

**National Taxpayer Advocate 2011 Annual Report to Congress (ARC):  
The Most Serious Problems (MSPs) Encountered by Taxpayers**

**2011 ARC – MSP Topic #1 – THE IRS IS NOT ADEQUATELY FUNDED TO SERVE TAXPAYERS AND COLLECT TAXES**

**Problem**

The most serious problem facing U.S. taxpayers is the combination of the IRS’s expanding workload and the limited resources available to the IRS to handle it.

Among the consequences:

1. The IRS is unable to adequately meet the service needs of the taxpaying public.
2. The IRS is unable to adequately detect and address noncompliance, requiring honest taxpayers to shoulder a disproportionately large share of the tax burden.
3. The IRS is unable to maximize revenue collection, contributing to the federal budget deficit.

<b>NTA Recommendation</b>	<b>IRS Response</b>	<b>IRS Addressed Yes/No/Partial (TAS’s Assessment)</b>	<b>TAS Explanation (if any)</b>
1. Congress develop new budget procedures to ensure that the IRS is funded at whatever level will enable the IRS to meet taxpayer needs and maximize tax compliance, with due regard for protecting taxpayer rights and minimizing taxpayer burden. In the short run, this approach should	N/A – Congressional Recommendation		

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<p>include carving out the IRS from discretionary budget freezes intended to reduce the budget deficit, as cuts to the IRS budget are likely to increase the deficit. Over the longer term, the National Taxpayer Advocate recommends that Congress consider exempting the IRS from spending ceilings or even taking the IRS off-budget.</p>			

**2011 ARC – MSP Topic #2 – THE IRS’S WAGE AND WITHHOLDING VERIFICATION PROCEDURES MAY ENCROACH ON TAXPAYER RIGHTS AND DELAY REFUND PROCESSING**

**Problem**

The IRS is responsible for processing over 141 million individual income tax returns annually, including nearly 120 million requests for refunds. It must guard against illegitimate refund requests while expeditiously processing legitimate returns and paying out legitimate refund claims. The dual tasks of fraud prevention and timely processing present challenges even in simple tax systems, and ours is far from simple. The recent increase in spending programs run through the tax code, combined with a reduction in IRS funding, has made the IRS's job much harder. To cope with a surge of new refund schemes, the IRS has expanded its use of various automated screens to filter out questionable refund claims. The result is that more legitimate taxpayers are becoming ensnared in the IRS's revenue protection apparatus.

<b>NTA Recommendation</b>	<b>IRS Response</b>	<b>IRS Addressed Yes/No/Partial (TAS's Assessment)</b>	<b>TAS Explanation (if any)</b>
1. Provide the AMTAP unit sufficient personnel and systems to work its inventory timely.	The IRS has taken steps to provide the AMTAP unit staff and systems resources to work its inventory timely. We increased our AMTAP staff this filing season and will continue to monitor whether additional resources are necessary (if available). For example, AMTAP hired an additional 100 temporary FTEs to assist with the screening and verification processes. These additional new hires will allow the AMTAP Operation an opportunity to train traditional AMTAP employees on account work. We will also assess the efficiencies gained	Partial	The IRS may have increased AMTAP staffing, but it is clear that this unit requires additional employees to keep up with its mounting inventory. As a result of its inability to complete the wage verification on questionable refund claims within 70 days, AMTAP placed hard freezes on these accounts. So it is apparent that the staffing increase was not adequate.

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	from the accelerated availability of the Information Returns data to determine appropriate resources utilization and allocation to best address our inventory.		
2. Continue working to accelerate the availability of Information Returns Master File data to identify mismatches earlier in the filing season.	In 2009 AMTAP recognized accessing Information Returns Master File (IRP) data earlier in the filing season would allow for faster verification; thus releasing legitimate claims sooner. A team worked with Modernization and Information Technology Services and IRP to accelerate availability of W-2 data in the filing season in order to allow earlier identification of mismatches. We will continue to pursue additional opportunities to shorten that timeframe in filing season 2013.	Yes	TAS encourages the IRS to continue to explore additional opportunities that will shorten the verification timeframe. As we do not know the actual percentage of legitimate claims that were released in 2012 as a result of the DMIRE (acceleration of IRP data) effort, TAS cannot comment on the effectiveness of the initiative.
3. Adhere to the policy of systemically releasing refunds after 70 days if the IRS cannot determine that the return is part of a known scheme or requires greater scrutiny.	The IRS works to ensure that refunds are issued promptly. However, given the current environment, the IRS must maintain the right to determine when it is inappropriate to release refunds if questions as to legitimacy exist. The IRS	No	The National Taxpayer Advocate continues to believe that 70 days is adequate for the IRS to spend verifying wage and withholding data. New procedures or tools should be explored if the IRS has difficulty completing such

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	<p>developed revenue protection processes over many years using historical data to determine fraud indicia. The IRS refines fraud models each year based on performance and new characteristics and updates procedures for reviewing and processing revenue protection inventory accordingly to ensure indication of fraud before holding a refund. Manual screening processes also ensure that a return meets established fraud characteristics before designation for verification and refund hold. Due to the historical evidence of known fraud, the explosion in fraud and identity theft in the past two years, and the consistent amount of revenue protected by IRS fraud detection efforts developed from this analysis, we believe that IRS must maintain the right to determine when a hard refund freeze is appropriate.</p>		<p>verification within 10 weeks.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>4. When considering implementation of any front-end verification procedures, concurrently develop procedures to promptly assist taxpayers who demonstrate they have filed legitimate refund claims.</p>	<p>Regarding changes to processes, the IRS balances taxpayer rights with the need to stop refund fraud. As we move forward, we will continue to explore opportunities for expeditious treatment and assistance for taxpayers with legitimate refund claims in all stages of design, development, testing and deploying of any new technology, process and procedures.</p>	<p>Partial</p>	<p>In our experience, the treatment streams planned for innocent taxpayers have been inadequate. For example, taxpayers selected by the identity theft filters were instructed to call the Taxpayer Protection Unit, but the majority of calls to this unit remained unanswered (level of service well below 50% in most weeks), with average wait times exceeding one hour. The IRS needs to do more than develop procedures to assist taxpayers with legitimate refund claims; it must also do a better job of projecting the staffing of the unit(s) designated to assist them at the time new procedures are implemented.</p>
<p>5. When considering alternative treatment streams, conduct a thorough analysis to determine the specific legal basis for the proposed action (or non-action).</p>	<p>When considering alternative treatment streams, consistent with our past and current practices, IRS will continue to request legal guidance about proposed alternatives and remain in compliance with legal requirements.</p>	<p>Yes</p>	

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<p>6. Before “auto-voiding” any tax returns, notify the taxpayers and allow them an opportunity to correct or explain the questionable items.</p>	<p>The IRS is mindful of taxpayer rights in all cases. The IRS developed a policy to address schemes identified based on historical analysis of repeated fraud characteristics which is only used in appropriate cases. For example, in one common scheme, a very high volume are attempted annually. Part of the scheming effort is to inundate IRS with returns to force release of some of the refunds. In these cases, attempting to correspond on these fraud returns is an ineffective use of resources and taxpayer dollars. These returns often do not include a valid address. In addition, in some cases, corresponding provides fraudsters with additional or new avenues to try to force refund release.</p>	<p>No</p>	<p>We are not aware of any changes to the Operation Mass Mail procedures that call for notification to the suspected perpetrator.</p>

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<p>7. Include language in the Automated Questionable Credits notice making clearer to taxpayers the significant legal consequences for failing to respond to the notice by the deadline.</p>	<p>As part of IRS's overall effort to put our notices and letters into plain language so they are clearer and simpler for taxpayers, we are currently revising the Automated Questionable Credit notices (the 4800C and 3219C letters).</p>	<p>Partial</p>	<p>We are pleased that the IRS is revising the Automated Questionable Credit notices, and would like to review the proposed language. Even if the IRS believes that this process is not an examination or audit, it should make clear to the taxpayer the consequences of not responding to such a notice.</p>

**2011 ARC – MSP Topic #3 – TAX-RELATED IDENTITY THEFT CONTINUES TO IMPOSE SIGNIFICANT BURDENS ON TAXPAYERS AND THE IRS**

**Problem**

Tax-related identity theft is a rapidly growing crime that often imposes enormous financial, emotional, and time-consuming burdens on its victims. TAS has worked closely with the IRS to improve servicewide efforts to assist identity theft victims. Although the IRS has adopted many of our recommendations and made significant progress in this area, the IRS’s approach to identity theft is still not working as intended. In fiscal year (FY) 2011, the centralized Identity Protection Specialized Unit (IPSU) received more than 226,000 cases, a 20 percent increase from FY 2010. Despite the establishment of the IPSU, TAS still experienced a 97-percent increase in stolen identity cases in FY 2011, on top of a 23-percent increase in FY 2010.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS’s Assessment)	TAS Explanation (if any)
1. Implement Service Level Agreements between the Identity Protection Specialized Unit and the various functions that process case referrals and Identity Theft Assistance Requests.	We have greatly improved our internal coordination throughout the operating divisions and criminal investigations in dealing with identity theft issues. We will consider whether implementing Service Level Agreements between the Identity Protection Specialized Unit and the various functions is necessary. The role of the IPSU will be reviewed and modified as the various operating units begin to stand up specialized teams.	No	In order for the IPSU to operate effectively, it must be vested with some authority over the functions it deals with. Without having an agreement on procedures and timeframes, it will be impossible for the IPSU to effectively assist victims of identity theft.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
2. Establish timeliness measures for identity theft case actions.	The IRS has taken steps to improve the timeliness of resolving identity theft case. We will consider whether timelines are necessary, but recognize that given the complexity of the work required in the mitigation of identity theft issues and because multiple business operating divisions will have specialized units to address their unique issues, one standardized measure may not be applicable to all situations.	No	We recognize that identity theft cases are often complex and require actions to be taken by multiple functions. That is why we suggest timeliness measures, not an arbitrary target for cycle time. Timeliness measures are a tool to ensure the identity theft case is being moved forward.

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<p>3. Before implementing identity theft filters, develop an effective and expedited mitigation strategy to help legitimate taxpayers obtain their refunds on a timely basis.</p>	<p>The IRS has procedures in place to help legitimate taxpayers obtain their refunds on a timely basis. Once a return has been flagged for review, a letter is sent to the filer. The IRS has a dedicated phone line to handle calls received in response to the letter and has procedures in place to post the return and release the refund if we determine the return was indeed legitimately filed by the taxpayer. The IRS tests identity theft filters and eliminates and adjusts rules when needed. We will continue to monitor whether improvements can be made in this area.</p>	<p>Partial</p>	<p>The treatment stream planned for innocent taxpayers selected by the identity theft has been woefully inadequate. The majority of calls to the Taxpayer Protection Unit were unanswered (level of service well below 50% in most weeks), with average wait times exceeding one hour. The IRS needs to do more than develop procedures to assist taxpayers with legitimate refund claims; it must also adequately staff the unit designated to assist them.</p>
<p>4. Require any proposed modifications to its identity theft filters mitigation strategy be approved in advance by the Identity Theft Executive Steering Committee.</p>	<p>The Identity Theft Executive Steering Committee, which provides guidance rather than approval, is briefed on all significant program changes.</p>	<p>No</p>	

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<p>5. Create and implement a national communication strategy if the identity theft filters impact a significant number of legitimate taxpayers or cause excessive processing delays.</p>	<p>The IRS is making every effort to minimize the impact of identity theft filters on legitimate taxpayers. The growth in identity theft requires the IRS to put in place new methods to stop refund fraud. We recognize that these efforts could slow refunds for some taxpayers, but we are making every effort to minimize the impact. Our communication strategy has been modified as appropriate.</p>	<p>No</p>	<p>The IRS has not shown that it has made any efforts to communicate its implementation of the new identity theft filters for the 2012 filing season. Taxpayers and practitioners are confused by the notice, and are often unable to reach the Taxpayer Protection Unit when they try to call the number listed on the notice.</p>
<p>6. In conjunction with the Social Security Administration, seek a modification of the consent judgment requiring the SSA to release the SSNs of decedents, so that the SSA can begin to partially redact SSNs (e.g., release only the last four digits).</p>	<p>The IRS supports efforts to prevent Social Security Administration death information from public availability as such information significantly contributes to identity theft in the tax system. We have been working with the Administration in crafting a solution to address this issue.</p>	<p>Yes</p>	

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7. If a civil freeze code is implemented for referrals from law enforcement agencies, require CI personnel to determine whether such a refund freeze is necessary before applying the civil freeze code.	Civil freeze codes are currently utilized to mitigate the impact of refund fraud. The codes freeze refunds for appropriate return treatment. The IRS will continue to confirm that decisions to freeze refunds does not impact any ongoing criminal investigation by CI or other law enforcement organization.	No	
8. Establish a point of contact in W&I so that Criminal Investigation or other IRS operations can supply lists of victims from their investigations of identity theft schemes and W&I can promptly mark the accounts accordingly.	The Return Integrity and Correspondence Services (RICS) office is the point of contact in W&I. RICS is responsible for working lists and marking accounts accordingly including the input of the Identity Theft markers on the accounts.	Yes	

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<p>9. Promptly notify all victims of identity theft of the misuse of their SSN and provide information about what steps the taxpayer may take to further protect himself or herself.</p>	<p>The IRS actively notifies victims and marks taxpayer accounts when we identify that a Social Security number has been misused. We have developed a specific indicator to note taxpayer accounts when the IRS first determines that there is a likelihood of identity theft. After these accounts are marked, taxpayers receive a notice that informs them of the SSN misuse and that their tax accounts have been corrected and marked with the identity theft indicator. We also include information on steps that taxpayers should take to protect their identities. We have issued guidance through the IRM on how to apply the account indicator and when to send a notification letter to the victim. We have several additional initiatives underway to expand our processes to notify and assist identity theft victims.</p>	<p>Partial</p>	<p>We are pleased that the IRS has developed a letter to notify identity theft victims of the misuse of their SSN, along with some helpful information. However, we understand that not every function has adopted the use of such a letter. We urge the IRS to ensure that all functions notify identity theft victims when the IRS becomes aware of the SSN misuse.</p>

