

**WRITTEN STATEMENT OF**

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**HEARING ON**

**INTERNAL REVENUE SERVICE FY 2017 BUDGET REQUEST**

**BEFORE THE**

**SUBCOMMITTEE ON FINANCIAL SERVICES AND GENERAL GOVERNMENT**

**COMMITTEE ON APPROPRIATIONS**

**UNITED STATES SENATE**

**MARCH 8, 2016**

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Chairman Boozman, Ranking Member Coons, and distinguished Members of this Subcommittee:

Thank you for inviting me to submit this statement regarding the proposed budget of the Internal Revenue Service for FY 2017.<sup>1</sup>

From FY 2010 through FY 2016, we estimate the IRS's budget has been reduced by about 19 percent on an inflation-adjusted basis. That is a huge reduction for any organization, particularly a large agency that is labor-intensive like the IRS. At the same time, the IRS has been given significant new responsibilities, including implementation of the Foreign Account Tax Compliance Act (FATCA) and large portions of the Patient Protection and Affordable Care Act (ACA), which require significant resources.

The combination of reduced resources and more work has eroded the IRS's ability to serve taxpayers and promote voluntary compliance. The additional \$290 million in funding that Congress has provided in FY 2016 is very helpful, and because of it the IRS has performed much better at answering taxpayer telephone calls this year than at this time last year.

The IRS remains resource-constrained, and there are limits to how much its performance can improve unless and until it receives additional resources. Nevertheless, the agency must continue to do its best with whatever resources it is given, and in my 2015 Annual Report to Congress I have made many recommendations that would improve IRS performance without significant or even any investments of resources. In this statement, I will focus on seven areas where I believe it can do better:

1. **IRS Future State Plan.** The IRS has developed a Future State plan that envisions how the agency will operate in five years and beyond. A central component of the plan is the creation of, and reliance on, online taxpayer accounts. The IRS believes online accounts will produce significant cost savings and enable it to substantially reduce its expenditures for telephone and in-person assistance. I believe the IRS is wrong and that it is critical it maintain robust personal service options.
2. **Taxpayer Assistance at IRS Taxpayer Assistance Centers (TACs).** The IRS has been reducing taxpayer service options at its TACs for several years, and it has recently decided to switch to an "appointment-only" system at all of its TACs

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<sup>1</sup> The views expressed herein are solely those of the National Taxpayer Advocate. The National Taxpayer Advocate is appointed by the Secretary of the Treasury and reports to the Commissioner of Internal Revenue. However, the National Taxpayer Advocate presents an independent taxpayer perspective that does not necessarily reflect the position of the IRS, the Treasury Department, or the Office of Management and Budget. Congressional testimony requested from the National Taxpayer Advocate is not submitted to the IRS, the Treasury Department, or the Office of Management and Budget for prior approval. However, we are providing courtesy copies of this statement to both the IRS and the Treasury Department.

by the end of 2016. The TACs, which were previously known as “walk-in sites,” will no longer accept walk-in taxpayers anywhere, and it is conducting a pilot under which it is not even accepting tax payments from walk-in taxpayers. I believe the IRS’s unwillingness to help walk-in taxpayers fails to meet the needs of many taxpayers for personal assistance, and I find the notion of declining to accept tax payments from walk-in taxpayers inexplicable and baffling for a tax collection agency.

3. **IRS Management of Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) Programs.** Beginning in 2014, the IRS discontinued its longstanding practice of preparing tax returns at its TACs for taxpayers seeking its assistance. That work has largely shifted to VITA and TCE programs. Yet the IRS imposes many restrictions on VITA and TCE programs that prevent taxpayer needs from being met. For example, volunteer programs cannot prepare tax returns for many sole proprietors and for many taxpayers with capital gains or losses.<sup>2</sup> As a result, more taxpayers can no longer obtain free assistance in preparing their returns, which imposes burden on these taxpayers and may undermine voluntary compliance.
4. **Impact of Stolen Identify Refund Fraud on Victims.** For nearly a decade, the tax system has been plagued by stolen identity refund fraud, wherein identity thieves impersonate legitimate taxpayers to try to obtain tax refunds in their names. Victims of tax-related identity theft face several consequences, including considerable hassle proving their identities, lengthy delays in receiving their refunds, and often a general feeling of helplessness that their privacy has been violated. IRS filters are doing a better job of blocking bogus returns, but the “false-positive” rate of these filters has increased, imposing more burden on legitimate taxpayers, and victims continue to be frustrated by the hassle of dealing with the IRS. For any case involving more than one tax issue or more than one tax year, I recommend the IRS provide identity theft victims with the name of a single employee they can work with – and who will be held accountable – for the timely and proper resolution of their case.
5. **Impact of Taxpayer Service Cutbacks on U.S. Taxpayers Abroad.** The IRS has significantly reduced its overseas taxpayer service presence in recent years. About a year ago, it eliminated its last four overseas tax attaché posts. A few months ago, it eliminated an online system through which taxpayers could obtain responses to questions and a separate system that allowed IRS customer service representatives to refer taxpayer questions to employees with relevant expertise. These service cutbacks have coincided with the implementation of FATCA, leaving many of the more than 8.7 million U.S. citizens living abroad with more needs and less assistance. I recommend that the IRS re-open its recently closed tax attaché offices and that funding be provided for TAS to open small

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<sup>2</sup> See IRS Pub. 3676-B, *IRS Certified Volunteers Providing Free Tax Preparation* (Oct. 2015). VITA sites may not prepare a Schedule C with losses or a “complicated” Schedule D.

offices in four appropriate international locations to assist U.S. taxpayers living abroad in resolving problems with the IRS.

6. **Taxpayer Access to the IRS's Office of Appeals.** Congress has long recognized that "all taxpayers should enjoy convenient access to Appeals, regardless of their locality."<sup>3</sup> As a result, Congress required the IRS, among other things, to "ensure that an appeals officer is regularly available within each State."<sup>4</sup> Yet today, the IRS reports that 12 states do not have an Appeals Officer. That should change. The IRS has suggested in the past that requiring an Appeals Officer in each state would be costly. We do not agree. Universal coverage does not require more Appeals Officers. It would simply require the IRS to relocate a small number of posts of duty from states with numerous Appeals Officers to states with no Appeals Officers. The IRS has also suggested that virtual conferences or circuit riding is sufficient. We do not agree with those contentions, either. In many cases, it would be impossible for an Appeals Officer to judge the credibility of a witness without an in-person conference, and "circuit riding" does not happen often, requiring taxpayers to wait months, or even a year or more, to obtain a face-to-face hearing. By placing an Appeals Officer in each state, the District of Columbia, and Puerto Rico, the IRS would comply with the congressional directive and give meaning to "The Right to Appeal an IRS Decision in an Independent Forum."<sup>5</sup>

7. **The Need for an IRS Enterprise Case Management System in General and the Taxpayer Advocate Service Integrated System (TASIS) in Particular.**

The IRS's information technology (IT) systems, particularly its case management systems, require an investment of funding to promote efficiency gains and improve taxpayer service. My own organization, the Taxpayer Advocate Service, is operating with a 1980s legacy system known as the Taxpayer Advocate Management Information System (TAMIS). TAMIS is largely obsolete and requires case advocates to perform many tasks manually that can and should be automated. Working with the IRS's IT function and a contractor, TAS has developed the requirements for a replacement system known as the Taxpayer Advocate Service Information System (TASIS), and about two-thirds of the programming for TASIS has been completed.

About \$20 million has already been spent on TASIS out of a total projected cost of about \$32 million. TASIS was within an estimated 6 months of completion.

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<sup>3</sup> S. Rep. No. 105-174, at 92 (1998).

<sup>4</sup> Internal Revenue Service Restructuring and Reform Act, Pub. L. No. 105-206, Title III, Subtitle E, § 3465(b), 112 Stat. 685, 768 (1998).

<sup>5</sup> "The Right to Appeal an IRS Decision in an Independent Forum" is one of the ten rights included in the Taxpayer Bill of Rights that the IRS adopted in 2014 and that Congress cross-referenced in subsequent legislation. See IRS, Taxpayer Bill of Rights, *available at* <https://www.irs.gov/Taxpayer-Bill-of-Rights>; see *also* Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, § 401 (2015) (codified at IRC § 7803(a)(3)).

For the last three years, the Senate Appropriations Subcommittee on Financial Services and General Government has repeatedly included TESIS on a list of six “major information technology project activities” about which it has directed the IRS to submit quarterly reports.<sup>6</sup> Yet the IRS has halted all work on TESIS due to budget constraints. This decision is penny-wise and pound-foolish for three reasons: (1) TESIS would allow TAS’s case advocates to be much more efficient, reducing the number of case advocates needed for a given number of cases, so it would save money after a few years, (2) it makes no business sense to pull the plug on a successful IT project after more than 60 percent of the funds have been spent and it is within 6 months of completion, and (3) there are many business units in the IRS that would benefit from a new case management system, and the TESIS system includes many useful case management features that could be adapted to meet those units’ needs.

