National Taxpayer Advocate

Report to Congress

Fiscal Year 2012 Objectives

NATIONAL TAXPAYER ADVOCATE

Fiscal Year 2012 Objectives

Report to Congress

TAXPAYER ADVOCATE SERVICE

YOUR VOICE AT THE IRS

June 30, 2011

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I. INTRODUCTION . . . . . *v*

II. AREAS OF FOCUS . . . . . *xii*

A. Taxpayers May Not Be Adequately Protected During a Lapse in Appropriations xii

B. TAS Will Continue to Focus on the IRS's Ability to Collect Taxes and Meet Taxpayer Needs as Its Responsibilities Have Expanded and Its Funding Has Been Reduced xiii

C. TAS Will Focus on Its Own Ability to Meet Sharply Increasing Taxpayer Needs xv

D. TAS Will Engage Taxpayers in a Dialogue About Tax Complexity and Tax Reform xvii

E. TAS's Continued Advocacy Efforts to Improve the Earned Income Tax Credit Program xviii

1. Certain EITC Proposals Do Not Address Underlying Causes of Noncompliance and Could Result in Incorrect Disallowance xix

2. TAS Is Conducting Research to Better Understand the Causes of EITC Noncompliance xx

a. Effectiveness of Affidavits During EITC Audits xx

b. EITC Examination Effectiveness xxii

F. The IRS Needs To Do More to Alleviate the Harm Its Lien Filing Practices Can Create For Many Taxpayers xxiii

G. The IRS Needs to Improve Its Identity Theft Victim Assistance Strategy xxv

H. TAS Continues to Advocate for Changes in the Two-Year Equitable Relief Deadline and for Victims of Domestic Violence and Abuse xxix

I. TAS Maintains a Close Eye on the IRS's Health Care Implementation Efforts xxxi

1. Small Business Health Care Tax Credit Calculator xxxii

2. Research Efforts xxxii

3. Communication Efforts xxxiii

J. Exempt Organization Reinstatement Applications May Cause Significant Delays in Processing Exempt Organization Applications xxxiii

K. IRS's Inconsistency and Failure to Follow Its Published Guidance Damaged Its Credibility With Practitioners Involved in the Offshore Voluntary Disclosure Program xxxiv

L. TAS Will Work with the IRS on Taxpayer Communication and Correspondence Issues xxxvi

III. FILING SEASON REVIEW *1*

A. IRS Administration of the First-Time Homebuyer Credit Became a Debacle 1

1. Background 1

2. Problems Before and During the Filing Season 1

3. TAS Actions in FY 2012 5

B. Legislation Passed Late in 2010 Impacted the 2011 Filing Season 5

C. IRS Implements a Revised Procedure for Processing Unsigned Returns that Results in a Loss of Valuable Taxpayer Data 5

Table of Contents

1. TAS Actions in FY 2012 7

D. IRS Measures of Filing Season Success Are Limited 7

E. TAS Is Concerned that IRS Implementation of the Adoption Credit May Unduly Burden Eligible Taxpayers. 8

1. Background 8

2. TAS Actions in FY 2012 9

IV. CASE ADVOCACY. 10

A. TAS Analyzes Economic and Systemic Burden Case Receipts for Process Improvements 10

B. TAS Identifies Problems and Trends Which Negatively Impact Taxpayers and Advocates to Resolve These Issues 14

C. Improvements in Advocacy. 15

1. Importance of the Taxpayer Assistance Order 16

D. Improving Advocacy in TAS Earned Income Tax Credit Cases 17

E. TAS Access to IRS Systems and Other Automated Technologies 19

F. Improving Case Advocacy Business Measures. 21

1. New Quality Standards Emphasize TAS Advocacy Mission 21

2. TAS Seeks to Improve Customer Satisfaction in FY 2012 and Beyond 22

V. SYSTEMIC ADVOCACY. 24

A. Systemic Advocacy is Everyone's Responsibility 24

B. Enhanced Evaluation and Review of Potential Systemic Issues 24

C. Proactive Solicitation of Potential Systemic Issues 26

D. Collaborative Approach to Resolving Systemic Issues 27

1. Working Advocacy Issues 27

2. Resolving Advocacy Issues 29

E. Advocating through the National Taxpayer Advocate's Annual Report to Congress. 30

F. TAS Is Implementing Significant Changes to Systemic Advocacy Quality Measures 31

VI. TAS RESEARCH INITIATIVES. 33

A. Estimating the Impact of Liens on Taxpayer Compliance Behavior. 33

B. Evaluating the Limited English Proficiency (LEP) Populations Served by the Low Income Taxpayer Clinics 34

C. Factors Impacting Taxpayer Compliance 34

D. Identification of Excessive Collection Statute Expiration Dates (CSEDs) 35

E. TAS Efficiency Measure 36

F. TAS Workload Distribution Case Weighting. 37

VII. HUMAN CAPITAL AND STAFFING 38

A. With Budgetary Challenges, TAS Looks to Alternative Methods for Providing the Annual All-Employee Training Symposium 40

VIII. INTEGRATED TAS TECHNOLOGY: TASIS 42

A. TASIS Will Enhance Online Document Collaboration and Storage 43

B. TASIS Will Improve Submission, Acceptance, and Assignment of Work. 43

C. TASIS Will Enhance Case Advocacy 44

D. TASIS Will Provide New Case Resolution Tools 45

E. TASIS Will Enhance TAS's Technical Assistance Process 45

F. TASIS Will Support Systemic Advocacy Efforts. 45

G. TASIS Will Use Key Words to Facilitate Accurate Electronic Research 46

IX. LOW INCOME TAXPAYER CLINIC GRANT PROGRAM 47

X. TAXPAYER ADVOCACY PANEL 49

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 2012 TAS Operational Priorities. V-1

Appendix VI: TAS Performance Measures and Indicators VI-1

Appendix VII: List of Advocacy Portfolios. VII-1

Appendix VIII: Earned Income Tax Credit Case Review Team Report VIII-1

Appendix IX: Systemic Advocacy Measures Memorandum IX-1

GLOSSARY OF ACRONYMS GL-1

Table of Contents

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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.

Over the last year there has been a great deal of positive activity at the IRS, including the transition to the Customer Account Data Engine 2 (CADE 2) system, which will fundamentally change (for the better) how the IRS processes tax return information. Several areas of significant change involve programs that I identified as "Areas of Focus" in our past Objectives Reports to Congress. In many of these areas, by pursuing an advocacy strategy that involved both TAS's Office of Systemic Advocacy and our Case Advocacy (Local Taxpayer Advocate) function, the Taxpayer Advocate Service (TAS) has provided the impetus for this systemic change and then has worked with the IRS or Congress to turn that impetus into reality. To highlight just a few of these areas:

- The initial implementation of regulation of federal tax return preparers, which will improve filing compliance and provide consumer protection for taxpayers;[3]
- The test involving outbound calling in the Centralized Offer in Compromise (COIC) units, which has shown that primarily by reaching out and talking with taxpayers the

1 IRC § 7803(c)(2)(B).

2 IRC § 7803(c)(2)(B)(iii).

3 *See* 2002 National Taxpayer Advocate Annual Report to Congress 69-74 (Most Serious Problem: *IRS Oversight of EITC Return Preparers Can Be Improved*); 2004 Annual Report to Congress 67-88 (Most Serious Problem: *Oversight of Unenrolled Return Preparers*); 2006 National Taxpayer Advocate Annual Report to Congress 197-221 (Most Serious Problem: *Oversight of Unenrolled Return Preparers*); 2009 National Taxpayer Advocate Annual Report to Congress 41-69 (Most Serious Problem: *IRS Lacks a Servicewide Return Preparer Strategy*); 2011 National Taxpayer Advocate Objectives Report to Congress 24-26 *(As the IRS Implements the New Return Preparer Initiative, TAS Will Continue to Monitor Its Scope As Well As Advocate for Several Statutory Changes).*

IRS has increased its offer acceptance rate to 66 percent for test cases and from 26 percent to 39 percent for all COIC cases from fiscal year (FY) 2010 to FY 2011;[4] and

- The repeal of the Form 1099 reporting requirement for purchases of goods (or other property) made in the course of business, which, if implemented, would have imposed substantial burden on business taxpayers without a corresponding compliance benefit.[5]

As with most systemic changes, these improvements take time. They require the IRS – a large organization with many competing priorities and a stovepiped management and structure – to change direction or shift its long-held perspective on how things should be done. To facilitate systemic change, Congress both required the Taxpayer Advocate Service to bring an independent, taxpayer-focused perspective to problems and placed us inside the IRS, because Congress wanted us to understand the challenges facing the IRS even as we make a compelling case for change.

Admittedly, many of the issues we identify are complex. In fact, the most difficult changes are often the most necessary and urgent, because their difficulty has caused them to be deferred, ignored, or brushed under the rug. It is TAS's job to identify issues that must be addressed in order to mitigate taxpayer problems with the IRS, and to advocate compellingly – with research and analysis, logic, policy, and real-world examples – for the IRS to address those issues now. But our work does not end when the IRS agrees to address our recommendations in theory – which it does most of the time.[6] As former IRS Commissioner Charles Rossotti once pointed out to me, TAS was placed inside the IRS not just to make recommendations but also to be part of the solution.

4 *See* IRS response to TAS information request (email from SB/SE Campus Compliance Services Program Manager), July 21, 2011 (providing the 66 percent test acceptance rate); IRS, Collection Activity Report, NO-5000-108, Monthly Report of Offer in Compromise Activity (Oct. 5, 2010) (providing FY 2010 acceptance rate) and June 2, 2011 (providing acceptance rate for first eight months of FY 2011). *See also* 2001 National Taxpayer Advocate Annual Report to Congress 52-55 (Most Serious Problem: Processing Offer in Compromise (OIC) Applications); 2002 National Taxpayer Advocate Annual Report to Congress 15-24 (Most Serious Problem: *Processing OIC Cases*); 2003 National Taxpayer Advocate Annual Report to Congress 99-112 (Most Serious Problem: *OIC*); 2004 National Taxpayer Advocate Annual Report to Congress 311-341 (Most Serious Problem: *Offers In Compromise*); 2007 National Taxpayer Advocate Annual Report to Congress 374-387 (Most Serious Problem: *Offers In Compromise*); 2008 National Taxpayer Advocate Annual Report to Congress 15-38 (Most Serious Problem: *The IRS Needs to More Fully Consider the Impact of Collection Enforcement Actions on Taxpayers Experiencing Economic Difficulties*); 2009 National Taxpayer Advocate Annual Report to Congress 196-216 (Most Serious Problem: *The Steady Decline of the IRS Offer In Compromise Program Is Leading to Lost Opportunities for Taxpayers and IRS Alike*); 2010 National Taxpayer Advocate Annual Report to Congress 311-318 (Status Update: *The IRS Offer-In-Compromise Program Continues to be Underutilized*); FY 2011 National Taxpayer Advocate Objectives Report to Congress 20-22 *(IRS Initiatives to Improve the Offer In Compromise Program Have Not Yet Achieved Tangible Results).*

5 Pub. L. No. 112-9, 125 Stat. 36 (Apr. 14, 2011). *See* FY 2011 National Taxpayer Advocate Objectives Report to Congress 9-13 *(TAS Will Examine the Administrative Challenges Presented by New Information Reporting Requirements).*

6 For FY 2007 through FY 2009, the IRS agreed to address 208 of 366 TAS recommendations. In addition, TAS made 698 suggestions to the IRS on Internal Management Documents/Single Point of Contact (IMD/SPOC) documents. Of those suggestions, 68 percent – 474 suggestions – were accepted. Data obtained from the Systemic Advocacy Management System (SAMS). *See Advocating through the National Taxpayer Advocate's Annual Report to Congress, infra.*

TAS continues to advocate for stronger taxpayer protections in the area of collection.

In last year's Objectives Report to Congress (and in several of the Annual Reports to Congress we deliver at the end of each year), we identified the IRS's Notice of Federal Tax Lien (NFTL) filing and withdrawal policies[7] and the IRS's handling of cases similar to the *Vinatieri* case, where economic hardship is present, as two areas of focus for us in fiscal year 2011.[8] Our strategy was two-fold: first, advocate forcefully, compellingly, and persistently in specific cases involving these issues and issue Taxpayer Assistance Orders (TAOs) where the IRS did not agree with our case-specific recommendations; and second, use the case examples to advocate for changes to Internal Revenue Manual (IRM) provisions and other internal guidance as well as training. In FY 2010 and FY 2011, TAS issued 42 TAOs dealing with NFTLs and 19 dealing with levy releases where economic hardship was present, and the IRS ultimately complied with the terms of the TAOs in 76 percent and 74 percent of the cases, respectively.[9] We worked with Collection Policy to change various IRM provisions to make clear that if a taxpayer meets the criteria for currently not collectible (CNC) hardship status, the taxpayer's account should be placed in that status even if the taxpayer has unfiled returns.[10] We also worked with Collection Policy to revise various IRM provisions to make clear that the IRS must release a levy where the taxpayer demonstrates economic hardship, even if the taxpayer has unfiled returns.[11]

Most significantly, we negotiated the recently issued guidance on the IRS's NFTL withdrawal policies.[12] In addition to allowing NFTL withdrawals where the taxpayer agrees to a direct debit installment agreement (within certain dollar limits), the IRS has finally issued guidance allowing NFTL withdrawals after the lien has been released, reversing its longstanding position that it could not legally do so.[13] From securing the counsel opinion

7 *See* National Taxpayer Advocate 2009 Annual Report to Congress 17-40 (Most Serious Problem: *One-Size-Fits-All Lien Filing Policies Circumvent the Spirit of the Law, Fail to Promote Future Tax Compliance, and Unnecessarily Harm Taxpayers*), 357-364 (Legislative Recommendation: *Strengthen Taxpayer Protections in the Filing and Reporting of Federal Tax Liens*); 2010 National Taxpayer Advocate 2010 Annual Report to Congress 302-310 (Status Update: *The IRS Has Been Slow to Address the Adverse Impact of Its Lien-Filing Policies on Taxpayers and Future Tax Compliance*); National Taxpayer Advocate FY 2011 Objectives Report to Congress 13-18 *(The National Taxpayer Advocate Remains Concerned About IRS Collection Practices that Do Not Promote Future Voluntary Compliance and Can Unnecessarily Harm Taxpayers).*

8 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. *Vinatieri v. Comm'r,* 133 T.C. 392 (2009). *See* National Taxpayer Advocate 2010 Annual Report to Congress 85-97 (Most Serious Problem: *IRS Collection Policies and Procedures Fail to Adequately Protect Taxpayers Suffering an Economic Hardship*); National Taxpayer Advocate FY 2011 Objectives Report to Congress 18-19 (*The IRS's Delay in Incorporating the Tax Court's Decision in Vinatieri v. Commissioner into the Internal Revenue Manual (IRM) and Other Guidance Unnecessarily Harms Taxpayers Who Are Experiencing Economic Hardship).*

9 Data obtained from TAMIS.

10 *See e.g.,* IRM 5.16.1.2.9(9) (Apr. 29, 2011); IRM 8.22.2.4.2(4) (Dec. 14, 2010).

11 *See* IRM 5.19.4.4.10(4)(j) (Mar. 8, 2010).

12 SB/SE *Interim Guidance Memorandum*, Control No. SB/SE-05-0611-037 (June 10, 2011).

13 *See* National Office Program Manager Technical Advice, PMTA-2009-158 (Oct. 9, 2009). In that advice, the IRS Office of Chief Counsel reevaluated its prior legal conclusion that NFTLs could not be withdrawn after the underlying liens were released that was reflected in IRM 5.12.3.37 (Sept. 7, 2006). *See also* IRM 5.12.3.35 (June 13, 2005); IRM 5.12.3.26.1 (July 15, 2003).

authorizing such withdrawals,[14] to issuing TAOs in these cases,[15] to negotiating with other IRS organizations and providing language and examples for the guidance, to working with members of Congress on lien filing legislation,[16] TAS has driven the development of this new NFTL withdrawal policy. It may have taken two years from start to finish, but true systemic change – in which all parties understand the need for change so they can implement it properly and not repeat the problem somewhere else – takes time. I am proud of TAS employees for their extraordinary advocacy on this issue, and I applaud the IRS for listening, heeding, and implementing this change. It will benefit taxpayers and tax compliance for years to come.

Having said that, there is much more to do. As we describe in this year's Areas of Focus, TAS still must work with the IRS to improve its NFTL *filing* (as opposed to NFTL *withdrawal*) policies. Both TAS and the IRS must focus on improving Earned Income Tax Credit (EITC) case procedures, so that they are not disallowing the EITC simply because the taxpayer cannot comply with all of the burdensome audit requirements.[17] TAS will continue to work with the IRS to help improve its procedures for resolving identity theft cases and reducing the burdens on identity theft victims during future filing seasons.[18] TAS will develop training for IRS public contact employees on working with victims of domestic abuse and violence. TAS will continue to work with the IRS on health care implementation. TAS will advocate for small exempt organizations that must re-apply for exempt organization status because their status was revoked for failing to file Form 990-N (the e-Postcard). TAS will monitor the IRS's implementation of its voluntary disclosure initiatives to ensure fairness and protection of taxpayers' rights.

Budget limitations may drive the IRS to automate more decision-making, curtailing personal interaction with taxpayers and failing to consider their specific circumstances.

Notwithstanding the progress made in several areas over the last year, I remain concerned that the IRS is falling backward in its commitment to taxpayer service and being a customer-focused organization. As we discuss in this report, the overriding concern here is the impact of budget decisions.[19] Simply put, if the IRS is not funded adequately while its

14 *See* National Office Program Manager Technical Advice, PMTA-2009-158 (Oct. 9, 2009).

15 Through May 31, TAS issued 16 lien withdrawal TAOs in FY 2011, of which the IRS complied with nine and seven remain open. In FY 2010, TAS issued 22 lien withdrawal TAOs, of which the IRS complied with 18, TAS rescinded one, and three remain open. Data obtained from TAMIS.

16 *See* Targeted Tax Lien Act, H.R. 6439 (111th Cong.); Taxpayer Bill of Rights Act, S. 3215 (111th Cong.); Taxpayer Bill of Rights Act, H.R. 5047 (111th Cong.).

17 *See TAS's Continued Advocacy Efforts to Improve the EITC Program; Improving Advocacy in TAS's Earned Income Tax Credit Cases*; and Appendix VIII: *Earned Income Tax Credit Case Review Report, infra. See also Hearing on Improper Payments in the Administration of Refundable Tax Credits, Before the Subcomm. on Oversight, H. Comm. on Ways and Means,* 112th Cong. (statement of Nina E. Olson, National Taxpayer Advocate) (May 25, 2011).

18 *See The IRS Needs to Improve Its Identity Theft Victim Assistance Strategy, infra. See also Hearing on The Spread of Tax Fraud by Identity Theft: A Threat to Taxpayers, A Drain on the Public Treasury, Before the Subcomm. on Fiscal Responsibility and Economic Growth, S. Comm. on Finance,* 112th Cong. (statement of Nina E. Olson, National Taxpayer Advocate) (May 25, 2011).

19 *See TAS Will Continue to Focus on the IRS's Ability to Collect Taxes and Meet Taxpayer Needs as Its Responsibilities Have Expanded and Its Funding Has Been Reduced, infra.*

work is increasing and expanding into new areas, it will turn to more automation and less interaction with taxpayers.

In the context of enforcement initiatives, automation means more rule-based decisions to issue levies and file liens, with enforcement actions occurring without any personal contact with taxpayers; more pressure for the (inappropriate) use of math error authority or truncated audit processes; greater use of correspondence examinations with no outbound calls to taxpayers; and more decision-making tools like the Reasonable Cause Assistant, which supplants the individual employee's determination regarding whether a penalty should be abated for reasonable cause.

On the taxpayer service side, automation could be a positive thing – if only the IRS could harness the use of electronic accounts and communication to enable taxpayers to see their own accounts, communicate directly with the IRS electronically, and have videoconferences with the IRS in remote locations (even as part of "correspondence" audits or collection matters). The IRS could also communicate with taxpayers through cellphone/smartphone technology, for example, by sending text or email message reminders of filing or payment deadlines, or due dates for submission of information in audits or collection matters.[20] The possibilities are endless, and the resources freed up by these initiatives could be retained to meet the needs of those taxpayers who need to talk with the IRS about their tax issues, either by phone or in person.

As noted above, the downside of having to do more with fewer resources is that the IRS will apply more "bright-line" tests to taxpayer situations, because having to look at a taxpayer's specific facts and circumstances is time-consuming and costly.[21] Indeed, bright-line tests are useful, since many – even a great majority – of taxpayers will still get fair results. But the test of fairness – of due process – is how government action applies to all taxpayers, including the minority.

So bright-line tests require a safety valve, and that safety valve involves allowing for and encouraging the exercise of judgment and discretion when the bright-line test brings about an unfair or improper result. What I see in parts of the IRS, however, is a trend toward greater reluctance to exercise discretion with respect to the non-bright line situations, and this reluctance is reinforced by the fact that exercising discretion takes time and resources, which in this budget environment the IRS believes it does not have.

20 The IRS must continue to place priority emphasis on protecting confidential taxpayer return information from disclosure, but that does not mean it should not enter the Internet age. Banks, credit card companies, and other financial institutions also place a priority on customer privacy, yet they have been making account information and transaction options available to customers for more than a decade. If the IRS tests using email and texting simply to provide reminders to taxpayers and does not embed confidential taxpayer return information in its messages, it can explore the benefits of electronic access and communication with minimal risk of disclosures.

21 We use the phrase "bright-line test" to apply to IRS programs or procedures that require the IRS employee to review the taxpayer's situation according to a limited set of yes/no questions. If the taxpayer meets these requirements, then the employee must take a specific, predetermined action. This action can either benefit or harm the taxpayer.

At its heart, though, the IRS's discomfort with exercising judgment and discretion is not about budgets. I believe it reflects a failure on the IRS's part to view taxpayers as human beings and to recognize that as a tax agency we deal with taxpayers as we find them, with all the vagaries of human existence, *i.e.,* "life in all its fullness." Think about it – there are few more intimate acts that a person has with his government than to tell it about one's family, income, expenses, losses, gains, educational activities, purchasing activities, retirement saving activities, and so on. Tax returns are not mere pieces of paper. Tax returns are reflections of people's lives – who they are and what they did – and to an astounding extent, they are voluntarily sharing this information with their government.[22]

The human drama of taxation and tax return filing was brought home to me this filing season during the First-Time Homebuyer Credit (FTHBC) debacle. As discussed elsewhere in this report, taxpayers who received the first iteration of the FTHBC were required to make their first repayment of the interest-free loan on their 2011 tax returns.[23] The IRS's failure to program its systems with sufficient lead time for review and issuance of guidance led to a massive breakdown in the return filing process for these taxpayers. In short, as I write this preface in June, there are still taxpayers who filed in January 2011, reporting the repayment of the FTHBC, who have not received the balance of their refunds.

These taxpayers did not take these delays quietly. They banded together, creating a Facebook page and sharing their stories. They published my own email address, along with those of other IRS officials. To date, I have received 114 emails from taxpayers, pleading for assistance. Their emails describe sustained economic difficulties caused by inexcusable refund delays. Even more disturbing for the prospect of ongoing compliance, they describe the lack of compassion evidenced by IRS (and even TAS) employees. These taxpayers write that after being given numerous promises of dates on which their refunds would be issued, none of which were met, they are "tired of being lied to" by their government. Several taxpayers speculated about what would happen if they took as long to pay a balance due on a tax return as the IRS was taking to pay them their refunds. All of this is out there on the web. None of this bodes well for the public's confidence in the tax system.

Taxpayers have also demonstrated how seriously they think about taxation by responding to my invitation in the 2010 Annual Report to Congress to share with us their thoughts about tax reform. On our website, we asked that taxpayers tell us what tax provision(s) they would give up if doing so would make taxes simpler, and what tax provision(s) they think is most unfair. I wanted to get the direct participation of taxpayers because I believe that true tax reform will not occur until the taxpaying public itself demands it, and I wanted to know what was on their minds.

22 For tax year 2001, the voluntary filing compliance rate was 87.3 percent. IRS, *Tax Gap Update* (Feb. 2006).

23 The $7,500 FTHBC allowed under the Housing and Economic Recovery Act of 2008 requires repayment of the credit over 15 years. Pub. L. No. 110-289, § 3011, 122 Stat. 2654, 2888 (July 30, 2008). *See IRS Administration of the First-Time Homebuyer Credit Became a Debacle, infra.*

To date, we have received over 1,500 comments,[24] and with the publication of this report, we are posting some of them on our tax toolkit website at www.TaxpayerAdvocate.irs.gov. My selection of these comments is not meant to be statistically representative of the whole. Instead, I have selected a range of comments that illustrate the diversity of thought and the seriousness with which taxpayers responded. In some instances, the comments show the need for more education about the different forms of taxation.[25] My office is considering how we may be able to use our web-based tax toolkit to provide taxpayers with a general understanding of taxes and tax systems, so that they can better understand the choices available to the government as it moves along the road to tax reform and be better equipped to participate in the discussion.

These two experiences – the FTHBC returns and the tax reform comments – have enabled me to hear directly from taxpayers. They also demonstrate the power of social media and the Internet to communicate and exchange (not just push out) information. As a result, I am establishing a blog on the TAS website, so I can communicate directly with taxpayers on a variety of topics, including filing season issues and education about taxpayer rights and the tax system. But most importantly, it will provide the National Taxpayer Advocate with an opportunity to hear from taxpayers and do a better job advocating on their behalf.

Respectfully submitted,

Nina E. Olson
National Taxpayer Advocate
30 June 2011

24 TAS received 1,515 comments from January 5 through June 18, 2011. *See* Tax Reform Suggestion Box at www.TaxpayerAdvocate.irs.gov.

25 For example, some submitters said they wanted a "flat" tax and explained it as a system that would tax income at x% up to a certain income level, y% between that and a higher level, and z% above the higher level, essentially describing a graduated income tax system.

II. Areas of Focus

A. Taxpayers May Not Be Adequately Protected During a Lapse in Appropriations

During the recent threat of a lapse in appropriation, the IRS revised its Contingency Plan[26] to identify the limited functions it could perform if the government shut down, as required by the Anti-Deficiency Act.[27] Although the plan took into consideration the special circumstances presented during a tax filing season, and identified excepted activities pertaining to the protection of *government* property, it did not provide protections for *taxpayers'* lives and property.

Examples of excepted activities under the current plan include depositing remittances and protecting statute expirations, bankruptcies, liens, and seizure cases. To protect the associated electronic remittances, the IRS would process electronically filed tax returns and issue any refunds generated, absent processing errors. Taxpayer phone assistance would be limited to callers with questions relating to return filing.[28]

The IRS Plan made no allowance for processing paper tax returns and issuing related refunds, providing taxpayer account assistance, or resolving lien issues.[29] Although the Plan provided for Automated Collection System (ACS) representatives across the country to assist callers with levy releases,[30] it is unclear whether this workforce could have met taxpayers' needs if those employees were otherwise engaged in activities pertaining to the protection of government property. Consequently, taxpayers suffering from an immediate financial hardship would be offered no remedy. Thus, a taxpayer who was unable to close on a loan because of a federal tax lien or who could not pay for fuel to heat a home without a tax refund would get no assistance when calling the IRS, or would become lost in the accumulated stockpile of unprocessed paper returns and correspondence. TAS estimates that, during the week in which the shutdown might have occurred, over a million callers would have experienced long delays (if their call was answered at all);[31] a quarter of a million taxpayers would have been turned away at Taxpayer

26 IRS, *FY 2011 Shutdown Contingency Plan* (Rev. Apr. 7, 2011), *available at* http://www.whitehouse.gov/omb/contingency-plans (last visited June 6, 2011).

27 31 U.S.C. §§ 1341 - 1342, prohibits agencies from obligating funds exceeding, or in advance of, appropriations and from employing personnel during a lapse in appropriations except for emergencies involving the safety of human life or the protection of property.

28 IRS, *FY 2011 Shutdown Contingency Plan* (Rev. Apr. 7, 2011), *available at* http://www.whitehouse.gov/omb/contingency-plans (last visited June 6, 2011).

29 *Id.*

30 *Id.* at 38-39.

31 IRS, *FY 2011 Enterprise Snapshot Reports* (Week Ending Apr. 16, 2011). IRS assistors answered nearly 1.5 million calls during the week ending April 16, 2011. It is unknown how many of these callers were seeking assistance with tax filing questions; however, all callers would have experienced the impact of reduced staffing.

Assistance Centers;[32] and more than 100,000 pieces of correspondence would have been added to open inventories across the country.[33]

The National Taxpayer Advocate believes the Anti-Deficiency Act as written and interpreted does not sufficiently protect *taxpayers'* rights and interests in the event of a government shutdown. The National Taxpayer Advocate recommends that the permissible activities defined in the Anti-Deficiency Act be clarified to provide protection of *taxpayers'* lives and property and will address this issue in the 2011 Annual Report to Congress.

B. TAS Will Continue to Focus on the IRS's Ability to Collect Taxes and Meet Taxpayer Needs as Its Responsibilities Have Expanded and Its Funding Has Been Reduced

The National Taxpayer Advocate has repeatedly expressed concern that the IRS is not sufficiently funded to effectively fulfill its mission of collecting taxes and meeting taxpayer needs. In FY 2011, this subject will again be an area of emphasis.

The job of the IRS is, in essence, to do whatever Congress directs it to do. As long as the IRS has sufficient data to verify taxpayer eligibility for authorized tax benefits, the National Taxpayer Advocate believes the IRS is capable of fulfilling its congressionally assigned tasks if given sufficient resources.[34] In recent years, the IRS has been given more and more tasks, but it is not receiving the resources it needs to fulfill these tasks without cutting corners. And when the IRS cuts corners, taxpayers can be harmed and revenue collection may suffer.

The IRS's challenges have been heightened as the tax code has grown longer and more complex by the year. In addition, the increasing number of late-year tax-law changes, most notably the extension of expiring tax breaks, has required the IRS annually to make extensive last-minute programming changes and forced the IRS to defer accepting certain tax returns until well after the filing season has begun. During the 2011 season, for example, the IRS could not process Form 1040 returns on which deductions were itemized until February 15.[35] Because more than 75 percent of taxpayers are entitled to refunds that average over $2,800,[36] these delays often have a significant adverse financial impact on taxpayers.

Finally, Congress has increasingly been tasking the IRS with administering economic and social benefits programs. In 2008, Congress directed the IRS to make Economic Stimulus Payments. Also beginning in 2008, Congress made available the first of three iterations of

32 IRS, *FY 2011 Enterprise Customer Contact Reports* (Week Ending Apr. 16, 2011).

33 IRS, *Accounts Management Reports: AMIR Summary* (Week Ending Apr. 16, 2011).

34 For a discussion of the characteristics of programs that the IRS is able to administer effectively, see National Taxpayer Advocate 2009 Annual Report to Congress, vol. 2, 75-104 *(Running Social Programs Through the Tax System).*

35 *See* IRS News Release, IR-2011-16, *IRS Begins Processing Tax Forms Affected by Late Tax Changes; Taxpayers Can e-File Immediately* (Feb. 15, 2011).

36 *See* IRS Filing Season Statistics (as of May 13, 2011), *at* http://www.irs.gov/newsroom/article/0,,id=239536,00.html.

the First-Time Homebuyer Credit. Beginning in 2009, Congress provided the Making Work Pay Credit. Then last year, Congress enacted the Hiring Incentives to Restore Employment (HIRE) Act, which provides incentives for small businesses to hire additional workers, and the Patient Protection and Affordable Care Act, which contains numerous provisions that will require interaction between the IRS and businesses or individuals.

Administering a more complex tax code, implementing last-minute tax-law changes just before the filing season, and running benefits programs all require resources. Yet for FY 2011, the IRS's budget was reduced slightly as compared with FY 2010,[37] and its funding for FY 2012 remains unclear. The Administration has proposed an increase of more than nine percent over FY 2011 levels,[38] the House Appropriations Committee has approved a bill that would reduce funding by five percent below FY 2011 levels,[39] and the Senate has not yet acted.

Prior to FY 2011, the IRS had received budget increases for several years. Yet even so, the agency was falling behind in its ability to meet taxpayer needs. Two key indicators of taxpayer service are the IRS's ability to answer taxpayer telephone calls and the IRS's ability to respond to taxpayer correspondence. From FY 2004 to FY 2010, the percentage of calls the IRS answered from taxpayers seeking to speak with a telephone assister dropped from 87 percent to 74 percent.[40]

Over the same period, the IRS's ability to timely process taxpayer correspondence also declined. Comparing the final week of FY 2004 with the final week of FY 2010, the backlog of taxpayer correspondence in the tax adjustments inventory jumped by 76 percent (from 357,151 to 628,016), the percentage of "uncontrolled" correspondence received but not yet entered into IRS computer systems increased by 134 percent (from 8.3 percent to 19.4 percent of correspondence), and the percentage of taxpayer correspondence classified as "overage" increased by 135 percent (from 11.5 percent to 27.0 percent of correspondence).[41]

If subjected to spending freezes or cuts, the IRS will fall further behind in collecting taxes and serving America's taxpayers. The National Taxpayer Advocate has previously expressed the view that the IRS, as the tax collector, should generally be exempt from any budget freeze or reduction. According to the most recent estimate available, $345 billion in tax is due but not timely and voluntarily paid each year.[42] As the *de facto* "Accounts

37 Department of Defense and Full-Year Continuing Appropriations Act, 2011, Pub. L. No. 112 10, § 1119, 1125 Stat. 38, 107 (2011).

38 *See Department of the Treasury, FY 2012 Budget in Brief* (showing FY 2010 enacted levels), *at* http://www.treasury.gov/about/budget-performance/budget-in-brief/Documents/FY2012_IRS_508.pdf.

39 *See* Fiscal Year 2012 Financial Services and General Government Appropriations Act (as approved by the House Appropriations Committee on June 23, 2011).

40 *See* IRS FY 2010 Enforcement Results, *available at* http://www.irs.gov/pub/irs-utl/2010_enforcement_results.pdf.

41 *Compare* IRS, Joint Operations Center, *Weekly Enterprise Adjustments Inventory Report* (week ending Sept. 25, 2010) with IRS, Joint Operations Center, *Weekly Enterprise Adjustments Inventory Report* (week ending Sept. 25, 2004).

42 The IRS's most recent estimate of the tax gap is for Tax Year 2001. *See* IRS News Release, IR-2006-28, *IRS Updates Tax Gap Estimates* (Feb. 14, 2006). While the results are somewhat dated, they represent the most reliable estimate available.

Receivable Department" of the federal government, the IRS collects well over 90 percent of all federal revenue.[43] On a budget of about $12.1 billion,[44] the IRS collected about $2.35 trillion in FY 2010.[45] In other words, every $1 appropriated for the IRS produced about $194 in federal revenue.[46]

For that reason, dollars appropriated for the IRS are not a cause of the deficit problem. Rather, they are better viewed as part of the solution to the deficit problem. Despite differing views about the appropriate level of taxation, there is widespread agreement that taxes that are due and owing under the law should be collected. Spending cuts mean the IRS will not have the resources to ensure that all taxpayers pay their fair share, thereby effectively forcing compliant taxpayers to pay more to subsidize noncompliance by others and giving noncompliant business taxpayers a competitive advantage. Moreover, the IRS will not have the ability to meet the service needs of the taxpayers who are paying our nation's bills.

During the coming year, TAS will continue to study the adequacy of resources available to the IRS to enable it to fulfill the responsibilities Congress has assigned it and will continue to advocate for a reasonable balance between its responsibilities and its resources.

C. TAS Will Focus on Its Own Ability to Meet Sharply Increasing Taxpayer Needs

The workload facing our own organization, the Taxpayer Advocate Service (TAS), has increased substantially in recent years. Although TAS has other important responsibilities, Congress created TAS largely to serve as the IRS's "safety net" for taxpayers who are experiencing significant hardships. In practice, TAS is often a taxpayer's last resort for resolving a tax problem.[47] We assist taxpayers who are experiencing a current or imminent financial hardship as a result of an IRS action or inaction (*e.g.,* where an IRS levy against a taxpayer's paycheck will lead to eviction or a shutoff of utilities) or who are experiencing a systemic hardship because the IRS has not served them on a timely or accurate basis (*e.g.,* where the IRS has failed to issue a refund or adequately consider a taxpayer's response to an audit or collection notice). By statute, Congress has required that TAS make at least one advocate available for each state,[48] and we currently have 74 offices serving taxpayers.

43 *See* IRS Fact Sheet, FS-2011-09, *IRS FY 2012 Budget Proposal Summary* (Feb. 2011), *available at* http://www.irs.gov/newsroom/article/0,,id=235959,00.html.

44 Department of the Treasury, *FY 2012 Budget in Brief* (showing FY 2010 enacted levels).

45 Government Accountability Office, GAO-11-142, *Financial Audit: IRS's Fiscal Years 2010 and 2009 Financial Statements* at 59 (Nov. 2010).

46 In evaluating the likely revenue benefits of additional funding, the average return on investment (ROI) of 194:1 is less important than the marginal ROI that can be achieved for each additional dollar spent. While the marginal ROI is considerably less than 194:1 and will differ by program, studies generally show that, within reasonable limits, each additional dollar appropriated to the IRS generates substantially more than an additional dollar in federal revenue, assuming the funding is wisely spent.

47 Where a taxpayer disagrees with an IRS liability determination or collection action, the taxpayer generally may seek redress before the Office of Appeals or the United States Tax Court. However, a taxpayer requires considerable knowledge or professional assistance to utilize the Appeals or Tax Court processes, and most taxpayers do not take their cases that far.

48 IRC § 7803(c)(2)(D)(i)(I).

Through May, TAS receipts have remained relatively steady at 190,204 cases in FY 2011 as compared with 191,901 for the same period in FY 2010. However, these levels reflect a steady increase in cases over the last several years, as receipts rose from 168,856 in FY 2004 to 298,933 in FY 2010. There are two main reasons why TAS cases increase. First, the majority of TAS's cases stem from IRS compliance actions, and the IRS has substantially increased the number of these actions in recent years.[49] Second, TAS receives more cases during economic downturns, when more taxpayers cannot pay their tax bills and get into trouble with the IRS.

To date, TAS has managed to handle the increased caseload. After several years of declining staffing, TAS has been able to hire three new categories of employees over the past few years to assist our Case Advocates in doing their jobs. We now have 116 "Intake Advocates," who answer telephone calls, respond to simple taxpayer questions, and assist with case-building by identifying key facts and issues and requesting necessary documentation. We also have 127 "Lead Case Advocates," who mentor and assist Case Advocates with unusually challenging cases, maintain partial caseloads of their own, and help develop TAS best practices. Finally, we have 18 "Campus Technical Advisors," who provide technical guidance and support on complex cases worked by the IRS in each of its ten campuses. These additional specialty positions have freed up our Case Advocates to spend more direct time resolving taxpayer cases and have given them helpful resources when they get stuck on technical issues. TAS management has also taken steps to improve efficiencies.[50]

As a result of these measures, TAS has continued to perform well. In FY 2010, TAS obtained full relief for taxpayers in 69 percent of our cases and partial relief for taxpayers in an additional five percent.[51] (In other cases, taxpayers generally are not entitled to relief.) These levels are consistent with historical norms. In addition, ongoing surveys conducted by an independent polling firm among taxpayers assisted by TAS show that customer satisfaction stood at 84 percent in FY 2004 and at 85 percent in FY 2010.

Despite these positive results and despite actions taken by TAS management to offset the significant increase in case receipts, including the creation of Intake Advocate, Lead Case

49 From FY 2004 to FY 2010, levies rose from 2,029,613 to 3,606,818, liens rose from 534,392 to 1,096,376, and seizures rose from 440 to 605. *See* IRS FY 2010 Enforcement Results, *available at* http://www.irs.gov/pub/irs-utl/2010_enforcement_results.pdf.

50 One important current project is the development and deployment of a new, fully integrated system for TAS, which will automate many manual operations and integrate case advocacy, systemic advocacy, and all other TAS activities. This system, known as the Taxpayer Advocate Service Integrated System, or TASIS, will replace more than ten stand-alone systems and databases and improve efficiency by enabling employees to work across IRS systems, maintain and search case files electronically, and handle the intake, screening, and distribution of work electronically. TASIS will also enable management to ensure a more even distribution of workload because it will provide information not merely on the number of cases per Case Advocate but also on case complexity, required skills, and anticipated time required for case completion. Assuming the funding committed to the project is not cut or deferred, we anticipate that much of TASIS will be operational in 2013.

51 TAS determines relief rates based upon whether TAS is able to provide full or partial relief or assistance on the issue initially identified by the taxpayer. Because TAS frequently provides relief on issues that differ from the ones the taxpayer initially identified, the relief rate, as calculated, is understated.

Advocate, and Campus Technical Advisor positions, the deployment of automated tools and improved, more efficient processes, the growth in casework is beginning to strain TAS's capacity. (A more in-depth discussion of our productivity efforts relating to human capital, systems, and process improvements is provided in Sections VII and VIII of this report.) Because cases generally come to TAS only when a taxpayer is suffering from a financial hardship or the IRS's regular processes have not worked as they should, TAS has had a policy of assisting all taxpayers who meet our case-acceptance criteria since Congress created our organization in 1998. If the imbalance between our resources and the demand for our services widens much further, however, we will have no choice but to decline to accept certain categories of cases, leaving taxpayers to fend for themselves.