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<p>10. Allow taxpayers to turn off the ability to file electronically.</p>	<p>The electronic filing of tax returns creates multiple benefits for taxpayers including increased accuracy of filed returns, expedited refunds and ease of use. The IRS recognizes that these same benefits are sometimes exploited by those who choose to perpetrate fraud through identity theft. We have started to offer the Identity Protection Personal Identification Number to protect known identity theft victims and prevent subsequent fraudulent filings using their stolen identity.</p>	<p>No</p>	<p>We applaud the IRS's use of an ID theft PIN system to make e-filing more secure for a limited population of identity theft victims. However, we continue to believe that some taxpayers, particularly those who have not had a filing requirement for a number of years, would benefit from the ability to turn off e-filing altogether. As the IRS is aware, some perpetrators target individuals with no filing requirement in their identity theft scheme.</p>

**2011 ARC – MSP Topic #4 – EXPANSION OF MATH ERROR AUTHORITY AND LACK OF NOTICE CLARITY  
CREATE UNNECESSARY BURDEN AND JEOPARDIZE TAXPAYER RIGHTS**

**Problem**

The IRS is authorized, in specific instances, to use its math error authority to summarily assess tax without first providing the taxpayer with access to the pre-payment forum of the U.S. Tax Court. Both the Treasury Inspector General for Tax Administration and the Government Accountability Office have recently urged the IRS to increase its use of this authority, describing it as a cost-effective way to process new items on tax returns, such as the First-Time Homebuyer Credit (FTHBC). This call for expanded authority is designed to prevent the IRS from paying refunds to taxpayers who improperly claim credits like the FTHBC. However, when considering math error expansion, the IRS should consider the following issues and how they erode taxpayer protections, threaten a taxpayer’s access to Tax Court, and the potential loss of significant tax benefits:

- Math error notices are still not clearly written, making it hard for taxpayers to determine what has changed on their returns and whether to accept or contest the adjustments.
- The IRS does not process taxpayer responses to math error notices timely, which may delay refunds, and often does not work these responses accurately.
- The IRS can resolve some math error discrepancies through internal research, relieving some of the burden on taxpayers.
- Math error authority includes adjustments to returns “post-processing,” which can lead to unexpected assessments long after the returns were filed.

<b>NTA Recommendation</b>	<b>IRS Response</b>	<b>IRS Addressed Yes/No/Partial (TAS’s Assessment)</b>	<b>TAS Explanation (if any)</b>
1. Direct employees to conduct internal research to resolve clerical errors, including incorrect entries of the dependents’ TINs or surnames.	The Internal Revenue Manual directs IRS employees to conduct internal research to resolve clerical errors with taxpayer TINs during the processing of math or clerical errors (referred to as math errors). Employees are also instructed to search the return	No	The National Taxpayer Advocate is recommending that the IRS use internal information to resolve math error type problems, such as TINs for dependents used on prior tax returns and Social Security numbers (SSNs) provided to the IRS by SSA,

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	<p>and attachments for dependent TINs. If the information is found during internal research or from information on the return and attachments, the IRS will perfect the clerical error. If the IRS is unable to perfect the clerical error, a math error notice is issued to the taxpayer explaining the error(s) identified and the amount of any resulting adjustment(s).</p>		<p>which it currently does not use.</p>
<p>2. Examine math error abatement rates after each filing season to identify high abatement areas and adjust procedures accordingly, including avoiding the use of math error authority and developing a pre-screening system using internal IRS information to minimize improper math error adjustments.</p>	<p>An analysis of all math error notice data from four cycles in 2010 (one cycle per quarter) shows an overall reversal rate of 13 percent. The IRS agrees to perform additional analysis to review the data by type of math error to determine whether procedures may need to be adjusted. It should be noted that the top four Taxpayer Notice Codes (TPNCs) in this analysis related to the MWP credit and account for 77.4 percent of the math error notices with the reversal rate for all four being lower than the average.</p>	<p>Partial</p>	<p>After the analysis is conducted, the IRS should revise its math error procedures based on the findings of the analysis.</p>

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<p>3. Revise the descriptive paragraphs (TPNCs) in math error notices to identify precisely the reason for a tax return change and which entries are inconsistent.</p>	<p>With respect to notices, although we cannot tailor language to each individual taxpayer's situation, we agree that notices should be clear and understandable to taxpayers. The Return Integrity and Correspondence Services office will continue to review and rewrite notices using plain language.</p>	<p>Partial</p>	<p>The National Taxpayer Advocate is aware that the IRS is always striving to use clear language in its math error notices, it should revise notices to ensure re-computations are accompanied by clear explanations.</p>
<p>4. Conduct a study in collaboration with the National Taxpayer Advocate before implementing any new math error authority to evaluate whether the application of the new authority is accurate, negatively impacts taxpayers, or has a high abatement rate, and whether the IRS can resolve the cases through existing data.</p>	<p>The IRS will continue to collaborate cross functionally as we consider potential opportunities for new math error authority. We will continue working with TAS in this effort.</p>	<p>No</p>	<p>In addition to working together on teams and other groups to identify appropriate areas for math error expansion, the National Taxpayer Advocate recommends the completion of a study, in conjunction with TAS, before implementing any new math error authority.</p>

**2011 ARC – MSP Topic #5 – AUTOMATED “ENFORCEMENT ASSESSMENTS” GONE WILD: IRS EFFORTS TO ADDRESS THE NON-FILER POPULATION HAVE PRODUCED QUESTIONABLE BUSINESS RESULTS FOR THE IRS, WHILE CREATING SERIOUS BURDEN FOR MANY TAXPAYERS**

**Problem**

The IRS’s wholesale use of automated "enforcement assessments," *i.e.*, the Automated Substitute for Return (ASFR) program, has increased dramatically over the past decade, placing considerable drain on IRS Collection resources, with questionable benefits for revenue collection and compliance. Yet, IRS data indicate that most of these assessments are abated or reported as uncollectible.

- By fiscal year (FY) 2011, the number of returns generated by the ASFR increased by 896 percent of the number assessed in FY 2002.
- As of March 2011, ASFR assessments accounted for 43 percent of the IRS’s potentially collectible accounts receivable.
- In FY 2011, the IRS abated approximately 2.4 times as many ASFR TDA dollars as it collected (including refund offsets), and reported as CNC approximately four times the amount collected.
- From FY 2006 through FY 2011, IRS data indicate that less than ten percent of the TDA dollars established through the ASFR process has been collected.

The high volume of ASFR assessments clogs the collection process with unproductive work and artificially inflates the volume of IRS accounts receivable. It also wastes resources that the IRS could otherwise invest in cases that may be more collectible and tax assessments that are significantly more valid.

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1. Reinstate the policy of not making automated enforcement assessments without confirming that the taxpayer’s address of record is valid, and	The ASFR program will continue to perform due diligence in obtaining the most current address prior to each notice issuance. Significant changes have been made to ASFR processing to ensure the most	No	The IRS has taken no new corrective actions regarding this recommendation. The IRS continues to equate sending correspondence to the last known address of the taxpayer with sending correspondence

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<p>require use of Form 4759, Postal Tracer, to confirm taxpayer addresses prior to making assessments in all "unagreed – no contact" situations.</p>	<p>current address is used. The IRS licenses the NCOA from the United States Postal Service (USPS). The consolidated data file with change-of-address information, based on updated address information received from postal customers, is received regularly from USPS. Although NCOA does not replace the postal tracer, it substantially reduces the need for it, and allows for additional resources to work ASFR taxpayer responses. Address changes received from NCOA and IRS contacts with taxpayers are systemically updated to ASFR prior to each notice issuance to ensure the most current address is being used. When notices are returned "undelivered" from the USPS, ASFR suspends activity on accounts and requests additional address research (using the Address Research System). Accounts are updated with new address information when the taxpayer confirms the</p>		<p>to an address where the taxpayer actually resides. The NCOA database has been in use for years, and IRS data has shown virtually no change in the volumes of ASFR cases closed as "unagreed" and ASFR assessments closed as unable to locate/contact, or simply transferred to the Queue without contact. This issue remains unresolved.</p>

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	<p>address via letter 2797C or other contact and notices are re-issued. ASFR continues enforcement activity only after all attempts to secure an updated address have failed. Unclaimed notices are notices the USPS delivers to the taxpayer's address of record, but are refused or unclaimed. ASFR does not consider those notices "undeliverable" because delivery is attempted to the correct address. Beginning in January 2012, balance due inventory that is currently not collectable due to "unable to locate" designations will not be reassigned to ASFR. The IRS will continue to perform due diligence in obtaining the most current addresses when ASFR letters are returned by the USPS. In addition, for field examinations, IRM 4.10.2.7.2.2, Unlocatable Taxpayers—Mandatory Steps to Locate, provides the steps to be followed by field examiners including research of internal</p>		

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	sources, the asset locator service, the internet, the Currency Banking Retrieval System, and sending a postal tracer.		
2. Follow through on current plans to implement the revised ASFR "90-day" letter in FY 2012.	The ASFR 90-day letter will be tested in July 2012, with an implementation date of October 2012.	Partial	The IRS has agreed to take the action, and has established an implementation date for the revised notice. However, this notice has been scheduled for revision and implementation for several years. TAS will consider the issue resolved when the notice is actually put into service.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>3. Revise ASFR processing procedures to emphasize the completion of telephonic, personal contacts with the affected taxpayers in all potentially "unagreed" ASFR cases prior to assessment.</p>	<p>The IRS is pursuing programming to send a final notice (CP 518) to taxpayers prior to being directly assigned to ASFR. The change will allow additional time for taxpayers to respond, and will perform telephone and address research needed to implement predictive dialer processing. Although systemic changes will be implemented, use of predictive dialer is dependent upon available resources. ASFR will continue enforcement activity only after all attempts to secure an updated address have failed.</p>	<p>No</p>	<p>The IRS response does not address the recommendation in a meaningful manner. The IRS has had "plans" to use the predictive dialer (PD) in the ASFR program for many years. Yet, resources have not been made "available" to implement PD technology into the program, and the IRS confirmed that no tests or implementation plans exist in this area. However, the recommendation to make a personal contact prior to assessment on unagreed cases is not dependent on the use of the PD. As such, the IRS has not actually responded to the recommendation.</p>

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<p>4. Allocate adequate resources to the ASFR reconsideration process to ensure adjustments are initiated and completed in a timely manner.</p>	<p>The IRS will continue to strive to improve timeliness and accuracy for Substitute for Return assessments and reconsideration adjustments through training and systemic tools. A new ASFR Reconsideration tool was developed with cooperation from frontline employees, and implemented in December 2011. The IRS will continue to effectively allocate available resources for all program areas.</p>	<p>Partial</p>	<p>The IRS response is a "no response." The implementation of a new tool may be a positive development, but a commitment to "continue to effectively allocate available resources for all program areas" provides no acknowledgement of the problem, nor any changes to address the problem of a backlog in ASFR adjustments.</p>

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<p>5. Apply a pre-assessment collectability determination to all potential ASFR assessments, including consideration of potential "unable to locate" and "little or no tax due" situations, and the potential for economic hardship based on the taxpayer's income level. Consider the taxpayer's last return filed information in making this determination.</p>	<p>The IRS has already taken steps to remove "little or no tax due" situations from the ASFR program. Taxpayers with associated balances that are "currently not collectable" will not be sent to ASFR for processing. It is not appropriate to consider the taxpayer's last filed return in making any determinations in all circumstances because it may have been more than 1 year since the last filing, and the reason for not filing may have been changes to marital status, dependents, or income type.</p>	<p>No</p>	<p>The IRS response does not adequately address the recommendation. Expanded use of last return filed and 3rd party info could result in assessments that are more collectible. The practice of excluding modules from the ASFR process that are associated with a prior CNC may be having a chilling effect on the IMF non-filer program. Further, the approach does nothing to address collectability issues in cases where the IRS has not already reported a module as CNC.</p>

**2011 ARC – MSP Topic #6 – CHANGES TO IRS LIEN FILING PRACTICES ARE NEEDED TO IMPROVE FUTURE COMPLIANCE, INCREASE REVENUE COLLECTION, AND MINIMIZE ECONOMIC HARM INFLICTED ON FINANCIALLY STRUGGLING TAXPAYERS**

**Problem**

The National Taxpayer Advocate has repeatedly expressed concern about the adverse impact of IRS lien filing policies on taxpayers and future compliance. She has proposed several administrative and legislative steps to improve these policies and procedures, and to grant relief to taxpayers harmed by automatic filings. In response, the IRS announced a new effort to help financially struggling taxpayers get a “fresh start,” which included several positive changes in how it files and withdraws Notices of Federal Tax Lien (NFTLs). Despite these changes, the IRS filed 1,042,230 NFTLs in fiscal year (FY) 2011 against 713,524 taxpayers. Although the number of liens filed decreased by approximately 54,000 or five percent from FY 2010 levels, the IRS continued to file most NFTLs based on a dollar threshold of liability, without human review of the need for the lien based on the facts and circumstances of the case. As a result, the revised lien policies may not deliver the promised “fresh start” for many taxpayers who will grapple with the burden of NFTLs for years.