I will elaborate on these points below.

**I. The IRS Future State Plan Commendably Commits the IRS to Develop Online Taxpayer Accounts, But the IRS May Be Significantly Underestimating Continuing Taxpayer Demand for Telephone and Face-to-Face Service and It Must Be Required to Maintain Those Services to Meet Taxpayer Needs.**

During the past two years, the IRS has developed a “future state” plan that details how the agency will operate in five years and beyond. There are many positive components of the plan, including the goal of creating online accounts through which taxpayers and their representatives will be able to obtain information and interact with the IRS.

However, the plan raises significant concerns about the continued availability of telephone and face-to-face service. Taxpayer demand for IRS personal service is high and has remained so for many years. Of particular note, the IRS has received more than 100 million taxpayer calls and 5 million taxpayer visits in every year since FY 2008.

The IRS believes that online taxpayer accounts will enable the agency to achieve significant cost savings. In testimony before this Committee, for example, the Commissioner recently stated the move toward online accounts “is driven, in part, by business imperatives; when it costs between \$40 and \$60 to interact with a taxpayer in person, and less than \$1 to interact online, we must reexamine how we provide the best possible taxpayer experience.”<sup>7</sup>

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<sup>6</sup> See S. Rep. No. 114-97, at 39 (2015); S. Rep. No. 113-80, at 34 (2013). In 2014, a similar provision was included in the Senate Appropriations Committee’s draft report, but the draft report was not adopted for that year.

<sup>7</sup> *FY 2017 Treasury Department Budget Request: Hearing Before the Subcomm. On Financial Services and General Government of the S. Comm. On Appropriations*, 114<sup>th</sup> Cong. (2016) (statement of John A. Koskinen, Commissioner of Internal Revenue, at 3).

While the goal of achieving cost savings is commendable, online accounts will only achieve significant cost savings if either (1) large numbers of taxpayers stop calling and visiting the IRS or (2) taxpayers continue to call and visit the IRS in large numbers but the IRS stops serving them.

The IRS recently posted a document on IRS.gov that says: “[W]e recognize that some taxpayers will always prefer to deal with us on the phone or in person. These services will always be available to them in the Future State.”<sup>8</sup>

Assuming that to be true, the crux of my disagreement with the IRS boils down to whether taxpayers will ultimately use online accounts as a *substitute* for personal service or whether taxpayers will use online accounts as a *supplement* to personal service.

For the foreseeable future, I believe taxpayers will use online accounts as a supplement to taxpayer service and therefore that online accounts will not produce a significant reduction in taxpayer telephone calls and visits. This is true for several reasons, including that millions of taxpayers do not have Internet access, millions of taxpayers with Internet access do not feel comfortable trying to resolve important financial matters over the Internet, and many taxpayer problems are not “cookie cutter,” thus requiring a degree of back-and-forth discussion that is better suited for conversation and that taxpayers will insist upon.

### **A. Post-Filing Contacts**

Taxpayers who get into post-filing disputes with the IRS are particularly likely to want to speak with an IRS employee, and there are many taxpayers who fall into this category. In FY 2015, the IRS had actual or possible post-filing contacts with more than nine million taxpayers. Most arose because of proposed tax adjustments the IRS made. Others arose because the IRS temporarily or indefinitely froze tax returns and withheld refunds, generating taxpayer inquiries and attempts to provide substantiation.

If one were to focus solely on the individual audit rate of less than one percent,<sup>9</sup> one might assume that fewer than 1.5 million individual taxpayers have contacts with the IRS after filing a tax return. In fact, the number of taxpayers who have post-filing contacts with the IRS is vastly larger. For example:

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<sup>8</sup> IRS Future State: Overview The Path Traveled and the Road Ahead (Draft: February 2016), *available at* [https://www.irs.gov/PUP/newsroom/IRS%20Future%20State%20Journey\\_R.pdf](https://www.irs.gov/PUP/newsroom/IRS%20Future%20State%20Journey_R.pdf) (last visited March 7, 2016).

<sup>9</sup> In FY 2014, the individual audit rate was 0.86 percent. See IRS FY 2014 Enforcement and Service Results 2, *available at* <https://www.irs.gov/PUP/newsroom/FY-2014%20Enforcement%20and%20Service%20Results%20--%20web%20version.pdf>. At this writing, the individual audit rate for FY 2015 has not yet been released.

- The IRS makes adjustments to taxpayer accounts under “math error” authority that do not count as audits.<sup>10</sup>
- The IRS makes adjustments to taxpayer accounts based on document-matching between information a taxpayer reports on his tax return and information the taxpayer’s employer reports on a Form W-2 or a payor reports on a Form 1099. These adjustments do not count as audits.<sup>11</sup>
- The IRS operates an Automated Substitute for Return program in which it creates tax returns for taxpayers who did not file and who the IRS believes should have filed a return.<sup>12</sup> The automated returns produced under this program do not count as audits.
- The IRS employs a wide variety of anti-fraud filters to screen out fraudulent tax returns and refund claims. However, these filters are inherently both under-inclusive and over-inclusive. Where filters are over-inclusive, the IRS sometimes notifies taxpayers it has frozen their returns and requires them to submit additional documentation before it can proceed, and it sometimes temporarily suspends the processing of their returns (and the issuance of refunds) pending internal verification measures. Even where the IRS is solely performing internal verification, taxpayers experiencing refund delays will often call the IRS to find out why. These reviews also do not count as audits.

Thus, the number of taxpayers who receive notices and may have to get into a dialogue with the IRS about their unique facts and circumstances is as follows:<sup>13</sup>

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<sup>10</sup> IRC § 6213(b) & (g).

<sup>11</sup> See IRC § 7605 and Rev. Proc. 2005-32, 2005-1 C.B. 1206, regarding contacts with taxpayers and other actions taken by the IRS that are not treated as “examinations.” In general, an examination involves the IRS’s inspection of a taxpayer’s books and records. Among contacts not treated as examinations are those resulting from the matching of information on a tax return with information already in the IRS’s possession and considering any records the taxpayer provides voluntarily to explain a discrepancy between a filed return and information furnished by third parties that is used as part of a data-matching program. See Rev. Proc. 2005-32, § 4.03(1)(b) & (c).

<sup>12</sup> See IRC § 6020. For additional information regarding the automated substitute for return program, see National Taxpayer Advocate 2015 Annual Report to Congress 188-195 (Most Serious Problem: *AUTOMATED SUBSTITUTE FOR RETURN (ASFR) PROGRAM: Current Selection Criteria for Cases in the ASFR Program Create Rework and Impose Undue Taxpayer Burden*).

<sup>13</sup> Sources for data on audit and similar contacts are as follows: IRS Audit Information Management System, Closed Case Database (showing number of individual examinations closed in FY 2015); IRS Compliance Data Warehouse, Notice Delivery System (showing number of CP2000 and CP2501 document-matching notices mailed to distinct taxpayers by the IRS’s Automated Underreporter Program in FY 2015); IRS Individual Master File (showing number of math error notices mailed to distinct taxpayers in FY 2015); IRS Collection Activity Report NO-5000-139 (Oct. 5, 2015) (showing number of automated substitute for return (ASFR) notices issued in FY 2015; ASFRs are created with respect to taxpayers that did not file tax returns but that the IRS believes should have filed tax returns). Sources for data on refund delays are as follows: IRS Generalized Unpostable Framework (GUF) report, GUF5740 Closed Inventory Summary (Dec. 17, 2015) (showing that 729,487 returns were initially



**FIGURE 1.1.1, Post-Filing Notices and Refund Delays That Generate Taxpayer Contacts**

Individual Audits	1,228,693
Document Matching (AUR) Notices	3,836,216
Math Error Notices	1,886,216
Automated Substitute for Returns	184,776
Refund Delays	2,078,311
<b>Total</b>	<b>9,214,212</b>

It is not realistic to expect that taxpayers who are told they owe more tax or whose refunds have been significantly delayed are going to be satisfied resolving their problems with the IRS exclusively through an online account. A high percentage of taxpayers in this situation will want to speak with an IRS employee so they can be certain they understand the source of the problem and what more they need to do – and to try to obtain reassurance about when they can expect a final resolution.

