence prior to issuance.

In my 2009 Annual Report to Congress, I expressed a concern about lack of meaningful managerial review of lien filing determinations in cases where the taxpayer has no assets. RRA 98 § 3421 provides that, where appropriate, a supervisor review the proposed lien filing, considering the amount due and the value of the taxpayer's assets.[354] However, the IRS has interpreted this provision as not requiring managerial review of liens prior to filing in most cases.[355] Current IRS procedures do not require substantive managerial review of NFTL filings in cases where the taxpayer has no assets. Further, current policies negate the usefulness of any managerial review because the only verification the IRS performs before filing a lien is to confirm that the amount due is correct.[356]

354 RRA 98, Title III, § 3421, Pub. L. No. 105-206, 112 Stat. 685, 758 (1998).

355 When the IRS considered implementation of the RRA 98 lien approval requirement, it decided to continue limiting managerial review to only those liens filed by lower-graded employees. Memorandum from Assistant Commissioner (Collection) (July 30, 1998) (concluding section 3421 does not require supervisory review of all collection actions but allows the IRS discretion to determine where such review would be appropriate); Memorandum to Counsel to the National Taxpayer Advocate from Chief, Branch 1, General Litigation Division, Ref. No. GL-122444-98 (Dec. 23, 1998) (same). *See also* IRM 5.12.2.5 (Feb. 1, 2007); IRM 5.12.2.5.1 (Feb. 1, 2007); IRM 5.12.2.5.2 (Oct. 30, 2009).

356 IRM 5.19.4.5.2 (Apr. 26, 2006); IRM 5.19.5.5.7(3) (May 19, 2008); LEM 5.19.5.5.7 (Feb. 23, 2009); LEM 5.19.5.5.8 (4) (Feb. 23, 2009).

In the IRS's written response to the 2009 Most Serious Problem, *One-Size-Fits-All Lien Filing Policies Circumvent the Spirit of Law, Fail to Promote Future Tax Compliance and Unnecessarily Harm Taxpayers*, the IRS rejected my recommendation, stating:

> [We] do not believe it is appropriate to require managerial approval for NFTL filings on all cases where the taxpayer has no current assets.
> A taxpayer's situation can, and often does, change and a filed NFTL provides the government a claim in any future income or assets that would allow for payment of the outstanding tax liability.[357]

Because Congress specifically envisioned the managerial review to include the consideration of "value of the property or right to property,"[358] I strongly believe that the IRS should implement meaningful managerial review and approval for NFTL filings in all cases where the taxpayer has no assets, regardless of the employee's grade level. Therefore, I direct the IRS to issue an IGM within ten days of the date of this TAD and revise the IRM within 90 days of the date of this directive to require managerial approval for NFTL filings in all cases where the taxpayer has no assets, regardless of the employee's grade level. The IRS must provide the draft IGM and IRM to me and obtain my concurrence prior to issuance.

357 National Taxpayer Advocate 2009 Annual Report to Congress at 33.

358 RRA 98, Title III, § 3421, Pub. L. No. 105-206, 112 Stat. 685, 758 (1998)

Attachments (2)

cc: Steven T. Miller, Deputy Commissioner, Services and Enforcement

TAD 2010-2

January 20, 2010

MEMORANDUM FOR RICHARD E. BYRD, JR.
COMMISSIONER
WAGE AND INVESTMENT DIVISION

CHRISTOPHER WAGNER
COMMISSIONER
SMALL BUSINESS/SELF-EMPLOYED DIVISION

FROM: Nina E. Olson
National Taxpayer Advocate

SUBJECT: Taxpayer Advocate Directive 2010-2 (*Withdrawal of a notice of federal tax lien (NFTL) where the statutory withdrawal criteria are satisfied, even if the underlying lien has been released*)

TAXPAYER ADVOCATE DIRECTIVE

I am issuing this Taxpayer Advocate Directive (TAD) to direct the Commissioner, Wage and Investment Division and Commissioner, Small Business/Self Employed Division to:

1) Within 45 days of the date of this TAD, in consultation with the National Taxpayer Advocate, issue interim guidance to allow, upon the request of a taxpayer, the withdrawal of an NFTL where one of the statutory withdrawal criteria are satisfied, even if the underlying lien has been released;

2) Within 90 days of the date of this TAD, in consultation with the National Taxpayer Advocate, revise the Internal Revenue Manual (IRM) to provide guidance on when withdrawal of an NFTL is appropriate in cases in which the lien has already been released; and

3) Include the complete TAS training video, *Taxpayer Rights: Collection Case Studies*, in the mandatory annual continuing professional education (CPE) training about exercising judgment and discretion before and after NFTL filing for collection employees and managers in the Collection Field function (CFf) and develop a separate training in consultation with TAS for employees and managers in the Automated Collection System (ACS).