<b>NTA Recommendation</b>	<b>IRS Response</b>	<b>IRS Addressed Yes/No/Partial (TAS’s Assessment)</b>	<b>TAS Explanation (if any)</b>
<p>1. Collaborate with the National Taxpayer Advocate and TAS Research on the next phase of the TAS lien study to explore when lien filing might be most effective, and the impact of certain independent variables on taxpayer compliance, with or without a lien.</p>	<p>The IRS will continue working with TAS in this regard. SB/SE Research and OPERA commented on preliminary work undertaken by TAS Research on the study reported in the MSP and suggested that additional factors need to be considered before making definitive conclusions. Those concerns were about the data and formulas used, they indicated that the underlying data and formulas used might not support the conclusions.</p>	<p>Yes</p>	

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	<p>Consideration by RAS of the study as reported in the MSP report suggests that, in particular, the assumptions underlying the Propensity Score Matching method in Phase 1 and the regression techniques employed for the logistic regression models in Phase II are sufficiently questionable for a joint TAS-RAS evaluation of those to be called for.</p>		
<p>2. Based on the results of the TAS study and in collaboration with the National Taxpayer Advocate, develop new, meaningful NFTL filing determination criteria based on thorough review of objective factors, such as the existence and value of the taxpayer's equity in assets, compliance history, reasons for noncompliance, effect on collection potential, harm to the taxpayer and his or her ability to comply in</p>	<p>The IRS has initiated several research studies (and has and plans to continue sharing the results with TAS ) to determine the effectiveness of lien notice filing and to assure that evaluation of those is based on robust statistical analysis, among other information. We will continue to utilize the findings from these and future studies when considering Internal Revenue Manual (IRM) and policy changes to ensure employees are filing appropriate and effective NFTLs.</p>	<p>Partial</p>	<p>While the IRS agreed to study the effectiveness of liens in conjunction with the National Taxpayer Advocate, it has not indicated whether it will consider the factors listed in the recommendation.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>the future, prior contact and cooperation of the taxpayer, willingness to resolve the liability (including through collection alternatives), payment before the collection statute expiration date, and assurance that the NFTL is filed in the proper jurisdiction. These new criteria will replace the current policy of automatically filing liens based on a dollar threshold of unpaid liability.</p>			
<p>3. Discontinue NFTL filing on currently not collectible taxpayers based on the dollar threshold of unpaid liability, and instead make a lien filing determination at the time of the CNC determination.</p>	<p>SB/SE Research and OPERA continue to perform studies on aspects of the Utility of Lien Filings. IRS awaits further information before making any changes to our lien policy. In the interim, IRS is open to discussing alternatives to our current lien determination procedures with TAS.</p>	<p>Partial</p>	<p>While agreeing to discuss alternatives to current lien determination procedures, the IRS did not commit to stop filing NFTLs on currently not collectible taxpayers based on the dollar threshold of unpaid liability.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>4. Replace the mandatory NFTL filing on CNC taxpayers and taxpayers with no assets with a system of subsequent filing determinations based on periodic monitoring of whether the taxpayers have acquired assets or their financial situations have improved, using information from Accurint and IRS internal databases.</p>	<p>While IRS cannot commit to this change at this time, we will continue to take into account the recommendation as we evaluate lien policy. We must take into account the cost involved with multiple lien determinations and the risk to the government of having no lien in place in cases in which future assets are acquired.</p>	<p>No</p>	<p>The IRS has agreed to consider this recommendation in the future as it will evaluate lien policy. Instituting a monitoring system for CNC and no-assets cases would improve the efficiency of NFTL filings and save IRS resources. The IRS can and should use technology to identify assets and prompt a review of a case when the taxpayer acquires an asset or his financial situation improves. The CNC process has a built-in monitoring system, based on the dollar threshold and closing code established for review of the account. If a taxpayer exceeds that amount, the IRS can reactivate the account and make a new NFTL determination based on the taxpayer's improved circumstances.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>5. Require managerial approval for NFTL filings in cases where the IRS has not made personal contact with the taxpayer or the notice to the taxpayer was returned as undeliverable.</p>	<p>While the IRS agrees that appropriate efforts should be made to contact taxpayers prior to NFTL filing, at this time, we do not believe it is appropriate to require managerial approval in cases where no attempted personal contact was made. Generally, the IRS sends multiple letters for each tax period owed. In most cases, the IRS further attempts to make contact via telephone or in person. It is normally after the taxpayer has had several opportunities to respond, and did not voluntarily resolve their account, that a Notice of Federal Tax Lien will be filed, if it meets the filing threshold. However, as discussed, SB/SE Research and OPERA are undertaking analysis of selected aspects of lien filings. Additional analyses of other aspects of lien filings are planned. IRS will analyze the results to determine any necessary lien policy changes.</p>	<p>No</p>	<p>While the IRS disagreed with the recommendation, it indicated willingness to consider lien policy changes after additional research is done. The National Taxpayer Advocate believes an NFTL filing must have a manager's approval when the IRS has not made personal contact with the taxpayer and its notices have been returned as undeliverable. The managerial approval would ensure that the benefit to the government outweighs the harm to the taxpayer and that the NFTL will attach to assets.</p>

**2011 ARC – MSP Topic #7 – FOREIGN TAXPAYERS FACE CHALLENGES IN FULFILLING U.S. TAX OBLIGATIONS**

**Problem**

Millions of foreigners enter the United States for personal and business reasons each year. Some of them may be subject to U.S. tax on U.S.-source income and have a U.S. filing obligation. Many are not proficient in English and are unfamiliar with U.S. tax concepts, which make them less equipped to deal with the complexity of the U.S. tax code and reporting requirements. These taxpayers face serious challenges in understanding and meeting their federal tax obligations.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>1. Make relevant web resources, forms, and publications, including Publication 519, U.S. Tax Guide for Aliens, available in major foreign languages.</p>	<p>The IRS has made a number of recent improvements in this area and continues to make additional progress. The information from Publication 519 is available in other foreign languages on the IRS's Multilingual Gateway. Also, IRS Media &amp; Publications (M&amp;P), provides IRS-wide support for translating products for the web when requested. M&amp;P has identified actions for FY 12 that will improve services for international taxpayers, including expanding our products and services to meet the needs of Limited English Proficient (LEP) taxpayers. The IRS is continuing to explore areas to improve service to international taxpayers.</p>	<p>Yes</p>	

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
2. Develop focused outreach and separate publications in foreign languages for special groups of nonresident alien taxpayers and foreign entities.	The IRS has several taxpayer service programs designed to foster compliance by foreign taxpayers. We welcome the opportunity to work with the NTA to identify priorities in this area.	Yes	
3. Partner with the Departments of State and Homeland Security to distribute concise publications for these specific groups at U.S. consulates and embassies in conjunction with issuance of a specific type of visa and at U.S. ports of entry.	The IRS continues to explore how to expand the range of taxpayer services offered outside the United States. The IRS currently works with US embassies outside of the US and will consider whether it is possible to work more directly with the Department of State or the Department of Homeland Security to distribute tax information to taxpayers obtaining specific visas.	Yes	

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>4. Partner with the Department of State for virtual service delivery at U.S. embassies and consulates abroad.</p>	<p>Virtual Service Delivery is being piloted at 20 locations during the 2012 tax filing season. The IRS will test taxpayer acceptance of the technology as we gain more experience. While we are unable to commit to the recommendation at this time, after the pilot, the IRS will reassess the feasibility of using VSD as currently available on a broader basis. There are several challenges that must be addressed before VSD could be made available on a global basis including secure communications, equipment installation, varying time zones and video call routing issues.</p>	<p>Partial</p>	<p>The IRS has agreed to assess the feasibility of Virtual Service Delivery (VSD) on a global basis. However, it has not committed to implement VSD as a cost-effective method of in-person communication with international taxpayers, many of whom do not have an opportunity to discuss their tax issues with IRS personnel.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>5. Extend Over the Phone Interpreter service to all IRS phone assistors, including W&amp;I Accounts Management function.</p>	<p>The IRS agrees to perform a feasibility study to determine our ability to provide, and the associated cost of providing, OPI to Accounts Management assistors working with international taxpayers.</p>	<p>Partial</p>	<p>The IRS agreed to study the feasibility of providing OPI services to Accounts Management (AM) assistors working with international taxpayers. Speaking with an AM employee could be the only option for a foreign taxpayer with a U.S. filing obligation because most foreign taxpayers reside abroad by definition. An ability to address or resolve a U.S. tax issue in his or her native language may substantially increase compliance among foreign taxpayers.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>6. Allow electronic filing of 1040 NR series tax returns and ITIN applications for nonresident alien taxpayers.</p>	<p>Form 1040NR is scheduled to be added to the list of forms that can be electronically filed, the timing of which depends on a number of factors. It is anticipated that ITIN applications will not be accepted electronically. The IRS is required to review original foreign documentation when each application is filed. It is not considered feasible at this time to accurately review such documents if they are efiled.</p>	<p>Partial</p>	<p>While the IRS is in process of implementing electronic filing for Forms 1040NR series, a taxpayer cannot file a tax return without a taxpayer identifying number. Most foreign taxpayers would not be eligible for a Social Security number and therefore would be required to apply for an ITIN by filing a paper return or by qualifying for a limited number of exceptions. It is IRS's duty to provide an easy way of instantly paying U.S. taxes and obtaining a taxpayer identifying number online at least for those foreign taxpayers who do not claim a refund or credit. Payment of taxes from abroad and filing tax returns should not result in additional burden for taxpayers. Many foreign tax agencies allow filing and paying taxes online from their multilingual web sites.</p>

**2011 ARC – MSP Topic #8 – INDIVIDUAL U.S. TAXPAYERS WORKING, LIVING, OR DOING BUSINESS ABROAD REQUIRE EXPANDED SERVICE TARGETING THEIR SPECIFIC NEEDS AND PREFERENCES**

**Problem**

The complexity of international tax law, combined with the procedural burden placed on five to seven million individual U.S. taxpayers working, living, and doing business abroad, creates an environment where taxpayers who are trying their best to comply simply cannot. For some taxpayers, this means paying more U.S. tax than is legally required, while others may be subject to steep civil and criminal penalties. These taxpayers need expanded service targeting their specific needs and preferences. While the IRS has substantially stepped up and invested hundreds of millions of dollars in international enforcement programs, it has not adequately improved taxpayer service programs that would foster compliance.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>1. Simplify tax return and information reporting forms for individual U.S. taxpayers abroad.</p>	<p>The IRS welcomes the opportunity to work with TAS to identify specific forms that may be simplified as well as specific proposals for simplification. U.S. citizens and resident aliens living abroad are entitled to deductions and credits, subject to specific legal and regulatory requirements, that are available to U.S. citizens and resident aliens living in the United States. Therefore, in order to properly claim deduction and credits to which they are entitled, those living abroad require the same forms as U.S. citizens and resident aliens living in the</p>	<p>Yes</p>	

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	United States. If taxpayers do not need to take advantage of the foreign earned income exclusion or foreign tax credit, they may use the simpler Form 1040A or Form 1040-EZ.		
2. Expand self-serve options, including TeleFile, fax, and Free File, and develop a free website application from IRS.gov (NetFile).	The IRS continues to expand self-service options and has implemented several technology enhancements that can assist taxpayers to obtain information more easily. We will continue to make additional improvements in this area. Please see MSP #15 for the IRS response regarding TeleFile.	Yes	
3. Extend telephone access to the existing Accounts Management function and the National Taxpayer Advocate (NTA) toll-free lines for the continental U.S. to taxpayers in Canada and Mexico.	The IRS continues to explore options given the current budget situations, but we cannot commit to action at this time. The IRS welcomes the opportunity to meet with the NTA to discuss cost issues and other options for telephone service for taxpayers living in Canada and Mexico.	Partial	The IRS is open to discussions but cannot commit based on budgetary concerns. TAS urges the IRS to explore free or low cost options, such as voice over the phone (VOIP) or Skype technology for taxpayers located in Canada and Mexico. For example, U.S. Department of Defense allows military personnel to use Skype.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
4. Pilot secure email communications, virtual service delivery, and access to the MyIRS account application for international taxpayers, including answers to account-specific questions and access to TAS.	The IRS understands the growing need to electronically communicate with both domestic and international taxpayers via email and must do this while providing for the security of taxpayer data and maintaining the public's trust and confidence in that ability. We continue to explore improvements in this area, including expanded virtual service delivery, but cannot commit to the specific recommendation at this time.	Yes	
5. Establish a tax attaché office in Mexico.	The IRS does not believe that such expansion is appropriate at this time. We do not believe that the magnitude of the overseas service challenge can be adequately addressed by incurring the substantial costs of placing single individuals in overseas offices to answer the telephone or handle walk-in assistance requests. Especially given limited budgets, our efforts will be focused on delivery channels that will benefit taxpayers on a broader basis.	No	The IRS's reluctance to reopen its Mexico City post is disappointing, considering that Mexico is the country with the largest number of U.S. taxpayers abroad, yet is without a single venue for them to receive help face-to-face. In addition, the IRS Tax Attaché Posts Expansion Proposal, Executive Summary, Increase the Number of Foreign Posts of Duty – makes a strong case for post expansion.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>6. Partner with the Department of State to train embassy and consulate staff to provide a full range of taxpayer services, including assistance with preparation of tax returns, similar to what the Social Security Administration does for beneficiaries overseas.</p>	<p>The IRS will consider whether it is possible to work more closely with the Department of State, but the IRS does not agree that State Department employees providing tax preparation and other tax services is necessarily an appropriate objective.</p>	<p>Partial</p>	<p>While agreeing to work "more closely" with the Department of State, the IRS does not commit to providing tax services through Department of State employees. For example, the Social Security Administration, which has no offices outside the U.S., has partnered with the Department of State to provide a full range of services, including accepting applications for benefits through specially trained embassy and consulate employees in 33 countries with a relatively large number of Social Security customers.</p>

**2011 ARC – MSP Topic #9 – SMALL BUSINESSES INVOLVED IN INTERNATIONAL ECONOMIC ACTIVITY NEED TARGETED IRS ASSISTANCE**

**Problem**

As a result of globalization, an increasing number of taxpayers, including hundreds of thousands of small businesses, engage in international transactions. Forty-three IRS publications totaling 1,212 pages relate to U.S. small businesses involved in economic activity abroad. These publications in turn refer to other publications comprising 13,346 pages, 1,500 pages of forms, and another 5,018 pages of form instructions. This vastly complicates the search for the information that small business taxpayers need to meet their tax obligations. Because these taxpayers may have trouble understanding international tax rules and may not be able to afford professional representation, they need targeted taxpayer service.