***B. IRS Technology Advancements Historically Have Not Reduced Taxpayer Demand for Personal Services Despite Hopes to the Contrary.***

Ever since Congress enacted the IRS Restructuring and Reform Act of 1998,<sup>14</sup> the IRS has been speaking about harnessing technology to improve efficiency and reduce the need for personal service. In fact, the IRS has succeeded in dramatically increasing the percentage of taxpayers who file their returns electronically, it has vastly expanded and improved its website to provide more information to taxpayers, and it has launched “Where’s My Refund” to reduce telephone calls. The hope and expectation was that these measures would have substantially reduced taxpayer demand for personal service by phone or in person.

In fact, taxpayer demand for personal service has *increased* over time. The number of calls the IRS received on its Accounts Management lines over the past decade has

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deemed unpostable for inconsistency with ID theft business rules but were later processed in calendar year 2015 through Dec. 17); IRS Return Integrity & Compliance Services (RICS), *Update of the Taxpayer Protection Program (TPP)* 8, (Dec. 9, 2015) (showing that 649,915 returns were stopped by Taxpayer Protection Program filters but were later found to be legitimate in calendar year 2015 through Dec. 9); IRS Individual Master File (showing that 179,459 returns were stopped due to suspected fraudulent income documents that later were found to be legitimate and 155,103 returns were frozen from Jan. 1 through Sept. 30, 2015 because an identity theft return in the taxpayer’s name had previously been submitted and posted; refund delays of less than two weeks are generally excluded from these totals). The number of refund delays shown in this chart is under-inclusive overall because there are additional sources of refund delays. However, a small number of returns may fit into more than one category and therefore be double-counted.

<sup>14</sup> Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. No. 105-206, 112 Stat. 685 (1998).

risen about 64 million in FY 2006 to about 102 million in FY 2015, an increase of about 59 percent, as shown in the following graph:<sup>15</sup>

Figure 1.1.2



(The one-time spike in telephone calls in FY 2008 was attributable to widespread confusion concerning payments under the Economic Stimulus Act of 2008.<sup>16</sup>)

Taxpayer demand for face-to-face service at the IRS’s walk-in sites has also remained high – above 5.6 million visits in FY 2015 – despite IRS service reductions, such as directing employees to refrain from answering tax-law questions and discontinuing the preparation of tax returns.<sup>17</sup>

These results are hardly surprising. The continuing demand for personal service despite greater online functionality is not unique to tax administration. For example, the Board of Governors of the Federal Reserve System conducts an annual survey of bank customers who use mobile phones to conduct their banking. The most recent survey found that 72 percent of bank customers reported they had visited a branch and spoken

<sup>15</sup> IRS, Joint Operations Center, *Snapshot Reports: Enterprise Snapshot* (final week of each fiscal year for FY 2006 through FY 2015). The majority of the additional calls were handled by automation. The increase in calls seeking to speak with an IRS customer service representative (CSR) was 20 percent. The IRS’s Snapshot Reports do not specify the number of calls routed to CSRs, but that number can be roughly computed by dividing the number of calls answered by CSRs by the percentage of calls answered by CSRs (known as the “CSR Level of Service”). The number of calls routed to CSRs on the Account Management telephone lines increased from about 39.8 million in FY 2006 to about 47.9 million in FY 2015. The percentage increase in calls seeking to reach a CSR likely would have been considerably higher absent IRS policies designed to limit the scope of CSR-eligible subjects, such as sharply restricting the scope of tax-law questions CSRs may answer.

<sup>16</sup> Pub. L. No. 110-185, 122 Stat. 613 (2008).

<sup>17</sup> IRS Wage & Investment Division, Business Performance Review 7 (4<sup>th</sup> Quarter – FY 2015, Nov. 2, 2015).

with a teller within the preceding month (an average of two times), and 68 percent reported they had used telephone banking within the preceding month (also an average of two times). In addition, 85 percent reported they had used an automated teller machine (ATM) within the preceding month (an average of three times).

Summarizing these survey results, the report concluded:

Taken together, these estimates indicate that while mobile banking users are utilizing technological platforms at a high rate and on a consistent basis, they have also maintained connections to their banks through the more traditional branch and ATM channels.<sup>18</sup>

There is no doubt that secure online taxpayer accounts will be a positive development for both taxpayers and the IRS. But the IRS's own experience with technology improvements and data from other sectors suggest online accounts are unlikely to substantially reduce taxpayer demand for telephone and face-to-face service.

### ***C. National Taxpayer Advocate Public Forums***

In my 2015 Annual Report to Congress, I expressed concern that the IRS had developed its Future State plan and the CONOPS that underlie it internally – without publishing them or soliciting taxpayer comments. I announced I would hold a series of public forums around the country to seek public comments and would post panelist statements online and publish a summary of what we learned from the public forums in my 2016 Annual Report. I have already held several public forums, and they have produced valuable insights. More are scheduled. Details are posted at <http://www.taxpayeradvocate.irs.gov/public-forums>.

### ***D. “Customer Callback” Technology***

The IRS has proposed implementing a customer callback system that would allow taxpayers who call the IRS's toll-free telephone lines to choose between remaining on hold and receiving a call back when their place in the telephone queue is reached.<sup>19</sup> We believe a customer callback system would significantly improve the taxpayer experience at a reasonable cost, and we urge the IRS to make a final determination about the system this year.

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<sup>18</sup> Board of Governors of the Federal Reserve System, *Consumers and Mobile Financial Services 2015*, at 11 (March 2015), available at <http://www.federalreserve.gov/econresdata/consumers-and-mobile-financial-services-report-201503.pdf>.

<sup>19</sup> See Internal Revenue Service, Congressional Justification for Appropriations accompanying the President's FY 2015 Budget at IRS-20 (2014); Internal Revenue Service, Congressional Justification for Appropriations accompanying the President's FY 2016 Budget at IRS-22 (2015).

In the President's FY 2015 and FY 2016 budgets, the IRS proposed this initiative and estimated the cost would be about \$3.3 million.<sup>20</sup> In November 2015, Commissioner Koskinen said that although the customer callback technology itself would cost about \$3.5 million, the IRS had determined its phone system would need to be upgraded at a cost of about \$45 million in order to allow the customer callback technology to run.<sup>21</sup>

We think a customer callback mechanism would be a prudent investment despite the cost to upgrade the telephone system. For context, the IRS's FY 2016 budget proposal requested about \$186 million to increase the Level of Service (LOS) on its toll-free lines to 80 percent.<sup>22</sup> The significant majority of that funding would pay for additional customer service representatives and other costs that recur annually. By contrast, the deployment of a customer callback system would essentially be a one-time cost, and it would permanently improve the IRS's Level of Service.

It should be emphasized that a high percentage of taxpayers who don't reach the IRS on their first attempt keep calling until they eventually get through. Last year, the overall LOS during the filing season averaged 37 percent, and those taxpayers who managed to reach an IRS telephone assistant waited an average of 23 minutes on hold.<sup>23</sup> On the Taxpayer Protection Program (TPP) telephone line – which taxpayers are instructed to call to validate their identities if the IRS flags their returns as suspicious for identity theft – the LOS during the filing season was 17 percent and the average hold time for successful callers was 28 minutes.<sup>24</sup> That means that (1) the average taxpayer had to call nearly three times until he got through overall and (2) the average taxpayer whose refund was held up by the TPP filters had to call nearly six times until he got through.

With customer callback technology, unsuccessful calls would be largely eliminated or at least substantially reduced – as would hold times. Most taxpayers would only have to call the IRS one time. Thus, this one-time cost would improve taxpayer service and substantially increase the LOS for years into the future.

### **Recommendations**

I recommend that Congress direct the IRS to take the following actions:

- Commit to maintain high levels of telephone service and face-to-face service for the foreseeable future. The IRS should not make any plans – explicit or implicit –

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<sup>20</sup> *Id.*

<sup>21</sup> See Lisa Rein, *IRS Customer Service Will Get Even Worse This Tax Filing Season, Tax Chief Warns*, Washington Post.com, Nov. 3, 2015.

<sup>22</sup> See Internal Revenue Service, Congressional Justification for Appropriations accompanying the President's FY 2016 Budget at IRS-22 (2015).

<sup>23</sup> IRS, Joint Operations Center, *Snapshot Reports: Enterprise Snapshot – Accounts Management lines* (April 18, 2015).

<sup>24</sup> IRS, Joint Operations Center, *FY 2015 Weekly TPP Snapshot Report* (April 18, 2015).

to reduce telephone and face-to-face service unless and until it becomes clear that taxpayer demand for such services is declining.

- Complete a study of “customer callback” technology with an eye toward implementing it for the 2017 filing season.