During the coming year, we will continue to seek efficiencies and continue to call attention to the imbalance between our increasing case inventories and our relatively static budgets, as well as the impact this imbalance is having on taxpayers.

D. TAS Will Engage Taxpayers in a Dialogue About Tax Complexity and Tax Reform

In FY 2012, the Office of the Taxpayer Advocate will continue its research concerning the trade-offs between the benefits delivered through the tax system and the tax code complexity that erodes compliance. Numerous social tax expenditures may offer popular benefits with a relatively light administrative burden, yet other provisions may be so complex as to deter compliance or even participation.[52] While lawmakers debate the policy merits of various provisions, taxpayers need to understand their practical impact.

Unless the tax system becomes more transparent and user-friendly, taxpayers' perceptions of fairness and ultimately their compliance with the system may continue to erode. Complexity may benefit those who can afford expensive advice that offers access to certain tax breaks, effectively discriminating against taxpayers who cannot afford advice. Taxpayers who believe others are unfairly paying less may feel justified in "fudging" to right the perceived wrong. Even at the cost of relinquishing prized tax credits, deductions, deferrals, or exclusions, taxpayers may wish to reduce complexity. The payoff would be improved taxpayer morale.[53]

To further this dialogue about tax reform, the Taxpayer Advocate Service is operating an electronic suggestion box to monitor comments from taxpayers on what they would be willing to give up if others also would relinquish tax breaks, resulting in a simpler tax system.[54] What particular provisions of the existing tax system are especially burdensome

52 *See* National Taxpayer Advocate 2010 Annual Report to Congress vol. 2, 101-119 (Research Study: *Evaluate the Administration of Tax Expenditures*); 2009 Annual Report to Congress vol. 2, 75-104 (Research Study: *Running Social Programs Through the Tax System*).

53 *See generally* National Taxpayer Advocate 2010 Annual Report to Congress 3-14 (Most Serious Problem: *The Time for Tax Reform Is Now*).

54 *See* National Taxpayer Advocate 2010 Annual Report to Congress xi (Preface).

or seem particularly unfair? Thus far, TAS has received approximately 1,500 comments.[55] Interestingly, some of the suggestions use terms of art at variance with their technical meaning; for example, describing a "flat" tax as imposing higher rates at graduated income levels. These comments highlight a need for education on technical tax terms as well as an underlying instinct for fairness with respect to ability to pay. A selection of these comments is posted at www.TaxpayerAdvocate.irs.gov.

E. TAS's Continued Advocacy Efforts to Improve the Earned Income Tax Credit Program

Noncompliance has long been a concern associated with the Earned Income Tax Credit (EITC). Generally, noncompliance is best described as a continuum of behavior from inadvertent error to negligence to recklessness (in disregard of the law) to fraud at civil or criminal levels.[56] Similarly, social scientists have classified noncompliance of different types, such as procedural, unknowing, asocial, brokered, symbolic, social, or habitual.[57] Compliance may be influenced by factors such as demographic affiliations, personal morals, social norms, deterrence probabilities, trust in government, complexity and convenience, as well as preparers and other third parties.[58] In view of the diverse aspects of noncompliance as applied to the EITC, "it seems likely that there is not one compliance problem, but a series of sometimes distinct compliance problems that call for a more focused but still multifaceted approach to reflect specific types of noncompliance problems." [59]

Heeding this observation, in FY 2012 TAS will review proposals and apply previous research findings to help reduce EITC noncompliance.[60] Previous TAS research findings suggest that the EITC claims of many taxpayers are denied for lack of documentation even if they could meet applicable residence and relationship requirements.[61] In addition, TAS is actively focusing on its own advocacy in EITC TAS cases, as discussed later in this report.[62]

55 TAS had received 1,515 suggestions as of June 18, 2011. *See* Tax Reform Suggestion Box at www.TaxpayerAdvocate.irs.gov.

56 *See* National Taxpayer Advocate 2009 Annual Report to Congress vol. 2, 81 (Research Study: *Running Social Programs Through the Tax System*).

57 *See* Robert Kidder & Craig McEwen, *Taxpaying Behavior in Social Context: A Tentative Typology of Tax Compliance and Noncompliance*, 2 Taxpayer Compliance (1989); Leslie Book, *The Poor and Tax Compliance: One Size Does Not Fit All*, 51 Kans. L. Rev. 1145 (2003), *available at* http://works.bepress.com/leslie_book/8 (last visited June 6, 2011).

58 *See* National Taxpayer Advocate 2010 Annual Report to Congress vol. 2, 87 (Research Study: *Researching the Causes of Noncompliance: An Overview of Upcoming Studies*).

59 Leslie Book, *Preventing the Hybrid from Backfiring: Delivery of Benefits to the Working Poor Through the Tax System*, 2006 Wisc. L. Rev. 1103, 1114.

60 *See* National Taxpayer Advocate 2004 Annual Report to Congress vol. 2 (*EITC Audit Reconsideration Study*).

61 *See Hearing on Improper Payments in the Administration of Refundable Tax Credits, Before the Subcomm. on Oversight, H. Comm. on Ways and Means,* 112th Cong. (statement of Nina E. Olson, National Taxpayer Advocate) (May 25, 2011).

62 *See Improving Advocacy in TAS Earned Income Tax Credit Cases, infra; Appendix VIII: Earned Income Tax Credit Case Review Team Report, infra.*

1. Certain EITC Proposals Do Not Address Underlying Causes of Noncompliance and Could Result in Incorrect Disallowance

A significant level of noncompliance has resulted in the classification of the EITC as the fourth largest source of "improper payments" by the government in FY 2010.[63] Several proposals attempt to address concerns about noncompliance and improper payments. At the end of 2010, the Department of the Treasury announced a pilot program to assess the usefulness of state benefits data "to help validate EITC eligibility."[64] Meanwhile, the Treasury Inspector General for Tax Administration (TIGTA) has reiterated a recommendation that the IRS consider "Federal Case Registry [FCR] information to determine its accuracy and applicability for exercising existing math error authority to deny the EITC during upfront processing of the tax return."[65] The National Taxpayer Advocate continues to object specifically to the use of FCR data for *summary* denial of EITC claims "since the underlying factual situation is inherently qualitative in nature."[66] Moreover, applying data collected for other purposes to an EITC claim is akin to verifying addresses with a telephone directory to deny a home mortgage interest deduction. Even if virtually all of the entries in a directory were accurate, they were compiled for a different purpose, do not disprove eligibility under the tax law, were compiled at a prior date and may not be current, and should not deprive a taxpayer of a due process right to present his or her own facts. Enforcement on a mass-production model may not be as effective as service to low income taxpayers on an individual basis.[67]

While the Improper Payments Information Act of 2002 requires reporting on certain payments,[68] it does not prescribe any particular remedy.[69] A report on actions to correct *causes* of improper EITC payments could address the service necessary to administer complex eligibility requirements. Meanwhile, there are other tax credits, such as those creating incentives for alternative fuels or for incremental expenditures on research and experimentation, that can result in large refunds; thus, investigating whether these

63 *See* GAO, GAO-11-575T, *Improper Payments: Recent Efforts to Address Improper Payments and Remaining Challenges* 4 (Apr. 15, 2011) (reporting $16.9 billion in improper EITC payments); Improper Payments Information Act of 2002, Pub. L. No. 107–300, 116 Stat. 2350 (2002) (governing payments over $10 million "derived from Federal funds"); OMB Circ. A-123, Appdx. C, M-11-16, Pt. I at 5 (Apr. 14, 2011) (imposing threshold of 2.5 percent of program outlays); Garrett Hatch & Virginia A. McMurtry, *Improper Payments Information Act of 2002: Background, Implementation, and Assessment,* Cong. Res. Serv. (CRS) No. RL34164 (Oct. 4, 2010); *Hearing on Improper Payments in the Administration of Refundable Tax Credits, Before the Subcomm. on Oversight, H. Comm. on Ways and Means,* 112th Cong. (statement of Nina E. Olson, National Taxpayer Advocate) (May 25, 2011).

64 Dept. of the Treasury, *Performance and Accountability Rept*. FY 2010 (Nov. 15, 2010) 280.

65 Treasury Inspector General for Tax Administration (TIGTA), Ref. No. 2009-40-024, *The Earned Income Tax Credit Program Has Made Advances; However, Alternatives to Traditional Compliance Methods Are Needed to Stop Billions of Dollars in Erroneous Payments* 13-14 (Dec. 31, 2008), referenced in Ref. No. 2011-40-023, *Reduction Targets and Strategies Have Not Been Established to Reduce the Billions of Dollars in Improper Earned Income Tax Credit Payments Each Year* 9 (Feb. 7, 2011) (hereinafter *Reduction Targets)*.

66 National Taxpayer Advocate 2002 Annual Report to Congress 196 (Legislative Recommendation: *Math Error Authority*).

67 *See* National Taxpayer Advocate 2007 Annual Report to Congress vol. 2, 94-116 (Research Study: *IRS Earned Income Credit Audits*).

68 Pub. L. No. 107–300, 116 Stat. 2350 (2002), cited in *Reduction Targets* 1.

69 *See generally* Lawrence Zelenak, *Tax or Welfare? The Administration of the Earned Income Tax Credit,* 52 UCLA L. REV. 1867, 1896-98 (2005).

credits have been properly granted would be worthwhile whether or not they fit the definition of "improper payments."[70]

Additionally, TIGTA objects to "the IRS' use of a dollar tolerance" in limiting the number of EITC recertification examinations, notwithstanding the cost-benefit analysis inherent in tolerances.[71] This objection suggests an approach to EITC that appears disproportionate to potential noncompliance at low income levels. In sum, TAS continues to monitor EITC administration to ensure that enforcement initiatives do not replace or undermine service efforts that could increase taxpayer compliance.[72]

2. TAS Is Conducting Research to Better Understand the Causes of EITC Noncompliance

TAS is collaborating with the IRS on two pilot programs to reduce EITC noncompliance through improved service to taxpayers. As discussed below, one program tests the use of affidavits to establish qualifying child status, while the other tests improvements to the examination process. Additionally, TAS's efforts to improve EITC case advocacy by TAS employees are discussed elsewhere in this report.[73] These efforts complement applied research on increasing EITC compliance.

A. Effectiveness Of Affidavits During EITC Audits

To verify the accuracy of the millions of EITC claims every year, the IRS audits some of the returns filed.[74] EITC audits represent approximately 30 percent of all individual taxpayer audits in FY 2010.[75]

70 See, *e.g.,* Steven Mufson, *Paper Industry Pushed Further into the Black by 'Black Liquor' Tax Credits*, Washington Post (Apr. 26, 2011) (identifying large business taxpayers benefiting from multi-million dollar cellulosic biofuel credits as well as a refundable provision); Office of Management & Budget, Budget of the U.S. Govt. FY 2011, *Analytical Perspectives* at 177 (explaining that "byproducts derived from the processing of paper or pulp (known as black liquor when derived from the kraft process) . . . would qualify as cellulosic biofuel and, to the extent so qualifying, could result in substantial revenue losses and a windfall to the paper industry"); *Union Carbide v. Comm'r,* T.C. Memo. 2009-50 (describing multi-million dollar research credits); E*ustace v. Comm'r,* T.C. Memo. 2001-66 (describing the use of amended returns to claim refunds of research credit), aff'd 312 F.3d 905 (7th Cir. 2002).

71 TIGTA, Ref. No. 2008-40-131, *While Progress Has Been Made, Limits on the Number of Examinations Reduce the Effectiveness of the Earned Income Tax Credit Recertification Program* (July 3, 2008), referenced in *Reduction Targets* 9.

72 Elsewhere this report discusses an ongoing IRS pilot program to test certain improvements to the audit process and taxpayer service suggested by previous TAS research.

73 *See* Improving Advocacy in TAS Earned Income Tax Credit Cases, *infra*.

74 Over 26 million filers claimed EITC in tax year (TY) 2009. Internal Returns Transaction File for tax year 2009 from the Compliance Data Warehouse (Mar. 17, 2010).

75 IRS Pub. 55, *Data Book,* 2006 - 2010, Table 9; IRS EITC Program Office response to TAS information request (May 18, 2011) (473,999 returns were selected for audit on the basis of EITC out of 1,581,394 individual returns audited in FY 2010).

FIGURE II.1, COMPARISON OF ALL INDIVIDUAL TAX RETURNS TO INDIVIDUAL TAX RETURNS CLAIMING EITC, 2006 - 2010

FY	All Individual Returns			Returns with EITC			EITC Compared to All Individual Returns		
	Exams	Recommended Additional tax ($) (in billions)	$ per Exam	Exams	Recommended Additional tax ($) (in billions)	$ per Exam	Percent of Exams	Percent of Recommended Additional tax ($)	Percent of $ per Exam
2006	1,283,950	13.05	10,160	517,617	1.49	2,872	40.3	11.4	28.3
2007	1,384,563	15.71	11,343	503,267	1.49	2,969	36.3	9.5	26.2
2008	1,391,581	12.46	8,956	503,755	1.99	3,958	36.2	16.0	44.2
2009	1,425,888	14.94	10,478	508,180	2.15	4,232	35.6	14.4	40.4
2010	1,581,394	15.07	9,527	473,999	1.97	4,162	30.0	13.1	43.7
Average	1,413,475	14.24	10,077	501,364	1.82	3,639	35.5	12.8	36.1

The most common reason EITC claims are disallowed during an audit is because taxpayers do not substantiate that their children lived with them for over half of the tax year as required.[76] Currently, IRS audit procedures allow taxpayers to provide either official records or letters on official letterhead 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 to IRS audit procedures would give the taxpayer the option of using a third type of documentation – a third-party affidavit. This new procedure would allow third parties with knowledge of the child's residency to fill out a standardized affidavit rather than write a letter. TAS has recommended that the IRS pursue the adoption of a third-party affidavit on numerous occasions.[77]

The IRS first tested the use of affidavits in a tax year 2003 IRS initiative to use affidavits to document residency of qualifying children of low income taxpayers who participated in a test of a proposed EITC pre-certification process. At that time, the IRS concluded that affidavits would be acceptable as well as convenient documentation:

> Affidavits were believed to be easier for taxpayers to obtain than official documents or letters. *The results show that affidavits had a higher acceptance rate than the other two types of documents. In each of the tests, about one-half of the records and*

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

77 *See* National Taxpayer Advocate 2002 Annual Report to Congress 50-52 (Most Serious Problem: *EITC Eligibility Determinations Can Be Made Less Burdensome*); National Taxpayer Advocate 2003 Annual Report to Congress 30 (Most Serious Problem: *Earned Income Tax Credit Compliance Strategy*); National Taxpayer Advocate 2004 Annual Report to Congress vol. 2, 41 (Research Study: *EITC Audit Reconsideration Study*); National Taxpayer Advocate 2005 Annual Report to Congress 106-108, 114, 119 (Most Serious Problem: *Earned Income Tax Credit Exam Issues*); National Taxpayer Advocate 2006 Annual Report to Congress 297-298, 308-309 (Most Serious Problem: *Correspondence Examination*); National Taxpayer Advocate 2007 Annual Report to Congress 230, 236, 240 (Most Serious Problem: *EITC Examinations and the Impact of Taxpayer Representation*); National Taxpayer Advocate 2007 Annual Report to Congress vol. 2, 96, 115 (Research Study: *IRS Earned Income Credit Audits — A Challenge to Taxpayers*); National Taxpayer Advocate 2009 Annual Report to Congress 125, 129 (Most Serious Problem: *Beyond EITC: The Needs of Low Income Taxpayers Are Not Being Adequately Met*); National Taxpayer Advocate 2009 Annual Report to Congress vol. 2, at 97-98 (Research Study: *Running Social Programs Through the Tax System*).

> *statements or letters were accepted compared to approximately three-quarters of the affidavits.*[78] [Emphasis added.]

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 is in its second year of data collection, which began in February 2011 with EITC audits of tax year 2010 returns.

The objectives of this study are to 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 a third-party affidavit affect the efficiency of the audit process?

B. EITC Examination Effectiveness

Typical EITC taxpayers working near or at minimum wage levels tend to have limited education and literacy skills, and minimal understanding of financial matters. They are also likely not skilled at dealing with the IRS on issues involving complicated matters of tax law. The law clearly places the burden of proof on the taxpayer, but if the taxpayer cannot sufficiently understand the rules or negotiate the audit process, reaching the goal of a correct audit outcome is brought into question. The National Taxpayer Advocate has long been concerned that various barriers are preventing the IRS from treating taxpayers fairly. To address this concern, TAS is collaborating with the Wage and Investment (W&I) and Small Business/Self-Employed (SB/SE) divisions to test whether alternative approaches to conducting EITC correspondence examinations affect the audit change rate, because some audits have denied taxpayers EITC for which they qualify. This pilot program was initiated in response to research and recommendations TAS has made in past years.[79] Results will help guide recommendations for improvements to the examination process.

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78 *See* IRS, *Earned Income Tax Credit Initiatives: Report on Qualifying Child Residency Certification, Filing Status, and Automated Underreporter Tests* 14 (2008).

79 *See* National Taxpayer Advocate 2003 Annual Report to Congress 28 (Most Serious Problem: *Earned Income Tax Credit Compliance Strategy*); National Taxpayer Advocate 2004 Annual Report to Congress vol. 2, 43 (Research Study: *EITC Audit Reconsideration Study*); National Taxpayer Advocate 2005 Annual Report to Congress 17 (Most Serious Problem: *Trends in Taxpayer Service*); National Taxpayer Advocate 2005 Annual Report to Congress 113-114 (Most Serious Problem: *Earned Income Tax Credit Exam Issues*); National Taxpayer Advocate 2006 Annual Report to Congress 293–295 (Most Serious Problem: *Correspondence Examination*); National Taxpayer Advocate 2007 Annual Report to Congress 234, 238 (Most Serious Problem: *EITC Examinations and the Impact of Taxpayer Representation*); National Taxpayer Advocate 2007 Annual Report to Congress vol. 2, 96, 107, 116 (Research Study: *IRS Earned Income Credit Audits — A Challenge to Taxpayers*); National Taxpayer Advocate 2009 Annual Report to Congress 118-119, 129 (Most Serious Problem: *Beyond EITC: The Needs of Low Income Taxpayers Are Not Being Adequately Met*).

The first phase of the pilot program is taking place during the 2011 filing season. A representative sample of taxpayers undergoing EITC correspondence audits has been selected. Participating IRS examiners have attended training sessions with the National Taxpayer Advocate, among others. The training included a panel discussion with Low Income Taxpayer Clinic (LITC) directors who shared their experiences working with EITC taxpayers and recommendations for overcoming communication challenges.

During the first phase, IRS correspondence examiners are placing outbound calls to taxpayers in this test group at two points during the examination process: about ten days after the initial contact letter, and just prior to issuing the Statutory Notice of Deficiency for taxpayers who have not responded. During the calls, the IRS examiners explain the examination process to the taxpayers and answer taxpayer questions. TAS Research will collect data on audit outcomes to determine if this revision to IRS examination procedures has helped taxpayers overcome communication barriers they may be experiencing during the examination process.

During the second phase, taxpayers who did not retain all of their EITC and who did not agree to their audit outcomes will be referred to TAS. TAS Case Advocates will then attempt to contact these taxpayers to help them through the process of proving eligibility for EITC. TAS Research will analyze the final audit outcomes after this phase to determine whether TAS assistance impacted the audit results. The goal is to complete this study by the end of March 2012.

F. The IRS Needs To Do More to Alleviate the Harm Its Lien Filing Practices Can Create For Many Taxpayers

The National Taxpayer Advocate addressed the adverse impact of the IRS lien filing policies on taxpayers and future tax compliance in her 2009 and 2010 Annual Reports to Congress. She proposed several administrative and legislative steps to improve these policies and procedures and to grant relief to taxpayers harmed by the automatic filing of liens, and issued two Taxpayer Advocate Directives (TADs) on this subject.[80] On February 24, 2011, the IRS announced a new effort to help financially struggling taxpayers get a "fresh start," which included several changes to the processes used to file and withdraw Notices of Federal Tax Lien (NFTL).[81] Specifically, the IRS raised the dollar threshold that governs the issuance

80 National Taxpayer Advocate 2010 Annual Report to Congress 302-310; National Taxpayer Advocate 2009 Annual Report to Congress 17-40; National Taxpayer Advocate 2009 Annual Report to Congress vol. 2, 1-18. *See also* National Taxpayer Advocate 2009 Annual Report to Congress 357-364; Taxpayer Advocate Directive (TAD) 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* (Jan. 20, 2010); TAD 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* (Jan. 20, 2010). For copies of the TADs *see* National Taxpayer Advocate Fiscal Year 2011 Objectives Report to Congress, Appendix VIII, *available at* http://www.irs.gov/pub/irs-utl/nta2011objectivesfinal.pdf. The TADs are still open and may be elevated to the Commissioner of Internal Revenue pending IRS action on National Taxpayer Advocate recommendations.

81 IRS, Media Relations Office, *IRS Announces New Effort to Help Struggling Taxpayers Get a Fresh Start; Major Changes to Lien Process*, IR-2011-20 (Feb. 24, 2011).

of most NFTLs from $5,000 to $10,000, an action the IRS claims will result in fewer tax liens.[82] The IRS also announced plans to make it easier for taxpayers to obtain NFTL withdrawals after fully paying their tax debts, or after they have arranged with the IRS to pay their outstanding tax debts through "direct debit" installment agreements.

TAS has worked closely with the IRS in developing guidance for the implementation of these initiatives. TAS actively collaborated with the SB/SE Collection Policy function in drafting internal guidance to allow withdrawals of NFTLs after lien releases, conforming to the IRS Office of Chief Counsel opinion issued on October 8, 2009.[83] The National Taxpayer Advocate is very pleased with the recently-issued guidance that adopts her recommendations and provides significant relief to affected taxpayers.[84] TAS is looking forward to working with the IRS in revising its lien filing policies so fewer withdrawals will be necessary.

From January 1 to March 31, 2011, the IRS filed approximately 612,000 NFTLs, an increase of 25 percent over the same period in fiscal year (FY) 2010.[85] While it may be premature to evaluate the full impact of the IRS's recent changes to the lien filing process, the National Taxpayer Advocate remains concerned that these changes do not rescind the IRS policy of automatically filing liens based on a dollar threshold of the unpaid tax liability, which continues to harm millions of taxpayers, instead of requiring a lien-filing determination to be based on a thorough analysis of the taxpayer's circumstances.[86] Such analysis should balance the need to protect the government's interests in the taxpayer's assets with a corresponding concern for the financial harm the lien will create for that taxpayer. In FY 2012, TAS will work with the IRS to fully evaluate the results of its limited changes to the lien filing process, and identify additional opportunities to improve this critical area of tax administration. In the meantime, TAS is conducting its own study of the impact of NFTL filings on future tax compliance and will refine its recommendations based on study findings.[87]

82 The IRS Collection Process Study (CPS), commenced in response to TADs 2010-1 and 2010-2 (Jan. 20, 2010), recommended increasing the threshold from $5,000 to $50,000, which in the IRS's own estimates would reduce the IRS's 1.1 million liens filed in calendar year (CY) 2010 by only 40,000 to 41,000, or about four percent. IRS, *Collection Process Study* (CPS) 121 (Sept. 30, 2010). Therefore, an increase of the threshold to $10,000 may have little impact on the number of liens filed.

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

84 SB/SE, *Interim Guidance Memorandum*, Control No. SB/SE-05-0611-037 (Jun. 10, 2011). *See also* National Taxpayer Advocate 2010 Annual Report to Congress 302-310; National Taxpayer Advocate 2009 Annual Report to Congress 17-40; National Taxpayer Advocate 2009 Annual Report to Congress vol. 2, 1-18; TAD 2010-2 (Jan. 20, 2010).

85 IRS, Collection Activity Report NO-5000-23, *Collection Workload Indicators* (Mar. 22, 2011).

86 The IRS filed liens against nearly 1.1 million taxpayers in calendar year (CY) 2010. IRS, *Fiscal Year 2010 Enforcement Results*, *available at* http://www.irs.gov/pub/irs-utl/2010_enforcement_results.pdf. The total number of taxpayers harmed by IRS lien-filing policies is much greater than 1.1 million because over five million liens filed in recent years continue to negatively affect taxpayers' credit for at least seven years from the date they pay off their debts, or up to indefinitely when unpaid tax debts become legally unenforceable due to expiration of the statutory period for collection. *See* National Taxpayer Advocate 2010 Annual Report to Congress 302-310; National Taxpayer Advocate 2009 Annual Report to Congress 17-40.

87 The objectives of the study are: 1) to determine whether any amounts of payments are likely attributable to the NFTL; 2) to determine the effect of the NFTL on future payment compliance; 3) to determine the effect of the NFTL on future filing compliance; and 4) to determine whether the NFTL is associated with a decline in future income. For a more detailed discussion of the design of this study, see National Taxpayer Advocate 2010 Annual Report to Congress vol. 2, 89-100 (TAS Research and Related Studies: *Estimating the Impact of Liens on Taxpayer Compliance Behavior: An Ongoing Research Initiative*).

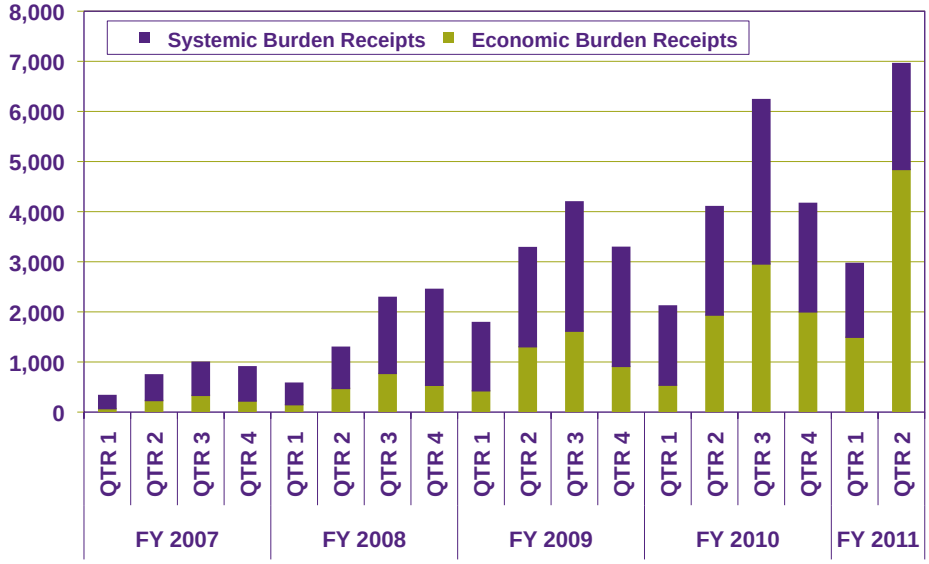
TAS will also continue to advocate for taxpayers that experience harm from current NFTL policies and issue Taxpayer Assistance Orders (TAOs) when necessary.[88]

G. The IRS Needs to Improve Its Identity Theft Victim Assistance Strategy

Effective June 2010, the Wage and Investment Division's Identity Protection Specialized Unit (IPSU) began working the majority of non-economic burden identity theft (IDT) cases.[89] In fiscal year (FY) 2010, the IPSU worked nearly 3,400 cases that TAS would otherwise have worked; in FY 2011 to date, this number has already increased to 8,954 cases.[90]

However, despite these process improvements, TAS's IDT receipts continued to increase substantially in FY 2011, as reflected in Figure II.2 below.

FIGURE II.2, TAS IDENTITY THEFT RECEIPTS, FY 2007 – SECOND QUARTER FY 2011, ECONOMIC AND SYSTEMIC BURDEN



TAS and W&I will review a sample of identity theft cases to determine what factors are driving taxpayers to seek the assistance of the IPSU (systemic burden identity theft issues)

88 *See* IRC § 7811(a). In FY 2010, the National Taxpayer Advocate, TAS Area Directors, and Local Taxpayer Advocates issued 26 Taxpayer Assistance Orders (TAOs) which involved lien issues. From October 1, 2010, to May 31 2011, TAS issued 15 additional TAOs.

89 *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). The following are examples of when TAS would continue to advocate for identity theft victims: (1) the taxpayer declines referral to the IPSU; (2) the IPSU has already tried to provide relief in the past, and has failed; (3) systemic burden cases that require advocacy which might lead to the issuance of a TAO on behalf of the taxpayer; (4) taxpayer cases added to the Taxpayer Advocate Management Information System (TAMIS) will remain in TAS and be resolved through the Operations Assistance Request (OAR) process; (5) taxpayers not satisfied with the assistance provided through the IPSU; (6) taxpayers being assisted by the IPSU, who subsequently face economic burden while the IPSU is processing their request, will come to TAS for assistance, when the IPSU cannot provide relief within 24 hours; (7) congressional cases; and (8) any cases previously open in TAS. *See* National Taxpayer Advocate, Interim Guidance on Referring Identity Theft Criteria 5-7 Cases to the Identity Protection Specialized Unit (IPSU) (May 17, 2010).

90 IRS, *IPSU Identity Theft Report* (Oct. 2, 2010); IRS, *IPSU Identity Theft Report* (May 21, 2011).

and TAS (economic burden issues and cases meeting the exceptions detailed in the TAS/W&I memorandum). The team will conduct a detailed analysis of a random sample of TAS and W&I cases closed between January 1, 2011, and March 31, 2011, to identify the underlying source of casework and any procedural gaps contributing to increased receipts.

Identity theft cases present unique complexities for IRS employees and the TAS Case Advocates assigned to help the taxpayers. For example, steps for resolving identity theft cases include:

- Verifying taxpayer identity and researching of account history;[91]
- Identifying illegitimate tax information on a taxpayer's account;[92]
- Addressing the immediate needs of a taxpayer experiencing economic hardship;[93]
- Proposing account adjustments and ensuring an identity theft marker is placed on the account;[94] and
- Conducting a global account search to identify possible related problems, and correcting those problems.[95]

These are just some of the steps in the methodical process of validating that the taxpayer's account has been compromised by identity theft and eliminating all traces of the corrupted information from that account. This process is one reason that identity theft cases typically take 36 percent longer to resolve than the average TAS case.[96]

In addition, it is often quite difficult for the IRS to ascertain which person is the true owner of the Social Security number (SSN) in question. When the IRS requests certain documents to verify the victim's identity before taking steps to resolve the tax account, the true owner of the SSN may feel victimized again by this process. We will train our

91 At the initial stage of the case, the Case Advocate verifies the identity of the taxpayer (*i.e.*, that he or she is the owner of the Social Security number on the tax return). IRM 10.5.3.2.1 (Dec. 10, 2010).

92 The Case Advocate must then analyze the taxpayer's account and assess which information is legitimate and which information belongs to the fraudulent filer. IRM 21.6.2.4.3.1 (Apr. 2, 2010).

93 The next step is to advocate for the immediate release of any legitimate refunds due to the innocent taxpayers (*i.e.*, any amounts that were held in abeyance by the IRS).

94 The Case Advocate then must request that the IRS make the appropriate account adjustments so that the illegitimate information is removed. *See* IRM 21.6.2.4.3.2 (Mar. 8, 2010); IRM 21.6.2.4.3.3 (Mar. 8, 2010). The IRS marks 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. IRM 10.5.3.2.2 (Dec. 10, 2010).

95 The Case Advocate then must analyze the taxpayer's accounts for other issues which may be related to the identity theft but that are unknown to the taxpayer and correct those issues. IRM 13.1.21.1.3.13 (Feb. 1, 2011).

96 Through May, the average identity theft case takes approximately 114 days to resolve in FY 2011, while the average TAS case takes approximately 84 days for the same period. Data obtained from TAMIS.

Case Advocates to understand the unique anxiety that identity theft causes in its victims. Additional interim communication may be required to reassure such taxpayers, and will be a key component of issue resolution.

One reason for the increase in IDT cases is the "unpostable" process, in which the IRS flags certain questionable refund claims and does not allow these returns to post. Since the IRS started using an electronic indicator in 2009 to flag SSNs as being potentially compromised by identity theft, it has tracked over 980,000 incidents impacting over 600,000 taxpayers.[97] The IRS, in anticipation of the increase in flagged accounts, enlisted IPSU and Accounts Management Taxpayer Assurance Program (AMTAP) employees to resolve IDT unpostable returns, and directs most IDT unpostable cases to AMTAP for resolution.

However, TAS is concerned that AMTAP does not have adequate staffing to handle this additional workload. This is evident from the 107 Taxpayer Assistance Orders issued by TAS to AMTAP in FY 2011 as a result of AMTAP's unresponsiveness to TAS Operations Assistance Requests.[98] TAS met with AMTAP to discuss the backlog of TAS OARS. For the remainder of FY 2011 and throughout FY 2012, TAS will work with AMTAP to improve taxpayer service and reduce inventory for both organizations.

One of the uglier faces of identity theft involves misuse of a deceased taxpayer's SSN to obtain federal refunds. Identity thieves utilize publicly-available information provided by the Social Security Administration (SSA) to obtain a decedent's full name, SSN, date of birth, address, *etc.*[99] When the identity of a decedent is stolen and used to file a fraudulent tax return, the mourning relatives must submit multiple documents including an identity theft affidavit, Social Security card, and birth certificate to prove the deceased was a victim of identity theft. If the IRS has previously processed a return on which the deceased individual's SSN was used, surviving relatives and executors of estates must re-submit returns involving deceased taxpayers on paper (electronically filed returns will be rejected).[100] It then takes months to get these accounts corrected and to process a refund.

97 *See* IRS Office of Privacy, Information Protection, and Data Security (PIPDS) Incident Tracking Statistics Reports for calendar years ending 2009 and 2010 and for the period of January 1, 2011, through March 31, 2011. The IRS Deputy Commissioner for Operations Support reported that the IRS tracked more than 470,000 incidents of identity theft affecting more than 390,000 taxpayers. *See The Spread of Tax Fraud by Identity Theft: A Threat to Taxpayers, a Drain on the Public Treasury, Hearing Before the Subcommittee on Fiscal Responsibility and Economic Growth, S. Comm. on Finance (*May 25, 2011) (statement of Beth Tucker, IRS Deputy Commissioner for Operations Support). The significant majority of the difference is attributable to one or more mass schemes blocked by IRS filters.

98 Data obtained from TAMIS. TAOs issued through May 31, 2011. *See Importance of the Taxpayer Assistance Order, infra*. An Operations Assistance Request (Form 12412) is the form that TAS employees use when requesting that the IRS complete an action on a TAS case when TAS lacks the authority to take that action.

99 In 1980, the Social Security Administration created a Death Master File as a result of a consent judgment reached in a Freedom of Information Act lawsuit brought by a private citizen. Deceased taxpayers' SSNs and related information are now regularly obtained and used by government agencies, credit reporting agencies, financial firms, and genealogists. Unfortunately, it is also used by identity thieves to commit tax fraud.

100 IRS Publication 1346, *Electronic Return File Specifications and Record Layouts for Individual Income Tax Returns, available at* http://core.publish.no.irs.gov/pubs/pdf/64403j10.pdf (last visited June 6, 2011).

Thus far in 2011, the IRS has received 660,000 decedent returns.[101] Effective April 17, 2011, the IRS instituted business rules to filter out some of these "decedent scheme" returns; within one month, it stopped 42,441 decedent-related returns claiming questionable refunds estimated at $194 million.[102] The IRS estimates that an additional 221,000 returns claiming $700 million in refunds would have been stopped had the business rules been in place at the beginning of the filing season.[103] To combat this issue, the IRS has instituted measures to identify and invalidate fraudulent returns, and delete refunds claimed on returns filed with SSNs belonging to decedents. The IRS is notifying taxpayers when a return and refund are held pending investigation of items reported on the return.[104]

Recently, the National Taxpayer Advocate testified before Congress regarding the IRS's response to identity theft. In this testimony, she identified the following recommendations, including:

1. Allowing taxpayers the option to turn off the ability to file electronically;
2. Systematically retiring dormant (or inactive) social security numbers;
3. Utilizing information reporting earlier in the filing season;
4. Notifying taxpayers of potential identity theft; and
5. Working with the social security administration to keep social security numbers out of the public domain.

The National Taxpayer Advocate will follow up on these specific recommendations in a Status Update on the IRS's identity theft victim assistance procedures in her 2011 Annual Report to Congress. She will also continue to advocate for the use of an identity theft PIN, which the IRS has begun testing and appears to be a promising approach to alleviate taxpayer burden. TAS is participating in the recently-convened Identity Theft Assessment Action Group, a cross-functional team conducting a servicewide assessment of the identity theft program. In FY 2012, TAS will continue to:

- Work cooperatively with the IRS to determine if the identity theft cases coming to TAS should instead be worked by the IRS's specialized identity theft unit (the IPSU) under an agreement between TAS and the IRS;
- Encourage Local Taxpayer Advocates (LTAs) to advocate for identity theft victims by issuing Taxpayer Assistance Orders in appropriate situations;[105]

101 TAS notes from IRS Decedent Schemes conference call (Apr. 25, 2011).

102 TAS notes from IRS Decedent Schemes conference call (May 12, 2011, and Apr. 21, 2011).

103 TAS notes from IRS Decedent Schemes conference call (May 12, 2011).

104 Lack of real-time processing of information returns from third parties (Forms W-2, Forms 1099, etc.) exacerbates the problem.

105 TAS is increasing awareness of the need for greater advocacy for victims of identity theft. Through May, TAS issued 90 TAOs with identity theft as the underlying cause of the taxpayer's problem in FY 2011.

- Identify additional authentication procedures for taxpayers who have been victims of identity theft, to ensure that identity thieves cannot pose as the taxpayer and obtain access to taxpayer data;
- Provide additional training to TAS employees on how to resolve identity theft cases; and
- Advocate that the SSA find a way to redact portions of decedents' SSNs before public release in order to eliminate the ability of identity thieves to commit tax fraud using the Death Master File.

H. TAS Continues to Advocate for Changes in the Two-Year Equitable Relief Deadline and for Victims of Domestic Violence and Abuse

Congress enacted "innocent spouse" rules as a recognition that it is sometimes appropriate to relieve spouses of the tax liability that stems from a joint return[106] or arises due to the operation of community property laws.[107] The current rules, found in IRC §§ 6015 and 66(c) (last sentence), were enacted as part of the IRS Restructuring and Reform Act of 1998 (RRA 98).[108] IRC § 6015(f) and the last sentence of IRC § 66(c), referred to as equitable relief provisions, allow relief when, taking into account all the facts and circumstances, it would be inequitable to hold the taxpayer liable for the tax.

While sections 6015(b) and (c) of the Internal Revenue Code require taxpayers to request relief within two years after the IRS commences collection activity, section 6015(f) and section 66(c) do not contain any time limit for requesting *equitable* innocent spouse relief. Instead, these provisions provide that the Secretary shall prescribe procedures for granting equitable relief. A Treasury regulation, added after RRA 98, however, imposes a two-year time limit for requesting equitable relief under section 6015(f).[109] In 2009, the Tax Court, in *Lantz v. Commissioner*[110] and *Mannella v. Commissioner*[111] held that the two-year rule for section 6015(f) in the regulation was invalid and granted equitable relief. In a number of

106 Married taxpayers who file a joint return are jointly and severally liable for the tax with respect to the return, regardless of who was responsible for the income (or omission). IRC § 6013(d)(3).

107 Taxpayers in community property states who do not file joint returns are generally required to report half of the community property on their returns. *Poe v. Seaborn*, 282 U.S. 101 (1930).

108 Pub. L. No. 105-206, § 3201, 112 Stat. 685, 734 (1998).

109 Treas. Reg. § 1.6015-5(b)(1), 67 Fed. Reg. 47278 (July 18, 2002), imposes a two-year time limit that commences with the first IRS collection activity with respect to liability arising from a joint return. Additional IRS guidance imposes the same deadline for claims for equitable relief from the operation of community property rules under IRC § 66. Rev. Proc. 2000-15, §§ 4.01(3) and 5, 2000-1 C.B. 447 at 448, 449, *superseded by* Rev. Proc. 2003-61, §§ 4.01(3) and 5, 2003-2 C.B. 296 at 297, 299.

110 *Lantz v. Comm'r*, 132 T.C. 131 (2009), *rev'd and remanded by* 607 F.3d 479 (7th Cir. 2010).

111 *Mannella v. Comm'r*, 132 T.C. 196 (2009), *rev'd and remanded by* 631 F.3d 115 (3d Cir. 2011).

subsequent cases in which the taxpayer requested relief after the two-year period expired,[112] including, in 2010, *Jones v. Commissioner,*[113] the Tax Court granted relief. In 2010, the Tax Court's decisions in *Lantz* and in *Mannella* were reversed by two Courts of Appeals that found the regulation valid,[114] and in 2011, a third Court of Appeals also found the regulation was valid and reversed the Tax Court's decision in *Jones.*[115] Other cases are pending in various appellate courts.[116]

The National Taxpayer Advocate, in her 2006 Annual Report to Congress, submitted a legislative recommendation that Congress remove the two-year rule for requesting equitable innocent spouse relief.[117] In her 2010 Annual Report to Congress, the National Taxpayer Advocate described the legislative history of IRC § 6015, and again recommended that Congress remove the two-year rule.[118] Some taxpayers with cases pending in appellate courts filed supplemental briefing materials in which they advised the courts of the National Taxpayer Advocate's analysis.[119] Local Taxpayer Advocates also raised this issue during their annual congressional visits in which they discuss the Annual Report to Congress with members of Congress and their staffs.