<b>NTA Recommendation</b>	<b>IRS Response</b>	<b>IRS Addressed Yes/No/Partial (TAS's Assessment)</b>	<b>TAS Explanation (if any)</b>
1. Survey the needs and preferences of U.S. small businesses involved in international transactions and conduct a new study in collaboration with TAS Research to properly identify this taxpayer population and its needs.	The IRS continues to look for ways to meet the needs of small businesses and welcomes the opportunity to work with TAS to identify the specific issues that should be addressed when a survey is conducted.	Yes	

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>2. Develop publications, education, and outreach materials for small businesses involved in international transactions, including start-up businesses (regardless of form, i.e., corporation, partnership, limited liability company, or sole proprietorship), and country-specific materials for major trading partners, similar to the publication addressing the U.S.–Canada tax treaty.</p>	<p>The IRS currently provides assistance to international taxpayers in a variety of ways. However, we continue to look for ways that improvements can be made. We welcome the opportunity to work with TAS to identify the areas requiring additional publications, education and outreach, and to determine what types of information and assistance would be most useful.</p>	<p>Yes</p>	

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>3. Develop a special assistance program for these taxpayers, including a dedicated toll-free telephone line, a small business exporting center on the IRS website, and walk-in sites and workshops for small businesses involved in international activity.</p>	<p>The IRS continues to look for ways to assist small business taxpayers engaged in domestic and international activities and we have taken a number of steps in this area. The IRS will consider whether it is feasible to develop a special assistance program and welcomes TAS participation. The IRS will continue to explore whether additional special programs, as well as tailored education and outreach, are needed for small businesses.</p>	<p>Yes</p>	
<p>4. Simplify information reporting for U.S. small businesses and entrepreneurs involved in international transactions.</p>	<p>The IRS will work with TAS to identify forms that have the potential to be simplified to reduce taxpayer burden without compromising compliance. If forms are identified, the IRS will consider whether it is feasible to develop new forms, considering available resources.</p>	<p>Yes</p>	

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>5. Reduce filing fees for the APA program and letter rulings on international issues for small businesses with assets of \$10 million or less.</p>	<p>While we cannot commit to the implementing the recommendation at this time, we will continue to take the recommendation into account. Any plan to increase the number of small business taxpayer APAs must take into account the potential impact on the Program as a whole, including the potential need for additional resources and the potential effect on case processing times. Any significant increase in caseloads, without a commensurate increase in resources could lead to further backlogs and/or undesirable structural changes. As part of the APA Program's announced merger with the U.S. Competent Authority, the IRS is addressing a number of strategic issues, including small business APAs.</p>	<p>Partial</p>	<p>While we agree that these initiatives may require more resources, we believe that there is sufficient data and analysis available today that would enable the IRS to make a compelling and convincing case for additional funding in this area, so that U.S. small businesses can be competitive in a global economy without fear of running afoul of the tax laws. Anticipated merger of the APA program with the U.S. competent authority is a right time to revise the fee structure for small businesses.</p>
<p>6. Test pilot versions of the PFA program and other programs available for large businesses for small businesses, but with reduced fees.</p>	<p>The IRS is currently unable to test pilot the pre-filing agreement program and other programs available for large businesses for small businesses, but with reduced</p>	<p>No</p>	<p>The IRS acknowledges that small businesses are facing complex international tax issues that "would require significant additional IRS resources," but it continues to</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	<p>fees. We believe that it is not appropriate to use a PFA to clarify for the taxpayer an issue that has numerous legal complexities. A PFA is generally entered into to resolve, in advance of filing, the determination of facts affecting a tax position on a return, the application of well-established legal principles to known facts, or the methodology used by the taxpayer to determine an appropriate amount of income, deduction, allowance or credit. A PFA program for small businesses would require significant additional IRS resources. Due to the current fiscal and staffing constraints, at this time, the IRS is not in a position to conduct a pilot program that offers reduced PFA user fees for small businesses. Inquiries received from small businesses regarding the PFA program indicate issues that would be considered for acceptance are complex issues and would take as much, if not</p>		<p>effectively deny these taxpayers the pre-filing assistance that large businesses receive. While we agree that these initiatives may require more resources, we believe that there is sufficient data and analysis available today that would enable the IRS to make a compelling and convincing case for additional funding in this area, so that U.S. small businesses can be competitive in a global economy without fear of running afoul of the tax laws.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	more, resources to address than the typical issues submitted by large businesses.		

**2011 ARC – MSP Topic #10 – GLOBALIZATION REQUIRES GREATER INTERNAL IRS COORDINATION OF INTERNATIONAL TAXPAYER SERVICE**

**Problem**

In recent years, the IRS has devoted substantial resources to improving international tax administration and responding to the challenges of globalization. However, this strategy has focused on stepped-up enforcement without adequate IRS-wide coordination or a corresponding increase in service to international taxpayers. The lack of coordination may undermine international enforcement initiatives and discourage future compliance by taxpayers dealing with the complexity and procedural burden of the international tax rules.

<b>NTA Recommendation</b>	<b>IRS Response</b>	<b>IRS Addressed Yes/No/Partial (TAS's Assessment)</b>	<b>TAS Explanation (if any)</b>
<p>1. Reinstate the International Planning and Operations Council as a servicewide forum devoted to international taxpayer service and enforcement.</p>	<p>As discussed with the NTA, LB&amp;I has discontinued the IPOC in favor of bilateral sessions. The Assistant Deputy Commissioner, International (LB&amp;I) has been identified as the appropriate office for the Taxpayer Advocate Office to coordinate with in this important, complex area.</p>	<p>No</p>	<p>The National Taxpayer Advocate is concerned that in the absence of a servicewide forum for international taxpayer service, the IRS will be unable to properly evaluate needs and preferences of this taxpayer segment and take cost-effective steps to address them. Bilateral meetings, offered as a substitute for an open exchange of opinions at a servicewide forum, cannot achieve the goal of coordinating all taxpayer service and compliance activities. Moreover, bilateral meetings do not allow for a free and full discussion of the problems facing international</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
			taxpayers, by which all interested and impacted IRS functions can hear each other's perspective.
2. Create an international taxpayer service subgroup within IPOC to address specific needs and compliance challenges of international taxpayers and coordinate international taxpayer service initiatives for all IRS functions.	See response to recommendation 10-1 above.	No	Bilateral meetings, offered as a substitute for an open exchange of opinions at a servicewide forum, cannot achieve the goal of coordinating all taxpayer service and compliance activities. Moreover, bilateral meetings do not allow for a free and full discussion of the problems facing international taxpayers, by which all interested and impacted IRS functions can hear each other's perspective. The National Taxpayer Advocate is also unaware of any servicewide effort by the Deputy Commissioner, International to coordinate service for international taxpayers on an agency-wide basis. With respect to the Forum on Tax Administration, the National Taxpayer Advocate appreciates the

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
			availability of the IRS delegate and is looking forward to establishing periodic meetings for sharing and obtaining suggestions and ideas about best practices in service delivery around the world.
<p>3. Provide funding for TAS to establish Local Taxpayer Advocate positions in each of the four existing tax attaché offices abroad and include such positions in future expansion of attaché offices.</p>	<p>The IRS is working to improve taxpayer service through alternative channels. The IRS does not believe that educating taxpayers abroad, resolving their compliance issues, and identifying systemic issues facing international taxpayers can be adequately addressed by placing single individuals in four overseas offices.</p>	<p>No</p>	<p>The National Taxpayer Advocate disagrees with the IRS's assessment that "educating taxpayers abroad, resolving their compliance issues, and identifying systemic issues facing international taxpayers can[not] be adequately addressed by placing single individuals in overseas offices." Today, international taxpayers lack access to face-to-face assistance from taxpayer advocates. Although we agree that "establish[ing] LTA positions in each of the four existing tax attaché offices abroad will not afford every taxpayer an opportunity to avail him or herself of Taxpayer Advocate services," the National Taxpayer</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
			<p>Advocate believes it would give international taxpayers the opportunity to access advocacy services as needed. Not every taxpayer uses TAS services in the United States, but every taxpayer has the right and the opportunity to obtain face-to-face TAS assistance in every state. Establishing LTA positions at IRS offices abroad will enable underserved taxpayers to request an advocate's intervention in person and facilitate appropriate service to taxpayers in a specific country or area. LTAs at foreign posts also could travel to meet with taxpayers at other locations within their jurisdiction.</p>

**2011 ARC – MSP Topic #11 – U.S. TAXPAYERS ABROAD FACE CHALLENGES IN UNDERSTANDING HOW THE IRS WILL APPLY PENALTIES TO TAXPAYERS WHO ARE REASONABLY TRYING TO COMPLY OR RETURN INTO COMPLIANCE**

**Problem**

Although the IRS’s longstanding policy is to use penalties “to encourage voluntary compliance,” it may have used penalties as leverage against taxpayers who have entered into voluntary disclosure programs, often penalizing those who are trying to become compliant. Many appear to believe the IRS will always seek to apply the maximum penalties, regardless of the situation, even to “benign actors.” Absent clear procedures and transparent guidance about how these benign actors can return into compliance without being subject to maximum penalties, the IRS is squandering an opportunity to substantially improve voluntary compliance by millions of low profile U.S. taxpayers abroad.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS’s Assessment)	TAS Explanation (if any)
<p>1. Issue guidance in form of IRM changes or public guidance published in the Internal Revenue Bulletin that:</p> <ul style="list-style-type: none"> <li>a. Describes, reaffirms, and expands the taxpayer-favorable procedures provided by IRM 4.26.16;</li> <li>b. Tells people what to do if they discover they have inadvertently failed to file FBARs, reassuring them that they are most likely to receive a warning letter in accordance with the IRM if they follow the</li> </ul>	<p>The IRS recently published an informational fact sheet illustrating how present law penalties operate, including a reminder that FBAR penalties do not apply if the IRS determines that there is reasonable cause (see also IR-2008-79 which offers taxpayer-favorable guidance regarding FBARs that were inadvertently not filed). The IRS is also in the process of updating IRM 4.26 guidance to improve the administration of the FBAR compliance program, and to ensure consistency and effectiveness in the</p>	<p>Yes</p>	

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
instructions provided by the guidance.	administration of FBAR penalties.		
2. As part of the FATCA implementation project, develop specific guidance to clarify how taxpayers who have reasonably tried to comply with international information reporting requirements can avoid multiple penalties for the same conduct.	As the IRS continues to work on guidance in this area, we will address the extent to which duplication exists and the circumstances in which filers are, or are not, expected to comply with multiple reporting requirements.	Yes	
3. Include representatives of the Taxpayer Advocate Service on "servicewide" teams that are addressing and developing guidance about international information reporting requirements, penalties, and related compliance initiatives.	The IRS will continue working with TAS in the development of guidance in this area.	Yes	

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
4. Regularly consult with and provide briefings to the National Taxpayer Advocate on all matters pertaining to international information reporting requirements, penalties, and related compliance initiatives.	As stated above, the IRS will continue working with TAS in the development of guidance in this area.	Yes	

**2011 ARC – MSP Topic #12 – THE IRS’S OFFSHORE VOLUNTARY DISCLOSURE PROGRAM “BAIT AND SWITCH” MAY UNDERMINE TRUST IN THE IRS AND FUTURE COMPLIANCE PROGRAMS**

**Problem**

While the maximum penalty for a “willful” failure to report foreign accounts on Form TD F 90–22.1, *Report of Foreign Bank and Financial Accounts* (FBAR) is severe, people who voluntarily correct inadvertent violations are generally not subject to a significant penalty. Nonetheless, the IRS “strongly encouraged” nearly everyone with a violation to participate in the 2009 Offshore Voluntary Disclosure Program (OVDP) or face potentially excessive civil and criminal penalties. More than a year after the 2009 OVDP ended, the IRS changed key terms of the program to the detriment of those with inadvertent violations, damaging the IRS’s credibility. The IRS’s statements also leave the public confused and concerned that excessive FBAR penalties may apply to inadvertent violations.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS’s Assessment)	TAS Explanation (if any)
1. Revoke the March 1 memo and disclose such revocation as required by the Freedom of Information Act.	The memorandum in question was publically released in 2011, and is still operative.	No	The IRS has not revoked the March 1, 2011, memo, as recommended, nor has it agreed to do so.
2. Immediately direct all examiners to follow FAQ #35 by not requiring a taxpayer to pay a penalty greater than what he or she would otherwise be liable for under “existing statutes.” This direction should clarify that examiners should apply “existing statutes” in the	OVDP was never intended to require facts and circumstances determinations to be made within the settlement program. It was, however, always intended that a facts and circumstances determination would be available in an examination following opting out of the settlement program. Mitigation of penalties is available to	No	The IRS does not plan to direct its examiners to follow OVDP FAQ #35, as recommended.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>same manner that the IRS applies them outside of the OVDP (e.g., IRM 4.26.16 implements existing statutes by instructing employees to: issue warning letters in lieu of penalties, consider reasonable cause, assert the penalty for willful violations only if the IRS has proven willfulness, impose less than the maximum penalty for failure to report small accounts under "mitigation guidelines," and apply multiple FBAR penalties only in the most egregious cases). Post any such guidance in the electronic reading room on IRS.gov, as required by FOIA.</p>	<p>taxpayers through the opt-out feature of the program.</p>		
<p>3. Issue a notice or similar public pronouncement that: a. Describes, reaffirms,</p>	<p>Please see comments to the related recommendations above. The IRS has taken a number of steps to increase</p>	<p>Partial</p>	<p>In December 2011, after the 2011 report went to the printer, the IRS released a "fact sheet," which purported to clarify that penalties</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>and expands the taxpayer-favorable procedures provided by IRM 4.26.16;</p> <p>b. Tells people what to do if they discover they have inadvertently failed to file FBARs, reassuring them that they are most likely to receive a warning letter in accordance with the IRM if they follow the instructions provided by the notice;</p> <p>c. Reaffirms that people accepted into the OVDP will not be required to pay more than the amount for which they would otherwise be liable under existing statutes, as currently provided by OVDP FAQ #35 (cross-referencing the guidance issued pursuant to recommendation #2);</p> <p>and</p>	<p>education in this area.</p>		<p>would not always be imposed for the failure to file returns or FBARs. IRS, FS-2011-13, Information for U.S. Citizens or Dual Citizens Residing Outside the U.S. (Dec. 2011), <a href="http://www.irs.gov/newsroom/article/0,,id=250788,00.html">http://www.irs.gov/newsroom/article/0,,id=250788,00.html</a>. It was helpful in clarifying for taxpayers and IRS employees that the taxpayer-favorable sections of the IRS were not obsolete, and that the IRS would consider “reasonable cause” in certain situations. However, it did not fully implement the recommendation. As of now, it is unclear what other steps, if any, the IRS will take to implement it.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>d. Commits to replacing all OVD-related frequently asked questions (FAQs), fact sheets, press releases, and memos on IRS.gov with guidance published in the Internal Revenue Bulletin that describes the OVDP, OVDI, and how the IRS will handle voluntary disclosures outside of those programs. This guidance should incorporate comments from all internal and external stakeholders.</p>			