## **II. The IRS Continues to Reduce Service at the Taxpayer Assistance Centers.**

During FY 2015, the IRS piloted a program in 44 of its Taxpayer Assistance Centers (TACs) to offer appointment-only based service to taxpayers.<sup>25</sup> In practice, this means that many TACs, which were once known as “walk-in sites,” no longer offer walk-in service to taxpayers.<sup>26</sup> While initial information provided to TAS by the IRS regarding this pilot seemed promising, I am very concerned with the pace at which the IRS has decided to move all TACs to appointment-only service, the methodology and measures used to determine the success of the pilot program, and reports TAS has received about recent TAC service. Initially the IRS planned to expand appointment only services to all TACs over FYs 2016, 2017, and 2018. Now, however, the IRS intends to convert all TACs to appointment-only scheduling by the end of FY 2016. I do not believe that an entirely appointment-based system meets the needs of taxpayers, and I am concerned about the impact of this approach on voluntary compliance.

While the IRS currently allows taxpayers to walk in to make a tax payment or to drop off a return, it is currently testing a pilot at five TACs where taxpayers will need appointments to complete even these basic tasks. It is harmful to both taxpayers and the public fisc for the IRS to turn away taxpayers who have taken the time to visit a TAC to pay their taxes. This proposal appears even more illogical when taking into account the results of the broader pilot in the 44 TACs. The results show that 20 percent of taxpayers had to wait between 13 and 41 days to obtain an appointment and five percent had to wait more than 41 days for an appointment.<sup>27</sup> Those are not encouraging results. Asking taxpayers seeking in-person assistance to wait so long to get an appointment or make a payment deters – rather than encourages – voluntary tax compliance.

Anecdotally, TAS has heard numerous complaints concerning the service at TACs, which I have raised through appropriate channels within the IRS. These reports range from the lack of available forms, to being turned away from appointment TACs, to long

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<sup>25</sup> IRS, *Field Assistance Appointment Test Report-Executive Briefing* (Sept. 29, 2015).

<sup>26</sup> A proposed Internal Revenue Manual (IRM) currently circulating through internal clearance would permit TAC managers to use discretion to assist drop-in taxpayers experiencing hardships. However, the IRS does not define the term “hardship,” nor does it allow for managers to use discretion to assist taxpayers when there are available TAC employees with no appointments.

<sup>27</sup> IRS, *Field Assistance Appointment Test Report-Executive Briefing*, at 7 (Jan. 13, 2016). In addition, 11,496 taxpayers did not show up for their appointments. The IRS removed those appointment wait times from the reported averages.

waits at other TACs. Employees told a taxpayer visiting the San Jose TAC solely to file a return that he needed an appointment. Employees refused to accept the return and advised him to drive an hour to the Oakland TAC where he would not need an appointment. Another taxpayer visited the San Jose TAC to make a payment on an existing installment agreement only to be told he had to make an appointment. Additionally, it has been reported that TAC employees have refused to assist taxpayers because they do not have appointments, *even when there had been no one in the TAC receiving or waiting to receive assistance*. In Brooklyn, an appointment-only site, TAC employees have reported being bored, while in the Manhattan TAC, taxpayers are lined up out the door.

I have continually raised concerns regarding the IRS's chipping away at the services provided by TACs.<sup>28</sup> Over the last few years, the IRS has limited the scope of tax law questions answered, will only answer tax law questions during filing season, and no longer prepares tax returns. With the latest move to appointment-only services, I believe the IRS will continue to use measures that do not fully capture the impact of its decisions on taxpayers and will allow the IRS to attempt to justify further reducing in-person service. Making a service more difficult to use, then touting declining use of that service as a reason to cut the service further or entirely, is disingenuous.

### ***Recommendations***

I recommend that the IRS take the following actions:

- Staff TACs during the filing season at sufficient levels that taxpayers generally do not need to make advance appointments to receive service.
- Permit taxpayers to file a tax return or make a payment at any time without the need for appointments.
- Where a TAC generally operates by appointment, allow employees to assist taxpayers without appointments when there is an available employee.

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<sup>28</sup> See, e.g., National Taxpayer Advocate 2015 Annual Report to Congress (Most Serious Problem: *Individual Taxpayer Identification Numbers (ITINs): IRS Processes Create Barriers to Filing and Paying for Taxpayers Who Cannot Obtain Social Security Numbers*), National Taxpayer Advocate 2016 Objectives Report to Congress 20-21, National Taxpayer Advocate 2014 Annual Report to Congress (Most Serious Problem: *Taxpayer Service: Taxpayer Service Has Reached Unacceptably Low Levels and Is Getting Worse, Creating Compliance Barriers and Significant Inconvenience for Millions of Taxpayers*).

### **III. Volunteer Tax Assistance Programs Are Overburdened and the Design Grant Structure is Too Restrictive.**

#### ***A. The IRS's Elimination of Free Return Preparation at the TACs Imposes Undue Burden on Both Volunteer Partners and Taxpayers.***

Prior to 2014, hundreds of thousands of taxpayers visited the IRS's TACs for assistance each year in preparing and filing their tax returns. At the start of 2014, the IRS stopped preparing returns at TACs and directed taxpayers to use other free options such as the IRS Free File program, Facilitated Self-Service Assistance (FSA) sites, or Voluntary Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE).<sup>29</sup> The IRS stated that commercial tax software and paid preparers are additional options.<sup>30</sup> However, these alternatives are not replacements for the service formerly offered by TACs. Unlike TACs, volunteer sites and Free File software cannot prepare forms or handle issues that are "out-of-scope."<sup>31</sup> Low income taxpayers may not be able to afford software or a paid preparer, while taxpayers with disabilities, limited technology skills, or no access to a computer may be unable to use Free File or commercial software.

With the elimination of tax return preparation services at TACs, it is critical that the IRS provide adequate support for VITA and TCE sites so that taxpayers can obtain free tax return preparation assistance to meet their reporting obligations and comply with the tax laws. In fact, in 2008, the House Appropriations Committee directed the IRS, through VITA and TCE, to "strengthen, improve, and expand taxpayer service."<sup>32</sup> The Committee explained the purpose of the VITA grant funds was "[t]o enable VITA programs to extend services to underserved populations and hardest-to-reach areas, both urban and non-urban, as well as to increase the capacity to file returns electronically, heighten quality control, enhance training of volunteers, and significantly improve the accuracy rate of returns prepared by VITA sites."<sup>33</sup>

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<sup>29</sup> IRS, *Growth Through Alternative Filing Strategies in the Next ERA* FY 2014 Program Guide 7 (2014). See also IRS, *Contact Your Local IRS Office*, available at <http://www.irs.gov/uac/Contact-Your-Local-IRS-Office-1> (last visited on March 7, 2016). FSA is interactive tax return preparation software available at some VITA and TCE sites that the taxpayer uses with very little assistance and does not require face-to-face interaction. For a more detailed discussion of our concerns regarding the VITA and TCE programs, see National Taxpayer Advocate 2014 Annual Report to Congress 55-66 (Most Serious Problem: *VITA/TCE Funding: Volunteer Tax Assistance Programs Are Too Restrictive and the Design Grant Structure Is Not Adequately Based on Specific Needs of Served Taxpayer Populations*).

<sup>30</sup> IRS, *FY 2014 Service Approach Return Preparation Clarification* 3 (Jun. 9, 2014).

<sup>31</sup> "Out-of-scope" returns include forms, schedules, and tax law topics that the IRS identifies each year and may change every year. Examples of out of scope items include moving expenses (*only volunteers with a military certification can preparer these returns*), farm income, and returns for taxpayers in bankruptcy. See IRS Pub. 4012, *VITA/TCE Volunteer Resource Guide, Scope of Service* 8-10, EXT-5 (Dec. 2015).

<sup>32</sup> H.R. Rep. No. 110-207, at 25 (2008).

<sup>33</sup> 153 Cong. Rec. H16049 (daily ed. Dec. 17, 2007).

In FY 2015, VITA and TCE programs prepared about 3.8 million returns.<sup>34</sup> This amount represents a 10 percent increase over FY 2013 levels, before the IRS eliminated return preparation at the TACs.<sup>35</sup> In 2014, a small sample of VITA sites participated in a survey conducted by the non-profit Maryland CASH Campaign. Their survey responses identified specific concerns about the IRS's decision to eliminate tax return preparation services at TACs. Specifically, they indicated that the sites were receiving increased referrals from TACs for out-of-scope and amended returns as well as referrals outside of tax season. In addition, many sites reported they were receiving reduced support from IRS Stakeholder Partnerships, Education and Communication (SPEC), the IRS organization that works with VITA programs.<sup>36</sup> The Treasury Inspector General for Tax Administration has noted that the combination of increased activity at, and decreased funding for, VITA and TCE programs can strain partners' ability to meet taxpayer needs and improve voluntary compliance.<sup>37</sup>

### ***B. VITA/TCE Programs Are Subject to Limitations and Restrictions that Impede Their Effectiveness.***

The guiding principle of the IRS VITA Grant Program is that the grantees should show "incremental increases" in their return preparation each year. The IRS also expects grantees to achieve 100 percent of their grant agreement goals as well as increasing the number of returns compared to the prior year with similar amounts of funding.<sup>38</sup> To reduce the additional burdens on taxpayers and the VITA and TCE sites, the IRS grant funding process must change. In particular, the following IRS restrictions on how VITA and TCE partners use their funds limit the effectiveness and reach of both programs:

1. No Funding for Time Spent on Intake and Processing for Out-of-Scope Taxpayer Issues. VITA and TCE sites must perform intake and interview each taxpayer who visits a site.<sup>39</sup> However, the sites do not report the time spent on intake and processing for a taxpayer whose issue is out-of-scope or needs amended or prior-

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<sup>34</sup> IRS SPEC Final FY 2014/2015 Comparative Scorecard (Sept. 30, 2015). The reported FY 2015 levels do not reflect the number of taxpayers who are turned away from VITA or TCE sites because the issues they need help with are out-of-scope.