Members of Congress, including a senator who served on the conference committee that fashioned the equitable relief provisions as part of RRA 98, have urged the IRS to remove

112 *Young v. Comm'r,* T.C. Docket No. 12718-09 (May 12, 2011); *Pullins v. Comm'r,* 136 T.C. No. 20 (2011); *Stephenson v. Comm'r,* T.C. Memo. 2011-16; *Hall v. Comm'r,* 135 T.C. No. 19 (2010), *appeal docketed*, No. 10-2628 (6th Cir. Dec. 14, 2010); *Buckner v. Comm'r,* T.C. Docket No. 12153-09, *appeal docketed*, No. 10-2056 (6th Cir. Aug. 18, 2010); *Carlile v. Comm'r,* T.C. Docket No. 11567-09; *Payne v. Comm'r,* T.C. Docket No. 10768-09, *appeal docketed*, No. 10-72855 (9th Cir. Sept. 17, 2010); *Coulter v. Comm'r,* T.C. Docket No. 1003-09, *appeal docketed*, No. 10-680 (2d Cir. Feb. 24, 2010); *Jones v. Comm'r,* T.C. Docket No. 17359-08, *appeal docketed*, No. 10-1985 (4th Cir. Aug. 30, 2010); *Mannella v. Comm'r,* 132 T.C. 196 (2009), *rev'd and remanded by* 631 F.3d. 115 (3d Cir. 2011); *Lantz v. Comm'r,* 132 T.C. 131 (2009), *rev'd and remanded by* 607 F.3d 479 (7th Cir. 2010).

113 *Jones v. Comm'r,* T.C.Docket No. 17359-08, *rev'd and remanded by* 2011 WL 2307644 (4th Cir., June 13, 2011).

114 *Mannella v. Comm'r,* 631 F.3d. 115 (3d Cir. 2011), *rev'g and remanding* 132 T.C. 196 (2009); *Lantz v. Comm'r,* 607 F.3d 479 (7th Cir. 2010), *rev'g and remanding* 132 T.C. 131 (2009).

115 *Jones v. Comm'r,* 2011 WL 2307644 (4th Cir., June 13, 2011) *rev'g and remanding* T.C. Docket No. 17359-08.

116 Adhering to the rule in *Golsen v. Comm'r,* 54 T.C. 742, 757 (1970), *aff'd* 445 F.2d 985 (10th Cir. 1971), that the Tax Court will defer to a Court of Appeals decision which is squarely in point where appeal from the Tax Court decision lies to that Court of Appeal, the Tax Court continues to hold the regulation invalid in cases appealable to other courts. *See, e.g., Hall v. Comm'r,* 135 T.C. No. 19 (2010), *appeal docketed,* No. 10-2628 (6th Cir. Dec. 14, 2010); *Buckner v. Comm'r,* T.C. Docket No. 12153-09, *appeal docketed*, No. 10-2056 (6th Cir. Aug. 18, 2010); *Payne v. Comm'r,* T.C. Docket No. 10768-09, *appeal docketed*, No. 10-72855 (9th Cir. Sept. 17, 2010); *Coulter v. Comm'r,* T.C. Docket No. 1003-09, *appeal docketed,* No. 10-680 (2d Cir. Feb. 24, 2010.

117 National Taxpayer Advocate 2006 Annual Report to Congress 540-541 (Legislative Recommendation: *Eliminate the Two-Year Limitation Period for Taxpayers Seeking Equitable Relief under IRC §§ 6015 or 66*).

118 National Taxpayer Advocate 2010 Annual Report to Congress 377-382.

119 *See e.g.*, taxpayers' statements of supplemental authorities filed on Jan. 6, 2011, at *Coulter v. Comm'r,* docket No. 10-680 (2d Cir.); on Jan. 7, 2011, at *Jones v. Comm'r,* docket No. 10-1985 (4th Cir.); and on Mar. 3, 2011, at *Buckner v. Comm'r,* docket No. 10-2056 (6th Cir.). Rule 28(j), Federal Rules of Appellate Procedure, permits a party to advise the court of "pertinent and significant" authorities that come to the party's attention after the party's brief has been filed, or after oral argument but before decision.

the two-year rule.[120] The Commissioner has agreed to review the rule,[121] but in the meantime the IRS continues to follow the Treasury regulation even in cases in which it concedes the taxpayer otherwise qualifies for equitable relief.[122] TAS will continue to advocate for removal of the two-year rule as a condition for obtaining equitable relief.

In a related development, recent cases demonstrate that the IRS may have difficulty evaluating claims of domestic violence or abuse raised by taxpayers seeking innocent spouse relief.[123] In partnership with a Washington, DC coalition for the prevention of domestic violence, TAS will produce training materials and a video to assist IRS public-contact employees in recognizing domestic violence and abuse and the special needs and issues these taxpayers may present in cases throughout the IRS.

The training will include a case study and will address a wide range of issues, such as how to avoid interpreting a taxpayer's survival techniques, which may involve denial, inconsistent statements, or evasiveness, as a lack of truthfulness. Because traditional forms of documentary evidence are often unavailable, the training will explore the acceptability of alternative forms of substantiation, such as testimony and third-party affidavits. The confidentiality of taxpayer information, especially current whereabouts, may be of paramount importance to the taxpayer, and the training will suggest tactics for discussing disclosure rules, and for maintaining contact with elusive or transient taxpayers.

I. TAS Maintains a Close Eye on the IRS's Health Care Implementation Efforts

The National Taxpayer Advocate outlined the main health care tax provisions in the 2010 Annual Report to Congress and identified potential challenges and concerns with how the law may be administered. Because of the far-reaching scope of the health care provisions and their potential impact on taxpayers and the IRS, TAS maintains a close eye on the IRS's implementation efforts. TAS continues to participate in regularly scheduled briefings with senior IRS officials as well as holding bi-weekly internal meetings regarding implementation efforts. Additionally, TAS is reviewing all IRS guidance and proposed guidance to identify potential issues prior to implementation.

120 *See* H.R. Conf. Rept. No. 105-599, 105th Cong., 2d Sess. 249-51(1998), reflecting Sen. Baucus' committee membership. In an April 18, 2011, letter to the Commissioner of the IRS, Sen. Baucus as Senate Finance Committee Chair, Sen. Tom Harkin, and Sen. Sherrod Brown explained that the "two-year rule has been running counter to the spirit of the equitable relief provision as a 'safety-valve' for innocent spouses that takes into account all the facts and circumstances of each case." In a separate letter to the Commissioner on the same date, 49 House members expressed their view that the two-year rule "violated the spirit of the original law." The letters are *available at* 2011 TNT 75-27 and 2011 TNT 75-28 (Apr. 18, 2011).

121 Letter from Comm'r Shulman to the Hon. Jim McDermott, U.S. House of Representatives (Apr. 29, 2011), *available at* 2011 TNT 86-34.

122 *See* Notice CC-2010-5 (Mar. 12, 2010) designating for litigation the issue of the two year rule with respect to IRC § 6015(f) claims. IRM 25.15.7.8.7 (Feb. 25, 2011). The IRS conceded that taxpayers would be entitled to relief but for the two-year rule in the regulation in the *Hall, Buckner, Carlile, Payne, Coulter, Jones, Mannella,* and *Lantz* cases cited above.

123 *Thomassen v. Comm'r,* T.C. Memo. 2011-88; *Stephenson v. Comm'r,* T.C. Memo. 2011-16.

TAS has also engaged in extensive training of its own employees and external partner organizations. TAS has just completed a three-part health care training class delivered to all employees, providing an overview of the health care tax provisions, with a focus on the small business tax credit. TAS has also provided training to all Low Income Taxpayer Clinics and community groups[124] to ensure they know how the new health care provisions will affect the taxpayers they assist.

In FY 2012, TAS will continue its efforts to identify potential issues early in the implementation process and raise those issues to the IRS or propose legislative changes when necessary. TAS will also continue identifying training needs for TAS employees as well as outreach opportunities to educate taxpayers.

1. Small Business Health Care Tax Credit Calculator

The Small Business Health Care Tax Credit is the first of the major health care tax provisions to go into effect.[125] The credit requires a number of calculations to determine eligibility and credit amount. A TAS employee, noting the complicated nature of the credit, created a calculator to aid other employees in the process. TAS has completed development of the calculator, and after accuracy tests, will make it available to all employees for case work. TAS is working with the IRS to make the calculator available to all IRS employees as well as to the public.

While TAS has taken the lead on the calculator, TAS is hopeful that it will serve as a model for future development by the IRS of additional tools to assist its employees and taxpayers.

2. Research Efforts

The long implementation lead-time for many of the largest health care provisions affords the IRS time to tailor implementation to the target population. This includes using a research-based approach to designing forms, publications, and outreach materials. TAS is conducting a comprehensive review of IRS, TAS, and external research on the taxpayer population affected by the new health care provisions, particularly low income taxpayers, small businesses, and self-employed individuals. Developing a better understanding of the specific needs and preferences of these taxpayer populations will allow the IRS to shape its implementation efforts to respond to those needs. The research will also include the IRS's outreach and education efforts to taxpayers about the new health care tax provisions. In FY 2012, TAS will continue its research, use the results to identify areas where additional research is needed, and ensure that the IRS applies the resulting information to improve its administration of these provisions.

124 For example: TAS provided training at the 2011 National Community Tax Coalition Annual Conference reaching approximately 50 representatives serving low income communities across the country.

125 For more detailed information regarding Small Business Health Care Tax Credit, including eligibility rules and IRS guidance, see http://www.irs.gov/newsroom/article/0,,id=223666,00.html (last visited June 2, 2011).

3. Communication Efforts

One of the difficulties of the IRS's implementation efforts is that the IRS is being asked to implement decisions of other agencies.[126] TAS is concerned about this dynamic because the IRS will be the face of health care for many taxpayers but will not be the decision-maker in most circumstances. In FY 2012, TAS will work with the IRS to develop a communication strategy for taxpayers. The strategy will focus on helping taxpayers navigate the process, telling them what to expect from the IRS, and what the IRS can and cannot do related to health care. This early outreach is necessary to set expectations and direct taxpayers to the correct agency or function to resolve issues.

In FY 2011, TAS will also partner with the IRS to get information about health care implementation out to stakeholders to increase awareness of coming tax law changes. TAS will work with the IRS to ensure stakeholder participation in the IRS notice and comment process.

J. Exempt Organization Reinstatement Applications May Cause Significant Delays in Processing Exempt Organization Applications

The Pension Protection Act of 2006 added § 6033(i) and (j) to the Internal Revenue Code, requiring exempt organizations previously below the filing threshold to file a so-called electronic postcard annually or undergo automatic revocation of tax-exempt status for failure to file for three years in a row.[127] In July 2010, the tax-exempt status of approximately 300,000 organizations was at risk.[128] Meanwhile, the Commissioner extended a May 17, 2010, filing deadline to October 15, 2010, by which time about 50,000 of those organizations filed, coming off the at-risk list.[129] On June 8, 2011, the IRS revoked the exempt status of approximately 275,000 organizations.[130] Even if fewer than half of these nonprofits apply for reinstatement of exempt status, a six-figure caseload would represent an historic spike

126 Implementation of the health care law requires the IRS to work closely with the Department of Health and Human Service and the Department of Labor.

127 *See* Pub. L. No. 109-280 § 1223, 120 Stat. 780, 1090 (2006). Generally, new IRC § 6033(j)(1) revokes the exempt status of an organization that fails to fulfill its filing requirement – under either pre-existing subsection (a)(1) or new subsection (i) of IRC § 6033 – for three years in a row. Prior to passage of the Pension Protection Act of 2006, exempt organizations with annual gross receipts normally of $25,000 or less did not have a filing requirement. *See* Rev. Proc. 83-23, 1983-1 C.B. 687, *modified and superseded by* Rev. Proc. 2011-15, 2011-3 I.R.B. 322.

128 *See* IRS Exempt Organizations, *Ann'l Rep't* FY 2010, 8 ("The IRS posted a list of the names and last-known addresses of more than 300,000 at-risk organizations with filing due dates from May 17 through October 15, 2010, and no record of having filed a required annual return or notice for 2007, 2008 or 2009.") at http://www.irs.gov/pub/irs-tege/fy2011_eo_workplan.pdf (last visited on June 6, 2011); Amy Blackwood & Katie L. Roeger, *Here Today, Gone Tomorrow: A Look at Organizations that May Have Their Tax-Exempt Status Revoked* 1, Nat'l Ctr. for Charitable Statistics, Urban Inst. (July 8, 2010) ("Over 292,000 nonprofit organizations may lose their tax-exempt status in the coming months for failing to file a tax return with the Internal Revenue Service (IRS)."). In 2010, the IRS had posted an online list of so-called at-risk organizations (*i.e.*, organizations that had failed to file returns for two consecutive years). The number of organizations on the list on July 14, 2010, was 321,091.

129 *See* IRS News Release: *IRS Identifies Organizations that Have Lost Tax-Exempt Status; Announces Special Steps to Help Revoked Organizations*, IR-2011-63 (June 8, 2011); IRS Pub. 4839-B, *One-Time Filing Relief for Tax-Exempt Organizations* (Aug. 2010).

130 *See* IRS News Release: *IRS Identifies Organizations that Have Lost Tax-Exempt Status; Announces Special Steps to Help Revoked Organizations*, IR-2011-63 (June 8, 2011).

in the volume of applications and would impact processing of all new exempt organization applications, not just reinstatements.[131]

Consequently, TAS is concerned about possible delays in processing. An organization that does not receive a determination on its application for exempt status within approximately nine months of filing has a right to file suit for a declaratory judgment regarding its exemption status.[132] However, a court procedure could be practically inaccessible to small charities. It is unclear if the *pro bono* bar and the judiciary itself would have adequate capacity if demand is voluminous. Accordingly, the pressure is on the IRS to provide taxpayer service through timely application processing.

Moreover, TAS is aware of certain issues raised by previous waivers of filing for certain classes of organizations, especially quasi-public entities.[133] As it has done previously, the IRS could achieve a measure of efficiency by resolving common issues all at once, rather than solely on a case-by-case basis.[134] In other words, reinstatement could be accomplished for certain classes of organizations all at once. For instance, the IRS recently announced transitional relief for certain small organizations allowing reinstatement retroactive to the automatic revocation date.[135] This is a good example of relief for a class of organizations.

K. IRS's Inconsistency and Failure to Follow Its Published Guidance Damaged Its Credibility With Practitioners Involved in the Offshore Voluntary Disclosure Program

U.S. persons are generally required to report foreign accounts on Form TD F 90–22.1, *Report of Foreign Bank and Financial Accounts* (FBAR) and to report income from such accounts on U.S. tax returns. The IRS "strongly encouraged" taxpayers who failed to file these and other similar returns to participate in the 2009 Offshore Voluntary Disclosure Program (OVDP), rather than quietly filing amended returns and paying any taxes due.[136] It warned that those making "quiet" corrections could be "criminally prosecuted." OVDP participants would generally be subject to a 20 percent "offshore" penalty in lieu of various other

131 *See* IRS Exempt Organizations, *Ann'l Rep't* FY 2010, 3 (charting volume of annual determinations of applications for tax exemption) as 89,448, 85,927, 83,835, 89,703, 90,812, 84,225, 77,309, and 65,590 in 2003-2010).

132 *See* IRC § 7428 (providing that an organization can request a declaratory judgment regarding qualification for tax-exempt status from the United States Tax Court, the United States Court of Federal Claims, or the district court of the United States for the District of Columbia 270 days after applying for tax-exempt status).

133 *See* Rev. Proc. 95-48, 1995-2 C.B. 418 (waiving requirement to file for certain governmental units and affiliates).

134 *See* IRS Pub. 4839, *Annual Form 990 Filing Requirements for Tax-Exempt Organizations Forms 990, 990-EZ, 990-PF and 990-N (e-Postcard)* (indicating that a revoked organization must reapply for exempt status).

135 Notice 2011-43 (posted June 8, 2011) at http://www.irs.gov/pub/irs-drop/n-11-43.pdf.

136 *See* IRS, *Voluntary Disclosure: Questions and Answers,* http://www.irs.gov/newsroom/article/0,,id=210027,00.html (last visited June 6, 2011) (Feb. 9, 2011) (first posted May 6, 2009) (hereinafter OVDP "FAQ"). According to FAQ #10 ("Taxpayers are strongly encouraged to come forward under the Voluntary Disclosure Practice. Those taxpayers making "quiet" disclosures should be aware of the risk of being examined and potentially criminally prosecuted for all applicable years. The IRS will be closely reviewing these returns to determine whether enforcement action is appropriate.").

penalties.[137] The IRS announced, however, that "[U]nder no circumstances will a taxpayer be required to pay a penalty greater than what he would otherwise be liable for under existing statutes."[138] Taxpayers who would not be subject to significant penalties because their violations were not willful, or because they qualified for the "reasonable cause" exception, believed this statement applied to them.

On March 1, 2011, more than a year after the 2009 OVDP ended, the IRS "clarified" its seemingly unambiguous statement.[139] It would no longer consider whether taxpayers in the 2009 OVDP would pay less under existing statutes on the basis of non-willfulness or reasonable cause. Such taxpayers could either agree to pay more than they believed they owed or withdraw from the 2009 OVDP and face the possibility the IRS would assert massive civil penalties and seek criminal prosecution. Both options were problematic. Withdrawal would waste all of the resources already expended on the 2009 OVDP application and would not bring the taxpayer closure or certainty, as advertised. Moreover, in any future examination the IRS might have to request and review the items that were before the examiner processing the 2009 OVDP submission.[140]

Pressuring taxpayers who would pay less under existing statutes to remain in the program and pay more than they believe they owed was even worse. It violated longstanding IRS policy along with most conceptions of fairness and due process.[141] The IRS's inconsistency and failure to follow its published guidance damaged its credibility with practitioners and could be subject to legal challenge.[142] In 2011, TAS will continue to communicate with taxpayers and practitioners to determine the impact of the IRS's apparent reversal, advocate for the IRS to abide by the plain language of the original terms of the OVDP (as reasonably interpreted by the public and many of the IRS's examiners), and document our findings in the National Taxpayer Advocate's 2011 Annual Report to Congress.[143]

137 OVDP FAQ #12.

138 OVDP FAQ #35 (stating "[V]oluntary disclosure examiners do not have discretion to settle cases for amounts less than what is properly due and owing. **These examiners will compare the 20 percent offshore penalty to the total penalties that would otherwise apply to a particular taxpayer. Under no circumstances will a taxpayer be required to pay a penalty greater than what he would otherwise be liable for under existing statutes.**") (Emphasis added.).

139 Memorandum from Director, SB/SE Examination, and Director, International Individual Compliance, for all OVDI Examiners, *Use of Discretion on 2009 OVDP Cases* (Mar. 1, 2011). This reversal was not properly disclosed to the public as required by the Freedom of Information Act. *See* 5 U.S.C. § 552. IRS revenue agents had to deliver the bad news to practitioners one at a time. This must have been particularly uncomfortable for agents who had agreed to settle on the previously more favorable terms with the practitioners' other clients just the week before.

140 In our view this contradicted the portion of FAQ #35, which stated "[T]hese examiners [the OVDP examiners] will compare the 20 percent offshore penalty to the total penalties that would otherwise apply to a particular taxpayer."

141 Policy Statement 4-7; IRM 1.2.13.1.5 (Feb. 23, 1960).

142 *See, e.g.,* Pedram Ben-Cohen, *IRS's Offshore Bait and Switch: The Case for FAQ 35*, 46 DTR J-1 (Mar. 9, 2011).

143 We note that President Barack Obama recently signed the *Plain Writing Act of 2010* (H.R. 946), Pub. L. 111-274, Oct. 13, 2010, 124 Stat. 2861 (5 U.S.C. 301 note), to "improve the effectiveness and accountability of Federal agencies to the public by promoting clear Government communication that the public can understand and use." *Id.* It defines "plain writing" as writing that is "clear, concise, well-organized, and follows other best practices appropriate to the subject or field and intended audience." *Id.*

L. TAS Will Work with the IRS on Taxpayer Communication and Correspondence Issues

The IRS issues more than 200 million notices each year, but these notices have a long-standing problem. The notices and letters sometimes confuse taxpayers and tax practitioners, do not always provide accurate and timely information, and do not achieve the intended business results.[144] In August 2008, the IRS Commissioner chartered the Taxpayer Communications Taskgroup (TACT), a cross-functional team (including TAS) created to study and improve the clarity, accuracy, and effectiveness of written communications to taxpayers.[145] TACT's objectives included:

- Simplifying and clarifying language;
- Streamlining and improving business processes;
- Developing alternative electronic solutions;
- Eliminating unnecessary or duplicative notices, letters, reminders, and inserts;
- Reducing erroneous correspondence; and
- Instituting effective measures, including taxpayer responsiveness.

To that end, TACT enlisted an outside consulting firm, Siegel and Gale, to help the IRS explore how its correspondence with taxpayers supports or hinders the IRS's goal of helping the "large majority of compliant taxpayers" while ensuring that the "minority who are unwilling" become compliant.[146]

Siegel and Gale found, among other things, that the IRS's proliferation of notices contributes to an unwieldy process. IRS notices are confusing, do not help people respond effectively, contribute to noncompliance, and lack a consistent, compelling IRS voice.[147] The firm also found the IRS's "one-size-fits-all" approach is ineffective because notices have static content, *e.g.,* referring to an overpayment and an underpayment in the same notice; and employ a monotonous, adversarial voice highlighting punishment above all else.[148] Moreover, IRS notices did not consistently offer all payment options, including offers in compromise, and did not explain the differences between voluntary and involuntary payment methods, such as levies.[149] With this in mind, Siegel and Gale helped the TACT in

144 IRS, *Taxpayer Communications Taskgroup (TACT) Charter 5* (Nov. 20, 2008).

145 IRS, Publication 4701, *Progress on the Implementation of the Taxpayer Assistance Blueprint 21* (Oct. 2009).

146 Siegel + Gale, *Summary Report: Key Findings, The IRS' Correspondence System 1* (Dec. 16, 2008).

147 *Id.* at 2, 3, 4, 7, 8, 9.

148 *Id. at 7.*

149 *Id. at 8.*

redesigning 40 notices that account for approximately 70 percent of IRS correspondence.[150] Further, Siegel and Gale conducted tests comparing comprehension of existing and redesigned notices, such as the CP 2000, *Automated Underreporter,* L1058, *Final Notice – Notice of Intent to Levy and Notice of Your Right to a Hearing,* and CP 521, *Installment Agreement Reminder* to "test market" them to members of the public.[151]

TACT wrapped up most of its activities at the end of 2009. The group made progress by developing a prototype for a Correspondence Management Information System to track measurement data related to correspondence, eliminating inserts for representatives' copies of notices, implementing a new "red button" error reporting mechanism for employee reporting of taxpayer receipt of erroneous notices, and submitting a legislative proposal to permit future electronic delivery of notices. The TACT also developed a pilot to test the timing and potential elimination of the interim letter, which the IRS sends to taxpayers 30 days after receiving their correspondence to let taxpayers know that the IRS will respond to their letters or inquiries in the future. The IRS's interim letter causes increased telephone call volume from taxpayers and additional taxpayer correspondence when the IRS fails to timely respond to issues raised in taxpayers' letters.[152]

Following the TACT's success, the Commissioner created the Office of Taxpayer Correspondence (OTC) to continue its work.[153] On January 10, 2010, the IRS released nine of the redesigned notices, including notice CP 08, *Additional Child Tax Credit,* CP 53, *Unable to Direct Deposit Refund,* CP 120, *Confirmation of Tax-Exempt Status,* and CP 139, *Form 940/941 Not Required.*[154] To date, the OTC has redesigned 85 notices.[155]

The OTC also grapples with undelivered mail issues.[156] The National Taxpayer Advocate addressed undelivered mail and taxpayer correspondence as two of the IRS's Most Serious

150 IRS, *TACT: Taxpayer Communications Taskgroup Presentation* 11 (Aug. 10, 2009) (presented to the National Association of Enrolled Agents). *See* http://www.irs.gov/taxpros/article/0,,id=218038,00.html (last visited May 17, 2011).

151 *Id. at 7. See* IRS, *Simplicity Laboratory Evaluation of Original and Revised IRS Forms CP521, L-1058, and CP2000* (Feb. 2009).

152 IRS, *TACT: Taxpayer Communications Taskgroup Final Meeting Presentation* 7 (Sept. 29, 2009). *See also* National Taxpayer Advocate 2006 Annual Report to Congress 222-248 (Most Serious Problem: *Correspondence Delays).*

153 Gadi Dechter, *Analysis: IRS aims for letter-perfect language* at http://www.govexec.com/story_page_pf.cfm?articleid=47794&printerfriendlyvers=1 (last visited June 6, 2011). *See also* http://www.irs.gov/newsroom/article/0,,id=218133,00.html (last visited May 17, 2011).

154 *See* http://www.irs.gov/taxpros/article/0,,id=218038,00.html (last visited May 18, 2011). The webpage includes links to each notice with further explanations and links to other areas of the website to assist taxpayers. The CP 08 informs taxpayers that they may qualify for the additional child tax credit. The CP 53 explains, "Your refund check will be sent by mail," because the IRS cannot honor direct deposits of prior year refunds. The IRS issues CP 120 when a taxpayer has filed a return claiming tax-exempt status; the revised form explains how to obtain tax-exempt status if an IRS letter granting it is not available. The CP 139 allows taxpayers to stop filing Form 941, *Employer's Quarterly Federal Tax Return*, and Form 940, *Employer's Annual Federal Unemployment Tax Return*, if they have filed a Form 941 for four quarters with no tax due, and it provides guidance on when a taxpayer should file the forms in the future.

155 Gadi Dechter, *Analysis: IRS aims for letter-perfect language,* http://www.govexec.com/story_page_pf.cfm?articleid=47794&printerfriendlyvers=1 (last visited June 6, 2011)

156 Emails from Office of Taxpayer Correspondence Chief of Staff Program Manager (May 12, 2011, and May 17, 2011). Gadi Dechter, *Analysis: IRS aims for letter-perfect language,* http://www.govexec.com/story_page_pf.cfm?articleid=47794&printerfriendlyvers=1 (last visited June 6, 2011).

Problems in her 2010 Annual Report to Congress.[157] TAS is working on OTC's Undelivered Mail Team to implement recommendations made in the report; specifically, trying to integrate address hygiene[158] into all affected IRS systems, expand correct international addressing, and implement intelligent mail bar coding into all IRS correspondence.[159]

In FY 2012, TAS will work with the OTC on correspondence design in other program areas that affect taxpayers. In addition, we will advocate for a test of accounts that the IRS shelved or placed in the queue whereby the IRS will send taxpayers monthly balance due notices to determine if taxpayers will increase or accelerate their payments, or contact the IRS to resolve their accounts or avoid pyramiding of their tax liabilities.

157 National Taxpayer Advocate 2010 Annual Report to Congress 221-234 (Most Serious Problem: *The IRS Has Not Studied or Addressed the Impact of the Large Volume of Undelivered Mail on Taxpayers*); 235-249 (Most Serious Problem: *The IRS Does Not Process Vital Taxpayer Responses Timely*).

158 "Address hygiene" pertains to a process where every notice address is compared to a third party's address database and corrected if necessary before the notice is sent. For example, the IRS has software that will check the addresses on some notices against a United States Postal Service database before it finalizes the batch of notices sent to printing.

159 IRS, Office of Taxpayer Correspondence (OTC), *Undelivered Mail Core Team Highlights* (Apr. 13, 2011).

III. Filing Season Review

For the 2011 filing season, the IRS again processed millions of tax returns in the relatively small window of about three months. While the IRS responded well to some late tax law changes, it continues to use incomplete measures to gauge filing season success and failed to plan for some issues for which it had years to prepare. These lapses created significant taxpayer burden and even harm, and resulted in a sharp increase in TAS case receipts.

A. IRS Administration of the First-Time Homebuyer Credit Became a Debacle

1. Background

The IRS failed to properly plan, implement, and communicate the recapture and repayment requirements of the First-Time Homebuyer Credit (FTHBC) this filing season.[160] This lapse created burdens and unnecessary delays for taxpayers. For example, FTHBC repayments delayed taxpayers' ability to file electronically.[161] Some became so frustrated they created Facebook pages to express their outrage, commiserate, and publish the direct phone numbers and email addresses for IRS executives.[162] These postings generated a number of emails to the National Taxpayer Advocate, describing the extreme hardships caused by refund processing delays and asking for her immediate intervention.

2. Problems Before and During the Filing Season

Congress provided a $7,500 credit for individuals who purchased a primary residence between April 9 and December 31, 2008.[163] This credit is similar to an interest-free loan, requiring repayment in equal installments over 15 years beginning in 2010. The IRS designed and issued a notice to detail the repayment requirements and amount due.[164] Almost immediately after the notice came out, TAS began receiving Systemic Advocacy

160 The $7,500 FTHBC allowed under the Housing and Economic Recovery Act of 2008 requires repayment of the credit over 15 years. Pub. L. No. 110-289, § 3011, 122 Stat. 2654, 2888 (July 30, 2008). The FTHBC allowed under the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5, § 1006. 123 Stat. 115, 316 (Feb. 17, 2009)) and continued under the Worker, Homeownership, and Business Assistance Act of 2009 (Pub. L. No. 111-92, § 11, 123 Stat. 2984, 2989 (Nov. 6, 2009)), increased the credit to $8,000 and eliminated the repayment requirement.

161 IRS Newsroom, Forms Affected By the Extender Provisions, http://www.irs.gov/newsroom/article/0,,id=232773,00.html, (last visited Mar. 30, 2011).

162 Facebook, *2011 Tax Refund Delays*, http://www.facebook.com/2011TaxRefundDelays (last visited June 3, 2011, at which time 3,415 people "liked" the page).

163 *See* Housing and Economic Recovery Act of 2008, Pub. L. No. 110-289, § 3011, 122 Stat. 2654, 2888 (July 30, 2008) as revised by the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5, § 1006. 123 Stat. 115, 316 (Feb. 17, 2009))

164 In late 2010, the IRS issued 1.5 million Notices CP03a, *Repaying Your First-Time Homebuyer Credit*, to taxpayers identified as FTHBC recipients in tax year 2008.

Management System (SAMS) inquiries from taxpayers who did not claim the credit, but received a repayment notice.[165]

The IRS also included FTHBC repayments and dispositions reflected on Page 2 of Form 5405, *First-Time Homebuyer Credit and Repayment of the Credit*, in its list of forms delayed by the late legislation passed on December 17, 2010, even though the legislation had no impact on the credit.[166] While the IRS knew for more than two years that FTHBC repayment programming was necessary, it did not start the program changes until the 2011 filing season was already underway. This last-minute implementation prevented the IRS from properly testing the programming to identify and correct flaws. These flaws in turn prevented the IRS from processing (1) returns filed jointly by couples attempting to repay the first installment of the FTHBC, (2) returns filed by anyone attempting to pay more than the required minimum; and (3) returns filed by anyone completing Part III of Form 5405, dealing with sales or dispositions of the home. In late March 2011, the IRS estimated the number of taxpayers falling into the latter two categories at 128,000.[167]

Initially, IRS employees had no way to fix all these problems, and the tax returns remained unprocessed. Although the IRS had multiple opportunities to share news of the problems and proposed fixes with taxpayers early in the filing season, the IRS did not issue its first update until March 18, 2011, and then only to software developers and authorized e-file providers.[168] The IRS provided the first update on the processing problems to taxpayers just three weeks before the filing season ended, on March 30.[169] The lack of information was not limited to external customers; IRS employees were equally uninformed. Programming problems made the computer codes that provide updates unreliable, which led the IRS to provide incorrect refund dates to taxpayers on its toll-free line, on IRS.gov, and on the new smart-phone application IRS2GO.

As a result of these delays, TAS unpostable/rejected return receipts rose by 3,387 cases, with all of the gain caused by an increase in FTHBC "unpostable/rejected" cases.[170]

165 TAS uses a variety of sources to identify systemic problems, including TAS employees, other 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).

166 IRS Newsroom, *Forms Affected By the Extender Provisions,* http://www.irs.gov/newsroom/article/0,,id=232773,00.html (last visited Mar. 30, 2011).

167 IRS, Wage and Investment Operating Division data received Mar. 25, 2011.

168 IRS Quick Alerts for Tax Professionals, IMF-1040 e-file (Legacy) – Form 5405, Mar. 18, 2011.

169 IRS Update on First Time Homebuyer Credit and Tax Refund, http://www.irs.gov/newsroom/article/0,,id=237695,00.html (last visited June 4, 2011).

170 TAMIS data from a Business Objects report run on May 5, 2011, comparing fiscal year 2010 to 2011 through April 30.

FIGURE III.1, TAS FTHBC RECEIPTS (THROUGH APRIL 30, 2011)[171]

Issue	FY 2010 Receipts	FY 2011 Receipts	FY 2010 FTHBC Receipts	FY 2011 FTHBC Receipts	Receipts Increase	Receipts Increase Due to FTHBC
Unpostable/ Rejected Returns	5,669	9,056	669	4,299	3,387	3,630

To handle the volume of cases involving the FTHBC, TAS temporarily (for up to 120 days) moved TAS Intake Advocates into Case Advocate positions (*i.e.*, caseworkers), solely to handle these cases.[172] TAS also adjusted its work distribution to spread the cases out more evenly between offices.

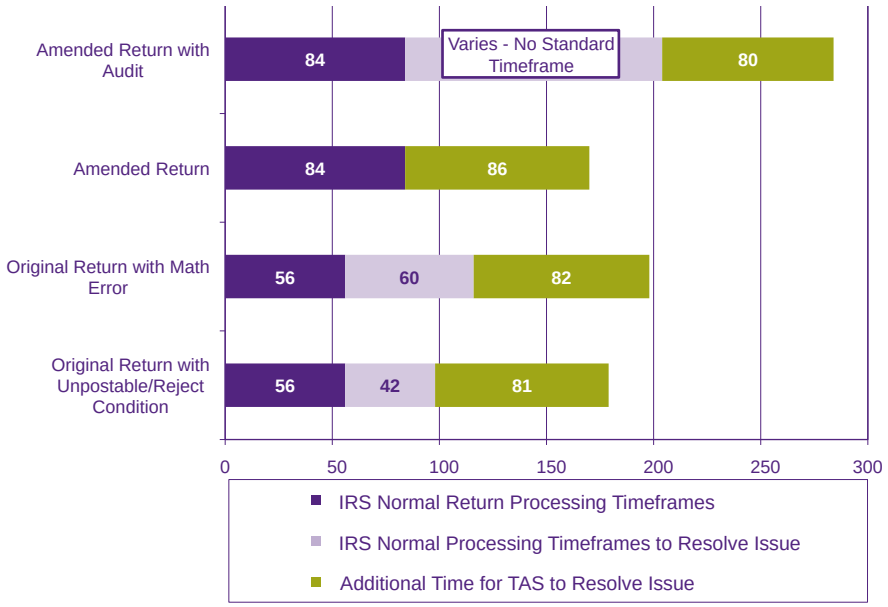
The chart below shows the additional processing time required to resolve cases involving the FTHBC during FY 2011. The first section of each bar represents the IRS's maximum normal timeframes, in days, for processing an original or amended return.[173] The second section of each bar reflects the IRS's normal processing timeframe, in days, for the next issue involving the account—a math error, rejected or unpostable return, or an audit of the return or claim. The last section of the bar represents the average number of days it took TAS to resolve cases involving these issues for taxpayers with FTHBC who came to TAS for assistance after already waiting the normal timeframe for processing (cases received by TAS under systemic burden criteria). TAS taxpayers experienced, on average, *an additional 11 weeks beyond normal processing timeframes* to resolve their issues, even with TAS involvement.

171 TAMIS data from a Business Objects report run on May 5, 2011.

172 TAS Intake Advocates serve as the first point of contact for taxpayers who call TAS for assistance, and they determine if TAS can help. Case Advocates work with taxpayers to solve tax problems, and advocate for the taxpayer to the IRS.

173 IRM 21.4.1.3, *Refund Inquiry Response Procedures* (May 10, 2010), indicates the expected date for receiving a refund from a paper return is six to eight weeks, three weeks from an electronically-filed return, and 8-12 weeks from an amended return. IRM 21.4.1.3.1.2.4, *Error Resolution System (ERS) Status Codes* (June 29, 2010), indicates a four-week timeframe for resolution, and IRM 21.5.4.1, *General Math Error Procedures Overview* (Oct. 1, 2010), provides a 60-day timeframe to receive a response from the taxpayer to a math error notice. There is no standard timeframe for completion of an audit, and taxpayers may come to TAS during different times in the audit process.

FIGURE III.2, IRS PROCESSING TIMEFRAMES (IN DAYS) AND TAS FTHBC CASE CLOSURE TIMEFRAMES, FY 2011, THROUGH APRIL 30[174]



As of June 2, 2011, TAS has 995 Reject/Unpostable cases where taxpayers still had not received their refunds, many of whom filed in late January or early February and whose refunds were held up because the taxpayers were following the correct procedure of *repaying* a loan from the government.[175] These taxpayers have been financially harmed by the IRS's failure to timely program for a provision it knew for over three years was going to happen. To add insult to injury, these taxpayers are required to repay the credit, even though similarly situated taxpayers who just happened to buy a home a bit later had *no* obligation to repay.[176]

Taxpayers affected by these delays include those with pending foreclosures or eviction, utility shut-offs, or imminent combat deployment. It is inexcusable that the IRS did not consider the consequences to these taxpayers when it scheduled its programming changes. TAS will closely review all filing season plans to ensure that this type of harm is not imposed on taxpayers again.

174 TAS timeframes obtained from TAMIS Business Objects Report run on May 16, 2011, that identified average days to close a Criteria 5-7 case closed between Oct. 1, 2010, and Apr. 30, 2011, involving FTHBC and a math error, unpostable/rejected return, or an audit of an original or amended return claiming FTHBC.

175 TAS Reject/Unpostable cases involving FTHBC received in 2011 and still open as of June 2, 2011. Data is from a Business Object – TAMIS report run on June 2, 2011.

176 The American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5, § 1006. 123 Stat. 115, 316 (Feb. 17, 2009)) eliminated the repayment requirement for qualifying homes purchased after 2008.

3. TAS Actions in FY 2012

TAS will meet with the IRS Modernization and Information Technology Services (MITS) to verify that FTHBC repayment programming will work correctly for the 2012 filing season and subsequent years. TAS will assess and report on the downstream impact and burden of credits requiring documentation that prohibit electronic filing. TAS will also try to determine the costs associated with the administration of a credit with a 15-year repayment requirement and the impact on the IRS budget. A TAS advocacy project will also examine the downstream impact of the use of math error authority when the IRS reviews refundable credits like the FTHBC.[177] The project will determine if taxpayer rights are protected, and whether the resources required to address post-disallowance taxpayer inquiries outweigh any perceived "efficiencies" from math error.

B. Legislation Passed Late in 2010 Impacted the 2011 Filing Season

On December 17, 2010, Congress enacted legislation that extended deductions for state and local sales taxes, higher education tuition and fees, and educator expenses.[178] On January 4, 2011, the IRS advised taxpayers affected by this "extender" legislation not to file their returns until mid-February so the IRS could update its systems.[179] The IRS was forced to ask electronic return originators not to transmit 6.5 million e-file returns until February 14 when the IRS finished reprogramming its computers and held approximately 100,000 paper returns.[180]

Since the IRS accurately updated its systems to restore these deductions, TAS received few related systemic burden cases. However, TAS did receive a few economic burden cases from taxpayers whose hardships could not wait for the IRS to implement the changes required by the late legislation. TAS successfully worked with the Wage and Investment operating division to allow TAS to issue refunds to these taxpayers prior to the actual processing of their returns.

C. IRS Implements a Revised Procedure for Processing Unsigned Returns that Results in a Loss of Valuable Taxpayer Data

In FY 2010, the IRS changed its procedures for unsigned tax returns. Instead of returning them to the taxpayers for signature, the IRS suspended the returns in the Rejects function and corresponded with the taxpayer to obtain the signature. This change increased the

177 TIGTA recommended that the IRS seek greater math error authority to disallow refundable credits under certain conditions as a way to streamline credit reviews. *See* TIGTA, Ref. No. 2011-41-035, *Administration of the First-Time Homebuyer Credit Indicates a Need for Improved Controls Over Refundable Credits* 6 (Mar. 31, 2011).

178 Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, 124 Stat. 3296 (Dec. 17, 2010).