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>4. Allow taxpayers who agreed, under the OVDP, to pay more than they believe they would be liable for under existing statutes (as implemented by the IRS outside of the OVDP, and described above) the option to elect to have the IRS certify this claim, and offer to amend the closing agreement(s) to reduce the offshore penalty.</p>	<p>Throughout the entire program, taxpayers have had the opportunity to opt out of the settlement structure and request an examination if the taxpayer disagrees with the result provided for under the program. An examination is the appropriate forum for detailed facts and circumstances determinations. Moreover, the opt-out procedures and additional guidance issued on June 1, 2011, clarify that, depending on the facts and circumstances, it may be preferable for a particular taxpayer to opt out of the 2009 OVDP or 2011 OVDI and provide guidance for taxpayers regarding the decision whether to opt out.</p>	<p>No</p>	<p>The IRS has not agreed to modify the closing agreements of taxpayers who agreed to pay more than required under existing statutes, as recommended.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>5. Reinstatement of the International Planning and Operations Council (IPOC) or a similar servicewide forum for addressing international taxpayer issues and vetting international tax compliance initiatives, FAQs, and any similar materials that may appear on the IRS website.</p>	<p>Please see response to recommendation 10-1, above.</p>	<p>No</p>	<p>The IRS did not agree to take the recommended action or propose any specific alternative.</p>

**2011 ARC – MSP Topic #13 – ACCELERATED THIRD-PARTY INFORMATION REPORTING AND PRE-POPULATED RETURNS WOULD REDUCE TAXPAYER BURDEN AND BENEFIT TAX ADMINISTRATION BUT TAXPAYER PROTECTIONS MUST BE ADDRESSED**

**Problem**

Much of the data taxpayers need to prepare their returns is supplied to the IRS by third-party reporting, yet is not processed or used for verification until long after taxpayers file their returns and the IRS releases refunds. With no way to timely process third-party data, the IRS unnecessarily subjects taxpayers to audits and collection actions, and spends resources trying to recover funds. Tax compliance would increase if taxpayers had timely access to third-party data to aid in the preparation of returns. While the benefits of accelerated third-party reporting are significant, concerns remain about the accuracy of the third-party data and the manner in which the IRS will adjust taxpayers’ accounts based on that data. Thus, before implementing the program, the IRS must develop procedures that provide taxpayers with the standard taxpayer rights that accrue during an examination.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS’s Assessment)	TAS Explanation (if any)
<p>1. Conduct a study of information reporting and work with the Department of Treasury to develop a legislative recommendation to accelerate third-party reporting deadlines, tighten the current e-file mandate, and enable the IRS to receive Form W-2 data at the same time taxpayers receive the forms from their employers.</p>	<p>The IRS recognizes the benefits that can be achieved for taxpayers and the tax system by receiving third-party information on an accelerated basis. The IRS has been working on the early development of a “real time” tax system. It is premature at this time to comment on any specific recommendation as this is a long-term vision that will take some time to fully realize. We look forward to continuing to solicit feedback and input from outside stakeholders as well as</p>	<p>No</p>	<p>The IRS believes it is premature to adopt our recommendation given the stage of the Real Time Tax System initiative.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	the NTA.		
2. Evaluate ways to build the IRS Information Return Master File database in real time as information returns are submitted to the IRS.	Please see response to recommendation 13-1 above.	Yes	
3. Provide taxpayers with the ability to download third-party data directly from the IRS into their return preparation software.	Please see response to recommendation 13-1 above.	No	The IRS believes it is too premature to adopt this recommendation given the early stage of the Real Time Tax System initiative.
4. Evaluate the feasibility of developing a pre-populated return option for taxpayers.	Please see response to recommendation 13-1 above.	Yes	
5. Study the accuracy of third-party reporting data, analyzing its reliability by type of third-party reports (such as interest, dividend, broker transactions, cancellation of debt, merchant card and third party network payments, nonemployee compensation, certain government payments, etc.).	Please see response to recommendation 13-1 above.	No	Conducting the initiative is a first step, but the IRS has not committed to studying the accuracy of the data.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
6. Develop procedures for accelerated third-party reporting that do not include math error authority for adjustments based solely on third-party reporting mismatches.	Please see response to recommendation 13-1 above.	No	The IRS has not committed to limiting math error authority on adjustments made pursuant to the real time tax system initiative.
7. Develop procedures for accelerated third-party reporting that provide taxpayers with the standard taxpayer rights that accrue during an examination, including a prohibition on repetitive and unnecessary examinations, adequate notice, and an opportunity to contest the proposed adjustment administratively and in Tax Court.	Please see response to recommendation 13-1 above.	No	The IRS has not committed to ensuring taxpayer rights that accrue during an exam will accrue to taxpayers subject to real time adjustments.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
8. Develop procedures pursuant to IRC § 6201(d) that provide the protections afforded to taxpayers who have responded to the IRS and challenge an adjustment based solely on information return data in court.	Please see response to recommendation 13-1 above.	No	The IRS has not committed to preserving these fundamental rights.
9. Work with the National Taxpayer Advocate to design any associated taxpayer notices in a clear and straightforward manner so the taxpayer can easily understand his or her rights in the process, the changes made by the IRS, and the steps to take if the taxpayer disagrees with the adjustment.	Please see response to recommendation 13-1 above.	No	The IRS has not committed to designing notices in the manner recommended.

**2011 ARC – MSP Topic #14 – THE IRS SHOULD REEVALUATE EARNED INCOME TAX CREDIT COMPLIANCE MEASURES AND TAKE STEPS TO IMPROVE BOTH SERVICE AND COMPLIANCE**

**Problem**

The Earned Income Tax Credit (EITC), a refundable credit for certain low income workers, lifted approximately six million people out of poverty in 2009 (the most recent year for which data are available). At the same time, the EITC is now classified as the fourth largest source of “improper payments” by the government in fiscal year 2010. It is difficult to evaluate the implications of this classification because successive estimates of improper EITC have been obscure if not incomparable. In any case, efforts to reduce improper payments should not curtail the EITC’s successes. Because EITC funds can be a vital component of a family’s basic living expenses, the EITC presents a special case in which tax administration should encourage participation as well as compliance. Moreover, the intricacies of the EITC law should be applied to each taxpayer’s facts, not to data that may afford administrative shortcuts while abridging individual rights.

<b>NTA Recommendation</b>	<b>IRS Response</b>	<b>IRS Addressed Yes/No/Partial (TAS’s Assessment)</b>	<b>TAS Explanation (if any)</b>
<p>1. Prepare and disclose a full report on its current and prior EITC noncompliance studies, similar to that reporting on 1999. Among other things, this report should disclose assumptions within the methodology as well as data for continued update of the EITC improper payment estimate, which needs to become transparent in light of policies it may generate.</p>	<p>The IRS will continue the annual estimates of Earned Income Tax Credit (EITC) improper payments using the most recent National Research Program (NRP) data available. IRS will also continue to share that methodology with Treasury, OMB, oversight agencies and the public as in the past. The most recent figures are included in Treasury’s Performance and Accountability Report (PAR) for FY 2011. Also, the NRP data used in the EITC improper payments estimate is available on the Research, Analysis and</p>	<p>Partial</p>	<p>Annual estimates may not disclose methodology and data.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	<p>Statistics (RAS) Compliance Data Warehouse (CDW). The data will be available in May 2012, and the study is expected to be completed by December 31, 2012.</p>		
<p>2. Utilize external data only as an indicator for the risk of noncompliance, so that taxpayers retain their right to have an opportunity to present his or her own facts, a right not subject to compromise by an IRS business decision.</p>	<p>With respect to new proposals, we will continue to take into account the reliability of third-party data as well as taxpayers rights. While we plan to continue our efforts to identify new sources of information to verify EITC eligibility, math error candidates, and alternative compliance treatments to address EITC error, as with all strategic business decisions, we will consider the protection of taxpayer rights and impact on taxpayer burden as part of any new solutions.</p>	<p>Partial</p>	<p>Consideration does not guarantee taxpayer rights per NTA recommendation.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>3. Send correspondence in plain language by implementing the revised Initial Contact Letter (Letter 566) and beginning revision of the other high-volume letters used in correspondence examinations as discussed above by January 2013.</p>	<p>The IRS agrees that clear communication is important to inform taxpayers of an audit and help them understand what information they need to provide to resolve their audit issues. We have initiated revisions to the CP 75 notice series, the initial contact letters used for most EITC audits. We anticipate the revised notices will be available for use by January 2013. Additionally, consistent with our overall strategy to implement plain language and improve correspondence, we will review and revise other letters used in EITC examinations according to our schedule of letter revisions.</p>	<p>Partial</p>	<p>Revision of other letters may not occur by 2013.</p>

**2011 ARC – MSP Topic #15 – REINSTATEMENT OF A MODERNIZED TELEFILE WOULD REDUCE TAXPAYER BURDEN AND BENEFIT TAX ADMINISTRATION**

**Problem**

The IRS unjustifiably ended the TeleFile program in 2005. In fact, the IRS stopped publicizing the program, narrowly defined the user population by restricting eligibility, and then claimed the cost per tax return was too high. Shutting down TeleFile did not drive its users to e-filing as much as the IRS expected, because nearly 30 percent of former users filed paper returns in 2008. Without the program, millions of taxpayers have no free and convenient way to file electronically. In fact, the IRS’s elimination of TeleFile and refusal to revive an expanded Telefile program have an economically and racially discriminatory impact. These actions also provide small businesses with no free and simple method to electronically file and make payments for Form 94x series returns.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS’s Assessment)	TAS Explanation (if any)
1. Reinstate TeleFile with expanded eligibility requirements, including allowing taxpayers who move to use the system and increasing income thresholds.	The IRS does not believe that it is appropriate to reinstate TeleFile at this time. Free File and Free Fillable forms are available as free preparation and e-filing options for simple returns. These alternatives have assisted the IRS in receiving nearly 80 percent of Forms 1040 electronically. Reinstating TeleFile would cost the government and taxpayers millions annually to support and maintain which we do not believe appropriate forgiven the other filing channels available	No	The IRS disagrees with the need to reinstate TeleFile.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>2. Develop modern applications of TeleFile suitable for current technology such as cell phones, smartphones, and tablets.</p>	<p>The IRS continues to explore the development of modern applications. To the extent resources allow the development of applications suitable for current technology, such as cell phones, smart phones, and tablets, we anticipate that such technology would support our current electronic filing system rather than the retired TeleFile program.</p>	<p>No</p>	<p>The IRS does not believe in the fundamental need for a reinstated TeleFile and any adaption of smart phone technology will be used to support e-file and not Telefile.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>3. Develop a modern application of TeleFile to allow small businesses to file Form 94x series returns as well as make associated payments free of charge.</p>	<p>With regard to business returns, a Small Business e-file Communication Team is leading a cross functional communication effort to increase the visibility and promotion of business e-file, including the Form 94x series and the Form 1120. While there are no free options as there are with individual Free File, the IRS is looking at IRS.gov, publications, and other outlets to inform businesses of the availability and value of e-file. The IRS Office of Online Services (OLS) is looking at various options for increasing Form 941 e-file and online payments.</p>	<p>No</p>	<p>The IRS will not explore Telefile as an option for businesses to file 94X series returns.</p>

**2011 ARC – MSP Topic #16 – THE IRS DOES NOT SUFFICIENTLY RECOGNIZE AND ADDRESS DOMESTIC VIOLENCE AND ABUSE AND ITS EFFECTS ON TAX ADMINISTRATION**

**Problem**

One in every four women will experience violence at the hands of an intimate partner in her lifetime, and nearly three out of four Americans know someone who is or has been a victim of domestic violence. Domestic violence and abuse, including economic abuse, have real consequences for tax administration. Examples are joint returns signed under duress or without any possibility of meaningful review, and tax noncompliance in the victim’s name that the victim is powerless to prevent. Identity theft may be a form of domestic abuse that allows an abusive taxpayer to “steal” tax benefits intended for the victim. Because IRS employees are not adequately trained to recognize and address domestic violence and abuse, the IRS may be complicit in achieving the wrong result – imposing or collecting tax inappropriately, or from the wrong taxpayer. Conversely, greater awareness of domestic violence and abuse would help it arrive at the correct tax result and actually alleviate harm. Moreover, the IRS lacks a centralized source of information about domestic violence and abuse and the tax problems they cause.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS’s Assessment)	TAS Explanation (if any)
<p>1. Require all employees who handle innocent spouse claims, all Appeals employees, all Revenue Agents, all Revenue Officers, and all SB/SE Chief Counsel attorneys to take the domestic violence training prepared by the Taxpayer Advocate Service, Recognizing and Working with Taxpayers Who Have Experienced Domestic Violence or</p>	<p>The IRS continually updates training for public contact and enforcement employees and we will continue to focus on communication and interview skills. We have strengthened domestic violence training in the Innocent Spouse program to educate the examiners reviewing innocent spouse cases on communication and interview skills when contacting a spouse alleging abuse. This lesson was prepared with the assistance of a TAS and</p>	<p>Partial</p>	<p>Additional training the IRS will require was not prepared by TAS, and will be required only of employees in the Innocent Spouse Unit.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
Abuse.	attorneys with Low Income Tax Clinics. The Innocent Spouse unit is also utilizing additional training on domestic violence; specifically targeted for employees making determinations on requests for innocent spouse relief. This training is scheduled to be delivered to the employees beginning May 1, 2012. While we do not believe that it is appropriate to use the TAS course for all our employees, we will consider including key elements of the TAS training in future training curriculum updates and/or awareness sessions. Decisions on the method or form of any training would be based on the specific job duties of the employee.		