I. Authority

This TAD is being issued pursuant to Delegation Order No. 13-3, which grants the National Taxpayer Advocate the authority to issue a TAD to mandate administrative or procedural changes to improve the operation of a functional process or to grant relief to groups of taxpayers (or all taxpayers) when implementation will protect the rights of taxpayers, prevent undue burden, ensure equitable treatment, or provide an essential service to taxpayers.[359] I have raised concerns in writing (via the 2009 Annual Report to Congress[360]) that the IRS NFTL withdrawal policy harms taxpayers by not allowing a taxpayer to obtain a lien withdrawal after a lien release. I have raised further concerns (again via the 2009 Annual Report) regarding the IRS's rejection of TAS's offer of assistance in training Collection employees and managers in exercising judgment and discretion before and after NFTL filing. Attached is the Most Serious Problem: *One-Size-Fits-All Lien Filing Policies Circumvent the Spirit of Law, Fail to Promote Future Tax Compliance and Unnecessarily Harm Taxpayers* from the National Taxpayer Advocate's 2009 Annual Report to Congress, which serves as a formal memorandum issued to the responsible operating area within the meaning of IRM 13.2.1.6.1.2 (July 16, 2009), and which includes the IRS formal written response, declining to make those changes. Therefore, all procedural requirements for issuing this TAD have been satisfied.[361]

II. Background

Internal Revenue Code (IRC) § 6323(j) authorizes the IRS to withdraw an NFTL if:

1. The NFTL was filed prematurely or otherwise not in accordance with IRS procedures;

2. The taxpayer entered into an installment agreement (IA) to satisfy the liability (unless the IA provides otherwise);

359 Internal Revenue Manual (IRM) 1.2.50.4, Delegation Order 13-3 (formerly DO-250, Rev. 1), *Authority to Issue Taxpayer Advocate Service Directives* (Jan. 17, 2001). *See also* IRM 13.2.1.6, *Taxpayer Advocate Directives* (July 16, 2009).

360 National Taxpayer Advocate 2009 Annual Report to Congress 17-40.

361 In advance of issuing a TAD, the National Taxpayer Advocate is required to work with and communicate with the owners of the process in order to correct the problem. IRM 13.2.1.6.1 (July 16, 2009). The requirement to issue a proposed TAD was satisfied when the Most Serious Problem was submitted to the IRS for comment. Thus, the procedural requirements set forth in IRM 13.2.1.6.1.3 have been satisfied.

3. The withdrawal would facilitate collection; or

4. The withdrawal is in the best interests of the taxpayer (as determined by the National Taxpayer Advocate) and the United States.[362]

However, the withdrawal of an NFTL will not affect the underlying Federal Tax Lien (FTL)[363], and thus provides the IRS a discretionary mechanism for withdrawing the notice of lien when release of the lien itself is not an option because the requirements for release have not been met.[364]

IRC § 6323(j) was enacted as part of the Taxpayer Bill of Rights 2 (TBOR 2) in 1996. Prior to 1996,[365] the IRS had no authority to withdraw NFTLs.[366] In proposing lien withdrawal authority, the House Committee Report noted that "[t]he bill allows the IRS to withdraw a public notice of tax lien prior to payment in full by the indebted taxpayer without prejudice, if the Secretary determines that" one of the four listed criteria is met.[367]

In recent years, however, the IRS has developed an NFTL withdrawal policy that does not allow a taxpayer to obtain a withdrawal after a lien release. The concept that the IRS could not withdraw an NFTL after filing a release was first introduced in the IRM in 2003, although that provision still specifically authorized withdrawals "only if one or more of the four withdrawal provisions is met."[368] Subsequent revisions of the IRM preclude the withdrawal of the NFTL after lien release, even when criteria for lien withdrawal are met. [369]

362 IRC § 6323(j); Treas. Reg. § 301.6323(j)(b)(5).

363 Treas. Reg. § 301.6323(j)-1(a).

364 IRC §§ 6323(j)(1); 6325(a). A lien can be released if the liability has been satisfied or becomes unenforceable or the taxpayer has posted a bond.