<sup>35</sup> IRS SPEC 2013/2014 Comparative Scorecard (Sept. 30, 2013).

<sup>36</sup> Maryland CASH Campaign released the survey at the 2014 Common Cents Conference. 2014 Common Cents Conference, IRS VITA Communications Panel, *Impact of Taxpayer Assisted Center Closures: VITA Field Survey Summary Results*, available at [https://www.surveymonkey.com/sr.aspx?sm=mDtFjCp\\_2f5M9bobk33JOo8\\_2ffhVCxrf2eyFcarkizSSx4\\_3d](https://www.surveymonkey.com/sr.aspx?sm=mDtFjCp_2f5M9bobk33JOo8_2ffhVCxrf2eyFcarkizSSx4_3d) (last visited March 7, 2016).

<sup>37</sup> Treasury Inspector General for Tax Administration (TIGTA), Ref. No. 2012-40-049, *Additional Steps Are Needed to Ensure the Volunteer Income Tax Assistance Grant Program Reaches More Underserved Taxpayers* (Apr. 30, 2012).

<sup>38</sup> IRS Pub. 4883, *Grant Programs Resource Guide for VITA Volunteer Income Tax Assistance & TCE Tax Counseling for the Elderly* 5 (Aug. 2014).

<sup>39</sup> IRM 22.30.1.3.13.1.2, *Intake and Interview Process* (Oct. 1, 2014).



year tax returns prepared. The initial interviews provide valuable information and guidance to taxpayers, even if they ultimately cannot be assisted by the VITA or TCE site. However, by the IRS not counting and funding the time spent on this valuable service, taxpayers experience longer wait times or risk being turned away.

2. Burdensome Training Requirements for Volunteers. The IRS suggests that volunteer preparers have two years of previous experience and be trained and certified at the advanced level before preparing prior year or amended returns.<sup>40</sup> Further, volunteer preparers who work in the tax and accounting field, such as attorneys and certified public accountants, are also burdened by the IRS training and certification policy requirement that volunteers who answer tax law questions, instruct tax law classes, prepare or correct tax returns, or conduct quality reviews of completed tax returns must be certified in tax law annually.<sup>41</sup> The IRS should require these volunteers to recertify only on new provisions and changes in tax law. This change could potentially increase volunteer participation of experienced professionals.
3. Limitations of Mandatory Software. The TaxWise software the IRS provides to VITA and TCE volunteers allows return preparation only for the current year and the three previous tax years.<sup>42</sup> Because VITA and TCE sites are only authorized to use this software, they cannot fully assist a taxpayer who requires the preparation of returns that go back more than three years.<sup>43</sup> Further, the IRS's restrictions on which volunteers can prepare prior year or amended returns, combined with the limitations of software, discourage sites from preparing these returns.
4. No Funding for Quality Reviewers. Volunteer sites need quality reviewers (even if in a part-time funded capacity) to ensure the accuracy of returns. Without quality reviewers, the programs solely rely on volunteers to verify the quality of the prepared returns, which could potentially lead to improperly prepared returns.<sup>44</sup>

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<sup>40</sup> IRS, *Fact Sheet for SPEC Partners, Preparing Prior Year and Amended Returns at VITA/TCE sites* (Oct. 2015), available at <https://www.irs.gov/pub/irs-utl/FactSheetPriorYearandAmendedReturns.pdf> (last visited March 17, 2015).

<sup>41</sup> IRM 22.30.1.3.13.1.2, *Intake and Interview Process* (Oct. 1, 2014). The IRS provides training to volunteers through the Link and Learn application. IRM 22.30.1.3.7.1.3, *Link and Learn Taxes (LLT)* (Sept. 11, 2015).

<sup>42</sup> IRS, *Fact Sheet for SPEC Partners, Preparing Prior Year and Amended Returns at VITA/TCE sites* (Oct. 2015), available at <https://www.irs.gov/pub/irs-utl/FactSheetPriorYearandAmendedReturns.pdf> (last visited March 17, 2015).

<sup>43</sup> Taxpayers are sometimes required to provide several years of tax returns to meet certain immigration-related requirements.

<sup>44</sup> The IRS uses quality measures to evaluate whether the site receives funding in the future. See IRM 22.30.1.3.13, *Quality Review Process* (Jan. 10, 2013). However, every tax return must be quality reviewed by a person other than the preparer. See IRM 22.30.1.3.13.1(4), *VITA and TCE Quality Site Requirements (QSR)* (Sept. 11, 2015).

5. No Funding for Certifying Acceptance Agents (CAAs). Failure to fund CAAs imposes an additional burden on taxpayers who need an Individual Taxpayer Identification Number (ITIN).<sup>45</sup> Having a paid CAA on staff at the VITA or TCE site would allow certification of documents that taxpayers bring in with their Form W-7, *Application for IRS Individual Taxpayer Identification Number*, thus reducing the burden to taxpayers. It would also promote accountability and protect against fraud. Indeed, the IRS recently adopted rules that require VITA programs seeking to become CAAs to have a “responsible officer” who is a “permanent employee” (and, for emphasis, the rules state that “volunteers do not qualify”).<sup>46</sup> The combination of requiring a VITA site to have a “permanent employee” to qualify as a CAA and barring VITA sites from using these funds to pay the salaries of such employees makes it even more difficult for VITA sites to assist taxpayers who need to obtain ITINs.

### ***Recommendations***

I recommend that Congress and the IRS take the following actions:

- Increase VITA funding to maximize the overall resources (federal and matching funds) available for free tax return preparation assistance.
- Remove VITA and TCE program grant restrictions for specific tax forms, schedules, and issues, including Schedules C, D, and F, and ITIN applications.
- Allow grant funding to be used for quality review, CAAs, and year-round services at select sites.
- Require volunteers who are authorized under 31 C.F.R. Part 10 (Circular 230) to practice before the IRS (e.g., attorneys, CPAs, and Enrolled Agents) to annually recertify only on new provisions and changes in tax law.
- Provide free tax return preparation assistance at TACs in areas with limited access to VITA or TCE volunteers, along with proper staffing and hours to handle taxpayer traffic.

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<sup>45</sup> A certifying acceptance agent is a person (i.e., an individual or an entity) who is authorized to assist alien individuals and other foreign persons in obtaining ITINs from the IRS. Rev. Proc. 2006-10, 2006-2 IRB 293 (Jan. 9, 2006).

<sup>46</sup> IRS Fact Sheet for SPEC Partners, SPEC Certifying Acceptance Agent Initiative (Dec. 2015).

#### **IV. The IRS Is Taking Important Steps to Prevent Stolen Identity Refund Fraud, But It Needs To Do More To Assist Victims.**

Tax-related identity theft is an invasive crime that has significant impact on its victims and the IRS.<sup>47</sup> Apart from the time and frustration involved in dealing with the IRS to prove one's own identity, taxpayers generally do not receive their refunds until their cases are resolved.

I have concerns about both the IRS's preventive measures to combat identity theft and the IRS's approach to identity theft victim assistance.

##### ***A. The IRS Should Improve Its Identity Theft Filters and Allocate Sufficient Resources to Staff Its Phone Lines to Respond to Taxpayers Impacted by These Filters.***

The IRS uses data analytics to develop various filters to detect suspicious tax returns. One such series of filters is known as the Taxpayer Protection Program (TPP). When the TPP flags a suspicious return, the processing of that return is suspended until the taxpayer is able to verify his or her identity. The IRS sends a letter instructing the taxpayer to either call the TPP phone number or answer some knowledge-based questions online to verify his or her identity.