179 IRS News Release IR-2011-1 (Jan. 4, 2011), http://www.irs.gov/newsroom/article/0,,id=233910,00.html.

180 TIGTA, Ref. No. 2011-40-032, *Interim Results of the 2011 Filing Season* (Mar. 31, 2011).

inventory for Rejects, causing delays for taxpayers whose returns had errors of any kind, not just missing signatures.[181] For the 2011 filing season, the IRS implemented a revised procedure where if the tax return is missing only a signature, the IRS returns it to the taxpayer with a "check the box" form.[182] This new procedure solved the Reject inventory problem by reducing the time IRS employees spend dealing with unsigned tax returns, but created other problems.

When the IRS sends the unsigned tax return back to the taxpayer, it does not retain an image of the tax return it mails back, or even track that the IRS received an unsigned return. In the case of balance due tax returns, the IRS cashes any attached payment, but loses all the information on the unsigned return, with no guarantee that the taxpayer will sign and re-mail the tax return back to the IRS. The taxpayer may not bother mailing the return a second time, especially since the taxpayer is filing a tax return to show a balance due, not a refund. The tax return may include income not reported by payers on information returns to the IRS. We are concerned that the IRS is choosing not to keep that valuable information.

If the taxpayer does sign and mail a balance due tax return back to the IRS, the received date used to compute penalties and interest (if the taxpayer did not timely full pay the balance) will never be the original received date of the unsigned return. At best, if the taxpayer mails the tax return back to the IRS within 30 days, the IRS uses the date it sent the tax return back for signature as the received date.[183] Without any tracking of the unsigned returns, the IRS must rely on what the taxpayer mails back to the IRS to make this determination, which introduces many opportunities for error. The National Taxpayer Advocate is concerned that this process will result in taxpayers with balances owed being assessed incorrect penalties and interest if:

- The taxpayer submits a new copy of the return;
- The taxpayer removes the IRS correspondence before mailing it back;
- The IRS encounters delays in sending the unsigned tax return back to the taxpayer; or
- Submission Processing erroneously processes the return as received when returned.

The IRS received date stamp on refund tax returns is important because it establishes the timeliness of the return under the refund statute of limitations. When the IRS mails back an unsigned refund return, it has nothing left in its possession to review if the taxpayer disputes that the signature was missing on a timely filed refund tax return. The IRS must rely solely on whatever documentation the taxpayer can provide, even though it previously possessed the document in dispute. If the IRS kept an image of the tax return, the image would include

181 National Taxpayer Advocate Fiscal Year 2011 Objectives Report to Congress 44-46.

182 *See* IRM 3.11.3.14.10, *Signature* (Jan. 1, 2011); IRM 3.11.3.6.2.1, *Correspondence When Sending Returns Back to the Taxpayer* (Jan. 1, 2011).

183 IRM 3.11.3.5.2, *Determining the Received Date* (Jan. 1, 2011).

the IRS received date stamp and the signature section of the tax return, which would allow the IRS to verify easily whether the taxpayer filed a timely signed return.

1. TAS Actions in FY 2012

TAS will continue to work with the IRS to develop a better solution for unsigned tax returns, including using technology to capture images of these unsigned tax returns without processing them.

D. IRS Measures of Filing Season Success Are Limited

The IRS traditionally measures filing season success by reporting:

- Number of returns received;
- Refunds issued;
- Visits to the IRS website (www.irs.gov); and
- Total assistor calls answered and the accuracy rates of those calls.[184]

The National Taxpayer Advocate has previously identified the limitations of these measures.[185] For example, to answer the increased volume of phone calls, the IRS must pull employees from working written correspondence. This improves the number of calls answered, but sacrifices timely responses to taxpayer correspondence and amended return processing.

The IRS has increased and improved its online tools for taxpayers to find out if they qualify for credits and obtain refund information. But the increase in rejected returns during the 2010 and 2011 filing seasons is a clear indication that taxpayers are still confused by the ever-changing nature of eligibility for certain tax credits and may still make errors that cause processing problems with their returns.[186]

Filing season measures should include more than just return receipts and phone call statistics. The annual aging of amended return processing and correspondence overage are equally important indicators of filing season "success" because they measure the IRS's level of service to taxpayers.

184 Wage and Investment Division, Filing Season Weekly Report (Mar. 14, 2011).

185 National Taxpayer Advocate 2008 Annual Report to Congress 554-556.

186 As of May 19, 2011, the IRS had rejected 23.6 million e-filed returns during FY 2011 and 23 million e-filed returns during FY 2010. The top ten reasons for reject included data entry issues and mismatches of key eligibility data, including Social Security numbers, name controls, and dates of birth. Daily Error Reject Codes, http://efile.enterprise.irs.gov/DailyError.asp.

E. TAS Is Concerned that IRS Implementation of the Adoption Credit May Unduly Burden Eligible Taxpayers

The Patient Protection and Affordable Care Act increased the maximum adoption credit amount from $12,150 to $13,170 to adopt an eligible child (IRC § 36C),[187] and made the credit fully refundable for 2010 and 2011. The eligibility rules are different for domestic, foreign, and special needs child adoptions. However, in all three categories, taxpayers claiming the credit are no longer eligible to file electronically because the IRS requires filing of paper documentation with Form 8839, *Qualified Adoption Expenses*.

1. Background

Through April 16, 2011, the IRS processed 59,052 tax returns claiming the adoption credit for tax year 2010 and selected 41,540 of these returns for audit.[188] The IRS scrutinizes these returns because the credit is large and refundable, and as in examinations of other refundable credits, the IRS holds the adoption credit portion of the refund until the audit determines whether the taxpayer is eligible for the credit.[189] Over 40 percent (24,394) of all adoption credit tax returns had no adoption documentation whatsoever and were sent to the Examination function for further review.[190] On March 31, 2011, the IRS posted a reminder on its website for taxpayers to include the documentation.[191]

Because the IRS held the refund of the adoption credit, taxpayers once again shared their frustration on Facebook, blogs, and tax software forums – and came to TAS for assistance. Although the IRS held the adoption credit refunds to combat fraud, such decisions do have a downstream effect on taxpayers who are eventually deemed eligible for the credit, and these cases should be provided timely review.

TAS identified the following concerns stemming from IRS administration of the refundable adoption credit:

- During audits, IRS examiners sent letters to taxpayers asking them to provide documentation before reviewing what information the taxpayers had included with the original returns; thus, taxpayers who submitted documentation with their returns had to send it in twice;
- The IRS did not clearly inform taxpayers about how long it would take to audit their returns and when they could expect their refunds;

187 Pub. L. No. 111-148, § 10,909, 124 Stat. 119, 1021 (Mar. 23, 2010).

188 IRS, 2011 Adoption Credit Selected Returns by BOD and Cycle (through cycle 16).

189 IRM 21.5.10.4.1.2, Examination Refund Hold Projects, (Oct. 1, 2010).

190 IRS, 2011 Adoption Credit Selected Returns by BOD and Cycle (through cycle 16).

191 IRS, Adoptive Parents: Don't Delay Your Adoption Credit Refund, *available at* http://www.irs.gov/newsroom/article/0,,id=236883,00.html (last visited May 27, 2011).

- IRS examiners were not knowledgeable about the expanded adoption credit under the Patient Protection and Affordable Care Act and how to handle the credit claimed for special needs children; and
- The hold on issuing the adoption credit portion of the refund caused financial burden for some taxpayers.

2. TAS Actions in FY 2012

TAS will review its cases to determine if the substantiation IRS examiners request to support the adoption tax credit is appropriate and not overly burdensome. TAS will also review the IRS guidance provided in forms, publications, and online to verify appropriate information is available to taxpayers to file correct and complete returns to claim the credit.

IV. Case Advocacy

The role of TAS as an independent organization within the IRS has continued to evolve since the enactment of the IRS Restructuring and Reform Act of 1998, which created TAS in its current form.[192] That evolutionary process is evident in the improvements and enhancements TAS has made to taxpayer advocacy, which are discussed further below. These improvements come at a time when TAS is facing increased challenges in its casework. Significant trends include the continued rise in identity theft and economic burden case receipts and the reappearance of the Questionable Refund Program[193] in the form of Pre-Refund Wage Verification Hold cases.[194]

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

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 their rights.

TAS accepts cases in four categories:

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

192 *See* Appendix I: *Evolution of the Office of the Taxpayer Advocate, infra.*

193 *See* National Taxpayer Advocate 2007 Annual Report to Congress 448-458 (Status Update: *Questionable Refund Program*); National Taxpayer Advocate 2006 Annual Report to Congress 408-421 (Status Update: *Major Improvements in the Questionable Refund Program and Some Continuing Concerns*); National Taxpayer Advocate 2005 Annual Report to Congress 25-54 (Most Serious Problem: *Criminal Investigation Refund Freezes*); National Taxpayer Advocate 2003 Annual Report to Congress 175-181 (Most Serious Problem: *Criminal Investigation Freezes*).

194 To reach its goal of revenue protection, the Accounts Management Taxpayer Assurance Program selects questionable returns for verification prior to releasing refunds. AMTAP screens these returns through the Electronic Fraud Detection System (EFDS) to verify the accuracy of taxpayers' wages and withholding. If income documents are not initially verifiable, AMTAP begins a manual process to verify wages and withholding by contacting the employers. *See* IRM 21..9.1.7 (Oct. 1, 2010).

- Public Policy – Cases accepted when the National Taxpayer Advocate determines that compelling public policy warrants assistance to an individual or group of taxpayers.[195]

Through May 31, TAS has received 190,204 cases in FY 2011, closed 184,801, and provided relief to taxpayers in 74.7 percent of the cases closed.[196] Figure IV.1 shows TAS FY 2011 receipts, closures, and relief rates by case category through the end of May.

FIGURE IV.1, TAS CASE RECEIPTS, CLOSURES, AND RELIEF RATES, FY 2011 CUMULATIVE THROUGH MAY[197]

	Receipts	Closures	Relief Rate
Economic Burden	89,339	78,472	71.0%
Systemic Burden	100,713	106,188	77.5%
Equitable Treatment or Taxpayer Rights Issues	138	127	72.4%
Public Policy	14	14	92.9%
Total Cases	**190,204**	**184,801**	**74.7%**

As reflected in Figure IV.1 above, the bulk of TAS's cases involve either economic or systemic burden. 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 to contact the taxpayer to communicate these actions and request additional information (if needed) within three workdays of the date TAS received the case.[198]

While TAS received slightly fewer cases overall through May of FY 2011 as compared to the same period in FY 2010, the number of economic burden case receipts continues to grow, and these cases require quicker action. As shown in Figure IV.2, TAS economic burden case receipts increased by nearly 19 percent in the second quarter of FY 2011, as compared to the same period in FY 2010 and more than 45 percent as compared to the same period in FY 2007.[199]

195 See Appendix II for a list of the criteria TAS uses when deciding which taxpayers are eligible for TAS assistance in these four categories.

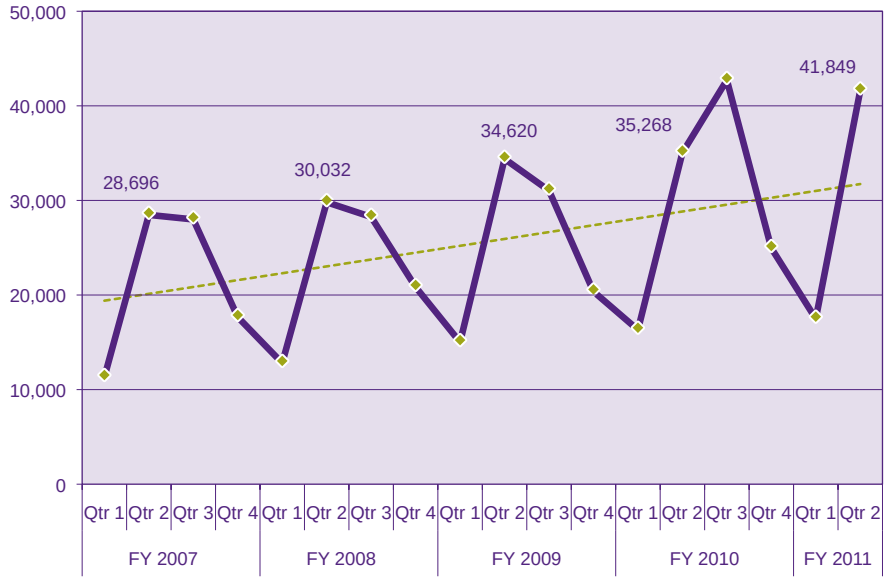
196 TAS determines relief rates based upon whether TAS is able to provide full or partial relief or assistance on the issue initially identified by the taxpayer. Because TAS frequently provides relief on issues that differ from the ones the taxpayer initially identified, the relief rate, as calculated, is understated. Data obtained from TAMIS. TAS uses TAMIS to record, control, and process taxpayer cases, as well as to analyze the issues that bring taxpayers to TAS.

197 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 provided to the taxpayer. *See* IRM 13.1.21.1.2.1.2 (Feb. 1, 2011). 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 by the total number of closures.

198 IRM 13.1.18.2(1) (Feb. 1, 2011).

199 Data obtained from TAMIS.

FIGURE IV.2, TAS ECONOMIC BURDEN RECEIPTS BY QUARTER, FY 2007 THROUGH SECOND QUARTER FY 2011[200]



While the U.S. still recovers from recession, with unemployment rates hovering around 9 percent[201] and a housing market that has shown little sign of recovery,[202] it is hardly surprising that taxpayers experiencing economic burden are coming to TAS for assistance. However, to identify the immediate cause behind increasing economic burden case receipts, TAS tracks the underlying tax issues. Figure IV.3 lists the top five economic burden issues so far in FY 2011.

200 Data obtained from TAMIS.

201 Bureau of Labor Statistics (BLS), *Labor Force Statistics from the Current Population Survey,* Unemployment Rate (data extracted on June 2, 2011). The unemployment rate was 9.0 percent in January 2011, 8.9 in February 2011, 8.8 in March 2011, and 9.0 in April 2011.

202 Trulia and RealtyTrac Staff, *Trulia and RealtyTrac Survey Reveals 54 Percent of American Adults Now Believe Housing Recovery Remains Unlikely Until 2014 or Later* (May 18, 2011), *available at* http://www.realtytrac.com/content/press-releases/trulia-and-realtytrac-survey-reveals-54-percent-of-american-adults-now-believe-housing-recovery-remains-unlikely-until-2014-or-later-6581.

FIGURE IV.3, TOP FIVE ECONOMIC BURDEN CASE ISSUES FY 2009 THROUGH FY 2010 AND FY 2010 THROUGH FY 2011 CUMULATIVE THROUGH MAY[203]

Rank	Issue Description	FY 2009	FY 2010	% Change	FY 2010 Cumulative through May	FY 2011 Cumulative through May	% Change
1	Identity Theft	4,685	7,655	63.4%	4,653	10,902	134.3%
2	Levies (including Federal Payment Levy Program)[161]	15,167	15,263	0.6%	10,488	8,859	-15.5%
3	Unpostable and Reject Returns[162]	2,218	10,500	373.4%	7,031	7,876	12.0%
4	Expedite Refund Request	7,891	8,073	2.3%	6,176	5,852	-5.2%
5	IRS Offset	4,496	5,318	18.3%	4,933	5,292	7.3%

Not only is identity theft the number one issue in economic burden case receipts, but, as shown in the next section, it is also the number one reason overall that taxpayers are currently seeking TAS assistance. Through May, FY 2011 identity theft case receipts have increased more than 56 percent as compared to the same period in FY 2010. Of the 16,821 taxpayers who came to TAS with this issue through May of FY 2011, 10,902 were experiencing economic burden.[206] The National Taxpayer Advocate recently testified that while it is difficult to pinpoint exactly the reasons for the increase in identity theft cases, some possible explanations include:

- A continued increase in tax-related identity theft;
- Increased public awareness of identity theft;
- Identity thieves have become more proficient; and
- Personal information has become readily-accessible.[207]

In FY 2012, TAS will continue to effectively advocate for taxpayers coming to TAS with identity theft issues. This will include working with the IRS to improve its processes in handling identity theft cases through its specialized identity theft unit.[208]

203 Data obtained from TAMIS.

204 The Federal Payment Levy Program (FPLP) is a systemic collection enforcement tool authorized by IRC § 6331(h). It allows the IRS to levy on federal payments disbursed by the Treasury's Financial Management Service (FMS) to delinquent taxpayers. Each week, the IRS creates a file of certain balance due accounts and transmits the file to FMS's Treasury Offset Program. FMS transmits a weekly file back to the IRS listing those that matched. FPLP will subsequently transmit levies on matching accounts.

205 Each account transaction, including tax return processing, is subjected to a series of validity checks before posting to the IRS Master File. A transaction is termed unpostable when it fails to pass any of the checks and is returned to the campus (Rejects Function) for follow-up action(s). IRM 21.5.5.2 (Oct. 1, 2007). *See Filing Season Review, supra.*

206 Data obtained from TAMIS.

207 *See The Spread of Tax Fraud by Identity Theft: A Threat to Taxpayers, A Drain on the Public Treasury Hearing Before the S. Comm. on Fiscal Responsibility and Economic Growth on S. Comm. on Finance,* 112th Cong. (May 25, 2011) (statement of Nina E. Olson, National Taxpayer Advocate).

208 For a more detailed discussion of identity theft, see *The IRS Needs to Improve Its Identity Theft Victim Assistance, supra.*

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

By analyzing the underlying issues involved in individual casework, TAS identifies trends that also affect larger groups of taxpayers and uses that information to work with the IRS to resolve the broader issues.[209] Figure IV.4 lists the top 15 issues facing taxpayers.

FIGURE IV.4, TOP 15 ISSUES FOR CASES RECEIVED IN TAS, FY 2009 – 2010 AND FY 2010 – FY 2011 (CUMULATIVE THROUGH MAY)[210]

Rank	Issue Description	FY 2009	FY 2010	% Change	FY 2010 Cumulative through May	FY 2011 Cumulative through May	% Change
1	Identity Theft	14,023	17,291	23.3%	10,760	16,821	56.3%
2	Processing Amended Return	19,939	30,891	54.9%	20,310	15,121	-25.5%
3	Open Audit (Not Earned Income Tax Credit)	10,630	26,182	146.3%	15,984	14,189	-11.2%
4	Unpostable and Reject Returns[168]	3,786	22,341	490.1%	12,436	11,173	-10.2%
5	Levies (including Federal Payment Levy Program)	18,153	18,015	-0.8%	12,411	10,305	-17.0%
6	Expedite Refund Request	10,959	11,755	7.3%	8,230	7,964	-3.2%
7	Reconsideration of Audits[169] and Substitute for Return under IRC 6020(b)[170]	11,488	12,843	11.8%	8,791	7,863	-10.6%
8	Pre-Refund Wage Verification Hold[171]		3,171		1,111	7,375	
9	Processing Original Return	9,170	11,997	30.8%	6,900	7,218	4.6%
10	IRS Offset	6,176	6,865	11.2%	6,086	6,307	3.6%
11	Earned Income Tax Credit	13,475	11,198	-16.9%	7,646	5,896	-22.9%
12	Injured Spouse Claim	10,130	7,777	-23.2%	5,067	5,828	15.0%
13	Returned and Stopped Refunds	5,517	6,115	10.8%	3,333	4,814	44.4%
14	Other Refund Inquiries and Issues	11,578	6,707	-42.1%	4,054	4,287	5.7%
15	Installment Agreements	6,318	6,039	-4.4%	3,832	3,685	-3.8%
	Total TAS Receipts	**272,404**	**298,933**	**9.7%**	**191,901**	**190,204**	**-0.9%**

209 TAS also asks its employees to submit systemic issues they find in TAS cases to the Systemic Advocacy Management System (SAMS). SAMS allows TAS to record and manage advocacy activities that benefit groups of taxpayers. *See Systemic Advocacy, infra.*

210 Data obtained from TAMIS.

211 *See Filing Season Review, supra.*

212 Audit reconsideration is the process the IRS uses to reevaluate the results of a prior audit where additional tax was assessed and remains unpaid, or a tax credit was reversed. IRM 21.5.10.4.3 (Oct. 1, 2010).

213 IRC § 6020(b) allows the IRS to prepare a return on behalf of the taxpayer based on available information, and assess the tax after providing a statutory notice of deficiency to the taxpayer.

214 TAS began capturing data for the Pre-Refund Wage Verification Hold issue in March 2010. Since the date for FY 2010 represents only the last six months of the fiscal year, a percentage change could not be accurately computed.

As shown in Figure IV.4 above, the Questionable Refund Program has reappeared as a top issue in the form of Pre-Refund Wage Verification Hold (PRWVH) cases. Through May of FY 2011, TAS received 7,375 PRWVH cases and closed 4,596 PRWVH cases, providing some form of relief to taxpayers in 64.5 percent of the cases closed.[215]

The civil side (as opposed to the criminal side) of the Questionable Refund Program, previously administered by the IRS Campus Fraud Detection Centers, was transferred to the W&I Division's Accounts Management function and is now referred to as the Accounts Management Taxpayer Assurance Program. AMTAP's primary focus is revenue protection and to accomplish this, it selects questionable returns for verification prior to releasing refunds. These returns are screened through the Electronic Fraud Detection System (EFDS) to verify the accuracy of taxpayers' wages and withholding.

If income documents are not initially verifiable, AMTAP employees begin a manual process to verify wages and withholding.[216] This verification process can take up to 13 weeks.[217] While this is necessary, such delays can create financial hardship for taxpayers who are awaiting legitimate refunds.

So far in FY 2011, thousands of TAS's requests for assistance from AMTAP to release legitimate refunds have gone unanswered.[218] Through May, TAS issued 106 Taxpayer Assistance Orders to AMTAP in FY 2011.[219] The National Taxpayer Advocate has identified the AMTAP program as having systemic problems. She will research this issue in FYs 2011 and 2012, and discuss the findings and recommendations in the 2011 Annual Report to Congress.

C. Improvements in Advocacy

Creating an environment in which Case Advocates and Local Taxpayer Advocates are advocating for taxpayers on a case-by-case basis takes experience, encouragement, and training.[220] In FY 2012, TAS will:

- Emphasize the importance of using TAO authority to resolve cases timely;

215 TAS determines relief based upon whether TAS is able to provide full or partial relief or assistance on the issue initially identified by the taxpayer. Data obtained from TAMIS.

216 This includes contacting the taxpayer's employer or if directed by the employer, the payroll processing firm to verify wages and withholding. AMTAP employees will also perform research to ensure they have the employer's current address.

217 It takes the IRS two weeks to screen the cases and 11 weeks to verify the wages and withholding. TAS Notes from TAS-AMTAP OAR Backlog Conference Call (May 2, 2011). *See also* IRM 21.9.1.2.3(1) (Oct.1, 2010).

218 In FY 2011, TAS issued more than 8,700 OARs to AMTAP through May 2011 (data obtained on June 8, 2011).

219 Data obtained from TAMIS. *See Importance of the Taxpayer Assistance Order, infra.*

220 The role of an advocate is complex, requiring communication skills, technical skills, and determination to ensure that taxpayers receive the relief to which they are entitled. Advocacy involves numerous steps and approaches, including: listening compassionately to taxpayer concerns; exploring whether the claimed relief is permissible under the tax laws and regulations; if the relief is permissible, acting timely to ensure that the IRS provides the relief using the full set of statutory and procedural tools; and if the relief is not permissible, explaining with patience and compassion why the relief is not available. The TAS philosophy of advocacy is described in IRM 13.1.1.2 (Apr. 1, 2003).

- Focus on specific issues where advocacy is needed to make improvements, such as EITC claims; and
- Improve the systems and guidance provided to Case Advocates, to make their jobs easier.

1. Importance of the Taxpayer Assistance Order

The Taxpayer Assistance Order is a powerful tool that Local Taxpayer Advocates (LTAs) can use to resolve their cases. An LTA should consider issuing a TAO in a well-developed case if 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 and the law and the facts support the relief.[221] The LTA may issue a TAO to order the IRS to take an action, cease an action, or refrain from taking an action.[222] For example, the LTA may issue a TAO to release a levy.[223] The LTA 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.[224]

The ability to issue a TAO ensures "that TAS can effectively resolve problems and protect taxpayer rights when the taxpayer has a significant hardship, even when the IRS disagrees or has other internal priorities."[225] TAS has implemented various approaches to ensure that LTAs better understand the types of cases that require TAOs. One such approach involves coordinated informal monthly discussions with all LTAs about case scenarios that may result in a TAO. These discussions help LTAs share experiences and approaches and help inform LTAs about what is necessary to resolve cases.[226] Awareness of the importance of the TAO as an advocacy tool is increasing as use of the TAO has increased over the past two fiscal years. In FY 2009, 45 TAOs were issued; in FY 2010 95 TAOs were issued; and in the first eight months of FY 2011, TAS issued 237 TAOs. Figure IV.5 shows the areas that have generated TAOs through May of 2011.

221 Treas. Reg. § 301.7811-1(a), 76 Fed. Reg. 18,059 (Apr. 1, 2011). *See also* IRC § 7811(a)(1); IRM 13.1.20.1 (Dec. 15, 2007).

222 Treas. Reg. § 301.7811-1(c), 76 Fed. Reg. 18,059 (Apr. 1, 2011); IRM 13.1.20.3 (Dec. 15, 2007).

223 IRC § 7811(b)(1).

224 Treas. Reg. § 301.7811-1(c), 76 Fed. Reg. 18,059 (Apr. 1, 2011); IRM 13.1.20.3 (Dec. 15, 2007).

225 IRM 13.1.20.2(5) (Feb. 1, 2011).

226 The monthly sessions are termed *TAO Cafés*, and these discussions, equipped with moderators and a detailed agenda, allow LTAs the ability to ask questions about TAO authority under different scenarios.

FIGURE IV.5, TAOS ISSUED THROUGH MAY IN FY 2011[227]

	TAOs Issued FY 2011
Refunds	109
Collection	33
Document Processing	27
Audit	26
Entity Issues	14
Penalty	11
Other	17
TOTAL	**237**

TAOs can also bring systemic problems to light and help drive systemic improvement in the IRS, as described in Section IV.B., TAS Identifies Problems and Trends Which Negatively Impact Taxpayers and Advocates to Resolve These Issues.

D. Improving Advocacy in TAS Earned Income Tax Credit Cases

In FY 2010 TAS leadership evaluated what steps it could take to improve advocacy for taxpayers claiming the Earned Income Tax Credit.[228] Relief rates in TAS for taxpayers claiming the EITC are below the rates TAS achieves on other issues.[229] In 2004, the National Taxpayer Advocate conducted a study in cooperation with the IRS to determine whether additional contacts and interaction with the taxpayer improved the chances of taxpayers receiving the credit, during audit reconsiderations.[230] The study found that several approaches could increase the likelihood of taxpayers receiving the EITC to which they are entitled, including:

- Increasing telephone usage to engage taxpayers;
- Providing taxpayers a better explanation of the specific documentation needed to support the EITC claim, and assistance in securing the documentation; and
- Improving communication with taxpayers during the initial audit.[231]

227 Data obtained from TAMIS.

228 The EITC is a refundable credit for low to moderate income working taxpayers and is the nation's largest need-based anti-poverty program. National Taxpayer Advocate 2005 Annual Report to Congress 520; IRS, *Earned Income Tax Credit Initiative: Final Report to Congress,* October 2005 1-2 (Oct. 2005). *See Appendix VIII, infra,* to view the entire TAS EITC Case Review Team Report.

229 On average, TAS obtains relief for taxpayers claiming the Earned Income Taxpayer Credit (EITC) in 47 percent of cases compared with the overall relief rate of TAS cases (73 percent). TAMIS Data, FY 2008, FY 2009, and FY 2010.

230 *See* National Taxpayer Advocate 2004 Annual Report to Congress, vol. 2, 10 (*EITC Audit Reconsideration Study*) ("Seventy percent of the EITC audit reconsideration cases came to TAS for assistance because the taxpayers stated they had not heard from Examination concerning their original audit or the audit reconsideration request.")

231 *See* National Taxpayer Advocate 2004 Annual Report to Congress, vol. 2, 11 (*EITC Audit Reconsideration Study*) ("The IRS should revisit all states of the audit process to see if additional telephone contacts with taxpayers can resolve the disputed EITC.").

In 2010, TAS reviewed a sample of EITC cases closed in TAS where relief was not obtained because no response was received from the taxpayer.[232] The goal of this review was to determine whether TAS could improve its own processes to better serve these taxpayers. TAS identified several areas in which improved TAS performance could bring greater relief to taxpayers:

- **Additional Phone Contacts in No Relief Cases** – In 38 percent of the cases, TAS had no direct phone contact with the taxpayer. In an additional 37 percent of cases, there was only one direct phone contact. In other words, in over 75 percent of these cases there was either no telephone contact or only one contact with the taxpayer. The interactive nature of a phone call allows taxpayers to better understand what supporting documentation they need to substantiate an EITC claim.

- **Need to Provide More Assistance and Explanation of Documentation Requirements** – In cases where the taxpayer's relationship to the child was at issue, only eight percent of the relationships as presented were non-qualifying relationships.[233] Moreover, in 70 percent of the cases with a *qualifying* relationship (where the relationship is known), the relationship was other than the taxpayers' biological children. This suggests that taxpayers struggle with proving qualifying relationships, particularly when the child is not the taxpayer's biological child.

- **More Use of IRS Information Systems** – In 24 percent of cases, the Case Advocate did not utilize Examination-based systems that reflect what aspect of the taxpayers' claims are at issue. Failure to identify the item questioned by the IRS leads to TAS requesting unnecessary information from the taxpayers.

- **EITC Cases Worked in the Campus** – EITC cases in TAS are worked predominantly (98 percent of cases) in the ten TAS campus offices and not in the local TAS offices in the states where the taxpayer lives. In a 2007 TAS survey of taxpayers involved in EITC audits, 70 percent of respondents preferred to communicate with the IRS in a manner other than correspondence, with 23 percent preferring to communicate in person.[234] However, meeting face-to-face with a taxpayer at a campus is difficult.

- **Improve Training Material** – The team also found that EITC training material for TAS Case Advocates does not adequately explain how to advocate for taxpayers claiming the credit.

232 The team focused on cases closed "No Relief/No Response" because approximately 80 percent of all TAS EITC cases closed as no relief were closed due to the taxpayers not responding to TAS within the timeframe given by the Case Advocate.

233 Under IRC § 152(c)(2), the relationship test requires that the child be the taxpayer's child (including an adopted child, stepchild or eligible foster child) or descendant of any of them (*e.g.*, a grandchild) or a child who is a sibling, step sibling or half-sibling, or a descendant of one of these relatives (*e.g.*, a nephew or grandnephew).

234 *See* National Taxpayer Advocate 2007 Annual Report to Congress vol. 2, 106-107 (*IRS Earned Income Credit Audits - A Challenge to Taxpayers*) ("Perhaps of most concern is that more than 70 percent of respondents prefer to communicate with the IRS in a manner other than correspondence, with 46 percent of respondents preferring to communicate about their audit with IRS by telephone, and another 23 percent preferring to communicate in person.").

In FY 2012, TAS will take actions to address the findings of this study, including:

- Developing guidance for employees that emphasizes the following: increased phone contacts with taxpayers; increased use of internal IRS systems; awareness of alternative documents that can satisfy some EITC substantiation requirements; and additional steps TAS can take to effectively advocate for the taxpayers. The National Taxpayer Advocate will conduct EITC training for all TAS Case Advocacy and Systemic Advocacy employees.

- Changing the case transfer guidelines that now direct EITC cases to TAS campus offices so that the bulk of these cases can be worked in the TAS local office near the taxpayer's residence. EITC cases will be transferred to the TAS office in the state where the taxpayer lives. TAS can better assist and explain required documentation when Case Advocates have knowledge of specific state requirements for securing documentation, such as copies of birth certificates, to prove taxpayer/qualifying child relationships. In addition, routing cases to the local TAS office increases the opportunity to meet face-to-face with the taxpayer.

During FY 2012, TAS will complete Phase Two of the study to assess whether the following approaches can improve advocacy for EITC claimants:

- Longer timeframes for taxpayer response, including reminders by letter or telephone;
- Enhanced phone contact with taxpayers;
- More informative explanations and examples of what documentation is required;
- Improved quality of correspondence; and
- Additional training.

TAS is collaborating with the IRS to test whether alternative approaches to EITC correspondence examinations affect the audit change rate. The results of this test will help guide recommendations for improvements to the examination process.[235]

E. TAS Access to IRS Systems and Other Automated Technologies

As described above, with respect to TAS's EITC advocacy improvement, TAS employees advocate more effectively and efficiently when they have access to the same compliance systems as IRS employees. This access allows employees to identify the issues raised by the IRS on the taxpayers' accounts, and minimize burden on the taxpayer by only requesting documentation on aspects of the taxpayer's account that are at issue.

235 *See TAS's Continued Advocacy Efforts to Improve the EITC Program, supra.*

TAS employees currently have access to key IRS systems, including:

- Integrated Data Retrieval System (IDRS), used by most IRS employees working taxpayers' accounts;
- Integrated Collection System (ICS), used by revenue officers and Technical Service employees;
- Report Generating Software (RGS) system, used by examination personnel;
- Treasury Check Information System (TCIS), used to provide tracing data on checks issued by the Treasury department;
- Automated Insolvency System, which provides information on taxpayers in bankruptcy;
- Correspondence Imaging System (CIS), which allows users to view correspondence and case notes online; and
- Automated Offer in Compromise (AOIC) System, which tracks and controls offers in compromise.

In FY 2012, TAS will to gain access to several more IRS systems, including:

- Online Retrieval System (provides Social Security data);
- Automated Lien System (provides information about liens filed in local jurisdictions);
- Integrated Automation Technologies (an entire suite of tools programmed to make the jobs of employees easier), including an Erroneous Manual Refund tool that prevents the release of an erroneous refund to taxpayers; a Credit Transfer tool to make credit transfers easier; and a Balance Due/Refund tool to make determination of the exact amounts due to and from taxpayers easier); and
- Return Request Display (displays taxpayer returns without the need to obtain a paper copy).

These tools will relieve Case Advocates of manual, time-consuming processes needed to request this information, thus freeing up more time to better advocate for taxpayers.

F. Improving Case Advocacy Business Measures

Case Advocacy maintains various business measures, including case quality, efficiency, customer satisfaction, and employee satisfaction.[236] These measures constitute part of TAS's balanced measures system, which is structured not to emphasize achieving numerical targets, but rather the management of processes and people to achieve TAS's mission of helping taxpayers resolve problems with the IRS.[237]

With respect to business measures across the IRS, the National Taxpayer Advocate has encouraged measures that promote the IRS's underlying mission, as opposed to measuring the number of activities completed during a short-term measurement period, *e.g.*, cycle time.[238] Measuring for cycle time can promote premature case closures, and can de-emphasize getting to the right answer for all taxpayers. Likewise, TAS engages in periodic assessments to determine whether its own measures are promoting the TAS mission of advocacy. TAS has changed its case quality measures, is planning to improve its customer satisfaction survey process, and is developing an efficiency measure to provide the organization with information about the volume and quality of work performed relative to the resources devoted to complete the work.[239]

1. New Quality Standards Emphasize TAS Advocacy Mission

Quality measurement of casework is a key indicator of whether TAS is effectively advocating for taxpayers who are seeking our assistance. Taxpayers who ask TAS for help expect to receive it in a timely manner, with technical accuracy that addresses all their tax issues, and a clear and complete explanation of the services provided.[240] These taxpayer expectations are the embodiment of TAS quality standards. TAS has performed well in these areas. Even with increased caseloads, TAS has maintained high rates of quality. In FY 2010, TAS received requests for assistance from 298,933 taxpayers (a nearly ten percent increase from FY 2009), 40 percent of whom were experiencing a financial hardship, yet TAS maintained an overall 87 percent quality level.[241]

While TAS leadership was pleased with these results, comments from taxpayers, employees, and practitioners, as well as case quality data, convinced the National Taxpayer Advocate that performance of TAS's underlying mission could be enhanced by

236 The IRS is required by law to establish performance plans and annually reports progress towards meeting those targets. 31 U.S.C. § 1115; *see* National Taxpayer Advocate 2010 Annual Report to Congress 29; *see TAS Efficiency Measure, infra.*

237 IRM 13.5.1.3 (Oct. 1, 2001).

238 National Taxpayer Advocate 2010 Annual Report to Congress 28 (Most Serious Problem: *IRS Performance Measures Provide Incentives that May Undermine the IRS Mission*).

239 GAO, GAO-07-156, *Taxpayer Advocate Service, Case Load Has Grown and Taxpayers Report Being Satisfied, but Additional Measures of Efficiency and Effectiveness Are Needed* 26 (Feb. 2007).

240 For an explanation of quality standards, *see* GAO, GAO-07-156, *Taxpayer Advocate Service, Case Load Has Grown and Taxpayers Report Being Satisfied, but Additional Measures of Efficiency and Effectiveness Are Needed* 23 (Feb. 2007).

241 Data obtained from TAMIS.

emphasizing attributes closer to the roots of taxpayer advocacy. These include correspondence written in plain English without technical tax jargon, more phone contacts with the taxpayer, taxpayer education, an explanation of administrative appeal rights, and decisive substantive actions on cases as opposed to periodic "touches" of a case simply to meet a quality standard.[242]

In FY 2011, TAS substantially expanded its quality review process to emphasize taxpayer advocacy, including explanation of recourse and applicable appeal rights. TAS's new review measures identify performance in four primary categories:

- Timeliness – Are we resolving taxpayer issues in an expeditious manner?
- Communication – Do communications provide correct information, with a clear and complete explanation of the actions we took?
- Accuracy – Have we addressed and resolved all issues?
- Technical – Were the actions we took technically correct?

For FY 2012 and beyond, TAS will use the new quality process to focus on improvement opportunities that will further TAS's underlying advocacy mission. In the coming months, TAS plans to analyze the quality results and implement action plans to improve managerial involvement and accuracy of case coding. As a result, TAS will ensure all related issues are addressed prior to case closure. This will positively impact case accuracy and customer and employee satisfaction, and will involve employee education through training and clarification of guidance.

2. TAS Seeks to Improve Customer Satisfaction in FY 2012 and Beyond

Historically, TAS has used an independent contractor to conduct confidential telephone surveys to obtain the opinions of taxpayers and their representatives who have recently received TAS assistance. These responses, in turn, guide TAS in identifying ways to improve taxpayer advocacy.

In FY 2010, nearly 16,000 taxpayers or their representatives, sampled from the 74 TAS offices, responded to TAS's customer satisfaction survey.[243] TAS customers continue to report favorable overall satisfaction with TAS (85 percent satisfied in FY 2010 and 84 percent in FY 2009).[244]

242 Employees raised the issue that quality attributes on issues such as Timely Follow-Up on Subsequent Actions were "pass-fail" meaning only one missed action could cause failure of the attribute even though the employee was timely on dozens of other contacts. Now the attribute is tested "per opportunity," to present a more complete picture of performance on the case.

243 TAS, 2010 *Taxpayer Advocate Service (TAS) Customer Satisfaction Survey National Report – Q4 Results* (Nov. 24, 2010).

244 Data obtained from the Business Performance Measurement System (BPMS).

In FY 2012, TAS will seek to enhance customer service through survey program changes that will better enable TAS to target improvements. TAS evaluated whether the existing telephonic survey reached a representative sample of the population served by TAS and allowed the taxpayer a sufficient ability to respond. TAS also considered how well the survey data accurately reflected taxpayers' satisfaction, whether it enabled TAS to target specific areas of improvement, and how TAS could more effectively use the data to drive improvements.

As a result of its review, and to enhance the effectiveness of the survey program for FY 2012 and beyond, TAS will:

- Explore alternative survey methods, such as adding an online survey option, to secure greater and more diverse customer participation and potentially reduce administrative costs;
- Determine whether revised survey questions encourage customers to fully describe their experience and level of satisfaction;[245] and
- Improve advocacy by focusing on improvement efforts around the two questions that have the greatest impact on TAS's ability to provide better service.[246]

The updated customer satisfaction survey results will be associated with newly developed case quality data, employee engagement information, and business results so offices can act more effectively to drive improvement and optimize resources.

245 This review will enable TAS to capture more data, such as demographic information, to provide additional insight regarding needs of certain segments of taxpayers that come to TAS.

246 The two critical survey questions identified by the vendor that drive overall customer satisfaction are: *"Did the Case Advocate do their best to solve your problem?"* and *"Did the Case Advocate take responsibility for getting your problem solved?"*

V. Systemic Advocacy

A. Systemic Advocacy is Everyone's Responsibility

In March, the National Taxpayer Advocate issued a memo to senior staff outlining the TAS vision for systemic advocacy, including the overall approach to the organization.[247] By design and by statute,[248] systemic advocacy is the responsibility of *all* TAS employees. The Executive Director of Systemic Advocacy is responsible for coordination of various aspects of systemic advocacy efforts, but each function within TAS has a responsibility to identify and work systemic issues. To reinforce the National Taxpayer Advocate's vision, the TAS Office of Systemic Advocacy,[249] hereinafter referred to as Systemic Advocacy, has implemented several new initiatives:

1. An expanded and enhanced process of evaluation and review for all potential systemic issues submitted through the Systemic Advocacy Management System (SAMS).[250] The new process will strengthen the documentation and development of potential systemic issues and allow for a comprehensive approach to the analysis and selection of projects.