365 TBOR 2, Pub. L. No. 104-168, Title V, § 501(a), 110 Stat. 1452, 1460 (1996).

366 H.R. Rep. No. 104-506, at 32-33 (1996), reprinted in 1996 USCCAN 1143, 1155-1156.

367 *Id*.

368 IRM 5.12.3.26.1(2) (July 15, 2003).

369 IRM 5.12.3.26.1(2) and (3) (July 15, 2003). In a 2006 revision of the IRM, the IRS revised its NFTL withdrawal procedures to specifically reject requests for the withdrawal of the NFTL after lien release, even when criteria for lien withdrawal are met. IRM 5.12.3.37(1) (Sept. 7, 2006).

370 The term "consumer report" is defined in § 603(d) of the Fair Credit Reporting Act (FCRA) (codified at 15 USC § 1681a(d)). Hereinafter, we will use the more commonly used term "credit report."

371 *See* Most Serious Problem: *One-Size-Fits-All Lien Filing Policies Circumvent the Spirit of Law, Fail to Promote Future Tax Compliance and Unnecessarily Harm Taxpayers*, National Taxpayer Advocate 2009 Annual Report to Congress, 17-40. TAS teleconferences with the major consumer reporting agencies (CRAs) – Experian (Oct. 1, 2009), Equifax (Sept. 1, 2009), and Transunion (Sept. 3, 2009). *See also* IRS Pub. 594, *What You Should Know About the IRS Collection Process* (Jan. 2006) (recognizing the taxpayer may not be able to get a loan to buy a house or a car, get a new credit card, or sign a lease as result of the NFTL filing).

372 Written response from Vantage Score® (Sept. 17, 2009). The impact of the NFTL filing on the credit score is greatest upon the initial filing and diminishes over time.

III. Reasons for Issuing This TAD

The NFTL filing and the information contained on the notice are included in consumer (credit) reports[370] and therefore may impair a taxpayer's ability to obtain financing, find or keep a job, and secure affordable housing or insurance.[371] On average, a lien filing reduces a taxpayer's credit score by 100 points.[372]

The Fair Credit Reporting Act (FCRA) limits the reporting of derogatory credit information, including "paid" tax liens, which may remain on a credit report up to seven years from the date of payment.[373] However, the FCRA does not regulate the reporting period for tax lien events contemplated by the IRC, such as NFTL withdrawals[374] and lien releases.[375] As a result, consumer (credit) reporting agencies employ business practices that provide for substantially different treatment of "lien withdrawals" and "lien releases" from a credit reporting perspective. When consumer reporting agencies receive a notice of a "withdrawal" of a tax lien, they delete any reference to the lien from the taxpayer's credit report.[376] In contrast, "released liens," including those paid off by the taxpayer, are not generally removed from the credit history until seven years from the date of release.[377] As a recent memorandum from the Office of Chief Counsel noted,

> [E]ven though a taxpayer has fully paid the tax and a certificate of release has been filed, the fact that the NFTL was filed in the first place can adversely affect the taxpayer's credit history for years after the tax is paid. In contrast, if the IRS files a withdrawal of the NFTL, from a credit rating standpoint it is as if the NFTL was never filed.[378]

I have discussed the long-lasting harm that the IRS's NFTL withdrawal policy creates for affected taxpayers, including the likelihood that these taxpayers could face higher interest rates, denial of credit or employment, or even job loss, in my 2009 Annual Report to Congress.[379] In the written response to the Most Serious Problem, *One-Size-Fits-All Lien*

373 15 USC § 1681c(a)(3). *See also* Federal Trade Commission, Statement of General Policy or Interpretation; Commentary on the Fair Credit Reporting Act, 55 Fed. Reg. 18804, 18818 (May 4, 1990). The filing of a release will be notated on the credit report but does not necessarily impact the credit score in a significant way.