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>2. Work with TAS to incorporate portions, if not all, of the TAS training into all other front-line public contact employee training, at a minimum portions of the TAS training with information for employees who may be facing this issue themselves or know others who are.</p>	<p>Please see response to recommendation 16-1, above.</p>	<p>Partial</p>	<p>The IRS will only consider including portions of TAS training for some purposes (not necessarily for training) and for some employees, and has not actually used any TAS training to date.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>3. Develop a resource page on the internal website with information and resources for IRS employees who may be experiencing domestic violence and abuse.</p>	<p>The IRS already has available online resources to assist employees in dealing with a variety of personal issues including domestic violence. All IRS employees have access to the EAP. The EAP is a free benefit program that provides no-cost, confidential services to managers, employees, and their family members. EAP gives the employee access to a nationwide counseling network to help deal with personal and/or work-related problems. EAP counselors are licensed professionals. A prominent link to EAP information is included on the IRWeb home page.</p>	<p>No</p>	<p>The IRS maintains that existing online resources for employees are sufficient.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>4. In collaboration with TAS, develop a comprehensive communication strategy for taxpayers and other government agencies, with information about domestic violence and abuse and how to resolve related tax issues. The strategy should include links to nonprofit support organizations and would involve distributing TAS's Consumer Tax Tips brochures on domestic violence and abuse and other related material.</p>	<p>The IRS continually evaluates whether additional outreach materials are necessary. The IRS would be willing to participate in providing input on a strategy as it is possible that the information proposed to be developed could include tax-related issues and contact information for resolution of tax-related issues specific to taxpayers affected by domestic violence. However, it is unclear whether IRS.gov is an appropriate point for a centralized clearinghouse on domestic violence and abuse. Nevertheless, the web page could provide a link for interested taxpayers to request the proposed TAS developed brochure on domestic violence and abuse.</p>	<p>Yes</p>	

**2011 ARC – MSP Topic #17 – THE IRS DOES NOT EMPHASIZE THE IMPORTANCE OF PERSONAL TAXPAYER CONTACT AS AN EFFECTIVE TAX COLLECTION TOOL**

**Problem**

The IRS, in attempting to collect millions of dollars from taxpayers with delinquent accounts, concentrates its collection efforts on issuing notices without attempting to contact the taxpayer by phone or face-to-face. The IRS annually sends over 34 million notices to taxpayers in the first stage of the collection process, but the average payment received in response to a notice in fiscal year (FY) 2011 was just \$517. Cases are not always fully resolved through the notice process and accrue additional interest and penalties, but by reaching out to a taxpayer earlier in the process, the IRS may be able to answer questions, discuss payment alternatives, and reduce accrual of additional liabilities.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>1. Conduct a test by increasing use of the predictive dialer in making personal contacts in targeted segments of the collection workload (e.g., higher-dollar notice accounts, notices involving “repeat delinquents,” and potentially defaulting installment agreements and offers in compromise).</p>	<p>Based on current resources, we do not believe the cost of staffing additional predictive dialer calls that do not reside on the ACS system would be worth the potential benefits. Handling return calls for messages left by the predictive dialer would require shifting of personnel from their current activities assisting other taxpayers. We have exceeded our capacity for running the Dialer based on our capacity to handle the return calls generated from the messages left by the Dialer. In addition, based on resources, equipment, and Technology constraints, it is not feasible to</p>	<p>No</p>	

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	expand the dialer program to this segment of work.		
2. Revise the IRM to require additional attempts at personal taxpayer contact before the ACS sends a case to the collection queue.	Based on current staffing and resources, the costs of requiring ACS employees to attempt personal taxpayer contact prior to sending the case to the Collection queue would outweigh the benefits. These costs include diverting the ACS employees from other taxpayer assistance calls. In addition, placing pending Queue cases in a special inventory awaiting Dialer action would significantly delay cases from getting in the hands of a Revenue Officer. We do use the Dialer on our cases with telephone numbers prior to levy action.	No	
3. Conduct a study on how best to reach taxpayers with cell phones, including an analysis of how the private and public sectors reach customers.	Based on the purpose, structure, and resources of our Automated Collection Sites (ACS), our employees use the predictive dialer for making outgoing contact calls. It is not feasible with the ACS structure to have employees make manual outgoing calls without the use of the Dialer. USC Title	No	

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	<p>47 Sec. 227 includes legal restrictions that must be addressed when calling individual cell phones using an automated calling system such as the Dialer. We currently do include cell phone numbers in our Dialer campaigns when that number is provided by the taxpayer. We are not aware of any external information available from either the private or public sectors that would permit bypass of this law. We, therefore, do not see the benefit of expending resources to conduct a study at this time. However, if TAS is aware of existing information that might be helpful in contacting taxpayers using the Dialer, the IRS would look forward to reviewing and considering that information.</p>		
<p>4. Before allowing an existing installment agreement to default or establishing a new streamlined agreement (when the taxpayer has</p>	<p>Prior to defaulting any existing installment agreement, the IRS does issue a notice to the taxpayer providing them the opportunity to either appeal it or contact the IRS to revise or</p>	<p>No</p>	

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>not indicated a monthly payment amount), attempt personal contact to determine what the taxpayer can actually pay for the new agreement or how to repair the defaulted one.</p>	<p>reinstate their agreement. When the IRS receives correspondence in which a taxpayer requests an installment agreement, but does not provide a proposed monthly payment amount, we establish the installment agreement at the lowest streamline amount as a convenience. Otherwise, the taxpayer would remain in the collection stream and may be subject to further collection actions. The IRS is in the process of providing more clarity around this issue in the next version of the Form 9465, Installment Agreement Request. In addition, we have already exceeded our capacity for the Dialer based on our ability to handle the return calls generated from Dialer messages. Based on resources, equipment, and technology constraints, it is also not feasible to expand the dialer program to this segment of work.</p>		

**2011 ARC – MSP Topic #18 – THE NEW INCOME FILTER FOR THE FEDERAL PAYMENT LEVY PROGRAM DOES NOT FULLY PROTECT LOW INCOME TAXPAYERS FROM LEVIES ON SOCIAL SECURITY BENEFITS**

**Problem**

The Federal Payment Levy Program (FPLP) is an automated system that matches IRS records against those of the government’s Financial Management Service and allows the IRS to issue continuous levies for up to 15 percent of federal payments due to taxpayers who have unpaid federal liabilities. For the most part, FPLP levies have historically been imposed on Social Security benefits. In January of 2011, the IRS began applying a low income filter (LIF) to the FPLP, to screen out taxpayers who have income below 250 percent of the federal poverty level guidelines and protect these low income taxpayers from experiencing hardship due to a levy. The National Taxpayer Advocate is generally pleased with this filter, but is concerned about the criteria the IRS uses to exclude certain taxpayers from the filter, thereby leaving some taxpayers subject to the FPLP, even though their incomes otherwise fit the guidelines. The National Taxpayer Advocate also has concerns about IRS policies on bank levies, which can allow the IRS to collect all of a taxpayer’s Social Security benefits.

<b>NTA Recommendation</b>	<b>IRS Response</b>	<b>IRS Addressed Yes/No/Partial (TAS’s Assessment)</b>	<b>TAS Explanation (if any)</b>
1. Eliminate criteria that exclude taxpayers with unfiled returns or business debts from the LIF.	The IRS will begin a review of the income model to determine the accuracy of the estimated income formula in comparison to a taxpayer's actual financial information. The IRS will assess the impact of excluding taxpayers with outstanding delinquent returns and business debts from the LIF. The Small Business/Self Employed (SB/SE) Research function will assist in completing the more in-depth analysis of the LIF model to determine its accuracy. Any	No	The National Taxpayer Advocate believes that the IRS has already demonstrated that it finds the financial information reliable, since it is used to exclude taxpayers from FPLP in certain situations. Therefore, the LIF should exclude all taxpayers who fall below 250 percent of the Federal Poverty Level, regardless of filing status or business debts.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	<p>changes to the program will take place after a careful analysis is completed to determine whether the estimated income model varies greatly from a taxpayer's true financial condition. We plan to have the final analysis completed by December 31, 2012.</p>		

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>2. If a taxpayer is subject to a 15 percent FPLP levy, or has been filtered out of FPLP by the LIF, IRS employees should review the case before taking any further collection action to determine if the taxpayer is a good candidate for the streamlined OIC process or meets CNC criteria.</p>	<p>The IRS does not agree a review is necessary in all cases, before taking any further collection action, to determine if the taxpayer is a good candidate for the streamlined OIC process or meets currently not collectible criteria when a taxpayer is subject to a 15 percent FPLP levy, or has been filtered out of FPLP by the LIF. The LIF fails to take into consideration the taxpayer's current assets and equity in those assets which results in an incomplete picture of the taxpayer's true financial condition. An OIC requires the submission of a current financial statement to verify the taxpayer's financial position. Similarly, the IRS cannot determine if a taxpayer meets CNC criteria without a current financial statement. As with all taxpayers who have unpaid taxes, the IRS will work with taxpayers in this situation to determine if they are eligible for streamlined OICs or if they meet CNC criteria.</p>	<p>No</p>	<p>Since many taxpayers subject to the FPLP are financially vulnerable, IRS employees should fully investigate the taxpayer's case and attempt to resolve the problem prior to taking collection action.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>3. Revise levy notices to financial institutions to state that if the account holds Social Security benefits, a portion of the benefits should be exempt from the levy.</p>	<p>The IRS is mindful of economic hardship issues, but does not believe that it is appropriate to revise the levy notice to financial institutions to exempt a portion of the taxpayers Social Security benefits from levy in all cases. Prior to issuing a notice of levy, the IRS attempts multiple contacts with the taxpayer through notices and phone calls or face-to-face meetings to determine the taxpayer's ability to pay the tax liability. If the taxpayer is unresponsive, or chooses not to cooperate, the IRS will consider issuing a notice of levy in an attempt to bring the case to resolution. If the taxpayer is not cooperative, the IRS will not know if the Social Security benefits are the taxpayer's sole source of income. IRS internal guidance procedures address economic hardship pursuant to Internal Revenue Code (IRC) § 6343(a)(1)(D) where a taxpayer's income is deposited into a bank account and all the</p>	<p>No</p>	<p>Due to the fact that many taxpayers who receive Social Security benefits significantly rely on them for their day-to-day living expenses, the IRS should revise its levy policies to exclude a portion of those benefits from any bank levy.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	<p>money is attached by a notice of levy. If the IRS determination is that a notice of levy on the taxpayer's bank account causes the taxpayer to be unable to pay reasonable basic living expenses, thus creating an economic hardship, IRC § 6343(a)(1)(D) requires immediate release of such notice of levy causing the economic hardship.</p>		

**2011 ARC – MSP Topic #19 – THE IRS HAS FAILED TO STEM THE TIDE OF TRANSFERS TO ITS EXCESS COLLECTION FILE, WHICH CONTAINS BILLIONS OF DOLLARS IN PAYMENTS, AND MAKES DISPROPORTIONATELY LITTLE EFFORT TO PREVENT TRANSFERS FOR LOW INCOME TAXPAYERS**

**Problem**

The IRS uses the Excess Collection File (XSF) to record payments and credits it has not applied to a taxpayer’s account or refunded. Once these funds are transferred to the XSF, the IRS generally does not attempt to contact taxpayers to resolve the credits. In January 2010, the account held \$4.7 billion – more than double its 1999 balance. Despite four audits by the Treasury Inspector General for Tax Administration (TIGTA), a TAS analysis in the 2006 Annual Report to Congress, two IRS task force studies, and numerous recommendations to reduce the balance, the improper transfers persist, burdening taxpayers and generating costly rework for the IRS. IRS employees must attempt to personally contact taxpayers before making a transfer only if the transfer is for \$100,000 or more, even though almost all transfers are for less than \$5,000 and more than half involve low income taxpayers.

<b>NTA Recommendation</b>	<b>IRS Response</b>	<b>IRS Addressed Yes/No/Partial (TAS’s Assessment)</b>	<b>TAS Explanation (if any)</b>
1. Require use of the same enhanced procedures to locate and contact taxpayers currently in place for large-dollar credits for all accounts destined for transfer to the XSF.	IRS agrees to test the process of using the same large dollar criteria to all credit cases.	Yes	The IRS proposes to study the recommendation (even though it already studied it in 2009 and determined it would be appropriate).

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>2. Develop additional guidance to prevent overpayments resulting from a levy from causing transfers to the XSF.</p>	<p>The IRS does not agree additional guidance is needed to prevent overpayments resulting from a levy being transferred to XSF. Surplus levy proceeds are an offset under IRC 6402(a) and levy proceeds received in excess may be applied to liabilities not listed on the levy. When the Service becomes aware that levy payments are offset to liabilities not covered on the original levy, the original levy is released and a new Notice of Levy is issued for the remaining liabilities.</p>	<p>No</p>	<p>The response does not recognize TAS's documented failures by the IRS to release levies when levy payments are offset to liabilities not covered on the original levy.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>3. Establish performance goals and measures for the overall XSF process.</p>	<p>The implementation of the Excess Collection File (XSF) was designed to store credits and payments which are not identified or cannot be applied. It would be inappropriate to establish performance goals and measures to reduce a file specifically designed to store these types of credits and payments. We believe the focus should not be the size of this holding account, but to ensure upstream processes are functioning properly so credits are correctly sent to the XSF.</p>	<p>Partial</p>	<p>The response does not accept that performance goals and measures would be appropriate but proposes to consider the suggestion.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>4. Require each affected operating division to report on its own specific XSF activities, including the dollar amount it transferred to XSF, in each of its quarterly Business Performance Reports.</p>	<p>The IRS will establish a team to consider the development of business division specific reports that could be used to ensure upstream processes are functional properly so credits are correctly sent to the Excess Collection File (XSF). The reports will be subject to available data and resources. The information could be used to identify procedural defects, training needs and potential change to taxpayer outreach efforts.</p>	<p>Partial</p>	<p>The response does not endorse the recommendation, but undertakes to create a team which will consider whether the reports the recommendation refers to would be appropriate.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>5. Implement and publish XSF procedures for criminal investigation work, whether carried out the by the CI function or by another IRS function.</p>	<p>A reorganization occurred in 2009 moving the CI function, which performed account adjustment work on individual returns, to the Wage &amp; Investment organization. That operation is now under the Accounts Management Taxpayer Assurance Program (AMTAP ), which follows procedures in IRM 3.17.220.2.2 for transferring credits to the XSF. As stated above, we will review IRM 3.17.220 to determine if additional clarification is needed.</p>	<p>Partial</p>	<p>The response does not indicate that the recommendation is valid, but that the IRS will review the IRM to consider whether the change is warranted.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>6. Establish an XSF indicator on the entity module that will appear in response to general IDRS command codes (e.g., ENMOD, INOLE, SUMRY, or IMFOL) to alert employees to the amounts and years of XSF transfers without having to access specific tax modules.</p>	<p>After careful consideration, given available resources and competing priorities, IRS has determined that the establishment of an XSF indicator on the entity module would not provide significant benefit or adequate information for employees to explain the reason why the payment/credit was transferred to XSF. IRS utilizes the mandatory IAT Payment Tracer Tool to research the XSF file to identify misapplied payments/credits and ensure proper payment application as well as mitigating inappropriate transfer to XSF.</p>	<p>No</p>	<p>The response indicates that the resources needed to implement the recommendation are not justified by the benefit, and notes that another approach to address the problem is currently being used.</p>
<p>7. Train employees to discuss XSF transfers with taxpayers.</p>	<p>IRS provides in-depth payment tracer training to properly identify modules with XSF indicators using ELMS courses to ensure proper procedures are followed such as Course 34864, Payment Tracers (for IMF), Course 37648, Payment Tracers (for BMF), and Course 2466, Processing the Excess Collections File.</p>	<p>No</p>	<p>The response does not address employee interaction with taxpayers, but recites training already in place to research IRS databases.</p>