Last filing season, approximately one out of three returns suspended by the TPP was a "false positive."<sup>48</sup> As a result, hundreds of thousands of taxpayers who filed legitimate returns had to spend time contacting the IRS to verify their identities.<sup>49</sup> This created a significant backlog of calls to the TPP toll-free phone line. As shown in the figure below, the level of service on the TPP line was below ten percent for three consecutive weeks.<sup>50</sup>

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<sup>47</sup> See National Taxpayer Advocate 2015 Annual Report to Congress 180-187; National Taxpayer Advocate 2014 Annual Report to Congress vol. 2, 44-90; National Taxpayer Advocate 2013 Annual Report to Congress 75-83; National Taxpayer Advocate 2012 Annual Report to Congress 42-67; National Taxpayer Advocate 2011 Annual Report to Congress 48-73; National Taxpayer Advocate 2009 Annual Report to Congress 307-317; National Taxpayer Advocate 2008 Annual Report to Congress 79-94; National Taxpayer Advocate 2007 Annual Report to Congress 96-115; National Taxpayer Advocate 2005 Annual Report to Congress 180-191; National Taxpayer Advocate 2004 Annual Report to Congress 133-136.

<sup>48</sup> IRS, *IRS Return Integrity & Compliance Services (RICS), Update of the Taxpayer Protection Program (TPP)* 9 (June 24, 2015).

<sup>49</sup> IRS, *IRS Return Integrity & Compliance Services (RICS), Update of the Taxpayer Protection Program (TPP)* 9 (June 24, 2015).

<sup>50</sup> For weeks ending February 28, 2015, March 7, 2015, and March 14, 2015, the LOS on the TPP line was 9.7 percent, 7.6 percent, and 9.8 percent, respectively. The graph presents data in the IRS's FY 2015 Weekly TPP Reports. In the IRS's FY 2016 Weekly TPP Reports, the Average Speed of Answer for FY 2015 has been slightly revised and is shown as 0.1 minute shorter for the weeks ending Jan. 10, 2015 and Jan. 24, 2015.



I support the use of data-driven models to detect suspicious tax returns. However, the IRS has an obligation to sufficiently test these filters – a false positive rate of 36.2 percent is unacceptably high.<sup>51</sup> Furthermore, the IRS has a responsibility to ensure that the phone lines are sufficiently staffed to handle the volume of calls to the TPP. During the 2016 filing season to date (through March 5), the IRS has received about 3.6 million telephone calls on its TPP line, and it has answered only about 12.3 percent.<sup>52</sup>

***B. The IRS Should Assign a Sole Contact Person to Assist Victims of Identity Theft When Multiple Functions Are Involved.***

Identity theft cases account for approximately a quarter of all TAS case receipts.<sup>53</sup> One reason why so many identity theft cases end up in TAS is because of their complexity – historically, these cases often require actions to be taken by employees from multiple IRS functions.

To improve the victim experience and shorten its identity theft case cycle time, I have recommended that for complex identity theft cases (ones that require the victim to deal with multiple IRS functions), the IRS designate a sole contact person with whom the victim can interact for the duration of the case.<sup>54</sup> I believe this would not only put the victim more at ease, but would also avoid having an identity theft case fall through the cracks and adding to the cycle time.

<sup>51</sup> IRS, *IRS Return Integrity & Compliance Services (RICS), Update of the Taxpayer Protection Program (TPP)* (Dec. 2, 2015).

<sup>52</sup> IRS, JOC, *FY 2016 Weekly TPP Snapshot Report* (week ending March 5, 2016).

<sup>53</sup> TAS Business Performance Review (FY 2015; run date Oct. 1, 2015).

<sup>54</sup> National Taxpayer Advocate 2015 Annual Report to Congress 187; National Taxpayer Advocate 2014 Annual Report to Congress vol. 2, 55.

The IRS recently reorganized its identity theft victim assistance units, moving toward a more centralized approach for which our office has long advocated.<sup>55</sup> As the IRS re-engineers its identity theft victim assistance procedures, it should look at its processes from the perspective of the identity theft victim. Given the multiple points of contact and resulting periods of inactivity, the IRS may find if it adopts our suggestions that it actually will require *fewer* resources to do the same volume of work. I am confident that taxpayers – our customers – would be much more satisfied with their experience.

### ***Recommendation***

I recommend that the IRS take the following action:

- For identity theft cases involving more than one tax issue or more than one tax year, assign a single employee within the Identity Theft Victim Assistance unit to work with the identity theft victim until all related issues are fully resolved. The taxpayer should be given the opportunity to speak directly with that employee whenever possible, but if the employee is not available, the taxpayer should be given the option of either leaving a message for the employee or speaking with another available assistor.

## **V. The Elimination of Key International Taxpayer Service Channels Has Increased Compliance Challenges for International Taxpayers and Undermined Taxpayer Rights.**

Despite an increase in the number of international taxpayers, the IRS has significantly decreased its overseas taxpayer service presence in recent years.<sup>56</sup> While it has plans to expand international criminal investigation locations,<sup>57</sup> the IRS during late 2014 and 2015 eliminated the last four tax attaché posts abroad, citing a multi-year decrease in its appropriations.<sup>58</sup> Apart from the attachés, the only free option<sup>59</sup> for taxpayers abroad to ask a specific question and receive a response from an IRS employee was the Electronic Tax Law Assistance Program (ETLA), which the IRS terminated in October of

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<sup>55</sup> See National Taxpayer Advocate 2007 Annual Report to Congress 115.

<sup>56</sup> National Taxpayer Advocate 2015 Annual Report to Congress 72-81. See also National Taxpayer Advocate 2011 Annual Report to Congress 156, fn. 39; National Taxpayer Advocate 2009 Annual Report to Congress 134-54.

<sup>57</sup> See Internal Revenue Service FY 2016 President's Budget 81 (Feb. 2, 2015), *available at* <http://www.treasury.gov/about/budget-performance/CJ16/02-06.%20IRS%20FY%202016%20CJ.pdf>.

<sup>58</sup> There were originally fifteen foreign tax attaché posts. On November 30, 2014, the IRS closed its Beijing office. The IRS closed tax attaché offices in Frankfurt, Germany; London, UK; and Paris, France, on June 26, 2015, Sept. 19, 2015, and Dec. 26, 2015, respectively.

<sup>59</sup> Because taxpayers calling abroad may have to pay long distance toll charges, the international taxpayer assistance line is not considered a free option.

2015.<sup>60</sup> In conjunction with terminating ETLA, the IRS also discontinued R-mail, a system that allowed customer service representatives to refer taxpayer questions to employees with specific expertise.

The elimination of these essential services could not come at a worse time, as taxpayers abroad are facing unique challenges in complying with their obligations under the Foreign Account Tax Compliance Act (FATCA),<sup>61</sup> Foreign Bank and Financial Accounts (FBAR) reporting rules,<sup>62</sup> and the Affordable Care Act (ACA).<sup>63</sup> The combined effect of more requirements and less support is that over 8.7 million U.S. citizens living abroad,<sup>64</sup> over 170,000 U.S. military service personnel and their families,<sup>65</sup> and hundreds of thousands of students and foreign taxpayers with U.S. tax obligations<sup>66</sup> who benefitted from the tax attaché offices are left with the options of obtaining all their information from IRS.gov web pages or calling the IRS toll line in the United States.<sup>67</sup>

Moreover, by eliminating ETLA and R-mail, the IRS has shut itself off from taxpayers with no way of knowing (unless a taxpayer makes a mistake and the IRS selects his or her return for audit) whether it is providing the service taxpayers need. In fact, the IRS

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<sup>60</sup> ETLA allowed the IRS to learn directly from taxpayers what problems and questions they had and how it needed to update its webpages and publications to provide the necessary information.

<sup>61</sup> FATCA was passed as a part of the Hiring Incentives to Restore Employment Act, Pub. L. No. 111-147, 124 Stat. 71 (2010) (adding Internal Revenue Code (IRC) §§ 1471-1474 & 6038D).

<sup>62</sup> See 31 U.S.C. §§ 5314, 5321; 31 C.F.R. §§ 1010.350, 1010.306(c); FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR), [http://www.fincen.gov/forms/bsa\\_forms](http://www.fincen.gov/forms/bsa_forms).

<sup>63</sup> The Patient Protection and Affordable Care Act of 2010 (ACA), Pub. L. No. 111-148, 124 Stat. 119 (2010) (codified in scattered sections of the U.S. Code), as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (2010).

<sup>64</sup> The Department of State estimates that 8.7 million U.S. citizens live abroad and more than 80 million U.S. citizens travel abroad annually. U.S. Department of State, Bureau of Consular Affairs (April 2015), <https://travel.state.gov/content/dam/travel/CA%20by%20the%20Numbers-%20May%202015.pdf> (last visited on Mar. 7, 2016).

<sup>65</sup> U.S. Department of Defense, Defense Manpower Data Center, Ref. No. DRS #54601, *Total Military Personnel and Dependent End Strength By Service, Regional Area, and Country - Military* (as of Sept. 30, 2015), available at [https://www.dmdc.osd.mil/appj/dwp/dwp\\_reports.jsp](https://www.dmdc.osd.mil/appj/dwp/dwp_reports.jsp) (last visited on Mar. 7, 2016).