2. A proactive effort, through education, outreach, and analysis of case advocacy issues, to ensure Systemic Advocacy is receiving the right issues and selecting the right projects.

3. An enhanced collaborative approach to resolving issues with the IRS and a focus on ensuring TAS is using the tools at its disposal to elevate issues that cannot be resolved at lower levels.

4. A realignment of staffing to focus on process improvements and data analysis.

B. Enhanced Evaluation and Review of Potential Systemic Issues

The majority of Systemic Advocacy's work is generated through submissions to the SAMS system.[251] Between April 1, 2010 and March 31, 2011, TAS received 1,245 SAMS submissions, an increase of 44 percent over the previous year.[252] TAS employees remained our

247 Memorandum from the National Taxpayer Advocate, *Systemic Advocacy Measures* (Mar. 22, 2011). *See* Appendix IX for a copy of this memorandum, *infra.*

248 Three of the four statutory functions of the Office of the Taxpayer Advocate involve identifying areas in which taxpayers have problems in dealing with the IRS, and recommending administrative or legislative changes to mitigate the problems. *See* IRC§ 7803(c)(2)(A).

249 In addition to the Office of Systemic Advocacy, TAS has a Field Systemic Advocacy (FSA) organization embedded within Case Advocacy. Field Systemic Advocacy analysts work to resolve systemic problems, in a similar role to that of Systemic Advocacy Analysts. Systemic Advocacy works very closely with FSA in its efforts.

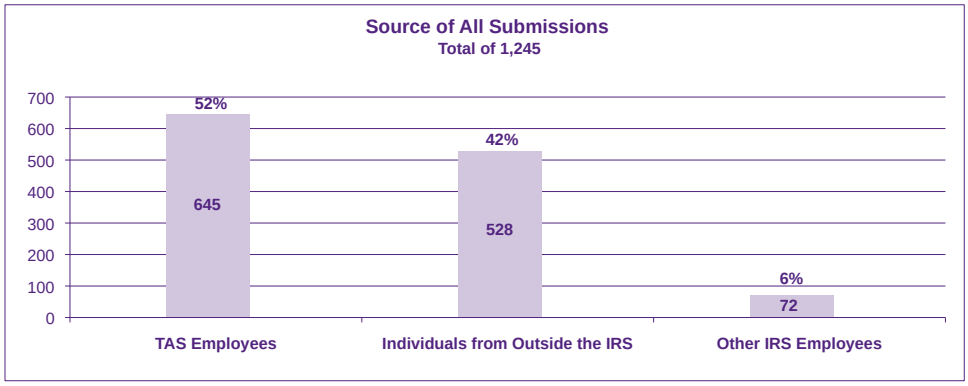
250 TAS uses SAMS to identify, evaluate, and resolve systemic tax law or tax administration problems that increase taxpayer burden, detract from taxpayer equity, or undermine the observance of taxpayer rights. SAMS offers a platform for taxpayers, stakeholders, and IRS employees to raise problems affecting multiple taxpayers.

251 While SAMS is one of the major sources of TAS's systemic advocacy issues, issues are also elevated through informal channels, such as meetings, task force work, etc.

252 For the period of April 1, 2009, through March 31, 2010, TAS received 867 SAMS submissions. Data obtained from SAMS.

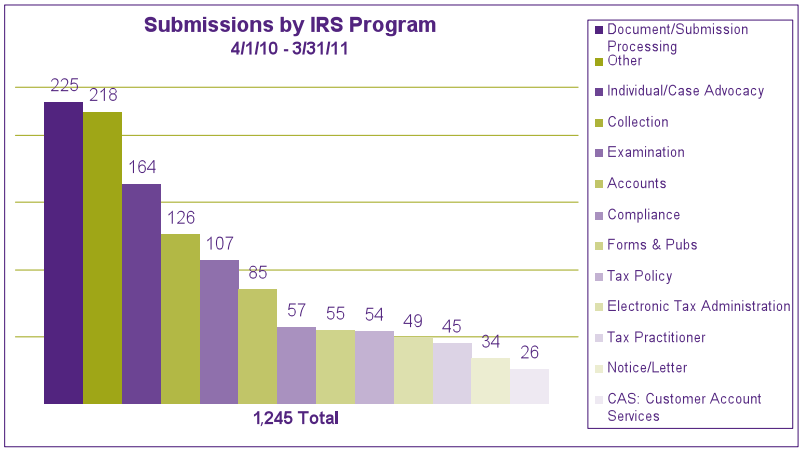
largest source of submissions, but TAS experienced a large increase in submissions from taxpayers and practitioners, which account for 42 percent of the total.[253] Figure V.1 shows the breakdown of SAMS submissions by the type of submitter.

FIGURE V.1, SAMS SUBMISSIONS BY SUBMITTER, APRIL 1, 2010 THROUGH MARCH 31, 2011[254]



The IRS program areas with the greatest number of SAMS submissions are Submission Processing, Document Processing, Collection, and Audits. Individual taxpayer cases accounted for 13 percent of submissions.[255] Figure V.2 shows a breakdown of the 1,245 SAMS submissions by issue area.

FIGURE V.2, SAMS SUBMISSIONS BY ISSUE AREA, APRIL 1, 2010 THROUGH MARCH 31, 2011[256]



As noted above, Systemic Advocacy is implementing a new three-level review process

253 A detailed breakdown of the sources of external SAMS submitters can be found at: http://www.taxpayeradvocate.irs.gov/userfiles/file/2012-Objectives-Open-Advocacy.pdf. Data obtained from SAMS.

254 Data obtained from SAMS.

255 Although taxpayers should not submit case issues through SAMS, the Local Taxpayer Advocate in Washington, DC reviews the individual issues we do receive to determine whether they meet TAS case acceptance criteria.

256 Data obtained from SAMS.

for SAMS submissions, involving employees throughout the TAS organization. The Level 1 review involves a detailed documentation and data-building process to ensure Systemic Advocacy has the information necessary to determine whether a systemic issue exists. This enhanced analysis allows Systemic Advocacy to identify up-front whether the issue should be transferred elsewhere within TAS (*e.g.,* individual case issues are sent to the Local Taxpayer Advocate in Washington, DC), or made into an Advocacy Project or Immediate Intervention.[257]

At Levels 2 and 3, cross-functional TAS teams will review all issues and related research gathered at Level 1, and rank the issues based on a set of criteria.[258] Systemic Advocacy has expanded the issue-ranking methodology to mirror the criteria used to rank Most Serious Problems for the Annual Report to Congress.[259] The new process will incorporate the perspective of individuals from throughout TAS who have exposure to the issues and can lend their expertise and experience to help determine their true scope and impact, as well as the most effective way to resolve the systemic problems.

C. Proactive Solicitation of Potential Systemic Issues

While the new SAMS review process will improve the analysis of potential systemic problems, in FY 2012 Systemic Advocacy will focus on improving awareness of its program responsibilities and efforts and increasing the quality of SAMS submissions. TAS will develop and implement a comprehensive outreach and marketing strategy to promote proactive identification and elevation of potential systemic problems through SAMS. To increase the use of SAMS, TAS will work to promote awareness within the IRS, as well as with the public, and will examine any link between outreach activities and an increase in SAMS submissions. TAS will conduct a similar analysis to determine if new legislation or IRS program implementation (such as health care or regulation of return preparers) have produced any significant increase in SAMS submissions. Systemic Advocacy will also improve its analysis of Case Advocacy data, including identifying emerging case issues, to ensure that it receives the right issues and selects the right projects.

257 For a detailed discussion of an Advocacy Project or Immediate Intervention, see *Systemic Advocacy, infra.*

258 A copy of the ranking criteria and their explanations is included in the Appendix.

259 The new ranking criteria include:

- Impact on Taxpayer Rights;
- Number of Taxpayers Affected (including the extent of the impact, geographic scope of impact, and issue frequency);
- Interest/Visibility/Sensitivity (including whether there has been interest in the issue from the National Taxpayer Advocate, Congress, the media, and other external stakeholders);
- Taxpayer Burden (including time and financial burden as well as fairness);
- Ability to Effect Change; and
- TAS Data (including TAMIS and SAMS data).

For a discussion of the Annual Report to Congress, see *Advocating Through the National Taxpayer Advocate's Annual Report to Congress, infra.*

D. Collaborative Approach to Resolving Systemic Issues

1. Working Advocacy Issues

Once TAS identifies a systemic issue in need of attention, Systemic Advocacy and Field Systemic Advocacy can work it in a number of ways. Systemic Advocacy has three main ways of handling a systemic issue:

- *Information Gathering Projects* (IGPs) identify emerging trends or issues generated from new legislation or significant IRS policy, process, or procedural changes. An IGP allows Systemic Advocacy to capture and track emerging issues for potential systemic problems. An IGP may be reclassified as an Immediate Intervention, Advocacy Project, or other ongoing advocacy effort if the research indicates additional action must be taken to resolve the issue.
- *Immediate Interventions* are the result of an operational issue that causes immediate, significant harm to multiple taxpayers and demands an urgent response. These issues cannot be resolved quickly through the normal corrective process, have clear sources, and are highly visible and sensitive locally, area-wide, or nationally.
- *Advocacy Projects* identify and address systemic and procedural issues, analyze the underlying causes of problems, and propose corrective action.[260] Although advocacy projects are similar to Immediate Interventions, the nature of the issue does not require immediate action by Systemic Advocacy and may require more extensive research and negotiation with the IRS.

Figure V.3 details Systemic Advocacy's project work in FY 2011.

FIGURE V.3, SYSTEMIC ADVOCACY INVENTORY, APRIL 1, 2010 THROUGH MARCH 31, 2011[261]

	Closed Projects	Open Projects[219]
Advocacy Projects	93	115
Immediate Interventions	15	12
Information Gathering Projects	0	21
Total	**108**	**148**

Formal projects are not the only way Systemic Advocacy works to resolve systemic issues. Some are handled through TAS's ongoing advocacy efforts, which include:

260 Both Systemic Advocacy analysts and the Field Systemic Advocacy analysts within the Case Advocacy organization work Advocacy Projects.

261 Data obtained from SAMS. A more detailed listing of all open and closed advocacy projects and immediate interventions can be found at: http://www.taxpayeradvocate.irs.gov/userfiles/file/2012-Objectives-Open-Advocacy.pdf and http://www.taxpayeradvocate.irs.gov/userfiles/file/2012-Objectives-Closed-Advocacy.pdf.

262 Includes open projects as of April 1, 2010, and all new projects created through March 31, 2011.

- *Advocacy Portfolios* – Local Taxpayer Advocates (LTAs) maintain Advocacy Portfolios as assigned by the National Taxpayer Advocate.[263] Advocacy Portfolios bring a grassroots perspective to national advocacy issues and help TAS integrate case advocacy with systemic advocacy. Each LTA is assigned an Advocacy Portfolio for which he or she will serve as a TAS representative from a national perspective. When a systemic problem is related to an existing Advocacy Portfolio, the issue may be elevated to the Portfolio Advisor in the Office of Systemic Advocacy to be included in his or her ongoing work.
- *Executive Steering Committees* – TAS executives sit on various Executive Steering Committees within the IRS. These groups discuss ongoing high-level issues and make policy decisions. When a systemic problem is related to an existing Executive Steering Committee, the submission may be elevated to the TAS executive sitting on the Committee.
- *Task Forces* – Task Forces are temporary working groups established to accomplish a defined objective. A task force may be internal to TAS or a collaborative venture with the IRS. When a systemic problem is related to an ongoing Task Force, the issue may be elevated to the Task Force for inclusion in its efforts.[264]
- *IMD/SPOC* – The Systemic Advocacy Internal Management Documents (IMD)/Single Point of Contact (SPOC) group is responsible for TAS clearance of IRS Internal Management Documents including Internal Revenue Manuals (IRMs), Servicewide Electronic Research Program (SERP) alerts,[265] and revisions to forms, publications, and notices. The IMD/SPOC group coordinates TAS review and response to all IRS IMDs that impact taxpayers. IMD/SPOC coordinates and manages the review process with a wide range of subject matter experts within TAS to ensure taxpayer rights are protected and burden is minimized. IMD/SPOC has responsibility for TAS input on clarity of correspondence, notice redesign, and notice elimination activities. IMD/SPOC also plays a key role in monitoring IRMs, notices, forms, and publications for changes that relate to Annual Report recommendations. Between April 1, 2010 and March 31, 2011, Systemic Advocacy made 698 suggestions to the IRS on IMD/SPOC documents.[266] Of those suggestions, 68 percent or 474 were accepted.[267]

In FY 2012, TAS – through the efforts of both Systemic Advocacy and Field Systemic Advocacy – will continue to look for ways to increase the number of systemic issues the organization is able to address. TAS will continue to expand the use of Information Gathering Projects to collect information on issues that may or may not involve a systemic problem. TAS will also focus on developing more efficient means of resolving issues with

263 See Appendix VII for a list of advocacy portfolios, *infra*.

264 See Appendix III for a listing of collaborative efforts between TAS and the IRS, *infra*.

265 SERP contains materials such as IRMs and updates, alerts, tax forms and publications, job aids and performance support tools, and many other IRS documents.

266 Data obtained from SAMS.

267 *Id.*

the IRS through collaborative efforts, including expanding the involvement of TAS employees.[268] Attorney Advisors, Portfolio Advisors, Technical Liaisons,[269] Technical Advisors,[270] and others play a key role in working collaboratively with the IRS to resolve issues. To further this collaborative approach to resolving issues, Systemic Advocacy is developing a database to serve as a virtual archive of TAS's collaborative efforts, including participation on task forces, steering committees, and working groups to better track TAS's informal efforts to influence change within the IRS.

2. Resolving Advocacy Issues

In instances when TAS is unsuccessful in working with the IRS, but has identified recommendations to resolve the problem, it can promote the recommendations through a number of vehicles:

- *Advocacy Proposal* – When the IRS is slow or reluctant to embrace the concerns raised by TAS through an immediate intervention or advocacy project, an advocacy proposal may be considered. An advocacy proposal is a formal, written memorandum of a recommended change presented to an Operating Division (OD) or function empowered to implement the change. Analysts typically make informal advocacy proposals to their peers in the operating divisions. When informal advocacy proposals are not accepted, Systemic Advocacy assembles a formal, written advocacy proposal that highlights the problem and proposes changes to policy or procedure to alleviate taxpayer burden. The Executive Director, Systemic Advocacy signs all advocacy proposals and issues them to the OD or function.
- *Taxpayer Rights Impact Statement* – A Taxpayer Rights Impact Statement (TRIS) is a written analysis from the National Taxpayer Advocate to the particular OD or function relating to the IRS activity or procedure that infringes on taxpayers' rights or unnecessarily burdens taxpayers. TAS will generally not send a TRIS until after the OD or function is given an opportunity to work with the National Taxpayer Advocate to resolve the issue.[271]
- *Taxpayer Advocate Directive* – Delegation Order 13-3 provides the National Taxpayer Advocate with the authority to issue a Taxpayer Advocate Directive (TAD).[272] TADs mandate that the IRS make certain administrative or procedural changes to improve

268 See Appendix III for a listing of collaborative efforts between TAS and the IRS, *infra*.

269 Systemic Advocacy has three senior technical liaisons who are experts on specific functional areas – campus, collection, and examination. The technical liaisons keep the National Taxpayer Advocate informed of emerging issues and provide technical expertise and support to National Office, Systemic Advocacy, Field Systemic Advocacy, and others.

270 Case Advocacy has a number of technical advisors, including Revenue Agent Technical Advisors (RATAs), Revenue Officer Technical Advisors (ROTAs), and Campus Technical Advisors (CTAs). These Technical Advisors are responsible for resolving the most technically or procedurally complex or sensitive issues (including case issues) using effective research, communication, coordination, and negotiating skills.

271 IRM 13.2.1.6.1.2(4), (5) (July 16, 2009).

272 IRM 1.2.50.4 (Jan. 17, 2001).

a process, or grant relief to groups of taxpayers (or all taxpayers).[273] The authority to issue a TAD is delegated *solely* to the National Taxpayer Advocate and *may not be redelegated*. TADs are limited to situations in which the National Taxpayer Advocate has previously requested, in writing, a change to improve a functional process or grant relief to a group of taxpayers. TADs do not interpret law and will only be used when the National Taxpayer Advocate believes specific actions are necessary to:

- Protect the rights of taxpayers;
- Ensure equitable treatment of taxpayers; or
- Provide an essential service to taxpayers.

- *Annual Reports to Congress* – IRC § 7803(c)(2)(B) requires the National Taxpayer Advocate to submit two reports each year to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate. These reports are the *National Taxpayer Advocate's Fiscal Year Objectives Report to Congress* and the *National Taxpayer Advocate's Annual Report to Congress*.[274] The National Taxpayer Advocate can elevate systemic issues and make recommendations for resolution through inclusion in the Annual Report to Congress. In instances where resolution of a systemic issue involves a legislative change, the National Taxpayer Advocate can include a Legislative Recommendation in the Annual Report.

In FY 2012, Systemic Advocacy – working with Field Systemic Advocacy – will actively review the progress of its advocacy efforts to ensure it is elevating issues that cannot be resolved at a lower level. This involves using all available tools, including Advocacy Proposals, Taxpayer Rights Impact Statements, and Taxpayer Advocate Directives, to push for resolution of systemic issues.

E. Advocating through the National Taxpayer Advocate's Annual Report to Congress

Each year in the Annual Report to Congress, the National Taxpayer Advocate makes numerous recommendations to improve tax administration for both taxpayers and the IRS. These recommendations play an important role in TAS's efforts to resolve systemic problems within the IRS. TAS's efforts do not end when the Annual Report is published, as Systemic Advocacy tracks TAS's recommendations and the IRS's response and subsequent actions. For each Annual Report, Systemic Advocacy develops a report outlining TAS's recommendations and the IRS's responses. These reports are updated regularly, are an effective means of tracking TAS's ability to effect change and can be found on the TAS website.[275]

273 The NTA will summarize TAD activity, including Proposed TADs or Advocacy Memoranda, in the National Taxpayer Advocate's Fiscal Year Objectives Report to Congress. *See* IRM 13.2.1.6 (July 16, 2009).

274 Both documents must go directly to the committees without prior comment or review from the IRS Commissioner, the Secretary of the Treasury, the Oversight Board, any other Treasury officer or employee, or the Office of Management and Budget (OMB). *See* IRC § 7803(c)(2)(B)(iii).

275 Annual Reports can be found at http://www.irs.gov/advocate/article/0,,id=171153,00.html.

Figure V.4 details the status of the National Taxpayer Advocate's Annual Report recommendations over the past four years.

FIGURE V.4, STATUS OF ARC RECOMMENDATIONS, CALENDAR YEAR (CY) 2007 THROUGH CY 2010

	CY 2007[276]	CY 2008[277]	CY 2009	CY 2010[278]
Total number of Most Serious Problems (MSP) contained with the Annual Report to Congress.	29	20	21	25
Total number of MSP recommendations contained in the Annual Report to Congress.	206	68	92	93
Total number of MSP recommendations the IRS agreed to address.	122	35	51	
Total number of MSP recommendations with which the IRS disagreed.	83	32	41	
Total number of Annual Report to Congress recommendations the IRS has addressed.	113	31	17	
Total number of open Annual Report recommendations the IRS is working to address.	9	4	34	
Total number of Planned Corrective Actions (PCAs) the IRS is still implementing.[279]	9	4	39	

This year, Systemic Advocacy expanded the use of an online system to manage the development and timely delivery of the 2011 Annual Report to Congress. In FY 2012, Systemic Advocacy will use this system to secure information from TAS systems as well as internal and external stakeholders on emerging issues and concerns facing taxpayers for possible inclusion in the Annual Report to Congress. After the Annual Report is published, Systemic Advocacy will document, track, and report on TAS's recommendations and subsequent IRS actions and accomplishments. The new process will enhance Systemic Advocacy's ability to know if subsequent IRS actions are the result of collaborative efforts between TAS and the IRS,[280] and determine whether TAS's recommendations have effected change within the IRS.

F. TAS Is Implementing Significant Changes to Systemic Advocacy Quality Measures

While Systemic Advocacy has made significant changes in FY 2011, the organization will undergo further changes in FY 2012. As part of the previously discussed memo on systemic advocacy, the National Taxpayer Advocate explained the need to bring current quality measures more in line with the systemic advocacy work done throughout TAS. However, measuring the effectiveness of TAS is a significant challenge, not least because systemic

276 The 2007 Annual Report to Congress had one MSP recommendation that was closed because the recommendation was legislative.

277 The 2008 Annual Report to Congress included one closed MSP recommendation that was closed because the recommendation was legislative and one MSP with no recommendations.

278 The 2010 Annual Report to Congress data will be posted to www.irs.gov when available.

279 A PCA is a situation where the IRS has identified a specific action it will take to respond to a TAS recommendation.

280 See Appendix III for a listing of collaborative efforts between TAS and the IRS, *infra.*

problems do not lend themselves to "unit" measurement and TAS usually has no direct control over whether the IRS actually implements any of its recommendations. Moreover, by design and statute, systemic advocacy is the responsibility of *all* TAS employees. Although the Office of Systemic Advocacy is responsible for coordination of various aspects of TAS's systemic advocacy efforts, and Field Systemic Advocacy works many of TAS's systemic advocacy projects, other TAS personnel have a responsibility to identify and work on systemic issues. Therefore, any measures of TAS systemic advocacy initiatives cannot be designed to solely measure the performance of a particular TAS office (*e.g.,* the Office of Systemic Advocacy). Instead, the suite of measures should be designed to reflect the performance of TAS as a whole with respect to advocating for systemic improvements and change.

Future Systemic Advocacy quality measures will be broken down into three categories:

1. Issue identification;
2. Issue analysis; and
3. Issue recommendation and advocacy.

This shift in focus – from measures that look primarily at how we evaluate potential systemic issues to measures that focus on how we handle a potential systemic issue from start to finish, as well as the impact our actions have on resolving the issue – will allow us to gain a true sense of the effectiveness of systemic advocacy throughout TAS.

VI. TAS Research Initiatives

The National Taxpayer Advocate continues to be a strong proponent for the role of theoretical, cognitive, and applied research in effective tax administration. In keeping with this philosophy, the Office of the Taxpayer Advocate is again conducting and collaborating with the IRS on a number of research initiatives. A primary focus of these efforts is to determine how best to minimize taxpayer burden, while also helping the IRS to increase voluntary compliance.

Following is a discussion of the research initiatives that TAS will conduct or take part in for the remainder of FY 2011 and during FY 2012.

TAS Research is currently collaborating with the IRS on two research studies addressing problems impacting taxpayers undergoing EITC audits. One study explores the use of third-party affidavits as an alternative form of documentation that would allow taxpayers to establish that the children they claimed meet the residency requirement. This would alleviate the burden many taxpayers experience when trying to prove that their children resided with them for the required six-month period during the calendar year. The second study is exploring whether enhanced communication with taxpayers during the EITC audit process helps them overcome communication barriers that can cause eligible taxpayers to be denied EITC.[281]

A. Estimating the Impact of Liens on Taxpayer Compliance Behavior

The National Taxpayer Advocate has asked that TAS Research investigate the impact of Notices of Federal Tax Lien on the compliance behavior of delinquent taxpayers. This study is designed to explore the impact of lien filings on taxpayers' future payment and filing compliance and their ability to earn income.

To accomplish these objectives, TAS is analyzing a group of delinquent individual tax return filers who had no unpaid tax liabilities at the time they incurred liabilities on their TY 2002 returns. In the first phase of the study, we are developing a dataset of matched pairs of taxpayers, with each pair consisting of one case where the IRS filed a lien and another case where no lien was filed. The matched cases will be very similar, however, with respect to the characteristics the IRS uses to make a lien filing determination. We expect to complete this phase by the end of June 2011.

We will use the matched pairs in the second phase of the analysis to compare the lien and non-lien groups. This phase will employ regression analysis to determine what factors, including the NFTL itself, significantly affect the outcomes we are investigating (*e.g.,* dollars

281 For a detailed discussion of these studies, see *TAS's Continued Efforts to Improve the EITC Program, supra.*

collected or future filing compliance), and the extent to which the various factors influence these outcomes. TAS plans to complete this study by the end of December 2011.

B. Evaluating the Limited English Proficiency (LEP) Populations Served by the Low Income Taxpayer Clinics

Low Income Taxpayer Clinics (LITCs) represent low income taxpayers in disputes with the IRS, or educate taxpayers for whom English is a second language about their rights and responsibilities as U.S. taxpayers. LITCs provide services to eligible taxpayers for free or for no more than a nominal fee.[282]

In response to a GAO audit reviewing IRS responsiveness to taxpayers with limited English speaking ability, TAS will provide LITCs with analyses of the LEP populations the clinics serve.[283] TAS will conduct the analyses by using data from the Census American Community Survey, which annually collects information from approximately two million respondents throughout the United States. Researchers can aggregate multiple years of data to ensure an adequate sample size when they conduct local-level analyses.

One area the survey investigates is English speaking proficiency, asking respondents to identify the language they speak at home and state their level of proficiency in English. TAS will use this data to identify the LEP communities of significant size in the areas the LITCs serve, and will share the results of the analysis with the clinics.[284] Our target date for completion of this initiative is the end of April 2012.

C. Factors Impacting Taxpayer Compliance

TAS is pursuing a multi-year initiative to explore the factors that motivate taxpayer compliance behavior. Broadly speaking, these include not only the expected likelihood and cost of getting caught cheating (called "economic deterrence"), but other factors such as compliance norms, trust in the government and the tax administration process, complexity and the convenience of complying, and the influence of preparers.

As a part of this effort, TAS has contracted with a vendor to help design and conduct two telephone-based surveys whose objectives include identifying and quantifying the major factors that drive taxpayer compliance behavior. TAS is currently developing questions for the survey, which will cover a representative sample of taxpayers with sole proprietor income (*i.e.*, Schedule C, *Profit or Loss From Business (Sole Proprietorship)*). One of the surveys will cover a national sample of taxpayers and will explore the factors potentially

282 See *Low Income Taxpayer Clinic Grant Program, infra,* for a discussion of the federally-funded LITC Program.

283 GAO, GAO-10-91,*Selected Agencies Can Improve Services to Limited English Proficient Persons* 38 (Apr. 26, 2010).

284 Many LITCs provide education and outreach to individuals for whom English is a second language (ESL). While ESL and LEP are not necessarily the same, the clinics should find the analysis helpful in identifying opportunities to provide services to ESL taxpayers.

influencing compliance behavior at a high level. The second survey will cover a small sample of high and low compliance communities and will "drill down" to evaluate whether taxpayers' affiliations within their communities appear to influence compliance behavior. TAS will gauge the respondents' level of compliance by using the IRS's "DIF" computer algorithm that estimates the likelihood that an audit of the taxpayer's return would produce an adjustment.[285]

In 2011, TAS will complete the survey design, develop the sample, and seek Office of Management & Budget (OMB) approval.[286] In 2012, the vendor will conduct the survey. TAS and the vendor will jointly analyze the results for any evidence of a significant correlation between relevant taxpayer attitudes and beliefs and taxpayer compliance behavior. Our goal is to complete the survey analysis and publish our final report by the end of 2012.

D. Identification of Excessive Collection Statute Expiration Dates (CSEDs)

In general, once tax has been assessed, the IRS only has ten years after the assessment to collect the tax.[287] In certain situations, however, the IRS and a taxpayer can agree to an extension of the statute of limitations on collection. SB/SE and TAS recognize the burden that CSEDs extended beyond 15 years after assessment (plus any statutory suspensions) may impose on taxpayers. For that reason, SB/SE now prohibits CSED extensions in excess of five years beyond the normal ten-year collection statute period.[288] TAS and SB/SE have formed a workgroup to review all cases where CSED extensions may be excessive given current law and IRS policies. This initiative is the result of previous TAS recommendations concerning erroneous and excessively long CSEDs.[289] The workgroup objectives are:

- To identify and review all accounts with CSEDs extended beyond 15 years after assessment (plus any statutory suspensions);
- To resolve accounts, and if necessary correct CSEDs on accounts with CSEDs extended beyond 15 years after assessment (plus any statutory suspensions); and
- To report findings on each account and propose appropriate resolutions.

285 The IRS selects some returns for examination using the Discriminant Index Function (DIF) computer scoring system. IRM 4.1.3.2 (Oct. 24, 2006). It develops DIF score algorithms based on information obtained and periodically updated from National Research Program (NRP) examinations. Returns with high DIF scores generally have a higher probability of being adjusted on audit than other returns of the same type. IRM Exhibit 4.1.7-1(12) (May 19, 1999).

286 The Paperwork Reduction Act (44 U.S.C. Chapter 35) requires that federal agencies *receive* OMB approval before collecting certain information from the public.

287 *See* IRC § 6502(a).

288 IRM 5.14.2.1.3 (Mar. 11, 2011). When taxpayers have some ability to pay, but cannot pay their tax liabilities in full before the CSED expires, the IRS may allow them to enter in partial payment installment agreements (PPIAs). IRM 5.14.2.1 (Mar. 11, 2011).

289 *See* National Taxpayer Advocate 2004 Annual Report to Congress 180-192 (Most Serious Problem: *Erroneous and Miscalculated Collection Statute Expiration Dates*); National Taxpayer Advocate 2006 Annual Report to Congress 520-526 (Legislative Recommendation: *Elimination of Lengthy Collection Statute of Limitations Extensions*); National Taxpayer Advocate 2009 Annual Report to Congress 217-227 (Most Serious Problem: *IRS Policies and Procedures for Collection Statute Expiration Dates Adversely Affect Taxpayers*).

TAS Research is working with SB/SE Research to identify potentially problematic CSEDs and conduct supporting analyses. The workgroup's goal is to complete this effort by the end of fiscal year 2012 (September 30, 2012).

E. TAS Efficiency Measure

The GAO issued a report in 2007 acknowledging TAS customers' ongoing satisfaction with TAS services, also noting that customer satisfaction and case quality remained high despite significant increases in inventory.[290] The report also found, however, that TAS had not developed a true measure of case advocacy efficiency or developed a unit cost per case type.[291] The National Taxpayer Advocate and the TAS Office of Research reviewed efficiency models used throughout government and private industry with the goal of identifying an efficiency measure that is meaningful to management, easy to understand, and that when applied to TAS will assist the organization in furtherance of its advocacy mission. TAS did not identify an existing efficiency measure to meet its goals during this review. As a result, TAS is developing a measure that will provide management with important information about the resources used to serve taxpayers who come to TAS each year, factoring in the complexity of the case work, as well as a time factor, and adjusted for the overall quality of the work so that quality is not sacrificed for efficiency's sake.[292] In particular, the plan requires TAS to capture the direct time actually spent by caseworkers on cases.

By June of 2009, TAS had completed the programming changes and other enhancements needed to implement a time-tracking system that allows us to measure direct case time. TAS is now collecting and analyzing the direct time spent on cases. TAS expects that some types of cases will require more direct time from Case Advocates than others because they are inherently more complex, so the efficiency measure will account for the complexity of the case and include many different complexity factors. This research will pave the way for the development of a TAS case advocacy efficiency measure. TAS will also incorporate case quality measures that address timeliness and effectiveness in the case efficiency measure calculation.

TAS plans to develop recommendations for possible formulas for efficiency measure by the end of FY 2011 and to test these formulas and establish baseline data during FY 2012. TAS will implement a final case efficiency measure when the Taxpayer Advocate Service Information System (TASIS) is operational.[293]

290 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).

291 *Id.*

292 GAO, GAO-07-156, Taxpayer Advocate Service, *Case Load Has Grown and Taxpayers Report Being Satisfied, but Additional Measures of Efficiency and Effectiveness Are Needed* 26 (Feb. 2007).

293 *See Integrated TAS Technology: TASIS, infra.*

F. TAS Workload Distribution Case Weighting

TAS is improving its workload distribution system and is developing a "case weighting" methodology in support of this effort. To implement case weighting, TAS will adapt the methodology (described above) used to develop a case advocacy efficiency measure, *i.e.*, estimating the amount of Case Advocate direct time that each case requires, based on information about the case complexity and taxpayer issues involved.

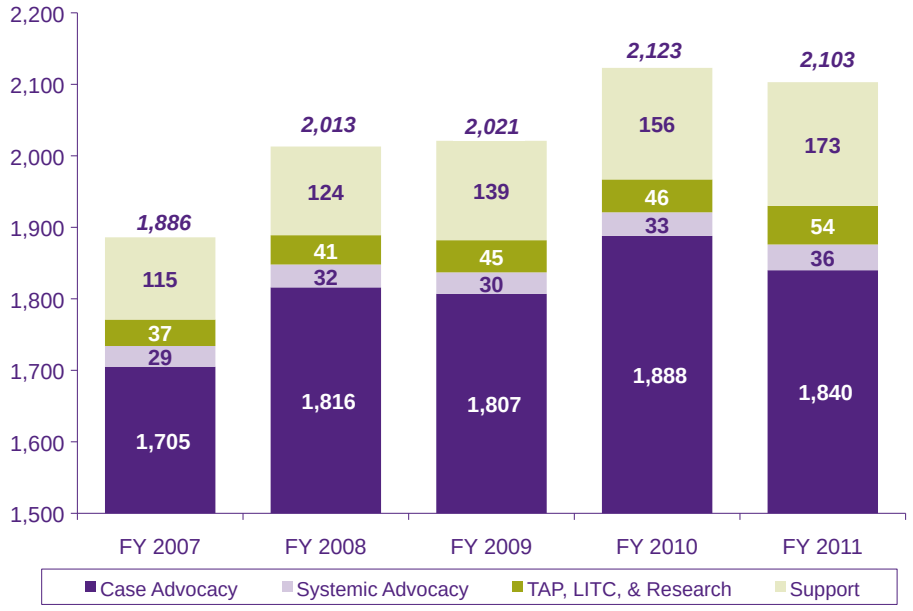
The new workload distribution system will use these direct time estimates,[294] along with a measure of the elapsed time spent working a case, to estimate the time each Case Advocate will need to work his or her existing inventory. TAS expects this information to improve the case assignment process and the efficiency of our Case Advocates, minimize case processing costs, and increase taxpayer satisfaction. TAS plans to test the direct time estimates it develops in FY 2012.

294 *See TASIS Will Improve Submission, Acceptance and Assignment of Work, infra.*

VII. Human Capital And Staffing

To make taxpayer advocacy a reality, TAS must hire the right employees for the right positions and, most importantly, all TAS employees must have an aptitude and attitude for advocacy. TAS is also mindful of the advantages of employing a diverse workforce and strives to attract employees with varied backgrounds and skills.

FIGURE VII.1, TAS STAFFING FROM FY 2007 THROUGH FY 2011 THROUGH JUNE 4[295]



As shown in Figure VII.1 above, TAS has 2,113 employees in a broad range of occupations.[296] One of the challenges TAS has encountered in the past is hiring the right mix of employees to resolve specific tax problems for individuals and business entities and to identify problems and recommend administrative and legislative solutions affecting groups of taxpayers. TAS Case Advocates play a critical role in advocating for taxpayers by working with taxpayers one-on-one to resolve their issues.

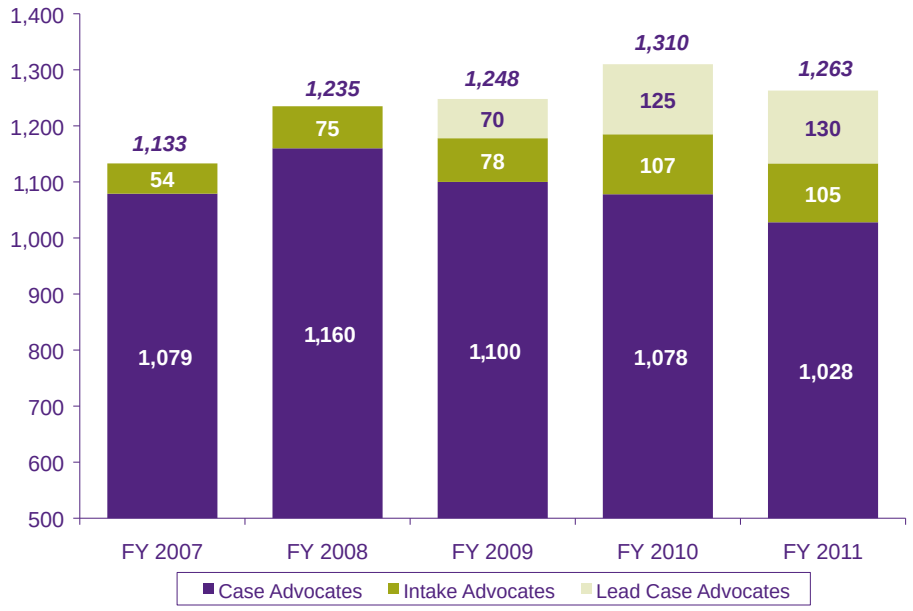
TAS recognizes that it has limited resources available to it and cannot hire significantly more Case Advocates (CAs) to address rising receipts. Thus, TAS has focused on achieving the right mix of staffing within its case advocacy function to free up CA time for working directly on cases. For example, TAS created two new case advocacy positions to work with the existing Case Advocates – the Intake Advocate (IA) and the Lead Case Advocate (LCA).

295 Data obtained from the IRS Human Resources Reporting Center as of June 4, 2011. The increase in support staffing for FY 2011 is due largely to the hiring, on a temporary basis, of additional quality reviewers to implement TAS's new quality review system. *See New Quality Standards Emphasize TAS Advocacy Mission, supra.*

296 Data obtained from the Human Resources Reporting Center as of June 4, 2011.

Intake Advocates expedite the handling of initial receipts by performing a variety of up-front activities to relieve CAs of these duties, *e.g.*, answering general telephone calls, determining if a taxpayer's inquiry meets the criteria for accepting the case into TAS, inputting new cases into TAMIS, building cases by pulling case-related information and supporting research from other systems, and resolving some inquiries where the issues are limited. LCAs conduct non-evaluative reviews of the Case Advocates' work to identify trends and provide guidance. LCAs 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. Figure VII.2 below shows how TAS has incorporated these new positions into the Case Advocacy mix since FY 2007.

FIGURE VII.2, TAS CASE ADVOCACY STAFFING, FY 2007 THROUGH FY 2011 THROUGH JUNE 4[297]



The restructuring of the Case Advocate function allows TAS to effectively use its resources and provides a career ladder for employees to advance within the TAS organization.

Over 90 percent of TAS's resources are devoted to staffing.[298] Most of the remaining resources are for the Low Income Taxpayer Clinic program, leaving a relatively small amount for non-labor expenses such as program travel and critical technical training. In FY 2011, TAS was funded at 2010 levels minus a 0.2 percent rescission. To absorb this reduction,

297 Data obtained from the IRS Human Resources Reporting Center as of June 4, 2011.

298 Data obtained from the IRS Integrated Financial System.

TAS reduced non-labor spending (training, travel, supplies, and services) by 40 percent. Any significant reduction in TAS's FY 2012 budget could critically impact our ability to maintain an adequate number of Case Advocates. In FY 2012, TAS will continue to work within its budget limitations to meet critical staffing needs by maintaining the current number of critical front-line employees handling casework.

A. With Budgetary Challenges, TAS Looks to Alternative Methods for Providing the Annual All-Employee Training Symposium

TAS has held an annual, all-employee Training Symposium for nine years because of the many benefits our employees and organization realize from this event, including:

- Quality technical and professional training for the entire workforce;
- Direct communication of key organizational messages from TAS executives to the entire workforce;
- Team meetings with Area and Headquarter Directors to discuss operational issues and to promote advocacy and team work;
- Informal discussions where employees from across the country share and discuss experiences and practices that help improve customer service;
- Opportunities for IRS employees to network with TAS employees, attend workshops to gain a better understanding of advocacy, and educate TAS employees on IRS processes and procedures; and
- Expanded training opportunities for employees to view taped Symposium training sessions for courses they did not attend.

This combination of training and employee engagement creates an efficient and unique learning environment valued by all TAS employees. The average employee rating for the FY 2010 TAS Symposium was more than 89 on a 100-point scale.[299] This rating reinforces the importance of providing this type of training experience every year.

During the FY 2010 Symposium, TAS developed 60 workshops for Case Advocates, Intake Advocates, Analysts, Support Staff, and Managers.[300] TAS offered most of these workshops multiple times because more than 1,875 employees attended the Symposium over a two-week span. In all, TAS delivered 380 sessions during the Symposium.[301]

299 Employees gave an 88.25 rating in week one and a 90.25 rating in week two in the Overall Training category on the Level 1 evaluations completed in the closing plenary held each week.

300 Data obtained from training registration database on May 11, 2011.

301 *Id.*

Because of the budget situation impacting all federal agencies, TAS cancelled the Symposium for FY 2011. However, TAS has resolved to develop as many as 74 workshops that would have been held face-to-face at Symposium and deliver this training through virtual methods.

