



YOUR VOICE AT THE IRS



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

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MEMORANDUM FOR TAXPAYER ADVOCATE SERVICE EMPLOYEES

FROM: /s/ Nina E. Olson
National Taxpayer Advocate

SUBJECT: Interim Guidance on Advocating for Taxpayers
Adversely Impacted by the Government
Shutdown

The purpose of this memorandum is to provide TAS employees with information about advocating for taxpayers adversely impacted by the recent partial government shutdown due to the lapse in appropriations for the Fiscal Year 2019 federal budget (Shutdown). The Shutdown began December 22, 2018 and ended January 25, 2019.

Notwithstanding objections from TAS leadership, a limited number of TAS employees were excepted employees under the IRS's FY 2019 Shutdown Plan even though taxpayers continued to be impacted by IRS actions taken prior to and during the Shutdown. TAS's activities during the shutdown were limited to checking the mail and processing any incoming checks.

TAS will encounter taxpayers whose hardships were exacerbated because they were unable to reach the IRS or TAS for a prolonged period. In those instances, where TAS has substantiated that taxpayers experienced significant economic or irreparable harm during the Shutdown, TAS will ensure that the IRS acts with great speed to resolve the taxpayer's problem and alleviate the harm, to the extent that it is possible.

Because of the length of the Shutdown, and the potential influx of taxpayers waiting to come to TAS, it is critical that we identify the most urgent cases in need of immediate TAS assistance and address those cases first. It is vital that TAS offices look for these situations in open inventories and during the intake process, rather than waiting for taxpayers to make a Shutdown-specific complaint.

During the intake process, TAS employees will identify those cases that are the most urgent and time-sensitive. As required by [IRM 13.1.16.6.1.4](#), *Engaging in Discussions About TAS*, the TAS employee will notify management in the office receiving the case that it will require expeditious handling. The employee will document the TAMIS History with the literal ****EMERGENCY****.

We are still evaluating the effects of this Shutdown. During the 2013 Shutdown, we found that the IRS continued enforcement, particularly collection, against taxpayers who could not request TAS's assistance. Taxpayers were subject to levies on Social Security benefits, levies on financial or other accounts, wage levies, and Notices of Federal Tax Lien.¹ Consider reviewing this [Area of Focus](#), as it contains information from the 2013 Shutdown that can help you prioritize your caseload.

Zip Code Routing (ZCR) of Cases Received During the Shutdown

Cases received during the Shutdown are eligible for ZCR, however the transferring office must contact the taxpayer to complete the initial contact per [IRM 13.1.18.3](#), *Initial Contact*, **before** transferring the case. Receiving offices will not transfer these cases again; instead, they will keep these cases and work them. Keep in mind that the taxpayer has been waiting to hear from us. TAS is responsible for advocating for the taxpayer and it is in the taxpayer's best interest for us to begin working to resolve the taxpayer's issue as quickly as possible.

The Taxpayer Advocate Received Date (TARD) is *the date TAS received the Taxpayer's inquiry*. Offices **will not** change the date of the TARD to a date other than the date TAS received the inquiry even though that date may fall on a Shutdown day. It is critical that we know the date the case was received into TAS and offices **cannot** change this date no matter the circumstances. We want to record the impact of the Shutdown from the taxpayer's perspective. The fact that we received a request for assistance during the Shutdown and were not able to help the taxpayer at that time is vital information to show that impact.

¹ National Taxpayer Advocate Fiscal Year 2015 Objectives Report to Congress, Area of Focus: *The IRS's Decision Not to Except Any TAS Employees During the Government Shutdown Resulted in Violations of Taxpayer Rights and Undermined TAS's Statutory Authority to Assist Taxpayers Suffering or About to Suffer Significant Hardship* 79 – 91.

Prioritizing Caseloads and Advocating for Taxpayers Experiencing Imminent Hardship

As we begin to prioritize our caseloads, we need to be mindful that IRS employees were also furloughed and are facing backlogs of work. Even those IRS employees who were “excepted” were limited in the work that they were able to perform during the Shutdown and very likely were unable to perform work requested by OARs prior to the Shutdown.