<sup>66</sup> National Taxpayer Advocate 2015 Annual Report to Congress 81. Since 2011, the National Taxpayer Advocate has recommended establishing international Local Taxpayer Advocate offices at four locations abroad. See also National Taxpayer Advocate 2013 Annual Report to Congress 213; National Taxpayer Advocate 2009 Annual Report to Congress 183.

<sup>67</sup> Over half of taxpayers may be unable to reach an IRS employee on the toll-free phone lines this year. The Commissioner of Internal Revenue recently estimated the level of service on the toll-free phone lines for the entire filing season would “probably be at or above 65 percent,” and the level of service for the full year would be “around 47 percent.” John A. Koskinen, Commissioner of Internal Revenue, Address Before the National Press Club (Mar. 24, 2016), available at <https://www.irs.gov/uac/March-24-2016-Commissioner-Koskinen-Speech-to-National-Press-Club>. See also IRS, *Contact My Local Office Internationally*, <http://www.irs.gov/uac/Contact-My-Local-Office-Internationally>; National Taxpayer Advocate 2013 Annual Report to Congress 205-213.

is limiting the opportunity for interaction and will no longer be able to learn firsthand what taxpayers need. Without a two-way dialogue, information will be filtered and the IRS will decide what it thinks taxpayers need, instead of hearing what information taxpayers want and need.

I am very concerned about the inability of taxpayers to access IRS services from abroad given the overwhelming complexity of the international tax rules and reporting requirements and the potentially devastating penalties for even inadvertent noncompliance.

In addition to re-opening the four recently closed IRS tax attaché offices, the IRS could help meet the service needs of international taxpayers by establishing International Local Taxpayer Advocate (LTA) offices abroad. TAS is statutorily required to assist taxpayers who experience *significant hardships* in resolving problems with the IRS, to identify areas in which taxpayers are experiencing problems in dealing with the IRS and, to the extent possible, to propose changes in the administrative practices of the IRS to mitigate the problems identified.<sup>68</sup> TAS is the only IRS function exclusively devoted to resolving taxpayer issues with the IRS.<sup>69</sup> Establishing Taxpayer Advocate offices abroad would ensure that the IRS's international policies, processes, and procedures protect the taxpayer rights *to be informed, to quality service, and to a fair and just tax system*,<sup>70</sup> and encourage future compliance by taxpayers dealing with the complexity and procedural burden of the international tax rules.

### **Recommendations**

I recommend that the IRS take the following actions:

- Reopen and provide funding for its four tax attaché offices abroad;
- Reestablish the ETLA (or a similar program) with timeframes for responses and create a process for using the information from ETLA inquiries in updates to IRS internal and external materials, including the IRS.gov website; and
- Provide funding for and require the IRS to establish Local Taxpayer Advocates in four locations throughout the world, based on where there is the greatest taxpayer need or concentration of U.S. taxpayers.

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<sup>68</sup> IRC § 7803(c)(2)(A)(i) – (iii).

<sup>69</sup> See generally IRC §§ 7803; 7811. See also IRS Pub. 1, *Your Rights as a Taxpayer*. The law requires at least one LTA in each state. International taxpayers cannot access TAS's toll-free telephone number from abroad.

<sup>70</sup> The rights contained in the Taxpayer Bill of Rights (TBOR) that was adopted by the IRS are now listed in the Internal Revenue Code. See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, Title IV, § 401(a) (2015) (codified at IRC § 7803(a)(3)).

## **VI. The IRS Lacks an Appeals Presence in 12 States and Puerto Rico, Depriving Many Taxpayers of Timely and Equitable Face-to-Face Hearings.**

Congress has long recognized that “all taxpayers should enjoy convenient access to Appeals, regardless of their locality.”<sup>71</sup> An independent and unbiased Appeals function provides a place for taxpayers to turn when they disagree with a preliminary IRS determination.<sup>72</sup> Convenient access to an appeal is not only an important element of taxpayer rights, but contributes to the goal of more timely and efficient resolution of disputes between taxpayers and the IRS, and increases overall tax compliance.<sup>73</sup>

Despite continued warnings from the National Taxpayer Advocate regarding the detrimental effects resulting from the unavailability of Appeals Officers, the IRS, based on data provided to TAS, has 12 states completely lacking a permanent Appeals presence.<sup>74</sup> The states lacking both an Appeals Officer and a Settlement Officer are depicted in the following map.<sup>75</sup>

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<sup>71</sup> S. Rep. No. 105-174, at 92 (1998). See also Internal Revenue Service Restructuring and Reform Act, Pub. L. No. 105-206, Title III, Subtitle E, § 3465 (b), 112 Stat. 685,768 (1998).

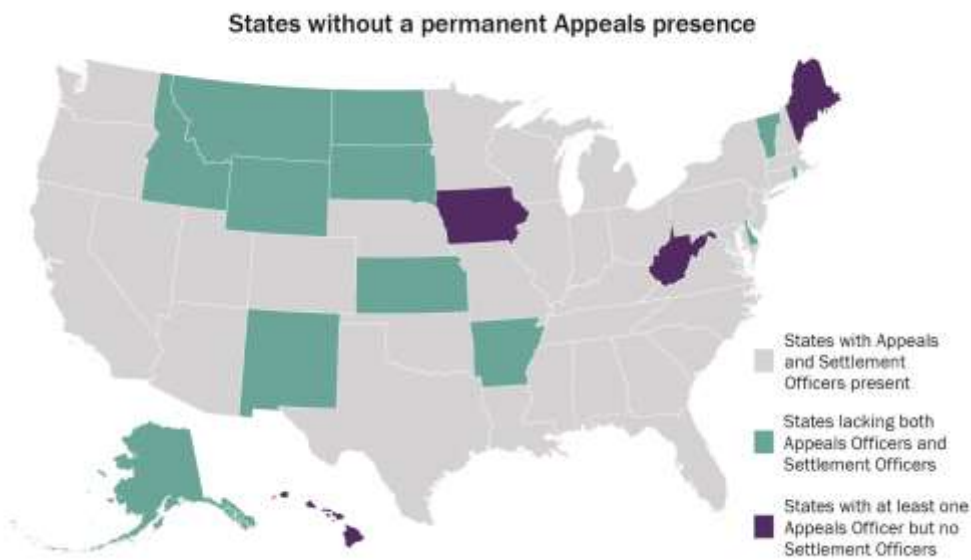
<sup>72</sup> See, e.g., 144 Cong. Rec. S7639 (daily ed. July 8, 1998) (statement of Sen. Jeffords).

<sup>73</sup> S. Rep. No. 105-174, at 92 (1998). See also Melinda Jone and Andrew J. Maples, *Mediation as an Alternative Option in Australia's Tax Disputes Resolution Procedures*, 27 Australian Tax Forum, (2012).

<sup>74</sup> See National Taxpayer Advocate 2014 Annual Report to Congress 46-54; 311-14. See also National Taxpayer Advocate 2009 Annual Report to Congress 346-51.

<sup>75</sup> According to the IRS, the following states lack both Appeals Officers and Settlement Officers: Alaska, Arkansas, Delaware, Idaho, Kansas, Montana, North Dakota, New Mexico, Rhode Island, South Dakota, Vermont and Wyoming. As of 2014, the following states had at least one Appeals Officer but no Settlement Officers: Hawaii, Iowa, Maine, and West Virginia. We originally were given this list in connection with the National Taxpayer Advocate 2014 Annual Report to Congress. See Appeals' Response to TAS information request (Aug. 5, 2014). In preparing this statement, we contacted the Office of Appeals to attempt to validate that the data remains current. Initially, we were told there is now an Appeals Officer in Arkansas, and we were given a spreadsheet showing the number of Appeals Officers in each state. However, we were able to determine that the individual in Arkansas holds the title of Appeals Officer but is serving as a technical advisor to the Area Director and does not hear taxpayer cases. It is therefore possible there are other states where Appeals Officers are listed as resident but do not hear cases. We have not obtained updated information regarding the states that have Appeals Officers but not Settlement Officers.





This lack of an Appeals presence in each state is potentially prejudicial to impacted taxpayers, as they or their representatives can be forced to travel great distances if they wish to present their Appeals case in person (e.g., taxpayers from Arkansas typically must either wait for Appeals personnel to ride circuit in Arkansas or travel to Oklahoma City or Dallas for a more timely face-to-face conference). Without face-to-face interaction, it can be difficult for Appeals to judge credibility, which in turn can generate extended resource-draining controversies with taxpayers. By contrast, Appeals Officers who are well versed in the local industries and economic circumstances prevailing within a particular region can be indispensable for preserving both the appearance and the reality of fair and equitable treatment.<sup>76</sup>

### ***Recommendation***

I recommend that Congress take the following action:

- Require the IRS to permanently assign at least one Appeals Officer and Settlement Officer in each state, the District of Columbia, and Puerto Rico.