374 IRC § 6323(j)(1).

375 IRC § 6325(a).

376 TAS teleconferences with the major consumer reporting agencies (CRAs) – Experian (Oct. 1, 2009), Equifax (Sept. 1, 2009), and Transunion (Sept. 3, 2009). IRC § 6323(j)(1) provides "this chapter [chapter 64 of subtitle F, relating to collection] shall be applied as if the withdrawn notice had not been filed." *See also* Treas. Reg. § 301.6323(j)-1(a). The IRS should promptly notify credit reporting agencies and financial institutions or creditors identified by the taxpayer of the withdrawal of the notice upon a written request. IRC § 6323(j)(2).

377 TAS teleconferences with the major consumer reporting agencies (CRAs) – Experian (Oct. 1, 2009), Equifax (Sept. 1, 2009), and Transunion (Sept. 3, 2009). *See also* 15 USC § 1681c(a)(3); Federal Trade Commission, Statement of General Policy or Interpretation; Commentary on the Fair Credit Reporting Act, 55 Fed. Reg. 18804, 18818 (May 4, 1990).

378 Memorandum from Branch 3 (Procedure and Administration) to Special Counsel (National Taxpayer Advocate), Ref. No. POSTN-133674-09 (Oct. 8, 2009). TAS teleconferences with the major CRAs – Experian (Oct. 1, 2009), Equifax (Sept. 1, 2009), and Transunion (Sept. 3, 2009).

379 National Taxpayer Advocate 2009 Annual Report to Congress 17-40.

Filing Policies Circumvent the Spirit of Law, Fail to Promote Future Tax Compliance and Unnecessarily Harm Taxpayers, the IRS stated:

> The IRS has a responsibility to review each application for lien withdrawal and, using discretion, weigh appropriate tax administration considerations in determining whether or not to withdraw a filed NFTL. Section 6323(j) authorizes withdrawal when one of four conditions is met; however, the decision to withdraw an NFTL is discretionary. The IRS will consult with the Office of Chief Counsel and revise the IRM to provide guidance on when withdrawal of an NFTL is appropriate in cases in which the lien has already been released.[380]

At the request of the National Taxpayer Advocate, the IRS Office of Chief Counsel has recently reevaluated its legal position and now concludes "that as a legal matter, the IRS may file a certificate of withdrawal after a lien release."[381] Since the IRS can only withdraw an NFTL if one of the four criteria in IRC § 6323(j) is met, the taxpayer must persuade the IRS that withdrawal is both in the taxpayer's and the government's best interests.[382] Indeed, since the underlying tax liability has already been satisfied, it will be a rare instance in which post-release NFTL withdrawal would not be in the government's best interests.

Because the affected taxpayers may experience immediate and long-lasting harm, I direct the IRS to issue an interim guidance memorandum (IGM) within 45 days of the date of this directive and revise the IRM within 90 days of the date of this directive to allow NFTL withdrawal after a lien release. The IRS must provide the draft IGM and IRM to me and obtain my concurrence prior to issuance.

I disagree with the IRS's position that current training efforts and updates are sufficient to convey IRS lien determination policy to all employees involved in NFTL filing. In fiscal year 2009, Local Taxpayer Advocates (LTAs) and I issued eight Taxpayer Assistance Orders (TAOs) regarding IRS lien filing policies, five of which specifically ordered the IRS to

380 National Taxpayer Advocate 2009 Annual Report to Congress at 33.

381 Memorandum from Branch 3 (Procedure and Administration) to Special Counsel (National Taxpayer Advocate), Ref. No. POSTN-133674-09 (Oct. 8, 2009).

382 IRC § 6323(j)(1)(D); IRC § 6323(j)(1)(B) (taxpayer enters into an installment agreement) and (C) (the withdrawal would facilitate collection) will not apply because there is no longer any enforceable underlying liability

withdraw NFTLs[383] In my 2009 Annual Report to Congress, I expressed a concern about IRS employees' lack of understanding of the statutory authority for NFTL withdrawals contemplated by Congress in TBOR 2.[384] However, in the IRS's written response to the 2009 Most Serious Problem, *One-Size-Fits-All Lien Filing Policies Circumvent the Spirit of Law, Fail to Promote Future Tax Compliance and Unnecessarily Harm Taxpayers*, the IRS rejected TAS's offer of assistance, stating:

> The IRS believes we provide adequate guidance and training to our employees to allow them to make appropriate lien determinations....The IRS believes current training efforts and updates are sufficient to convey IRS policy with regard to lien determinations.[385]

Given the immediate nature of harm affected taxpayers may experience from IRS employees' lack of understanding of the statutory authority for NFTL withdrawals, I believe it is absolutely necessary to include the complete TAS training video, T*axpayer Rights: Collection Case Studies*, in the mandatory annual CPE training for collection employees and managers in the Collection Field function and develop a separate training in consultation with TAS for employees and managers in the ACS. These employees will benefit from the training, which illustrates the NFTL process from a taxpayer's perspective.