**2011 ARC – MSP Topic #20 – THE IRS’S FAILURE TO CONSISTENTLY VET AND DISCLOSE ITS PROCEDURES HARMS TAXPAYERS, DEPRIVES IT OF VALUABLE COMMENTS, AND VIOLATES THE LAW**

**Problem**

The Freedom of Information Act (FOIA) requires the IRS to disclose all “instructions to staff that affect a member of the public” unless an exemption applies. The IRS does not always consistently and timely do so. This failure deprives taxpayers and their representatives of information that could help them resolve tax problems and disputes; leaves them uncertain about whether they can rely on information from IRS employees; increases the risk that the IRS will act or be perceived as acting arbitrarily and inconsistently; and deprives the IRS of valuable comments from stakeholders that could improve its procedures. A related problem is that the IRS sometimes fails to vet (or “clear”) the guidance internally as well. While we understand the need to issue instructions quickly, such shortcuts can result in ill-advised procedures that, in some cases, may violate the law.

<b>NTA Recommendation</b>	<b>IRS Response</b>	<b>IRS Addressed Yes/No/Partial (TAS’s Assessment)</b>	<b>TAS Explanation (if any)</b>
1. Assign one office the responsibility to measure and improve the accuracy of IRS E-FOIA and clearance determinations.	While a formalized program for measuring compliance rates is not established, the Office of Servicewide Policy, Directives, and Electronic Research (SPDER) and Office of Disclosure will continue to conduct random sample reviews for interim guidance to measure accuracy of IRS e-FOIA. Other business offices participate in the review providing subject matter expertise. The IRS will consider a similar random sample review for clearance determinations pending available resources.	No	The IRS has not assigned one office the responsibility to measure and improve the accuracy of IRS E-FOIA and clearance determinations.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
2. Require all authors of FAQs, functional specifications, job aids, desk guides, SERP alerts, and IMD to attend E-FOIA training.	Virtual and web-based training on E-FOIA is developed and will be offered at the 2012 IMD Community Virtual CPE in May 2012. Following the CPE, the web-based training will be available in ELMs. These courses are not restricted to the IMD Community. Office of SPDER recommends these courses for all IRM authors and coordinators. Any manager may require an employee to complete these training courses.	Partial	The IRS did not agree to require all authors of FAQs, functional specifications, job aids, desk guides, SERP alerts, and IMD to attend E-FOIA training. However, it did agree to develop web-based training on E-FOIA and offer it at the 2012 IMD Community Virtual CPE in May 2012. It also agreed to make the training available in ELMs.
3. Continue efforts to improve internal SERP and SPDER E-FOIA decision-making tools.	SERP and SPDER continue to monitor, evaluate, and improve E-FOIA decision-making tools.	Yes	As the MSP was being developed the IRS worked with TAS in updating its E-FOIA decision making tool and IRMs. Since then it has continued to accept many of our comments and suggestions for improvement.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>4. Require employees submitting SERP alerts to use a decision-making tool to determine if the alert should be disclosed.</p>	<p>SERP implemented new procedures. SERP reviews each alert when it is submitted to determine if it conveys procedural guidance and, if so, returns the alert to the author to be issued as an IPU. The IPU process includes an evaluation of the content to determine if it should be disclosed to the public.</p>	<p>Yes</p>	<p>The IRS's corrective action should address TAS's concern. The recommendation was to require employees submitting SERP alerts to use a decision-making tool to determine if the alert should be disclosed. Under a new process, alerts (which are not disclosed) are rejected if they are subject to disclosure. This process should reduce the need for those submitting SERP alerts to use a decision-making tool.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>5. Implement tentative plans to establish a transparent process for periodically selecting a random sample of IMD, job aids, desk guides, local procedures, and SERP alerts (and other internal communications, if practical) to identify the magnitude and source of the IRS's E-FOIA compliance challenges and post the results on the IRS website.</p>	<p>Given the available resources and the decentralized nature of these products, the IRS does not agree with this recommendation. Job aids, desk guides, and local procedures should reference the core instructions to staff in the IRM, which is disclosed to the public. SERP has changed it's procedures to prevent instructions to staff to be issued via an Alert. The IRS is improving it's ability to evaluate interim guidance by creating a centralized repository of interim guidance. A pilot to test this new database is currently underway. Also, see response to 20-1.</p>	<p>Partial</p>	<p>The IRS did not agree to periodically select a random sample of IMD, job aids, desk guides, local procedures, and SERP alerts (and other internal communications, if practical) to identify the magnitude and source of the IRS's E-FOIA compliance challenges or to post the results on the IRS website, as recommended. However, it did agree that SPDER and Disclosure would conduct random sample reviews of items already identified as "interim guidance" to measure accuracy of IRS e-FOIA determinations periodically. It also agreed to consider conducting a similar random sample review of clearance determinations pending available resources.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
6. Establish a process for clearing FAQs and similar items posted on IRS.gov.	Per IRM 2.25.101.4.2, business areas establish rules and procedures for approving content for IRS.gov. Business units are responsible for technical clearance of FAQs and are also responsible for notifying servicewide C&L and IRS leadership to FAQ development on priority issues, including those with wide taxpayer impact or cross-business unit implications.	No	The IRS has not agreed to establish a process for clearing FAQs and similar items posted on IRS.gov, as recommended. IRM 2.25.101.4.2 discusses in general terms that changes to certain portions of the IRS website require approval by the IRS's Communications and Liaison function. It does not reference or address a clearance process applicable to FAQs.
7. Establish a process for disclosing functional specifications that are equivalent to instructions to staff that would have to be disclosed.	Necessary transparency takes place distinct from the programming of systems. Policies and core processes are documented in the IRM. The IT systems development life cycle creates a process to review and confirm the policy and law are accurately programmed.	No	The IRS incorporates policies and procedures into computer programming on a regular basis and these policies sometimes affect the public, but none are posted to the ERR. Thus, we do not agree that when the IRS learns that programming reflects a procedure or policy that is not available to the public, it takes appropriate steps to ensure that transparency exists.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
8. Create new E-FOIA decision-making tools, or expand the existing tools, to assist authors of FAQs and functional specifications determine when items need to be cleared and/or incorporated into the IRM.	IRM 1.11.2 states that "instructions to staff" found in other sources should be incorporated in the IRM. FAQs and IT documents, not based on established policy and procedures, but designed to guide staff in how to administer a law or regulation that affect the public should follow these established policies and procedures. Web-based training will be available beginning in May 2012 addressing what belongs in the IRM.	No	As the IRS does not agree with the premise that FAQs need to be cleared or that functional specifications need to be disclosed, it naturally does not agree to expand E-FOIA decision-making tools to instruct authors of FAQs and functional specifications about when to disclose or clear these items.

**2011 ARC – MSP Topic #21 – AFTER REFUND ANTICIPATION LOANS: TAXPAYERS REQUIRE IMPROVED EDUCATION ABOUT REFUND DELIVERY OPTIONS AND THE AVAILABILITY OF A GOVERNMENT-SPONSORED DEBIT CARD**

**Problem**

The market for Refund Anticipation Loans (RALs) has sharply declined since the IRS took the much-needed step of denying information about the potential size of taxpayers’ refunds to return preparers and their associated financial institutions, which marketed RALs. However, the IRS still has a long way to go to ensure that it protects taxpayers as the market evolves, and is not aggressive enough in educating taxpayers about refund delivery options. The IRS can address the taxpayer’s needs for funds to pay preparation fees by developing a way, with proper safeguards, to split the refund and deposit a portion in an account owned by the preparer. In addition, the IRS can require preparers to fully and accurately inform their clients about refund delivery options, with particular emphasis on the lower cost and government-sponsored ones. Finally, the National Taxpayer Advocate believes the incorporation of Western Union’s MoneyWise prepaid card in the TaxWise software, which the IRS provides to Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) organizations free of charge, provides an unfair advantage to the Western Union product and is essentially an indirect endorsement of the product by the IRS.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS’s Assessment)	TAS Explanation (if any)
1. Enhance “Where’s My Refund” to include more detail about delays due to compliance initiatives.	The IRS will explore the possibility of establishing a Compliance indicator that can be passed to “Where’s My Refund,” which if implemented would result in a message telling impacted taxpayers their refund is being delayed due to Compliance issues. While the IRS continually improves the features of this application, the cost and complexity of providing more specific information for all	Partial	Rather than implement, the IRS committed to "explore" a compliance indicator to enhance the Where's My Refund product.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	<p>circumstances that may impact the amount and/or timing of a refund must be examined.</p>		
<p>2. Undertake an aggressive public awareness campaign to educate taxpayers about the reduced return processing time as well as its impact on refund turnaround times for government-sponsored refund options. This campaign should also inform taxpayers about the questions they should ask before purchasing a commercial refund product, such as a debit card.</p>	<p>The IRS agrees taxpayers should be well informed about their refund options, and the expected time it takes the IRS to issue a refund. The IRS's education and outreach program is extensive. Refund Issuance and promoting the "Where's My Refund?" webpage and phone look-up tools are key messages built into filing season communications each year starting with the filing season kick-off and continuing throughout filing season including tax tips, news releases, YouTube videos, widgets, external and internal articles, satellite media tours, etc. In preparation for the 2012 filing season a cross functional team developed and implemented, consistent internal and external refund messaging across communication channels and vehicles — especially the "Where's My Refund?" landing</p>	<p>Yes</p>	

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	<p>page, IRS.gov, the IRS2Go phone app, the IRS Refund Cycle Chart, and filing season media products. We are working with IRS relationship managers and our partners in the tax and banking industries to promote a consistent refund message and, when necessary, explain delays to taxpayers. TAS participates in the Service wide Filing Season Communications team. IRS will continue to develop and implement communication and outreach strategies to educate and inform taxpayers about refund options and refund timing.</p>		

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>3. Immediately require that CCH remove all references to the Western Union debit card product from the standard TaxWise software the IRS requires VITA/TCE sites to use, or negotiate terms for debit card services as part of its contracting for VITA/TCE tax preparation software.</p>	<p>The IRS offers TaxWise (commercial off-the-shelf software) to its partners to facilitate free tax return preparation. At the time the IRS entered into the software contract with TaxWise, it did not include a debit card feature. The IRS has begun reviewing market research options for software products available to meet the needs for electronic preparation and transmission. In 2015, when we renegotiate the software contract we will consider this issue.</p>	<p>Yes  (Changed from No to Yes, see TAS explanation)</p>	<p>The IRS did not state that it would immediately address the Western Union debit card incorporation into the TaxWise software. Waiting until 2015 is too late.</p> <p>Update, December 21, 2012, TAS is changing "IRS Addressed to "Yes" from "No" due to actions taken by the IRS. The debit card feature will not be in use during the TY 2012 filing season.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>4. Evaluate the possibility of providing taxpayers with the ability to assign a portion of refunds to preparer bank accounts as long as the IRS modifies Form 8888 to require the preparer to enter the PTIN and adds a checkbox indicating the taxpayer's awareness of the refund splitting arrangement.</p>	<p>As noted in the TAS report, legislative changes are needed to effectuate this recommendation. The Anti-Assignment Act prohibits the IRS from issuing a check or payment to an account not owned by the taxpayer. In addition, according to regulations contained in Circular 230 and a subsequent Counsel memorandum, there is a clear prohibition on the negotiation of a taxpayer's check (or electronic refunds) received with respect to a tax liability. Further, our experience with the current split refund program indicates this would increase the risk of fraud that could not be easily controlled by the IRS and would place additional burden on the agency to oversee, regulate, investigate, and review millions of additional transactions.</p>	<p>No</p>	<p>While there are certainly obstacles, the IRS has refused to even consider the feasibility of such an arrangement.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>5. Partner with Treasury and the financial sector to offer a Treasury-sponsored debit card for tax refunds, and use the results of the Treasury debit card pilot to design a more desirable product and a more effective marketing strategy.</p>	<p>The IRS's Stakeholder Partnerships, Education and Communication (SPEC) function is an active participant in Treasury's Financial Literacy and Education Commission (FLEC). If Treasury considers sponsoring a debit card for tax refunds in future tax years, the IRS would work with Treasury to explore the feasibility and options.</p>	<p>No</p>	<p>The IRS refuses to take the initiative to evaluate a more effective way to launch a debit card pilot program given the proven failures of the earlier program.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>6. Take a more proactive role in oversight of commercial refund delivery products, including amending Circular 230 to require preparers to inform taxpayers about the costs and accurate timeframes associated with each refund delivery option, with associated sanctions for failure to do so, and developing an information sheet for use by preparers.</p>	<p>Circular 230's section on fees contains language prohibiting "unconscionable fees." To the extent that consumer protections in the refund products area are needed, the IRS already has due diligence requirements that compel preparers to disclose costs to their clients. In order to impose discipline using Circular 230, IRS has to show by clear and convincing evidence that a practitioner voluntarily and intentionally violated a known legal duty. Any expectations regarding how refund delivery options are disclosed and explained may be more in the realm of the new Federal Consumer Protection agency.</p>	<p>No</p>	<p>The IRS is punting its responsibility to another agency. The current regulations do not specifically require preparers to fully disclose all refund options.</p>

**2011 ARC – MSP Topic #22 – THE IRS PROCEDURES FOR REPLACING STOLEN DIRECT DEPOSIT REFUNDS ARE NOT ADEQUATE**

**Problem**

When a taxpayer’s paper refund check is stolen, the IRS can ask the Treasury’s Financial Management Service to issue a replacement. However, despite the growth of electronic banking and its own efforts to get taxpayers to e-file returns, the IRS has insufficient procedures for replacing stolen direct deposit refunds. An increasing number of thieves have moved from stealing refund checks from the mail to trying to direct the deposits of tax refunds to their own bank accounts. A thief may steal a paper tax return from the mail to insert his own bank account number on it, or an unscrupulous return preparer may alter the direct deposit account number on a return. In either case, the taxpayer’s ultimate recourse is to pursue legal action against the thief, with no help from the IRS.