TAS employees will triage their workload – *all* workload, including those cases that were open before the Shutdown, those that came in while we were shut down, and new cases we have received since the Shutdown. Give priority to those cases where the taxpayer is ***experiencing imminent hardship***:

- The IRS has taken or is about to take enforcement action, i.e., levy, lien, or seizure; or
- The taxpayer will experience significant economic hardship or irreparable harm if the IRS does not take action.

If a case falls into these categories, TAS employees should determine what relief is necessary to resolve the taxpayer’s issue to the extent possible under the internal revenue laws.

When necessary to address imminent hardship, OARs and TAOs should provide for very abbreviated response times. Since time is of the essence in many of these cases, a 24-hour response time may be appropriate. In other instances, a slightly longer timeframe may be required to execute the requested relief, but the OAR or TAO should generally require a 24-hour response as to whether the IRS agrees to undertake the required relief. If the IRS fails to meet the deadline, the TAS employee should immediately discuss this case with the LTA for TAO consideration. Consider sending an immediate TAO and bypassing the OAR if needed to quickly resolve the taxpayer’s issue. If the IRS fails to meet the deadlines set in the TAO, and the LTA determines it is inappropriate or harmful to modify those timeframes, the LTA should immediately elevate the TAO to his or her DEDCA.

TAS is working on a Special Liaison OAR process with the BODs and will release additional instructions once negotiations are complete. Depending on the facts and circumstances of the case, TAS employees will either request expedited OAR treatment, use the Special Liaison OAR process, or immediately elevate the case to the LTA for TAO consideration.

Prioritizing Caseloads and Advocating for Taxpayers Not Experiencing Imminent Hardship

As previously discussed, we need to be mindful that IRS employees were also impacted by the Shutdown. TAS does not want to exacerbate an already difficult situation by sending OARs to the IRS requesting expedite treatment when it is not necessary. Therefore, TAS should not use the expedite OAR process on cases not experiencing an imminent hardship.

- For cases where TAS issued an OAR before the Shutdown and the taxpayer is not experiencing an imminent hardship, TAS employees will grant an extension of at least 10 business days to the negotiated completion date or requested completion date (whichever is applicable). Grant this extension from the date you determine the taxpayer is not experiencing an imminent hardship.
- For cases requiring a new OAR that are not experiencing an imminent hardship, TAS employees will set *more flexible* requested completion dates (RCDs). For example, you could allow an additional five business days beyond the RCD you would normally set.
- When negotiating completion dates for cases where the taxpayer is not experiencing imminent hardship, be mindful that taxpayers have been waiting for relief and it is not their fault that the government shut down. Where appropriate, grant all reasonable requests to extend. In determining “reasonableness,” factor in whether the taxpayer is extremely anxious. If you are unsure if a request is reasonable, discuss the case with your manager.

Identifying TAS Taxpayers Adversely Impacted by the Government Shutdown

It is vitally important for TAS to capture the impact of the Shutdown on taxpayers, so we can include this information in our many discussions with Congress and the IRS as part of our advocacy and collaborative improvement efforts. TAS has created the Systemic Advocacy Use code **FURLO** to identify cases impacted by the Shutdown. TAS will systemically update all TAS cases that were open during the Shutdown and cases received through February 11, 2019 to include FURLO in the Systemic Advocacy Use Code field. TAS will continue to evaluate the need to update new cases received with the FURLO code on a weekly basis.

Identifying Systemic Issues

As you proceed with your casework, you may identify systemic problems impacting multiple taxpayers as the result of how the IRS is handling certain inquiries or outcomes from the shutdown. Elevate these issues to your LTA and load them on the [Systemic Advocacy Management System](#) (SAMS), as appropriate. (See [IRM 13.1.21.1.2.1.5.1](#), *Systemic Issue*.) Be sure to provide TAMIS case file numbers, but do not include specific details or taxpayer information in the SAMS submission.

Effect on Other Documents:

TAS will incorporate this guidance into the next revision of IRM 13.1.24, *Advocating for Case Resolution*.

Please contact Michael Kenyon, Deputy Executive Director of Case Advocacy, Technical Support, at (701) 237-8299, if you have question