Attachment

cc: Steven T. Miller, Deputy Commissioner, Services and Enforcement

383 The National Taxpayer Advocate and TAS's LTAs issued a total of 45 TAOs on all issues in FY 2009.

384 For example, in one recent case, the TAO was returned to the LTA for reconsideration because the IRS manager believed that to withdraw an NFTL, the taxpayer had to meet all four of the provisions under IRC § 6323(j) instead of meeting only one. (Note: The taxpayer signed a written consent allowing TAS to discuss the taxpayer's tax return information in this TAD.)

385 National Taxpayer Advocate 2009 Annual Report to Congress 34.

Glossary of Acronyms

Acronym	Definition
2d Sess.	Second Session
-A-	
ACS	Automated Collection System
Admin.	Administrative
ADR	Address Research System
AIMS	Automated Information Management System
AM	Accounts Management
AMT	Alternative Minimum Tax
AM TAP	Accounts Management Taxpayer Assurance Program
ARC	Annual Report to Congress
ARDI	Accounts Receivable Dollar Inventory
ARRA	American Recovery and Reinvestment Act of 2009
AUR	Automated Underreporter Program
-B-	
BMF	Business Master File
BNA	Bureau of National Affairs
BOE	Basis of Estimate
-C-	
CA	Case Advocate
CADE	Customer Account Data Engine
CAF	Centralized Authorization File
CAS	Customer Account Services
CAWR	Combined Annual Wage Reporting
CDP	Collection Due Process
CDW	Compliance Data Warehouse
CET	Correspondence Examination Technician
CFf	Collection Field Function
CLG	Communication Liaison Group
CNC	Currently Not Collectible
CODI	Cancellation of Debt Income
COIC	Centralized Offer in Compromise
Comm.	Committee
Cong.	Congress
CPA	Certified Public Accountant
CPE	Continuing Professional Education

Acronym	Definition
CPS	Collection Process Study
CRA	Consumer Reporting Agency
CRP	Case Resolution Program
CSED	Collection Statute Expiration Date
CSS	Customer Satisfaction Survey
CY	Calendar Year
-D-	
DFO	Designated Federal Official
DMS	Debt Management Service
DOD	Department of Defense
DPC	Designated Payment Code
-E-	
e-ACSg	Electronic Automated Collection Service Guide
EB	Economic Burden
EBE	Employee Business Expense
EEO	Equal Employment Opportunities
EFDS	Electronic Fraud Detection System
EIC	Earned Income Credit
EIN	Employer Identification Number
EITC	Earned Income Tax Credit
EO	Exempt Organization
ERIS	Enforcement Revenue Information System
ESC	Executive Steering Committee
ESL	English as a Second Language
ESP	Economic Stimulus Payment
ETA	Electronic Tax Administration
EWETP	Enterprise Wide Employment Tax Program
-F-	
FDC	Fraud Detection Center
Fed. Cir.	Federal Circular
FTS	Fast Track Settlement
FCRA	Fair Credit Reporting Act
Fed. Reg.	Federal Register
FFRDC	Federally Funded Research and Development Centers
FICA	Federal Insurance Contributions Act
FMS	Financial Management System
FPLP	Federal Payment Levy Program
FTD	Failure to Deposit