<b>NTA Recommendation</b>	<b>IRS Response</b>	<b>IRS Addressed Yes/No/Partial (TAS’s Assessment)</b>	<b>TAS Explanation (if any)</b>
1. Set forth standards of evidence upon which to reimburse a taxpayer who proves elements of direct deposit theft.	We are exploring whether actions can be taken in this area. Establishing a refund reimbursement process for direct deposits (DD) that is comparable to the paper check process would require the cooperation of the Financial Management System (FMS).	Partial	It is unclear why FMS need be involved in setting evidentiary standards when a taxpayer alleges fraud.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>2. Draw on IRS funds to reimburse proven victims of direct deposit theft, seeking additional amounts as necessary.</p>	<p>IRS funds cannot be used to reimburse taxpayers whose direct deposit refunds are stolen or misdirected. Legislative changes would be needed to establish a fund similar to the CFIF that could be used to reimburse direct deposit refund recipients. In addition, the IRS has no authority to compel banks to provide information about bank account owners in an effort to prove refund theft.</p>	<p>No</p>	<p>IRS covers amounts for which it believes IRS has liability; it is unclear if IRS has no liability here.</p>

**2011 ARC – Status Update Topic #1 – THE IRS HAS MADE SIGNIFICANT PROGRESS IN DEVELOPING AND IMPLEMENTING A SYSTEM TO REGISTER AND TEST RETURN PREPARERS**

**Problem**

The National Taxpayer Advocate is pleased with the progress made by the IRS in developing a program to regulate return preparers. This program is critical to enable the IRS to effectively track preparers, ensure they are competent to prepare tax returns, and coordinate all related initiatives to provide services and apply enforcement when necessary. We continue to have concerns about the limited availability of competency examinations. The IRS’s National Research Program (NRP) data show a high level of underreporting noncompliance with employment taxes, business income reported on individual returns, and corporate income tax. Requiring preparers of these returns (other than attorneys, certified public accountants, and enrolled agents) to pass a minimum competency test will reduce noncompliance in these areas. We are also concerned about any delay by the IRS in conducting a taxpayer education campaign. A comprehensive public awareness campaign educating taxpayers about rules applicable to preparers and reminding taxpayers to obtain a signed copy of their returns will protect taxpayers and arm them with the knowledge they need to avoid falling victim to negligent or unscrupulous preparers.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS’s Assessment)	TAS Explanation (if any)
<p>1. Develop two examinations on business topics, informed by analysis of preparer-related data, with the first exam covering payroll tax issues and the second covering corporations, partnerships and complex Schedule C items, and launch the first exam by 2014 and the second by 2015.</p>	<p>We will continue to consider the areas that TAS recommends for testing, but at the current time, the IRS does not intend to extend the testing requirement to other forms.</p>	<p>No</p>	<p>The IRS agrees in theory with the need for additional exams, but has not committed to the development of these exams until it has the opportunity to analyze data generated from the return preparer program.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
2. Mount a public awareness campaign, starting in the 2012 filing season, specifically reminding taxpayers that if they paid for return preparation, they should obtain a copy of the return that shows the preparer's signature and PTIN.	The Return Preparer Office incorporated this message into the "How to Choose a Preparer" communications for filing season 2012. See FS-2012-5 issued 1/4/12. Tax Tip 2012-06 issued 1/10/12. Tax Topic 254 updated 12/11/11. Podcast launched 12/27/11. YouTube video launched 12/27/11.	Yes	
3. Incorporate into filing season communications a warning to taxpayers about preparers who may attempt to direct deposit all or part of the taxpayer's refund into the preparer's bank account.	We made this a message in the "How to Choose a Preparer" communications for filing season 2012. See FS-2012-5 issued 1/4/12. Tax Tip 2012-06 issued 1/10/12.	Yes	

**2011 ARC – Status Update Topic #2 – THE IRS MAKES REINSTATEMENT OF AN ORGANIZATION’S EXEMPT STATUS FOLLOWING AUTOMATIC REVOCATION UNNECESSARILY BURDENSOME**

**Problem**

Prior to 2006, small exempt organizations (EOs) did not have annual IRS filing obligations and could become or remain “invisible” to the IRS. The Pension Protection Act of 2006 (PPA) addressed this information gap not only by imposing an annual filing requirement on small EOs, but also by providing for automatic revocation of the exempt status of any organization failing to file for three consecutive years. In 2009, the IRS began notifying organizations subject to the new requirements when they failed to file in a single year, but did not advise them of the second consecutive such failure. In 2011, the IRS notified approximately 275,000 EOs that their tax-exempt status had been automatically revoked. The IRS does not permit administrative review of the automatic revocation, and requires public charities to submit a full Form 1023, the form used to apply for *initial recognition* of exempt status, to obtain *reinstatement*. This form takes taxpayers about two working days to complete, and can involve lengthy IRS processing times. Meanwhile, the IRS has delayed developing Cyber Assistant, a web-based software program that taxpayers will use to prepare Form 1023.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS’s Assessment)	TAS Explanation (if any)
1. Allow administrative review of its conclusion that an organization’s exempt status was automatically revoked.	An administrative review process is inapplicable in the case of automatic revocation. The IRS does not conclude that an organization's exempt status is automatically revoked; automatic revocation of exemption occurs by operation of law. Administrative review of a revocation does occur at the end of an examination when there has been a determination that an organization is no longer organized or operated for exempt purposes. Automatic	No	The response does not acknowledge the IRS's necessary role in the automatic revocation process or that it could, if it wished to, provide administrative review.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	<p>revocation involves no such determination. It occurs simply because an organization has failed to meet its filing requirements for three consecutive years. There is no IRS conclusion to be administratively reviewed.</p>		
<p>2. Develop a Form 1023-EZ for use by small organizations.</p>	<p>The IRS does not believe that a less comprehensive application satisfies Congress' intent in requiring automatically revoked organizations to apply to the IRS for recognition of exemption. The IRS's obligation to decide whether an organization qualifies for exemption justifies the extent of information requested on the Form 1023. Automatically revoked organizations are subject to the same requirements for exemption as all other applicant organizations; therefore, the IRS needs the same quality and quantity of information to make an exemption determination.</p>	<p>No</p>	<p>A Form 1023-EZ would not provide sufficient information on which to base a decision about exempt status.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>3. Expedite the development of Cyber Assistant for Form 1023 preparation.</p>	<p>The IRS developed Cyber-Assistant, a Web-based software program, to help 501(c)(3) applicants file a complete and accurate Form 1023 and improve the quality and consistency of these applications. Unfortunately, software testing revealed problems requiring correction prior to public launch, and the IRS had to delay the release. Since that time, the IRS, in the interest of effective tax administration, has determined that other information technology projects were a higher priority than Cyber-Assistant. We cannot presently predict when Cyber Assistant will be available. It is important to recognize, however, that Cyber Assistant was designed to accommodate the current Form 1023. Any significant changes in the Form 1023 would more than likely require substantial reprogramming of Cyber Assistant.</p>	<p>No</p>	<p>The response simply declines to predict when Cyber Assistant will be available and notes that significant changes in Form 1023 would require reprogramming.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>4. Notify EOs when they have failed to file two consecutive returns or e-Postcards, and automatic revocation is imminent.</p>	<p>The IRS agrees that it is important that EOs be informed of their filing requirements and the possibility of automatic revocation. As Congress intended by imposing the notice requirement and mandating automatic revocation for those that failed to file for three consecutive years, the IRS now has more accurate addresses for exempt organizations. The IRS, with this updated address information, will continue to send the current failure-to-file notices. In addition, we will monitor whether the current notices are effective in preventing automatic revocations.</p>	<p>Partial</p>	<p>The response indicates that better addresses might be available, that the IRS will continue to send the same notices, and will consider whether new notices are appropriate.</p>

**2011 ARC – Status Update Topic #3 – THE IRS HAS REMOVED THE TWO-YEAR DEADLINE FOR REQUESTING EQUITABLE INNOCENT SPOUSE RELIEF, BUT FURTHER ADJUSTMENTS TO ITS PROCEDURES IN INNOCENT SPOUSE CASES ARE WARRANTED**

**Problem**

When married taxpayers file a joint tax return, they become “jointly and severally” liable for the tax shown, which means each spouse is individually responsible for the entire liability. In recognition that this sometimes produces unfair results, Congress enacted the “innocent spouse” rules. Internal Revenue Code (IRC) § 6015(f), known as “equitable” relief, is available when, in consideration of all the facts and circumstances, it would be inequitable to hold the spouse liable for the tax. A Treasury regulation requires taxpayers to request equitable relief within two years after the IRS initiates collection activity. After the Tax Court held the two-year rule invalid, and three appellate courts held that it was valid, in 2011 the IRS Commissioner announced that the IRS will no longer adhere to the two-year rule. The IRS is reviewing its procedures in innocent spouse cases, but needs to make further adjustments. The IRS does not track the frequency with which taxpayers allege they are victims of domestic violence and abuse, and does not always require employees to attempt personal contact with taxpayers before making final determinations in innocent spouse cases.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
<p>1. Track the number of taxpayers who, in seeking innocent spouse relief, indicate that they are victims of domestic violence or abuse, broken down by the number who do so on Form 8857 and those who do so by other means, and further by those who succeed in demonstrating to the satisfaction of the IRS that they were victims</p>	<p>The determination of whether a spouse is entitled to equitable relief from joint and several liability is a facts and circumstances determination. Abuse is only one factor that is considered. It would not be possible or reasonable to isolate the impact of abuse on the final determination.</p>	<p>No</p>	<p>The response does not indicate whether the IRS will track the number of taxpayers who indicate they are victims of abuse as suggested but notes that abuse is only one factor taken into account in determining whether to grant innocent spouse relief.</p>

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
and those who do not.			
2. Revise the IRM to require employees to attempt personal contact with the taxpayer before making final determinations in all innocent spouse cases.	In connection with the changes to the Innocent Spouse Program, the IRS has increased its use of personal taxpayer contact. Interim procedures require that Innocent Spouse employees make two attempts in all cases where there is insufficient data in the case to make a determination. If an employee is unable to reach a taxpayer after two phone call attempts the employee must issue a letter to the requesting spouse asking for the necessary information. The IRM will be updated.	Partial	The IRS will require attempts at personal contact, but only in cases where the IRS believes there is insufficient data to make a determination.

**2011 ARC – Status Update Topic #4 – THE IRS HAS SIGNIFICANTLY IMPROVED THE ACCURACY OF RESTRICTED INTEREST COMPUTATIONS, BUT PROBLEMS WITH FAILURE-TO-PAY PENALTY COMPUTATIONS CONTINUE TO CAUSE INTEREST ERRORS**

**Problem**

“Restricted” interest is limited to specific time periods or rates (or is prohibited altogether) by various statutory provisions, and must be manually computed. When the IRS miscalculates the interest taxpayers owe, it may lead taxpayers to pay incorrect balances shown on IRS documents, only to be billed later for accruals of interest. Taxpayers may pay the wrong amounts without ever knowing the IRS made a mistake. The IRS does not always send statutorily mandated annual balance due statements that show the entire amount of interest owed by taxpayers whose accounts have restricted interest.

While the IRS has significantly improved its processes to avoid errors in computations of restricted interest, miscalculations of the underlying failure-to-pay (FTP) penalty continue to cause interest miscalculations. In the 2008 Annual Report to Congress, the National Taxpayer Advocate reported that computer-generated miscalculations of FTP penalties could potentially affect two million taxpayer accounts. If a miscalculated penalty is assessed, the amount of interest owed may also be misstated.

<b>NTA Recommendation</b>	<b>IRS Response</b>	<b>IRS Addressed Yes/No/Partial (TAS’s Assessment)</b>	<b>TAS Explanation (if any)</b>
1. Notify taxpayers, in writing, of the entire amount they owe, including restricted interest, at least annually.	In compliance with the Internal Revenue Code §7524, IRS mails an annual reminder notice of delinquent tax to taxpayers with balances due, including penalties and interest. However, in certain cases, the law for restricted interest is so complex that restricted interest must be calculated manually and the interest amount is not able to be systemically printed on the	No	Limited resources prevent the IRS from notifying all taxpayers with restricted interest of the total amount they owe rather than providing them with a phone number they can call to obtain their account balances.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	<p>notice. The process for calculating restricted interest requires the analysis of each taxpayer's account then manually entering their account data into a specialized software program which computes the interest. The manually computed interest amount cannot be systemically printed on the notices. Putting the amount on a notice would require a separate manual process. Although the notices containing restricted interest make up a small percentage of all annual notices, the total volume requiring manual computations are in the thousands. For those notices where a manual interest computation is required, taxpayers are clearly notified the total interest due is not reflected in this notice and they are provided a contact number for obtaining a detailed computation and pay-off amount (IRM 3.14.1.7.7.5.11). We provide this contact number so</p>		

<b>NTA Recommendation</b>	<b>IRS Response</b>	<b>IRS Addressed Yes/No/Partial (TAS's Assessment)</b>	<b>TAS Explanation (if any)</b>
	taxpayers can be informed of the exact amount owed including interest. Given our limited resources, we do not plan to include the restricted interest computations on annual notices at this time.		