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<sup>76</sup> National Taxpayer Advocate 2014 Annual Report to Congress 311; National Taxpayer Advocate 2009 Annual Report to Congress 76.

## **VII. The IRS Requires Funding to Upgrade and Streamline its Information Technology Systems, Particularly its Case Management Systems, in Order to Meet Taxpayer Needs and Improve Productivity.**

In my testimony before this subcommittee last year, I noted that the IRS's information technology (IT) systems, and particularly its case management systems, required an investment of funding to permit real improvements and productivity gains. I believe that this need for IT funding is even more pressing for the upcoming fiscal year.

### **A. ECM in General**

The IRS is currently undertaking an assessment of its case management systems as part of a comprehensive project to create a servicewide enterprise case management (ECM) solution. I use the term "case management" in a comprehensive sense to refer to electronic recordkeeping systems the IRS uses to track information about interactions with respect to taxpayers' tax returns or other tax-related matters. These systems include audit and collection case records for individuals and large, medium, and small businesses; exempt organization determinations; whistleblower claims; automated substitutes for returns; the automated underreporter (AUR) program; criminal investigations; and the Taxpayer Advocate Service case management system.

ECM offers a future vision for consolidated case management that will address the need to modernize, upgrade, and consolidate multiple aging IRS systems. The IRS now supports approximately 200 such systems, few of which communicate with one another and none of which provides an electronic substitute for the paper case file (*i.e.*, there are reams of paper supplementing whatever records are included in the electronic system).<sup>77</sup> The IRS's current case management system structure requires employees to:

- Retrieve data from many systems manually;
- Maintain both paper and electronic records;
- Transcribe or otherwise import information from paper and other systems into their own case management systems; and
- Ship, mail, or fax an estimated hundreds of thousands, if not millions, of case management files and supporting documents annually for management approval, quality review, and responses to Appeals and Counsel.

The ECM solution involves developing a common infrastructure for multiple projects to share. Implementation of the solution will provide the IRS with a consistently efficient approach to case management across all business units. While I agree that the IRS

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<sup>77</sup> Email from Director, Enterprise Case Management to TAS Acting Deputy Executive Director, Case Advocacy (Intake & Technical Support) (Mar. 11, 2016).

needs a servicewide ECM solution and am very supportive of such efforts, I am concerned about the IRS's failure to leverage the comprehensive work already completed in creating Taxpayer Advocate Service Integrated System (TASIS).

### ***B. The Taxpayer Advocate Service Integrated System***

As I discussed in my testimony before this subcommittee last year and in several of my past Objectives Reports to Congress, TASIS is a versatile case management system that would replace TAS's current antiquated Taxpayer Advocate Management Information System (TAMIS). While ECM focuses on case selection and work assignment capabilities, among other things, TASIS focuses on case intake and case-building functions, creating virtual case files with data auto-populated from other IRS systems and information transmitted electronically between functions for review and action. Once TASIS is completed, the IRS can incorporate elements of TASIS into core ECM for use by other IRS business units, including the Exempt Organization function, Appeals, the Whistleblower Office, and the Innocent Spouse, Identity Theft, and Offer in Compromise units.

When TAS learned that TAMIS was slated for retirement, it capitalized on the opportunity to integrate all of its systems and business processes into a single state-of-the-art application. TAS developed over 4,000 business requirements for the case management system aspect of TASIS functionality, including:

- Fully virtual case files, in which all documentation (whether IRS or taxpayer-generated) will be scanned or received digitally into an electronic case file;
- Electronic access to other IRS case-management systems, with automatic retrieval of taxpayer information programmed into the system and no further need for TAS employees to obtain and import the information manually;
- Electronic submission and tracking of Operations Assistance Requests (OARs), including receipt, acknowledgement, assignment, and response, in which TAS sends requests, with supporting documentation, to IRS functions to take actions on cases, eliminating delays and time-wasting manual tracking;
- Full access to all virtual case information for purposes of management and quality review, eliminating the delay and cost associated with transporting files;
- Taxpayer (and representative) ability to submit Form 911, *Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance Order)*, electronically;
- Taxpayer (and representative) ability to submit documentation electronically;

- TAS and taxpayer (and representative) ability to communicate digitally, through email and text messages, including both substantive case information and reminders to help move the case along;
- Taxpayer (and representative) ability to electronically check the status of a case in TAS and see what actions have been taken or are underway; and
- An electronic case assignment system that matches, in real time, the complexity and direct time associated with the case with the skills and available direct time associated with each case advocate in any given office, taking into account an employee's unavailability because of annual leave, sick leave, training, or on-the-job instruction, eliminating delays in assignment, and minimizing the need to transfer cases.

These are just some of the capabilities contained within the TISIS Business System Requirements Report, which collectively illustrates the TISIS case management component will not just replace TAMIS but will significantly increase the productivity of TAS case advocates because they will no longer spend their valuable time tracking down paper documents or inputting information into multiple systems. Moreover, taxpayers will be able to communicate efficiently with TAS and electronically send key case information and documents. This functionality will enable our case advocates to spend their time advocating for taxpayers, rather than performing manual input and tracking documents and IRS actions.

TISIS began the transition from concept to reality in 2014 when an early prototype was rolled out for informal testing. Based on those test results, TAS was just months away from deploying the complete application. In March 2014, however, the IRS IT function notified TAS executives that TISIS would no longer be supported due to budget constraints.

This decision was a significant setback for TAS's case advocates and therefore for the taxpayers they serve. Moreover, even apart from supporting TAS's critical work, the foundation built through TISIS can benefit the IRS's ECM improvement efforts. Because TAS has a working knowledge of almost all other IRS case management systems, we designed TISIS to serve as the basic system upon which other IRS divisions could add modules and functionality to meet their specific needs. Thus, the time, planning, development, and programming that TAS and IT have invested in TISIS can benefit all of the IRS.

At present, it is not clear the extent to which TISIS objectives will be included in the ECM plan or how TISIS will impact or align to the ECM solution. Yet the Senate Appropriations Committee has recognized the importance of TISIS and included it on

its list of six “major information technology project activities” about which it directed the IRS to submit quarterly status reports.<sup>78</sup>

Unfortunately, as I mentioned above, because of budget constraints impacting the IRS’s IT function, all IT activity on TESIS has come to a halt. To date, about \$20 million – about 62.5 percent of the total estimated cost – has been invested in TESIS Release 1, and about 70 percent of the programming is complete. We are ready to begin the final programming as soon as funds are available. At the time the project was halted, it was estimated that six months and \$12 million would be needed to complete Release 1 programming, testing, and launch. At this time, despite the demonstrated savings of TESIS and its benefits for all of the IRS, no funds are allocated to TESIS. If TESIS is not funded to completion, TAS will be forced to invest time and funds in upgrading TAMIS. This would be extremely wasteful, and would fail to provide TAS’s case advocates with the tools they need to assist taxpayers in resolving their problems with the IRS.

As I stated last year, I believe that the design and implementation of TESIS is critical not only for TAS but to the IRS’s ability to move forward and begin to harness the savings and burden reduction that a sophisticated case management system promises. For that to happen, the IRS requires sufficient IT funding to invest in new systems that have great promise. TESIS is one such program.

### ***Recommendations***

I recommend that Congress take the following actions:

- Provide that a portion of the funds in the IRS Business Systems Modernization (BSM) account shall be spent to complete the programming, testing, and deployment of TESIS as well as to maintain its long-term functionality.
- Provide additional information technology funding for the IRS to upgrade and streamline its enterprise case management systems.

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<sup>78</sup> See S. Rep. No. 114-97, at 39 (2015); S. Rep. No. 113-80, at 34 (2013). In 2014, a similar provision was included in the Senate Appropriations Committee’s draft report, but the draft report was not adopted for that year.

### **VIII. Conclusion**

The recent reductions in the IRS budget at the same time that the IRS has been given significant new responsibilities under FATCA and the ACA are placing a significant strain on the agency's performance. Simply put, the IRS is failing to adequately meet the service needs of U.S. taxpayers. To address this problem, the IRS will need more resources to answer taxpayer telephone calls, process and respond to taxpayer correspondence, assist taxpayers who seek assistance in its walk-in sites, and modernize its IT systems.

In the meantime, the IRS can take steps to serve taxpayers more effectively by giving greater priority to certain programs and improving its resource-allocation decisions. In this statement, I have tried to offer some reasonable and actionable recommendations to help in this regard.