TAS will face a new set of challenges using virtual training, including time zone differences, planned and unplanned employee absences, workload balancing issues, and distractions in an office setting. To overcome these challenges, TAS will:

- Extend the training window from the standard approach of holding two consecutive one-week sessions, with half of TAS employees attending each week, to a period of six months to maintain a balance between training and workload needs;
- Revise the guidelines for those who develop the workshops to reflect the differences between writing virtual and classroom training material; and
- Conduct formal virtual instructor training sessions to provide instructors with the right skills to deliver virtual training.

Budget permitting, TAS will hold a face-to-face Symposium in FY 2012. If this option is not available, TAS will again deliver a virtual Symposium using the FY 2011 model in the second half of FY 2012 and the first quarter of FY 2013.

VIII. Integrated TAS Technology: TASIS

The Taxpayer Advocate Service Integrated System (TASIS) is a system redesign that will fundamentally improve the way TAS employees perform their duties. It will be the most significant automation innovation in the 30-year history of TAS and its predecessor organization, the Problem Resolution Program. TASIS will automate work processes, eliminate manual and redundant steps, and allow TAS employees to spend more time focused on TAS's core mission, advocating for taxpayers.

Current TAS and IRS systems, designed and developed as stand-alones, share little if any information electronically. TAS employees must manually cut and paste or re-type information from one system to another. Intake Advocates, who take initial case-building actions, must painstakingly research information from several different systems to develop a clear and accurate picture of the issues or problems taxpayers are facing. Case Advocates, who are responsible for resolving taxpayer issues and problems, continually monitor multiple IRS systems to prevent additional problems, such as duplicate refunds or erroneous notices.

TASIS will allow TAS employees to obtain automated information from IRS systems, sparing them laborious hours of research, updating, and monitoring taxpayer accounts and records. This automation of work processes will free Case Advocates and Intake Advocates to focus on aspects of the work they are truly passionate about and where their skills truly lie – direct interaction with taxpayers and resolution of taxpayer issues, thereby increasing employee engagement while satisfying customers.

TASIS will integrate the features of TAS's current system applications with new features to enhance the overall experience of TAS employees and the service provided to taxpayers. The linking of all TAS applications within a single integrated system has been a part of TAS's plans for a decade. Now, advancing technology and the obsolescence of TAS's primary system for tracking cases makes system integration a necessity.

For the first time, one system will record the wide range of TAS activities that resolve or prevent problems for taxpayers. Tracking these activities in a single, integrated system will improve TAS's ability to apply consistent labels across all advocacy efforts, providing a new level of information for analysis, and identifying the pattern of a problem more quickly. For example, solutions employed in one part of the country may provide insight to help taxpayers in another part of the country. A single-system approach also means that employees will have one TAS system to learn and maintain, with associated cost savings.

Performance measures are fundamental to TASIS development. TAS turned to system users for their ideas on what aspects of TASIS should be included to promote employee and customer satisfaction and efficiency improvements. TAS asked all of its employees to

identify system features that would contribute to the quality and efficiency of their work, as well as aspects of the current system that frustrate and hinder performance. Several hundred insights were collected. Additionally, nearly 100 TAS employees accepted the challenge and described how they need to interact with the system, how TASIS might use data from other IRS systems to reduce repetitive research and transcription, and how reminders and prompts could help them manage customer commitments and provide quality service.

A. TASIS Will Enhance Online Document Collaboration and Storage

In recommending an integrated design, systems analysts emphasized electronic document management, *i.e.*, storage within the system for case files, communications, and research findings. Paper records pose efficiency and reliability problems, including time-consuming file retrieval, opportunity for loss, and limited ability to share information between offices. Reliance on paper files and documents requires storage and handling of 50 to 60 documents per case, totaling approximately 12.5 million documents each year.[302] Some records are stored on local hard drives, and TAS incurs repeated copying and shipping costs for transfers, work reviews, and collaboration. The use of virtual documents will almost eliminate paper document handling and storage, allow immediate access for collaboration, and improve TAS's ability to reference the products or conduct research.

Moving toward a paperless environment, TASIS will offer document collaboration tools to gather and track edits, reviews, and approvals from remotely located users. It will also manage supporting documentation and reference materials associated with documents, and access to earlier reports and research. Finally, TASIS will provide tools to map project delivery documents so that participants and oversight users can see upcoming deadlines, assignments, and progress on the delivery of a finished product. Document collaboration and a centralized document repository will make content searchable and improve its usefulness.

B. TASIS Will Improve Submission, Acceptance, and Assignment of Work

With the implementation of TASIS, taxpayers will have both new and improved avenues for seeking assistance from TAS. Taxpayers will continue to have the traditional options of contacting TAS by phone, correspondence, and walk-in, with the added option of submitting issues electronically via the Internet. For the growing population of taxpayers who prefer to conduct business electronically, this option will allow for an initial interaction, through a series of prompts, that will help taxpayers identify issues, find options for self-help when appropriate, access contact information for IRS operating division assistance, and request TAS assistance.

TAS is developing a pilot program in which taxpayers who seek help through the NTA toll-free line will find an improved direct transfer to a TAS Intake Advocate, as opposed

302 IRS, *Enterprise Content Management Analysis for Taxpayer Advocate Service*, NGIT-T30708-CBS-EA-C-4 11 (May 29, 2007).

to the current paper referral process and subsequent callback once the taxpayer's issue is assigned to a Case Advocate. Intake Advocates will conduct a comprehensive interview with the taxpayer to identify underlying issues, share options for resolution, describe what to expect from the TAS experience, build the case, and in some instances, resolve the issues while talking with the taxpayer. TASIS will provide the tools Intake Advocates will use to conduct research, document the contact, and efficiently build the case during these initial interviews with taxpayers.

Once a case is built, TASIS will quickly match the taxpayer with a Case Advocate based on where the taxpayer lives (taxpayers will predominantly be matched with Case Advocates in their home state), and the availability, skill, and workload of the advocate. The advocate's inventory, or number of assigned cases, will no longer be the focus of casework assignments. Instead, new work assignments will consider complexity as well as the time and steps needed to resolve similar case issues. TASIS will replace the existing manual assignment process that often involves intra-office transfers of cases.

C. TASIS Will Enhance Case Advocacy

TASIS will improve case handling by downloading data already available in IRS systems, thereby eliminating manual data entry, automating research and other actions, and creating templates to resolve common issues. With an improved inventory display, TASIS will allow caseworkers to map actions needed, use calendar tools to schedule their workload, and view scheduled tasks or appointments at a glance.

TASIS will assist Case Advocates in identifying issues requiring attention or factoring into case resolution, including an IRC § 7811 Significant Hardship Determination.[303] Where possible, TASIS will perform routine research of account transactions for more consistent and prompt discovery of case details. TASIS will also identify other IRS functions involved with a case.

TASIS will offer new communication features that will document initial, subsequent, and closing taxpayer communications. These features will support new standards for protecting taxpayer privacy such as allowing TAS employees to identify phone numbers where TAS can leave confidential messages for a taxpayer. Clear identification of customer communication needs will limit disconnects due to language or physical ability. TASIS will also provide online updates and interaction tools to break down communication barriers posed by work schedules or time zone.

303 IRC § 7811(a)(2). A significant hardship includes an immediate threat of adverse action; a delay of more than 30 days in resolving taxpayer account problems; the incurring by the taxpayer of significant costs (including fees for professional representation) if relief is not granted; or irreparable injury to, or a long-term adverse impact on, the taxpayer if relief is not granted. *See also* IRM 13.1.18.7 (Feb. 1, 2011).

D. TASIS Will Provide New Case Resolution Tools

When TAS lacks the statutory or delegated authority to directly resolve a taxpayer's problem, TAS interacts with the responsible IRS operating division or function to resolve the issue via the Operations Assistance Request process.[304] In FY 2010, Case Advocates submitted more than 275,000 OARs.[305] Currently, TAS resolves issues by emailing (encrypted), mailing, and faxing information to the IRS, all of which take time. TASIS will reduce resolution time by electronically routing OARs to the IRS, delivering the TAS recommendation and request for action, along with records and documentation supporting advocacy resolution. Similarly, TASIS will implement an electronic routing process for Taxpayer Assistance Orders to replace the current manual system. Finally, TASIS will support secure self-service features using the IRS internet site so that taxpayers can view case updates and obtain contact information for the advocate assigned to their cases.

E. TASIS Will Enhance TAS's Technical Assistance Process

TAS employs a network of technical advisors to assist Case Advocates assigned complex technical issues. TASIS will allow Case Advocates to research written guidance on technical topics using Technical Advice Training Initiatives (TATI). TATI will house briefing documents containing information, resources, and links to additional research on various case-related topics, Chief Counsel opinions, job aids, Internal Revenue Manuals (IRMs), and several online tools to assist in resolving complex taxpayer issues. This information will provide Case Advocates a point of reference for initial case discussions, prompting quicker case resolution.

When Case Advocates require detailed technical advice, they will be able to initiate a case referral to a technical advisor or an Attorney Advisor using TASIS. The system will provide referral resources to capture the question and route it to an advisor based on the advisor's skills and availability, with the option to indicate when the case requires expeditious assistance. The advisor will have access to the case file and appropriate reference material. The advisor will communicate directly with the Case Advocate and, if necessary, the taxpayer or representative. Improved recording of both questions and responses will support analysis for training opportunities or solutions that might benefit a broader group of customers and require a more sustained systemic advocacy effort.

F. TASIS Will Support Systemic Advocacy Efforts

Part of the TAS mission involves solving systemic problems with IRS processes or practices that have a negative impact on multiple taxpayers. Currently, employees who identify these systemic problems manually enter a description of the issue into a separate system, the

304 *See Importance of the Taxpayer Assistance Order, infra.* An OAR (Form 12412) is the form that TAS employees use when requesting that the IRS complete an action on a TAS case when TAS lacks the authority to take that action.

305 Data obtained from TAMIS.

Systemic Advocacy Management System. With TASIS, employees will identify systemic problems within open cases, saving time for Case Advocates and providing TAS analysts with case examples. TASIS will also allow for real-time analysis of trends in the types of cases coming to TAS to help identify systemic problems.

G. TASIS Will Use Key Words to Facilitate Accurate Electronic Research

As part of the development of TASIS, TAS has begun a major initiative to develop Information Architecture – a method of organizing and labeling our digital information. This planning is critical to ensure the effective delivery and access of information to our employees.

TAS is establishing standards, guidelines, and parameters for metadata for both Case Advocacy and Systemic Advocacy. Metadata is "data about the data," *i.e.*, structured keywords that make information easier to find, use, and manage. Metadata will help organize TAS's electronic resources, bring similar resources together, and support the preservation of key internal documents.

As TAS posts documents to internal and external websites, we are beginning to tag the documents with keywords that describe the document's content. The use of keywords will facilitate more accurate text-based language searches to locate information within TASIS. The primary benefit is that TAS will perform more effective case and systemic advocacy by having ready access to related materials and being able to see relevant material from all areas of TAS activity, breaking down the current "stovepipes" of information.

TAS began its efforts to standardize its metadata and identify keywords in FY 2011. Systemic Advocacy was the first department in TAS to begin tagging the documents it uses on its internal website with key words. In FY 2012, all of TAS will begin identifying and using key words as TAS transitions to TASIS and related information storage systems.

IX. Low Income Taxpayer Clinic Grant Program

The Low Income Taxpayer Clinic program provides matching grants to qualifying organizations to operate clinics that represent low income taxpayers in disputes with the IRS, or educate taxpayers for whom English is a second language about their rights and responsibilities as U.S. taxpayers. LITCs provide services to eligible taxpayers for free or for no more than a nominal fee.

In FY 2011, the LITC program awarded nearly $10 million in matching grants to 165 nonprofit organizations and accredited academic institutions in all 50 states, the District of Columbia, and Puerto Rico. In awarding grants for FY 2012, TAS will continue to work toward the following goals:

- Ensuring that each state (plus the District of Columbia and Puerto Rico) continues to be served by at least one clinic; and
- Ensuring grant recipients demonstrate that they are serving geographic areas that have sizable populations eligible for and requiring LITC services.

Preliminary data from year-end reports for grant year 2010 reflect the increasing demand for LITC services.[306] Clinics that provide controversy services assisted more than 44,000 low income taxpayers and worked over 52,000 issues, including about 21,700 collection issues (levy, lien, installment agreement, currently not collectible, offer in compromise, *etc.*), 11,000 examination issues (correspondence exam, office or field exam, audit reconsideration, automated underreporter, substitute for return, etc.), and 8,700 nonfiler issues. These clinics opened about 17,000 new cases and represented taxpayers in nearly 1,300 cases in U.S. Tax Court during grant year 2010.

Through outreach activities and educational workshops targeted to ESL taxpayers, clinics provide tax information directly to taxpayers and generate awareness of the clinic program among taxpayers who may be in need of tax assistance. In grant year 2010, clinics conducted over 11,200 outreach and education events.[307] Additionally, clinics provided one-on-one consultations with more than 23,000 ESL taxpayers.

In conjunction with the National Taxpayer Advocate, the LITC Program Office, in the past year, created a mission statement that focuses on ensuring the fairness and integrity of the tax system by:

306 All statistical data on LITC services presented here were obtained from the LITC Program Office database, 2010 Year-End Reports and include information compiled from 160 LITCs as of June 6, 2011.

307 This number includes over 3,600 outreach activities conducted by controversy programs.

- Educating low income taxpayers about their rights and responsibilities;
- Providing *pro bono* representation to taxpayers in controversies with the IRS;
- Conducting outreach and education to taxpayers who speak English as a second language; and
- Identifying and advocating for issues that impact low income taxpayers.

In addition, the program office established performance measures that tie to the four prongs of the program's mission and will be used to set program goals, to assess progress in achieving those goals, and to identify opportunities to improve the quality and effectiveness of services that clinics provide to low income and ESL taxpayers.

During the upcoming fiscal year, the LITC Program Office will integrate the performance measures throughout the grant application, selection, review, and reporting processes. Publication 3319, *Grant Application Package and Guidelines*, is being updated in 2012 to reorganize and streamline the grant application and reporting processes. Standardized financial reporting forms and revised program reporting forms will be introduced to capture baseline performance information that can be aggregated and analyzed by the LITC Program Office.

In order to accomplish its mission, the LITC Program Office was restructured, and has hired and trained additional staff to provide greater assistance to and oversight of grantees. Site assistance visit procedures are being redesigned to include orientation visits and operational review visits. All new clinics will receive orientation visits within the first 120 days of their initial funding year to familiarize them with LITC Program requirements and to measure the progress of their start-up activities. Established clinics will receive operational review visits to observe and evaluate a clinic's internal and administrative controls, program activities, and services. In addition, the LITC Program Office will continue to foster the relationship between each clinic and the Local Taxpayer Advocate's office in the clinic's geographic area by having the LTA visit the clinic at least annually.

The LITC Program Office also intends to employ new technologies to provide grantees with guidance on both grant administration and technical tax issues. A new LITC program website is scheduled to debut during FY 2012, which will allow the LITC Program Office to provide guidance about program policies, and to share ideas, resources, and tools for providing innovative and quality services to taxpayers. Also, the LITC Program Office plans to expand its use of conference calls and webinars for training purposes. This past February, the LITC Program Office conducted its first training webinar on the topic of financial reporting by grantees and is developing a schedule of future training topics.

X. Taxpayer Advocacy Panel

The Taxpayer Advocacy Panel (TAP) is a Federal Advisory Committee[308] established by the Department of the Treasury to provide a taxpayer perspective on improving the IRS. TAS supports the TAP program, which works with the National Taxpayer Advocate and the IRS to improve IRS service and customer satisfaction.

The National Taxpayer Advocate is concerned that TAP is reaching outside its original charter with its efforts, moving into compliance, collection, enforcement, and appeals issues, rather than focusing on improving IRS service and customer satisfaction. In addition, the volume of TAP issues is creating a burden for the IRS, which is required to respond to each issue.[309] The combination of a heavy TAP workload and a perception that TAP has overstepped its bounds caused the National Taxpayer Advocate to initiate a change to the way the TAP operates.

The TAP will develop the details of the change in procedures in FY 2011 and implement them in 2012. The proposed refocus will look as follows:

- TAP Area Committees will remain focused on identifying grassroots issues but will no longer develop proposed solutions or recommendations;
- TAP members will review the issues to try to identify common themes and group issues that reflect a larger systemic concern; and
- TAP leaders will prioritize the systemic issues and present them to the IRS as possible TAP Project Committee topics for the upcoming year.

The proposed restructure will let the TAP focus on larger systemic issues, allowing TAP members to work issues in partnership with the IRS and focus on better understanding IRS procedures. Under this approach, the TAP will no longer submit similar issues multiple times to present taxpayers' concerns. The TAP will work with the IRS Office of Chief Counsel to incorporate the changes into the TAP charter when it is up for renewal in March 2012.

The TAP will also work with TAS to identify low- or no-cost ways to conduct meetings remotely to reduce travel expenses, while ensuring that TAP fulfills its original mission of advising the IRS on taxpayer service.

308 The Federal Advisory Committee Act (5 U.S.C. Appendix) prescribes standards for establishing advisory committees when those committees will furnish advice, ideas, and opinions to the federal government. *See also* 41 C.F.R Part 102-3.

309 In 2010, the TAP submitted 101 Area Committee recommendations to the IRS and completed 34 projects. In the current TAP calendar year through June 1, 2011, the TAP Area Committees submitted 23 recommendations, and the TAP Project Committees have completed six projects.

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Appendix I: Evolution of the Office of the Taxpayer Advocate

The IRS created the Office of the Taxpayer Ombudsman in 1979 to serve as the *primary advocate*, within the IRS, for taxpayers. The Taxpayer Bill of Rights (TBOR 1), included in the Technical and Miscellaneous Revenue Act of 1988 (TAMRA), codified this position. 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."[310] Further, it directed the Taxpayer Ombudsman and the Assistant Commissioner (Taxpayer Services) to jointly provide an annual report to Congress about the quality of taxpayer services provided by the IRS. The Senate Committee on Finance and the House Committee on Ways and Means received this report directly.[311]

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.[312] 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.[313]

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;

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

311 *Id.* at 3737.

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

313 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.[314]

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."[315]

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 PROs participate in the selection and evaluation of local PROs, 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."[316]

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."[317] For the first time, the TAO could specify a time period within which the IRS must act on the order. The statute

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

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

316 *Id.*

317 *Id.* at 22

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, both in perception and reality, as an independent voice for the taxpayer within the IRS. Currently, the national Taxpayer 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.[318]

In response to these concerns, in the IRS Restructuring and Reform Act of 1998 (RRA 98), 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).[319]

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."[320]

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.[321]

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

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

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

320 IRC § 7803(c)(4)(A)(iii).

321 IRC § 7803(c)(4)(A)(iv).

than 30 days in resolving the taxpayer's 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.[322]

Treasury Regulation § 301.7811-1 had not been updated since it was first published in 1992. Consequently, the regulation contained a definition of "significant hardship" that did not take into account the expansion of the definition that occurred in 1998. In April 2011, the IRS published final regulations under IRC § 7811 so that the regulations now contain a definition of significant hardship consistent with existing law and practice.[323]

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

323 See 76 FR 18,059 (Apr. 1, 2011).

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.[324] TAS case acceptance criteria fall into four main categories:

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.

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.

324 IRC § 7803(c)(2)(A)(i).

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.

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
Collection Statute Expiration Date (CSED) Calculator Task Force	Develop a CSED calculator tool for IRS employees responsible for calculating CSEDs.	The team is developing a spreadsheet-based CSED calculator. Team members continue to exchange examples identifying CSED calculation issues. The team anticipates running a field test of the calculator in FY 2012.
IRS Twitter Editorial Board	Move the IRS forward on Twitter, helping build IRS-wide content strategy and guidelines.	The group meets regularly sharing information and best practices.
Servicewide Governance Council for New Media	Chart the future IRS course in new media, provide advice on how and when to interact in social media, and build policies and guidelines.	The Council shares information and best practices, and coordinates IRS new media efforts, including the approval of current and future users and platforms.
Technical Working Group (TWG) for Identity Theft Victim Assistance	Develop recommendations for improving procedures for and reducing the burden of identity theft victims. The group engages in cross-functional discussion, gathers identity theft data, and analyzes the burden of affected taxpayers to recommend process improvements.	The group continues elevating identity theft scenarios where procedures are incomplete, inconsistent, or non-existent.
Employment Tax Treatment of Home Care Service Recipients	Collaborate with various IRS functions to address systemic problems in employment tax treatment of home care service recipients, which can create compliance problems for employers and administrative challenges for the IRS.	The team is piloting a filing initiative to allow agents acting on behalf of home care service workers to file aggregate Forms 940, *Employer's Annual Federal Unemployment* (FUTA) Tax Return, with an accompanying Schedule R, *Allocation Schedule for Aggregate Form 940 Filers.*
Enterprise Wide Employment Tax Program (EWETP)	Develop 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 EWETP team identifies issues and concerns for IRS and taxpayers and then forms sub-teams to develop action plans to address them. Actions include helping taxpayers comply through education and voluntary programs; using an enterprise approach to resource allocation; leveraging technology and new learning; and exploiting third-party information. One sub-team is developing strategic measures to determine impact of the actions on subsequent taxpayer behavior.
IRS Coordinated Response to CSX Decision Team	Develop a strategy to respond to taxpayers' claims for refund and protective claims for refund or credit of overpaid employment taxes based on CSX Corp. v. United States. 518 F. 3d 1328 (Fed. Cir. 2008).	The team meets regularly to deal with the various issues affecting mass disallowance of claims when taxpayers are filing protests or exercising their appeal rights.
Third-Party Payers Team	Collaborate 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; · Improve IRS work processes to allow early interventions and notice to taxpayers about outstanding liabilities; and · Issue guidance on case resolution, collection alternatives, and relief available to victims of third-party payer failures.	The team researched the viability of sending dual confirmation letters when a third-party payer changes a taxpayer's address; updated the Reasonable Cause Assistor (RCA) to include third-party failures when determining penalty relief; and updated the IRS website to help taxpayers affected by third-party failures understand what to do when faced with this situation. It also is reviewing cases to identify ways to improve work processes and service to taxpayers

Collaborative Effort	Objectives	Status Updates
Files and Records Coordination Team	Develop consistent approaches for requesting paper case files requiring expedited services.	The team developed a draft Statement of Work that spells out the agreement between TAS, the IRS, and the National Archives and Records Administration (NARA) for this process. The team is developing comprehensive training material about the new process. The material summarizes procedures to request records and files and to avoid common errors.
Congressional Affairs Program (CAP) Council	Work issues specific to CAP; issue the Congressional Update newsletter. Legislative Affairs, including Governmental Liaison, leads this team.	Legislative Affairs, Governmental Liaison, and TAS make up this team. The CAP Council meets quarterly to discuss current issues affecting congressional offices. The team provides services such as CAP training for new congressional staffers, CAP training for new Local Taxpayer Advocates, and shares information through the Congressional Update, a newsletter issued to congressional offices.
TAS Training for IRS Employees	Deliver TAS overview and case studies to IRS compliance employees.	The TAS training project originated in April 2009 based on an executive level meeting with TAS and other IRS functions to discuss corporate enforcement hiring initiative. TAS worked successfully with SB/SE Collection and LB&I to implement TAS training in two phases for new employees. TAS continues to work with SB/SE Examination to develop new case studies for Phase II Revenue Agent new hire training. The project will be completed during FY 2011 once Phase II is implemented for SB/SE revenue agents.
Undelivered Mail Project	Have the Office of Taxpayer Correspondence (OTC) head up a servicewide study of which notices would benefit the most from the enhanced Intelligent Mail barcodes. As a part of this study, OTC will analyze return on investment to determine the most effective use of the barcodes.	The group is studying, reviewing, researching, and implementing solutions to address undelivered mail.[282] This includes, but is not limited to: · Implementing a Full Service Intelligent Mail Bar Code (FSIMB) for IRS outgoing mail; · Studying undelivered mail and address perfection problems; · Designating one enterprise-level organization to provide policy, procedures, protection, and maintenance of taxpayer addresses; and · Applying the existing address research (ADR) system to all undelivered mail returned to the IRS.

325 *See* National Taxpayer Advocate 2010 Annual Report to Congress 221-234 (Most Serious Problem: *The IRS Has Not Studied or Addressed the Impact of the Large Volume of Undelivered Mail on Taxpayers*).

Collaborative Effort	Objectives	Status Updates
Printing and Postage Budget Reduction Task Group (PPBR)	Implement business decisions to reduce the printing and postage budget for FY 2011 and 2012.	The team proposed strategies for achieving savings by redirecting customers to existing outlets and through new technological investments. The team considered the impact to taxpayers, and many offices in the IRS, including TAS; Stakeholders, Partnerships, Education, and Communication (SPEC); Field Assistance; and Customer Account Services, continue to look for ways to ensure taxpayers receive the products and services they need. TAS is currently advocating for: · Policy for consistent penalty application when a taxpayer indicates an inability to reasonably obtain paper tax forms through alternative means; and · Development of an online Tax Forms Decision Tree allowing taxpayers to self-identify which forms and schedules they require.
W&I Customer Satisfaction Improvement Initiative Team	Use team to reassess W&I's approach to customer satisfaction. In October 2010, W&I requested TAS's participation on a Phase I team to create a framework for "Enhancing the Customer Experience" (ECE), designed to improve taxpayers' interaction with the IRS. The framework is based on lessons learned from TAS customer satisfaction initiatives.	In FY 2012, a Phase 2 team will identify measures to evaluate how well W&I is meeting the customer expectations identified in Phase 1. TAS facilitated and conducted focus group discussions with taxpayers and taxpayer representatives using Taxpayer Advocacy Panel (TAP) resources to help identify customer expectations. The team is developing a matrix and determining weighting values for elements of customer satisfaction, business results, and quality.
The Stuffer Elimination Task Force	The Correspondence Reduction team continues to develop Unified Work Requests (UWR) to eliminate inserts included with notices sent to RAF (Reporting Agents) and 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.*	Recent activities include: · 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 (NDC) a listing of the inserts representatives and taxpayers can request. Representatives and taxpayers can also obtain the inserts on irs.gov.
Internal Management Documents (IMD) Council	The 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.
CSED Workgroup	Identify and review all accounts with CSED extended 15 years beyond assessment; Determine if the waiver is proper; report findings and propose resolutions (as appropriate); and Implement approved account resolutions.	The group requested data from Research. Once received, the team will review a statistical sample of the cases and determine if a review of a broader sample of cases is necessary.
Civil Penalties Task Force	The Office of Servicewide Penalties (OSP) established this cross-functional task force to create the parameters for a Servicewide Penalties Summit.	The IRS cancelled the Summit due to budget concerns. The task group hopes to meet later in the year if funds are available to hold the Summit.

Collaborative Effort	Objectives	Status Updates
Collection IRM Revisions to Address the Vinatieri Decision	TAS has been working with the IRS Collection functions to revise sections of the IRM involving collection procedures affected by the Vinatieri court decision. The group is clarifying the IRM to make clear that a taxpayer's account may be placed in currently not collectible (CNC) status even if the taxpayer has unfiled returns.	On April 29, 2011, IRM 5.16.1, the primary IRM chapter on CNC status, was amended to make the required clarifications. Discussions between TAS and the IRS Collection functions continue to ensure that all parts of the IRM are clear on this issue. The IRS has updated other parts of the IRM as well (see IRMs 5.19.1, 5.11.2, and 8.2.2.2).
Automated Collection System (ACS)/TAS Training Video	TAS is collaborating with the IRS Campus Compliance operations (SB/SE and W&I) to develop an ACS/TAS training video. The video is intended to address and highlight key areas of concern that routinely surface in ACS and TAS casework, focusing on: · Liens and collection cases involving financially distressed taxpayers, providing discussion points for a variety of collection issues, such as factors to consider in lien determinations, lien withdrawals, release of levies in hardship situations, reporting accounts as uncollectible in situations with unfiled returns; and · Payments alternatives, such as offers in compromise.	The IRS is currently revising the IRM procedures for several of these areas. The team has delayed the development of the training materials for this video pending IRM updates. TAS anticipates that work on this initiative will resume in June 2011.
Payment Alternatives – Offer In Compromise (OIC)	Determine if OIC policy and procedures are needlessly deterring taxpayers from submitting good offers (*i.e.*, an offer representing a good faith attempt to resolve the tax debt).	TAS is working closely with the IRS on the implementation of the "Fresh Start" initiatives. The OIC program is a key component of "fresh start" options for taxpayers with collection problems. TAS is using the IMD clearance process to ensure the "Fresh Start" initiatives related to the new streamlined OIC process provide meaningful improvements in the IRS's use of the OIC as an important Collection tool. The IRS has also just released a revised Form 656 Booklet, which contains OIC application forms and procedures. TAS worked closely with the IRS developing this document.

326 *See* IRS News Release IR-2011-20, IRS *Announces New Effort to Help Struggling Taxpayers Get a Fresh Start; Major Changes Made to Lien Process* (Feb. 24, 2011).

Collaborative Effort	Objectives	Status Updates
CPS Internal Communications Team	The objective of this team is to create a service-wide communications strategy around three new developments: the implementation of collection policy and structural changes emerging from the Collection Process Study, the stand up of a new Enterprise Collection Strategy (ECS) office, and implementation of the Commissioner's "Fresh Start" program.	The communication strategy is in an early stage of development. The team plans to provide information about the new Enterprise Collection Strategy (ECS) office, including the Collection Process Study and the Fresh Start implementation, to both internal and external customers. The audience will be informed through a combination of electronic tools. ECS will serve as "one voice" on all Collection matters, recommend new collection policies derived from the Collection Process Study, announce Fresh Start initiatives, and provide affected employees with training needs. Communications will be released as policy changes are implemented.
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 cross-functional team provides input into the direction of the project, as well as training, education, configuration control, enhancements definition, and modeling alignment.	Return Review Program (RRP) will replace the ElectronicFraud 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 investigation employees; and · Reduce the percentage of non-fraudulent refund claims frozen by the IRS. The team has focused its efforts on investigating the causes and cures of refund fraud. The team has narrowed its focus to look at a small segment of the tax return preparer community that defraud taxpayers and the IRS by inflating deductions and credits, and then directing refunds to the preparers' bank accounts without the taxpayer's knowledge. There are many variations on this scenario. The team is also looking into the increase in the instances of stolen identities and the fraudulent tax returns filed claiming a fraudulent refund. Many of these fraudulent refunds are subsequently electronically direct deposited into bank accounts; the team is looking at gaps in IRS procedures and discrepancies in the treatment of stolen paper refunds vs. stolen direct deposit refunds.
Office of Taxpayer Correspondence (OTC)	The Commissioner chartered the Taxpayer Communications Task group (TACT), now the OTC, to study and improve the clarity, accuracy, and effectiveness of written communications to taxpayers. Representatives from TAS participate on five separate work teams.	The initial data analysis found the use of interim letters is inconsistent across the IRS, 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. It also drafted revised letters, written in plain language and uniform between operations, and 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.
Collection Process Study (CPS)	The objective of the CPS is to conduct a broad-based review of the Collection Process. The study will identify improvement opportunities and recommend specific actions to establish an enhanced future state. Expected outcomes include completion of recommendations to improve the collection process; development and completion of pilots around identified process improvements, including accelerated treatments or intervention of collectables; and setting the groundwork for the creation of a Collection Strategic Plan.	TAS is working closely with the IRS on the implementation of the "Fresh Start" initiatives.[284] These initiatives stemmed from the CPS Study recommendations. TAS reviews proposed guidance to ensure the "Fresh Start" initiatives are providing meaningful improvements in the IRS's treatment of taxpayers with IRS Collection problems.

327 *See* IRS News Release IR-2011-20, *IRS Announces New Effort to Help Struggling Taxpayers Get a Fresh Start; Major Changes Made to Lien Process* (Feb. 24, 2011).

Collaborative Effort	Objectives	Status Updates
Publication 1, Your Rights as a Taxpayer, Team	Convened to review and revise Publication 1. The National Taxpayer Advocate, who heads the team, provided her vision of the revised Pub 1, which the team and an outside vendor are developing. The goal is to identify not only taxpayers' rights, but also their responsibilities, and to ensure taxpayers can easily understand both.	TAS will hold focus groups during the 2011 IRS Nationwide Tax Forums.
American Recovery and Reinvestment Act (ARRA)	The Compliance ARRA team worked 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). The team also addresses all communication and outreach related to ARRA. Members include all operating divisions.	The team's activities decreased significantly because of the nature of these laws and the expiration of many of the credits. The team is now meeting only on an as-needed basis.
First-Time Homebuyer Credit (FTHBC) Teams and Committees	TAS is an active participant on a number of collaborative efforts to implement, control, monitor, and manage FTHBC cases and inquiries. The Executive Director Systemic Advocacy (EDSA) is a member of the IRS FTHBC Executive Steering Committee (ESC) and chairs the TAS FTHBC Steering Committee. The EDSA has established a joint TAS/OD FTHBC Team to address elevated concerns stemming from TAS casework. This team 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.	Ongoing meetings will identify emerging issues and seek systemic solutions. The team's recent efforts have focused on the problems in processing FTHBC repayments. The team helped develop guidance on how to handle taxpayer inquiries while a software fix was implemented.
IRS Return Preparer Strategy – Testing and Continuing Education Sub-Team	The team was responsible for planning, implementing, training, monitoring, and analyzing preparers to validate their current practices.	The IRS recently selected vendors to administer its preparer testing program. The testing vendor will administer the testing program. The vendor will be responsible for conducting a job analysis using subject matter experts from both the IRS and preparer community to ascertain the capabilities and necessary knowledge for return preparers. Once a test plan is approved, the IRS will make test specifications available to assist individuals in preparation for the examination. The IRS will have final approval of all test questions.
IRS Return Preparer Strategy Communication Sub-Team	Cross-functional IRS team to deal with internal and external communications surrounding the IRS Return Preparer Initiative (RPI) to register, test, and provide continuing professional education (CPE) requirements for all return preparer providers.	This team expects to remain in existence for another year as different aspects of the initiative are implemented The first phase involved internal and external communication efforts to register return prepares, and next phases will include testing and CPE for registered preparers.

Collaborative Effort	Objectives	Status Updates
IRS Nationwide Tax Forums	This is a servicewide effort to plan and execute the tax forums on a yearly basis.	The team works extensively with National Public Liaison to present seminars for practitioners and, if needed, to coordinate with other OD on seminars. TAS administers the Case Resolution Program at the Tax Forums and works with SB/SE, W&I, Modernization & Information Technology Services (MITS), and Appeals to provide resolutions for difficult cases. TAS also conducts focus groups on emerging topics. This allows TAS to obtain valuable information from the practitioner community.
IRS Style Guide Team	This team developed, maintains, and updates the style guide used by communicators in IRS messages or products.	The Style Guide is an active resource for IRS communicators. The team updates the guide as needed.
IRS Communications Strategic Planning Team	The team provides planning, execution, and research support and tools for servicewide and major cross-functional communications.	The team meets regularly to collaborate on servicewide communication messages and to share best practices for their delivery.
Collection Due Process (CDP) Working Group	The CDP Working Group is a team of IRS stakeholders and Counsel working to resolve issues and improve the CDP process.	The group continues to assess planned procedural changes or problematic CDP issues, such as review and reconsideration of the current CDP workflow.
Fraud Detection Center (FDC)/Special Assistance Unit and Pre-Refund Steering Committee Tiger Team	This cross-functional team oversees the transition of pre-refund holds and identification of potentially fraudulent returns, refund schemes, or Accounts Management Taxpayer Assurance Program (AMTAP). In addition, the team identifies and addresses issues with procedures affecting this program. TAS advocates to protect taxpayer rights during the implementation.	The team is working on method to isolate and streamline duplicate filing returns. The team also identified several areas where additional resources to reduce a backlog of AMTAP Identity Theft cases.

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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 needs assistance in resolving tax disputes with the IRS and you cannot afford representation, or if you speak English as a second language and need help understanding your taxpayer rights and responsibilities, you may qualify for help from an LITC that provides free or nominal cost assistance. Using poverty guidelines published annually by the Department of Health and Human Services (HHS), each clinic decides if you meet the income eligibility guidelines and other criteria before it agrees to represent you.[328]

Although LITCs receive partial funding from the IRS, LITCs, their employees, and their volunteers are completely independent of the federal government. Clinics receiving federal funding for the 2011 calendar year are listed below. These clinics are operated by nonprofit organizations or academic institutions.