Acronym	Definition
FTE	Full-time Equivalents
FTF	Failure to File
FTHBC	First-Time Homebuyer Credit
FTL	Federal Tax Lien
FTP	Failure to Pay
FUTA	Federal Unemployment Tax Act
FY	Fiscal Year
-G-	
GAO	Government Accountability Office
-H-	
HERA	Housing and Economic Recovery Act of 2008
H. Comm.	House of Representatives Committee
H. Subcomm.	House of Representatives Subcommittee
H.R. Conf. Rep.	House of Representatives Conference Report
-I-	
IA	Installment Agreement
IAT	Integrated Automation Technology
IDRS	Integrated Data Retrieval System
ID Theft	Identity Theft
IGM	Interim Guidance Memorandum
IMD	Internal Management Document
IMF	Individual Master File
IPOC	International Planning and Operations Council
IPSU	Identity Protection Specialized Unit
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
IT	Information Technology
ITIN	Individual Taxpayer Identification Number
-J-	
JOC	Joint Operations Center
JCT	Joint Committee on Taxation
-K-	
-L-	
LCA	Lead Case Advocate
LITC	Low Income Taxpayer Clinic
LMSB	Large and Mid-Sized Businesses

Acronym	Definition
LTA	Local Taxpayer Advocate
-M-	
Mar Cum	Cumulative through March
MISC	Miscellaneous
MITS	Modernization and Information Technology Services
MLI	Multilingual Initiative
MOU	Memorandum of Understanding
MSP	Most Serious Problem
MVP	Maximize the Value of Phones
-N-	
NFTL	Notice of Federal Tax Lien
NPWE	Non-Paid Work Experience
NRP	National Research Program
NTEU	National Treasury Employees Union
-O-	
OAR	Operations Assistance Request
OD	Operating Division
OIC	Offer in Compromise
OPIA	IRS Office of Penalty and Interest Administration
-P-	
PPACA	Patient Protection and Affordable Care Act
Proc.	Procedural
PRO	Problem Resolution Officer
PRP	Problem Resolution Program
PSP	Payroll Service Provider
PTIN	Preparer Tax Identification Number
Pub. L. No.	Public Law Number
-Q-	
QRDB	Quality Review Database
-R-	
RA	Revenue Agent
RAF	Reporting Agents File
RCA	Reasonable Cause Assistant
RCP	Reasonable Collection Potential
Ref. No.	Reference Number
Regs.	Regulations
Rev. Rul.	Revenue Ruling

Acronym	Definition
RO	Revenue Officer
RRA 98	IRS Restructuring and Reform Act of 1998
RRP	Return Review Program
RRTA	Railroad Retirement Tax Act
-S-	
SAMS	Systemic Advocacy Management System
SB/SE	Small Business/Self Employed
S. Comm.	Senate Committee
Sec.	Section
SOI	Statistics of Income
SPDER	Servicewide Policy Directives and Electronic Research office
SSN	Social Security Number
Stat.	Statute
SSI	Support Staff Initiative
-T-	
TAC	Taxpayer Assistance Center
TACT	Taxpayer Communications Taskgroup
TAD	Taxpayer Advocate Directive
TAMIS	Taxpayer Advocate Management Information System
TAMRA	Technical and Miscellaneous Revenue Act of 1988
TAO	Taxpayer Assistance Order
TAP	Taxpayer Advocacy Panel
TAS	Taxpayer Advocate Service
TASIS	TAS Integrated System
TBD	To Be Determined
TBOR 1	Taxpayer Bill of Rights
TBOR 2	Taxpayer Bill of Rights 2
T.C.	Tax Court
TCE	Tax Counseling for the Elderly
T.C. Memo	Tax Court Memorandum
TE/GE	Tax Exempt/Government Entity
TFRP	Trust Fund Recovery Penalty
TIGTA	Treasury Inspector General for Tax Administration
TIN	Taxpayer Identification Number
Tit.	Title
TOP	Treasury Offset Program
Treas. Reg.	Treasury Regulation
TWG	Technical Working Group

Acronym	Definition
-U-	
UAA	Undelivered as Addressed
UBA	Unpaid Balance of Assessment
UD	Undelivered
UILC	Uniformed Issue List Code
U.S.	United States
USC	United States Code
USPS	United States Postal Service
UWR	Unified Work Requests
-V-	
Va. L. Rev.	Virginia Law Review
VITA	Volunteer Income Tax Assistance
-W-	
W&I	Wage and Investment
WHBAA	Worker, Homeownership, and Business Assistance Act of 2009
WRP	Workforce Recruitment Program for College Students with Disabilities
-XYZ-	

Publication 4054 Catalog Number 34427X Department of the Treasury Internal Revenue Service www.irs.gov