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. Contact information for clinics may change, so please check for the most recent information at http://www.irs.gov/pub/irs-pdf/p4134.pdf

328 For the 2011 calendar year, the income ceilings for low income representation are as follows:

Size of Family Unit	Income Ceiling (250% of Poverty Guidelines)		
	48 Contiguous States, Puerto Rico, and D.C.	Alaska	Hawaii
1	$27,225	$34,000	$31,350
2	$36,775	$45,950	$42,325
3	$46,325	$57,900	$53,300
4	$55,875	$69,850	$64,275
5	$65,425	$81,800	$75,250
For each additional person	$9,550	$11,950	$10,975

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, German, Spanish, Kenja, Hmong, Russian
	Anchorage	Alaska Business Development Center	1-800-478-3474 907-562-0335	B	Yupik, Cupik, Inupiat, Athabaskan, Tlingit, Haida
AL	Birmingham	T. A. Lawson State Community College LITC	205-929-6384	E	Spanish
	Montgomery	Legal Services Alabama, Inc.	1-866-456-4995 334-329-0504	B	Spanish
AR	West Memphis	Delta Economic Education Resource Service	870-733-1700 1-877-733-1704	B	Spanish
	Fayetteville	Legal Aid of Arkansas, Inc.	1-800-967-9224 479-442-0600	B	Spanish, Marshallese
	Little Rock	University of Arkansas at Little Rock	501-324-9441	B	Spanish
AZ	Phoenix	Community Legal Services, Inc.	1-800-852-9075 602-258-3434	B	Spanish
	Chinle	DNA-People's Legal Services, Inc.	1-800-789-7287 928-647-5242	B	Navajo, Hopi
	Tucson	Catholic Community Services of Southern Arizona	520-622-2801 x 127	B	Spanish
CA	Fresno	Central California Legal Services, Inc.	559-570-1200 1-800-675-8001	B	Spanish, Hmong, Lao
	San Francisco	Asian Pacific Islanders Legal Outreach	415-567-6255	B	Chinese, Vietnamese, Japanese, Tagalog, Korean, others through interpreter services
	Orange	Chapman University	1-877-242-7529 714-628-2535	C	Spanish, Vietnamese, others through interpreter services
	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.	1-877-534-2524	C	Spanish, Russian, French, German, Farsi, Arabic, Tagalog, Korean, Vietnamese, Chinese, Laotian
	Northridge	Bookstein Tax Clinic	818-677-3600	B	Spanish
	San Diego	University of San Diego	619-260-7470	B	Spanish
	San Francisco	Home Start, Inc.	619-229-3660	E	Aramaic, Arabic, Amharic, Chaldean, Spanish, Tigrinya, Russian, Vietnamese
	San Francisco	Homeless Prenatal Program	415-546-6756 x 363	B	Spanish
	San Francisco	San Francisco Bar Association Volunteer Legal Services Program	415-982-1616	C	
	San Luis Obispo	California Polytechnic State University	1-877-318-6772	B	Spanish, others through interpreter services
	Santa Ana	Legal Aid Society of Orange County	1-800-834-5001 714-571-5200	B	Farsi, Spanish, Vietnamese, Korean, Mandarin, others through interpreter services
CO	San Luis	Land Rights Council	719-672-1002 1-866-607-8462	B	Spanish
	Denver	University of Denver	303-871-6239	C	Spanish
CT	Hamden	Quinnipiac University	203-582-3238	C	Spanish, others through interpreter services
	Hartford	University of Connecticut School	860-570-5165	C	Spanish, Vietnamese, French, Polish

State	City	Organization	Public Phone Numbers	Type of Clinic	Languages Served in Addition to English
DC	Washington	American University	202-274-4144	C	Spanish, others through interpreter services
	Washington	Central American Resource Center	202-328-9799	E	Spanish
	Washington	University of the District of Columbia	202-274-5073	B	All languages identified in DC Language Access Act
DE	Wilmington	Delaware Community Reinvestment Action Council, Inc.	1-877-825-0750 x 102 302-654-5024 x 102	B	Spanish
FL	Plant City	Bay Area Legal Services, Inc.	813-752-1343	B	Spanish, Creole, others through interpreter services
	Palatka	Community Legal Services of Mid-Florida, Inc.	1-866-886-1799 386-328-8361	B	Spanish, Creole, Vietnamese, others through interpreter services
	St. Petersburg	Gulfcoast Legal Services, Inc.	727-821-0726 1-800-230-5920	B	Spanish, Creole, French, Russian, Swahili, Czech
	Miami	Haitian Neighborhood Center, Sant La	305-573-4871	E	Spanish, Creole
	Plantation	Legal Aid Service of Broward County, Inc.	954-765-8950	B	Spanish, Creole
	West Palm Beach	Legal Aid Society of Palm Beach County, Inc.	561-655-8944 1-800-403-9353	B	Spanish, Creole
	Miami	Legal Services of Greater Miami, Inc.	305-576-0080	B	Creole, Haitian, Spanish
	Tallahassee	Legal Services of North Florida, Inc.	850-385-9007	B	Spanish
	Jacksonville	Three Rivers Legal Services, Inc.	904-394-7450 1-866-256-8091	B	Spanish, Bosnian
GA	Atlanta	Georgia State University Foundation, Inc.	404-413-9230	C	Spanish
	Hinesville	JC Vision and Associates, Inc.	912-877-4243 1-866-902-4266	B	Spanish
	Cedartown	The Tax Care Clinic	706-252-2178	C	Spanish
HI	Honolulu	Volunteer Legal Services Hawaii	1-800-839-5200 808-528-7046	B	Chuukese, Japanese, Samoan, others through interpreter services
	Honolulu	Legal Aid Society of Hawaii	1-800-499-4302 808-536-4302	B	Japanese, Filipino, Chinese, Spanish, Vietnamese
IA	Des Moines	Iowa Legal Aid	1-800-532-1503 515-243-1193	B	All languages through interpreter services
ID	Moscow	University of Idaho College of Law Legal Aid Clinic	208-885-6541 1-877-200-4455	C	Spanish
	Twin Falls	La Posada, Inc.	208-735-1189 208-734-8700	B	Spanish
IL	East Dundee	Administer Justice	847-844-1100	B	Spanish, Polish, American Sign Language, others through interpreter services
	Chicago	Center for Economic Progress	312-630-0280	B	Spanish
	Chicago	Korean American Community Services	773-583-5501	E	Korean, Spanish
	Chicago	Illinois Institute of Technology	312-906-5050	C	Spanish
	Chicago	Loyola University Chicago School of Law	312-915-7176	C	
	East St. Louis	Taxpayer Outreach Clinic	1-866-862-8293 618-874-8580	B	Chinese, Spanish
	Wheaton	Prairie State Legal Service, Inc.	1-800-690-2130 630-690-2130	C	Spanish

State	City	Organization	Public Phone Numbers	Type of Clinic	Languages Served in Addition to English
IN	Valparaiso	The Lutheran University Association, Inc.	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, Karen, Chin, Burmese
	Bloomington	Indiana Legal Services, Inc.	1-800-822-4774 812-339-7668	C	
KS	Lawrence	The University of Kansas Center for Research	785-864-5665	B	Spanish, Chinese, Urdu, Hindi, others through interpreter services
	Wichita	Cerebral Palsy Research Foundation of Kansas, Inc.	316-688-1888 1-800-550-5804	C	Spanish
KY	Richmond	AppalReD Legal Aid	1-800-477-1394 859-624-1394	B	All languages through interpreter services
	Louisville	Legal Aid Society, Inc.	502-584-1254 1-800-292-1862	C	All languages through interpreter services
	Erlanger	Northern Kentucky University Research Foundation	859-572-5781	C	Spanish
LA	New Orleans	Southeast Louisiana Legal Services Corp.	504-529-1000 1-877-521-6242	C	Spanish, Vietnamese, Hindi, Portuguese
	Baton Rouge	Southern University Law Center	225-771-3333	C	
MA	Waltham	Bentley University	781-891-2083 1-800-273-9494	B	Spanish, Portuguese, Russian, Haitian, Chinese
	Boston	Greater Boston Legal Services	1-800-323-3205 617-371-1234	B	All languages through interpreter services
	Springfield	Springfield Partners for Community Action	413-263-6500	B	Spanish, Vietnamese, Chinese, French, Portuguese, Russian
MD	Baltimore	University of Maryland, Baltimore	410-706-3295	C	
	Baltimore	Maryland Volunteer Lawyers Service	1-800-510-0050 410-547-6537	C	170 Languages through interpreter services
	Baltimore	CASA de Maryland, Inc.	301-431-4185	E	Spanish, French
ME	Bangor	Pine Tree Legal Assistance, Inc.	207-942-8241	B	As needed through interpreter services
MI	East Lansing	Michigan State University College of Law	517-336-8088	B	All Languages through interpreter services
	Ann Arbor	The Regents of the University of Michigan	734-936-3535	B	Spanish
	Detroit	Accounting Aid Society	1-866-673-0873 313-566-1920	B	Arabic, Spanish, Others through interpreter services
MN	Minneapolis	Mid-Minnesota Legal Assistance	1-800-292-4150 612-334-5970	B	Spanish, Somali, Russian, Arabic, Hmong, Oromo, Amharic
	Minneapolis	University of Minnesota	612-625-5515	B	Somali, Hmong, Spanish
MO	Kansas City	Legal Aid of Western Missouri	1-800-990-2907 816-474-6750	B	All languages through interpreter services
	Springfield	Missouri State University	417-836-3007	B	Chinese, Korean Spanish, Others through interpreter services
	Kansas City	The UMKC Graduate Tax Law Foundation	816-235-6201	C	Spanish, Others through interpreter services
MS	Oxford	North Mississippi Rural Legal Services	1-888-808-8049	B	All Languages through interpreter services
	Jackson	The FI&ED Association Inc.	601-500-7739	B	Spanish
MT	Helena	Montana Legal Services Association	1-800-666-6899	C	

State	City	Organization	Public Phone Numbers	Type of Clinic	Languages Served in Addition to English
NC	Greenville	Legal Aid of North Carolina	252-758-0113 1-800-682-4592	B	Spanish
	Charlotte	Legal Services of Southern Piedmont, Inc.	1-800-438-1254 (E) 1-800-247-1931 (S) 704-376-1600	B	Spanish
	Camden	Northeastern Community Development Corporation	252-338-5466	B	Spanish
	Durham	Community Reinvestment Association of North Carolina	919-667-1000	E	Spanish
	Durham	North Carolina Central University School of Law	919-530-6333	C	Spanish
ND	Bismarck	Legal Services of North Dakota	1-877-639-8695	B	Arikara, Hidatsa, Mandan, Dakota Sioux, Arabic, Somali, Bhutanese, Swahili, Bosnian
NE	Omaha	Legal Aid of Nebraska	402-438-1069	B	Spanish, others through interpreter services
NH	Concord	Legal Advice & Referral Center	603-224-3333	E	All Languages through interpreter services
	Concord	NH *Pro Bono* Referral System	603-228-6028	C	Spanish, others through interpreter services
NJ	Newark	Rutgers Law School	973-353-1685	C	Spanish
	Edison	Legal Services of New Jersey	1-888-576-5529 732-572-9100	B	Spanish, French, Creole, Italian, Hindi, Arabic, others through interpreter services
	Jersey City	Northeast New Jersey Legal Services	201-792-6363	B	Spanish, Korean, Arabic, Hindi, Chinese
	Vineland	South Jersey Legal Services	1-800-496-4570 856-691-0494	B	Spanish, others through interpreter services
NM	Albuquerque	Regents of University of New Mexico School	505-277-5265	C	Spanish
NV	Las Vegas	Nevada Legal Services	702-386-0404	B	Spanish, others through interpreter services
NY	Albany	Albany Law School	518-445-2328	C	As needed through interpreter services
	Brooklyn	Bedford-Stuyvesant Community Legal Services Corp.	718-636-1155	C	Spanish, Creole, Chinese, French
	Buffalo	Erie County Bar Association Volunteer Lawyers Project, Inc.	1-800-229-6198	C	Spanish
	New York	Fordham University	212-636-7353	C	Spanish
	New York	The Legal Aid Society	212-426-3013	B	Spanish, Chinese, Mandarin
	Rochester	Volunteer Legal Services Project of Monroe County, Inc.	585-232-3051	E	Spanish, French, American Sign Language
	Bronx	Legal Services NYC – Bronx LITC	718-928-3700	C	Spanish, others through interpreter services
	Jamaica	Queens Legal Services	347-592-2178	B	All languages through interpreter services
	Rochester	Pathstone, Inc.	585-340-3300 1-800-888-6770	B	Spanish
	Brooklyn	South Brooklyn Legal Services	718-237-5528	B	Spanish, Creole, American Sign Language, others through interpreter services
	Syracuse	Syracuse University	315-443-4582	C	
	Elmsford	Westchester Community Opportunity Program, Inc.	914-592-5600 x 113	E	Spanish

State	City	Organization	Public Phone Numbers	Type of Clinic	Languages Served in Addition to English
OH	Toledo	Advocates for Basic Legal Equality, Inc.	1-800-837-0814 419-255-0814	E	Spanish, others through interpreter services
	Akron	Community Legal Aid Services, Inc.	1-800-998-9454	B	Spanish, others through interpreter services
	Columbus	Ohio State Legal Services Association	1-800-589-5888 614-221-7201	C	
	Piketon	The Community Action Committee of Pike County	1-866-820-1185 740-289-2371	C	
	Cleveland	Friendship Foundation of American-Vietnamese, Inc.	216-961-6005 216-961-5238	E	Cambodian, Laotian, Spanish, Arabic, Vietnamese
	Columbus	The Legal Aid Society of Columbus	1-888-246-4420 614-224-2001	C	Spanish, Somali, Russian, American Sign Language
	Cleveland	The Legal Aid Society of Cleveland	1-877-817-3777	C	Cambodian, Laotian, Spanish, Arabic, Vietnamese
	Toledo	Legal Aid of Western Ohio, Inc.	1-877-894-4599 1-888-534-1432	C	Spanish, others through interpreter services
OK	Oklahoma City	Oklahoma Indian Legal Services, Inc.	405-943-6457 1-800-658-1497	B	Spanish
	Tulsa	Community Action Project of Tulsa County	918-382-3200 918-382-3352 918-382-3237	B	Spanish, Russian, Asian
OR	Gresham	Catholic Charities	503-489-6828 503-489-6845	B	Spanish
	Portland	Legal Aid Services of Oregon	1-888-610-8764 503-224-4086	B	Spanish, Russian, Chinese, others through interpreter services
	Portland	Lewis & Clark College Legal Clinic	503-768-6500	C	All Languages through interpreter services
PA	Lancaster	Central Pennsylvania Federal Tax Clinic	1-800-732-0018 717-299-7388 x 3911	B	Spanish
	Philadelphia	Philadelphia Legal Assistance Center, Inc.	215-981-3800 1-888-541-1544	E	Spanish
	Pittsburgh	Jewish Family & Children's Services	412-422-7200	E	Spanish, French, Portuguese, Burmese, Chinese, Korean, Turkish, Hindi, Vietnamese, Russian, Hebrew, Arabic, German
	Pittsburgh	University of Pittsburgh	412-648-1300	C	
	Philadelphia	Villanova University School of Law	610-519-4123 1-866-655-4419	C	Spanish, others through interpreter services
	Scranton	United Way of Lackawanna and Wayne Counties	570-343-1267	B	Spanish
	Philadelphia	Philadelphia VIP	215-523-9550	C	Spanish
PR	Santa Isabel	Rural Opportunities Puerto Rico, Inc.	1-888-440-1716	B	Spanish
RI	Providence	Rhode Island Tax Clinic, Inc.	401-421-1040	B	Spanish, Portuguese, Creole
	Providence	Rhode Island Legal Services, Inc.	401-274-2652	B	Spanish, Cambodian, Hmong, Laotian
SC	Greenville	South Carolina Legal Services	1-800-753-4825 864-679-3232	B	Spanish
	Columbia	South Carolina Association of Community Action Partnerships	1-888-722-4227 803-771-9404	E	Spanish
SD	Spearfish	Black Hills State University Foundation	605-390-4391	C	Spanish, Lakota

State	City	Organization	Public Phone Numbers	Type of Clinic	Languages Served in Addition to English
TN	Nashville	Conexion Americas	615-269-6900	E	Spanish
	Memphis	Memphis Area Legal Services, Inc.	901-523-8822 1-800-499-1602	B	Spanish, others through interpreter services
	Oak Ridge	Legal Aid Society of Middle Tennessee and the Cumberlands	865-483-8454 1-866-481-3669	B	Spanish, others through interpreter services
TX	Sugarland	Centro Familiar Cristiano, Inc.	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 Lawyer's Program	713-228-0735	C	Spanish, Urdu, Mandarin, Vietnamese
	El Paso	El Paso Affordable Housing Credit Union Service Organization	915-838-9608	E	Spanish
	Ft. Worth	Legal Aid of Northwest Texas	1-800-955-3959 817-336-3943	B	Spanish
	Austin	Texas Rio Grande Legal Aid, Inc.	1-888-988-9996	B	Spanish
	Lubbock	Texas Tech University	806-742-4312 1-800-742-8037	B	Spanish
	Bryan	Lone Star Legal Aid	1-800-570-4773 979-775-5050	B	Spanish, Vietnamese, others through interpreter services
UT	Provo	Centro Hispano	801-655-0258	B	Spanish, Portuguese
	Salt Lake City	University of Utah	1-888-361-5482 801-236-8053	B	Spanish
VA	Arlington	ECDC Enterprise Development Group	703-685-0510 x 257	B	Spanish, Amharic, Farsi, Vietnamese
	Richmond	The Community Tax Law Project	804-358-5855 1-800-295-0110	B	Spanish
	Lexington	Washington & Lee University	540-458-8918	C	Spanish
VT	Barre	Central Vermont Community Action Council, Inc.	802-479-1053	B	All languages through interpreter services
	Burlington	Vermont Legal Aid, Inc.	1-800-747-5022 802-863-5620	C	All languages through interpreter services
WA	Spokane	Gonzaga University	1-800-793-1722 509-313-5791	B	Spanish
	Seattle	University of Washington	206-685-6805 1-866-866-0158	B	Spanish, Russian, Vietnamese, Somali, Mandarin, Korean
WI	Milwaukee	University of Wisconsin-Milwaukee	414-229-3232 1-866-896-5482	C	Spanish
	Milwaukee	Legal Aid Society of Milwaukee, Inc.	414-727-5300	C	Spanish, American Sign Language
	Whitewater	University of Wisconsin-Whitewater Lubar School of Business	262-472-1293 1-877-899-5482	B	Spanish
	Wausau	Wisconsin Judicare, Inc.	1-800-472-1638 715-842-1681	B	Spanish, Hmong
WV	Morgantown	West Virginia University Research Corporation	304-293-7249 1-866-964-7249	C	All Languages through interpreter services
	Charleston	Legal Aid of West Virginia	1-866-255-4370 304-343-4481	B	Spanish, others through interpreter services
WY	Casper	Wyoming Free Tax Service	307-265-6917	C	Spanish
	Jackson	Latino Resource Center	1-888-310-6999 307-734-0333	B	Spanish

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Appendix V: FY 2012 TAS Operational Priorities

To meet its statutory mission as defined in IRC § 7803(c), the Taxpayer Advocate Service (TAS) developed three strategic goals and two strategic foundations to guide its leadership. TAS's three strategic goals are:

- Resolve taxpayer problems accurately and timely;
- Protect taxpayer rights and reduce taxpayer burden; and
- Become a known taxpayer advocacy organization.

The two strategic foundations defined by TAS are:

- Enhance TAS infrastructure to improve taxpayer interaction; and
- Sustain and support a fully-engaged and diverse workforce.

In support of these strategic goals and foundations, TAS identified 14 operational priorities. Operational priorities are short-term actions that aid the organization in achieving its mission.[329]

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.

- Operational Priority 2012-1 – In collaboration with the IRS, implement revised Operations Assistance Request (OAR) procedures in keeping with the Phase II OAR Study.
- Operational Priority 2012-2 – Define and develop alternative approaches to casework acceptance and assignment, including assignment of systemic burden cases to allow the IRS the opportunity to resolve issues first, so long as taxpayers are not harmed by the process.

329 The TAS mission: As an independent organization within the IRS, we help taxpayers resolve problems with the IRS and recommend changes that will prevent the problems.

- Operational Priority 2012-3– Implement a multi-modal Case Advocacy Customer Feedback System to allow for more robust and timely customer feedback and the sharing of best practices.

- Operational Priority 2012-4 – Provide new or updated advocacy tools and guidance to address emerging issues, *e.g.,* First-Time Homebuyer Credit, Adoption Credit, *etc.*

- Operational Priority 2012-5 – Develop, implement, and communicate TAS engagement protocols which establish what customers can expect from TAS and what TAS expects from its customers when addressing tax issues with the IRS.

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.

- Operational Priority 2012-6 – Proactively identify issues that may negatively impact taxpayer rights or burden; then using a tiered research approach, develop alternative advocacy approaches to address the external and internal impact of these issues (*e.g.,* research studies, advocacy projects, updated processing guidelines, *etc.*).

- Operational Priority 2012-7 – Strengthen taxpayers' understanding of their rights through the revision of Publication 1.

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.

- Operational Priority 2012-8 – Develop new tools and use new technology to conduct outreach, education, and research with the goal of expanding awareness of TAS services, with special emphasis on emerging issues and TAS's underserved population.

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.*

- Operational Priority 2012-9 – In collaboration with MITS and outside vendors, develop the requirements and security features for Taxpayer Advocate Service Integrated System (TASIS), an efficient and integrated information technology system.

- Operational Priority 2012-10 – Establish TAS protocol and archival procedures for TAS projects, task forces, and studies, including the establishment of a naming convention hierarchy for an organizational keyword database.

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.*

- Operational Priority 2012-11 – Establish a succession plan for TAS that leverages diversity and adequately meets the HR component of TAS's workload demands.

- Operational Priority 2012-12 – Develop and test a multi-year strategic training plan that allows the organization to forecast training needs and provides an opportunity for employees to reach their full potential.

- Operational Priority 2012-13 – Analyze the results of the 2011 all employee survey to identify areas and implement solutions where TAS can improve the quality of its employees' worklife.

- Operational Priority 2012-14 – Define, develop, and test organizational measures or diagnostics for Systemic Advocacy, Case Advocacy, LITC, and TAP.

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Appendix VI: TAS Performance Measures and Indicators

RESOLVE TAXPAYER PROBLEMS ACCURATELY AND TIMELY

Measure	Description	FY 2011 Target	FY 2011 Actual Cumulative Through March
Overall Quality of Closed Cases	Overall percent of sampled closed cases meeting timeliness, accuracy and communication standards. This is a composite of all four TAS case quality categories.	Baseline Year	Baseline Year
Accuracy	Percent of all cases where the taxpayer's problems are resolved completely and correctly throughout all stages of the case including action planning, involvement, resolution of actions, addressing of related issues, proper coding and case factor identification.	Baseline Year	Baseline Year
Technical Requirements	Percent of all cases where All actions taken by TAS and the IRS are worked in accordance with the tax code and IRM technical and procedural requirements.	Baseline Year	Baseline Year
Recourse/Appeal Rights	Recourse and/or applicable appeal rights explained if requested relief not provided.	Baseline Year	Baseline Year
Timeliness of Actions	Percent of all cases with timely actions taken when compared to the number of opportunities available in the case, including actions, contacts, managerial involvement, TAO consideration, documentation and case closure.	Baseline Year	Baseline Year
Accuracy	Percent of all cases where the taxpayer's problems are resolved completely and correctly throughout all stages of the case including action planning, involvement, resolution of actions, addressing of related issues, proper coding and case factor identification. This is a composite of Accuracy attributes A1-A10. Under the prior Quality Standard System (FY 2010 and prior), this was a composite of elements rated under Quality Standards 4-7 or were previously unmeasured.	Baseline Year	Baseline Year
Technical Requirements	Percent of all cases where all actions taken by TAS and the IRS are worked in accordance with the tax code and IRM technical and procedural requirements. Under the prior Quality Standard System (FY 2010 and prior, this was a composite of elements rated under Quality Standards 4-7 or were previously unmeasured.	Baseline Year	Baseline Year
Communication	Percent of all cases where TAS effectively communicates information; requests information; provides appropriate apology, explanation, education and complete/ accurate correspondence. Under the prior Quality Standard System (FY 2010 and prior), communication elements were rated under a variety of Quality Standards.	Baseline Year	Baseline Year
Error-Free Cases[287]	Percent of cases with no errors on any of the quality attributes that comprise the TAS case quality index.	Baseline Year	Baseline Year

Measure	Description	FY 2011 Target	FY 2011 Actual Cumulative Through March
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.	5.0%	4.4%
Customers Satisfied[288]	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%
Customers Dissatisfied[289]	Percent of taxpayers who indicate they are somewhat dissatisfied or very dissatisfied with the service provided by TAS (Question 12).	10%	12%
Solved Taxpayer Problem[290]	Percent of taxpayers who indicate the Taxpayer Advocate employee did their best to solve their problems.	89%	87%
Relief Granted[291]	Percent of closed cases in which full or partial relief was provided.	Indicator	75.2%
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	102
Median –Closed Case Cycle Time[292]	Median time taken to close TAS cases.	Indicator	65 days
Mean – Closed Case Cycle Time	Mean time taken to close TAS cases.	Indicator	91.2 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).	144.6	136.7
Closed Cases per Direct FTE	Number of closed cases divided by direct Case Advocate FTEs realized.	330.5	353.2

330 Measure is computed manually from data contained in the Quality Review Database (QRDB).

331 The second quarter FY 2011 survey results are not available. 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.

332 *Id.*

333 The second quarter FY 2011 survey results are not available.

334 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).

335 This indicator does not currently include the number of days of the small number of reopened cases. We are reviewing alternative computations that may permit inclusion of these cases.

PROTECT TAXPAYER RIGHTS AND REDUCE BURDEN

Measure	Description	FY 2011 Target	FY 2011 Actual Cumulative Through March
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.	96.7%	98.1%
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.	80.0%	73.4%
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 follow established guidelines, and outreach and education action taken when appropriate.	95.0%	98.4%
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.	7.0	4.8
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.	95.0%	95.7%
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.	70.0%	60%
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 follow established guidelines, and outreach and education action taken when appropriate.	88.0%	94.7%
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.	9.0	5.4

Measure	Description	FY 2011 Target	FY 2011 Actual Cumulative Through March
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.	98.0%	92.3%
Timeliness of ARC Deliverables[293]	Percent of milestones met on the National Taxpayer Advocate Annual Report to Congress (ARC).	Indicator	N/A 1st Quarter ARC Cycle
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 NTA Annual Report delivered on December 31, 2006.	Indicator	TAS will measure percentage of recommendations addressed by Congress or further pursued by TAS as of December 31, 2010. Thus, results will be available in 2011.
Number of Policy Issues Influenced Via IMD Reviews	Policy issues influenced due to TAS's Internal Management Document (IMD) review and feedback.	Indicator	228
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	87.5%

336 Tracking and reporting on the timeliness of key actions and deliverables for the 2010 ARC will commence during the first quarter FY 2011 and extend through the end of the first quarter FY 2012.

Measure	Description	FY 2011 Target	FY 2011 Actual Cumulative Through March
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	80.8%
Internal Customer Satisfaction Survey (CSS) Baseline Improvements (TBD)	Implement an internal CSS. (The FY 2009 Internal Customer Satisfaction Survey was administered in January and February. The results are currently being analyzed.)	Indicator	The FY 2010 Internal Customer Satisfaction Survey was administered in March.

SUSTAIN AND SUPPORT A FULLY-ENGAGED AND DIVERSE WORKFORCE

Measure	Description	FY 2011 Target	FY 2011 Actual Cumulative Through March
Employee Satisfaction[294]	Percent of employees who are satisfied or very satisfied with their job. (Question 39 on annual employee survey).	79%	
Employee Participation[295]	Percent of employees who take the survey.	88%	69%
Continuing Professional Education (CPE) Evaluation[296]	Percent of employees who are satisfied or very satisfied with annual CPE.	92%	97.5% (FY 2010)

337 TAS measures employee satisfaction annually based on the annual service-wide Employee Satisfaction Survey. Results for FY 2011 will not be available until August 2011.

338 TAS measures employee participation annually in the servicewide Employee Satisfaction Survey.

339 The results are for the FY 2010 TAS Annual CPE Symposium.

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Appendix VII: List of Advocacy Portfolios

Portfolio	Local Taxpayer Advocate Name	State/Office	Phone Number
Abusive Schemes	Gilchrist, L	South Dakota	605-377-1606
Accounts Management Tax Assurance Program (AMTAP)	Wess, D	Memphis Campus	901-395-1700
Adoption Credit	Halker, S	New Mexico	505-837-5522
Allowable Living Expenses	Spisak, J	New York (Manhattan)	212-436-1010
Amended Returns	Martinez, G	Texas (Dallas)	214-413-6520
Appeals: Nondocketed Inventory, Alternative Dispute Resolutions, Collection Due Process	Leith, J	Maryland	410-962-8120
Audit Reconsiderations	Martin, T	California (Sacramento)	916-974-5191
Automated Collection System (ACS)	Lombardo, L	Pennsylvania (Philadelphia)	215-861-1237
Bankruptcy Processing Issues	Mettlen, A	Pennsylvania (Pittsburgh)	412-395-6423
Business Master File (BMF) Information Reporting and Document Matching	Polson, R	Ogden Campus	801-620-3000
Centralized Lien Filing/Releases, Federal Tax Liens including Release, Withdrawal, Subordination, and Discharge	Johnson, D	Cincinnati Campus	859-669-4013
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 James, G Martin, B Simmons, M Hensley, D Crook, T Tehrani, B Thompson, T	Virginia, Hawaii, Tennessee, New Hampshire, Oklahoma, Florida (Ft. Lauderdale), New York (Brooklyn) Montana	804-916-3500 808-566-2927 615-250-6015 603-433-0753 405-297-4139 954-423-7676 718-488-3501 406- 441-1044 Ext. 222
Correspondence Exam	Blinn, F	Indiana	317-685-7799
Customer Account Data Engine (CADE)	Logan, A	Oregon	307-633-0881
Designated Federal Official (DFO) - Taxpayer Advocacy Panel (TAP)	Curran, D	California (Los Angeles)	213-576-3016
DFO – TAP	Adams, M	Kansas	316-352-7505
DFO – TAP	Thompson, T	Montana	406-441-1044
DFO – TAP	Juncewicz, T	North Carolina	336-378-2141
DFO – TAP	Wess, D	Memphis Campus	901-395-1700
DFO – TAP	Fett, B	Vermont	802-859-1056
DFO – TAP	Browne, R	Georgia	404-338-8085
Disaster Response and Recovery	Washington, J	Mississippi	601-292-4810
Domestic Violence Tax Related Issues	Davis, S	Ohio (Cleveland)	216-522-8241

Portfolio	Local Taxpayer Advocate Name	State/Office	Phone Number
E- Services	Todaro, T	California (Oakland)	510-637-3068
Earned Income Tax Credit (EITC) Compliance	Harrison, M	New Jersey	973-921-4376
EITC: Outreach, Education, Financial Literacy low income	Campbell, D	Kentucky	502-572-2201
Electronic Tax Administration (ETA)	Martin, B	Tennessee	615-250-6015
Employment Tax Policy	Garvin, W	Delaware	302-286-1545
Examination Strategy	Revel-Addis, B	Florida (Jacksonville)	904-665-0523
Exempt Organization (EO) Education and Outreach	Guinn, P	Missouri	314-612-4371
Farming Income	Kenyon, M	North Dakota	701-237-8299
Federal Payment Levy Program, Paper Levies	Westbrook, R	District of Columbia	202-874-7203
First-Time Homebuyers Credit	Lucas, D	Texas (Houston)	713-209-4781
Forms 2848 Powers of Attorney (POA)	Hawkins, D	Alabama	205-912-5634
Health Care I (Individual)	DeTimmerman, P	Iowa	515-564-6880
Health Care II (Business)	Taylor, S	Illinois (Chicago)	312-566-3801
Identify Theft	Fuentes, B	Brookhaven Campus	631-654-6687
Identity Theft - Identity Protection Specialized Unit (IPSU)	Benoit, F	Andover Campus	978-474-9560
Indian Tribal Government Issues	Wirth, B	New York (Buffalo)	716-686-4820
Individual Master File (IMF) Information Reporting and Document Matching	McClendon, L.	Atlanta Campus	770-936-4543
Individual Taxpayer Identification Number (ITIN) Outreach	Blount, P	Michigan	313-628-3664
Injured Spouse	Post, T	West Virginia	304-420-8695
Innocent Spouse Relief: IRC § 6015	Knowles, J	Idaho	208-387-2827 ex 272
Installment Agreements: Processing	Hough, C	Wyoming	307-633-0881
International Taxpayers	Vargas, C	Puerto Rico	787-622-8950
IRS Policies Affecting Financially Distressed Taxpayers	Hensley, D	Oklahoma	405-297-4139
Levy [Hardship determination linked to release of levy]	Wilde, B	Arkansas	501-396-5820
Low Income Taxpayer Clinics (LITC)	Lewis, C	Louisiana	504-558-3468
Mail Services, Accessing Taxpayer Files	Todd, G	Kansas City Campus	816-291-9001
Math Errors	Sonier, G	South Carolina	803-765-5300
Military Issues	Douts, K	Alaska	907-271-6297
Multilingual Initiative (MLI)	Rolon, J	Texas (Austin)	512-499-5970
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	215-516-2525

Portfolio	Local Taxpayer Advocate Name	State/Office	Phone Number
Penalties	Bates, P	Illinois (Springfield)	217-862-6348
Preparer Penalties	Greene, S	New York (Albany)	518-427-5412
Returned/Stopped Refunds	Johnson, B	Wisconsin	414-231-2391
Seizure and Sale - Foreclosures on Equity	Crook, T	Florida (Ft. Lauderdale)	954-423-7676
Tax Forums - Case Resolution Program	Sawyer, M	Fresno Campus	559-442-6418
Tax Forums - Case Resolution Program	Adams, C	California (Laguna Nigel)	949-389-4790
Taxpayer Assistance Centers	Mezger, W	Washington	206-220-5704
Taxpayer Compliance Behavior	Halker, S	New Mexico	505-837-5522
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
Withholding Compliance	Murphy, M	Arizona	602-636-9503

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Appendix VIII: Earned Income Tax Credit Case Review Team Report

Summary

Each year, Case Advocacy undertakes Issue Reviews to identify trends in casework that may help offices improve their advocacy on different issues. For several reasons, TAS leadership determined in FY 2010 to focus the Issue Review on ways to improve advocacy in TAS Earned Income Tax Credit (EITC) cases. First, there has been a relatively low relief rate of 47 percent in TAS EITC cases, compared with 73 percent in TAS cases overall.[340] Second, in 2004, the National Taxpayer Advocate conducted a study in cooperation with the IRS to study the impact of determining whether additional contacts and interaction with the taxpayer improved the chances of taxpayers receiving the EITC during audit reconsideration.[341] The study had numerous important findings about approaches the IRS could use to increase the likelihood of taxpayers receiving the EITC to which they are entitled, including:

- Increased telephone usage to engage taxpayers;
- Providing taxpayers assistance in securing documentation; and
- Improving communication with taxpayers during the initial audit.[342]

TAS-EITC cases were selected for the FY 2010 Issue Review to determine if the level of communication and assistance given to these taxpayers impact TAS relief rates, and if so, whether TAS should make changes to TAS procedures or training.

Based on the relatively high percentage of TAS-EITC No Relief cases closed as "No Relief/No Response," TAS leadership focused its efforts on those cases in which TAS closed its

340 TAS EITC relief (including full relief and partial relief) has averaged 47 percent over FY 2008, FY 2009, and FY 2010 as compared with overall TAS relief rates of 73 percent over that same period. Data obtained from TAMIS.

341 The study determined that: 45 percent of EITC claimants working with TAS recovered EITC benefits, whereas only 40 percent working with Exam obtained EITC benefits; the taxpayers working with TAS received 46 percent of the EITC dollars originally claimed on their returns, whereas those taxpayers working with Exam retained 38 percent of EITC benefits claimed; in 40 percent of cases, difficulties with IRS documentation requirements were identified as the reason taxpayers had to seek EITC audit reconsideration; 70 percent of the EITC audit reconsideration cases came to TAS for assistance because the taxpayers had not heard from Exam concerning their audit. National Taxpayer Advocate 2004 Annual Report to Congress vol. 2, 1-10 (*EITC Audit Reconsideration Study*).

342 National Taxpayer Advocate 2004 Annual Report to Congress vol. 2, 10-11 (*EITC Audit Reconsideration Study*).

case for failure of the taxpayer to respond.[343] In FY 2009, 79 percent of the EITC cases closed as "No Relief" were closed as "No Relief/No Response."[344]

A team consisting of TAS Research, TAS Technical Advisors, Area and Local Analysts, the EITC Portfolio Advisor, and members from the EDCA staff performed the EITC Case Review. Working with TAS Research, a statistically valid sample of 400 closed TAS-EITC No Relief/No Response cases were identified for the review.[345] With the assistance of TAS Research, the team established a data collection instrument (DCI) to collect certain information about the cases, such as:

- What part of the EITC requirements under the law were at issue in the cases?
- Was phone or in-person contact established with the taxpayer? If so, on how many occasions?
- Did the Case Advocate use all of the information internal to the IRS which was available, *i.e.*, did the Case Advocate use the RGS system?
- What was the primary issue in the case?
- Did the IRS or TAS ask for information from the taxpayer which was not needed, *i.e.*, not necessary to resolve the case or already in possession of the IRS?
- Did TAS effectively advocate for the taxpayer and were the case closure actions correct?
- Do TAS EITC training materials adequately address advocating for EITC taxpayers?

For additional information on the methodology of this Case Advocacy Issue Review, please see *Attachment A.*

Key Findings

A summary of the key findings upon review and analysis of the TAS-EITC No Relief/No Response cases is below:

343 The TAS IRM permits closure when additional information from the taxpayer or representative is required because the information is not available through internal sources, and two attempts have been made (the second must be in writing) to obtain the information or documents. The second attempt letter must include a due date for receipt of the information allowing at least five workdays for receipt. If there is no response to the Case Advocate's second request within a reasonable amount of time, the case may be closed. IRM 13.1.21.1.3.19 (Feb. 1, 2011).

344 TAS Relief code 52 designates a case as No Relief/No Response when the taxpayer has not responded to the Case Advocate within designated time frame. The other codes are: 50 - No Relief - Relief appropriate but law prevents; 51 - No Relief - Hardship not substantiated; 52 - No Relief - No response; 53 - No Relief - BOD/Function already provided relief; 54 - No Relief - TP withdraws relief request; 55 - No Relief - No Internal Revenue Law Issue; and 56 - No Relief – Other.

345 TAS Research provided assistance to the Issue Review Team in identifying and selecting a statistically valid sample size of 400 cases for the review. Of the 400 cases, 16 cases files could not be located and were removed from the sample. TAS Research approved use of 384 cases as a sample. The files of the sample cases identified for the review were forwarded to the review site in the Baltimore office. 344 cases were actually reviewed because of miscoding. The 95 percent confidence interval has a margin of error of plus or minus 5.3 percent.

- In 90 percent of the cases reviewed, the primary issue raised by the IRS involved either the Relationship Test or the Residency Test under the uniform definition of a "qualifying child." [346]

- In 70 percent of the cases with a qualifying relationship (where the relationship is known), the relationship was other than just the taxpayers' children; rather, it was another relationship, such as niece, nephew, *etc.*

- In only eight percent of the cases where the Relationship Test was at issue, the relationship failed the definition of a Qualifying Child.

- In 38 percent of the cases, TAS had no direct phone contact with the taxpayer. In an additional 37 percent of the cases, there was only one direct phone contact. In other words, in over 75 percent of these cases, there was either no telephone contact or only one contact with the taxpayer.

- Although the Case Advocate attempted to make the initial contact by phone in 79 percent of the cases, phone contact was only successful in 45 percent of the cases.

- In 24 percent of the cases, there was no indication that the Case Advocate secured Reports Generation System (RGS) prints to determine IRS actions. In 14 percent of the cases where RGS was secured, TAS did not request the correct documentation or requested unnecessary information.

- In ten percent of the cases, there was information available in the case file with which the CA could have attempted to advocate for the taxpayer.

- In six percent of the cases, the EITC was actually allowed after the case was closed in TAS.

- In 98 percent of the cases, the TAS office that handled the case was in a TAS Campus operation, as opposed to a local TAS office.

Recommendations

1. Require a minimum number of telephone call attempts on EITC cases, and increase the number of days allowed for taxpayers to provide the documentation. Generally, Case Advocates are following IRM 13 guidelines on the number of contacts required on a TAS case. Two attempted contacts within a five-day waiting period constitute the minimum number of contacts and waiting period before TAS advocates are permitted to close a case.[347]

346 Pursuant to IRC § 152(c), the Relationship Test requires that the child be the taxpayer's child (including an adopted child, stepchild, or eligible foster child) or a descendant or the taxpayer's brother, sister, half brother, half sister, stepbrother, stepsister, or descendant of one of these relatives; and the Residency Test requires that the qualifying child must live with the taxpayer for more than half of the tax year. Exceptions apply for temporary absences for special circumstances such as illness, school attendance, vacation, and detention in a juvenile facility. There are also special rules for children who were born or died during the year, children of divorced or separated parents, and kidnapped children.

347 IRM 13.1.21.1.3.19 (Feb. 1, 2011).

2. Test for use of Information Systems in EDCA and Area Operational Reviews. Use of systems like RGS can identify what information the IRS already has from the taxpayer so that we do not needlessly burden the taxpayer with unnecessary document requests.

3. TAS should infuse its training material with advocacy training, include more details in case examples, ensure OARs reflect advocacy, and emphasize the use of Technical Advisors. Because the review also found that TAS campus sites work 98 percent of EITC cases, extra emphasis on training should take place at the campuses.

4. Establish a cross-functional TAS group to develop templates to use in TAS-generated letters that provide a clear explanation on the documentation needed to support the EITC credit and communicate the role of TAS in advocating for the taxpayer.

5. Conduct a second phase of this study to include the review of "relief" and "partial relief" EITC cases for comparison purposes and to identify any best practices that resulted in a positive outcome for the EITC taxpayer.

Background

In FY 2010, TAS leadership commissioned a team to review EITC cases closed in TAS as No Relief/No Response closures. The purpose of the review was to identify trends in casework that may help TAS offices improve their advocacy on EITC cases.

As reflected in Table 1 below, TAS relief rates for EITC cases are below the TAS average relief rate of 73 percent and are lower than the relief rates of any of the other high frequency issues within TAS. Table 1 reflects that EITC relief rates were 46 percent for FY 2009, whereas the next lowest relief rate was 63 percent for levies and 67 percent for Criminal Investigation cases.

TABLE 1, RELIEF RATES TOP ISSUES FOR TAS RECEIPTS IN FY 2009

All TAS Issues	Closures	Relief Rate
Processing Amended Return	19,727	79.2%
Levies	17,726	63.0%
Other Refund Inquiry and Issue	15,101	78.6%
Stolen Identity	13,955	78.6%
EITC	**13,942**	**46.1%**
Criminal Investigation	12,903	67.4%
Injured Spouse Claim	12,810	85.6%
Reconsideration of Audits[348] and Substitute for Return Prepared under IRC § 6020(b)[349]	11,844	68.1%
Expedite Refund Request	11,292	70.0%
Processing Original Return	10,014	77.9%

TAS Business Objects data also reflect that Case Advocates close most of the TAS-EITC No Relief cases using the "No Response" code, meaning the taxpayer did not respond within the Case Advocate's designated timeframe. Table 2 reflects that Case Advocates closed 5,376 cases, or approximately 79 percent, of the 6,836 TAS EITC cases with an affirmative IRC § 7811 Determination as "No Response."

TABLE 2, BREAKDOWN OF NO RELIEF CODES (RC) FOR TAS EITC CASES CLOSED IN FY 2009

Area Offices	RC 50	RC 51	RC 52	RC 53	RC 54	RC 55	RC 56	Total EITC Cases in FY 2009
Area 1	6	4	**1,206**	75	25	6	112	1,434
Area 2	1	6	**488**	29	12	7	78	621
Area 3	2	3	**747**	94	32	2	135	1,015
Area 4	1	2	**496**	27	25	2	83	636
Area 5	4	2	**1,634**	96	64	6	281	2,087
Area 6	2	0	**55**	10	7	1	16	91
Area 7	0	7	**750**	31	22	3	139	952
Total	16	24	**5,376**	362	187	27	844	6,836
% of Total	0.2%	0.4%	**78.6%**	5.3%	2.7%	0.4%	12.3%	100.0%

348 Audit reconsideration is the process the IRS uses to reevaluate the results of a prior audit where additional tax was assessed and remains unpaid, or a tax credit was reversed. IRM 21.5.10.4.3 (Oct. 1, 2010).

349 IRC § 6020(b) allows the IRS to prepare a return on behalf of the taxpayer based on its own knowledge and other data.

Table 3 below demonstrates that the EITC core issue code has the second highest volume of re-open cases.[350]

TABLE 3, FY 2009 TOP FIVE REOPEN ISSUES BY VOLUME

Core Issue	CaseReceipts	Reopens by Volume	Reopens by % of Receipts	% Reopened Due to Taxpayer Response
Identify Theft	14,023	821	5.85%	78.7%
EITC	**13,475**	**604**	**4.48%**	**89.1%**
Reconsideration of Audits and Substitute for Return Prepared under IRC § 6020(b)	11,488	599	5.21%	75.5%
Levies	18,153	544	3.00%	68.8%
Processing Amended Returns	19,939	473	2.37%	66.0%

Additionally, 89.1 percent of the re-opened EITC cases were re-opened as a result of the taxpayer providing additional information.

RESULTS OF EITC ISSUE REVIEW

Using the background information outlined above, the team attempted to address the following issues:

- What are the characteristics of the No Relief/No Response EITC case?
- Does TAS use internal Information to advocate for the taxpayer?
- What are TAS's efforts to communicate with the taxpayer?
- Did TAS effectively advocate for the taxpayer, and were the case closure actions correct?
- Do TAS EITC training materials adequately address advocating for EITC taxpayers?

Issues Addressed from Analysis of No Relief/No Response EITC Cases

Analysis of the information from a sample of TAS EITC No Relief/No Response Cases provided the information below.

TAS Campuses Perform Most of the EITC Work

TAS campus sites worked 98 percent of the sample cases, as reflected in Table 4 below.

350 Data obtained from TAMIS.

TABLE 4 - LOCATION OF TAS OFFICE THAT WORKED CASE

Location	# of Cases	Percentage
Andover Campus	36	11%
Atlanta Campus	48	14%
Austin Campus	33	10%
Brookhaven Campus	31	9%
Cincinnati Campus	12	3%
Fresno Campus	58	17%
Kansas City Campus	67	19%
Memphis Campus	23	7%
Philadelphia Campus	28	8%
7 Local TAS Offices	7	2%

A Majority of the Cases Satisfy Hardship Criteria

As Table 5 demonstrates below, a majority of the cases meet hardship criteria.

TABLE 5, CRITERIA CODE

Location	# of Cases	Percentage of Total
1	124	36%
2	31	9%
3	7	2%
4	14	4%
Total 1 – 4 (Economic Burden)	176	51%
5	71	21%
6	37	11%
7	60	17%
Total 5 – 7 (Systemic Burden)	168	49%

Most of the Cases Involved Either the Relationship Test and the Residency Test

Of the cases reviewed, 73 percent of the cases involved the Relationship Test, while 81 percent of the cases involved the Residency Test. Thus, there was considerable overlap between cases that involved both.

Of those cases where a relationship was identified:[351]

- 24 percent of the relationships included the child of the taxpayer only;
- Eight percent of the relationships did not include a relationship that would qualify for EITC, i.e., girlfriend's children, boyfriend's children; and

351 The type of relationship was identified in 221 of the cases where the relationship was an issue. In 31 cases, where the relationship was an issue, the relationship was unknown.

- 70 percent of the cases included the following *qualifying* relationships (where the relationship is known):
  - brother/sister;
  - niece/nephew;
  - grandchildren;
  - stepdaughter/stepson; or
  - foster children.

The fact that 70 percent of the *qualifying* relationships include a relationship other than the child of the taxpayer increases the complexity of the documentation required to substantiate the relationship of a qualifying child. Documentation can include multiple birth certificates and letters from schools and rental offices. To effectively advocate for the taxpayer, TAS must effectively communicate the documentation necessary to support the EITC claim.

TAS Can Improve Use of IRS Internal Information (RGS/CEAS)

TAS Case Advocates have various tools available to gather information to effectively advocate for taxpayers who are or were involved in an EITC Exam. The Reports Generation System provides a history of the actions taken when the case involves a Field Office audit. The Correspondence Examination Automated Report System (CEAS) provides a history of the actions taken during the campus EITC audit. This Issue Review captured the use of these systems.[352]

In 47 percent of the cases reviewed, the Compliance office received correspondence, and in 83 percent of these cases, the examination process considered the correspondence. This information can help determine any additional documentation required and advocate for the taxpayer when correspondence submitted was not considered. In addition, the Case Advocate can request the paper Examination papers to also determine the actions by the Compliance function.

In 24 percent of the cases, the Case Advocate failed to research RGS/CEAS.[353] When the RGS print was secured, the information was sufficient to determine the actions taken during the audit. In 14 percent of the cases in which the Case Advocate secured the RGS print, the Case Advocate did not request the correct documentation or requested unnecessary information.

352 The DCI included the following questions:

- Was RGS/CEAS used by the Case Advocate?
- Based on the information in the case history, was RGS/CEAS sufficient to identify the audit issues?
- Using the available RGS/CEAS information, did the CA request the correct information from the taxpayer?

Prior to the review, the case files were reviewed to determine if the RGS/CEAS print or a copy of the administrative file was in the case file. If not, the information was requested and included in the review of the case. The reviewers used this information to address the above questions.

353 This percentage increases to 32 percent when including the "unable to determine" responses.

The reviewers participating in this review determined that the administrative file was only needed in 11 percent of the cases and was requested in over 60 percent of the cases where it was appropriate. Again, the greatest opportunity for improvement is in the appropriate use of RGS/CEAS information.

TAS Can Improve Telephone Contact Procedures

The review also captured TAS's attempt to contact the taxpayer.[354] Review results indicate that a telephone number was available in 97 percent of the cases. Review results indicate that the Case Advocates attempted to make the initial contact by telephone in 79 percent of the cases. Case Advocates made actual telephone contact on the initial contact attempt with 45 percent of the taxpayers. In the remaining cases, the initial contact occurred by letter.

There was no indication of undelivered mail in 95 percent of the cases. The number of TAS cases with undelivered mail is consistent with the number of these cases closed with DC 13 (undelivered mail) during the Examination process. Examination used the DC 13 closing code in five and one-half percent of the sample cases closed.

The review also focused on the total number of direct telephone contacts on each case. The results are reflected in the table below:

TABLE 6, TOTAL NUMBER OF PHONE CONTACTS PER CASE

Total # of Phone Contacts	Percentage of Cases[355]
No telephone contacts	38%
1	37%
2	13%
3	6%
4	2%
5 or more	3%

In 38 percent of the cases, there was no direct phone contact with the taxpayer. Only one phone contact with the taxpayer occurred in 37 percent of the cases. Thus, in 75 percent of cases, there was no phone contact or only one phone contact. This presents the greatest improvement opportunity identified in this review.

In 34 percent of the cases in which the initial contact occurred by telephone, the Case Advocate also sent a follow-up letter to the taxpayer summarizing the telephone conversation.

354 The DCI included the following questions:

- Was the initial contact attempt by telephone?
- How many times was the initial contact by telephone successful?

355 Table may not add to 100 percent due to rounding.

TAS Can Improve Quality of EITC Correspondence

In 93 percent of the initial contact letters, the Case Advocate included a description of documentation needed. The quality of these letters varied. It was noted that Case Advocates often prepare a cover letter and attach a version of Form 866-H, advising the taxpayer to submit the documentation specified on this form. The team concluded that there is opportunity for improvement in the quality of TAS written communications on EITC cases.

Since the majority of communications in the cases reviewed occurred through correspondence, it is critical that correspondence is accurate and maintains the tone of an advocacy organization.

There were several general observations that include:

- TAS employees often attach a version of the Form 866-H (Explanation of Items Needed) to a cover letter and advise the taxpayer to provide documentation as outlined on Form 866-H. This is the same form letter that the taxpayer receives during a compliance audit. The TAS letter should be written from an advocacy approach rather than using the same language as Compliance. In cases in which the Case Advocate did not attach the actual form, he or she used the wording from Form 866-H in the TAS letter.
- Letters are not personalized to include information available in the file. For example, if birth certificates are needed and the name of the qualifying child was available, the letter did not acknowledge the name of the child, the relationship, or the birth certificates needed to show the relationship.
- The tone in some letters was not appropriate for an advocacy organization.

Table 7 below illustrates the frequency of letters sent on EITC cases.

TABLE 7, NUMBER OF LETTERS SENT

# of letters sent	Frequency	Percent
0	13	3.8%
1	89	25.9%
2	186	54.1%
3	38	11.0%
4	12	3.5%
5-7	6	1.8%

In 26 percent of the cases, the taxpayer received at least one letter from TAS, with the average being two letters.

TAS Median Amount of Time for Taxpayers to Substantiate Claim Is Between 14-15 Days

The review also focused on the number of calendar days TAS allows the taxpayer to provide documentation. The following table illustrates the average number of days for the first, second, and third letters and also shows the percentage of letters in which the taxpayer received less than 14 days to respond:

TABLE 8, MEDIAN NUMBER OF DAYS ALLOWED FOR TAXPAYER RESPONSE

Letters	Median # of days	% of cases where less than 14 days were allowed
1st letter	15	24%
2nd letter	14.5	26%
3rd letter	14	8%

Overall, documentation received resulted in OARs issued on only 22 percent of the cases reviewed. Based on the complexity of the documentation needed, this may not be a sufficient amount of time.

In Ten Percent of Cases, Information Was Available in the Case File for Case Advocates to Successfully Advocate for the Taxpayer

Another purpose of this review was to determine if TAS fully advocated for the taxpayers.[356]

TABLE 9, REASONS WHY CASE CLOSED AS NO RESPONSE

Reason	% of Cases
No documentation received	66%
Incomplete documentation received	19%
Same information already considered by Exam	5%
Other	10%

In ten percent of the cases, there was information available to advocate for the taxpayer to resolve the cases. In three cases, the Case Advocate should have considered a TAO.

TAS Training Material Can Be Infused with Advocacy Training, Case Examples Can Be More Detailed, OARs Should Reflect Advocacy, Technical Advisors Should Be Consulted, and Training on EITC Disallowance Should Be Provided

356 The DCI also included the following questions to measure whether TAS missed an opportunity to advocate for the taxpayer:

- Was there information available to advocate for the taxpayer?
- Should a TAO have been considered?

The team reviewed the following TAS training materials that address EITC cases:

- Case Advocate Training, Phase I Case Processing for Case Advocates Student Guide 20219-102 (2-09);
- Case Advocate Training, Phase I Examination Issue for Case Advocates 21000-102 (2-2010);
- Taxpayer Advocate Service Case Advocate Training Phase I, Accounts Issues for Case Advocate Student Guide 20999-102 (4-09);
- Taxpayer Advocate Service - Case Advocate Training, Phase I - Collection Issues for Case Advocate Student Guide 21001-102 (3-10); and
- TAS FY 2008 Symposium Workshop Material on Intermediate Earned Income Tax Credit and Individual Filing Requirements.

Overall, the training material can be improved to include additional training on how to advocate for a taxpayer trying to get the EITC.

Case Examples Can Be More Detailed

The case examples are all basic examples of a taxpayer trying to substantiate the EITC after it has been disallowed. Case examples that are more detailed and reflect the more diverse types of EITC cases that the Case Advocates see in TAS would assist Case Advocates in advocating for these taxpayers. For instance, there should be examples about a grandmother or other relative trying to substantiate the EITC for the children living with them or about a taxpayer who cannot get all the documentation to support the EITC and how the Case Advocate can explore different alternatives to assist the taxpayer in substantiating the EITC.

Contact with Taxpayers Needs to Be Stressed

There are no sections in the training material that stress the importance of telephone contact with EITC taxpayers. For example, in the *Case Advocate Training, Phase I Case Processing for Case Advocates Student Guide 20219-102 (2-09)*, guidance states that *"if you do not hear back from the taxpayer or receive the information requested by the date given, to send TP a letter giving the TP 12 days to provide the information."* This example leads the Case Advocate to believe that he or she should make the second contact by letter and does not encourage the Case Advocate to attempt another telephone call.

Emphasize Researching Case Using IRS Information

The discussion of "identifying EITC issues" talks about using IDRS to determine what the EITC issue is and also states that the taxpayer should be asked to furnish a copy of

the examination report. Only if the taxpayer cannot furnish the examination report does the lesson state that the TAS employee should secure RGS information. While IDRS will indicate whether there is an open Exam, the taxpayer needs audit reconsideration, or the issue is recertification, IDRS will not indicate "why" EITC was disallowed. Securing RGS/CEAS information first and looking at the actual work papers (not just the explanation of items that is part of the audit report) should give a clear understanding of what was previously provided, why the information was insufficient, and what is still needed. The Case Advocate can then discuss this information with the taxpayer and provide suggestions at the very beginning of the case concerning alternate sources of documentation.

Technical Advisors and EITC Disallowance

Additionally, if the Case Advocate is unsure of what the taxpayer should provide or whether the taxpayer qualifies for the EITC, the training material should encourage the Case Advocate to seek assistance from a Technical Advisor. None of the training material explains how to work a case involving a Form 8862, *Information to Claim Earned Income Credit After Disallowance.*

OARs for EITC

The training material did not provide a good explanation or example of how the Case Advocate should write an OAR to effectively advocate for the taxpayer on an EITC issue. One example stated the following:

> "If after your review you agree with TAS recommendation, please input the adjustment to reflect the figures on the amended return."

This is not an effective statement to advocate for the taxpayer. The training material should address how to build a strong OAR to secure the maximum EITC for the taxpayer. The OAR should address why the taxpayer is entitled to the EITC based on the documentation provided.

Overall, the team concluded that TAS should enhance its training material to address advocating for a taxpayer with an EITC issue. Also, the training should include case studies providing examples of the types of EITC issues worked in TAS.

Results of Focus Group Interview with Reviewers

At the completion of the review, the Director of Field Systemic Advocacy conducted a focus group discussion on issues identified during the review that may not have been covered in the completion of the DCI. A summary of the group's observations is as follows:

- It is not enough that the Case Advocates have access to the RGS/CEAS systems. They need to know how to use the information to advocate for the taxpayer. Case Advocates are requesting information from the taxpayer by sending the Form 886-H without analyzing the information on RGS/CEAS to focus the request on the specific documentation needed to substantiate the EITC. Use of CEAS at the Campus office is extremely important because it is the primary way of knowing what actions Campus Examiners have taken on the case.

- Reviewers commented that a trend identified was an initial unsuccessful telephone contact attempt, followed by two consecutive letters and then the case closure. They also noted an inconsistency in the time allowed for taxpayers to respond.

- Letters are not tailored to the specific taxpayer circumstances and do not address the unique role of TAS in advocating for the taxpayer.

- Additional training is needed on the qualifications for EITC, Head of Household filing status, and the dependent exemption. Additional training is also needed in explaining Appeal Rights.

- There was minimal Technical Advisor involvement in these cases.

Conclusion

The FY 2010 EITC Case Review demonstrates that there are opportunities for TAS to improve its advocacy for EITC claimants. The National Taxpayer Advocate's 2004 EITC Audit Reconsideration Study highlighted the importance of additional phone or in-person contacts to ensure that taxpayers receive the EITC benefits to which they are entitled. In TAS, most EITC No Relief cases involve closures due to No Response. However, with the median time given to these taxpayers to substantiate their claims being 14 days, it is not clear that TAS provides taxpayers enough time to prove the complex matters at issue. This is particularly so when a strong majority of the cases (70 percent) involve non-traditional relationships, *i.e.,* relationships other than a child of the taxpayer. Given the importance of personal contact with taxpayers, the fact that in 75 percent of the cases there was only one or no phone contact with the taxpayer, TAS leadership should consider specifically emphasizing phone contact with EITC taxpayers through guidance. Given the high percentage of correspondence contacts, TAS should work on improving correspondence guidance to EITC claimants. TAS should also consider guidance that requires TAS to use RGS and other internal IRS information systems in these cases.

The recommendations below are designed to achieve these ends.

Recommendations

1. Require a minimum number of telephone call attempts on EITC cases and increase the number of days allowed for taxpayers to provide the documentation. Generally, Case Advocates are following IRM 13 guidelines on the number of contacts required on a TAS case. Two attempted contacts with a five-day waiting period constitute the minimum number of contacts and waiting period before TAS advocates are permitted to close a case.

2. Test for use of Information Systems in EDCA and Area Operational Reviews. Use of systems such as RGS can identify information the IRS already has from the taxpayer so that we do not needlessly burden the taxpayer with unnecessary document requests.

3. TAS training material should be infused with advocacy training, case examples should be more detailed, OARs should reflect advocacy, and use of technical advisors should be emphasized. In light of the fact that the review also detected that 98 percent of TAS EITC cases are worked at TAS campus sites, extra emphasis on training should take place at the campus sites.

4. Establish a cross-function TAS group to develop templates to use in TAS-generated letters that provide a clear explanation on the documentation needed to support the EITC credit and communicate the role of TAS in advocating for the taxpayer.

5. Conduct a second phase of this study to include the review of "relief" and "partial relief" EITC cases for comparison purposes and to identify any best practices that resulted in a positive outcome for the EITC taxpayer.

Attachment A

METHODOLOGY

TAS Research provided assistance to the Issue Review Team in identifying and selecting a statistically valid sample size of 400 cases for the review. Three hundred eighty-four case files of the 400 cases identified for the review were located and forwarded to the review site in the Baltimore office.

Prior to the review, each case file was reviewed to ensure that all necessary information was in the file. This included RGS prints, administrative files, and IDRS prints. If the information was not in the file, the information was requested prior to the review so the review team would have comprehensive information on the case.

The case review team developed a data collection instrument (DCI). The DCI was tested using a subset of the same cases and perfected prior to the actual case review by nine members of the review team. Prior to the review, a meeting was conducted to go over the DCI and definitions to ensure consistency. At the completion of the case reviews, the DCIs were forwarded to TAS Research for consolidation and analysis. A focus group interview was conducted with the reviewers at the completion of the review, and their observations are included in this report. TAS Research consolidated the review results and provided frequencies and other summary statistics.

The first question on the DCI asked whether the case was properly coded as EITC. The reviewers determined that ten percent of cases were not true EITC cases, and they were excluded from the rest of the case review. This reduced the final number of cases to 344.[357]

357 Breakdown by PIC: PIC 630 - 75 percent; PIC 639 - eight percent; PIC 640 - seven percent. Fifteen cases included in the sample actually involved the filing of an amended return to claim the EITC credit. The amended return was pulled for examination. Since these cases involved an EITC issue, the 15 cases remained in the case sample.

Appendix IX: Systemic Advocacy Measures Memorandum

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

March 22, 2011

MEMORANDUM FOR DEPUTY NATIONAL TAXPAYER ADVOCATE,
EXECUTIVE DIRECTOR SYSTEMIC
ADVOCACY, EXECUTIVE DIRECTOR CASE
ADVOCACY, SENIOR ADVISOR TO NTA, AND
SENIOR ADVISOR TO NTA - RESEARCH

FROM: Nina E. Olson
National Taxpayer Advocate

SUBJECT: Systemic Advocacy Measures

Measuring the effectiveness of the Taxpayer Advocate Service's (TAS) is a significant challenge, not least because systemic problems do not lend themselves to "unit" measurement and TAS usually has no direct control over whether any of our recommendations are actually implemented. Moreover, by design and by statute, systemic advocacy is the responsibility of all TAS employees. Although the Office of Systemic Advocacy (SA) is responsible for coordination of various aspects of TAS's systemic advocacy efforts, and Field Systemic Advocacy (FSA) works many of TAS's systemic advocacy projects, other TAS personnel have a responsibility to identify and work on systemic issues. Therefore, any measures of TAS systemic advocacy initiatives cannot be designed to solely measure the performance of a particular TAS office (*e.g.,* the Office of Systemic Advocacy). Instead, the suite of measures should be designed to reflect the performance of TAS as a whole with respect to advocating for systemic improvements and change.

In developing these measures, there are several key stages of activity that, when properly measured, will let the National Taxpayer Advocate and other TAS executives know whether TAS is doing a good job in systemic advocacy and help us identify areas for performance improvement. Although each of these is discussed in greater detail below, they are:

- Issue Identification: Are we identifying the correct issues? Is TAS conducting the appropriate outreach to employees, taxpayers, and other stakeholders, as well as self-directed research? Do we have an appropriate tracking and ranking system once issues are identified, and are we using the correct factors to select the most significant issues (however defined) for review? What is the review process for issue selection, and does it include a diversity of skills and perspectives? Finally, do we have an adequate method of tracking issues so that we are able to manipulate and perform research on the issue database itself? That is, are our systems and work processes designed to enable us to recognize patterns that indicate a systemic problem?

- Issue Analysis: Once we have identified an issue and are satisfied that it is of sufficient significance to warrant additional investigation and analysis, are we ensuring that the issue is assigned to the correct TAS function and that the appropriate personnel are conducting the analysis? Are we utilizing all of the internal and external resources TAS has available to it? Do our investigations have sufficient levels of analysis and review, so that there are various points in the process for management and others to determine whether the issue is, in fact, as significant as we first thought? In our projects and teams, have we articulated the outcome we want to achieve? Do we have a system for tracking, recording, and archiving all of the activity on an issue, by all levels of TAS personnel?

- Issue Recommendations and Advocacy: After conducting a thorough analysis of the issue and identifying desired outcomes, has TAS made specific, actionable, administrable, and reasonable recommendations of actions necessary to mitigate or resolve the issue? Have we identified ways of measuring – on an issue by issue and even recommendation by recommendation basis – whether the recommendation, if implemented, actually achieves the outcome we desire? What behavior or procedure do we want to change? What must TAS do to effect those changes? Systemic advocacy does not stop once we have made our recommendations. TAS must do more than merely "monitor" or "track" our recommendations – we must advocate for them! So: what must we do to get and sustain the attention necessary to effect change? If we are not getting attention to this issue, do we have a process for re-evaluating the issue, to determine whether it is still a problem, or whether our analysis or recommendations are still valid or need to be revised? Are the issue and recommendations so significant and substantial that TAS needs a multi-year strategy for advocating for attention and change?

There are three concerns that are common to each of the three general stages of systemic advocacy. First, each stage requires a robust data and document tracking system that is based on rigorous and consistent application of keywords and other typological classifications. This system must be available for use by all TAS personnel, and the classification system must be consistent throughout all TAS functions (*i.e.*, the same keywords should be used for systemic and case advocacy). These capabilities can be developed now, for further systemization in the new Taxpayer Advocate Service Integrated System (TASIS).

Second, each stage requires that TAS utilize all the resources that are available to it. That is, TAS is composed of many different parts, each possessing different knowledge, skills, and perspective. TAS will only be successful in advocating for systemic change if it involves those different entities throughout the systemic advocacy process. Thus, it is imperative that not only SA and FSA are involved in this process, but other TAS functions, including TAS attorney advisors, TAS Research, the Executive Director of Systemic Advocacy (EDCA), Local Taxpayer Advocates (LTAs), TAS Technical Advisors, Taxpayer Accounts and Guidance (TAG), Vision and Strategy (V&S), Communications and Liaison (C&L), the Low Income Taxpayer Clinic Program Office, the Taxpayer Advocacy Panel.

Finally, each stage requires TAS personnel to recognize the appropriate points when an issue should be elevated not only to immediate supervisors but also the National Taxpayer Advocate or other TAS executives. There are times when issues get bogged down at lower levels. TAS will only work effectively if its employees can raise significant areas of concerns with TAS leadership, for their information and action. On a daily basis, TAS leadership meets with other IRS officials and each such meeting presents an opportunity to discuss, educate, and reach agreement about systemic problems. Thus, an educated and informed TAS leadership furthers TAS's efforts at systemic advocacy.

The following discussion elaborates on some of the points identified above.

Issue Identification: Outreach and SAMS submissions

Analysis of TAS's effectiveness at issue identification raises several questions. Are we making ourselves available to getting information about issues and problems experienced by taxpayers? Once we are out there, are we actually seeing the issues? And once we see the issues, are we actually elevating them? Each of these questions lends itself to specific performance measures or diagnostic measures.

TAS achieves issue identification in several ways, including:

(i) *SAMS (and promotion of SAMS):* SAMS submissions are an important source of potential issues, thus it is important to measure the SAMS participation or usage rate. This rate, however, must be multi-faceted: for example, how many LITCs or TAP members submit issues? How many LTA offices submit issues? how many TAS employees submit issues? Do we get issues from the public in every state?

(ii) *LTA Outreach*: We have a requirement that LTAs conduct significant grassroots outreach – it is in our program plan for each fiscal year, and each LTA must submit an outreach plan, C&L tracks that plan and maintains an outreach database of the reports each LTA provides about his or her actual outreach activities. We have already decided to include a specific requirement that LTAs

promote SAMS, and Systemic Advocacy created a "talking point" handout for the LTAs that will be in the Advocate Toolkit.

(iii) *Systemic Advocacy Outreach:* This year Systemic Advocacy had a booth at our CPE on SAMS, and Sase Advocates and other TAS employees could come up and actually input issues on SAMS as a walk-through. We can test awareness of Case Advocates of SAMS before and after the CPE or see if we get more issues after such outreach. Moreover, SA could seek out opportunities to set up booths at trainings or events involving other IRS Operating Divisions and Functions, and monitor submissions after those events for any uptick attributable to them.

(iv) *Tax Forums:* We not only have a SAMS booth at IRS Tax Forums but also hold focus groups and TAS plenary programs – we can track what issues we get from the focus groups and forums – perhaps we can program SAMS to identify the source of the submission so that we know it is being submitted at the Tax Forum.

(v) *Low Income Taxpayer Clinics:* LITCs now have systemic advocacy in their mission statement. We have developed performance measures for the program, one of which is whether they are putting issues on SAMS. We can track this. We can take the same approach with the Taxpayer Advocacy Panel (TAP).

(vi) *Attorney-Advisors/Technical Advice and Guidance (TAG)/Vision &Strategy (V&S)/Internal Technical Advisory Program (ITAP):* These folks are in the position to identify and submit very significant items on SAMS. Are they utilizing it appropriately?

(vii) *NTA/DNTA/EDSA/EDCA Outreach:* TAS executives receive a significant number of issues when they speak to audiences both external and internal to the IRS. In TAS executives' travel/meeting folders, they should have a paper form that they can fill out with information about the issue, which they can bring back to SA with the information for input on SAMS. This information can include contact information for the audience member who raised the issue. Area Directors also should utilize this for their speaking engagements and their employee town halls. This should just be part of the travel folder. In this way we can begin to track some of the invisible issues we generate, plus the source.

(viii) *Case Advocates/TAMIS:* Last but certainly not least! Currently in TAMIS, before a Case Advocate closes a case, he or she is asked if there are any systemic issues arising in the case. There is a text screen for this question. Unfortunately, it does not link directly to SAMS. This change will occur in TASIS – the Case Advocate will input the information and the entry

will automatically be sent to SAMS with the related case number and Case Advocate information, related issue codes, etc. Moreover, in TASIS, we will have interim case closings for each issue in the case, so we can prompt the Case Advocate each time he or she closes out an issue in the case to identify whether there was a systemic problem with respect to that issue. This gives us real time data, but also makes it seamless for the Case Advocate and removes some current burdens to their submitting issues on SAMS. TASIS, I note, is only two years away!

However, even in today's clunky TAMIS environment, we can do better with Case Advocate issue identification – by creating performance commitments for LTAs and managers, and charging the Lead Case Advocates to help the Case Advocates identify systemic issues and submit them on SAMS. This can occur at the early intervention reviews, at the closed case review stage, etc. Just get the managers or Lead Case Advocates to ask the question: was there a systemic issue? If so, let's put it on SAMS.

Issue Ranking and Data Build

Once we have the issues coming in, we need to ensure that we are selecting the right ones to work. This requires a two-part analysis: first, are we using the appropriate criteria to analyze the urgency and importance of the issue; and second, do we have the right personnel, with the right skills, making that analysis? There is also a third consideration: when does that analysis occur – at the beginning intake, or when assigned to an analyst, or a combination of the two?

(i) With respect to criteria, we currently have five stated criteria. Frankly, I do not see why the stated criteria should differ from the criteria used in ranking the Most Serious Problems (MSPs), which seems more in-depth. The more in-depth criteria include elements of Congressional interest, general public awareness, National Taxpayer Advocate interest. We also have a high-level measure of "numbers of taxpayers impacted" – high/medium/low. I believe we should expand our ranking criteria to include the MSP criteria, and even consider other factors. Moreover, we should consider the weighting of criteria – in certain instances, the violation of a taxpayer right weighs more heavily than the number of taxpayers impacted.

(ii) Having said that we should use the full MSP or expanded ranking criteria, not all of the information necessary to identify a good issue will be available to the frontline "SAMS intake reviewers" – even if they do some research themselves. Moreover, as now configured, the SAMS intake reviewers may not have the background or perspective to know what is an issue of interest to the NTA, or of key importance to collection or exam. (This observation is not a slight to

the reviewers – it really does take multiple perspectives to do comprehensive issue identification.)

(iii) The SA intake reviewers can continue to do a "first read" and identify the issues that clearly are associated with an existing project, or that need to be referrals to C&L or TAG or elsewhere. They should also have a lookout for the ones that are truly emergencies, which I think we are already forwarding immediately to the Advocacy Program Director for review. We can formalize this review by keeping the current five criteria for the first level review. I'm not suggesting that we change that approach.

But I am suggesting that the next step in the process includes a broader team that takes a closer look at the remaining issues, and analyses them from the broader MSP criteria and conducts an initial "data build." I have suggested that we create an intake review team that includes a rotating attorney advisor and technical advisor, representatives from FSA, EDCA, LITC, V&S, and maybe even a research representative so we can get some basic "scoping". Considerations would include Congressional/NTA interest, and the attorney advisors should be able to bring that perspective (or at least, if questions arise, they can easily check in with the NTA).

After this second level review, recommendations for advocacy issues should be forwarded to a manager/director team, composed of the EDSA, SA and FSA directors, and the Supervisory Attorney Advisor. This group will decide whether the issue should be classified as an information gathering project, a potential project, an immediate intervention, or an actual advocacy project, or be elevated to the NTA for consideration as a legislative recommendation or a most serious problem, or transferred to TAG for internal TAS guidance on how to deal with the issue on a case-by-case basis.

Once the issue is assigned to the analyst, there should be an interim review – this is where the analyst actually gets better impact numbers, if possible. I think we already have built in a managerial review of projects within a certain number of days to make sure the analyst is on track – so it makes sense that this is the time when the analyst would present his or her own analysis of the ranking. Do we have better impact numbers? Do we have a better understanding of the taxpayer rights impacted? Is the impact more severe (not just numbers of taxpayers affected but the nature and severity of harm per taxpayer) than we originally anticipated? The analyst would discuss this with the manager at this early intervention review. It is possible the project would not be made a project. Perhaps projects should be "tentative" projects until the analyst has done his or her preliminary work and had the discussion with the

manager. (We will need to modify these procedures slightly for immediate interventions.)

This analysis is not unlike what happens in case advocacy: we get a taxpayer issue code at the outset which is just what the taxpayer is presenting us; we (TAS) identify a primary issue code at the start of the case, but as we work the case we identify other issues in the case, and before we close the case we have to revisit the primary issue code to identify what we really think was the primary problem, after working through all the case. (We are changing this a little with the development of TASIS, but the tiered approach is the same.)

(iv) I think this approach answers the third consideration: when and by whom should the analysis be conducted? My answer: at both the intake and the analyst levels.

Issue Resolution or Mitigation: Outcomes and Recommendations

Once we have sought out issues, identified them, elevated them, reviewed them, and analyzed them, we need to measure our resolution of the issue. This measure has several components – including accuracy. But the main components here are, what are the outcomes we want to achieve and how will our recommendations help achieve those outcomes? Thus, we need an outcome measure. However, that outcome measure must be specific to each project.

What I am proposing is that we require each analyst, working with his or her manager, to identify the desired outcome of any project established on SAMS (or an immediate intervention). We can develop a few standard outcomes, but I emphasize that outcomes should be specific to the project and not cookie-cutter. For example, if the problem is that there are too many accidental forest fires, and the recommendation is to conduct a public information campaign to increase awareness of the problem and thus change campers' behavior (*i.e.,* being more careful), the outcome measure must in some way measure whether accidental forest fires have decreased.

This can be similar to the way Case Advocates work specific cases: in a levy case they want several outcomes: to release the levy and perhaps return levy proceeds, but also to achieve full compliance for the taxpayer (put them in an IA or OIC or even CNC), and finally to educate the taxpayer so the situation doesn't happen again. We are tracking these components in case advocacy in various ways. For example, with TASIS we should be able to see a box checked "Levy released" or "OIC accepted" or something like that. We also have a more global "relief/partial relief/law prevents relief *etc.*" measure. Finally, we have case quality attributes addressing whether the Case Advocate educated the taxpayer about how to avoid the problem in the future. How would we do this on the systemic advocacy side?

I don't know how we roll this up into an overall effectiveness measure – except to say that in "x" percent of our projects, once implemented, our recommendations achieved their desired outcomes. Note the language, "once implemented." If the IRS refuses to make the changes, or Congress doesn't pass recommended legislation, then we can't measure whether our recommendations achieved their outcomes.

As an intermediate step to achieving final outcome, we should also keep our existing measure of whether the IRS or Congress took action on our recommendations. That at least shows, in a rough sort of way, that we have hit on something that is of some import, that resonates with folks. The same rationale exists for tracking the level and nature of media coverage – if our analysis resonates with the public, then that is an affirmation that we have identified an issue that the taxpaying public perceives as a problem. I get emails and letters about our ARC all the time. I could forward them to systemic advocacy and they could be associated with the project (in TASIS, we can digitize paper documents and make them part of the electronic project file!).

If you think about it, between the outreach, identification, elevation, analysis, "acted on" and the "outcome" measures, we have made visible – and are measuring – our effectiveness with each step of advocacy. There are certainly subsidiary attributes we can develop for each of these stages. And each of these stages has components of shared responsibility. For example, if we are looking at the "acted on" measure, we should be aligning the outreach that LTAs do with their congressional offices at the CAP conference with the related projects or MSPs. Thus, when they give us the information on which issue is of interest to which congressional office, we can align that information with the underlying issue. We also need to capture at a high level the work that the NTA and the Senior Advisor to the NTA do with congressional offices and the Department of Treasury. And SAMS should have a check box where the issue has been highlighted in congressional testimony, or if there has been legislation introduced. If the checkbox is marked, a drop down text box appears, so the analyst can link to the testimony or legislation. (This approach requires that we have a consistent keyword and typology system in place.)

This latter approach, of course, implies that we are actively advocating for and tracking what is happening with these issues. Right now, I doubt that SAMS (or the related analysts) picks up all the activity that occurs on these projects or even MSPs. Do we have the ability to track whether a Taxpayer Advocate Directive was issued on the subject, or a Taxpayer Rights Impact Statement? Did we submit changes to an IRM? That would be an outcome measure – we want the IRM changed. If it is changed, has the problem been mitigated? Did we establish a team in which we collaborated with the Operating Divisions to develop a resolution to an issue? Is that the outcome or is it the recommendations of the team? That is, were the recommendations implemented, and if so, did they have the desired effect on mitigating the issue. We clearly need to track these activities (and related records) on TASIS, if not SAMS.

Conclusion

As noted earlier, the development of performance measures of TAS's effectiveness at systemic advocacy is inherently difficult. However, the approach outlined above provides a basis for establishing meaningful measures. Some of these measures are not technologically feasible now and will be built into TASIS – but we can identify them now and develop the business requirements for TASIS. Still others can be implemented immediately (the tiers of review, the incorporation of "impact analysis" into early intervention reviews, the identification of outcomes, and the development of a consistent set of keywords and classification.)

In closing, I note that no matter how precise we try to be in developing factors for ranking the impact of issues or measuring the impact of our recommendations, any evaluation will ultimately be very subjective. It is possible that the National Taxpayer Advocate will determine that a particular issue is a violation of taxpayer rights of such magnitude that it warrants immediate and sustained attention despite the fact that it impacts relatively few taxpayers. It is also possible that TAS will make recommendations that require a paradigm shift for the IRS (*e.g.,* revising the IRS mission statement to explicitly acknowledge the IRS role in delivering social benefits or developing a system for regulation and testing of unenrolled return preparers). Progress on such recommendations could take years if not a decade. Our measures must be flexible enough to recognize and in some way account for the value of these important advocacy issues and recommendations.

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Glossary of Acronyms

Acronym	Definition
-A-	
ACS	Automated Collection System
ADR	Address Research System
AIS	Automated Insolvency System
ALS	Automated Lien System
AMIR	Accounts Management Information Reports
AMTAP	Accounts Management Taxpayer Assurance Program
AOIC	Automated Offer in Compromise
ARC	Annual Report to Congress
ARRA	American Recovery and Reinvestment Act
-B-	
BLS	Bureau of Labor Statistics
BMF	Business Master File
BOD	Business Operating Division
-C-	
C&L	Communication & Liaison
CA	Case Advocate
CADE	Customer Account Data Engine
CAP	Congressional Affairs Program
CAS	Customer Account Services
CAWR	Combined Annual Wage Reporting
CDP	Collection Due Process
CEAS	Correspondence Examination Automation Support
CIS	Correspondence Imaging System
CLG	Communications Liaison Group
CNC	Currently Not Collectible
CPE	Continuing Professional Education
CPS	Collection Process Study
CSED	Collection Statute Expiration Date
CSS	Customer Satisfaction Survey
CTA	Campus Technical Advisor
CY	Calendar Year
-D-	
DCI	Data Collection Instrument
DFO	Designated Federal Official

Acronym	Definition
DIF	Discriminant Index Function
-E-	
ECE	Enhancing the Customer Experience
ECS	Enterprise Collection Strategy
EDCA	Executive Director Case Advocacy
EDSA	Executive Director Systemic Advocacy
EFDS	Electronic Fraud Detection System
EITC	Earned Income Tax Credit
EO	Exempt Organization
ERS	Error Resolution System
ESC	Executive Steering Committee
ESL	English as a Second Language
ETA	Electronic Tax Administration
EWETP	Enterprise Wide Employment Tax Program
-F-	
FACA	Federal Advisory Committee Act
FBAR	Foreign Bank and Financial Accounts Report
FCR	Federal Case Registry
FDC	Fraud Detection Center
FMS	Financial Management Service
FPLP	Federal Payment Levy Program
FSA	Field Systemic Advocacy
FSIMB	Full Service Intelligent Mail Bar Code
FTE	Full-Time Equivalent
FTHBC	First-Time Homebuyer Credit
FUTA	Federal Unemployment Tax Act
FY	Fiscal Year
-G-	
GAO	Government Accountability Office
-H-	
H.R.	House of Representatives
HERA	Housing and Economic Recovery Act of 2008
HHS	Department of Health and Human Services
HIRE	Hiring Incentives to Restore Employment Act
HR	Human Resources
-I-	
IA	Intake Advocate
IAT	Integrated Automation Technologies

Acronym	Definition
ICS	Integrated Collection System
IDRS	Integrated Data Retrieval System
IDT	Identity Theft
IGP	Information Gathering Project
IMD	Internal Management Document
IMF	Individual Master File
IPSU	Identity Protection Specialized Unit
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
ITAP	Internal Technical Advisory Program
ITIN	Individual Taxpayer Identification Number
-L-	
LB&I	Large Business & International
LCA	Lead Case Advocate
LEP	Limited English Proficiency
LITC	Low Income Taxpayer Clinic
LTA	Local Taxpayer Advocate
-M-	
MITS	Modernization and Information Technology Services
MLI	Multilingual Initiative
MSP	Most Serious Problem
-N-	
N/A	Not Applicable
NARA	National Archives and Records Administration
NDC	National Distribution Center
NFTL	Notice of Federal Tax Lien
NTA	National Taxpayer Advocate
-O-	
OAR	Operations Assistance Request
OD	Operating Division
OIC	Offer in Compromise
OMB	Office of Management & Budget
OSP	Office of Servicewide Penalties
OTC	Office of Taxpayer Correspondence
OVDP	Offshore Voluntary Disclosure Program
-P-	
PCA	Planned Corrective Action

Acronym	Definition
PIC	Primary Issue Code
PIN	Personal Identification Number
PIPDS	Office of Privacy, Information Protection, and Data Security
PMTA	Program Manager Technical Advice
POA	Power of Attorney
PPBR	Printing and Postage Budget Reduction Task Group
PPIA	Partial Payment Installment Agreement
PRO	Problem Resolution Officer
PRP	Problem Resolution Program
PRWVH	Pre-Refund Wage Verification Hold
Pub. L. No.	Public Law Number
-Q-	
Qtr	Quarter
-R-	
RATA	Revenue Agent Technical Advisor
RCA	Reasonable Cause Assistor
Rev. Proc.	Revenue Procedure
RGS	Report Generating System
ROI	Return on Investment
ROTA	Revenue Officer Technical Advisor
RPI	Return Preparer Initiative
RRA 98	IRS Restructuring and Reform Act of 1998
RRP	Return Review Program
-S-	
S. Comm.	Senate Committee
SA	Systemic Advocacy
SAMS	Systemic Advocacy Management System
SB/SE	Small Business/Self-Employed Division
SERP	Servicewide Electronic Research Program
SPDER	Servicewide Policy Directives and Electronic Research
SPEC	Stakeholders, Partnerships, Education, and Communication
SPOC	Single Point of Contact
SSN	Social Security Number
Stat.	Statute
-T-	
TACT	Taxpayer Communications Taskgroup
TAD	Taxpayer Advocate Directive
TAG	Technical Analysis & Guidance

Acronym	Definition
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	Taxpayer Advocate Service Integrated System
TATI	Technical Advice Training Initiatives
TBD	To Be Determined
TBOR 1	Taxpayer Bill of Rights
TBOR 2	Taxpayer Bill of Rights 2
TCIS	Treasury Check Information System
TFRP	Trust Fund Recovery Penalty
TIGTA	Treasury Inspector General for Tax Administration
Treas. Reg.	Treasury Regulation
TRIS	Taxpayer Rights Impact Statement
TWG	Technical Working Group
-V-	
V&S	Vision & Strategy
-W-	
W&I	Wage & Investment
WHBAA	Worker, Homeownership, and Business Assistance Act of 2009

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